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THE ROLE OF POLITICAL PARTIES AS DEMOCRATIC INFRASTRUCTURE: A PERSPECTIVE OF RULE OF LAW

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Abstract

preamble of the 1945 Constitution is a very important declaration in the formation of the Indonesian state. This preamble is not only the opening of all articles in the 1945 Constitution, but also reflects the ideals and goals of the Indonesian nation. It contains the basic principles that form the basis of the state, such as independence, unity and social justice. The link between Article 1(2) and (3) of the 1945 Constitution lies in the strengthening of the principle of democracy within the framework of the rule of law. In this case, popular sovereignty (paragraph 2) is not only articulated in the form of elections or political decision-making alone, but must also be implemented within a fair and binding legal framework as stated in (paragraph 3), and political parties play a very important role as infrastructure in a democratic system. As institutions that unite people's aspirations, political parties have a major function in facilitating citizens' political participation. Political parties act as a bridge between the people and the government, by absorbing, organizing, and conveying the interests of the community into public policy.

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1. INTRODUCTION

The Preamble to the 1945 Constitution is a very important declaration in the formation of the Indonesian state. This opening is not only the opening of all articles in the 1945 Constitution, but also reflects the ideals and goals of the Indonesian nation. It contains the basic principles that are the basis of the state, such as independence, unity, and social justice. The mandate states that independence is the right of every nation, and Indonesia has the right to be free from colonialism and regulate its own life as an independent nation. In addition, the Preamble to the 1945 Constitution also contains the determination to create a just and prosperous country, where the rights of the people are guaranteed and fulfilled. This can be seen in the sentence "protect the entire Indonesian nation and all Indonesian bloodshed," which emphasizes the importance of maintaining the integrity and unity of the nation. Furthermore, the goal of

creating social welfare and justice for all Indonesian people is the basis for inclusive and equitable state development.¹

¹ The preamble to the 1945 Constitution also contains a moral and ethical message for the government and people of Indonesia. This demands a shared responsibility in safeguarding Independence, realizing social justice, and advancing public welfare. On the basis of the noble values contained in the Preamble, the Indonesian nation is expected to always adhere to the principles of justice, unity, and unity in every step of development and state life. The preamble to the 1945 Constitution is not just a legal declaration, but also a guideline for the life of the nation and state that must be lived by every Indonesian citizen.

¹ The Preamble to the 1945 Constitution contains the basic idea of a democratic state of law, which is the main foundation of the Indonesian government system. As a country of law, Indonesia emphasizes that all aspects of the life of the nation and state must be based on fair and non-discriminatory laws. This is reflected in the spirit of the Opening which states that the Indonesian state was established to protect the entire Indonesian nation and all Indonesian bloodshed, as well as to create social justice for all people. Thus, the law functions to regulate and protect the rights of every citizen, as well as to realize justice for all people without exception.

¹ In addition, the Preamble to the 1945 Constitution also emphasizes the importance of democratic principles in the administration of the state. Democracy referred to in the 1945 Constitution is a democracy based on the sovereignty of the people, where the government is run by the people through free and fair elections. This is seen in the country's goal of achieving "social justice for all Indonesians", which can only be achieved if every citizen has the same opportunity to participate in the political process and decision-making. Therefore, the Indonesian state must ensure that everyone can express their opinions, elect leaders, and participate in political life without any intimidation or oppression.

⁶ The concept of a democratic legal state in the Preamble to the 1945 Constitution also demands a clear separation of powers, so that there is no abuse of power. In this case, the Indonesian state recognizes the importance of a system of checks and balances, where the executive, legislative, and judicial powers must supervise and balance each other.² The preamble to the 1945 Constitution not only emphasizes individual rights, but also the protection of justice and freedom as the basic principles of the state. In practice, this means that no power can act arbitrarily, and all state decisions must be based on applicable laws and take into account the interests of the people.³

Finally, the idea of a democratic legal state in the Preamble to the 1945 Constitution reminds us of the importance of the sustainability of these principles in every development of the times.⁴ Although the Indonesian state has undergone many changes, the ideal of realizing social justice and law-based governance must remain the grip. The Indonesian state must continue to strive

¹ Hijar Anwar, dkk, 2024, "Peran Negara Hukum Dan Tanggung Jawabnya Dalam Masyarakat Untuk Menjamin Kesejahteraan Dan Keadilan Di Indonesia", *Journal Of Globallegal Review*, Vol 02, No.2, h.83

² Hamdan Zoelva, 2011, *Pemakzulan Presiden di Indonesia*, Sinar Grafika, Jakarta. h.64.

³ Asshiddiqie, J. (2011, November). Gagasan negara hukum Indonesia. In *Makalah Disampaikan dalam Forum Dialog Perencanaan Pembangunan Hukum Nasional yang Diselenggarakan oleh Badan Pembinaan Hukum Nasional Kementerian Hukum*.

⁴ Hulmairah Almahdali, dkk, 2024, *Pendidikan Pancasila dan Kewarganegaraan*, Yayasan Tri Edukasi Ilmiah, Agam. h.32

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to maintain a balance between law and democracy, and ensure that this country truly belongs to all Indonesian people. By maintaining these two principles, it is hoped that Indonesia can develop into a country that is not only independent, but also fair and prosperous, as mandated in the Preamble to the 1945 Constitution.

The Preamble to the 1945 Constitution (1945 Constitution) remains relevant to this day because the basic principles contained in it continue to be important guidelines in the life of the nation and state. In the Preamble to the 1945 Constitution, it contains the ideals to achieve independence, social justice, and people's welfare, which are universal values that are timeless. In the midst of the development of the times and increasingly complex global challenges, the spirit of maintaining independence and protecting the entire Indonesian nation, as stated in the Preamble, remains the moral foundation that directs every state policy. This basic principle is a reference for the state to ensure that every government policy and action is always in the interests of the people and does not harm justice and public welfare. In addition, the Preamble to the 1945 Constitution also emphasizes the importance of democracy and the rule of law as the foundation of the Indonesian state. In this context, democratic principles that emphasize people's sovereignty and transparent and accountable government remain relevant in answering the challenges of today's modern government. The opening reminds that a fair, law-based government, and upholding human rights are goals that must continue to be fought. In the midst of issues of corruption, social inequality, and threats to democracy, the spirit of the Preamble to the 1945 Constitution reminds the Indonesian nation to continue to strengthen the foundation of a democratic rule of law, where every citizen has an equal opportunity to participate in the life of the nation and state.

Based on the previous background presentation, it is very interesting to discuss in the form of a legal journal with the title: **THE ROLE OF POLITICAL PARTIES AS DEMOCRATIC INFRASTRUCTURE: A PERSPECTIVE OF RULE OF LAW**, The formulation of the problem in this study is: 1. How is Relationship of Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution in the Idea of a Democratic Rule of Law? As well as 2. How Political Parties as Important Infrastructure in Democracy?

15 2. RESEARCH METHOD

This paper uses normative legal research methods that analyze political parties as an important infrastructure in building a democratic legal state Referring to the thinking of Peter Mahmud Marzuki, in an effort to answer the problems that are being faced, normative legal research uses legal rules, legal principles and legal doctrines The approach used in this study is *statutory approach*, *conceptual approach*, techniques for tracing legal materials using document studies and study analysis using qualitative analysis.⁵

3. RESEARCH RESULT AND DISCUSSION

2 Relationship of Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution in the Idea of a Democratic Rule of Law

Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution have a very close relationship in establishing the basic principles of the Indonesian state, namely the sovereignty of the people and the form of a republican state. Article 1 paragraph (2) of the 1945 Constitution

⁵ Fajar, Mukti, and Yulianto Achmad. 2013, "Dualisme Penelitian Hukum Normatif & Empiris, Penerbit." *Pustaka Pelajar*, Yogyakarta.

states that "Sovereignty is in the hands of the people and is implemented in accordance with the Constitution." This means that the highest source of power in a state is the people, not the government or any other state institution. The people have the right to determine and supervise the course of government, which reflects the democratic principles that are the basis of the Indonesian state system. This principle of people's sovereignty emphasizes that state power comes from the people and is for the benefit of the people, and its implementation must be based on the constitution which regulates how the power is exercised legally. Meanwhile, Article 1 paragraph (3) of the 1945 Constitution emphasizes that "The State of Indonesia is a state of law." ⁶This article reinforces that Indonesia is not only a country that prioritizes democratic principles, but also a country based on law. The state of law means that all actions and decisions of the government must be subject to the applicable law and carried out in accordance with the provisions set forth in the law. In this context, the Indonesian state is not allowed to act arbitrarily, and every policy taken must be in accordance with the principles of justice, legal certainty, and protection of citizens' human rights. The law is a tool to uphold the sovereignty of the people and maintain balance in the government system, but it should also be noted that the legal state that is built is a legal state with Indonesian characteristics, which is measured by the Indonesian people's view of life.⁷

²The link between Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution lies in strengthening the principle of democracy which is carried out within the framework of the state of law. ⁸In this case, people's sovereignty (paragraph 2) is not only articulated in the form of general elections or political decision-making, but must also be implemented within a fair and binding legal framework. Thus, although the people have the power to determine the direction of government, the exercise of such power must be within a legitimate legal framework, where the rights of the people are protected, and acts of abuse of power can be supervised and corrected by the existing legal system. The law, in this case, acts as a controlling mechanism that ensures that the sovereignty of the people is exercised in a manner that is in accordance with applicable legal norms⁹. Therefore, Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution complement each other in realizing a democratic and law-based country.¹⁰ The sovereignty of the people guaranteed in paragraph (2) must be carried out within the framework of the state of law affirmed by paragraph (3).¹¹ This is a strong foundation for Indonesia's system of government, where the people not only have the power to choose and supervise the government, but also have the assurance that every government decision will always be within the legal corridor that protects the common interest. Thus, these two articles are fundamental principles in ensuring that Indonesia remains a democratic and just country, in accordance with the mandate of the constitution.

¹Indonesia aspires to a democratic rule of law as the main foundation in the life of the nation and state, as stated in the 1945 Constitution. A democratic state of law is defined as a country

⁶ Muhlashin, I. (2021). Negara Hukum, Demokrasi Dan Penegakan Hukum Di Indonesia. *Jurnal Al-Qadaw: Peradilan Dan Hukum Keluarga Islam*, V.8(1), pp. 87-100.

⁷Juniarso Ridwan, Ahmad. S. Sudrajat, 2020, *Hukum Administrasi Negara Dan Kebijakan Layanan Publik, Nuansa Cedekia*, Bandung. h.34.

⁸ Syaifuddin, S. H. (2016). Rumusan Demokrasi Dan Negara Hukum Dalam Norma Pasal 1 Ayat (2) Dan Pasal 1 Ayat (3) UUD 1945 Pasca Perubahan.

⁹Azmi, A. 2016. Kedaulatan Rakyat dalam Perspektif Negara Hukum yang Berketuhanan. *Alqalam*, V.33 (2), pp. 157-183.

¹⁰ Muslih, M. (2017). Negara Hukum Indonesia Dalam Perspektif Teori Hukum Gustav Radbruch (Tiga Nilai Dasar Hukum). *Legalitas: Jurnal Hukum*, 4(1), 130-152.

¹¹ Wijaya, M. H. (2015). Karakteristik konsep negara hukum pancasila. *Jurnal Advokasi*, 5(2), 29382.

that prioritizes the rule of law, where all government actions and policies must be implemented in accordance with applicable law. In this context, the Indonesian state emphasizes that state power must come from the people and be exercised for the benefit of the people, through a free and fair democratic mechanism. In other words, Indonesia strives to realize a system of government that not only prioritizes law as the basis for regulation, but also provides space for the active participation of the people in every aspect of political, social, and economic life. This concept is referred to as a democratic state of law. It aims to create social justice, protection of human rights, and equitable people's welfare. In practice, Indonesia seeks to ensure that all citizens have equality before the law, as well as the right to participate in political decision-making processes without discrimination. The democratic system that is run within the framework of the state of law also requires control of power¹², through an independent judiciary, as well as a mechanism of checks and balances between the executive, legislature, and judiciary. Thus, Indonesia aspires to a democratic rule of law as the main pillar in maintaining justice, peace, and progress for all Indonesian people, as mandated in the 1945 Constitution.

Political Parties as Important Infrastructure in Democracy

Political parties play a very important role as infrastructure in the democratic system. As an institution that unites the aspirations of the community, political parties have the main function in facilitating citizens' political participation. Political parties act as a bridge between the people and the government, by absorbing, organizing, and conveying the interests of the community into public policy. In a democratic system, political parties also function to nominate and elect people's representatives, both at the legislative and executive levels, through the general election process. Without political parties, fair and organized election mechanisms become very difficult to implement, because political parties are the main channel for individuals to compete and obtain the people's votes.

In addition, political parties also play a role and focus in educating the public about the political process and public policy. Through activities such as campaigns, political dialogues, and the teaching of democratic values, political parties help to increase political awareness and citizen participation.¹³ They also play an important role in explaining national issues and providing policy options that can be chosen by the people. Thus, political parties not only function as a forum for recruiting prospective leaders, but also as a means to improve the quality of democracy by creating space for a healthy and directed public discourse. In the context of supervision, political parties also have an important role in maintaining a balance between executive and legislative powers, which is one of the basic principles of democracy. In a democratic system of government, political parties function as supervisors of the performance of the government and other state institutions. Political parties in the legislature, especially the opposition, have a duty to criticize government policies, prevent abuse of power, and ensure that decisions are taken in the interests of the people. Without this supervisory role, the potential for abuse of power will be more likely to occur, which in turn can damage the credibility of democracy itself.

¹² Pigome, M. 2011. Implementasi Prinsip Demokrasi dan Nomokrasi dalam Struktur Ketatanegaraan RI Pasca Amandemen UUD 1945. *Jurnal Dinamika Hukum*, V.11(2), pp. 335-348.

¹³ Mubarok, R. (2016). The role of political parties as a pillar of post-reform democracy in Indonesia. *Scientific Journal of Law and Community Dynamics*, 10(1).

However, although political parties have a crucial role, it is undeniable that in practice political parties often face challenges and criticism. One of the main challenges faced by political parties is the tendency to get caught up in pragmatic politics, which prioritizes power over the interests of the people. Sometimes, in order to achieve victory in elections, political parties often make compromises that ignore the principles of democracy and social justice. In addition, the weakness of political parties in developing a clear ideology can also make political parties look like political machines that do not have a strong vision for the future of the nation. This can cause public dissatisfaction with the existing political system.¹⁴

For this reason, political parties must continue to strive to improve themselves and improve their internal quality. One way to do this is to strengthen political education within the party and society, and to make pro-people policies a top priority. In a healthy democracy, political parties are not only a tool to gain power, but also as agents of change that work for the public good. With a political party that is solid, has integrity, and is committed to democratic values, the country will have a strong political infrastructure to maintain the continuity of democracy itself. Thus, political parties have a very big role in ensuring that democracy continues to run well, resulting in a government that is responsive and accountable to the people.

Law No. 2 of 2008 concerning Political Parties (as has been amended through Law No. 2 of 2011 concerning Amendments to Law No. 2 of 2008 concerning Political Parties) political parties in Indonesia have a very strategic function in a democratic system of government. They not only serve as a tool to achieve political goals, but also as institutions that educate the public, channel aspirations, control the government, and participate in the formation of public policies. These functions are an integral part of democratic life in Indonesia and support the achievement of the goals of a just and prosperous country.¹⁵

4. CONCLUSION

The link between Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution lies in strengthening the principle of democracy which is carried out within the framework of the state of law. In this case, the sovereignty of the people (paragraph 2) is not only articulated in the form of general elections or political decision-making alone, but must also be implemented within a fair and binding legal framework, and political parties play a very important role as infrastructure in a democratic system. As an institution that unites the aspirations of the community, political parties have the main function in facilitating citizens' political participation. This political party acts as a bridge between the people and the government, by absorbing, organizing, and conveying the interests of the community into public policy. In a democratic system, political parties also function to nominate and elect people's representatives, both at the legislative and executive levels, through the general election process. Without political parties, fair and organized election mechanisms become very difficult to implement, because political parties are the main channel for individuals to compete and obtain the people's votes.

¹⁴ Aulia, D. 2016. Penguatan Demokrasi: Partai Politik Dan (Sistem) Pemilu Sebagai Pilar Demokrasi. *Masyarakat Indonesia*, V.42(1), pp. 115-126.

¹⁵ Sitingjak, F. W. (2019). *Partai Politik Sebagai Pilar Demokrasi di Indonesia Berdasarkan Undang-Undang Nomor 2 Tahun 2011 Tentang Perubahan Atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik* (Doctoral dissertation, Universitas Sumatera Utara).

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