

Indonesian State Law in its Historical Perspective and Development

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ABSTRACT

The history of Indonesian constitutional law began in the Dutch colonial period when Indonesia was still called the Dutch East Indies. Then after Indonesia's independence in 1945, for the first time formed a constitution or Basic Law. The focus of the study in this study is to try to explain the development of Indonesian constitutional law from the Old Order era to reform. This is to find out how the history of the development of Indonesian constitutional law from time to time, especially from the beginning of independence to reformation. The method in this study is qualitative, with a historical approach. The data collection method used is the method of library research (library research). Then analyzed using the descriptive-analytic method. At the beginning of independence in 1945, Indonesia's constitutional law was contained in the 1945 Constitution. The 1945 Constitution described Indonesia as a unitary state with a president as the head of state as well as a democratic head of government. Besides that, under Soekarno's government, constitutional law was regulated in several constitutions, including the 1949 RIS constitution and the 1950 UUDS. And Soekarno's government at that time was known for its nationalist and anti-capitalist politics. The Suharto government was known for its authoritarian politics, political stability, and economic growth. Finally, during the reform period, after the fall of President Soeharto in 1998, Indonesia underwent significant political reforms. Constitutional law is regulated in the 1945 Constitution with several amendments which emphasize the principles of democracy, human rights, decentralization of government, and increased political participation. The history of the development of constitutional law in Indonesia in general shows quite dynamic developments and always follows changes according to political and socio-cultural developments in Indonesia.

Keywords: History, Development, Constitutional Law, and the 1945 Constitution

INTRODUCTION

Law is a set of rules or rules for behaving or behaving, and if they are violated they are subject to sanctions. In practice, there are two types of law, namely organizational law (binding

into the organization), such as behavioral law (applicable to the public, binding on the state and citizens). constitutional law, DPR Standing Orders/Ordinances.

State administration is "a state structuring system, which contains provisions regarding the state structure and the substance of state norms".¹ Constitutional Law is a set of regulations concerning state organizations, state institutions, their powers, their relationship with one another, and the relationship between the state and its citizens.² As for what is meant by the state is an association formed by the people who have a monopoly on the power to form laws, implement laws, and if necessary enforce laws with sanctions. For a state to exist, the following elements must be fulfilled: (1) territory; (2) residents; (3) government; and (4) sovereignty (inward).

The history of Indonesian constitutional law began in the Dutch colonial period when Indonesia was still called the Dutch East Indies. This legal structure and order is known as Dutch colonial law. Then after Indonesia's independence in 1945, for the first time formed a constitution or Basic Law. This Constitution contains the basic principles of the state, government structure, division of powers, including even human rights.

The Indonesian Constitution for decades since it was enacted on August 18, 1945, has undergone several changes through amendments. This was done in an effort to correct weaknesses and increase effectiveness in regulating state administration in Indonesia. The history of Indonesian constitutional law in its development has continued to increase according to developments and the needs of people's lives.

One of the significant events in the development of constitutional law in Indonesia was the birth of the Constitutional Court in 2003. The Constitutional Court has played an important role in maintaining consistency and fairness in the implementation of Indonesian constitutional law. For this reason, as explained above, reviewing Indonesia's constitutional law from the perspective of history and development. It aims to find out how the history of the development of Indonesian constitutional law from time to time, especially from the beginning of independence to reform.

¹ Jimly Asshiddiqie, *"Pokok-pokok Hukum Tata Negara Indonesia Pasca Reformasi"*, (Jakarta: PT Bhuana Ilmu Populer, 2007), hal. 25

² I Gede Yusa. Dkk, *"Hukum Tata Negara Indonesia"*, Cet.1, (Malang : Setara Press, 2016), hal.3.

METHOD

The data collection method used in this research is library research. Library research is the collection of relevant data and information through reading and studying books, magazines, articles, journals, writings, and laws relating to the issues raised in this research. Then access websites and sites that provide information related to the problems in this research. The types and sources of data needed in this study are secondary data, which is data obtained through literature studies or from various literature by examining books and writings or the internet, legal journals, and laws and regulations that are relevant to the issues raised. researched. This method is carried out in several ways, namely by conducting assessments, describing, interpreting, systematizing, as well as assessing and analyzing.³

RESULTS AND DISCUSSION

A. Distribution of Periodization of Indonesian Constitutional Law

The 1945 Constitution was drawn up by the Indonesian Independence Preparatory Investigation Agency (BPUPKI) which was established on 29 April 1945. The first session which took place from 28 May to 1 June 1945, the concept of "Basic State", was presented by Ir. Sukarno on June 1, known as "Pancasila". On June 22, 1945, a committee of nine was formed to compile the Jakarta Charter which would later become the Preamble to the 1945 Constitution. The text of the Jakarta Charter became the Preamble to the 1945 Constitution after the abolition of the first precept which read "with the obligation to carry out Islamic law for its adherents". The Preparatory Committee for Indonesian Independence (PPKI) ratified the 1945 Constitution on August 18, 1945. The ratification of the 1945 Constitution was confirmed by the Central Indonesian National Committee (KNIP) which convened on August 29, 1945. At the Second Session, the Indonesian Independence Preparatory Investigation Agency (BPUPKI), The draft of the 1945 Constitution of the Republic of Indonesia has been drawn up. The name of this Agency does not include the word "Indonesia" because it is only for Java Island. In Sumatra there is a BPUPKI for Sumatra. The Second Session took place from 10 July to 17 July 1945. On 18 August 1945, PPKI ratified the 1945 Constitution as the Constitution of the Republic of Indonesia.

³ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, Cet.2, Mandar Maju, Bandung, 2016, hal.. 80.

1. Developments during the Old Order Period

a. Indonesian Constitutional Law System Period 17 August 1945-27 December 1949 It is common knowledge that the 1945 Constitution which was stipulated and ratified by the PPKI on August 18, 1945, was in force during the early days of the founding of the Republic of Indonesia. In the Preface to the 1945 Constitution, there is the notion of Pancasila. Because it has a constitutional position and has been ratified by a body representing the entire Indonesian nation (PPKI), the basic formulation of Pancasila contained in the preamble to the 1945 Constitution is legal and correct. This shows that the entire population of Indonesia agrees. The formulation of the basic "Pancasila" of the Indonesian state, which includes:

- 1) Belief in the One and Only God;
- 2) Just and civilized humanity.
- 3) Unity in Indonesia.
- 4) Democracy led by wisdom in deliberations/representations.
- 5) Social justice for all Indonesian people.

In accordance with Article 1 paragraph (2) in the 1945 Constitution, the MPR exercises sovereignty on behalf of a sovereign people. Because the MPR exercises individual power, the 1945 Constitution also stipulates several tasks and authorities, including establishing the Constitution and the GBHN. amendments to the Constitution, and elect and appoint a president. Because the number of members is so large, the MPR, which holds supreme sovereignty in the constitutional system, cannot convene every day. As a result, the president was given the MPR's mandate to complete a day's work. The president in carrying out public power is assisted by the vice president and his clergy. Pastors are elected and dismissed by the President and are not responsible to the DPR. In carrying out his duties, the President is not responsible to the People's Representative Council (DPR). However, because the DPR is a member of the MPR and the president cannot dissolve the DPR, the president must be able to cooperate with the DPR.

Changes in Administrative Practices in the Early Period of Independence

PPKI realized that the 1945 Constitution could not be implemented all at once and in the shortest possible time in order to run the government. As a result, a transition period is still required.⁴ The consequences of the PPKI arrangement are four articles of the Momentary Principle and two Extra Parts. "For the first time the president and vice president were elected by

⁴ Dasril Radjab, *Hukum Tata Negara Indonesia*, Jakarta: Rineka Cipta, 1992, hal. 92.

PPKI," reads Article 3 of the Transitional Regulations.⁵ Recognizing this article, at that time, on the idea of Otto Iskandardinata, Soekarno, and Moh. Hatta as vice president and president. A national committee provides assistance to the president in exercising his powers. The cabinet reports to the president as a form of the presidential system. However, the issuance of Vice Presidential Decree No. X dated October 16, 1945. The announcement stated that before the formation of the MPR and DPR, the Central Indonesian National Committee (KNIP) was tasked with making laws, establishing the GBHN, and passing the laws. the day-to-day work of the Central National Committee because of the seriousness of the situation. It is run by a workers' Body which is elected from among them and is responsible to a central national committee.

Based on this announcement, Joniarto concluded: As a start, the president and KNIP worked together to establish the GBHN;⁶ Second, KNIP together with the president establish reasonable rules in all government affairs; Third, a working group that reports to the Central National Committee will be in charge of the day-to-day responsibilities of the Central Indonesian National Committee due to urgent situations.

Then again, the consequence of the declaration has a suggestion; First, the KNIP was shifted from its previous position as assistant to the president to become the MPR and DPR; Second, the transition from presidential to parliamentary government has shown that ministers are more accountable to the parliament than to the president (KNIP).⁷

According to Inu Kencana Syafii'e, "Since the presidential system switched to a parliamentary system, even though it was not recognized in the 1945 Constitution, this system continued until December 27, 1949, and the 1945 Constitution itself did not undergo textual changes.⁸ Therefore, changing the system of government and state administration is an act that violates the 1945 Constitution

The desire to form a democratic government based on community participation was carried out through a government decree dated November 3, 1947, concerning the formation of political parties. So a parliamentary system of government with multi-party applies. This is a form of deviation from the implementation of the 1945⁹ Constitution which adheres to a

⁵ Pasal 4 Aturan Peralihan UUD 1945.

⁶ Dasril Radjab, *Hukum Tata Negara ...*, Op. cit., 1992, hal. 93.

⁷ *Ibid.*

⁸ Inu Kencana Syafii'e, *Sistem Pemerintahan Indonesia*. Jakarta: Rineka Cipta, 1990, hlm. 31

⁹ *Ibid*

presidential government system. Even if we examine it further, the presidential system that is adopted by itself is a form of an impure presidential system (quasi-presidential).¹⁰

b. Indonesian State Administration System from 27 December 1949 to 17 August 1950

The journey of the new state of the Republic of Indonesia did not escape the undermining of the Dutch who wanted to return to power in Indonesia. The Dutch tried to establish countries such as the State of East Sumatra, the State of East Indonesia, the State of Pasundan, the State of East Java, and so on. This effort was a tactic to undermine the power of the Unitary State of the Republic of Indonesia. To realize this goal, the Dutch held Aggression, namely the first aggression in 1947 and the second aggression in 1948. The Dutch intimidated the United Nations and claimed that the existence of the Unitary State of the Republic of Indonesia did not exist and the TNI was only night robbers. On the advice of the UN, a Round Table Conference (KMB) was held in The Hague from 23 August 1949 to 2 November 1949. The KMB was attended by representatives of Indonesia, BFO (Bijeenkomst voor Federal Overleg), and the Netherlands as well as a UN commission for Indonesia.

On the one hand, on 18 September 1948, there was a PKI rebellion in Madiun led by Muso. In order to recapture the territory of the Unitary State of the Republic of Indonesia (NKRI) which was controlled by the Dutch, the Great Commander, General Sudirman, together with the people, carried out a guerrilla war that culminated on March 1, 1949, Lieutenant Colonel Suharto led an attack on Yogyakarta and succeeded in occupying it for six hours. On July 8, 1949, Lt. Col. Suharto picked up Commander Sudirman in Po-jong-Wonogiri, and on 10 July 1949, the president and vice president returned from detention to receive General Soedirman at the Yogyakarta Presidential Palace. Second, diplomatically, namely, the Netherlands intimidated the United Nations (UN) and claimed that the existence of NKRI did not exist and the TNI was only night robbers. On the advice of the UN, the Round Table Conference (KMB) was held in The Hague on 23 August 1949 to 2 November 1949. KMB was attended by representatives of Indonesia, the Conference of Representatives of the States or BFO (Bijeenkomst voor Federal Overleg), and the Netherlands as well as a UN commission for Indonesia.

The KMB resulted in three main agreements, including:

¹⁰ Titik Triwulan Tutik, *Restorasi Hukum Tata Negara Indonesia, Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Edisi Pertama, (Depok: Prenadamedia, 2017), ha l. 23.

- 1) Established the Republic of the United States of Indonesia;
- 2) Transfer of sovereignty to the United States of Indonesia;
- 3) Established a union between the United Republic of Indonesia and the Kingdom of the Netherlands.

The agreement to surrender its own sovereignty includes:

- 1) Charter of transfer of sovereignty;
- 2) Union status;
- 3) Transfer approval.¹¹

In the United States, the 1945 Constitution as the basic law is no longer valid, for this, it is necessary to make a new Constitution. The UUD plan for RIS was made by the RI delegation and the BFO delegation at the KMB. The plan was accepted by both parties and entered into force on December 27, 1949, which had previously been approved by the Central National Committee on December 14, 1949, as the people's representative in the Republic of Indonesia.

With the establishment of the United Republic of Indonesia (RIS), the Republic of Indonesia (RI) is only one of the states within the RIS State, and its territory in accordance with Article 2 of the RIS Constitution is the area referred to in the Renville agreement. The 1945 Constitution which was originally valid for all of Indonesia, starting December 27, 1949, only applies within the territory of the Republic of Indonesia.

On the basis of the consideration that the RIS Constitution-making Body (known as the RIS Constitution) is less representative, then in Article 186 of the RIS Constitution, it is stated that the Constituent Assembly together with the government shall stipulate the RIS Constitution as soon as possible so that the RIS Constitution is provisional. The RIS Constitution consists of a Preamble, 197 Articles, and 1 Appendix. In the Preamble to the RIS Constitution, there is a formulation of Pancasila, which is different from the formulation of Pancasila in the Preamble of the 1945 Constitution.

The formulation and systematics of Pancasila contained in the Preamble to the Constitution of the RIS are:

- 1) Belief in the One and Only God;
- 2) Humanity Fairy;

¹¹ Dasril Radjab, 1992, *Hukum Tata Negara ...*, Op. cit., hal. 96.

- 3) Nationality;
- 4) Citizenship;
- 5) Social Justice.

The Preamble to the Constitution of the RIS has completely abolished the soul, spirit, or content of the Preamble to the 1945 Constitution as the official explanation for the Proclamation of Indonesian National Independence. Included in the deviation of this preamble is a change in the wording of the five Pancasila precepts. This then paved the way for the interpretation of Pancasila freely and at will, so that it became the source of all irregularities in the history of Indonesian constitutionalism.

c. The Indonesian Constitutional Law System According to the RIS Constitution

According to Article 1 paragraph (1), "The independent and sovereign Republic of the United States of Indonesia is a democratic, legal state in the form of a federation." Furthermore, in Article 1 paragraph (2) it is stated that the sovereign power of the United States of Indonesia is exercised by the government together with the DPR and the Senate.¹² This means that the government, the DPR and the Senate, the three state institutions, have the authority to jointly make laws in terms of: First, regarding special matters; Second, regarding one or more regions, all of its parts, or specifically regarding the relationship between the RIS and the regions.¹³ The relationship between the DPR and the government is sufficient for legislation that does not address this issue. In particular, the framework of the Indonesian government is referred to in Article 118 paragraph (2) which reads:

"Responsibility for government policy rests with the minister, but if the policy of the minister/ministers turns out to be unacceptable to the DPR, then the minister/ministers must resign. Or the DPR can dissolve the ministers (cabinet) by reason of a vote of no confidence." Given this arrangement it tends to be reasoned that; First, what is meant by the government is the president with one or several ministers. It is impossible to challenge the president's authority over state government. Those responsible for government strategy rest in the hands of ministers, both together for the whole and each for its own part. Second, the government system based on the RIS constitution adheres to a parliamentary system of government in terms of ministerial

¹² *Ibid.*

¹³ *Ibid.* hal. 98.

accountability (DPR). In this system, ministers are accountable to parliament individually and collectively.

The official political decision system is finalized by individuals approved by the state government. Implementation of these provisions on December 16, 1949, the day of the RIS presidential election, and the election resulted in the victory of Ir. Sukarno and he took office on December 17, 1949. In the meantime, Mr. Asaat filled the vacant post of President of the Republic of Indonesia.¹⁴

In addition to the president and DPR in the RIS Constitution, there is a senate which is a representative of the state/province with a total of 2 (two) people for each state/district. Hence, the Senate is a representative body of the state whose members are appointed by the respective state governments.

d. Organizational Framework of the Indonesian State Period 17 August 1950-5 July 1959

The reign of the RIS Constitution (1949) was a temporary change, bearing in mind that from the beginning the Indonesian people needed a unitary state. This shows that RIS did not last long because there was consolidation with RI, so in the end, only three states remained, namely RI, Eastern Indonesia Region, and East Sumatra Province. The authority of the RIS Government eventually diminished. In the end, the State of RIS representing East Indonesia, East Sumatra, and RI agreed to form the Unitary State of the Republic of Indonesia.¹⁵

According to Dasril Radjab, the constitutional system based on the RIS Constitution did not last long. This is because the contents of the constitution are not rooted in the will of the people and are not a political decision of the Indonesian people, but are engineering from outside either the Netherlands or the United Nations."¹⁶

The May 19, 1950 agreement stated the agreement. On August 12, 1950, a committee was formed to draft a new Constitution. The Working Committee of the Central National Committee, the DPR, and the RIS Senate drafted the UUD on August 14, 1950. On August 17, 1950, it was passed and became the Basic Law. Articles 190, 127a, and 191 paragraph (2) of the RIS Constitution were used in the ratification of the 1950 Constitution, and Law Number 7 of

¹⁴ Inu Kencana Syafie, 1990, *Sistem Pemerintahan ...*, *Op. cit.*, hal. 34-35.

¹⁵ Dasril Radjab, 1992, *Hukum Tata Negara ...*, *Op. cit.*, hal. 99.

¹⁶ Menurut Moh. Kusnardi dan Harman Ily Ibrahim, secara formal UUD 1950 adalah merupakan perubahan dari UUD 1949, namun hakikatnya adalah penggantian UUD, dari UUD 1949 diganti dengan UUD 1950, jadi bukan sekadar perubahan. Lihat, Moh. Kusnardi dan Harman Ily Ibrahim, 1983, *Pengantar Hukum Tata Negara ...*, *Op. cit.*, hal. 95.

1950¹⁷, State Gazette of the RIS of 1950 Number 56, the 1950 Constitution became legally binding on August 17, 1950¹⁸

The matters contained in these arrangements include two things, namely:

- 1) Indonesia returned to being a unitary state by utilizing the 1950 Constitution which was the result of a revision to the RIS constitution;
- 2) Changes to the constitution with the 1950 Constitution were officially announced by force starting on August 17, 1950.¹⁹

In the Preamble to the Provisional Constitution of the Republic of Indonesia (UUDS 1950), there are basic details and systematics of Pancasila expressions that are equivalent to those contained in the RIS Constitution, in particular:

- 1) Belief in the One and Only God
- 2) Humanity Fairly
- 3) Nationality
- 4) Citizenship
- 5) Social Justice.²⁰

Formally, the state which was established on the basis of this constitutional change was stated as a continuation of the RIS state, 7 of 1950 was only a change from the RIS Constitution. It is not a change to the constitution, but in terms of the actual substance of the law, this change is a fundamental and essential addition to the RIS Constitution. Because the "package" of Law no. 7 of 1950, materially "as if" a new Constitution was born. The complete and impeccable "1950 Constitution" with new preambles and bodies based on new principles was included in Law No. 7 in 1950.²¹

e. Form of the State According to the 1950 Constitution

¹⁷ M. Mahfud MD., 2001, *Dasar dan Struktur Ketatanegaraan Indonesia*, Jakarta: Rineka Cipta, hal. 56.

¹⁸ Darji Darmodiharjo, dkk., 1991, *Santiaji Pancasila: Suatu Tinjauan Filosofis, Historis, dan Yuridis Konstitusional*, Surabaya: Usaha Nasional, h. 152 -153. Hal ini sebagaimana juga disampaikan Moh. Kusnardi dan Harmaily Ibrahim, bahwa secara formal UUD 1950 adalah merupakan perubahan dari UUD 1949, namun hakikatnya adalah penggantian UUD, dari UUD 1949 diganti dengan UUD 1950, jadi bukan sekadar perubahan. Lihat, Moh. Kusnardi dan Harmaily Ibrahim, 1983, *Pengantar Hukum Tata Negara ...*, *Op. cit.*, hal. 95.

¹⁹ Dasril Radjab, 1992, *Hukum Tata Negara ...*, *Op. cit.*, hal. 102.

²⁰ Inu Kencana Syafie, 1990, *Sistem Pemerintahan ...*, *Op. cit.*, hal. 36.

²¹ Danang Risdianto, Legalitas Dekrit Presiden 5 Juli", *Jurnal Legislasi Indonesia*, Vol.15 No. 01, 2018: 59-68, hal. 61.

Form of the State According to the 1950 Constitution Regarding the form of the state, it is stated in paragraph IV of the 1950 Constitution which reads as follows: "So we are compiling our independence, in a state charter in the form of the Unitary Republic..." Likewise, what is emphasized in Article 1 paragraph (1) of the 1950 Constitution emphasizes that the independent and sovereign Republic of Indonesia is a majority legal state and a unitary state. Based on these provisions, it can be seen that the form of a state according to the 1950 Constitution is a unified state. This means that there are no states within a country, as in the RIS state. In order to complete the augmentation of the central government and the appointment of powers, decentralization was carried out²²

Paragraph 1 of Article 131 of the 1950 Constitution, is stated as follows: "The division of Indonesia's regions into large and small regions that have the right to manage their own households (autonomy) with the form of government structure is determined by law by observing and considering the basis of deliberation and representation in the state government system".

According to the provisions of Article 131, the basis and mechanism for regional decentralization have been regulated in the 1950 Constitution, namely by granting full (autonomy) rights to the regions to manage their own territory.

f. State Government System

The president is the head of state who is assisted in carrying out his obligations by a vice president, this is according to Article 45 paragraphs 1 and 2 of the 1950 Constitution. There is no way to challenge the president and vice president.²³ A council of ministers, headed by a prime minister, is in charge of the government. The ulama is responsible for all government strategies, both collectively for the whole and for their respective of parts to the DPR.²⁴ It can be seen from the government system based on the 1950 Constitution that the government system is a parliamentary system. Ministers are jointly or individually responsible for executive tasks. The head of state as the head of government cannot be sued, because the head of state is considered never disgraceful (the King can do no wrong).

g. Legal Basis of Presidential Decree 5 July 1959

²² Jimly Ashiddiqie, *Hukum Tata Negara Darurat*, Rajawali Pers, Jakarta, 2008, hal.205- 225.

²³ Ferdiansyah Hanafi dan Iswandi, "Analisis Konstitusionalitas Dekrit Presiden 5 Juli 1959 Menurut Hukum Tata Negara Indonesia", *Jurnal of Constitutional Law*, Vol. 1 No.3, 2021: 431-448.

²⁴ Danang Risdiarto, "Legalitas Dekrit Presiden 5 Juli 1959 dan Pengaruhnya Bagi Perkembangan Demokrasi di Indonesia", *Jurnal Legislasi Indonesia*, Vol. 15 No. 01, 2018: 59-68, hal. 62.

Legal Basis for Presidential Decree 5 July 1959: "This decision confirms the re-enactment of the 1945 Constitution as the Indonesian constitution" is one of the important events in the history of Indonesian constitutionalism. The failure of the Constituent Assembly to draw up a new Constitution to replace the 1950 Constitution was inseparable from the issuance of a Presidential Decree on July 5, 1959. The discussion about the basis of the state which departed from Pancasila as the basis of the State or Islam as the basis of the state, transformed into a discussion about the choice of whether to recognize the proposal of public authority to back to the 1945 Constitution as the Indonesian constitution²⁵

According to Jimly Asshiddiqie, there are only three circumstances in which a decision letter can be issued. First, when a country is at war and everything becomes an emergency, it is possible to enact rules that contradict previous laws. Second, when laws are passed to end the chaos in this country. Third, when state functions are in a state of emergency, it is permissible to issue decrees. Under these conditions, guidelines can be given as Perppu to overcome these crisis conditions²⁶

This decision was taken in the context of parliamentary democracy which resulted in a number of events that threatened the unity and integrity of the Indonesian nation. These events included signs of provisional, separatist movements, the change of cabinet from the Natsir cabinet in 1950 to the Juanda cabinet in 1959, and the failure of the Constituent Assembly to draft a new constitution. President Soekarno's desire to immediately implement the decree was supported by the failure of the Constituent Assembly to draw up a new Constitution which was the central point of the 1959 decree. In addition, President Soekarno was forced to take immediate action because of the possibility of additional splits as a result of the stalemate in the Constituent Assembly between 1957 and 1959. In 1956 with the formation of the Bull Council, Elephant Council, Garuda Council, Manguni Council, and Mangkurat Council, the regions in Indonesia were experiencing upheaval at that time. After that, it developed into PRRI/Permesta, then became RPI (Republic of Indonesia)²⁷

Due to the disappointment of the Constituent Assembly at its third meeting, it turned out that other members of the Constituent Party from the PNI and PKI groups would not attend

²⁵ Jimly Ashiddiqie, *Hukum Tata Negara Darurat*, op cit, hal.205

²⁶ *Ibid.*, hal. 107-108.

²⁷ C.T. Simorangkir, *Penetapan UUD dilihat dari Segi Hukum Tata negara Indonesia*, Jakarta: Gunung Agung, 1998, hal. 130.

the meeting again. As a result, the continuity of state administration and the integrity of the Indonesian state is disrupted, as well as the progress of national development. President Soekarno and the TNI emerged as political forces that were expected to be able to break through the political impasse at this critical time. The following series of political events prompted President Soekarno to issue a Presidential Decree on Sunday, July 5, 1959, at 17.00 WIB at the Merdeka Palace²⁸

The main provisions of the Presidential Decree dated 5 July 1959 are as follows:

- 1) Determine the Dissolution of the Constituent Assembly.
- 2) Restore the 1945 Constitution for the entire Indonesian nation which includes all of Indonesia's bloodshed, and does not apply the 1950 Constitution.
- 3) Establish an MPRS consisting of members of the DPR and delegates from the regions.
- 4) Forming a temporary DPA.

The preamble to the third and fourth paragraphs of the Decree of 5 July 1959 stated: "That such a thing creates a constitutional situation which endangers the unity and safety of the country, the archipelago, and the nation and hinders the development of the universe in order to achieve a just and prosperous society and that with the support of the majority of the Indonesian people and driven by our own beliefs, we are forced to take the only way to save the proclamation of the state".

According to Wirjono Prodjodikoro, relating to the Presidential Decree of 5 July 1959, as quoted by Dasril Radjab said: "The act of decreeing returns to the 1945 Constitution (Staats Dordrecht). This means that in certain constitutional circumstances, we may be forced to take actions that deviate from these coercive constitutional regulations, considered by the president/Supreme Commander of the Armed Forces to exist in our country. And it was based on this that the Presidential Decree/Supreme Commander of the Armed Forces to return to the 1945 Constitution was issued²⁹

In accordance with this assessment according to Moh. Tolchah Mansoer, that the decision was not based on the Provisional Constitution of the Republic of Indonesia. Emergency law to save the nation and state is the focus of the problem. So thus, when viewed from the point of view of the constitutional law regulations that have been stipulated, the activities of the

²⁸ Titik Triwulan Tutik, *Restorasi Hukum Tata Negara Indonesia, Berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, Edisi Pertama, (Depok: Prenadamedia, 2017), hal. 30-32.

²⁹ Titik Triwulan Tutik, *ibid*, hal. 33.

President/Military Leader under coercive circumstances are indeed legitimate because in the norms of statutory regulations which are commonly referred to as *salud populi suprema lex* (the interests of the people are supreme law). Regardless of the legal basis for subjective state emergency (subjective *staatsnoodrecht*), 17 days after the announcement of the decree, namely on July 22, 1959. By acclamation, the DPR decided to accept the president's wish to continue working within the framework of the 1945 Constitution, thereby confirming the existence of this decree.

Thus according to Budi Susetyo as quoted by JCT Simorangkir: "Because the DPR was elected by the people and can be considered to have brought the voice of the people in its session on July 22, 1959, if at first there was doubt whether the decision (decree) was valid or not, that doubt no longer matters. The reason". The existence of the July 5, 1959 Decree as something that was "deviant" according to the provisions of the constitutional laws and regulations turned out to be valid according to the provisions of the state emergency law as a result of this opinion.

h. The Indonesian State Administration System for the Period 5 July 1959-11 March 1966

With a Presidential Decree on July 5, 1959, the 1945 Constitution was reinstated. As a result, the formulation and methodology of Pancasila remained consistent with "the fourth paragraph of the Preamble to the 1945 Constitution. The state tools are structured in order to realize a state government based on Pancasila and the 1945 Constitution.

1) President and Ministers

With the re-enactment of the 1945 Constitution, the president, who previously only served as head of state, then later also served as head of government. On July 10, 1959, President Soekarno was sworn in as president. According to the 1945 Constitution and at the same time the president announced the composition and names of the new ministers and cabinet. These ministers act as assistants to the president, are appointed and dismissed by the president, and are not responsible to the DPR, but to the president.

2) The Mutual Cooperation Council (DPR-GR)

While the DPR is waiting for drafting based on Article 19 of the 1945 Constitution, the DPR is based on Presidential Decree (Penpres) No. 1 of 1959, while still completing the obligations of the DPR in accordance with the 1945 Constitution. However, the DPR is far from the president's expectations. Therefore, Presidential Decree Number 3 of 1960 concerning the Disintegration of the DPR, which contains:

- a) Responsibilities of DPR members are dismissed.
- b) Renew the composition of the DPR in accordance with the 1945 Constitution as soon as possible;
- c) On March 5, 1960, the Presidential Decree came into force.

Follow up of Presidential Decree No. 3 of 1960 gave Presidential Decree No. 4 of 1960 concerning the composition of the Gotong Royong DPR

3) Provisional People's Consultative Assembly (MPRS)

To implement this decree, Presidential Decree Number 2 of 1959 was issued which regulated the People's Consultative Assembly (MPR) and Presidential Regulation Number 12 of 1960 concerning Membership of the Provisional People's Consultative Assembly (MPRS). In accordance with Presidential Decree Number 2 of 1959 concerning the People's Consultative Assembly (MPR), Article 2 of 1959 reads as follows:

- a) Before the MPR was formed based on Article 2 paragraph (1) of the 1945 Constitution, an MPRS was formed consisting of DPR members referred to in Presidential Decree No. 1 of 1959 including delegates from groups and regions in accordance with the rules.
- b) The President decides how many MPRS members there are.

4) Provisional Supreme Advisory Council (DPAS)

Complementing the state apparatus as referred to in the Decree of 5 July 1959, that a Provisional Supreme Advisory Council (DPAS) had to be formed, Presidential Decree No. 3 of 1959 concerning the Provisional Supreme Advisory Council (DPAS) was issued. According to Presidential Decree No. 3 the year 1959:

- a) DPAS members are appointed and dismissed by the president.
- b) The number of DPAS members is determined by the president.
- c) DPAS members are selected from: political associations, work associations, individuals who can advance regional issues, and community leaders

5) Application of the 1945 Constitution

Even though the 5 July 1959 Decree was included in the 1945 Constitution, constitutional practice shows that the 1945 Constitution never applied the spirit and provisions of the 1945 Constitution until 1966. In other words, several events occurred during the constitutional period in the context of implementing the 1945 Constitution:

- a) Implementation of the Guided Democracy system, in which the president forms the MPRS and DPAS with Declaration Number 2 of 1955 which is contrary to the official framework of government as stated in the 1945 Constitution.
- b) The determination of the president's term of office for life is contrary to the Constitution which states that the president can be re-elected for one more term after serving five years.
- c) The establishment of the atheistic Indonesian Communist Party contradicts the philosophy of the Indonesian nation as outlined in the Preamble to the 1945 Constitution as "Belief in the One and Only God" which states that the Indonesian people must acknowledge the existence of God.
- d) The September 30th Movement (G-30-S/PKI) of the PKI carried out a coup that would undoubtedly result in the establishment of a communist state in Indonesia. This is the biggest deviation from the implementation of the 1945 Constitution.³⁰

1.1. The style of constitutional law in its development

During the Old Order era in Indonesia, there were several identifiable features of constitutional law. The following are some of them:

a. RIS Constitution (United Republic of Indonesia)

During the Old Order era, Indonesia adopted the government system of the United Republic of Indonesia (RIS) which was formed on December 27, 1949. The RIS Constitution regulated the division of powers between the center and the regions, with the center having power in the fields of foreign affairs, defense, finance, and inter-regional relations. Meanwhile, the regions have authority in areas that are not delegated to the center.

b. 1950 Constitution

After the RIS ended and Indonesia returned to being a unitary state, in 1950 the 1950 Constitution was issued. This 1950 Constitution emphasized that sovereignty rests with the people and is carried out under a democratic system. The 1950 Constitution also emphasized the separation of powers between the executive, legislative, and judiciary.

c. Presidential Decree July 5, 1959

On July 5, 1959, President Soekarno issued a Presidential Decree of July 5, 1959, which changed the 1950 Constitution into a new Constitution, namely the Constitution of the Republic of

³⁰ Inu Kencana Syafie, *Sistem Pemerintahan ..., Op. cit.*, hal. 43.

Indonesia (KRI) which adhered to a guided democracy system. In this system, the executive and legislative powers are in one hand, namely the president, while the judicial powers are separate. This system lasted until the collapse of the Old Order in 1965.

d. Cabinet Change During the Old Order

There are also constitutional law features related to cabinet changes. The president has absolute power in forming and dissolving cabinets. A newly formed cabinet must be approved by the DPR, but the president retains the power to dissolve the cabinet at any time.

e. The use of impeachment during the old order

The impeachment of the president or vice president can only be carried out by the People's Consultative Assembly (MPR) after obtaining approval from the DPR. This impeachment can only be carried out if the president or vice president commits a serious violation of the constitution and applicable laws or commits a criminal act.

2. Developments during the New Order Period

a. Submission of Warrant March 11, 1966, as Legal Basis

Responding to the chaotic constitutional conditions, the Tritura (Three Demands of the People) emerged, namely:

- 1) Firm and consistent application of Pancasila and the 1945 Constitution;
- 2) Dissolution of the Indonesian Communist Party (PKI); And
- 3) Reduction of the cost of goods.

On the other hand, there was a wave of demands that emerged and was spearheaded by youths who were members of associations such as KAMI, KAMMI, KAPI, and other youth organizations, the government was unable to withstand this wave. Finally, the president issued an order to Lieutenant Suharto to take important action. On March 11, 1966, General Suharto was appointed Minister and Commander of the Army. The warrant was a significant turning point in history and paved the way for the Indonesian Revolution.

March 11, 1966, Warrant ordered Lieutenant General Suharto as minister/commander of the Army (TNI-AD) for the benefit of the people on behalf of the president/supreme commander/great leader of the revolution to implement regulations including:

- 1) For the sake of the integrity of the nation and state of the Republic of Indonesia, carry out with certainty all of the teachings of the Great Leader of the Revolution and take all necessary actions to ensure security, peace, and stability in all areas where the revolution is

running, as well as personal safety and authority of the President/Supreme Commander/Leader The Great Revolutionary/Mandatory MPRS.

- 2) Coordinate the implementation of orders with the commanders of other Indonesian National Armed Forces forces as well as possible and can be expected.
- 3) Report everything related to the responsibilities and duties of the center as mentioned above.

The preamble to the Warrant on March 11, 1966, stated:

- 1) The government and the course of the revolution must be calm and steady;
- 2) To safeguard the interests and authority of the president/Supreme Commander/Great Leader of the Revolution/MPRS/MPRS leadership and teachings, there must be a guarantee of the integrity of ABRI, the Great Leader of the Revolution, and the people.

What became the legal basis for the issuance of the warrant can be clearly identified through consideration of the warrant dated March 11, 1966. Thus, according to Joeniarto, the legal reason for the March 11, 1966 Order was a state emergency regulation and if it is related to two kinds of state emergency regulations, the order is included as a subjective state emergency regulation.³¹

b. Period 11 March 1966-19 October 1999 Indonesian Constitutional Law

In the Constitutional Law of the Republic of Indonesia to carry out the mandate of Letter 11 March 1966, then through Presidential Decree No. 1/3/1966, the PKI was dissolved from associations that were in the same standard / protected / under its support. Apart from that, security was carried out for a number of ministers from the Dwi Kora Cabinet who were allegedly involved in the G-30-S/PKI incident or at least questioned their sincerity to help the president.

The events of the G-30-S/PKI made Lieutenant Suharto, a new figure in the history of the Indonesian state administration. with MPRS Decree No. Through constitutional procedures with MPRS Decree No. IX/MPRS/1966 On March 27, 1968, Lieutenant General Suharto was given the post of acting president. General Suharto was promoted to president of the Indonesian Republic from the office of president.

In essence, the delegation of authority for state administration by President Soekarno to Lieutenant Suharto through a warrant of March 11, 1966, by the MPRS believed that President

³¹ Denny Indrayana, 2004, “*Negara Hukum Pasca Soeharto*”: Transisi Menuju Demokrasi vs. Korupsi”, *Jurnal Konstitusi*, Mahkamah Konstitusi RI Vol. 1 No. 1, Juli 2004, hal. 103

Soekarno "has stopped". As Article 8 of the 1945 Constitution reads, "If the President dies, stops, or is unable to carry out his obligations during his term of office, he is replaced...." This arrangement is used as the basis for justifying the issuance of MPRS Decree No. XXXIII/MPRS/1967 concerning the Revocation of the Power of the State Government by President Soekarno.³²

Even though it can still be called the MPRS, the temporary word above it indicates that the highest state institution has not been formed based on election results as a representative of all Indonesian people. It is proven that the MPRS issued 44 legally binding decrees to regulate the administration of the state government between 1960 and 1968. In the elections that took place on July 5, 1971, new people's representative institutions could be recruited. As a result, the MPR consists of regional delegates and DPR members appointed by political parties and working groups, as well as DPR members appointed by ABRI units.

In addition, in several candidacies, Suharto was retained as president through the MPR Declaration, including MPR IX/MPR/1973 Decree, Tap, 1971 MPR Election Results No. Tape of the 1977 election results, X/MPR/1978 MPR No. VI/MPR/1983, Tape, Results of the 1982 MPR Election No. Tap, Election Results V/MPR/1988 Year 1987. MPR No. IV/MPR/1993 As a result of the 1992 Political Decision, and Decree. MPR No. IV/MPR/1998 Year 1997 results of political decisions.

Inequality and injustice in various areas of national and state life are the results of the constitutional journey of the Suharto regime at the end of his reign. In the field of regulation, instead of limiting influence, regulation is used to develop individual influence and wealth. In other words, from 1966 to 1998, discriminatory laws were passed, and KKN continued to color life in the state. Manipulation of the law causes him to become a slave to a few businessmen and rulers. This mastery occurred because President Soeharto controlled almost all state power³³

What is currently happening regarding the basic rules of the state, especially the 1945 Constitution, is the main issue of the Indonesian rule of law. The constitution, which was written in no less than twenty working days, is not a perfect document to guarantee the upholding of a democratic rule of law. The MPR exists as a super-parliament, whose capabilities are unlimited.

³² Azyumardi Azra dalam Tim ICCE UIN Syarif Hidayatullah, 2003, *Demokrasi, Hak Asasi Manusia, dan Masyarakat Madani*, Jakarta; ICCE UIN Syarif Hidayatullah, h. ix.

³³ Article 8 of the 1945 Constitution, "If the president dies, stops, is dismissed, or is unable to carry out his obligations during his term of office, he is replaced by the vice president until the end of his term of office."

In addition to exercising governmental authority, the president is also authorized to enact laws, which are not significant safeguards against basic freedoms.

President Soeharto took full advantage of the shortcomings of the 1945 Constitution. By controlling the MPR recruitment process and manipulating the law regarding the composition and positions of the parliament. Suharto's real power spiraled out of control because there was no legal forum or mechanism to interpret and test laws and regulations against the Constitution. In reality, Suharto's constitutional interpretation prevailed. The failure of the presidential succession procedure as a prerequisite for the formation of democratic leadership is one of the consequences.

Seeing the situation that was felt to have worsened with the regime's hegemony, had sparked the spirit of the reformists to rise up to bring about changes in the state order. This then resulted in the overthrow of the New Order regime led by President Suharto on May 21, 1998, from his power for approximately 30 years.³⁴ According to the constitution,³⁵ the vice president, in this case, B.J. Habibie was appointed president of the Indonesian Republic to replace President Suharto until the end of his term of office.

c. The B.J. Transitional Period Habibie Towards Democracy

The change of the majority government since the fall of President Soeharto seems difficult to postpone (point of no return). Indonesia is clearly undergoing a significant shift towards democracy, the country is also undergoing political liberalization and democratization.

During his interregnum, President B.J. Habibie strengthened the momentum of Indonesia's transition to democracy by implementing various policies, starting with the implementation of multiparty elections, the 1999 election which was considered the most democratic since Indonesia's independence, freedom of the press, and expanding the DPR's check and balance function.

However, at the same time, the development of a democratic or transitional system, slowly turning Indonesia into a democratic government, has also created a lot of vulnerabilities and inconveniences. People are increasingly using undemocratic methods to resolve conflicts, such as mass politics, money politics, and other undemocratic methods if democracy is a

³⁴ Article 1 MPR Decree No. III/MPR/1999 concerning Accountability of the President of the Republic of Indonesia Prof. Dr. ing. Bacharuddin Jusuf Habibie.

³⁵ Tim ICCE UIN Syarif Hidayatullah, 2003, Demokrasi, Hak Asasi Manusia ..., Op. cit., hal. 102.

peaceful conflict resolution. As stated by Sorensen, domestic conflicts in various layers and layers of society, originate from and result in the decline of power and authority and are followed by violence and anarchy, this is absolutely detrimental to the formation and growth of a democratic political culture.

The existence of a president whose MPR judged the 1999 election to be "unsuccessful" was influenced by this situation. Proven accountability of President B.J. Habibie said or delivered before the 8th Plenary Session on October 14, 1999, as well as the president's response to the General View of the Faction on the President's Accountability Speech at the 11th Plenary Session on October 17, 1999, the General Session of the Indonesian People's Consultative Assembly which took place from October 14 until October 21, 1999, were both rejected³⁶

2. The style of constitutional law in its development

During the New Order era (1966-1998), the style of constitutional law in Indonesia was dominated by the ideology of Pancasila as the state ideology and the highest legal basis. The New Order government saw that Pancasila was an ideology capable of accommodating diverse national interests and protecting state interests. In practice, the New Order's power was highly centralized and authoritarian. The New Order government concentrated power in the hands of the president and his political party, Golkar. The government also controls the mass media and limits freedom of expression and association. Human rights are often violated and law enforcement does not always go according to the principles of justice. In the field of constitutional law, during the New Order, there were several major changes in the constitution and national legal system. Some of these changes include the following:

- a) Additions to the 1945 Constitution article 30A concerning the rights and obligations of citizens, as well as article 31 concerning the right to education, health, and employment.
- b) Enactment of Law no. 5 of 1974 concerning Principles of Agrarian Affairs, which gives the government power over land as part of the national natural resources.
- c) Enactment of Law No. 14 of 1970 concerning Community Involvement in National Development, which emphasizes the active participation of the community in national development.
- d) Enactment of Law no. 16 of 1985 concerning Basic Agrarian Provisions, which regulates land ownership rights in more detail.

³⁶ Denny Indrayana dalam Denny Indrayana, 2004, "*Negara Hukum...*", *Op. cit.*, h. 105.

- e) Enactment of Law no. 7 of 1989 concerning the State Administrative Court, which regulates the state administrative court institution as a special judicial institution in the field of state administration.

3. Developments during the Reformation Period (October 19, 1999-Present)

The country's constitutional system and government must be overhauled and reorganized to fulfill the mandate of reform. The post-Suharto administration prioritized constitutional reform, ignoring the fact that the authoritarian 1945 Constitution was the main obstacle to Indonesia's rule of law. As a result, a number of amendments to the Constitution, including (1) Amendment I to the 1945 Constitution (19 October 1999 - August 2000); (2) the 1945 Constitution and its first and second amendments (dated August 2000–November 2001); (3) the 1945 Constitution and Revisions I, II, and III (9 November 2001-10 August 2002); and (4) Amendment I, II, III, and IV of the 1945 Constitution (since August 2002 until now)

The results of the amendments to the constitution confirmed that the declaration of a constitutional state which so far only existed in the Elucidation was included in the 1945 Constitution. The importance of the separation of state powers was emphasized. The MPR's power is no longer limited. The president no longer has the authority to make regulations, but only has the right to propose and review bills. The DPR, the legal institution, is given back powers. In addition, the Regional Representative Council (DPD) was formed and included in the legislation process for a number of issues, particularly those related to regional issues.

After not being mentioned in the 1945 Constitution, now the legal basis for the electoral system is regulated. Because all members of the DPR and DPD are directly elected by the people, it is hoped that members of parliament will be more accountable. The president and vice president are also directly elected. The presidential institution has a very limited period. An individual must be elected as president for a limit of two terms. However, one of the factors that reduce the value of society towards the continuity of the presidential election is the control of political parties which monopolize the candidacy of presidential and vice presidential candidates. In addition, it is not possible to allow independent presidential candidates

The system of dismissals for those who violate the law and the constitution further strengthens political accountability through the direct recruitment of members of parliament and the president. However, the rules for impeaching the president are more specific than the rules for dismissing members of parliament, the details of which are regulated in law

From this explanation, independent judicial power is the basis of the 1945 Constitution. In addition, the Constitutional Court (MK) was formed to maintain the functions and benefits of the Constitution. As a result, the Constitutional Court has the authority to carry out constitutional reviews and examine the legality of laws and regulations in dealing with constitutional regulations.

In terms of the protection of Human Rights (HAM), the rules that existed before the amendments to the 1945 Constitution were far less comprehensive. Lindsey emphasized that the post-amendment protection of human rights was impressive and significantly more comprehensive than in many developing countries. Although in Ross Clarke's opinion, the question of the rules of non-retroactivity in Article 28 (I) has made some circles criticize the guidelines for shared freedoms.

Therefore, in general, the results of the Amendments to the 1945 Constitution provide a stronger constitutional basis for the formation and expansion of the Indonesian legal system in terms of the constitutional system being maintained in the future. It is important to note that changes to the 1945 Constitution only affect the body of the Constitution (its articles), not its implementation. There is an assumption that amending the Preamble to the 1945 Constitution will basically change the state of Indonesia which was proclaimed on August 17, 1945. Because the Preamble to the 1945 Constitution is essentially the soul and spirit of the proclamation of the state. By not changing the Preamble to the 1945 Constitution, the systematics and formulation of Pancasila have not changed. This is a logical consequence because by changing Pancasila as the basis of the State, it will also directly change the Unitary State of the Republic of Indonesia which was proclaimed on August 17, 1945. This also means fundamentally changing the constitutional structure.

3. The style of constitutional law in its development

After the reform, the style of Indonesian constitutional law underwent significant changes. The 1998 reform brought changes to the Indonesian government system from an authoritarian system to a more open and participatory democratic system. This change can be seen in several aspects of Indonesian constitutional law, including the following:

a) A more democratic constitution, in 1999 Indonesia adopted the amended 1945 Constitution.

The amendment provides Indonesian citizens with broader constitutional rights, as well as providing greater control over the executive and legislative powers.

- b) Protection of human rights, post-reform protection of human rights has become the main focus in Indonesian constitutional law. Law Number 39 of 1999 concerning Human Rights is a concrete manifestation of this commitment. In addition, Indonesia has also ratified various international agreements on human rights, such as the International Convention on Civil and Political Rights (ICCPR) and the International Convention on Economic, Social, and Cultural Rights (ICESCR).
- c) Strengthening supervisory institutions, post-reform supervisory institutions such as the Corruption Eradication Commission (KPK) and the Ombudsman were established to combat corruption and abuse of power. In addition, the power and independence of the Constitutional Court are also strengthened to oversee government policies and uphold the Constitution.
- d) Decentralization, reforms also brought significant changes in the Indonesian government system, by implementing wider decentralization and giving greater powers to the regions. This is reflected in various laws, such as Law Number 32 of 2004 concerning Regional Government as amended by Law Number 23 of 2014 concerning Regional Government.

B. Historical Reflections on the Development of Indonesian Constitutional Law

The development of Indonesian constitutional law has gone through quite a long journey covering various historical stages. This history starts from the colonial period, independence, the old order, the new order, to reformation. The following is a historical reflection on the development of Indonesian constitutional law:

1. Colonial Period

During the colonial period, Indonesia did not have an independent constitutional law. The applicable law is colonial law enforced by the Dutch colonialists. However, in 1925, the Dutch colonial government issued Staatsblad 1925 No. 448 concerning Staatsregeling voor Nederlandsch-Indië (Dutch East Indies Constitutional Law), which was later amended by Staatsblad 1938 No. 81. The law contains provisions regarding the drafting of the constitution, the rights of citizens, government and state institutions.

2. The Period of Independence and the Old Order

During the independence period, after Indonesia became independent in 1945, a committee of nine was formed to compile the text of the Constitution of the Republic of Indonesia. On August 18, 1945, the Constitution was ratified and became the basis for

Indonesia's first constitutional law. During the old order, namely during the leadership of President Soekarno, there were major changes in Indonesian constitutional law. The Constitution then underwent several amendments, such as changes in 1949, 1950, and 1959.

In 1949, Indonesia adopted a new constitution known as the Constitution of the United Republic of Indonesia (RIS). The RIS Constitution stipulates that Indonesia is a federated state consisting of states, and also establishes principles such as the division of powers and human rights. In 1950, Indonesia adopted a new constitution that stipulated that Indonesia was a unitary state with a democratic government. The 1950 Constitution also establishes principles such as the division of powers, human rights, and the state's obligation to provide social protection.

In 1957, a Constituent Assembly was formed which was tasked with drafting a new Constitution. However, this effort failed due to conflict between factions in the Constituent Assembly. In 1959, President Soekarno then issued a Presidential Decree on the Establishment of the People's Consultative Assembly (MPR) as the highest state institution.

3. The New Order Period

In 1966, Suharto seized power in a military coup and ruled Indonesia for 32 years. During the New Order era, Indonesia's constitutional law was characterized by government domination and a lack of human rights protection. During this time, Suharto also adopted a new constitution in 1978 which confirmed the powers of the president and reduced the powers of parliament. During the New Order period, there were also major changes in Indonesian constitutional law. In 1966, Suharto issued a Presidential Decree on the Formation of a Preparatory Committee for the Drafting of the New Constitution (Panitia Nineteen). The task of the Nineteenth Committee was to draft a new Constitution which contained the principles of Pancasila as the basis of the state.

4. The Reformation Period

In 1998, widespread popular protests forced Suharto to step down from his post as president. After that, Indonesia began a period of reform that began with the adoption of the revised 1945 Constitution in 1999. The revision redefined the division of powers between the executive, legislature, and judiciary and provided stronger protections for human rights.

After the reform incident in 1998, it was also followed by major changes in Indonesian constitutional law through amendments to the 1945 Constitution in 1999. In 1999, the MPR issued a new Constitution which contained stronger principles of democracy and human rights.

In addition, a Constitutional Court was also formed. Not stopping at the amendments to the 1945 Constitution in 1999, improvements in Indonesian constitutional law have also continued with efforts to amend the 1945 Constitution in 2000, 2001, and 2022 respectively.

CONCLUSION

During the Dutch colonial period, constitutional law in Indonesia was based on Dutch regulations and local customary law. Entering the beginning of independence in 1945, Indonesia's constitutional law was contained in the 1945 Constitution. The 1945 Constitution described Indonesia as a unitary state with a president as the head of state as well as a democratic head of government. Besides that, under Soekarno's government, constitutional law was regulated in several constitutions, including the 1949 RIS constitution and the 1950 UUDS. And Soekarno's government at that time was known for its nationalist and anti-capitalist politics. Entering the New Order era, under the Soeharto government, constitutional law was regulated in the 1945 Constitution with several amendments. The Suharto government was known for its authoritarian politics, political stability, and economic growth. Finally, during the reform period, after the fall of President Soeharto in 1998, Indonesia underwent significant political reforms. Constitutional law is regulated in the 1945 Constitution with several amendments which emphasize the principles of democracy, human rights, decentralization of government, and increased political participation. In general, the history of the development of constitutional law in Indonesia shows quite dynamic developments and always follows changes according to political and socio-cultural developments in Indonesia. However, the development of constitutional law in Indonesia is still ongoing today and is always changing according to the needs of the times.

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