Toward the Deepening of Democracy in Indonesia: Assessing the Prospects and Problems from a Habermasian Perspective^{*}

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Abstract

From the perspective of Habermas's theory of law and democracy, Indonesia's democratic project will require the "reformation" of political institutions and the development of its citizens' democratic consciousness. The former can be achieved through constitutional amendments while the latter is mediated by civil society and non-governmental organizations. To bridge the gap between the democratically oriented provisions of the constitution and the non-democratic practices of those who govern Indonesian society, political structures and procedures that recognize the equal rights and

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the autonomy of the citizenry must be installed. The deliberative principles embedded in Pancasila, the state's official philosophy, can be harnessed in order to institutionalize and hasten the processes of democratization in Indonesia.

Keywords: Democracy Theory and Practice, Jürgen Habermas, Pancasila or Indonesia's State Philosophy, 1945 Constitution of Indonesia

Introduction

For almost thirty-two years, from 1966 to 1998, the Unitary State of the Republic of Indonesia was under the authoritarian rule of President Soeharto (1921–2008). Only in 1999 did the country enter a transition to democracy during what is now referred to as the "Reformation Period" (1999–2004). The people of Indonesia had two significant demands for reform, namely: (1) the amendment of the 1945 Constitution of the Republic of Indonesia, and (2) the elimination of corruption, collusion, and nepotism.

The Indonesian people's demand to change the 1945 Constitution was driven by awareness that for decades the constitution was used as an instrument to perpetuate authoritarian rule in the country. The proliferation of corruption, collusion, and nepotism—despite the existence of legal norms that expressly prohibit these malpractices—was another factor that triggered the demand for reform. These political abuses resulted in the neglect of the social and economic rights of the people, especially of the poor. They also undermined the public trust in state institutions, and even threatened the very existence of the Indonesian republic.¹

¹ Edward Aspinall, "Democratization: Travails and Achievements," in Routledge Handbook of Contemporary Indonesia, ed. Robert W. Hefner (London:

In response to the demands, the MPR (Majelis Permusyawaratan Rakyat or People's Consultative Assembly) undertook the amendment of the 1945 Constitution. Since many social and political issues had to be addressed and several provisions had to be reviewed, the whole process lasted from 1999 to 2002 and four sets of amendments were eventually proposed, passed, and ratified by the assembly. The government also established commissions to counter corruption, collusion, and nepotism in the country, namely: the Corruption Eradication Commission, the Business Competition Supervisory Commission, the Ombudsman, and the Finance Auditing Agency.

The amendments were supposedly intended to enhance the practice of democracy and to build a democratic culture in the country. In this connection, the government has crafted policies and launched programs to implement the amendments. The present study assesses the effects of these initiatives in terms of their overall purpose. It is thus an examination of the current state of democracy in Indonesia, with the further view of identifying its shortcomings as well as the possibilities for its expansion and deepening.

In particular, the present study looks at three areas covered by the amendments. These are the general election system, decentralization and regional autonomy, and the civil society and nongovernmental organizations. The primary question that this study answers is: Do the current Indonesian constitution and the actual political reality in the country embody and contribute to the realization of democratic principles and practices?

In gauging both the democratic character as well as the potential for democratization in Indonesia, this study uses as framework the

Routledge, 2018), 90. See also Aji Primanto, Sri Suwitri, and Hardi Warsono, "Bureaucratic Reform: A Way to Eliminate Corruption, Collusion, and Nepotism Practices in Indonesia," *International Journal of Economics, Commerce and Management* 2, no. 10 (2014): 1–23.

theory of law and democracy of Habermas as elaborated in *Between* Facts and Norms.

Habermasian Theory of Law and Democracy

The theory of law and democracy elaborated by Habermas explores how democracy can still be possible in modern society given its complexity and pluralism. Habermas identifies within modern law a tension which he considers to be internal to the very nature of modern law. It is the tension between its facticity—the social reality of the law found in the threat of sanctions that are legally defined and can be enforced through court action—and its validity—the claim of reason measured against the discursive redeemability of the law's normative validity claim according to whether it has come about through a rational legislative process.

The internal tension between the facticity and validity of modern law must be recognized and addressed. On the one hand, the law as a system of norms that requires the citizens' compliance must be enforced and its violation penalized. On the other hand, the legitimacy and rational acceptability of the law must be attained through a discursive procedure and a democratic process that involves the participation of free and equal citizens.

In his theory of modern democracy, Habermas argues that the law is legitimate only when it is the outcome of a democratic lawmaking process engaged in by the citizens as free and equal members of a legal community. In the same vein, he maintains that because the hallmark of democracy is the "consent of the governed," for modern democracy to be legitimate, the autonomy of the citizens cannot be bypassed or ignored. And it is the function of modern law to secure that autonomy and make it functional through statutes and programs that both guarantee and promote the political participation of the citizenry. The social reality that prevails in modern society further complicates the project of legitimating the law. The adoption of the system of representative democracy has become a matter of expediency and necessity given the status of modern societies. The task of lawmaking is assigned to an official assembly called the parliament or the legislature. There is nothing wrong with the system itself except that it usually results in the alienation of the majority of citizens from their representatives in the legislative assembly. The citizens are largely unable to participate because they are seldom consulted by the elected members of the legislature. This situation is what Habermas calls the external tension between social facts and the legal process—an ironic situation whereby the law is enacted by members of the legislative body who are tasked to represent their constituents, whose needs and interests are often neglected or excluded in the making of the laws.

Habermas responds to this ironic situation by incorporating into his theory deliberative politics, a system which requires the establishment of democratic procedures for the enactment of laws. The system also necessitates the institutionalization of coordination and cooperation between the central axis—the formal machineries of the government—and the peripheral axis—the various associations and organizations "that, before parliaments and through the courts, give voice to social problems, make broad demands, articulate public interests or needs, and thus attempt to influence the political process more from the normative points of view."²

One of the most compelling measures to institutionalize a democratic procedure for lawmaking and thus secure the system of political rights is the one done through the constitution. In modern

² Jürgen Habermas, Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy, trans. William Rehg (Cambridge, MA: MIT Press, 1998), 355.

democratic societies, the constitution is the only appropriate instrument to ensure the citizens' private and public autonomy and to guarantee civil and political rights.

The constitution, however, should not be understood as a permanent and unalterable document. Habermas advances "a *dynamic understanding* of the constitution as an unfinished project."³ Although the constitution states the ideal society, the conditions for the actualization of such ideal change with the passing of time; consequently, the system of rights codified in the constitution needs to be updated and adapted to the circumstances brought about by subsequent historical and political developments. Habermas thus argues that "the later generations have the task of actualizing the still-untapped normative substance of the system of rights laid down in the original document of the constitution."⁴ And since the constitutional state is "a delicate and sensitive—above all fallible and revisable—enterprise,"⁵ the project of revising the constitution should "be understood in the long run as a self-correcting learning process."⁶

It is in light of the above considerations that the amendments to the Indonesian Constitution may be appreciated and assessed.

Indonesian Democracy: Between Norms and Practices

The original constitution of the Republic of Indonesia was ratified in 1945, and accordingly, it was designed to serve as a temporary constitution.⁷ The charter did not provide a legal framework for a

³ Habermas, Between Facts and Norms, 384.

⁴ Habermas, "Constitutional Democracy: A Paradoxical Union of Contradictory Principles?" *Political Theory* 29, no. 6 (2001): 774.

⁵ Habermas, 384.

⁶ Habermas, "Constitutional Democracy," 774.

⁷ Andrew Ellis, "The Indonesian Constitutional Transition: Conservatism or Fundamental Change?" *Singapore Journal of International & Comparative Law* 2 (2002): 2.

modern democratic state since it put "predominant authority in the hands of the president."⁸ It also lacked provisions that guaranteed human rights, defined the relationship between citizens and the government, even as it was "subject to broad interpretation depending upon the constellation of political forces in control at any given time."⁹

It was only from 1999 to 2002 that amendments were added to the 1945 charter. The First Amendment was conducted during the General Session of the People's Consultative Assembly (Majelis Permusyawwaratan Rakyat [MPR]) on October 14–19, 1999 and centered on the power of the state government, the state ministry, and the People's Representative Council (Dewan Perwakilan Rakyat [DPR]). Under the revised provisions, the president could no longer hold office for more than two five-year terms. The amendments also removed the power of the president to make statutes, instead he was granted the right to submit bills to the representative.¹⁰

The Second Amendment, discussed during the Annual Session of the MPR on August 7–18, 2000, introduced two major innovations. The first was the establishment of regional autonomy¹¹ which "represented a way of devolving power from the centre to the regions and recognized the diversity of the nation without undermining its

⁸ R. William Liddle, "Indonesia's Democratic Transition: Playing by the Rules," in *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy*, ed. Andrew Reynolds (Oxford: Oxford University Press, 2002), 377.

⁹ Blair A. King, "Government and Politics," in *Indonesia: A Country Study*, eds. William H. Frederick and Robert L. Wordern (Washington D.C.: Federal Research Division of the Library of Congress, 2011), 233.

¹⁰ See Simon Butt, "Constitutions and Constitutionalism," in *Routledge Handbook of Contemporary Indonesia*, ed. Robert W. Hefner (London: Routledge, 2018), 59.

¹¹ Republic of Indonesia, "The 1945 Constitution of the State of the Republic of Indonesia," Chapter VI, The Regional Governments, Art. 18–18-B and Chapter VII, "The Dewan Perwakilan Rakyat," Art. 20-A,22-A, 22-B, https://jdih.bapeten.go.id/unggah/dokumen/peraturan/116-full.pdf.

political identity."¹² The second was the protection of human rights according to the standards of most developed democracies worldwide; as a matter of fact, it is said that the amendment was "phrased in almost the exact wording of the 1948 Universal Declaration of Human Rights and other international conventions on human rights."¹³ The expanded provisions on the rights of citizens, moreover, opened more venues and incentives for the development of civil society and non-governmental organizations.¹⁴

The Third Amendment was taken up during the Annual Session of the MPR on November 1–9, 2001. It directed the creation of the Regional Representative Council which extends and bolsters the right of political participation through a system that allows "a new kind of regional representation to enter into national-level decision making in order to allow the voice of the regions to be heard in the making of laws and the oversight of central executive government."¹⁵ It also established new judicial bodies, the Constitutional Court and the Judicial Commission, which were intended to uphold the independence of judges and the judicial process in interpreting and enforcing the law.¹⁶ The third amendment further included the provision for general elections to be "conducted in a direct, general,

¹² Paul J. Carnegie, *The Road from Authoritarianism to Democratization in Indonesia* (New York: Palgrave Macmillan, 2010), 128.

¹³ Mitsuo Nakamura, Islam and Democracy in Indonesia: Observations on the 2004 General and Presidential Elections (Cambridge, MA: Islamic Legal Studies Program Harvard Law School, 2005), 5.

¹⁴ Republic of Indonesia, "1945 Constitution," Chap. X, "The Citizens,' Art. 28E, Sections 2–3.

¹⁵ Nadirsyah Hosen, "Promoting Democracy and Finding the Right Direction: A Review of Major Constitutional Developments in Indonesia," in *Constitutionalism in Asia in the Early Twenty-First Century*, ed. Albert H.Y. Chen (Oxford: Oxford University Press, 2014), 326.

¹⁶ Alexander Seran, *Teori Hukum Positif dalam Perspektif Etika Diskursus Jürgen Habermas* [The Theory of Positive Law in the Perspective of Jürgen Habermas's Discourse Ethics] (Jakarta: Universitas Atma Jaya, 2011), 208.

free, secret, honest, and fair manner once every five years. . . [and to be elected are] the members of the Dewan Perwakilan Rakyat (the House of Representatives), Dewan Perwakilan Daerah (the Regional Representative Council), the President and Vice President, and the Dewan Perwakilan Rakyat Daerah (the Regional House of Representatives)."¹⁷ The participants shall be political parties for the election of the members of the Dewan Perwakilan Rakyat and the members of the Dewan Perwakilan Rakyat Daerah, and individual candidates for the election of the members of the Dewan Perwakilan Daerah.

The Fourth Amendment was deliberated during the MPR Annual Session on August 1–10, 2002. The major innovation of this amendment was the elimination of the Supreme Advisory Council as a state institution. The council no longer gave advice to the president and had "an equal position with the president and the legislature" but only a "part of the executive."¹⁸ Another innovation concerned the central bank—its structure, position, authority, and independence.

The four amendments have greatly changed the structure and substance of the 1945 Constitution, making it more democratic by determining the rights and duties of the citizens and state institutions. It has also defined a clearer separation of powers between the executive, legislative, and judicial branches, and guaranteed the protection of human rights.

The process adopted to introduce the amendments seemed to accord with what Habermas prescribed for legitimate lawmaking. John Gillespie noted that the MPR members "engaged in sustained and consequential discussions with public intellectuals, NGOs, and religious organizations during the initial deliberations leading up to

¹⁷ Republic of Indonesia, "1945 Constitution," Chap. VIIB, 'General Elections,' Art. 22E, Sec. 1–6.

¹⁸ Seran, Teori Hukum Positif, 309.

the 1999 constitutional reforms."¹⁹ Andrew Ellis likewise reported, "the plenary meetings were open to the press and public throughout, and many meetings for socialization or consultation took place."²⁰

There are some intellectuals and political observers, however, who claim that the constitutional amendment process was in fact undemocratic for at least three reasons. The first is that the formal process was "accomplished entirely by the legislature itself."²¹ The second is the composition of the body that introduced the amendments. In contrast to the process followed in some countries like the Philippines and Thailand, where civil society actors were allowed to participate in the deliberations, the Indonesian Constitutional Commission consisted fully of members of the political parties represented in the parliament. A special commission was established by the MPR only in 2003 when "the four amendments were completed" and it was "given only limited authority to 'review' the four amendments and submit its findings to the People's Consultative Assembly."22 The third reason is that the MPR meetings lacked widespread public engagement as they were attended mostly by academics, governmental officials, and political parties; moreover, the coverage of the meetings was aired through cable television that could be viewed only by the people in Jakarta

¹⁹ John Gillespie, "Public Discourse and Constitutional Change: A Comparison of Vietnam and Indonesia," *Asian Journal of Comparative Law* 11 (2016), 214.

²⁰ Andrew Ellis, "Constitutional Reform in Indonesia: A Retrospective." https://www.idea.int/sites/default/files/speeches/AEpaperCBPIndonesia.pdf.

²¹ Donald L. Horowitz, *Constitutional Change and Democracy in Indonesia* (Cambridge: Cambridge University Press, 2013), 11.

²² Denny Indrayana, "In Search for a Democratic Constitution: Indonesian Constitutional Reform 1999–2002," *Jurnal Media Hukum* 17, no. 1 (2010), 118–119.

and surrounding areas.²³ Donald Horowitz sums up the assessment of the constitutional amendment process as "representative and inclusive, but . . . certainly not participatory."²⁴

Habermas contends that the democratic process of writing the constitution should take the form of communicative action among the participants who are willing to redeem their validity claims and to reach a mutual understanding based on the power of the better argument rather than on the political interests of the powerful. In the case of Indonesia, the deliberative nature of the democratic constitution-making process was colonized by powerful individuals and groups bent on dominating the process to advance only their vested interests. This transpired during the constitutional amendment process where supporters of the New Order in parliament tried to block the proposed amendments for fear of losing the power that they gained in the past. There were also parties who sought to include their ideology, such as their Islamic conviction, into the provisions of the constitution. Others tried to insert their short-term political interests through "lobbying sessions and discussions beyond the public eye." 25 These clandestine meetings and negotiations, together with the instances of strategic actions mentioned above, had an adverse impact on the constitutional reform. They limited the participation of majority of the citizens and thus effectively prevented the inclusion of the genuine aspirations of the people nationwide.

²³ Bivitri Susanti, "Constitution and Human Rights Provisions in Indonesia: An Unfinished Task in the Transitional Process." Paper Presented at the Conference on "Constitution and Human Rights in a Global Age: An Asia-Pacific Perspective," Australian National University, Canberra, November 30– December 3, 2001, https://openresearch-repository.anu.edu.au/bitstream/ 1885/42073/1/Susanti.pdf.

²⁴ Horowitz, Constitutional Change and Democracy in Indonesia, 12.

²⁵ Susanti, "Constitution and Human Rights Provisions in Indonesia," 3.

Among the amendments to the 1945 constitution, the present study analyzed the provisions covering three areas—the general elections, decentralization and regional government, and the political participation of civil society and the nongovernmental organizations (NGOs)—together with the policies and programs introduced by the Indonesian government along these areas as mandated by the amendments.

The adoption of the general election system sought to strengthen the system of representative democracy by ensuring that the people can exercise their right of political participation through their active involvement and membership in political parties and their actual vote in the elections. The program of decentralization and regional autonomy brought democratic sovereignty closer to the people in the regions outside the major cities, especially in the remote areas and villages in the outlying and smaller islands. The powers and responsibilities of the central government were passed on to the local government units to ensure the prompt delivery of services to the people and also to facilitate their involvement in the affairs of the government through their participation in consultations and other activities that directly engaged them as rightful citizens. In addition, civil society and NGOs were granted a wider opportunity to engage with the government both at the national and local levels. They were empowered to make their voices heard in the public sphere, allowed to criticize government policies and programs, and given the opportunity to work closely with the government in promoting and advancing the people's needs and interests.

The efforts of the government to translate the amendments into actual political programs and policies have not been completely successful in bringing about more democratic changes in the country. Several reasons can be cited for this shortcoming. The first is that the implementing rules and regulations adopted by the government did not fully embody the vision and intent of the revised constitution. They did not provide a clearer definition of the function and responsibilities of the representatives elected to the legislative assemblies. The constant revision of electoral laws such as on the matter of the presidential thresholds has thereby failed to establish a more stable electoral system.

The second reason points to the apparent lack of political commitment to democratic principles and values on the part of the political leaders and elites. They showed a weak political will to create and pursue democratically oriented governmental programs and policies. The situation was undermined further by abuses such as the politicization of the senior military leadership and the civil service system, the widespread practice of patronage politics and clientelism, vote-buying and other forms of electoral cheating, and the exploitation of the decentralization program to seize control of political power and economic sources in the regions.

The third reason does not completely indicate a shortfall on the part of the government. The limited success of civil society groups is also due to their failure to practice democratic values in their organizational structures and advocacies. They lack unity and cooperation among themselves. Many refuse to consolidate forces with others; they ignore the formation of a national federation of civil society groups. There are also rivalry and competition among these groups. The human resource capacity of many civil society groups is inadequate because their members are not given appropriate and extensive training. There is an almost total dependence on the competence of the leaders and senior staff. A good number of them depends entirely on foreign funding. They have also been exposed for their lack of transparency and accountability in relation to their finances and other resources. Some civil society groups have been involved in anomalies, thus earning distrust among the citizens, inviting suspicion from the government, and tarnishing the reputation of civil society groups in general.

Towards the Deepening of Democracy in Indonesia

Since the Reformation period, a number of Indonesian intellectuals, politicians, and human rights activists have taken great interest in the Habermasian theory of law and democracy. Their interest was driven mainly by their desire to find a form of democracy that is compatible with the cultural and social norms and practices in the country. This desire was further encouraged by their finding that the deliberative character of the Habermasian theory is also present in the Pancasila democracy (*demokrasi Pancasila*).

Indonesia adopted the traditional practice of deliberation as one of the five principles of the state's philosophy articulated in the *Pancasila*. It could form the basis for a democratic process that can be institutionalized towards the flourishing of democracy in the country. What is needed besides is to broaden and intensify the holding of formal meetings among more stakeholders in the policies and programs of the government, especially the poor and the marginalized ordinary citizens. The consultation should also be conducted in all the various stages of the planning process. The formal meetings must also be public, transparent, inclusive, consultative, and designed to ensure the genuine participation of the citizens.

One of the shortcomings often pointed out regarding the amendments to the Indonesian constitution is that the process was carried out primarily by the members of the MPR according to the provision of the constitution. There is no problem with the amendment process being undertaken by the legislative assembly. In some countries when this process is adopted, the legislature is transformed into a constitutional commission. In the Indonesian system, the exclusivity and domination by the MPR can be remedied through the genuine participation of the citizens and civil society groups in the various phases of the amendment process. At the development and design level, the MPR can form a separate and independent body to draft the proposed amendments. These proposals can then be disseminated to the various regions for discussion and evaluation. The feedback from the regions can then be sent back to the drafting body for consideration and incorporation into a revised draft. After the final draft has been deliberated on and approved by the MPR, it can be presented in a national referendum for ratification by the citizens. This last stage is crucial not only for the legitimacy of the amendments but even more for the citizens to exercise their sovereignty and have a sense of ownership or authorship of the newly incorporated constitutional provisions. In the present arrangements, the approval of the amendments is the sole prerogative of the members of the MPR.

The deepening of democracy in Indonesia necessitates a more profound appreciation and support for democratic mechanisms like the general elections and the local elections which are often seen merely as means to obtain political power; thus overlooked or ignored is their essence as venues that provide the opportunity for free and equal citizens to exercise popular sovereignty, form public reasoning about the political programs and policies, and make rational decisions on the new leadership.

There is also a need for the formation of democratically minded politicians. It is also essential for a democracy to have robust political parties that compete with one another not only in courting the votes of the electorate but more importantly, in the words of Habermas, in distinguishing themselves "in the contest over the appropriate interpretation of needs and promotion of relevant issues, in the dispute over the correct description of problems and the best proposals for their solution."²⁶

²⁶ Habermas, Between Facts and Norms, 443.

The current law enumerates the following functions of the political parties in Indonesia, namely: (1) to educate citizens to become aware of their rights and obligations in the life of the nation; (2) to create conditions that are conducive to the unity of the nation; (3) to collect and transmit the political aspirations of the citizens in forming and determining state policies; (4) to facilitate the participation of the citizens in political processes; and (5) to recruit personnel and leaders to fill in political positions through a democratic mechanism based on gender equality and justice.²⁷ It is an excellent statute on paper as it spells out the potential of political parties to contribute to the deepening of democracy in the country; however, there is still much work to be done for the present political parties to become what the law envisions them to be. A necessary but difficult step is for the parties to abandon patronage politics, clientelism, vote-buying, and other forms of electoral malpractices.

The constitutional provision for decentralization and regional autonomy opens avenues that are close and directly accessible to the people for the exercise of their right to political participation. This latter end is not automatically achieved by the program of decentralization and regional autonomy, however, because the people in the local government units and far-flung areas are often not ready to avail of the opportunity to practice their sovereignty and public autonomy. They need to be informed of their political rights and encouraged to be dynamic and concerned about their personal and social welfare. They have to be trained in the process of discourse, the technical procedures of consultation, and the

²⁷ See Republik Indonesia, Undang-Undang Republik Indonesia, Nomor 2 Tahun 2008 tentang Partai Politik, Pasal 11, Ayat 1, 4 Januari 2008, [Republic of Indonesia, Law of the Republic of Indonesia, Number 2 Year 2008 on Political Party, Article 11, Section 1, January 4, 2008], https://peraturan.bpk.go.id/ Home/ Details/38859/uu-no-2-tahun-2008.

mechanism of feedback giving. They have to be educated in democratic citizenship. In this task, the central as well as the regional governments can assist in developing among the local peoples a certain level of what James Bohman calls "adequate functioning," which he defines as "the capability for full and effective use of political opportunity and liberties in deliberation, such as when citizens make their concerns known and initiate public debate about them."²⁸

The role of civil society in the democratization process cannot be overstated. To perform their crucial role, the civil society groups in Indonesia must adhere to and live democratic values like transparency, publicity, accountability, inclusivity, rationality, solidarity, and legitimacy in their organizational structures and works. They need to form coalitions to muster greater power and influence when dealing with government institutions and state agencies. They need to recruit competent members into their ranks and must give continuous formation and training to their personnel. The larger and more established groups and nongovernmental organizations at the national and regional levels can take the lead in initiating development and capacity-building programs to help their counterparts at the municipal and district levels.

By way of conclusion, it must be mentioned that the deepening of democracy in Indonesia also requires that the citizens across the entire archipelago develop among the peoples a democratic culture, which is defined as "the desire and ability of individuals in a population to participate actively, individually and together, to the

²⁸ James Bohman, "Deliberative Democracy and Effective Social Freedom: Capabilities, Resources, and Opportunities," in *Deliberative Democracy: Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press, 1997), 333.

government of public affairs affecting them."²⁹ Such development will take some time to become a reality, but there are definitely some promising signs towards this end like the efforts to carry out the amendments through implementing rules and regulations and government programs and policies, and the introduction of structural changes in the system of governance following the Reformation period. Another encouraging sign is the determination of pro-democracy movements consisting of a wide range of societal groups which increasingly demand a more democratic political system. All these initiatives need to be sustained both by the government and the citizens and the challenges of anti-democracy forces confronted and resolved.

Bibliography

- Aspinall, Edward. "Democratization: Travails and Achievements." In Routledge Handbook of Contemporary Indonesia, edited by Robert W. Hefner, 83–94. London: Routledge, 2018.
- Bohman, James. "Deliberative Democracy and Effective Social Freedom: Capabilities, Resources, and Opportunities." In *Deliberative Democracy: Essays on Reason and Politics*, edited by James Bohman and William Rehg, 321–348. Cambridge, MA: The MIT Press, 1997.
- Butt, Simon. "Constitutions and Constitutionalism." In Routledge Handbook of Contemporary Indonesia, edited by Robert W. Hefner, 54–67. London: Routledge, 2018.

²⁹ Fund for Democratic Culture, "Democratic Culture," accessed June 20, 2022, https://fundfordemocraticculture.org/democraticculture/.

- Carnegie, Paul J. The Road from Authoritarianism to Democratization in Indonesia. New York: Palgrave Macmillan, 2010.
- Ellis, Andrew. "The Indonesian Constitutional Transition: Conservatism or Fundamental Change?" Singapore Journal of International & Comparative Law 2 (2002): 1–38.
 - ——. Constitutional Reform in Indonesia: A Retrospective, March 15, 2005, accessed September 5, 2020. https://www.idea.int/sites/default/ files/speeches/AEpaperCBPIndonesia.pdf.
- Fund for Democratic Culture. *Democratic Culture*, 2015, accessed June 20, 2022. https://fundfordemocraticculture.org/democraticculture/.
- Gillespie, John. "Public Discourse and Constitutional Change: A Comparison of Vietnam and Indonesia." *Asian Journal of Comparative Law* 11, no. 2 (2016): 209–218.
- Habermas, Jürgen. Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy. Translated by William Rehg. Cambridge, MA: The MIT Press, 1998.
 - ——. "Constitutional Democracy: A Paradoxical Union of Contradictory Principles?" *Political Theory* 29, no. 6 (2001): 766–781.
- Horowitz, Donald L. Constitutional Change and Democracy in Indonesia. Cambridge: Cambridge University Press, 2013.
- Hosen, Nadirsyah. "Promoting Democracy and Finding the Right Direction: A Review of Major Constitutional Developments in Indonesia." In *Constitutionalism in Asia in the Early Twenty-First Century*, edited by Albert H.Y. Chen, 322–342. Cambridge: Cambridge University Press, 2014.
- Indrayana, Denny. "In Search for a Democratic Constitution: Indonesian Constitutional Reform 1999-2002." Jurnal Media Hukum 17, no. 1 (2010): 115–131.
- King, Blair A. "Government and Politics." In Indonesia: A Country Study, edited by William H. Frederick and Robert L. Wordern, 229–305. Washington D.C.: Federal Research Division of the Library of Congress, 2011.
- Liddle, R. William. "Indonesia's Democratic Transition: Playing by the Rules." In *The Architecture of Democracy: Constitutional Design, Conflict*

Management, and Democracy, edited by Andrew Reynolds, 373–399. Oxford: Oxford University Press, 2002.

- Nakamura, Mitsuo. Islam and Democracy in Indonesia: Observations on the 2004 General and Presidential Elections. Cambridge, MA: Islamic Legal Studies Program Harvard Law School, 2005.
- Primanto, Aji, Sri Suwitri, and Hardi Warsono. "Bureaucratic Reform: A Way to Eliminate Corruption, Collusion, and Nepotism Practices in Indonesia." *International Journal of Economic, Commerce and Management* 2, no. 10 (2014): 1–23.
- Republic of Indonesia, "The 1945 Constitution of the State of the Republic of Indonesia." https://jdih.bapeten.go.id/unggah/ dokumen/peraturan/116-full.pdf
- Republik Indonesia. Undang-Undang Republik Indonesia, Nomor 2 Tahun 2008 tentang Partai Politik, 4 Januari 2008. [Indonesia, Republic of. Law of the Republic of Indonesia, Number 2 Year 2008 on Political Party, January 4, 2008]. https://peraturan.bpk.go.id/ Home/Details/38859/uu-no-2-tahun-2008.
- Seran, Alexander. Teori Hukum Positif dalam Perspektif Etika Diskursus Jürgen Habermas [The Theory of Positive Law in the Perspective of Jürgen Habermas's Discourse Ethics]. Jakarta: Universitas Atma Jaya, 2011.
- Susanti, Bivitri. "Constitution and Human Rights Provisions in Indonesia: An Unfinished Task in the Transitional Process." Paper presented at the Conference in "Constitution and Human Rights in a Global Age: An Asian-Pacific History," Australian National University, Canberra, November 30 –December 3, 2001. https://openresearch-repository.anu.edu.au/bitstream/1885/42073/ 1/Susanti.pdf (accessed June 20, 2020).