

Pancasila Democracy and the Play of the Good

Constantinus Fatlolon
Ateneo de Manila University

Abstract:

This paper relates the practice of the Indonesian *Pancasila* democracy in relation to the play of the Good. It asks: “how can *Pancasila* democracy tell us about the play of the good in Indonesia?” *Pancasila*, legally, is the official philosophical foundation of the Indonesian state and a central element in Indonesian political discourse. The word *Pancasila* consists of two Sanskrit words, *panca* meaning ‘five,’ and *sila* meaning ‘principle.’ *Pancasila*, thus, literally means ‘five principles’ essential to the conduct of Indonesian nation-building.

What will become clear through the course of this work is the argument that *Pancasila* democracy can indeed provide the space where the common good can be discerned inasmuch as it embodies the aspirations of a sovereign people who can chart their own destinies. If it opens itself to reforms in both theory and law, *Pancasila* can ground the principles of deliberative democracy that is essential for the building of a truly modern and progressive nation-state.

Keywords: *Pancasila*, democratic discourse, Indonesian nationalism, national good,

Introduction

Indonesia, geographically, is an archipelago which consists of more than 13,500 islands, different cultures, ethnicities, languages and religions. It is well-known as one of the countries with a Moslem majority in the world. This fact, however, does not justify Indonesia as Moslem but a democratic state based on the “Pancasila” principle. *Pancasila* refers to ‘the way of life,’ ‘national principle,’ and ‘philosophical foundation of the state’ (*dasar filsafat negara*) which permeates diversity and guarantees the “Unity in Diversity” (*Bhinneka Tunggal Ika*) of the entire nation. The practice of democracy¹ in Indonesia inspired by this principle for decades is called “*Pancasila* democracy.”

Inspired by the need to understand democracy within a concrete context, this paper attempts to understand *Pancasila* democracy in relation to the play of the good. To answer this question, I will first of all describe the birth and the meaning of *Pancasila*. Second, I will describe the play of the good based on *Pancasila* democracy. In this part I will base my explanation on the fourth principle of *Pancasila*. This emphasizes the idea of a people led or governed by wise policies through a process of deliberation (*musyawarah*) to gain consensus (*mufakat*). Third, I will re-examine Indonesia’s notion of deliberation and compare it with existing western conceptions. Following Jürgen Habermas’s notion of deliberative democracy, I will propose the necessity for a fundamental reform both in the constitution and the law.

History and the Meaning of *Pancasila*

Since the enunciation of *Pancasila* as the national principle of the Republic of Indonesia in 1945, it has become a central element in political discourse. The word *Pancasila* consists of two Sanskrit words, *panca* meaning ‘five,’ and *sila* meaning ‘principle.’ *Pancasila*, thus, literally means ‘five principles.’ *Pancasila*, legally, is the official philosophical foundation of the Indonesian state. Sjafruddin Prawiranegara describes this notion clearly

¹ The term democracy is derived from the Greek *demokratein* which consists of two words *demos* meaning people and *kratos* meaning power. Literally democracy means a system of government in which either the actual governing is carried out by the people governed either directly or granted by them through elected representatives.

by saying that *Pancasila* is “the State Philosophy, the philosophy that is the basis of the 1945 Constitution, which constitutes the basis of law for the Republic of Indonesia.”²

Historically, *Pancasila* appeared for the first time in the speech of Sukarno, the first President of Indonesia. This speech was addressed to the Investigating Committee for the Preparation of Indonesian Independence. On March 1, 1945 this committee was established under the auspices of Japanese occupation authorities to prepare for eventual independence. It is composed of prominent Indonesians representing the various social, ethnic, regional and political groups in the Japanese-occupied Netherlands East Indies. Additionally, distinguished religious leaders representing Islam and other religions were present. The most important task of this committee was to establish a philosophical basis of the state for the establishment of the new constitution. Unfortunately, as Douglas E. Ramange explains, “this committee felt compelled to specify the state’s ideological or philosophical basis.”³ The most fundamental problem of the committee was that some members of this committee wished to establish Islam as the basis of the state, some wanted to establish a secular, constitutional democracy, and others advocated what was known as a *negara integralistik* (an ‘integralistic state’).

In order to bridge the gap between the members of the committee, President Sukarno addressed a famous speech before the committee on June 1, 1945 which is well-known as *Lahirnya Pancasila* (the “Birth of *Pancasila*”). In this speech he wanted to establish a philosophical basis for Indonesian Independence. He proposed that *Indonesia Merdeka* (Indonesian Independence) would neither be an Islamic nor a secular state, but a *Pancasila* state.”⁴ According to Sukarno, *Pancasila* is the “*philosofische grondslag*” of Indonesian Independence which means foundation, philosophy, the most profound thought, the spirit, and the deepest desire,

² Sjafruddin Prawiranegara, “Pancasila as the Sole Foundation” in *Indonesia*, Vol. 38 (Oct., 1984), pp. 74-83, available from <http://www.jstor.org/stable/3350846>, [journal on-line], Internet; accessed 09/09/2009.

³ Douglas E. Ramange, *Politics in Indonesia: Democracy, Islam and the Ideology of Tolerance* (New York: Routledge, 1995), 10.

⁴ Eka Darmaputra, *Pancasila and the Search for Identity and Modernity in Indonesian Society* (Leiden: E.J. Brill, 1988), 150.



upon which to build the eternal, indestructible nation of Independent Indonesia.⁵ In his speech, Sukarno explains:

Brothers! The 'Foundations of the State' I have already proposed. They are five in number. Are they the *Panca Dharma*? No! The term *Panca Dharma* would not be appropriate here. Dharma means Duty, whereas we are speaking of foundation . . . Its name should not be *Panca Dharma*, but - I name it on the advice of a friend who is a linguist - rather *Pancasila*. *Sila* means basis or foundation, and on this five-fold foundation we will build the Indonesian State, everlasting and eternal.⁶

Sukarno himself, then, proposed five principles in the following order, namely: (1) Indonesian Nationalism (*Kebangsaan Indonesia*), (2) Internationalism or humanitarianism (*Internasionalisme/Perikemanusiaan*), (3) Unanimous Decision or democracy (*Mufakat/ Demokrasi*), (4) Social welfare (*Kesejahteraan Sosial*), and (5) Belief in God (*Ketuhanan Yang Maha Esa*). These five principles could be compressed into three principles (*trisila*), namely: the principle of Socio-nationalism, of Socio-democracy, and of the One Lordship. And then those three can further be compressed into one principle (*ekasila*), which is the principle of *Gotong Royong* (mutual cooperation).⁷ Sukarno explains:

If I compress what was five into three, and what was three into one, then I have a genuine Indonesian term, *gotong royong*, mutual cooperation. The state of Indonesia which we are to establish must be a *gotong royong* state. How wonderful that is: a *Gotong Royong* state.⁸

⁵ Prawiranegara, "Pancasila as the Sole Foundation."

⁶ Sukarno's explanation is cited in *ibid.*

⁷ Darmaputra, *Pancasila and the Search for Identity and Modernity in Indonesian Society*.

⁸ Sukarno's speech is cited in *ibid.*

By this opinion, as Hans Antlov says, “Sukarno envisaged a nation build on mutual cooperation between different classes and political parties, not on competition and opposition.”⁹

On June 22, 1945, Sukarno’s proposal was reformulated by the Committee of Nine (*Panitia Sembilan*) in what so-called the “Jakarta Charter.” This committee arranged the first draft of *Pancasila* with the following order: Belief in God, with the obligation for its adherents of abiding by the *shari’a* (law) of Islam, Humanitarianism, righteous and civilized, Unity of Indonesia, Democracy (*kerakyatan*) guided by wisdom in the consultations of (the people’s) representatives, and Social Justice for all the people of Indonesia. On August 18, 1945 the Committee for the Preparation of Indonesian Independence changed the formulation of the first sentence of *Pancasila* by removing the words “with the obligation for its adherents of abiding by the *shari’a* (law) of Islam”, so the first principle became “Belief in the one and only God.”

What is the meaning of each of that principle which constitutes *Pancasila*? The first principle is “Belief in one and only God.” This first principle means that Indonesian people believe in one Supreme Being. Moreover, Indonesia is not a secular state but a ‘religious’ one and that Indonesians should respect their fellow citizens with different religious beliefs. In other words, “the belief in a supreme being is left as a general statement, broad enough to encompass a wide variety of religions including Islam, Christianity, Hinduism, and Buddhism—those ‘great’ religions officially recognized by the state and dealt with by the Department of Religion.”¹⁰ This tenet acknowledges that the state is tolerant of diversity of religious belief and expression. Importantly, it was a proclamation that Indonesia is a “religious state, though not based on any particular faith. In other words, even though nationalist leaders such as Sukarno and Hatta

⁹ Hans Antlov, “*Demokrasi Pancasila* and the Future of Ideology in Indonesia,” in *The Cultural Construction of Politics in Asia*, ed. Hans Antlov and Tak-Wing Ngo, (New York: St. Martin’s Press, 2000), 204.

¹⁰ Michael Morfit, “*Pancasila: The Indonesian State Ideology According to the New Order Government*,” in *Asian Survey*, Vol. 21, No. 8 (Aug., 1981), 838-851, available from <http://www.jstor.org/stable/2643886>, [journal on-line], Internet; accessed 09/09/2009.



did not advocate an Islamic state, they did not call for a secular state either.”¹¹

The second principle is “just and civilized humanity.” It describes Indonesian commitment either to internationalism or more literally to a just and civilized humanitarianism. This principle requires that human beings be treated with dignity as God’s creatures. It emphasizes that Indonesian people do not tolerate physical or spiritual oppression of human beings by their own people or by any other nation.¹² In other words, “this tenet represents the ideal of humanitarian behavior between all peoples, especially among Indonesian citizens. It also emphasizes tolerance and respect between all Indonesians.”¹³ Moreover, the “commitment to just and civilized humanitarianism entails a willingness to treat with others, even foreigners, in a fair manner, free from suspicion, exploitation, and oppression. Hence, this principle indicates a commitment to internationalism in the sense that it rejects adherence to one of two (or more) opposing political blocs or support for an international order which is exploitative and divisive.”¹⁴

The third principle is “The Unity of Indonesia.” This principle expresses a commitment to the unity of Indonesia which consists of a vast archipelago stretching 5,000 kilometers across the sea, with 13,000 islands and about 350 distinct ethnic groups. This principle also embodies the concept of nationalism, of love for one nation and motherland. It envisages the need to always foster national unity and integrity.

The fourth principle is “Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives.” This principle emphasizes the idea of a people led or governed by wise policies through a process of consultation to gain consensus. It would be a big mistake simply to translate this as a commitment to Western liberal democracy, especially since the rejection of Western liberalism (or at least some parts of it) has been a continuing theme of Indonesian political

¹¹ Ramange, *Politics in Indonesia*, 12.

¹² International Business Publication, *Indonesia Diplomatic Handbook* (New York: Washington DC, 2008), 75.

¹³ Ramange, *Politics in Indonesia*, 13.

¹⁴ Morfit, “Pancasila: The Indonesian State Ideology According to the New Order Government.”



discourse since before the birth of the nation. The word *musyawarah* connotes discussion and deliberation amongst members of a society, but it does not suggest such ideas as majority rule and minority rights.¹⁵

The Fifth principle is “Social justice for the whole people of Indonesia.” This principle calls for the equitable spread of welfare to the entire population, not in a static but in a dynamic and progressive way. This means that all of the country’s natural resources and the national potentials should be utilized for the greatest possible good and happiness of the people. Social justice implies protection of the weak. But protection does not mean that they do not need to work. On the contrary, they should work according to their abilities and fields of activity. Protection should prevent willful treatment by the strong and ensure the rule of justice. In short, this principle “posits a goal of economic and social egalitarianism and prosperity for Indonesia.”¹⁶

The Play of the Good based on *Pancasila* Democracy

Having discussed the history and meaning of *Pancasila*, one can ask, how can we understand the play of the good based on the implementation of the principles of *Pancasila*, especially the fourth principle? In other words, how can *Pancasila* democracy tell us about the play of the good in Indonesia?

As a democratic state, Indonesia has struggled with democracy for decades and has practiced at least three types of democracy in four political periods.¹⁷ According to Indonesia’s political understanding, the word ‘democracy’ supposes to stress that the Indonesian political system is not

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ First was the ‘Parliamentary Democracy’ (1949-1957) which led to the transition from parliamentary democracy to ‘Guided Democracy’ (1957-1959), in which President Sukarno established the so called *Zaken* or Functional Cabinet, a business cabinet which consisted of members of political parties, economists and the military. Second was ‘Guided Democracy’ under President Sukarno (1959-1965). Third and the longest period was ‘Pancasila Democracy’ or what well known as the “New Order” under President Suharto (1966-1998). In this era Suharto controlled both legislatives and military to strengthen his power for almost thirty-two years. And fourth, the ‘Reform Period’ (1999 up to now) which gives Indonesian people more opportunity for using their right to choose directly both local and national leaders.



based on military or any other kind of dictatorship (*Machstaat*) but law (*Rechstaat*). On the other hand, the use of the term 'Pancasila' itself is supposed to underline that the Indonesian democracy is absolutely authentic, based on deep native traditions. Hence it differs from both Western liberal and socialist democracies. Thus, *Pancasila* democracy means democracy based on people's sovereignty, which is inspired by and integrated with the principles of *Pancasila*. This means that the use of democratic rights should always be in line with the sense of responsibility towards God Almighty according to their respective faiths; uphold human values in line with human dignity; guarantee and strengthen national unity; and be aimed at realizing social justice for the whole of the people of Indonesia. If it is so, thus, how can we understand the play of the good based on the practice of the *Pancasila* democracy?

The play of the good based on the *Pancasila* democracy can be understood in the process of decision-making through deliberations to reach a consensus. According to the 1945 Constitution, the People's Consultative Assembly (MPR or *Majelis Permusyawaratan Rakyat*),¹⁸ as the highest state institution, has a very important role to play. As an institution, MPR fully exercises the sovereign rights of the Indonesian people and reflects aspirations and the wishes of the people with all its decisions or decrees. And as the holder of the highest power in the state, the Assembly appoints the President and vice-President and determines both Constitution and the Broad Guidelines of State Policy (GBHN, or *Garis-Garis Besar Haluan Negara*) to be implemented by the President.

¹⁸ Ramange, *Politics in Indonesia*, 22-23. The MPR itself consists of directly elected legislators, regional representatives and representatives of functional groups. It was to meet once every five years to decide the policy of the state to be pursued in the future and to give its mandate to the president. The president himself was the chief executive of the state and the true leader of the state and would hold the power of government in accordance with the Constitution, but presidential power was 'not unlimited.' The president, just like other high institution of state – The President, The People Representative Assembly (DPR or *Dewan Perwakilan Rakyat*), the Supreme Advisory Council, the State Audit Board and the Supreme Court – would be subordinate and accountable to the MPR and the highest administrator of state below MPR. The president was elected indirectly by the MPR and not directly by voters. The MPR also set state policy through GBHN without presidential involvement. The president was specifically tasked with implementation of policy in line with the GBHN.



Having the right to make a final decision does not mean that the MPR has ‘unlimited’ right.

Acknowledging that ‘democracy is guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives’ means that the decision can be made after all participants present their opinions. Douglas E. Ramange explains the mechanism of this decision as follow:

The ideal is that decisions are reached only after all members of a community have had an opportunity to present their opinion (consultation) and then, only after all participants unanimously agree, is a consensual, harmonious decision reached. At the national level this consultative decision-making process is to be achieved by elected representatives in the DPR or the lower house of parliament.¹⁹

A final decision can be made if all participants unanimously agree on certain topics. Another possibility is 50 percent + 1 of the members of the DPR, or at least 2/3 of the participants are agreed on certain decision. If there is conflict of opinion on certain topics, the DPR can suspend the meeting and take lobby among participants or parties in the DPR, then continue to gain a consensus. In this democracy there is no opposition but compromise among participants. President Suharto himself noted this notion by saying: “*Pancasila* Democracy does not recognize opposition groups as known in the liberal democratic system, it only recognizes *musyawarah* leading to *mufakat* [discussion leading to consensus] through representation in both the MPR and DPR.”²⁰

Although the MPR plays the important role for the goodness of the whole people of Indonesia, by fully exercising the sovereign rights of the Indonesian people and reflecting the aspirations and the wishes of the people with all its decisions or decrees, the institution meets only once every 5 years to approve the main lines of the state policy and to elect the President. As a result it is the President whose “inner wisdom” should help to achieve political consensus and who carries the ultimate moral responsibility to God Almighty.

¹⁹ Ibid., 13.

²⁰ Centre for Strategic and International Studies, *Pandangan Presiden Soeharto Tentang Pancasila*, (Jakarta: CSIS Press, 1976), 61.



In fact, the concept of the good for the Indonesian people does not fruitfully come together. Since 1966 up to 1998 the Indonesian people were forced to live according to a dominant power under former president Suharto known as the “New Order” Government. In the hands of Suharto’s regime, *Pancasila* as the philosophical foundation of the state became the ideology of tolerance and the state’s sole source of ideological legitimacy (*asas tunggal*). The diversity was ignored in the name of preserving unity, specially religions and its practices. This practice was in line with Andrew Ellis’ opinion:

He took iron control of the various nominations of decision making processes leading to MPR membership to ensure that the MPR remained a pliant body, enabling real power to lie with himself and the executive. The MPR itself merely meet every five years as required. It acted by agreement reached through deliberation and consensus rather than the mechanism of voting.²¹

As a result, the vast majority of Indonesian people cannot realize their own good because their rationality of the good are marginalized by an alien authoritarian system. In the political sense, the meaning and essential of democracy which guarantees the freedom of expression, freedom of speech and freedom of the press, and above all, equality and freedom, in the sense that all citizens are equal beings before the law and have equal access to power, was replaced by the exercise of power and authoritarianism. In the case of Suharto’s regime, security apparatus, co-optation of the legislatures and control over interest group activity are three mechanism of the regime to exercise his power. I Ketut Putra Erawan explains clearly:

The New Order regime (1966-1998) ruled Indonesia through centralism and authoritarianism. Under former president Suharto, there was little room for any genuine participation by local government or citizens in public agenda setting, decision making, or the evaluation and implementation of policies. The New Order government exercised tight control over society, ensuring that all decisions were made by and served the interests of the

²¹ Andrew Ellis, “Indonesia’s Constitutional Change Reviewed,” in *Indonesia Democracy and the Promise of Good Governance*, ed. Ross H. McLeod and Andrew MacIntyre (Singapore: ISEAS Publishing, 2007), 24.



center. It exercise control through three mechanisms: the security apparatus, co-optation of the legislature and corporatist control of interest group activity. Political forces were centralized, with the regime determining which parties would be permitted to participate in general election. Parties were structured hierarchically, with a strong central leadership exercising tight control over branches down to the local level, responsibility for decision making lay with party leaders at the centre, not with local branches members. The regime often interfered in the recruitment of party elites and public officials, as well as making all political, economic and security decisions.²²

However, Indonesians who faced this situation were not blind. On the contrary, they insisted to be heard for they have the same right to “speech and action” to actualize themselves as human being which can organize themselves to be powerful counter-public to the dominative power. The “1998 Reformation Movement” sponsored by Indonesian students can be acknowledged as the most evident indication of the emancipatory potential of the “subordinated classes” which politically and economically have been marginalized from the public sphere. They at least have demonstrated themselves as a competitive power that exists along with the dominant one. This has enforced the dominant power to transform itself from within and acknowledge the existence of the people power, including the lower strata of society. As the result, Suharto’s long rule came to an end, just a few moment after 9’ o clock on the morning of 21 May 1998; ironically it happened the day after the National Awakening in which Indonesians celebrate the birth of nationalism with the founding of the Boedi Utomo Movement in 1908. Suharto’s destiny was really ironic, as Michael R.J. Vatikiotis describes, “His departures was enigmatic as his arrival: it happened suddenly and without warning.”²³

After the fall of Suharto, Indonesia entered what is known as the “Reform Period.” In this period important progress has been made in

²² I Ketut Putra Erawan, “Tracing the Progress of Local Governments Since Decentralization,” in *Indonesia Democracy and the Promise of Good Governance*, 57-58.

²³ Michael R.J. Vatikiotis, *Indonesian Politics under Suharto: The Rise and fall of the New Order*, third edition (New York: Routledge, 1993), 219.



reforming Indonesian democracy, including the frameworks of government. Indonesia swung from a situation in which the president had virtually unlimited power to one in which the president could do very little. This change gives the Indonesian people more opportunity to use their political rights through three general elections, in 1999, 2004 and 2009, to 'directly elect'²⁴ their national leaders for the first time. Since the fall of President Suharto, Indonesia has had four presidents—B.J. Habibie, Abdurrahman Wahid, Megawati Sukarnoputri and Susilo Bambang Yudhoyono—all of them took power by democratic means. Today, most people have enjoyed freedom of expression and opinion, freedom of information, checks and balances between the executive and legislative branches of government, and a depoliticized military. However, the available evidence still suggests that there are concerns about the slow pace of progress and public commitment to democracy remains solid.

Toward Deliberative Democracy in Indonesia

What can be seen through the explanation above is that the play of the good in the *Pancasila* democracy has been practiced since the birth of *Pancasila* itself. The question is, "Does Indonesia really practice deliberation in what is so-called *Pancasila* democracy?" "Is there any possibility for practicing the essence of deliberative democracy in Indonesia?"

Indonesia's notion of deliberation based on the fourth principle of *Pancasila*, essentially, does not recognize opposition of participants or representatives both in the MRP and DPR. According to such understanding, a consensus can be gained through merely a compromise among participants or representatives. Larisa M. Efimova says:

²⁴ Direct democracy or pure democracy comprises a form of democracy and theory of civil society wherein sovereignty is lodged in the assembly of all citizens who choose to participate. On the contrary, in representative democracy sovereignty is exercised by a subset of the people, usually on the basis of election. Essential to this form is a competitive election, which is fair both substantively and procedurally. Freedom of expression, freedom of speech and freedom of the press are essential so that citizens are informed and able to vote in their personal interest. In these two forms of democracy universally accepted two important principles namely: equality and freedom, in the sense that all citizens are being equal before the law and having equal access to power. Additionally, all citizens are able to enjoy legitimized freedoms and liberties, which are usually protected by a constitution.



. . . Political culture consensus is regarded not only as a compromise among different political forces, but as the adaptation of this compromise to the interests of the nation as a whole and to the Higher Reality and responsibility to God Almighty. This kind of compromise is viewed as more stable and is regarded as the sacred duty of all the parties involved. This means that *Pancasila* democracy has sacred sources and essence, and *Pancasila* is proclaimed as the source of all sources of law in the Republic of Indonesia.²⁵

This political system, she continues, is “very similar to the age-old traditions of the power structure in the Indonesian village, which is in reality very close to an authoritarian and not a democratic system. The President has a very wide range of prerogatives. Indonesian observers point out that there is no *Trias Politica* in contemporary Indonesia. So, *Pancasila* democracy differs from Western liberal democracy in that it is guided not only by law, but by a president who acts as an intermediary between society, state and God Almighty.”²⁶

Deliberation to reach a consensus in *Pancasila* democracy, in my opinion, thus, can be seen as a political compromise or “politics of tolerance” in which participants can only follow the will of the dominant regime, which is represented by the President. More precisely Indonesia’s concept of deliberation tends to “purposive-rational action.” According to Habermas, in this action the actors or participants are primarily oriented to attaining an end. They select means that seems to them appropriate in the given situation, and calculate consequences of his action as secondary condition of success. Such action can become *instrumental* and *strategic*. It becomes instrumental if the participants just follow technical rules of action and asses the efficiency of an intervention into a complex of circumstances and events. It becomes strategic if the actors or participants

²⁵ Larisa M. Efimova, “The State Ideologi *Pancasila* as a Manifestation of Religious Revivalism in Contemporary Indonesia,” available from <http://web.abo.fi/comprel/temenos/temeno32/efimova.htm>; Internet, accessed 9/15/2009.

²⁶ Ibid.

follow the rule of rational choice with an aim to influence rational decision of opponents.²⁷

In the time of the New Order, this model became a real policy and practice of Suharto and his party. The process-making decision through deliberation was the political instrument for president to strengthen his power. As a result, consensus which is taken by MPR and DPR was nothing but president's strategic action to continue his power. The MPR and DPR, in fact, did what is known as 'Five D' namely: *datang, diam, duduk, dengar dan duit* (come, silent, sit, hear, and money).

In the "Reform Period" Indonesians have more opportunity to use their political rights. Among many democratic forms, it comes to my mind that this is the time for Indonesia as a state for practicing the model of "deliberative democracy." Deliberative democracy, essentially, relies on "communicative action" which guarantees the equality among participants. In this model of action, participants are coordinated not through egocentric calculations of success but through acts of reaching understanding.

In communicative action participants are not primarily oriented to their own individual success; they pursue their individual goals under the condition that they can harmonize their plans of action on the basis of communication situation definitions. In this respect the negotiation of definition of situation is an essential element of the interpretative accomplishments required for communication action.²⁸

This is precisely the basis for deliberative democracy. According to the model of deliberative democracy, justification of the exercise of power is to proceed on the basis of a free public reasoning among equals. In other words, deliberative democracy is rooted in the intuitive ideal of democratic association in which the justification of terms and condition of associations proceeds through public argument and reasoning among equal citizens or participants.²⁹

²⁷ Jürgen Habermas, *The Theory of Communicative Action. Vol. 1. Reason and the Rationalization of Society*, trans. Thomas McCarthy (Boston: Beacon Press, 1984), 285.

²⁸ *Ibid.*, 286.

²⁹ Jürgen Habermas, *The Inclusion of the Other*, ed. Ciaran Cronin and Pablo De Greiff (Cambridge: MIT Press, 1999), 244.



Since this model puts communicative action and public reasoning at the center of political justification; it also becomes an ideal procedure of political deliberation. In such procedure participants or actors regard one another as equal whose aim is to defend and criticize institutions and programs in terms of consideration that others have reason to accept, cooperate with the results of discussion, or treating those results as authoritarian.³⁰ Habermas explains this notion as follows:

Deliberation . . . refers to a certain attitude toward social cooperation, namely, that of openness to persuasion by reason referring to the claims of others as well as one's own. The deliberative medium is a good faith exchange of view—including participants' reports of their own understanding of their respective vital interests—in which a vote, if any vote is taken, represents a pooling of judgment.³¹

For Habermas, to reach a fair consensus, all parties that enter into the public debate must be able to keep aside each own particular interest and focus themselves, through a rational exchange of ideas, upon what is considered to be good for all the people. It requires that all political outcomes must be based upon the power of the better argument rather than of threat of power or force.

What can Indonesia do for deliberative democracy in the “Reform Period?” In my opinion, Indonesian democracy in this period demands *reformasi* (reform) not only for a change of regime, but also for a change of political system. Such demands require, fundamentally, at least two aspects, namely: the 1945 Constitution reform and Law reform. Indonesian people are aware that the 1945 Constitution defines both the institutions by which the country governs itself and the relationship between its citizens and its institutional frameworks. In other words, following Habermas, “the constitution is the political incarnation of the ideal of a moral community whose norms and practices are fully accepted by its

³⁰ Joshua Cohen, “Procedure and Substance in Deliberative Democracy,” in *Philosophy and Democracy: An Anthology*, ed. Thomas Christiano (Oxford: Oxford University Press, 2003), 21.

³¹ Habermas, *The Inclusion of the Other*, 244.



members.”³² Based on this notion, although in 1999 Indonesians has asked for amendments,³³ some parts of the 1945 Constitution still remain problematic and open for argumentation. In this context, it is important for Indonesia to examine Habermas’s notion of conflict of constitutional interpretation. In his opinion, allegiance to the constitution means allegiance to a society in which the agreement of all free and equal partners is achieved independently from imposition and manipulation.

The conflicts of constitutional interpretation, for Habermas, are signs of the very basic model of discursive validation:

The constitution itself has made the necessary provisions. There are institutions and procedures for settling the questions of the limits for what might still, or no longer, be taken as being loyal to the constitution. The question applies in particular kind of public agitation that renounces the “foundations of the constitution” (as in the case today with Islamic extremism).³⁴

Deliberative democracy can be practiced insofar as the validity of norms or political decision is anchored on the possibility of a rationally founded argument raised by those who will be affected insofar as they participate in a rational debate. This is precisely the core of deliberative democracy. It provides a free and equal space for all parties concerned to participate, through rational deliberation, and not through ‘purposive-rational action.’ To this, a critical discourse by nature highly presumes the principle of freedom and equality that must be accepted and sincerely

³² Giovanna Borradori (ed.), *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida* (Chicago: The University of Chicago Press, 2003), 73.

³³ Ellis, “Indonesia’s Constitutional Change Reviewed,” 22, 30-31. Andrew Ellis records some major change to the 1945 Constitution as follows: “The sovereignty of the people was to be exercised directly, not through the MRP. It established the fundamental structure of a presidential system based on the principles of separation of powers, direct presidential election, and impeachment of president and vice-president for constitutional breaches, not on policy or confidence grounds. It provided for an independent judiciary, a constitutional court and second legislative chamber made up of regional representatives (albeit with limited powers) – the Council of Regional Representatives (DPD or *Dewan Perwakilan Daerah*).”

³⁴ Habermas, “Fundamentalism and Terror,” in *Philosophy in a Time of Terror*, 41.



exercise by parties involved. “Even the parties that struggle over access to positions of governmental power must bend themselves to the deliberative style and the stubborn character of political discourse.”³⁵

Based on the model of discursive validation of deliberative democracy, the 1945 Constitution amendment should also accommodate civil disobedience, such as terrorism and fundamentalism. It sounds strange, maybe, but for Habermas “In its tolerance of civil disobedience, the constitution self-reflexively stretches to cover even the conditions for overstepping its own boundaries. A democratic constitution can thus tolerate resistance from dissidents who, after exhausting all legal avenues, nonetheless oppose legitimately reached decisions.”³⁶ For Indonesia which also struggles with terrorism and fundamentalism, the condition of the nonviolent appeal to the majority to re-examine their decisions and the way in which the democratic project of the realization of equal rights actually feeds off the resistance of minorities, which, although appearing as enemies of democracy to the majority today, could actually turn out to be their authentic friends tomorrow.

Another important aspect that must be reformed by the government in the “Reform Period” is to ensure justice and prosperity for all Indonesian people based on the law. According to Simon Butt, the juridical institution is often criticized as being an anomaly in a functioning democracy. In his opinion, judges hold significant power, sometimes even more power than legislators because they interpret and apply the laws made by the democratically elected parliaments; they often have the final words on the way how a law will be operated in practice. Moreover, in some countries, judges are permitted to create law, have power of judicial review and are not directly elected by citizens.³⁷

In 2004, the Indonesian national parliament has revised many of the country’s judiciary laws, including the statute covering the exercise of judicial power generally, and the status relating to the Supreme Court and to Indonesia’s general and administrative courts.³⁸ However, there are still

³⁵ Habermas, *The Inclusion of the Other*, 243.

³⁶ Habermas, “Fundamentalism and Terror,” 41-42.

³⁷ Simon Butt, “The Constitutional Court’s decision in the Dispute between the Supreme Court and the Judicial Commission: Banishing Judicial Accountability?” in *Indonesia Democracy and the Promise of Good Governance*, 179.

³⁸ *Ibid.*, 181.



some problems such as: first, the system of what so-called 'one-roof' (*satu atap*) system, e.g. a kind of government-controlled administrative structure of judicial institution, especially of administration, organization and finances of the court. Second, the low level of judiciary competence, and third, the most important, is that enforcement of judicial decision in Indonesia is often difficult and sometimes impossible because of *kolusi, korupsi dan nepotisme* or KKN (collusion, corruption and nepotism).³⁹

To resolve such problems, Indonesia in the 'Reform Period' should practice "a future-directed project, part of long-term strategy of democratization,"⁴⁰ that is a "proceduralist paradigm of law." Differing from the liberal and welfare paradigms, a proceduralist paradigm is centered on the procedural condition of the democratic process."⁴¹ In Habermas' view both the liberal paradigm and welfare paradigm of law share the *productivistic image* of a capitalist industrial society. These paradigms lose sight of the internal connection between private and political autonomy, and thus lose sight of the democratic meaning of a legal community's self-organization. The proceduralist paradigm of law, in contrast, relies on the interaction among democratic citizens and the input side of lawmaking involving the public of state and civil society. Habermas explains it as follows:

In the proceduralist paradigm of law, the vacant places of the economic man or welfare-client are occupied by a public of citizens who participate in political communication in order to articulate their wants and needs, to give voice to their violated interests, and, above all, to clarify and settle the contested standards and criteria according to which equals are treated equally and unequal unequally.⁴²

³⁹ Ibid., 184-186.

⁴⁰ Andrew Arato, "Procedural Law and Civil Society: Interpreting the Radical Democratic Paradigm," in *Habermas on Law and Democracy: Critical Exchange*, ed. Michel Rosenfeld and Andrew Arato (California: University of California Press, 1998), 26.

⁴¹ Jürgen Habermas, "Paradigm of Law," in *Habermas on Law and Democracy*, 18.

⁴² Ibid.

Instead of seeking to inhibit the administration through formal and general laws, Habermas defends a model of bringing the procedures of administrative activity under the control of public procedures on the output side, where those concerns are able to discern and call to attention the unwanted side effects of intervention.

Public sphere and civil society, the centerpiece of the new image, form the necessary context for the generation and reproduction of communicative power and legitimate law. With this conception, the burden of normative expectations in general shift from the level of *actors'* qualities, competences, and opportunities to the *forms of communication* in which an informal and non-institutionalized opinion—and will-formation can develop and interact with the institutionalized deliberation and decision making inside political system,⁴³

Thus, for Habermas, the key to a proceduralist paradigm of law can be stated as follows: “A legal order is legitimate to the extent that it equally secures the co-original private and political autonomy of its citizens; at the same time, however, it *owes* its legitimacy to the forms of communication in which civic autonomy alone can express and prove itself.”⁴⁴ For Indonesia, which still struggles with some problems as mentioned above, Habermas’ notion of the role of public hearings monitoring administrative decision is a political procedure for controlling the role and decisions of constitutional court and each legal action of juridical institutions or judges. The role of the public thus can be seen as a ‘legal act’⁴⁵ which contributes to the politically autonomous elaboration of basic rights and for the ongoing process of law-making.

Conclusion

Indonesia has practiced *Pancasila* democracy for decades. *Pancasila* democracy itself reflects and implements the principles of *Pancasila* in the

⁴³ Ibid., 18-19.

⁴⁴ Ibid., 19.

⁴⁵ Ibid., 20. See also Jürgen Habermas, *Between Norms and Facts: Contribution to a Discourse Theory of Law and Democracy*, trans. William Rehg (Massachusetts: The MIT Press, 1996), 111.



political arena. This means that in politics the use of democratic rights should always be in line with the sense of responsibility towards God Almighty according to the respective faith; uphold human values in line with human dignity; guarantee and strengthen national unity; and be aimed at realizing social justice for the whole of the people of Indonesia.

In fact, under the 'New Order' the vast majority of the Indonesian people cannot realize their own good because their rationality of the good was marginalized by an authoritarian system. In this sense, the meaning and essential of democracy and the decision-making process through deliberation to reach consensus was nothing but a 'purpose-rational action,' the instrumentalization of *Pancasila* democracy and the legislative branches (the MPR and DPR) to strengthen such authoritarian system. The play of the good is continued in the "Reform Period." This period can be acknowledged as a stage in which Indonesians transcend a 'corrupt system' and demands for equality before the law and more participation in the public sphere to control the government, the legislative, and other institutions. This is precisely a fundamental aspect of 'communicative action' and deliberative democracy. This model supports the supremacy of the better argument rather than the threat of power.

A fair consensus, in deliberative democracy, can be gained insofar as all parties in the MPR and DPR that enter into the public debate keep aside each own particular interest and focus themselves, through a rational exchange of ideas, upon what is considered to be the common good for all the people. Common good, as Hannah Arendt says, must become a 'world' within which everyone can live together without being a threat to each other.

To live together in the world means essentially that a world of things is between those who have it common, as a table is located between those who sit around it; the world, like every in-between, related and separates men at the same time. The public realm as the common world gathers us together and yet prevents our falling over each other. . . . What makes mass society so difficult to bear is not the number of people . . . but the fact that the world

between them has lost its power to gather them together, to relate and separate them.⁴⁶

In Arendt's view, without the ability to transcend the worldly things, no politics, no public realm, no common good, is possible. This notion calls for the equitable spread of welfare to the entire population of Indonesia.

Indonesia today is a "nation in transition" to deliberative democracy. It is a process of 'self-consciousness' of the entire nation to build up the values of deliberative democracy namely: mutual respect, equality, dialogue, public reasoning, and cooperation in the public sphere. These values should be applied in promoting peaceful coexistence among Indonesians from different backgrounds. In other words, Indonesia today should renew national commitment to the state's motto "Unity in Diversity" by making communicative action, critical dialogue and public reasoning as part of its daily lexicon. Such demand requires, fundamentally, for constitution and the law reform.

The development of democratization in Indonesia can be proved only as long as every group and citizen relate to each other in a peaceful way and play a greater and positive role for the common good of the entire nation. The model of a deliberative democracy, thus, is an ideal that the Indonesian state must strive for.

References

- Arato, Andrew. "Procedural Law and Civil Society: Interpreting the Radical Democratic Paradigm." In *Habermas on Law and Democracy: Critical Exchange*. Edited by Michel Rosenfeld and Andrew Arato. California: University of California Press, 1998.
- Arendt, Hannah. *The Human Condition*. Chicago: The University of Chicago Press, 1958.
- Butt, Simon. "The Constitutional Court's Decision in the Dispute between the Supreme Court and the Judicial Commission: Banishing Judicial Accountability?" In *Indonesia Democracy and the Promise of Good Governance*. Edited by Ross H. McLeod and Andrew MacIntyre. Singapore: ISEAS Publishing, 2007.

⁴⁶ Hannah Arendt, *The Human Condition* (Chicago: The University of Chicago Press, 1958), 52-53.



- Borradori, Giovanna. *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: The University of Chicago Press, 2003.
- Center for Strategic and International Studies. *Pandangan Presiden Soeharto Tentang Pancasila*. Jakarta: CSIS Press, 1976.
- Cohen, Joshua. "Procedure and Substance in Deliberative Democracy." In *Philosophy and Democracy: An Anthology*. Edited by Thomas Christiano. Oxford: Oxford University Press, 2003.
- Darmaputra, Eka. *Pancasila and the Search for Identity and Modernity in Indonesian Society*. Leiden: E.J. Brill, 1988.
- Efimova, Larisa M. "The State Ideologi *Pancasila* as a Manifestation of Religious Revivalism in Contemporary Indonesia." Available from <http://web.abo.fi/comprel/temenos/temeno32/efimova.htm>; Internet, accessed 9/15/2009.
- Ellis, Andrew. "Indonesia's Constitutional Change Reviewed." In *Indonesia Democracy and the Promise of Good Governance*. Edited by Ross H. McLeod and Andrew MacIntyre. Singapore: ISEAS Publishing, 2007.
- Erawan, Putra, Ketut, I. "Tracing the Progress of Local Governments Since Decentralisation." In *Indonesia Democracy and the Promise of Good Governance*. Edited by Ross H. McLeod and Andrew MacIntyre. Singapore: ISEAS Publishing, 2007.
- Habermas, Jürgen. *The Theory of Communicative Action. Vol. 1. Reason and the Rationalization of Society*. Translated by Thomas McCarthy. Boston: Beacon Press, 1984.
- . *Between Norms and Facts: Contribution to a Discourse of Theory of Law and Democracy*. Translated by William Rehg. Massachusetts: The MIT Press, 1996.
- . "Paradigm of Law." In *Habermas on Law and Democracy: Critical Exchange*. Edited by Michel Rosenfeld and Andrew Arato. California: University of California Press, 1998.
- . *The Inclusion of the Other*. Edited by Ciaran Cronin and Pablo De Greiff. Cambridge: MIT Press, 1999.



- . "Fundamentalism and Terror." In *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Edited by Giovanna Borradori. Chicago: The University of Chicago Press, 2003.
- International Bussines Publication. *Indonesia Diplomatic Handbook*. New York: Washington DC, 2008.
- Ramange, Douglas E. *Politics in Indonesia: Democracy, Islam and the Ideology of Tolerance*. New York: Routledge, 1995.
- Morfit, Michael. "Pancasila: The Indonesian State Ideology according to the New Order Government." In *Asian Survey*, Vol. 21, No. 8 (August 1981), 838-851. Available from <http://www.jstor.prg/stable/2643886>, [journal on-line], Internet; accessed 09/09/2009.
- Prawiranegara, Sjafruddin. "Pancasila as the Sole Foundation." In *Indonesia*, Vol. 38 (October 1984), 74-83. Available from <http://www.jstor.org/stable/3350846>, [journal on-line], Internet; accessed 09/09/2009.
- Vatikiotis, Michael R.J. *Indonesian Politics under Suharto: The Rise and Fall of the New Order*. Third edition. New York: Routledge, 1993.

