

# Incompatibilities of Indonesian Constitution Amendments with the Philosophy of Pancasila

Muhyar Fanani  
{muhyar\_fanani@walisongo.ac.id}

UIN Walisongo

**Abstract.** The development of Indonesian democracy during last twenty years made Indonesian researchers split into two groups. Some of them see with positive views and some of them state their negative opinions. This article does not want to involve their debates. However, this article tries to evaluate the result of Indonesian democracy with different point of view, namely the philosophy of Pancasila, the basic spirit of Indonesia. One of the results is the Amendments of Indonesian Constitution. Are the amendments compatible with Pancasila philosophy? Using the philosophical approach, this article concludes that the amendments of Indonesian Constitution during 1999-2002 produce some incompatibilities that contradictory to the philosophy of the nation.

**Keywords:** Incompatibility; Constitution Amendments; Pancasila; Pseudo-Democracy

## 1 Introduction

Observing the development of democracy after the reform, some Indonesian experts ask was Pancasila democracy still applied. Since Soehato's fall, Indonesia has transformed from pseudo-democracy to real-democracy. However, what kind of democracy was? In my opinion, as long as the Pancasila is agreed as the basic of the country, Indonesian democracy must refer to the Pancasila. Till nowadays, although the temptation of internal and exclusive Islamic movements is still high, in fact, this biggest muslim country in the world is not a religion state. In the running time, Indonesia has tried to find the most appropriate type of its democracy based on Pancasila and 1945 Constitution. The 1945 Constitution which was originally designed to be temporary was actually the translation of the state philosophy in the level of constitution. This is to make the rules appearing in the next period refer to the 1945 Constitution and are tested with it logically. Actually, the ignorance of Pancasila democracy appears from the order of the reform, but it has emerged since new order. However the number of such ignorance is increasing after the order of reform. Therefore, it is logical that some people asked for validating the result of amendment of the 1945 Constitution in its compliance with Pancasila. Hendro Priyono, for example, proposed that for the future, the results of the 1945 Constitution Amendment should be tested before the state philosophy.

This article tries to discuss incompatibility of some amendments results with the philosophy of Pancasila. To answer this question, the writer uses philosophical approach. This

article discusses four symptoms of negative effects of amendments that are incompatible with the philosophy of the nation.

## **2 Result and Discussion**

### **2.1 Accountability of Leadership**

Both national and local leadership after the reform tend to promote the election procedure and the principle of collegiality but ignores the aspect of accountability. Elected leaders, either national or regional, are free to carry out their duties and no one can not stop and even dropped them. The responsibility of a leader is directly to the citizen. But which citizen? The President is not responsible to the MPR (People Consultative Assemble). The governor is not responsible to the President. The regents and mayor are not responsible to the governor. Why? Because they are elected by the people. Fellow citizen's choice can not overthrow each other. When the leader is not doing a good job, the sanction is not re-elected by people. The other sanction is sent to a prison when the law enforcement works seriously. There is a question about a leadership without responsibility. Is such leadership compatible with Pancasila? Is there any organization in this world that considers responsibility as trivial problem? The Problem of accountability arises out of the 1945 Constitution Amendment.

Several articles of the 1945 Constitution Amendments, particularly related to the national political order need to be reviewed for its compatibility with Pancasila. One of the examples is the issue of leadership accountability. Let me talk this problem more deeply. To get a comprehensive perspective on this problem, let come to the basic question on why do we have a state? The answer is to achieve the common goals, namely: (1) Protect the entire of Indonesian nation. (2). Develop of the public prosperity. (3). Develop the life mind of the nation. (4). Participate in the orderliness of the world based on independence, immortal peace and social justice.

Who is mandated to reach the goals? Indonesian government. Who is the government? After the 1945 Constitution Amendments, the government basically consists of three groups: the legislative (Indonesian Legislative Assembly [DPR] and Regional Representative Council [DPD]), the executive (the President and the others), and the judiciary (the Supreme Court and judicial). For the House of Representatives (MPR: DPR + DPD), the President, Vice President, and the Parliament are elected through general election (Article 22E, 2<sup>nd</sup> paragraph of the 1945 Constitution [Amendment III November 9<sup>th</sup> 2001]). The judicial authority is established by the Parliament and the President (Article 24A, 3<sup>rd</sup> paragraph, Article 24B, 3<sup>rd</sup> paragraph, Article 24C, 3<sup>rd</sup> paragraph of the 1945 Constitution [Amendment III November 9<sup>th</sup> 2001]). If the government has already chosen by the election, to whom they are responsible for their work? The answer is people. Which people? The Constitution has not set them yet. How are the mechanisms of the responsibility? The Constitution has not set them yet either. How if they do not perform? How if they do not carry out their duties? How if they do not defend the people but defend the capitalist? How if they suddenly change into monster or vampire? How if they suddenly hijacked by foreign interest?

Article 7A of the 1945 Constitution Amendment III 9 November 2001 attempts to provide solution for the president. The article says: "The President and/or Vice President may be dismissed in their term of position by the Representative as a suggestion of the Indonesian legislative assembly, if he is proven to carry out violated of the law in the form of treason,

corruption, bribery, other felonies, or misconduct or if he is proved no longer qualify as President and/or Vice President."

If the president has a policy of development that does not defend the interest of the citizen or he has an unclear direction policy, should such policy included in the acts of treason, corruption, bribery, other felonies, or misconduct? Is such policy categorizes him as someone who is no longer qualified as President and/or Vice President? In my point of view that unclear direction of development policy could not be included in the settlement of Article 7A. So in this case, the constitution does not provide a solution. Citizens are only given with the option by Article 22E that asks them to wait until the next election. If this is allowed, the goals of our national life will not be more advanced, but more broken. When the goals of the nation are being controlled by less proficient leaders during 5 years, that will be same as letting the ship named Indonesia sinks into the sea slowly. This is only related to the president. How about the members of MPR, DPR, DPD, DPRD, the governor, the mayor, and the regent? They are the same. The Constitution has not provided a solution. Moreover, the leader of the citizen's choice turns into a monster or vampire who is able to deceive citizen.

Perhaps, some people believe that the judicial power can chase the monster or vampire. But remember, the judicial power is formed by the Indonesian legislative assembly and the President. The next question appears, is it possible that assistant of monster or vampire kill his master? The answer is impossible. It used to be the colonial era that the law became upright. But the law was upright based on the desire of the monster or vampire. Indonesian people have seen the history of colonialism. The result was very horrible. The backwardness of national life was very painful. While the natural resources were depleted, the people were suffering, ignorant and inferior. The issue of accountability especially the quality of leadership will not be solved by the court. The incompetent people will not be brought to justice because of their incompetence.

The problem of leadership accountability also occurs in the regional leader. Article 18 subsection 4 of the 1945 Constitution [Amendment III November 9<sup>th</sup> 2001]) states that the Governor, Regents, Mayors are elected democratically. Then the law is put in order in the local election. Then the question is, to whom are governors, regents, and the mayors are responsible to? Of course to the people. Which people? How is the mechanism? Why are not they ordered to be responsible to the President? The Constitution is not give a solution yet.

When the governor, regent, and mayor elected do work, how to stop them? How if they are not able to carry out their duties? How if they do not defend their people but only defend to the capital holders? How if they suddenly turn into savage monster or vampire? How if they are suddenly hijacked by foreign interest? In that situation, can the President stop them? Can the DPRD drop them? The Constitution has not given a solution yet. This accountability problem of the leadership appears because of the four-times-amendment of the 1945 Constitution during 3 years since October 1999 to August 2002. This problem, in my point of view, disavows the fourth moral principle of Pancasila.

## **2.2 Delegation in MPR (People Consultative Assemble)**

Another problem that is also important is the membership of MPR that does not guarantee the group representatives (*perwakilan golongan*). The Article 2 of the 1945 Constitution Amended deletes the group representative as members of MPR. The intellectuals, teachers, lecturers, humanists, theologians, writers and others who represent the truth of the nation and guard the mind and soul of the nation will not be able to color this nation. In fact, they could actually be expected to be the holder of wisdom or *hikmah*. As a result, the nation's officials

are not people who has wisdom. They get high position in controlling the nation solely because of their wealth in buying voters in campaign; capital in building image and promotion. The next impact is that this nation will not get a wise leader from normal leaders. It will be endanger the fate of the nation's young generation.

The impact that must be aware of the amendment of the article 2, the 1945 Constitution is that a country could be controlled by the capital holders. It will make the country became the property of the feudal and bourgeois as European countries in the past. Meanwhile, Pancasila does not require such state. The state should be controlled by the majesty of the nation's values. Someone with formal authority should consist of people who inspire the values of the majesty. So the leadership has wisdom. Here it was shown by the founders of the country. Bung Karno, Bung Hatta and other leaders became person with formal authority of the nation who were not because of their wealth but their magnanimity, sincerity and purity of dedication. They are leaders who have wisdom.

### **2.3 The Problem of Indonesian Native**

It is a sensitive problem, but it should be discussed wisely by using a historical perspective of the nation. This involves the replacement of two articles related to the Indonesian native. Firstly, removal of article 6, the first paragraph saying "the President is Indonesian native" and it is then replaced with "Candidate President and Vice President should be an Indonesian citizen since birth." Secondly, removal of article 26, the first paragraph saying "The citizen is the original of Indonesian nation and the people of other nations who are ratified by the law as a citizen) and replaced with "residents are Indonesian citizen and the foreigner who reside in Indonesia." Two articles of Amendment are very tendentious to deny the historical reality of the Indonesian native in struggling to expel the colonialists and expedited the interest of the investors (capitalists) to get the desire to control Indonesia. Removal of two verses is clearly intended to obscure who is actually a host and a guest in the Republic of Indonesia that was found with blood struggle and life.

### **2.4 High Cost of Politic**

During 23 years, Indonesian people have a valuable lesson learned that implementing the 1945 Constitution Amendments was wasteful cost. Therefore, who can fight in the arena of national and local leadership are whoever have big money or common people who voluntarily collaborate with the capital holders. If a person with common ability is supported by massive financial/capital, he will be a leader. However, when a person's ability was extra ordinary, but there is none support him, he will not be elected. The lesson that should be noted from the result of this amendment is whether such recruitment of leader is compatible with the principle of "Almighty God"? Whether such recruitment of a leader is compatible with the "People lead by wisdom"? Whether such recruitment of leader was exemplified by the founders of this nation?

For this case, I welcome everyone to begin reviewing particularly several articles of the amendment being prepared by the Assembly. I propose that when difficult to look for leaders who have a prophetic characteristic, people should choose an ordinary person who is prepared, trained and nurtured in order to act like a prophet. In the context of modern state, the prophetic role is basically to protect weak people. By the founders of Indonesia, the task was translated into four points formulated in the third paragraph of the preamble of the 1945 Constitution. The development plan of Indonesia for 100 years, whatever the program is named later, will

greatly assist the elected leader to run the prophetic tasks. The tasks are formulated by WR. Soepratman in a part of this lyrics "*bangunlah jiwanya bangunlah badannya untuk Indonesia Raya*" (awaken his soul and body for Indonesia).

Efforts towards nurturing a person to be a bearer of prophetic duties in the context of the modern state have been carried out in Indonesia after the reform. President Megawati brings forth the act No. 25/2004 which aims to: (1) support coordination among national development actors; (2) ensure the creation of integration, synchronization, and synergy between regions, inter-space, interim, governments across functions and between central and regional governments; (3) ensure the relevance and consistency of planning, budgeting, implementing, and monitoring; optimize social participation; and (5) ensure the achievement of resources use efficiently, effectively, equitably, and sustainably (Article 2). However, the implementation of this act is very weak. This act has been proved ineffective to bind next presidents to obey it. Each president comes with its own vision and mission. After occupying the reins of leadership, the president can seduce the assembly to "turn" together and deceive people. The people cannot take him/her down from the position. They have to wait for five years to be able to revoke the mandate of presidency.

The act no. 25/2004 has not guided yet on how the process of formulating the super long-term development plan, say 100 years, should be executed. The acts indeed command to have a development planning forum, but they have not set up the substance of the forum. In fact, a public planning is a process of mutual interaction between the planning agencies (planners) and a very pluralistic society, either as the subject or object of planning. The forum also has not effectively operated yet. It has not been able to be a medium for mutual communication between the agencies planning and stakeholders to establish collective participatory decisions. It similarly fares like the Guideline of Planning and Control Area (P5D) administered by the Department of the Interior (Regulation No. 9 of 1982) in the New Order era. In fact, the forum has not been able to accommodate the aspirations of society from villages, districts to be brought over to the government.

Looking at the direction of post-reform development that is "quite unclear", development planning guidelines need to be revived. For that reason, the 1945 constitution should be further amended. At the same time, leadership accountability system must also find a solution through the constitution. Why? Governments with weak accountability system are prone to be hijacked by the owners of capital (capitalists). If we ignore this situation now and then, the founding fathers must be so upset. It has to be understood that the founders of this country were very aware of that due to a long colonization; the number of ignorant and weak people is more than that of clever and strong one. Therefore, they leave an important message that the smart and strong people have to protect the foolish and weak ones as implied in the fourth principle of Pancasila. This is the prophetic task that should not be disregarded.

Besides, post-reform Indonesia's leadership, both national and local, tends to ignore the prophetic role. Some symptoms emerge apparently on this point. The leadership is prone to follow the traces of prophets' enemies throughout the history of mankind, like Qarun, Pharaoh, and Musaylama al-Kadzdzab. In this post-reform era, smart and powerful people become servants of capital owners and they together leave foolish and weak people suffering. It is the ingenuity and strength which are far from divine values. Ironically, the smart and powerful ones collaborating with the owners of capital grind the stupid and weak ones. Let us take a look at the case of imported beef in 2016. The case was actually done by a minister. Also, there is another case i.e., the case of mining license from 900 by the end of the new order to 11,000 in 2016. The mining license was issued by political leaders as the consequence

of political recompense in financing their campaign. After 23 years reform, many foreign interests affect national policy.

The leadership of prophets' enemies was obviously against God's teachings. It is not in line with Pancasila principles. This kind of leadership is likely able to fool stupid and weak people. Meanwhile, the smart but poor people cannot stop the leadership since they do not have the funds for the campaign. However, everyone has to be reminded that God is never angry at someone simply because they are stupid and poor. God gets mad at the clever and strong ones for they do not want to behave piously.

### 3 Conclusion

This article found some incompatibilities of Indonesian Constitution Amendments with the philosophy of Pancasila as could be seen at least, in four points, namely the accountability of leadership, the delegation of group in the MPR, the problem of Indonesian native, and the high cost of politics. These four points are symptoms of pseudo-democracy that actually contradictory to the philosophy of Pancasila. However, transforming pseudo-democracy to real-democracy is an unending process for Indonesia as a biggest muslim country. There are many difficulties that should be accommodated such as religious tenets, social and cultural tradition, citizen behavior, capital holder interest, and historical background. Becoming a real democratic state is a difficult journey for Indonesia. It needs long processes and sustainable efforts of all components of the nation.

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