History of the Formation and Dynamics of the Constitutional Law of 1945: Constitutional Idealism, Nation Soul (*Volksgeist*), and Contemporary Developments

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ABSTRACT

The 1945 Constitution of the Republic of Indonesia is a constitution that not only functions as the highest legal norm, but also as a source of values, historical records, and characteristics for the nation's identity. This article aims to analyze the history of the formation and development of the 1945 Constitution in the dynamics of Indonesian politics through the perspective of constitutional idealism, *Volksgeist*, and *living constitution theory*. This research uses **the juridical method normative** with three main approaches, namely **approach historically** to trace the formation process of the 1945 Constitution through BPUPKI and PPKI conference pamphlets; **a conceptual or doctrinal approach** using constitutional theory, the concept of *Volksgeist* , and *living constitution*; as well as **a philosophical approach** to explore the basic value of Pancasila as *the rechtidee* of the Indonesian constitution. Data sources consist of primary legal materials in the form of the 1945 Constitution and Constitutional Court decisions, secondary legal materials in the form of books and validated scientific journals, and tertiary legal materials such as legal dictionaries and encyclopedias. The analysis is done qualitatively with historical and systematic interpretation techniques. The results of the study show that the 1945 Constitution developed as a living constitution that maintains the continuity of the basic values of Pancasila while also being able to adapt to social, political changes, and the development of human rights. Thus, the Indonesian constitution is not only understood as a legal text, but as an ethical and normative space that continues to be reinterpreted in order to guarantee justice, democracy, and the well-being of the people.

Keywords: Pancasila, *Volksgeist*, Indonesian Constitutionalism, Living Constitution, UUD 1945

A. INTRODUCTION

Therefore, understanding the Indonesian constitution means understanding the identity of the nation itself. The constitution in the modern sense is not only understood as a legal document that regulates the organization of national power, but also a reflection of the values, ideals, and moral direction of a nation (Asshiddiqie, 2010: 12). In the context of Indonesia, the 1945 Constitution is not just a legal-formal text, but a crystallization of historical experience and the nation's collective consciousness born from a long process of value formulation and political compromise (Latif, 2011: 27).

This view is in line with the idea that the constitution is a manifestation of the soul of the nation (*Volksgeist*), ie the embodiment of values and culture that live in society. The Constitution does not stand in a vacuum, but grows with the dynamics of history and culture. It is at this point that the Indonesian constitution exhibits a

unique character: it contains a lofty normative idealism while simultaneously reflecting the ever-changing socio-political reality. **(Asshiddiqie, 2010: 12; Magnis-Suseno, 1984: 41)**

Indonesia's political journey shows that the 1945 Constitution experienced a phase of stability and transformation. On the one hand, it is seen as a sacred document that contains the values of the country's policy. On the other hand, it undergoes changes through the practice of statecraft and amendments. This article attempts to answer how the history of the formation of the 1945 Constitution and how its growth in the dynamics of Indonesian politics is viewed from three main perspectives: constitutional idealism, *Volksgeist theory*, and the dynamics of the times.

B. RESEARCH METHODS

This research uses **the juridical method normative** with three main approaches: **historical approach**, tracing the formation process of the 1945 Constitution through BPUPKI and PPKI pamphlets; **approach conceptual**, using constitutional theory, *Volksgeist*, and *living constitution*; **philosophical** approach, exploring the basic value of Pancasila as *the rechtidee* of the Indonesian constitution. Data sources include primary legal materials (1945 Constitution and Constitutional Court Decisions), secondary legal materials (validated scientific books and journals), and tertiary legal materials (legal dictionaries and encyclopedias). The analysis is done qualitatively with historical and systematic interpretation.

This study employs a normative juridical research method (also known as doctrinal legal research), incorporating three principal approaches: the historical approach, the conceptual approach, and the philosophical approach.

First, the historical approach examines the constitutional formation process of the 1945 Constitution of the Republic of Indonesia, particularly through an analysis of historical documents, including the proceedings and records of the Investigating Committee for Preparatory Work for Indonesian Independence (BPUPKI) and the Preparatory Committee for Indonesian Independence (PPKI). This approach aims to trace the historical circumstances, debates, and foundational considerations that shaped the formulation of the Constitution.

Second, the conceptual approach draws upon relevant constitutional theories and legal concepts, particularly constitutionalism, Volksgeist (the spirit of the people), and the living constitution doctrine. These concepts provide the theoretical foundation for examining the relationship between constitutional norms, societal values, and the evolving interpretation of constitutional principles.

Third, the philosophical approach explores the fundamental values of Pancasila as the Rechtsidee (the ideal of law or fundamental legal ideal) underlying the Indonesian constitutional order. This approach seeks to examine the philosophical foundations and normative aspirations that inform the interpretation and implementation of the Constitution.

The study draws upon three categories of legal materials. Primary legal materials comprise the 1945 Constitution of the Republic of Indonesia and relevant decisions of the Indonesian Constitutional Court (Mahkamah Konstitusi). Secondary legal materials include peer-reviewed academic books, scholarly journal articles, and other authoritative legal publications relevant to the research. Tertiary legal materials consist of legal dictionaries, encyclopedias, and other reference sources that support the clarification and interpretation of legal concepts and terminology.

The collected legal materials are analysed qualitatively through historical and systematic methods of legal interpretation. Historical interpretation is employed to understand the original context, intentions, and considerations underlying constitutional provisions, while systematic interpretation examines constitutional norms in relation to the broader structure and coherence of the constitutional framework. These interpretative methods enable the study to develop a comprehensive understanding of the Constitution as both a normative legal instrument and a reflection of the nation's evolving fundamental values.

C. THEORETICAL FRAMEWORK

3.1. Historical Schools and the Concept of the Soul of the Nation (*Volksgeist)*

The concept of *Volksgeist* is rooted in the Historical *School of Law* pioneered by Friedrich Carl von Savigny in the early 19th century. This sect emerged as a reaction to the rationalistic legal codification tendency after the French Revolution. Savigny rejected the view of Anton Friedrich Justus Thibaut who wanted to organize the law in an abstract and universal way. According to Savigny, law is not a mere product of legislators' engineering, but rather a social organism that grows from the collective consciousness of society—the language, customs, and history of a nation. Law is an expression of the nation's soul that lives and develops with its community (Magnis-Suseno, 1984: 41).

This view was later enriched by Georg Friedrich Puchta who added a systematic dimension so that the law would still have certainty in a modern country. Thus, the Historical School does not reject rationality, but places it in a cultural context. In a constitutional perspective, *the Volksgeist approach* places the basic law as a historical product that reflects the nation's collective identity, not just a normative construction of the political elite.

This approach, in the context of Indonesia, is relevant because the 1945 Constitution was born from a historical process loaded with national values. The Indonesian Constitution cannot be separated from the socio-cultural roots of its society. It is a representation of history and the nation's collective moral ideals. The relevance of this *Volksgeist* finds its operational form in Pancasila as the basis of the state.

3.2. Pancasila as the Soul of the Nation and the Foundation of the Constitution

The concept of *Volksgeist* in the context of Indonesia, finds the most real and operational relevance in Pancasila as the basis of the state as well as the soul of the nation. Pancasila is not only understood as a formal political ideology listed in the national document, but as a reflection of moral values, social ethics, and the collective personality of the nation that lives in the consciousness of Indonesian society across generations. It is not just a summary of the five precepts, but a value system rooted in historical experience, cultural traditions, and the way of life of the people of the archipelago. Thus, Pancasila functions as a "space of meaning" that accommodates the diversity of social, ethnic, religious, and cultural identities without losing the orientation of national unity. In this framework, Pancasila becomes an ethical compass that allows plurality to remain within an intact national framework (Latif, 2021).

Pancasila's position as the soul of the nation places it not only as a basic norm (*grundnorm*) in the juridical sense, but also as a source of moral legitimacy for the entire national legal structure. In the discourse of contemporary constitutional law, Pancasila is understood as a *living ideology*, that is, an ideology that does not stop at the symbolic level, but continues to be interpreted and actualized in the practice of national life. This perspective shows that Pancasila has flexibility that allows adaptation to the dynamics of the times without losing the substance of its basic values. Therefore, the relationship between Pancasila and the constitution is not purely hierarchical, but also organic and dialectical—the constitution derives its ethical spirit from Pancasila, while Pancasila obtains its operational form through the constitution (Asshiddiqie, 2022).

The 1945 Constitution, especially in its Preamble, is the most explicit normative embodiment of Pancasila values. The opening of the 1945 Constitution does not merely function as a formal introduction or rhetorical prologue, but as a philosophical declaration that animates the entire structure of the constitution. It contains the formulation of the state's purpose, the principle of people's sovereignty, and the ideals of social justice that become the moral direction for the administration of power. In the perspective of modern constitutional theory, the Preamble of the 1945 Constitution can be understood as a *meta-norm* that provides an interpretative framework for all articles of the constitution. For this reason, every interpretation of constitutional norms should in fact refer to the values contained in the Preamble as a source of ethical and philosophical legitimacy (Mahfud MD, 2020).

Philosophical dimension The Preamble of the 1945 Constitution shows that the Indonesian constitution does not only contain written legal norms, but also contains cultural and ethical dimensions sourced from Pancasila. This synthesis between norms and values makes the Indonesian constitution have a unique character compared to many other modern constitutions that tend to be legalistic. In the context of Indonesia, constitutional law has never been completely separated from the collective moral dimension. This is evident in basic principles such as social justice, deliberation, and civilized humanity—values that are not only normative, but also rooted in the nation's social traditions. Thus, the Indonesian constitution contains a normative as well as a cultural dimension that shows a synthesis between the universal values of democracy and national identity (Butt & Lindsey, 2021).

The connection between Pancasila and the constitution can also be understood through the perspective of *constitutional identity theory*. In the study of contemporary constitutionalism, the constitutional identity of a country is seen as a combination of historical values, political experience, and cultural characters that disting-

uish it from other countries. In this regard, Pancasila functions as a marker of Indonesia's constitutional identity that gives distinctive features to the national legal system. The identity is not static, but develops along with social and political changes, but still maintains the core values that form its foundation. For this reason, every constitutional change must pay attention to the continuity of this identity so that there is no disorientation of values in national life (Hosen, 2023).

In the practice of statecraft, the relevance of Pancasila as the soul of the nation can be seen in various decisions of the judiciary, especially the Constitutional Court, which often refer to the value of Pancasila as the basis of normative consideration. This shows that Pancasila does not stop as an ideological symbol, but functions as a living source of legal interpretation. Decisions that touch on issues of human rights, religious freedom, and social justice often use Pancasila as an ethical framework to balance positive legal norms with a sense of social justice. This phenomenon shows that Pancasila acts as a bridge between the constitutional text and social dynamics, between formal legality and moral legitimacy (Isra, 2022).

The development of scientific research in the last five years in the prestigious journals Scopus and Sinta 1 also shows the tendency of increasing attention to the relationship between Pancasila and Indonesian constitutionalism. The academics emphasize that the success of the Indonesian legal system is not only determined by the institutional structure, but also by the ability to integrate the values of Pancasila in legal practice. These studies highlight the importance of an interdisciplinary approach that combines legal philosophy, legal sociology, and political theory in understanding the position of Pancasila as a constitutional foundation. Thus, Pancasila is understood not just as an ideological doctrine, but as an epistemological paradigm in the formation and interpretation of national law (Arliman, 2021).

On the other hand, the challenges of globalization and the development of information technology demand a reinterpretation of Pancasila values in order to remain relevant in the context of a digital society and global economy. The value of association, for example, is now no longer only related to the integration of physical territory, but also to the integration of digital space and virtual culture. Social justice values should also be translated into economic policies that are responsive to digital inequality and technology access. In this context, Pancasila shows its flexibility as an open ideology that is able to adapt without losing the essence of its basic values. This flexibility is what makes Pancasila continue to function as the soul of the nation in the era of global transformation (Sihombing, 2024).

The relationship between Pancasila and the 1945 Constitution also shows that the Indonesian constitution has a *normative-cultural constitution character* , that is, a constitution that not only regulates the power structure, but also contains the cultural dimension of law. In this framework, the constitution is understood as a meeting between written norms and community values. Pancasila became a source of inspiration for values, while the 1945 Constitution became a normative instrument that operationalized it in the state system. This synergy creates a form of Indonesian constitutionalism that emphasizes the balance between legal certainty and social justice, between legality and legitimacy (Aziz, 2020).

Thus, Pancasila as the soul of the nation cannot be separated from the foundation of the Indonesian constitution. It is not just an ideological background, but a source of value that animates the entire national legal structure. The opening of the 1945 Constitution became the clearest articulation space of the relationship, where Pancasila values were translated into binding constitutional norms. In the context of *Volksgeist* theory , Pancasila can be understood as an expression of the nation's collective consciousness which then finds its normative form in the constitution. This synthesis between values and norms makes the Indonesian constitution not only the highest legal document, but also a reflection of the nation's cultural and moral identity that continues to grow along with the dynamics of the times.

In the end, the interpretation of Pancasila as the soul of the nation and the foundation of the constitution affirms that the continuity of Indonesian constitutionalism depends on the ability to maintain a balance between continuity of values and adaptation to change. A living constitution is not a constitution that is often changed, but a constitution that continues to be interpreted contextually with reference to the basic values of Pancasila. In this way, the Indonesian constitution can defend its identity while responding to global challenges wisely, so that it remains relevant for present and future generations.

D. DISCUSSION

4.1. History of the Dialectic Formation of the BPUPKI Session: Searching for the Soul of the Constitution

The Indonesian Independence Preparation Research Body (BPUPKI) conference is the most fundamental phase in Indonesia's constitutional history because it is at this forum that an intense encounter between ideological ideas, national vision, and the historical consciousness of a nation that is on the brink of independence takes place. The dialectic that takes place in the BPUPKI meetings does not just show the differences of opinion of the figures, but also reflects the process of searching for the nation's identity which is to be expressed in the form of constitutional norms. In the perspective of *Volksgeist theory*, the BPUPKI forum can be understood as a space for the articulation of the nation's collective consciousness that seeks to find its normative form through rational discourse and political compromise (Latif, 2021).

Muhammad Yamin in his speech on May 29, 1945 put forward five basic national policies that reflect the synthesis between national values and universal humanitarian ideals. The formulation shows that Indonesian national consciousness does not stand in isolation, but interacts with the idea of global modernity. Nevertheless, the values carried by Yamin remain rooted in local tradition and history, thus showing a balance between universal aspirations and national identity (Aulia, 2022). On the other hand, Soepomo on May 31, 1945 proposed the concept of an integralist state that rejects extreme individualism and emphasizes social harmony as a characteristic of the Indonesian nation. Soepomo's view is often read as a reflection of an organic approach to the state, where individuals and society are understood as inseparable organic unity (Rosadi, 2023).

The peak of the dialectic occurred in Soekarno's speech on June 1, 1945, which gave birth to the term Pancasila. Soekarno insisted that the country's policies should be dug from the values that live in Indonesian society itself, not imported crudely from the West. This statement reflects the epistemological awareness that constitutional legitimacy is not only sourced from political rationality, but also from the cultural acceptance of society. In the perspective of modern constitutionalism, this moment can be understood as a meeting point between the theory *of constituent power* and the concept of *Volksgeist* , where the will of the people meets the cultural awareness of the nation in a normative formulation (Butt & Lindsey, 2021).

The BPUPKI dialectic also shows that the Indonesian constitution from the beginning was built through an inclusive deliberative process. Differences of opinion do not lead to fragmentation, but to creative compromise that strengthens collective legitimacy. This shows that the soul of the Indonesian constitution was not born from the dominance of one group, but from the interaction of a plurality of ideas united by the spirit of national unity. In recent studies of constitutional law, this process is often referred to as the early form of Indonesia's *deliberative constitutionalism* (Isra, 2022).

The Second Session of the BPUPKI (July 10-17, 1945) marked a shift in the focus of discussion from the formulation of national policy to the constitutional structure and concrete legal norms. In this phase, the debate on the formulation of the first precept in the Jakarta Charter became a crucial point that showed the complexity of Indonesian pluralism. The phrase "obligation to carry out Islamic Sharia for its adherents" reflects the aspirations of strong religious groups, but at the same time raises concerns about potential exclusivity in a pluralistic country (Hosen, 2023).

The change in formulation ultimately shows that the founders of the nation prioritize national unity over sectoral ideological interests. This compromise is not just a pragmatic political move, but a reflection of the philosophical awareness that the constitution should be able to be a common home for all elements of the nation. In the theory of pluralistic constitutionalism, this moment can be understood as a form of *constitutional accommodation*, which is an effort to balance identity aspirations with the need for national integration (Asshiddiqie, 2022).

The Jakarta Charter later became a historical document that showed that the basic values of the Indonesian constitution were formed through negotiations that were sensitive to diversity. The decision to change the formulation of the first precept shows that the Indonesian constitution from the beginning was built on the spirit of inclusivity and tolerance. This strengthens the thesis that Indonesia's constitutional identity is open and adaptive, not exclusive and rigid (Mahfud MD, 2020).

4.2. PPKI and Finalization of National Architecture

The process of finalizing Indonesia's constitutional architecture cannot be separated from two important forums in the history of the constitution, namely **the Committee of Nine** within the body of the BPUPKI and **the Indonesian Independence Preparation Committee (PPKI)** after the Proclamation of August 17, 1945. These two forums become a bridge between the formulation of the country's basic values and the confirmation of operational constitutional structures.

a. The Committee of Nine and the Formulation of the Jakarta Charter

The Committee of Nine was formed on June 22, 1945 as a sub-committee of the BPUPKI tasked with formulating the opening text of the constitution. This committee played a very strategic role because it was from this forum that **the Jakarta Charter was born** , which later became the embryo of the Opening of the 1945 Constitution.

The Nine Committee members consist of:

1. **Ir. Soekarno** (Chairman)
2. **Drs. Mohammad Hatta**
3. **Mr. Mohammad Yamin**
4. **Mr. AA Maramis**
5. **Mr. Achmad Soebardjo**
6. **Abdul Kahar Muzakir**
7. **Abikoesno Tjokrosoejoso**
8. **H. Agus Salim**
9. **KH. Wahid Hasyim**

The composition of the Committee of Nine reflects the representation of the plurality of national thought—secular nationalists, religious nationalists, and modernist and traditional Islamic groups. From here it can be seen that from the beginning, Indonesia's national policy was formulated through **an inclusive ideological dialectic** . The resulting Jakarta Charter is not just a political document, but a manifestation of a compromise of values that places national unity above sectoral interests.

The change of the wording of the first precept of the Jakarta Charter on August 18, 1945 from the formulation of "obligation to carry out the Islamic Sharia for its adherents" to "The One and Only God" affirmed that the finalization of the Indonesian constitution was built on the awareness of pluralism and the spirit of national integration. This event is often seen as a milestone **of constitutional accommodation** in Indonesian history.

b. Indonesian Independence Preparation Committee (PPKI) and Ratification of the 1945 Constitution

After the Proclamation of August 17, 1945, historical momentum shifted to the PPKI as the institution that formally ratified the constitution. On **August 18, 1945** , the PPKI held its first conference that produced fundamental decisions in the history of Indonesian politics. **The initial members of PPKI numbered 21 people**, then added 6 people without any knowledge of Japan, so that the total became 27 people. Important members of PPKI include:

- **Ir. Soekarno** (Chairman)
- **Drs. Mohammad Hatta** (Vice Chief)
- **Mr. Achmad Soebardjo**
- **Mr. Mohammad Yamin**
- **Mr. AA Maramis**
- **Ki Bagus Hadikusumo**
- **Teuku Mohammad Hasan**
- **I Gusti Ketut Pudja**
- **Otto Iskandardinata**
- **RAA Wiranatakusumah**
- **Abdul Qadir**
- **Andi Pangerang Pettarani**
- **Johannes Latuharhary**
- **Sayuti Melik**
- **Kasman Singodimedjo**
- **Ki Hadjar Dewantara**

(and several other members who represent the archipelago region).

The composition of PPKI shows the geographical and sociological representation of the Indonesian nation, so that the legitimacy of the results produced is not purely elitist, but rather reflects the collective will of the newly independent nation.

c. Fundamental Decision of August 18, 1945

At the meeting on August 18, 1945, the PPKI produced a monumental decision that became the basis of the structure of the Indonesian state, namely:

1. **Ratify the 1945 Constitution**, which includes:
    - **Preamble to the 1945 Constitution**
    - **Body** (37 Articles)
    - **Transition Rules**
    - **Additional Rules**
    - **General Explanation and Article by Article Explanation**
2. **Set Ir. Soekarno as President and Drs. Mohammad Hatta as Vice President.**
3. **Determining the three fundamental choices of governance** , namely:
    - **Form of Government:** Unitary State
    - **Form of Government:** Republic
    - **Government System:** Presidential
4. **Forming the Fundamental State Institutions**, namely the President, Vice President, MPR, DPR, DPA, BPK, and MA (in the initial structure).

These decisions have a strategic meaning because they determine the direction of the new power structure of the country. The choice of a unitary state reflects the need to maintain territorial integrity and avoid political fragmentation after colonialism. The presidential system is seen as capable of providing government stability in the transition period of independence which is full of uncertainty (Isra, 2022). In the perspective of modern state theory, the decision of PPKI can be understood as **a synthesis between historical values and the practical needs of the nation** . It shows that the design of Indonesia's constitution is not only based on normative idealism—such as people's sovereignty, social justice, and national unity—but also considers geopolitical realities, social conditions, and the threat of regional disintegration. Thus, Indonesian national architecture is a fusion between **constitutional idealism** and **pragmatic realism** (Aziz, 2020).

At this point it can be seen that the Indonesian constitution from the beginning was designed not just as a legal text, but as a strategic instrument of state *-building*. The *founding fathers and mothers* not only formulated legal norms, but also designed a moral, political, and institutional framework that allowed Indonesia to stand strong in the midst of diversity and global challenges. The finalization by the PPKI on August 18, 1945 can therefore be understood as **the moment of birth of Indonesian state architecture**, which combines historical aspirations, cultural awareness, and the practical needs of the newly independent nation.

4.3. The Growth and Dynamics of the Indonesian Constitution: from Statecraft Experiment to Constitutional Democracy

The journey of the Indonesian constitution clearly shows that the constitution is not a static text that stops at one historical moment, but a normative entity that experiences growth, adaptation, and even transformation according to the social, political, and geopolitical dynamics of the nation. From the 1945 Proclamation to the Reformation era, Indonesia has experienced several phases of constitutional change that reflect the search for the ideal form of the country as well as the struggle between stability and change. In the perspective of modern constitutional theory, the dynamics show that the Indonesian constitution develops as a *living constitutional*

order that is not only determined by legal texts, but also by political practices and the collective consciousness of society (Isra, 2010: 110).

a. Phase of the United Republic of Indonesia 1949: Federalism Experiment

The first post-independence constitutional change occurred through the formation of **the United Republic of Indonesia (RIS) in 1949**, which was born as a political consequence of the Round Table Conference (KMB). The RIS constitution marks a fundamental shift from a unitary state to a federal state. Normatively, the RIS Constitution introduces a parliamentary government structure with a wider division of authority to the states. But sociologically, federalism did not gain strong legitimacy among the Indonesian people because it was perceived as a legacy of the Dutch colonial strategy to divide the national unity.

This federalism experiment shows that the constitution can be an arena of tug-of-war between external pressure and the nation's internal aspirations. From the point of view of *Volksgeist*, the RIS phase reflects the asynchrony between the normative design of the constitution and the collective consciousness of the nation that is more inclined towards the form of a unitary state. Therefore, the existence of the RIS Constitution is transitional and not long-lived.

b. Provisional Constitution 1950: Parliamentarism and Political Instability

The dissolution of RIS and the return of Indonesia to a unitary state on August 17, 1950 gave birth to **the Provisional Basic Law (UUDS) 1950**. This constitution adopts a parliamentary system of government with the dominant role of political parties and parliament. Theoretically, the 1950 UUDS reflects the spirit of liberal democracy that developed after World War II. However, in practice, the parliamentary system in Indonesia faces political instability due to frequent cabinet changes, party fragmentation, and the weak consolidation of national institutions.

In the period 1950-1959, Indonesia experienced more than seven cabinet changes, an indicator that the parliamentary system was unable to create the stability of government needed by a country that was still in the consolidation stage. From the perspective of constitutional growth, this phase shows that changes in legal norms are not always in line with the readiness of social structures and political culture. In other words, the constitution as a text does not automatically produce stability without the support of collective consciousness and institutional maturity.

c. Presidential Decree 5 July 1959: Return to the 1945 Constitution

The inability of the Constituent Assembly to formulate a new constitution as well as prolonged political instability prompted President Soekarno to issue **a Presidential Decree on July 5, 1959** that dissolved the Constituent Assembly and re-enacted the 1945 Constitution. Juridically, this move caused debate because it did not go through a formal constitutional change mechanism. But sociologically and politically, the decree gained wide legitimacy as a solution to end the political deadlock.

The return of the 1945 Constitution marked a shift from parliamentary democracy to guided democracy. In this phase, the constitution functions more as an instrument of power legitimacy than as a mechanism for limiting power. The perspective of constitutional idealism is subordinated by political reality, so the growth of the constitution is more pragmatic than normative. Despite this, this phase also shows the resilience of the 1945 Constitution as a symbol of national unity that is able to return to being a national policy reference.

d. The New Order Era: Formal Stability and Constitutional Rigidity

During the New Order (1966-1998), the 1945 Constitution was positioned as a "sacred" constitution that could not be changed. Political stability is achieved through the centralization of power and the limitation of democratic space. The constitution during this period experienced stagnation in a normative sense, because constitutional changes were considered a threat to the stability of the country. But on the other hand, the

practice of statesmanship shows a distortion between the text of the constitution and the reality of power, where the principles of people's sovereignty and the limitation of power are not fully implemented.

This phase shows the paradox of the constitution: textually stable, but not fully alive in democratic practice. In other words, the constitution still exists as a normative document, but loses its transformational power as an instrument of power supervision.

e. The 1945 Constitution Reform and Amendment Era (1999–2002): The Turning Point of Constitutional Democracy

The most significant changes in the history of the Indonesian constitution occurred in **the Reform Era** through four levels of amendments to the 1945 Constitution between 1999-2002. This amendment does not replace the constitution, but revises its normative substance in depth. The results of the amendment include: **Strengthening the guarantee of Human Rights** in a specific Chapter (Chapter X); **Limitation of the term of office of the President**; **Direct election of the President**; Decentralization of Government (regions); **Establishment of the Constitutional Court**; **Strengthening the principle of separation of powers and the concept of checks and balances**.

This amendment marks the transformation of the 1945 Constitution from *a state-centered constitution* to *a citizen-centered constitution*. The constitution no longer only regulates the power structure of the state, but also explicitly guarantees the rights of citizens. In the perspective of modern constitutionalism theory, this phase is a turning point towards **substantive constitutional democracy**, where the supremacy of the constitution, the protection of human rights, and the limitation of power become the main pillars.

f. The Constitution as a Living Law

The chain of changes shows that the growth of the Indonesian constitution takes place through **a normative adaptation mechanism that maintains the continuity of basic values.** The opening of the 1945 Constitution has never been changed, so the value of Pancasila remains the philosophical foundation of the country. On the other hand, the body of the constitution undergoes adaptation to respond to social developments and democratic demands. Thus, the Indonesian constitution developed as **a law** which dynamic which interacts with social dynamics without losing its identity. It is not stiff, but not completely liquid either. The growth of the Indonesian constitution reflects a balance between the stability of values and the flexibility of norms—a characteristic of *the living constitution* that allows the country to remain relevant in the face of changing times without being torn from its philosophical roots.

4.4. The 1945 Constitution as a *Living Constitution*: The Dynamics of Judicial Interpretation and the Growth of Constitutional Meaning

Living constitution character of the 1945 Constitution is most evident through the practice **of judicial interpretation by the Constitutional Court**. The constitution of life is not because the text is often changed, but because **its meaning is continuously updated through an interpretation that is responsive to social development, science, and society's sense of justice.** In modern constitutional theory, this function is known as *judicial constitutionalism*, which is the role of the judiciary in maintaining the continuity between the basic values of the constitution and the actual needs of the nation. Jimly Asshiddiqie asserted that the constitution is not enough understood as *the supreme law of the land*, but also as *the living constitution* whose meaning develops through the practice of statecraft and judges' decisions (Asshiddiqie, 2010: 142).

In Indonesia, the formation of the Constitutional Court through the 1945 Constitution Amendment marks an important shift from *textual supremacy* to *interpretive supremacy*. Courts not only maintain formal compliance with norms, but also perform constitutional interpretations that expand the scope of protection of citizens' rights. Thus, the growth of the constitution no longer only occurs through text changes, but through **the production of constitutional meaning in judicial decisions**. Several decisions of the Constitutional Court are concrete illustrations of how the 1945 Constitution functions as a living constitution.

a. The Right to Vote as a Substantive Constitutional Right *Decision of the Supreme Court No. 102/PUU-VII/2009*

This decision was born in the context of an administrative election dispute that has the potential to nullify the right of citizens to vote due to technical issues with the permanent voter register (DPT). The Constitutional Court affirmed that **the right to vote is a constitutional right of citizens guaranteed by Article 27 paragraph (1) and Article 28D paragraph (3) of the 1945 Constitution,** so it cannot be restricted solely by administrative procedures. MK allows the use of KTP or passport as a basis for voter participation for nationals who are not listed in the DPT.

This ruling affirms that citizens who have not yet been registered in the DPT can still exercise their right to vote by showing an ID card or passport that is still valid for Indonesian citizens who are abroad. The MK decision restores the constitutional rights of citizens who lost their rights to vote in the presidential and vice presidential elections.

The constitutional meaning of this decision lies in the paradigm shift from **administrative legality** towards **substantive constitutional rights**. The Constitution is no longer read as a rigid procedural norm, but as an instrument for the protection of living political rights. This decision shows that the MK places the principle of people's sovereignty above administrative formalities, a step that expands the horizon of Indonesia's constitutional democracy (Constitutional Court of RI, Decision No. 102/PUU-VII/2009). In the perspective of *living constitution* theory, this interpretation reflects the constitution's ability to adapt to the practical needs of democracy without having to change its text.

b. Protection of Children's Rights and Expansion of Civil Relations in *the Decision of the Supreme Court Number 46/PUU-VIII/2010*

The decision of the Supreme Court No. 46/PUU-VIII/2010 which was pronounced on February 17, 2012 is an important milestone in the protection of children's rights in Indonesia. The court reinterpreted Article 43 paragraph (1) of the Marriage Law which previously limited the civil relationship of an illegitimate child only with the mother. MK states that a child born out of wedlock still has a civil relationship with his biological father as long as it can be proven scientifically and legally. Which is proven through science and technology or other valid evidence.

This decision reflects **the transformation of the constitutional paradigm from a formal-legal approach to a more humanistic human rights approach**. Courts consider the development of science—especially DNA technology—as a basis for proving biological relationships. Thus, the constitution is understood as a norm of life that interacts with the progress of science and changes in social values. From the point of view *of Volksgeist*, this interpretation reflects the change in society's collective awareness of the importance of protecting children as equal legal subjects.

c. Recognition of Religious Identity and Constitutional Pluralism *Court of Justice Decision Number 97/PUU-XIV/2016*

This decision became an important milestone in the recognition of the constitutional rights of believers. The court stated that the religion column in the Identity Card cannot limit the identity of citizens to only a specific official religion. The Constitutional Court's interpretation of Article 28E and Article 29 of the 1945 Constitution asserts that **freedom of belief is a fundamental right that must be recognized by the state without discrimination**.

The important meaning of this decision lies in the strengthening of the principle **of constitutional pluralism**. The constitution is no longer understood as a document that closes itself against diversity, but as an inclusive space that acknowledges the diversity of the community's spiritual identity. This decision shows how the interpretation of the constitution is able to bridge the gap between written norms and Indonesia's plural social reality (Constitutional Court of RI, Decision No. 97/PUU-XIV/2016). In the perspective of the theory of the constitution of life, this decision marks the expansion of the meaning of freedom of religion and belief as an

integral part of human dignity. This decision is considered a step forward in the protection of human rights and freedom of religion/belief in Indonesia.

d. Judicial Interpretation as a Manifestation of the Living Constitution

The three decisions show that the Constitutional Court acts as **the guardian of living constitutional values** (*the guardian of the living constitution*). The Constitution is no longer understood as a text frozen in history, but as a norm that continues to be updated through dialogue between judges, society, and the development of the times. Asshiddiqie asserted that the growth of the constitution does not always require formal changes, but can occur through "constitutional law discovery" (*constitutional interpretation*) by the judiciary (Asshiddiqie, 2010: 142).

In the *Volksgeist perspective*, judicial interpretation is a reflection of the nation's collective consciousness that continues to grow. The judge's interpretation does not stand in a vacuum, but is rooted in the social and moral values of society. Therefore, the 1945 Constitution is not just a historical document, but **an ethical and normative space that is open to reinterpretation in order to guarantee justice and humanity**. The Constitution lives because it continues to be reinterpreted—not changed arbitrarily, but interpreted wisely so that it remains relevant to the dynamics of the nation.

E. CLOSING

The history of the formation and growth of the 1945 Constitution shows that the Indonesian constitution is not a legal product born instantly, but rather the result of a long dialogue between the normative idealism of the nation's founders, the expression of the collective soul (*Volksgeist*) of Indonesian society, and the dynamics of the times that keep moving. From the formulation process in the BPUPKI session, the pluralistic compromise of the Committee of Nine, the finalization of the political architecture by the PPKI, to the series of changes in the Reformation era, it appears that the Indonesian constitution was formed through a historical struggle that is loaded with values, not just a formal legal construction. In the perspective of constitutional idealism, the 1945 Constitution functions as a foundation of values that provide direction and limits for the administration of power. In the perspective *of Volksgeist*, it becomes a mirror of the legal culture of the nation that represents the identity, morality, and collective consciousness of society. While in the perspective of the dynamics of the times, the 1945 Constitution appears as a living entity that is able to adapt without losing its philosophical roots.

The growth of the Indonesian constitution shows a balance between continuity and change. The opening of the 1945 Constitution is still maintained as an irreplaceable source of value, while its body undergoes adaptation to respond to the demands of democracy, human rights, and social development. The role of the Constitutional Court through judicial interpretation increasingly emphasizes that the life of the constitution is not only determined by changes in the text, but by the renewal of meaning that is responsive to the needs of society. At this point, the constitution functions not only as a *rule of law* , but also as a *rule of values* that maintains harmony between legality and legitimacy.

Thus, the Indonesian constitution is not just the highest legal text, but a representation of the nation's life values that are constantly reinterpreted to ensure justice, democracy, and the well-being of the people. A living constitution is not a constitution that is often formally changed, but rather a constitution that continues to be interpreted wisely and responsibly to remain relevant for present and future generations. Similarly with the Constitution in Malaysia, the Federal Constitution of Malaysia is not merely the supreme law of the land, but also a reflection of the nation's historical experiences, social realities, and shared values that shape Malaysia's national identity and multicultural society. It embodies the fundamental principles of constitutional democracy, the rule of law, justice, national unity, and the delicate balance between the rights and interests of different communities. Its provisions, including those concerning Islam as the religion of the Federation (Article 3), the Malay language as the national language (Article 152), the special position of the Malays and the natives of Sabah and Sarawak, alongside the legitimate interests of other communities (Article 153), and the constitutional role of the Malay Rulers, represent the foundational elements of Malaysia's constitutional settlement. Therefore, the Malaysian Constitution should also be understood as a living constitution—one that

is continuously interpreted, understood, and applied wisely and responsibly in response to changing social, political, and economic circumstances, while preserving its fundamental principles and constitutional identity. Ultimately, its enduring relevance depends not merely on formal amendments or judicial interpretation, but also on the extent to which its values are understood, respected, and internalised by the people, thereby ensuring justice, democratic governance, national stability, and the well-being of present and future generations. In the midst of global change, the strength of Indonesia's constitution lies in its ability to maintain a balance between firmness of principle and openness to transformation—a characteristic of constitutionalism that is rooted in the nation's identity while also being adaptive to the development of civilization.

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