

# The Legal Politics of the Indonesian General Election Does Not Accord to the Perspective of Pancasila Democracy as the Nation's Ideology

Nanang Al Hidayat<sup>1</sup>

Helmi<sup>2</sup>

A. Zarkasi<sup>3</sup>

<sup>1</sup>Jambi University, Doctoral Student in Law

<sup>2</sup>Jambi University, Professor at the Faculty of Law

<sup>3</sup>Jambi University, Lecturer at the Faculty of Law

**Abstract:-** In this research there is an issue of legal philosophy, namely that direct general elections as a general election system in Indonesia are contrary to the values contained in the fourth principle, namely democracy led by wisdom in representative deliberations in the Indonesian nation's ideology, namely Pancasila, thereby obscuring the characteristics of typical democracy. Indonesia is a Pancasila democracy. This research aims to examine whether the general election system in Indonesia is in accordance with Pancasila democracy. This type of research is normative juridical with a conceptual approach, and uses secondary legal materials. The research results show that the current general election system in Indonesia is contrary to the values contained in the 4th principle, because it is not in accordance with the materialist causal characteristics of Pancasila, namely the Indonesian nation which has the spirit of deliberation and consensus as a democratic concept. Finally, it can be concluded that Indonesia's current electoral system is in conflict with Pancasila.

**Keywords:** Pancasila; democracy; general elections.

## I. INTRODUCTION

The term democracy is not explained explicitly in the preamble or contents of the 1945 Constitution (UUD 1945). However, the essence of Indonesian democracy is found in the fourth principle of Pancasila, namely "people led by wisdom in deliberation/representation". One concrete manifestation of democracy/people's sovereignty is in the form of general elections (elections). We can see the application of this direct principle in the electoral system currently in use, namely the direct general election system for both executive and legislative regime elections. The application of direct democracy as electoral legal politics in Indonesia, if viewed philosophically, is contrary to Pancasila, especially the fourth principle. The fourth principle of Pancasila which has the essence of indirect/representative democracy as an election concept.

This can be understood because the concept of human rights in Pancasila is different from the concept of human rights in liberal or socialist countries which relies on the

enforcement of human rights on one of human nature, whether it is the protection of individual human rights or the human rights of society. The concept of human rights in Pancasila, namely proportionality between the protection of individual human rights and the human rights of society together, to borrow Kaelan's term, is "monodualistic". So this concept should be applied in general elections as an indirect/representative election model, whereas the current concept of elections as legal politics is closer to the electoral system in liberal countries which prioritizes individual human rights and of course is not in accordance with the personality of the nation within. Pancasila.

In connection with this, according to Kaelan(Kaelan, Pancasila Philosophy, View of the Life of the Indonesian Nation, 2009)"that the Indonesian nation is the materialist cause of Pancasila." Scientifically, it must be realized that a society, a nation always has its own outlook on life or philosophy of life, which is different from other nations in the world. It is impossible for the Indonesian nation to have the same outlook on life and philosophy of life as the British, for example, because the British were destined to never be colonized, whereas the Indonesian nation was colonized several times by foreign nations. Kaelan(Kaelan, The National State of Indonesia, 2018)also said "humanism or humanity has been inherent in the Indonesian nation. "Recognition of the natural nature of humans as individuals and social creatures has been owned by the Indonesian people since ancient times."

According to Kaelan(Kaelan, The National State of Indonesia, 2018)"As a nation and state, Indonesia has ideals that are considered the most appropriate and most correct, so that all ideals, thoughts and ideals are contained in Pancasila, so in this sense Pancasila is positioned as the ideology of the Indonesian nation and state and at the same time as the principle of unity and unity of the Indonesian nation and state." Thus, Pancasila, as the basis of state philosophy, is objectively based on a view of life which is also the philosophy of life of the Indonesian nation that has existed in the history of the Indonesian nation itself. Correspondingly, Notonagoro(Notonagoro, 1975)explained "that the essence/substance of the Pancasila principles regarding

content means conformity with the essence of God, the essence of humans, the essence of one, the essence of the people, and the essence of justice.

Ngadino Surip(Surip, 2015)said "the unique philosophical values contained in Pancasila developed in Indonesian culture and civilization, especially as the soul and spiritual principles of the nation in the Indonesian struggle for independence. Furthermore, the philosophical value of Pancasila, both as a view of life or life philosophy (weltanschauung) of the nation and as a national soul or national identity (volksgeist), provides identity, integrity and dignity for the nation in facing world culture and civilization.

*State of art* in this article we refer to the writings of Wishnu Dewanto(Dewanto, 2021)entitled "Filling the Positions of the Presidential Institution based on Pancasila democracy Based on the 1945 Constitution of the Republic of Indonesia" that there are differences, this article looks more at the electoral system in general while Wishnu Dewanto's article focuses on the presidential election. Meanwhile, equality also makes Pancasila democracy an analytical tool.

Next, refer to Ida Budhiarti's writings(Budhiarti, 2018)entitled "Reconstructing the Political and Legal Affairs of General Election Organizers in Indonesia" that there are differences, this article discusses the electoral system while Ida Budhiarti's article focuses on the institutions of election organizers while for similarities they both look at legal politics and discuss elections as an object of research.

This article is important because opinions rarely agree with the indirect democracy system, the general current regarding the electoral system supports the direct election system, while the author supports the indirect election system. Furthermore, this article is important because it relates to the philosophy of the Indonesian state. If it is accommodated, the Indonesian electoral system will be in line with the spirit of Pancasila.

Based on the explanation above, the author is interested in studying it more deeply and writing it into an article with the title "Legal Politics of General Elections in the Perspective of Pancasila Democracy in Indonesia". The problem formulation in this paper is whether the general election system in Indonesia is in accordance with Pancasila democracy? The aim of this research is to analyze whether the general election system in Indonesia is in accordance with Pancasila democracy.

## II. RESEARCH METHODS

In this research, the type of research used is normative juridical, aimed at obtaining theoretical matters, principles, conceptions, legal doctrine, as well as the content of legal codes related to research. In this regard, according to Bahder Johan Nasution(Nasution, 2008)"Normative legal research is the study of legal materials, both primary and secondary legal materials." The approach used in this researchnamely using a conceptual approach*approaches*), as well as using secondary legal materials.

## III. RESULTS AND DISCUSSION

As the basis of the state/state philosophy/state ideology, the moral values/message of Pancasila must be incorporated into law in Indonesia or in other words, legal regulations in Indonesia must reflect the values/spirit of Pancasila as in the case of elections. If this is not done, the positive law that applies, especially in terms of elections, will not be a law that reflects the characteristics of the Indonesian nation which prioritizes deliberation and consensus in decision making, even though good law is law that originates from the national characteristics of a country.

The application of the concept of democracy in Indonesia which is realized in the electoral system must take into account the nature and nature of the state which is related to the political basis of the state which allows the realization of a democratic basis for the Indonesian state because Pancasila as the basis of the philosophy of the Indonesian state has values which are the result of a noble agreement (modus vivendi) from the founding fathers of the country which are extracted from the characteristics of the Indonesian nation itself which are crystallized into the principles of Pancasila. Apart from that, the Indonesian nation is a materialist cause of Pancasila. This means that the Pancasila principles are a reflection of the soul/characteristics of the Indonesian nation, such as religious values, justice, togetherness, mutual cooperation, tolerance, tolerance and deliberation which are inherent and characteristic of the Indonesian nation.

As a reflection of the soul of the Indonesian nation, it also means that Pancasila is the nation's outlook on life or the crystallization of values which are believed to be true and which must be applied in life and life in society, nation and state. The application of the fourth principle of Pancasila values for democratic life in elections in Indonesia can be used by prioritizing deliberation and making decisions for the common good.

This is in line with Galih Puji Mulyono's opinion(Mulyono, 2019)which says "deliberation to reach consensus is imbued with a family spirit, respecting and upholding every decision reached as a result of deliberation. "Decisions taken must be morally accountable to God Almighty, uphold human honor and dignity, the values of truth and justice, prioritizing unity and integrity for the common good."

In connection with the above, the concept of Pancasila democracy which is filled with the spirit of kinship and deliberation can be seen from Widodo's view,(Widodo, 2015)According to Widodo "the meaning and meaning of the fourth precept is as follows: a. The essence of this principle is democracy, namely government of the people, by the people, and for the people; b. Deliberation, namely making decisions unanimously, carried out jointly through wisdom; c. Implementing decisions based on honesty, decisions unanimously so as to bring honest consequences together. The value of identity is deliberation; d. It contains populist principles, namely a feeling of love for the people, fighting

for the people's ideals, and having a people's spirit. "The principle of deliberation for consensus, namely paying attention to and respecting the aspirations of all people through deliberative forums, respecting differences, prioritizing the interests of the people, nation and state."

If studied more deeply, the fourth principle of Pancasila which is based on the principle of democracy led by wisdom in deliberation/representation means that the Indonesian state is a monodualistic democratic state. This monodualistic nature is the way the Indonesian nation views the people, Indonesia does not focus on protecting human rights only on one concept of individuals or society, this is rooted in the nature of human nature, namely as individual creatures and social creatures which must be guaranteed proportionally because both are natural. human beings who must be guaranteed by the state.

The monodualistic nature in Pancasila includes all the principles in Pancasila. This means that all the principles in Pancasila have a monodualistic concept in their understanding, both in relation to religiosity in the first principle, relations between human persons in the second principle, unity and oneness in the third principle, democracy in the fourth principle and social justice in the fifth principle. . It needs to be understood that interpreting Pancasila cannot be done partially because the Pancasila principles are a unified whole that must be interpreted in a hierarchical, pyramidal and tiered manner in the sense that one precept causes the birth of other precepts.

In this regard, Kaelan said(Kaelan, Pancasila Philosophy, View of the Life of the Indonesian Nation, 2009): "Indonesia is a country consisting of individuals (as members of society) and common interests. Both are held without disturbing each other, so in a state of coexistence, peace, deep and continuous cooperation."

As for what is meant by monodualistic according to Kaelan(Kaelan, Pancasila Philosophy, View of the Life of the Indonesian Nation, 2009)is :

- It is not an individual or liberal democracy, nor is it a form of popular group, no matter how large and important that group is, so the Indonesian state is also not a class democracy.
- Not organic democracy, as the unity of the preamble to the 1945 Constitution is monodualist (dual) democracy, kinship, mutual cooperation and social justice by the people together.

In connection with this monodualistic nature, Kaelan(Kaelan, Pancasila Philosophy, View of the Life of the Indonesian Nation, 2009)adding that "the monodualistic nature is based on the nature of human nature as an individual creature and a social creature whose nature is abstract, general universal. This philosophical basis is the basis contained in the 4th principle of Pancasila."

From Kaelan's opinion, it can be understood that the concept of democracy in Pancasila is monodualistic in nature which seeks to accommodate the nature of humans as

individual creatures and social creatures at the same time in a balanced way. And it can be understood that the monodualistic nature of democracy in Indonesia is a democratic country that includes all its people (in the sense of human nature as individual creatures and social creatures together). This means that democracy in Indonesia is not based on a provision based on a mere (political) choice (individual interests or social interests of society) but is essentially based on human nature (both humans as individual creatures and social creatures at the same time).

Kaelan's opinion regarding the concept of monodualitis is in line with Mahfud MD's concept(Mahfud, MD, 2010)regarding Pancasila, namely the prismatic concept. What is meant by prismatic according to Mahfud is "a concept that takes the good aspects of two conflicting concepts which are then combined as a separate concept so that it can always be actualized with the reality of Indonesian society and its every development." These two contradictory things, namely the state's protection of individual human rights and the protection of people's human rights, are contained in two major ideologies, namely liberal with its individualism and communist socialist with its collective understanding, this is what was developed into the concept of Pancasila through a process of eclecticism and adapted to the situation and condition of the Indonesian nation.

If the monodualistic and prismatic concepts are interpreted into the concept of elections, they can be translated into a form of indirect democracy with the logic of this concept of indirect democracy being in the middle between individual human rights and community human rights because in its implementation in the Indonesian state elections are permanent. implemented because it is the human rights of individual citizens, but in its implementation, elections are not carried out directly by voting for the people in choosing leaders, but through a representative mechanism so that the people are not too free in choosing, this is to protect the interests of the community because it is feared that through direct elections there will be leaders who have no integrity, are incompetent, have a corrupt mentality who are elected because they can "buy" the people's votes, this is the weakness of direct democracy, especially in developing countries like Indonesia where the quality of human resources is still relatively low so it influences political choices.

Therefore, the democratic model in implementing elections in Indonesia should be implemented in accordance with the concept of democracy/popular sovereignty contained in Pancasila, especially the fourth principle, because that is what is in accordance with the characteristics of the Indonesian nation, namely indirect democracy. What is meant by indirect democracy according to Muhadam Labolo(Labolo, 2017)namely "the people are not directly involved in the decision-making process but are represented by representatives they have chosen through an election". Further according(Khrerid, 2021)"If the concept of indirect democracy is broken down again to the technical level, the implementation of elections in Indonesia must be carried out using a closed proportional system because it has fewer

shortcomings and is more in line with the character of the Indonesian nation philosophically."

In this regard, Mahfud MD(Mahfud, 2019)said "the choice of representative democracy is commonly used in democratic countries, because direct democracy in the true sense is almost impossible to implement in a modern state. The vast territory and generally large population and the increasingly sharp specialization of modern society do not allow the principle of popular sovereignty to be implemented directly, in the sense of involving all the people in the process of making public decisions and in administering the state. What is more possible and realistic is to use representative democracy mechanisms."

This is also supported by the opinions of Moh Kusnardi and Harmaily Ibrahim(Ibrahim, 1983)which says "in a representative democracy the rights of all the people are carried out by some of those who hold the position of representatives, so that the representatives truly act on behalf of the people, the implementation usually uses the general electoral institution".

This is very important because the current implementation of direct democracy is more similar to the "western style" model of democracy which originates from the philosophy of individualism or the ideology of liberalism which is not in accordance with the characteristics of the Indonesian nation because the democratic system in a liberalist country only relies on one natural human characteristic which is one-sided and incomplete, namely individual interests. Even though we follow the model of democracy in a communist socialist country, of course it is not in accordance with the characteristics of the Indonesian state philosophy because it also only relies on one characteristic of human nature, namely collectivity which tends to be authoritarian in its implementation. If this continues, Indonesia will lose its identity or personality, especially in the implementation of democracy in the field of elections because it runs a system that is not in accordance with the state philosophy, namely Pancasila.

Referring to MPR Decree Number II/MPR/1978 concerning Guidelines for the Appreciation and Practice of Pancasila, it describes the practice of the 4th principle of Pancasila as follows: 1) As citizens, Indonesian citizens have the same position, rights and obligations; 2) Decisions concerning the collective are first held by deliberation, and decisions are reached by consensus, filled with a family spirit; 3) Respect and uphold every result of deliberation and carry it out in good faith and a sense of responsibility; 4) Deliberations are carried out with common sense and a noble conscience, prioritizing the interests of the state and society, and not imposing one's will on other people; 5) Decisions taken must be morally accountable to God Almighty, uphold human honor and dignity, as well as the values of truth and justice.

If you look at the second provision in the TAP MPR, the essence of which is deliberation to reach consensus with a family spirit in deciding things that concern the common

interest, it appears that the direct election system in legislative elections in Indonesia is not in accordance with the provisions of this MPR decree. The direct election system is very far from deliberation and consensus and a family spirit because what is put forward is personal voting which is very individualistic.

This is reinforced by the points of Pancasila that the values, characteristics and personality of the Indonesian people, especially in the fourth principle, can be seen in the points of Pancasila, namely:"(1) As citizens and citizens, every Indonesian has the same position, rights and obligations; (2) You must not impose your will on other people; (3) Prioritize deliberation in making decisions for the common good; (4) Deliberation to reach consensus is imbued with a family spirit; (5) Respect and uphold every decision reached as a result of deliberation; (6) With good faith and a sense of responsibility, accept and implement the results of deliberation decisions; (7) In deliberations, collective interests are prioritized above personal and group interests; (8) Deliberations are carried out with common sense and in accordance with a noble conscience; (9) Decisions taken must be morally accountable to God Almighty, uphold human honor and dignity, the values of truth and justice, prioritizing unity and integrity for the common good; (10) Give trust to trusted representatives to carry out deliberations."

The essence of the fourth principle of Pancasila contained in the points of Pancasila also leads to consensus deliberation filled with a family spirit carried out with a noble heart of conscience by giving trust to trusted representatives to carry out deliberations, which if translated into a democratic system namely representative democracy.

This is what Hatta said(Hatta, 1977)that: "the democracy adopted by the Indonesian people is not a people who only seeks the most votes. But the people are led by wisdom in representative deliberations. Under the influence of the Almighty God and the just and civilized principles of humanity. The democracy that will be implemented must run on truth, justice, goodness, honesty, holiness and beauty."

Therefore, Pancasila democracy is a model of democracy that is unique and characterized because its values were explored and discovered by the founding fathers of the country through deep reflection on the Indonesian nation itself, which must be embodied in the state administration system, especially in the field of elections, so that its distinctive characteristics or the identity of the Indonesian nation as reflected through the election mechanism.

#### IV. CONCLUSIONS AND SUGGESTIONS

From the discussion above, it can be concluded that the democratic system in elections in Indonesia which implements a direct election system is not in accordance with/contradicts the spirit of the fourth principle of Pancasila, because it is not in accordance with the materialist causal characteristics of Pancasila, namely the Indonesian nation which has the spirit of deliberation and consensus as a democratic concept. This is because Pancasila is an ideology

that views humans as balanced between individual and social creatures (monodualistic). If this is translated into the relevant electoral system, it is an indirect election through representatives, not a direct election system with a voting system because this system is more like a western-style electoral system which is very individual and contrary to the identity of the Indonesian nation.

The suggestion that the author gives on this occasion is that changes must be made immediately to the regulations governing elections in Indonesia so that they are substantially in line with the spirit of Pancasila, especially the fourth principle, namely indirect elections so that the characteristics and identity of the Indonesian nation are maintained through elections so that they show their characteristics. native to Indonesia and has become a distinctive feature, namely elections based on Pancasila democracy.

### REFERENCES

#### ➤ *Book*

- [1]. Budhiarti, I. (2018). Political and Legal Reconstruction of General Election Organizers in Indonesia. Semarang: Diponegoro University.
- [2]. Dewanto, W. (2021). Filling the Positions of the Presidential Institution Based on Pancasila Democracy Based on the 1945 Constitution. Jakarta: Jayabaya University.
- [3]. Hatta. (1977). Understanding Pancasila. Jakarta: Idayu Press.
- [4]. Ibrahim, M. K. (1983). Introduction to Indonesian State Law. Jakarta: Center for Constitutional Law Studies, Faculty of Law, UI Jakarta.
- [5]. Kaelan. (2009). The Pancasila philosophy is a view of the life of the Indonesian nation. Jogjakarta: Paradigm.
- [6]. Kaelan. (2018). Indonesian National State. Jogjakarta: Paradigm.
- [7]. Khreid, N. (2021). Evaluation of Elections in Indonesia 1955-2019, A Legal Pluralism Perspective. Jakarta: Rayyana Communicationsdo.
- [8]. Labolo, M. (2017). Political Parties and the General Election System in Indonesia. Jakarta: PT Raja Grafindo.
- [9]. Mahfud, M. (2019). Legal Politics in Indonesia. Depok: Rajawali Press.
- [10]. Mahfud, MD. (2010). Constitution and Law in Controversial Issues. Jakarta: Rajawali Press.
- [11]. Nasution, B. J. (2008). Legal Research Methods. Bandung: Mandar Maju.
- [12]. Notonagoro. (1975). Pancasila is the Basic Philosophy of the State. Jakarta: Pantaran Tudjuh.
- [13]. Santoso, T. (2019). Elections in Indonesia: Institutions, Implementation and Supervision. Jakarta: Sinar Graphics.
- [14]. Surip, N. (2015). Pancasila in Meaning and Actualization. Yogyakarta: Andi Offset.
- [15]. Widodo, W. (2015). Implementation of Regional Elections Based on Democratic Principles and Pancasila Values. Civis Scientific Journal, 5(1), 679-691.

#### ➤ *Legislation*

- [1]. Republic of Indonesia. 1945 Constitution
- [2]. Republic of Indonesia. MPR Decree Number II/MPR/1978 concerning Guidelines for the Appreciation and Practice of Pancasila