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# Respect for Voters' Traditional Voters: Reflections on Legal Recognition of the Ways of Voice Adaptation Society of through Consultation

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The main problem in implementing state democracy is when dealing with the traditional democratic system of voters of indigenous peoples using deliberations based on the principle of collectivism. At present, the state has only used a democratic system that prioritizes individual freedom in expressing voting rights in politics. Meanwhile, the traditional voter democratic system seems neglected in the country's democratic system. The emergence of problems in understanding the democratic way of traditional voters is caused by the state's lack of respect and recognition of the democratic system that was born from the nation's culture into state law. Whereas the state as a stakeholder must ensure that there is no obstacle for traditional voters to implement a democratic system based on their cultural reality. Democracy through traditional culture is more ideal if it is empowered into the national legal system rather than using the Western democratic order, it can actually trigger the disappearance of a democratic system of cultural order that has existed for a long time in the life of the nation's communal society. At least, to respect the citizens of the country's traditional voters, they can provide legal recognition in order to save the indigenous democratic system, amid a shift in a more modern democratic system. This is done in order to provide access for traditional voters to express their political voice according to social realities that they understand using consensus. Already, it is an



important part of the state's responsibility to put the democratic system ahead of the nation's reality compared to establishing a democratic system that adopts from a Western country. Therefore, the state is obliged to respect the culture of the traditional electoral democratic system of indigenous peoples by recognizing it in state law in order to avoid conditions where an increasingly globalized nation degrades the democratic system from traditional voters.

**Key words:** *Traditional Voter Democracy, Customary Community, Legal Recognition, Deliberaton.*

## Introduction

Conveying political aspirations in a political recruitment requires a democratic system that is fair to every member of society. A country that implements a good democratic system if it recognizes the reality of democracy from traditional voters of indigenous peoples. Respecting the way indigenous peoples implement a democratic system born from the reality of traditional cultural democracy is needed. Because, each country in general is required to be able to maintain, protect the authenticity of local culture that lives and is preserved in indigenous peoples, including when there are traditional voters using the method of choosing deliberations as local culture. Local culture is a set of knowledge and practices, both originating from previous generations as well as experience relating to the environment and other communities belonging to a community in a place that is used to resolve properly the various problems or difficulties encountered (Sony Sukmawan , 2016).

Indonesian culture has benefits for those who accept the rhetoric that articulates it (Geger Riyanto, 2018). All modern countries at that time could be categorized as democratic countries. However, no one has the same character, democracy is understood as a rank or degree and some others understand it as a certain mechanism through the public will expressed (Mac. Iver, 1955). The vision of democracy is deliberation, upholding the people's sovereignty to be together building politics by reviving the spirit of brotherhood within the framework of deliberation so that every decision resulting from the principle of consensus agreement is not dictated by the majority group (minocracy) or minority political elite (St. Sularto, Amalia Patamitha, 2017). Law originating from Indonesia itself is national law based on Pancasila, national law is law that originates from culture, customs, outlook on life, history, style, character of Indonesian people as national personality identity which is fully an implementation of Pancasila values as state ideology ( Rodiyah, 2016).

In this connection, it is difficult to argue that if the development of civilization with the entry of the western democratic system becomes a major influence, the synergy of the country's



democratic system with the ideology of the country's democratic system. In this case, state law tends to leave the democratic culture system from the traditional electorate of indigenous peoples and prefers to implement policies to make the democratic legal system more modern. The Western democratic system is the choice of the state because the system carries the independence of every individual in expressing his voice. At the very least, this method is considered to be the most ideal compared to the way indigenous peoples use their voting rights through deliberation and consensus. The priority of state law provides protection for indigenous peoples in fact is not effective in reaching traditional voter democracy, even though the philosophy of the state ideology has laid down if the basic democratic system of the nation is not the system of individual freedom but the system of using deliberation with the principle of collectivism.

Based on the above conditions, concentrated state law governs democracy from the Western democratic system causing risks associated with the loss of the authenticity of the traditional democratic culture of indigenous voters. The state by implementing the Western democratic system will further support the protection of individual rights so that it influences the process of policy regulation to provide more stringent legal recognition to every citizen in delivering their voting rights. Democracy makes the state gain legitimacy and power to make it respected, valued and accepted by the world, even though what is carried out is merely a formality (Ali Muhammad Ash-Shallabi, 2016). Even though on the other hand, there is the reality of traditional indigenous democratic culture of indigenous people who are still focused on maintaining the culture in conveying votes through deliberations and consensus, in state authority has not even received legal recognition from the state.

Therefore, the author wants to strive for and overcome the apparent recognition of the democratic rights of traditional voters of indigenous peoples from the state by reflecting in terms of law to ensure that the cultural realities of indigenous peoples' voter democracy can be recognized legally and thus survive the influence of democratic culture West, by providing an analysis of the forms of legal recognition that can respect the diversity of democracy. The concept of any democracy can be accepted to be defined because until now there is no one concept that can be universally accepted in explaining democracy, the literature that there are various meanings to it and this cannot be separated from its interpretative nature (Al. Araf, 2018). The level of democracy can be achieved in a variety of ways that are basically unlimited, the election is only part of one way of democratic means, the other means must also be able to protect the interests of minorities in all its scope because there is no definite democratic ideology. (Hoogerwerf. 1985)



## Results and Discussion

The main problem in the traditional electoral democracy of indigenous peoples is related to legal recognition of respect for the way indigenous people vote through deliberations, causing problems relating to state hegemony and recognition of the norms of respect for indigenous peoples. The problem is divided into two: First, the problem of the state does not recognize the democratic form of indigenous peoples. With a democratic governance system, setting aside the reality of the nation itself which has a variety of wealth of traditions, including the existence of local wisdom, is like looking at the condition of the nation with western glasses. Forcing democracy without deriving from the social reality of the community that has been carried out according to the customary traditions of indigenous peoples can result in loss of voice in the indigenous community and at least it will clearly trigger horizontal conflicts (Zamroni, 2011). Secondly, Tracing aspects of the philosophy of nation's democracy from a number of legal recognitions, about how the state conceptualizes the nation's true democracy. To revive the ideals of democracy characterized by the Indonesian nation, the way to place the tradition of collectivism from village deliberations rooted in the customary custom of conducting deliberations concerning the public interest, which was decided by consensus (agreement). (Yudi Latif, 2014).

### Managing Democracy from the Side of State Hegemony

The regulation of a democratic system governed by the state cannot be separated from the application of the developing global democratic system. Developing countries seem to compete with the title as the most democratic countries implementing government systems. Most countries govern the government and carry out state political recruitment always coated with the spirit of democracy creating a just government to protect the political aspirations of every citizen. However, the big challenge now is that many countries are sometimes less aware of the democratic system they use, apparently far from the emic reality of democracy that is needed by the people, so the western democracies adopted by the state often have problems because the system is not the same as what traditional voters traditionally understand. . The tendency of the modern state today is to recognize the right to vote owned by all citizens who have to express their aspirations freely (Janedjri, 2013)

The face of the democratic framework of state law, actually hegemony of the democratic system must be the same in each region. The state regulates the democratic system of political recruitment based on the principles of LUBER democracy (direct, general, free and confidential). That principle applies in all political recruitment, both in the Presidential Election and in the Regional Head Election. Every election regulation policy shows that the principle of democracy is quite tightly regulated so that it is rather difficult to be compared with the democratic system that is carried out openly, as is usually done in traditional voter



democracies of indigenous peoples using consensus agreement. This can be understood, because human rights are basically anti-historical works in which the rapidly developing democratic rights in the near future may be freed from past references (James A Epstein, 1994). Sovereign democracy is an endeavor of the country's democratic system, there are four words that manage the democratic system namely voters, sovereign, state and strong. That is, everything boils down to state hegemony making democracy an expectation of civilized contestation with integrity so that it does not lose its legitimacy (Adi Arwan Alimin, 2018). In fact, democracy in state law always puts community participation in the foremost position, between society and democracy there are complementary and simultaneous meanings, so that democracy runs well, community participation is a logical consequence that must be developed (Rambe Kamarul Zaman, 2016). Elections have a legal framework by involving various elements of society in the country by opening the widest possible access to the fulfillment of public political participation, thus the election organizers have formed a government based on law (Fajlurrahman Jurdi, 2018). Elections provide a space for every citizen to compete for political office in government fairly based on the formal choices of eligible citizens. (Didi Supriyanto and Lia Wulandari, 2013)

The rigidity of national legal democracy does not look at the emic reality of traditional indigenous voter democracy to be the country's goal point to realize a more substantial democratic system. The state's understanding of democracy will only be fair if it upholds the principle of popular sovereignty in an effective and systematic way from regulating the legal requirements of political votes to ensuring the protection of the voices of every citizen in conducting elections. Election with direct variants by the people is a form of democratic government, in which the people participate and are conscious to choose their leaders, as a characteristic of the government that implements direct democracy as applied in the Greek City countries and as a characteristic of the presidential government system (Retno Saraswati, 2011).

State law is quite weak when speaking of recognition of the democratic rights of indigenous peoples. As if customary law and state law clash with each other if they are equally applied in state law. Although, although there is some recognition of state law protecting the rights of indigenous peoples, especially related to community customary rights, in fact it is also not enough to be able to protect those rights. Because many of the community's customary rights are lost due to the influx of foreign investors to manage customary land into industrial land, which in turn causes indigenous peoples to lose their customary rights as landowners. Local people often face clashes in using state law between state rules and local culture so as to cause a quarrel with the truth that makes people in uncertainty, there is a burden that must be faced by the region when state law rules are present in their local space. (Garuda Wiko, 2000) On the other hand, the state has repeatedly made changes in designing Indonesia's democratic system related to the General Election and Local Election. However, the contents of the legal



policy do not absorb the aspirations of the democratic system needs based on the reality of the nation's democratic culture. The aim of the state in implementing democracy is to give the people absolute authority to elect their leaders. This is in accordance with statements from the people, by the people, and for the people, the people should be involved in the implementation of democracy. There are two things related to the legitimacy of democracy. First, input oriented, which means governance by the people that impacts on collective decisions must be obtained and authentic expressions and constituent preferences. Second, output oriented, which means governance for the people that has an impact on the outcome of decisions that must serve the constituents' public interests (Pipit R Kartawijdjaja, M Faisal Aminuddin, 2004). In addition, the deepening of state democracy is meaningful. First, the development of the institutionalization mechanism of trust building of all political actors such as civil society, political parties and technocratic administrative bureaucracy that accompanies the institutionalization that has been formed (R. Siti Zuhro, 2019).

### **Legal Recognition for Reflections Respecting Traditional Voters**

The impetus for the presence of the legal recognition of indigenous peoples' democratic systems in the political process through deliberation and consensus became an issue that always developed when the political party for political recruitment began. The problem is that recognition of the democratic system is not a priority for the state to formulate in the legal framework for elections in Indonesia. The greater the demands of indigenous peoples (Leonard, T, 2020) so that the state can side with the democratic system based on the social reality of indigenous peoples by combining the democratic system with traditional voter democratic procedures with the modern system within the Indonesian legal framework. Because, it is something whose principles must be realized immediately to protect the interests of all parties who have their respective understandings in interpreting a just democratic system. A country that stands on the law guarantees justice to its citizens, justice is a prerequisite for creating happiness in life for its citizens, and as a basis for justice it is necessary to teach morality to every human being so that he becomes a good citizen. Likewise, actual legal regulations only exist if they reflect justice for the association of life between citizens (Moh. Kusnardi, Harmaily Ibrahim., 1998). Political ethics can work if there is respect for humanity and justice. (I Wayan Gede Suacana, 2020)

In completing legal recognition to achieve a just democracy for indigenous peoples, the state needs to return to Hatta's concept of looking at Indonesian social democracy as originating from three sources namely western socialist understanding, Islamic teachings, and Indonesian society based on collectivism. The principle revealed by Hatta is an indication that the source of the nation's democracy can be balanced with the way people live in their social environment, even though one source of democracy is from the western ideology which is more liberal ideology, it does not mean that Islamic teachings and collectivism are considered



as trappers, instead the sources of Islamic teachings and the collectivism of a nation that is accustomed to living in groups and deliberating is an ideology of the nation that can be a filter formulation for the development of a liberal ideology from its expectations of being very individual.

In this connection, the traditional electoral democracy of indigenous peoples which is used when the recruitment of state or regional leaders by way of consultation is indeed a system that reflects the collectivism of the nation. That is, it is already an agreement that is considered a truth from the emic reality of indigenous peoples which is considered true. In principle, the state can wisely create norms that can regulate electoral mechanisms in ways that reflect the emic life of indigenous peoples (Lego Karjoko, 2020). The essence of legal recognition is actually proof of the state in implementing ethical and moral principles in making laws that do not discriminate against minority groups because the law cannot be separated from the behavior of citizens.

<sup>12</sup> Law is not created in a social vacuum, if law is created in a social vacuum then the law is very sterile, our law is created in the socio-political situation that colors the creation of law, law is a product of political behavior (Todung Mulya Lubis, 2009). Countries that have ratified the Civil Rights Covenant should be able to respect if there are indigenous and tribal peoples who want to preserve their culture that is different from the community in general, rather than forcing new things to follow the times that would violate the human rights of customary law communities (Sukirno, 2018).

<sup>23</sup> In the context of the Unitary State of the Republic of Indonesia (NKRI) many local values in each region can be developed positively and effectively to help overcome various problems in the Indonesian democratic system. at least every region must have a good and positive diversity of local culture to overcome public problems including issues of state democracy that have already been held (Hermi Susiatiningsi, 2012).

Legal recognition is the wisest solution to save the traditional voter democratic system that is still alive in the midst of the citizens so <sup>16</sup> that the state does not need to change the paradigm of indigenous people into modern society (Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, 2020: 765). Guidelines for the <sup>22</sup> state in law must be consistent in following the direction of legal policies in accordance with the state philosophy of the Pancasila and the 1945 Constitution which contains a paradigm of cultural law. <sup>4</sup> Therefore, the state is subject to and obeys the law, the rule of law is above everything in a state of law (Muhammad Alim, 2010). The rule of law is that the rule of law can respect the culture of the diversity of the nation itself which synergizes with the state bureaucracy system with the traditional system of indigenous peoples. State bureaucratic culture has a strong relationship between local political culture because first, bureaucracy is a political institution; second, democratic culture has an





important role in understanding political elites; and third, the success of regional development is influenced by the role of the local bureaucratic system that is carried out (M. Sirajudin Fikri, Nico Oktario A, 2018)

### **Conclusions**

Based on the description above, the existence of an understanding of democracy from indigenous peoples related to the need for legal recognition, can be concluded by two things. First, the state with its policy only idealizes the electoral system which has the concept of election which can guarantee the freedom of each individual to vote directly according to the choice desired by the voters without any intervention from any party so that there is no justification of the process of deliberation in voting. Second. Democracy of traditional voters' traditional voters who usually use deliberations in voting can actually get concrete legal recognition according to the way they choose, it is realized that the way indigenous peoples conduct elections is part of the nation's originality in interpreting democratic systems that are ingrained in social behavior so that even if there is a more modern democratic system that the country has adopted, it is likely that ineffectiveness can be implemented. Because indigenous people only believe that the truth does not come from outside their social space, but comes from within the traditional environment of their traditional culture.

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