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The Role of Constitutional Law in Shaping A Democratic Rule of Law in Indonesia

Andi Cibu*

* Department of Law Science, Faculty of Law Universitas Muslim Indonesia, Makassar, Indonesia.
Email: andi.cibu@umi.ac.id

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ABSTRACT

The history of the Indonesian government clearly stems from its legal history, especially Constitutional Law, which plays an important role in the structure of government. This research aims to find out the history of Constitutional Law and the role it plays in the formation of the government system that has developed to date. To achieve this goal, the research method used in this research is normative juridical, or library research. Constitutional Law has many important roles, such as resolving disputes between the government and citizens, mediating or mediating to resolve problems between the government and society, and teaching the Indonesian government to adapt to new challenges and opportunities.

Keywords: Constitutional Law, Democratic Law, Role of the State.

I. Introduction

To protect human rights and resolve disputes between the government and citizens, constitutional law plays an important role in the formation of Indonesia's governance structure (Asshiddiqie, 2006). Therefore, I believe that the role of constitutional law is essential for the integrity of government and society (Morosini, 2020), which links between constitutional law and human rights. One of the reasons why I chose to discuss this material is because constitutional law is very important for the Indonesian government (Asshiddiqie, 2006). The government must be able to hold principles and obey the laws or laws that exist in this country (Asshiddiqie, 2006), especially constitutional law that functions to create justice and peace in Indonesian society. To understand more about the function of constitutional law, we need to understand (Ismatullah, 2018). According to the introduction, the research objectives are as follows: to fulfill the tasks of the Constitutional Law course; to understand the roles and responsibilities of Constitutional Law for the government and society; and to learn the history of Constitutional Law from the beginning of colonization to the present day (Bertram, 2023).

II. Research Method

This constitutional law research uses a normative juridical approach to literature. According to Mardalis (1999), a desk study is a study of theories, literature, and scientific references about values, norms, and culture that develop in the social environment. Literature studies also include data and information



collection using a wide variety of resources available in libraries, including, but not limited to, books, journals, encyclopedias, documents, magazines, and periodicals (MacPherson, 2020). Sugiyono (2016: 255) states that the main data source of this research is secondary data; the sub-variables of the research title indicate that secondary data sources come from various literatures or references, including various theories, theories, journals, scientific works, documents, and books. This research or study uses documentation techniques to collect data. The purpose of using the documentation method is to obtain variable data such as notes, newspapers, agendas, etc., which are usually secondary data, according to Sugiyono (2014: 277). In addition, this research uses inductive data analysis. This method produces conclusions based on field facts and secondary data before reaching generalizable conclusions. Word reduction, inference, and data models are used in this research (Fagan, 2020).

III. Result and Discussion

3.1. Science of Constitutional Law

One branch of law that specifically examines legal issues in the context of the state is the science of constitutional law. Constitutional law is a form of law that defines the relationship between state institutions, such as the legislature, judiciary, and executive (Milenia, 2021). In addition, constitutional law also regulates various state actions. Scholars of constitutional law have made other definitions based on this definition, such as:

- a. Scholten: "Constitutional law" is defined as the rules governing the organization of the state. It includes all state organs, rights and obligations, relationships, and duties of each person in carrying out state duties (Sadurski, 2019).
- b. Wade and Phillips: Constitutional law is defined as the rules that govern the organs of state (Paquin, 2022). The rules also explain how the organs of state relate to each other and what they should do.
- c. Van der Von also defines it as rules that are applied by various bodies according to their own interests. According to Levack (2023), these rules relate to authority and the relationship between bodies and citizens.
- d. Apledoorn says that state law is the law relating to state administration.

Many other scholars have provided definitions of Constitutional Law other than those mentioned above. However, there are many opinions on this definition, and the most common is that Constitutional Law is the laws that govern Indonesia's system of government (Barnett, 2023). History of Constitutional Law in Indonesia: Constitutional Law in Indonesia emerged from the Dutch colonial period to reformation, with a long and varied history.

- a. Dutch Colonial Period: From the 17th century to the 20th century, Indonesia was part of the Dutch colony. The law used at that time was Dutch East Indies law or Recht Mataram, which governed Dutch colonial rule.
- b. Pre-Independence period (20th century to 1945): Several nationalist figures carried out nationalist movements to fight for independence from Dutch colonialism. Soekarno, Mohammad Hatta and others were involved in the creation of the country's foundation.
- c. Proclamation of Independence (1945)
- d. During this period, Indonesia proclaimed its independence from the Netherlands, on August 17, 1945. This proclamation marked the beginning of the formation of the modern Indonesian state and became an important milestone in the history of Constitutional Law. of modern Indonesia and became an important milestone in the history of Constitutional Law in Indonesia

- e. The Constitution Formation Period (1945 to 1949) At this time, Indonesia formed its first constitution, called the 1945 Constitution. This constitution created the main legal basis of the Indonesian state, governing the government, the rights of citizens, and the basic principles of the state
- f. Old Order Period (1950-1960): Soekarno led the “Guided Democracy” initiative, which created an authoritarian government with the president as the center of power. This concept would greatly impact the development of constitutional law in the future.
- g. The New Order period (1966-1998): The second president Soeharto took power and established the New Order. Under Soeharto, there were major changes in the political structure and constitutional law, including the adoption of Pancasila as the basis of the state. These changes impacted on the development of human rights and civil liberties.
- h. The Reform Era (1990-current): At the end of the New Order, the reformasi movement began, which demanded major changes in the political and legal systems. One of the outcomes of the reform era was the amendment of the 1945 Constitution, which brought about major changes in the system of government, including the separation of powers and presidential term limits. This affirmed the democracy and protection of human rights embodied in Indonesian constitutional law.

3.2. The Role of Constitutional Law in Government

Constitutional law serves as a strong foundation for Indonesia's system of government. It has the right to set rules on how state power is exercised, how government institutions are formed, and the relationship between government and society (An Nur Islamic University Lampung, n.d.). One of the roles of constitutional law is to assist in the formation and drafting of the country's constitution. This constitution sets out the basic principles governing how the structure of government functions, how the branches of government divide power, and the basic rights granted to citizens. The government's power is limited by English constitutional law (Siegel, 2023). By establishing the principle of checks and balances, constitutional law helps prevent governments from abusing their power. This is achieved through the division of powers between the legislative, judicial, and executive branches, and mechanisms to control and balance between these branches (Vickers, 2024). In addition, constitutional law ensures the sovereignty of the state, which includes the creation and implementation of foreign policy, the resolution of international conflicts, and relations with other states (Bugarič, 2019). Therefore, constitutional law serves to protect a country's sovereignty and national interests around the world. The following are the functions of constitutional law in Indonesian governance: a. Demonstrating the importance of protecting human rights.

- a. By holding rights such as freedom of speech, the right to justice, and democracy as part of constitutional law, constitutional law plays an important role (Bucholc, 2022). It ensures that the government acts on the basis of justice and individual freedom, and also provides ways to protect these rights.
- b. Involves the establishment of independent institutions responsible for monitoring how government powers are used. Financial, anti-corruption and human rights watchdogs are examples. Such institutions ensure that governments are held accountable and prevent abuse of power (Leino-Sandberg, 2022).
- c. As the basis for a democratic political system and the organization of elections. By regulating elections, political parties and citizen participation in politics, constitutional law ensures a fair, transparent and participatory political process (Versteeg, 2020).
- d. as conflict resolution between the government and the people. Constitutional and administrative courts help resolve conflicts related to the interpretation of the constitution or the implementation of government policies (Burgers, 2020). This ensures that all citizens have equal access to the law.
- e. Helping people improve government and change society. According to Baude (2019), constitutional law can change according to the needs and preferences of society by amending the constitution or other basic laws.

IV. Conclusion

The role of constitutional law in governance is crucial in a diverse and dynamic modern society. By keeping up with world developments, the Indonesian government must adapt to new challenges and opportunities by using applicable laws, particularly constitutional law, to ensure that every government policy and action is in line with the needs and aspirations of the people. Thus, constitutional law prioritizes the needs and aspirations of the people. By doing this, governments can foster trust and build a fairer and more equal society for everyone. As technology continues to advance, it is imperative that governments prioritize the common good and leverage their resources to build a more peaceful, prosperous, and sustainable world.

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