

IMPLEMENTATION OF THE JEAN JACQUES ROUSSEAU PEOPLE'S DOCTRINE IN INDONESIAN-UNITED STATES BICAMERAL REPRESENTATIVE SYSTEM IN PRESIDENTIAL GOVERNMENT SYSTEM

Hotma P. Sibuea, Bhayangkara University
Dwi Seno Wijanarko, Bhayangkara University

ABSTRACT

The doctrine of people sovereignty is a modern-day political doctrine developed by Jean Jacques Rousseau with a starting point from the Social Contract doctrine. The Social Contract doctrine is rooted in the philosophy of natural law (natural law). According to Rousseau, people's sovereignty is reflected in the "general will" as the will of all individuals involved in the Social Contract. The doctrine of Rousseau's people's authority is one of the ideologies that influence various countries' state administration systems in modern times. The philosophy of people's sovereignty later developed into a doctrine that justified the representative democracy system even though Rousseau wanted direct democracy. In a representative democracy, the general will reflects the people's sovereignty is expressed by the representative institution. Representative institutions are seen as state organs representing the "general will" in the reality of state life and state administration practices. In particular, this paper focuses on discussing the implementation of the doctrine of the Rousseau people's sovereignty in the bicameral representation system of Indonesia and America. The representative system model of Indonesia and America shows different characteristics even though the two countries' bicameral representation system is influenced by the doctrine of Rousseau's people's sovereignty. The bicameral representational structure shows a weakness in Indonesia's features. Asymmetric (symmetric soft bicameralism) system due to the supremacy of DPR's strength. America's bicameral representation system is characterized as a strong and symmetrical representative (strong two-chamber symmetry) since power is equally distributed between the House and the Senate. The differences in the characteristics of Indonesia and America's representative system, which are influenced by the doctrine of the sovereignty of the Rousseau people, are caused by various factors such as the history of the state administration of the two countries, philosophical foundations, customs, traditions, habits, and others.

Keywords: Population Sovereignty, Bicameral Representation System

INTRODUCTION

The Constitution of a nation begins with the views and beliefs of an array of fundamental human values in the context of state life and state administration (Wheare, 1975). The opinions and thoughts of actual costs become the starting point for forming the State's constitutional structure (Poespowardojo, 1991). Basic values are contained in the Constitution as constitutional doctrines or principles of constitutional law (Ranawijaya, 1983). The doctrine and legal principles reflect the fundamental importance of the philosophy of a nation's constitutional structure. The rule of law, the doctrine of people's sovereignty, the focus for the separation of power, and the principle of recognition and protection of citizens' constitutional rights and human rights are some of the universal constitutional doctrines or principles commonly contained in modern constitutions. The focus of freedom of the judiciary without intervention, equal rights before the law, control, and equilibrium. These constitutional legal doctrines and regulations are contained in various countries such as Indonesia, America, the Philippines, the

Netherlands, Germany, France, and others, which function as the pillars of support for the State's life and state practice administration.

One of the modern constitutional doctrines stated in the Constitution is the doctrine of people's sovereignty. The philosophy of people's power is widely accepted in various countries and is inscribed in the Constitution. However, the concretization and normalization of people's sovereignty in the Constitution are influenced by multiple factors such as the physical environment, national history, culture, philosophical values, customs, and national values (Asshiddiqie, 1994, p. 3). As a result, the Constitution of a nation has constitutional legal norms that are different from other nations' constitutions. However, apart from these differences, a country's traditional constitutional standards (government) are similar to other countries' constitutions because they are obtained from universal values, legal principles, and doctrines. The differences and similarities in the Constitution's characteristics are reflected in the constitutional contents of each country. In general, the Constitution of a country regulates the constitutional rights of citizens, human rights, the composition of state organs, the powers and duties of state organs, procedures for the appointment and dismissal of office holders of state organs, mechanisms for mutual monitoring and balancing in-between state organs, relations between state organs and others (Barendt, 1998).

As a modern-day constitutional doctrine, the doctrine of people's sovereignty serves as the source and foundation of ruler power that reflects widespread support for the authorities. Based on the philosophy of people's freedom, the ruler has a solid support base in the practice of state administration. The doctrine of people's sovereignty is the basis for the legitimacy of the ruling power, which is democratic. The ruler's presence can be accepted and supported by the people because it follows the wishes and is based on the people's sovereignty (Magnis-Suseno, 1988, p. 57). The democratic legitimacy of ruling power based on the doctrine of people's freedom is rooted in the social contract doctrine built on rational-logical arguments. The philosophy of people's sovereignty is a doctrine that serves as a foundation or basis for the legitimacy of the ruler's power based on rational arguments accepted by common sense (Duverger, 1951). The principle of people's sovereignty grows in the doctrine of a social contract with logical arguments (Sulardi, 2012). However, the social contract doctrine is a-historical (Suhelmi, 1999). The social contract doctrine has no historical roots because social contract events never occur in the reality of human coexistence.

The doctrine of people's sovereignty is inscribing in constitutional norms that specifically regulate representative institutions' existence. The reason is that the people's representative institutions are considered state organs that receive their mandate. The fact of representative institutions in the constitutional system reflects people's sovereignty in the constitutional legal order as part of the positive legal system (Boedisoesetya, 1958). The existence of a people's representative institution is evidence of the presence of people's sovereignty in the reality of state life and state administration practices. Representative institutions are considered manifestations of people's involvement in state life and state administration practices, especially in a representative democracy, which functions to express the people's will as the general will. The general intention is the supreme power in the State. The existence of representative institutions in the constitutional system functions to express the "general will" in representative democracy in modern times (Schmandt, 2009).

Each nation's efforts and ways to express the "general will" as the people's sovereignty through representative institutions reflect each country's representation system, which is not always the same. Each State has different views on how to express the public will through a network of representation. There are several representative systems: unicameral, bicameral, tricameral, intracameral, and pentacameral representative systems (Fatmawati, 2010). Representative system models commonly known in various countries are unicameral and bicameral representation systems. However, the conversation's optics are limited to the bicameral representation system, which dominates the representative system model in Presidential systems such as Indonesia and America and the British Parliamentary system. In particular, the discussion focused on applying the people's sovereignty doctrine in Indonesia and

America's bicameral representation system. The reason is that Indonesia and America are influenced by the Rousseau people's principle of authority (Sulaiman, 2013). The influence of Rousseau's doctrine of sovereignty in the Indonesian and American constitutional systems is especially evident in the two countries' bicameral representation systems. However, the implementation of the principle of people's sovereignty in the two countries' bicameral representation system gave birth to different characteristics even though they originated from the same constitutional doctrine, namely the philosophy of people's sovereignty.

Research Problem

Following the insights and arguments stated above, the research problems identified are as follows. What are the differences in the characteristics of implementing the doctrine of popular sovereignty in Indonesia and America's bicameral representation system?

Research Method

The research method used in this research is the juridical-normative research method, namely a research method that examines the norms of constitutional law and legal doctrine. Legal principles that were related to or relating to the research problems. The approach method used in this research is the method of constitutional comparison. More specifically, in the framework of constitutional comparisons, the approach method used is the bicameral representation system comparison method within the framework of the presidential system of government.

The Doctrine of People's Sovereignty as a Source of Legitimacy of Ruler Power and its Implementation in the Bicameral Representative System

The discussion regarding the doctrine of sovereignty deals with the source of power and the basis for the ruler's power's legitimacy. What or who is the source of energy and the cause of the ruler's legitimacy in state life and state governance? The topic of the ruling power's authorities and origins is the main topic that always attracts attention in discussions about state life and its implementation practices, especially in a democratic country. The source and basis of the ruler's legitimacy depend on the doctrine of sovereignty believed by a nation. In political and State philosophy, the authorities and legality of the rulers' power vary. Some of the principles of freedom in Political Science and State Sciences are the doctrines of God's independence, Sovereignty, Kings, State Sovereignty, People's Sovereignty, and Sovereignty of Law (Sibuea, 2004). The philosophy of the Sovereignty of God proposes the argument that the highest power comes from God. The Doctrine of State Sovereignty claims that the highest authority is in the hands of the State. The doctrine of the rule of law proposes the argument that the highest power comes from the law. The philosophy of Sovereignty of the People claims that the highest power comes from the people. Each doctrine of sovereignty puts forward rational or irrational arguments as the basis for justifying their respective claims of truth.

One of the doctrines of sovereignty, which is the discussion, is the people's sovereignty doctrine. Jean Jacques Rousseau's work (1712-1788) developed the philosophy of popular freedom, which attracted nations' attention. The philosophy of people's sovereignty is concerned with the ruler's source or origin (government). According to the doctrine of people's authority, the ruler's power comes from the people, not from the State, kings, or gods. The highest power in the State is people's power, which comes from the people. The people are both the source and the owner of the country's highest power (sovereignty).

Consequently, people must be involved in all aspects of state life and the practice of state administration (Asshiddiqie, 1994). The primary argument for justifying the people as the source and owner of the highest power is discussed at length in Rousseau's social contract doctrine.

Rousseau put forward the basics of arguments that common sense can be accepted to justify the thesis of sovereignty in the people's hands.

The doctrine of people's sovereignty is a constitutional doctrine that grew and developed on the European continent. The background of the birth of the principle of people's freedom is related to the conditions of European countries' governmental system when the delivery of the doctrine of people's sovereignty. At that time, the king's power was absolute and arbitrary, so that the ruler did not respect individual rights. The doctrine of people's sovereignty was born as an antithesis and a government system with absolute and arbitrary king power. To oppose the dictatorial king, natural law philosophers, especially Rousseau, developed the social contract doctrine. The social contract doctrine is the foundation of the philosophy of the principle of people's sovereignty. Sulardi (2012) puts forward comments on the background of the birth of the social contract's doctrine as follows "Absolute kings rule without regard to the fate of the people so that ideas emerge against the position of absolute kingship based on a theory of rationality commonly known as a social contract." Sulardi (2012) explained further the aims and objectives of the social contract doctrine as follows "The theory of the social contract is an attempt to fight against the absolute rule of kings and determine the political rights of the people." The social contract doctrine builds rational arguments as the basis for justifying the people as the highest source of power in the State. The social contract doctrine elevates the people's status and position as the source and owner of energy based on the philosophy of people's sovereignty in state life and state administration practices.

The doctrine of people's sovereignty is rooted and growing in natural law (natural law) (Friedmann, 1960). The philosophical foundation and rational argumentation that serve as the basis for justifying the doctrine of people's sovereignty originates from the flow of reasonable natural law (natural law). The teaching of the social contract that gave birth to the philosophy of people's freedom is hypothetical. The social contract doctrine departs from a hypothesis regarding the natural condition of humanity. Natural conditions change to state conditions based on social contracts. After the social contract occurs, the natural infection of humanity changes to living as a state. In essence, a social contract is a collective and simultaneous legal action. As a standard action, a social contract creates juridical consequences for the parties bound in the social contract. Every individual who makes a social contract must give up his rights and freedoms and obey his unitary entity. However, individuals benefit from these joint and simultaneous actions, namely the protection of their unitary entity.

In the philosophy of rational natural law, there are 3 (three) variants of the social contract doctrine with their respective characteristics, namely (1) Thomas Hobbes, (2) John Locke, and (3) Jean-Jacques Rousseau. However, the social contract doctrine that gave birth to people's sovereignty was Rousseau's version of the social contract doctrine. By starting from the social contract doctrine, Rousseau succeeded in building a principle of popular freedom based on *pactum unionis*. Rousseau's social contract doctrine could be distinguished from Hobbes with *pactum subjectionis* and Locke with *pactum unionis* and *subjectionis* (Friedmann, 1960). Rousseau's doctrine of popular sovereignty was the *prima donna* of Western political thought in the XIX century because it went against the mainstream of philosophical thought in his day (Schmandt, 2009). The doctrine of the Rousseau people's sovereignty then developed throughout the world, including Indonesia and America, and other parts of the world even though this doctrine was born in the European continent.

The doctrine of Rousseau's people's sovereignty originates from the hypothesis of 2 (two) phases of human life, namely the natural life phase and the state life phase. Before there was a state in the wildlife phase, humans lived in a free country without ties. Freedom comes from human nature. However, in their release, humans are still shackled. Humans are chains because of their limitations. Humans have limitations to defend themselves, to meet needs and others. Under natural conditions, humans have fatal weaknesses because of their limitations. In the context of social rules in natural conditions, Rousseau makes the following comments:

I suppose that all people have reached the stage where humans have the strength to defend against obstacles. They maintain their safety in natural situations and become more

significant than the resources given to them by each to sustain their lives in such cases. Such a primitive situation will no longer survive, and the human race will perish if it does not change the way it maintains its existence" (Rousseau, 2009).

However, it should be noted that under certain circumstances, the rules might not be clear (Efiyanti & Widjaja, 2021), the rules creates uncertainty (Aini & Widjaja, 2021) and the rules create new issues and problems (Widjaja & Sijabat, 2021).

Limitations compel humanity to give up their freedom and are willing to form new collective entities. The relinquishment of individual privilege is a logical consequence that must be accepted by each individual to create a new entity for both the common interest and the interest of each individual. However, each individual will not lose his freedom because each individual does not surrender himself to someone to be in someone's power but to his community. In this regard, Rousseau (2009) expressed his views as follows "In the end, everyone who surrenders to the whole community do not surrender to anyone." The sacrifice given by each individual produces a new entity, namely the State. Concerning the country's existence as a collective person, Hendry J. Schmandt made the following comments "With the act of social unification. A new collective person has created immediately: the State. This political institution (body politics) is also a moral form that has a will" (Schmandt, 2009). The collective person is formed based on a social contract when they give up their freedom together. The collaborative person holds the highest power when each individual gives up his slack. The highest authority in the hands of the people is reflected in the form of the general will. Public choice is not the sum of different individual interests into one unit. The general will is created based on a social contract when each individual gives up his freedom and forms a new entity, namely the State. The public choice reflects the will of the new entity, namely the country as a collective person. As an entity, a state is a collaborative person whose power is a mirror in the general will, always geared towards the public interest. In this context, Rousseau put forward his view as follows "Each of us put ourselves and all powers under the supreme command of the general will, and in our capacity as institutions that have legal provisions, we accept each member as an inseparable part of the another" (Rousseau, 2009).

Historically, the democratic system, especially representative democracy, has nothing to do with people's sovereignty doctrine. As the originator of the principle of people's sovereignty, Rousseau did not want representative democracy but direct democracy (Schmandt, 2009). In Rousseau's view, representative democracy undermines human dignity. However, from modern constitutional studies, people's sovereignty is closely related to the democratic system. The people are the basis of democratic ontology because people are the origin of state power (Kaelan, 2004). At present, the doctrine of people's sovereignty is a "theoretical basis" that provides scientific justification for the existence of a system of direct and representative democracy that has developed in modern times (Nurtjahyo, 2006). The presence of representative institutions and procedures in a representative democracy is a manifestation of the doctrine of people's sovereignty (Nurtjahyo, 2006). The reason is that in a usual democratic system, people's representative institutions, especially the House of Representatives or the first chamber, are state organs that function to express the people's general will as the source and owner of the highest power in the form of laws. The law established by a representative institution manifests the people's general will as the holder of the highest power (sovereignty).

In the context of a representative democracy system, the doctrine of Rousseau's people's sovereignty influences almost all modern constitutions today. The philosophy of people's liberty also affects the usual democratic systems of Indonesia and America. The adoption of the doctrine of Rousseau's people's sovereignty was manifested in the bicameral representation system of the two countries as stipulated in their Constitution. However, the embodiment of the Constitution of the doctrine of freedom of Rousseau's people produces various characteristics for the bicameral system. The differences in parts of a bicameral system of representation in both countries reflect the two countries' different perceptions of applying the doctrine of people's sovereignty in the state administration in a bicameral representation system. However, the main problems discussed in writing are problems in the following questions. Can the general will

referred to by Rousseau in the doctrine of people's sovereignty be realized (implemented) in Indonesia and America's bicameral representation system within the framework and context of the government's presidential system?

Characteristics of the Implementation of the Doctrine of Sovereignty in the Indonesian Bicameral Representative System

The Constitution of the Unitary State of the Republic of Indonesia was affected by several philosophers such as John Locke and Montesquieu. The influence of the two philosophers' thoughts is deeply ingraining in the principles of the Indonesian Constitution. The impact of John Locke's concerning ideas regarding recognizing and protecting citizens' constitutional rights and human rights in the 1945 Constitution. The influence of Montesquieu's thoughts regarding the separation of powers is called the Trias Politica doctrine. This doctrine is related to organizing state power embodied in the Indonesian constitutional system based on the 1945 Constitution. However, apart from the influence of the two philosophers, the philosopher who also influenced the 1945 Constitution was Rousseau's thoughts. The effect of the doctrine of Rousseau's people's sovereignty is evident in the text of the Proclamation of Indonesian National Independence, the Preamble to the 1945 Constitution, and the Indonesian Constitution.

In the text of the Proclamation of the Independence of the Indonesian Nation, various kinds of doctrines and legal principles are general-universal. One such philosophy is the doctrine of people's sovereignty. The doctrine of popular sovereignty in the Text of the Proclamation of Independence reflects Rousseau's influence. The philosophy of people's authority can provide tracking, exploration, and researched to approach the subject that proclaimed the Indonesian nation's independence. The text of the Proclamation of the Independence of the Indonesian Nation-states, "We, the Indonesian people, as a result of this declare Indonesia's independence. Matters concerning the transfer of power and others are carried out in a thorough manner and in the shortest possible time. "If guided by the text of the Proclamation of Independence, the act of proclaiming the Proclamation of Independence for the Indonesian nation is an action taken jointly on behalf of the Indonesian government as a simultaneous legal action (Sibuea, 2013). The legitimacy of the proclamation of the independence of the Indonesian nation (people) is based on (1) juridical, (2) political and sociological grounds (Sibuea, 2013).

What is the meaning of the text of the Proclamation of Indonesian Independence? One of Indonesia's founding fathers, Moh. Yamin commented on the importance of the Text of the Proclamation: "The Indonesian Independence statement in Jakarta is the voice of the Indonesian people in the world that the Indonesian people are middle-aged and able to run their households and that they have established an independent and sovereign nation-state (Yamin, 1982, p. 24)." The newly independent Indonesian State is a sovereign state. Who is the sovereign State in the newly independent Republic of Indonesia? The concise and short text of the Proclamation of Indonesia's Independence does not explain this. The Indonesian national autonomy text's proclamation must be seen as one unit with the Preamble to the 1945 Constitution to know the holders of the people's sovereignty in the Indonesian State. The text relation between the Proclamation of Indonesian Independence and the Preamble of the 1945 Constitution is a relation that reflects an inseparable unity. A prominent professor of the Indonesian nation, Notonagoro made the following comments "The opening of the 1945 Constitution as a detailed Statement of Independence contains the lofty ideals of the 17 August 1945 Proclamation of Independence and which contains Pancasila as the basis of the State is a series with the 17 August Proclamation of Independence. 1945...." (Notonagoro, 1967). Another writer, Jazim Hamidi, put forward the following comments "Because substantively, the values contained in the Manuscript of the Proclamation and Preamble of the 1945 Constitution constitute an integral and inseparable unit (Hamidi, 2006)."

The roots of the doctrine of Rousseau's people's sovereignty in the text of the Proclamation of Indonesian Independence were then clearly stated in the Preamble to the 1945 Constitution. The fourth paragraph of 1945's Constitution states, '... National Independence of

Indonesia shall therefore be compile in an Indonesian Constitution formed in the Indonesian State structure, which shall be base on the people's sovereignty.' ... The analysis conducted to demonstrate the influence of Rousseau's ideas in the Indonesian constitution focuses on the subject (pe). Who is the issue who proclaimed the independence of the Indonesian nation? The Indonesian government is a subject that takes legal and political actions and jointly forms a new entity, namely the Unitary State of the Republic of Indonesia, as an independent and sovereign state. The Indonesian nation as a subject that acts to proclaim the Indonesian nation's independence reflects the sovereignty of the Indonesian government, which contains an understanding parallel to the doctrine of the authority of Rousseau's people. The Indonesian country (people) rests in Indonesian sovereignty as an independent state as a subject that proclaims the Indonesian nation's independence. This statement proves that the Text of the Proclamation of Indonesian National Independence contains people's sovereignty as Rousseau taught.

The quotation from several of the preamble's editors in the 1945 Constitution above clearly refers to the sentence of the Republic of Indonesia's sovereignty. The term "people's sovereignty" in the Preamble to the 1945 Constitution can prove the influence of the Rousseau people's sovereignty doctrine in the Indonesian Constitution. The phrase "sovereignty of the people" is a phrase that deserves critical attention to understand Rousseau's thoughts on people's sovereignty. Normatively, the influence of the Rousseau people's sovereignty doctrine is State in the Indonesian Constitution's articles. Article 1 paragraph (2) of the 1945 Constitution states, "Sovereignty is in the hands of the people and is exercised according to the Constitution." Editorial Article 1 paragraph (2) of the 1945 Constitution clearly states the doctrine of people's sovereignty in the Indonesian Constitution. Jazim Hamidi said, "It means, constitutionally, it is clear that the Indonesian State adheres to the concept of people's sovereignty (democratic). The real owner of the highest power is the people, whose implementation is a channel and administered according to constitutional procedures stipulated in law and the Constitution (constitutional democratic) (Hamidi, 2006)." The exercise of people's sovereignty according to constitutional procedures, as stated by Jazim Hamidi, has the following meanings. In the context of state life and state administration practice in Indonesia, the implementation of people's sovereignty is regulated in the Constitution. In the constitutions of Indonesia and America and various other countries, the performance of people's authority according to the constitutional procedure, as mentioned above, is related to the existence of representative institutions regulated in the Constitution. The reason is that the representative institutions are considered state organs that receive the mandate and exercise their sovereignty.

What is the concrete form of regulating the doctrine of the sovereignty of Rousseau's people in the Indonesian Constitution? The regulation of the people's sovereignty doctrine in the Indonesian Constitution is reflected in Article 1 paragraph (2) of the 1945 Constitution. Before the amendment, the Sovereignty of Rousseau's people doctrine was implemented in a unicameral representative system. Indonesia's representative institution is single, namely the House of Representatives. However, after the amendment of the 1945 Constitution (1999-2002), the implementation of the Rousseau people's sovereignty doctrine in the Indonesian Constitution resulted in a bicameral representation system. A bicameral representation system in Indonesia reflects the development and change in implementing the philosophy of people's sovereignty in the Indonesian representative system. Indonesia's bicameral representation system reflects 2 (two) different principles of representation. First, a model based on political thoughts manifested through the existence of the DPR. Second, a term based on regional aspirations and interests is realized through the DPD. After the 1998 reformation, Indonesia's representative base was expanding due to the influence of some regions' desire to break away from the Unitary State of the Republic of Indonesia. To accommodate and prevent divisions in the areas, the political figures participating in the 1945 constitutional reform process (1999-2002) approved the formation, in the system of bicameral representation, of the Regional Representative Council.² (two) DPD members represent each province without considering the population factor in each region. DPD members are elected through periodic general elections.

According to the author, the Indonesian model's bicameral representation system does not meet the requirements of being a representative system capable of expressing the "general will" as evidence of the Rousseau people's sovereignty. The reason is that the DPD is a weak representative institution unable to match the DPR as the first chamber. The existence of the DPD in the bicameral representation system in the Indonesian model is merely complementary. DPD can be view as mere democratic accessories within the framework of the Indonesian model's bicameral representation system. Concerning the position and authority of the DPD, which is weak and helpless, it is reflected in Solly Lubis' comments as follows:

"If we examine more carefully the main points of the DPD's authority which are regulated in Article 22D, if we want to know the relationship between cooperation with the DPR (People's Representative Council), both in the activities of proposing initiatives and in terms of deliberation of the draft law. Finally, it was discovered to submit consideration to the DPR that there was no equal position, but there was inequality between the DPD and the DPR. This means that the position is more subordinate than the DPR (Lubis, 2003, p. 47).

The cause of the position and authority of the DPD is fragile in the constitutional system and the bicameral representation system of the Indonesian model concerning the problem of the distribution of power to the two representative institutions. The distribution of legislative power to the DPR and DPD is not carrying out in a balanced manner. Legislative power is concentrated solely in the DPR. The unequal distribution of power has resulted in an Indonesian model bicameral representation system dominated by the DPR over the DPD. The latter representative institution does not have the authority to make final decisions, as does the DPR. Concerning the inequality of the bicameral representation system in the Indonesian model as a result of the unequal distribution of power, Syamsudin Haris makes the following comments:

"The DPD, which should have almost equal power to the DPR, has been castrated so that the DPD does not exist in our constitutional system more than a 'patients supplement.' Why not, the DPD has nothing more to do with that of other community bodies like NGOs, that is, 'capability to submit to the DPR a draft law' restricted to regional autonomy issues, the management of natural resources?" (Haris, 2006).

Consequently, as the second chamber, the DPD cannot perform a balancing function of the DPR's authority and role, which controls the bicameral representation system of the Indonesian model. Of course, the DPR dominance over the DPD in the representative function and legislative power, as stated above, will have inevitable consequences for the style of the usual system and the state administration system. Consequently, after the amendment of the 1945 Constitution, the Indonesian model's bicameral representation system does not have a check and balance mechanism between the DPR and DPD. This condition reflects the characteristics of Indonesia's bicameral representative system, which is autocratic. Within the framework of the bicameral representative system's features, which is authoritarian, the DPR has turned into a supreme body in the representative system and the Indonesian constitutional system. After the amendment of the 1945 Constitution, the Indonesian model's bicameral representation system with autocratic characteristics reflects a usual approach that is incompatible with the essence of the doctrine of Rousseau's people's sovereignty. The reason is that the DPR's legislative power merely reflects the unequal distribution of the people's aspirations and interests, which are partisan. The domination of legislative power by the DPR has resulted in the people's aspirations represented in the bicameral representation system in the Indonesian model, only those based solely on political thoughts and beliefs. Ideally, the people's aspirations on a regional basis that must be a channel through the DPD are not represented in the Indonesian model's bicameral representation system. As a representative institution, the DPD does not have strong enough authority to fight for the people's aspirations based on a regional basis. Therefore, Indonesia's bicameral representation system is a two-chamber representation system incompatible with the doctrine of the sovereignty of Rousseau's people as the aspirations expressed and channeled within the representative system do not reflect "the general will" (*volonte generale*). However, the imbalance of aspirations and interests is the aspirations and interests of a small part (*volonte de tous*). The bicameral representation system, which is the

Indonesian model dominated by the DPR, is a bicameral representation system that can be considered incapable of reflecting the "general will" which refers to the "public interest" as desired by the doctrine of the sovereignty of the people of Rousseau (Rousseau, 2009).

The bicameral representation system of the Indonesian model dominated by the DPR cannot reflect the "general will" as the entire Indonesian nation's will. The DPR's domination in Indonesia's bicameral representative system reflects the "will of some" of the Indonesian people and not the "general will." The DPR is a political institution based on individual political beliefs that reflects political aspirations and interests based on certain political ideologies. Consequently, the DPR representative system's presence must be considered insufficient or sufficient to express the "general will" as the will of the Indonesian nation as desired by the doctrine of the sovereignty of Rousseau's people. The Indonesian people's aspirations based on the regional (regional) basis must have a place and position equal to the political aspirations in the bicameral representation system in the Indonesian model. If the DPD occupies an analogous situation and parts with the same powers as the DPR, the "public will" as meant by the doctrine of Rousseau's people's sovereignty can be jointly express by the two representative institutions.

Concerning the presence in the usual bicameral system of the two chambers of representative institutions, C.F. "There is a special argument in favor of the Second Chamber for a federal state, which so arranges that it embodies the federal principle or enshrines the popular will of each state that differs from that of the Federation as a whole" (Strong, 1966, pp. 195–196). *Mutatis mutandis*, the above principle, can serve as a reason for the presence of a second chamber in the representative system of one unitary State with a large regional area like Indonesia. The DPD is to express or express aspirations and interests in regions which vary from the aspirations and sections of the Unitary State of the Republic of Indonesia in their entirety to perfect, utilizing the DPR and the DPD, the "general will" following the amendment of 1945 Constitution.

Implementation of Rousseau's Doctrine of People's Sovereignty in the American Bicameral Representative System and Its Characteristics

Just as several modern-day philosophers' thoughts influenced the Indonesian Constitution, the American Constitution was also influenced by several natural law philosophers' opinions, namely John Locke, Montesquieu, and Jean Jacques Rousseau. Each of these philosophers' thoughts made a different contribution to the various aspects of state life and the practice of administering the American nation-state. The influence of the thinking of these philosophers is seen in the norms of the American Constitution. The effect of these experts' review in the Constitution on the provisions regulating citizens' rights, the distribution of State power, the structure of state institutions, and in particular the design of representation, is identical to that of the thoughts in the Indonesian constitution of these experts. However, the implementation of these experts' opinions in the American Constitution yielded different results from Indonesia. The difference in the influence of these philosophers' thinking in the Indonesian and American constitutions arises due to differences in the historical backgrounds of the two nations, environmental factors, philosophical foundations, the goals of the State, and others.

The philosopher who influenced the American Constitution, which can be called first, is John Locke (Hall, 1997). The influence of John Locke's thoughts on the United States constitution is evident in the American Constitution's articles that regulate the constitutional rights of citizens and human rights. The study of the second philosopher who influenced the American Constitution was that of Montesquieu. Montesquieu's influence on the US Constitution in organizing government power is reflected in the American constitutional system based on the doctrine of separation power in Montesquieu (Budiardjo, 2006). America is considered the most consequential country in applying the principle of the separation of powers of Montesquieu in its constitutional system. Apart from John Locke and Montesquieu's influence, another philosophical thought that influenced the American Constitution and Constitution was Jean Jacques Rousseau. He's was known as a pioneer of the sovereignty

doctrine. The opinions of the three modern philosophers mentioned above have become the basis for the American Constitution's philosophy and many other countries as reflected in their respective constitutions and administrative systems, although with different characteristics.

Rousseau's thoughts on the American Constitution are evident in the ideas of freedom, nationality, and popular sovereignty that are implied or implied in the text of the American Declaration of Independence, the Preamble to the American Constitution, and American constitutional norms. Tracing the influence of Rousseau's philosophical thought in the American Constitution can be started from the text of the American Declaration of Independence. The American Declaration of Independence states as follows "We hold on to this truth so that it is self-evident, that all people are created equal, that his creator endows them with an absolute right, which includes life, freedom, and the longing for happiness." The idea of freedom in the quotation from the Declaration of Independence of the American Nation above clearly originates from Rousseau's thinking about man's nature as a free being. Rousseau's most famous short statement is, "Humans are born free" (Rousseau, 2009, p. 4). Human freedom is not a gift from the State, ruler, or someone. Rousseau put forward a firm statement with a short sentence about the source of human liberty as follows "Freedom of a general nature is derive from human nature" (Rousseau, 2009). Freedom comes from human nature, or humans are creatures that are free according to their hearts. Humans have absolute freedom and, at the same time, are creatures of equal standing. Rousseau affirms his views and beliefs on this matter as follows "Since all are born as equal free beings, they will devote their freedom only to their interests" (Rousseau, 2009).

Rousseau's idea of freedom is the starting point for the American nation to declare the independence declaration, as stated in the text of the Declaration of Independence. America's declaration of independence proves the sovereignty of the American government (people). The Declaration of Independence for the American people became the starting point for upholding the American nation's authority over itself and other countries. A sentence is contained in the Preamble of the American Constitution that expressly recognizes American government (people) sovereignty as the basis for shaping the United States as a sovereign state with good and noble purposes, namely, to safeguard the freedom of the Americans and the unity, justice, public prosperity, and others. In the Preamble to the American Constitution, the American people put forward the following statements:

"We, the people of the United States, are to carry out a perfect union, to make justice, to ensure a domestic calm, for a common defense, to support general welfare and to secure the blessing of freedom for ourselves and our posterity, to order and to establish a constitution for the USA."

What is the meaning contained in the Preamble Text of the American Constitution, as stated above? What does the phrase "We, the people of the United States" mean in the Preamble of the American Constitution? Albertina Baramuli expressed her interpretation as follows "When people are using because this is a theory that applies to all human beings to knock on their hearts. And if "We" is used to replacing "people," then this is implemented for the American people, it is revealed as the general will, and the public choice is always right"(Baramuli, 1992). In the Preamble to the American Constitution, the term "We" refers to the subject making statements in the Preamble to the Constitution. The issue that makes the report is described in the sentence "the people of the United States." The phrase "the people of the United States" refers to the American people (nation) as a unit. The subjects that make these statements establish the Constitution for the American government and State. The American people (nation) make a statement to form a shape to create a perfect unity, upholding justice, ensuring national peace, providing public defense, advancing the general welfare, and others, as stated in the Preamble to the American Constitution. Based on what power did the American nation make the statements described above? Of course, the answer is the sovereignty of the American people (nation) as an independent and sovereign nation. The contents of the American people (government) in Preamble to the American Constitution have an equal position with the Text of the Proclamation of the Indonesian NatNation's Independence

In the text of the Preamble to the American Constitution, it is States as follows "We, the people of the United States, ... do ordain and establish the Constitution for the United States of America. " What is the meaning of the statement stated in the Preamble to the Constitution? It means that the people (nation) of America establish a constitution that applies to themselves based on the sovereignty of the American people (nation) and not the sovereignty given by another country or someone. The meaning stated above starts from Rousseau's premise, especially concerning the idea of freedom and equality, which always refers to the public interest. From constitutional theory, constitutional law is the supreme law of a country. In the American context, the American nation establishes the Constitution as the supreme law in the American State. The Constitution's establishment as the highest law on behalf of the American people (nation) is a political decision that reflects the "public will" as meant by Rousseau. The American Constitution's establishment as a statement of the "general will" of the American people reflects and affirms the presence or existence of American sovereignty over itself.

As a consequence, the insights stated above contain the following meanings. Editors of the Preamble text to the American Constitution reflects the purpose of the highest power in the American people (nation). The importance of the phrase "the highest power," as stated above, can be put forward in a different sentence but with the same and equal meaning. The sovereignty of the American State is in the hands of the American people.

How is the concrete form of people's sovereignty, as stated in the Preamble to the American Constitution, implemented in the American Constitution's norms? The idea of the American people (nation) in the Preamble to the American Constitution is expressed positively and concretely in constitutional law standards. The constitutional norms governing the organs of representative institutions show the implementation of popular sovereignty in the Constitution. In the Constitution of a country, the representative institutions' organs are seen as the recipients and implementers of the people's freedom. The representative body in the American representative system consists of the House of Representative Senate so that the American representation system represents a bicameral representation system. The American bicameral representation system exhibits different characteristics from the Indonesian bicameral representation system. The difference in the bicameral representation system elements between the two countries is due to the influence of various internal factors between the two countries. The differences in the characteristics of the two countries' bicameral representation system. Jimly Asshiddiqie commented as follows "The practical application of the bicameral system is strongly influence by the traditions, customs, history of the government concerned" (Asshiddiqie, 1996).

The American representative system has 2 (two) representative institutions like Indonesia, namely the House of Representatives and the Senate, with the characteristics of their respective representative attributes, in the context of differences in traditions, customs, constitutional history, world view, state philosophy foundation, and others as stated above. The existence of a representative body of the House of Representatives reflects American citizens' political aspirations and interests. The presence of the Senate representative institution reflects the aspirations and draws on a regional basis. The fusion of national aspirations and interests with territorial aspirations and interests in America's bicameral representation structure as to how the American nation translates "public will" as a reflection of American people's sovereignty in the state life and state administration practices. The existence of the two representative institutions in America's bicameral representative system can be seen as a state organ that functions to express the "general will," reflecting the people's sovereignty as Rousseau desires (Baramuli, 1992). In modern constitutional theory, the Senate's formation as the second chamber in the bicameral representation system aims to create various kinds of aims and objectives. One of the aims and objectives is to create a check and balance mechanism to prevent power abuse.

The American bicameral representation system's characteristics reflect different aspects of Indonesia's bicameral representation system. In Indonesia's bicameral representation system, the position of the second chamber of the DPD is weaker than the first chamber of the DPR. In

the American bicameral representation system, some characteristics are different from those of the Indonesian representative system. In America's bicameral representation system, the Senate is considered more substantial than the House of Representatives (HoR) as the second chamber. The Senate position can be said to dominate America's bicameral representation system (Purnomowati, 2005). The Senate also plays an essential role in government in several ways (Purnomowati, 2005). C.F.Strong put forward comments regarding the authority of the American Senate as follows "The powers of the Senate are very Great. Probably no Second Chamber in the world today has an influence so real and direct, not only in the most obviously national concerns, such as foreign affairs but down to very minutes business of federal legislation, including finance" (Strong, 1966). However, between the House of Representatives and the Senate, there is a control mechanism based on the doctrine of check and balance as the American constitutional system's foundation.

The position, which is equivalent to equal power between the two chambers of America, namely the House of Representatives and the Senate, reflects the ideal distribution of power between the two representative institutions (Safa'at, 2010). The perfect distribution of power results in a usual system that can prevent power concentration in one representative institution's hands. The ideal distribution of power creates balanced energy between the two representative institutions. As a result, one of the two representative institutions does not have a dominant position in the usual system. This condition is different from the DPR position in the bicameral representation system in Indonesia, which dominates the Indonesian representative system. The balance of authority between the two representative institutions creates a check and balance mechanism. The check and balance mechanism between the two American representative institutions shows the democratic American bicameral representation system's character. The check and balance mechanism between the two representative institutions serves to prevent abuse of power by one of the representative institutions. Suppose the abuse of power can be avoided. In that case, democratic conditions in the representation system guarantee the expression of the "public will" as a reflection of the sovereignty of the American people not dominated by the House of Representatives. Such conditions are not found in the Indonesian bicameral representative system. The check and balance mechanism between the two representative institutions guarantees the American people's sovereignty, which can be manifest in the reality of state life and the practice of state administration. The American representative system with the characteristics of a balanced distribution of power that gives birth to the presence of a check and balance mechanism between the two representative institutions, as argued, can guarantee the implementation of people's sovereignty in state life and state administration practices. As mentioned above, the situation of the democratic and ideal American bicameral representational structure is different from the disease of the autocratic bicameral representation system of Indonesia due to the DPR's supremacy. The bicameral representation systems of Indonesia and America have other characteristics, even though the two countries' constitutions are influenced by the doctrine of Rousseau's people's sovereignty.

CONCLUSION

Discussions and reviews regarding the implementation of Rousseau's doctrine of sovereignty in the Indonesian and American representative systems resulted in the following conclusions. The representative designs of Indonesia and America were influenced by the principle of Rousseau's people's authority. The Rousseau people's sovereignty doctrine in the Indonesian and American constitutional systems resulted in a bicameral representation system. However, the bicameral systems of Indonesia and America have opposite characteristics. Indonesia's bicameral representation system has an autocratic style due to the DPR's dominance over the DPD. America's bicameral representative system has a democratic character because of the balanced power so that there is a mechanism of checks and balances between the two representative institutions. The differences in the bicameral representation system features

between the two countries, as stated above, are influenced by various internal factors in the Indonesian and American countries.

REFERENCES

- Aini, M.H., & Widjaja, G. (2021). "Mandatory Coronavirus Disease-19 (Covid-19) Vaccination in Indonesia: Legal Aspect." *Journal of Legal, Ethical and Regulatory Issues*, 24(50).
- Asshiddiqie, J. (1994). The idea of people's sovereignty in the constitution and its implementation in Indonesia: Shifting the balance between individualism and collectivism in politics of political democracy and economic democracy during three periods of democracy, 1945-1980s. Jakarta: Ichtisar Baru van Hoeve.
- Asshiddiqie, J. (1996). *The struggle of the roles of government and parliament in history a comparative study of the constitutions of various countries*. Jakarta: Faculty of Law, University of Indonesia Press.
- Baramuli, A. (1992). *Rousseau's thoughts in the United States Constitution*. Jakarta: Sumber Agung Foundation.
- Barendt, E.M. (1998). *An introduction to constitutional law*. London: Oxford University Press.
- Boedisoesetya, R. (1958). People's sovereignty in Indonesian positive law - Inaugural Speech of a Professor of Constitutional Law. Poor.
- Budiardjo, M. (2006). *Fundamentals of political science*. Jakarta: Gramedia Pustaka Utama.
- Duverger, M. (1951). Theory and practice of state administration. (Suwirjadi, Ed.). Jakarta: People's Library.
- Efiyanti, M., & Widjaja, G. (2021). "The Implementation of Chemical Castration Sanctions against Convicts of Child Sexual Crimes in Indonesia by Doctors." *Journal of Legal, Ethical and Regulatory Issues*, 24(1S).
- Fatmawati. (2010). *Structure and function of parliament with a multicameral system comparative study between Indonesia and Various Countries*. Depok: University of Indonesia (UI-Press).
- Friedmann, W. (1960). *Legal theory*. London: Stevens & Sons Limited.
- Hall, D.E. (1997). *Constitutional law case and commentary*. United States: Delmar Publisher.
- Hamidi, J. (2006). *The Indonesian legal revolution the meaning, position and legal implications of the proclamation of 17 August 1945 in the Indonesian Constitutional System*. Jakarta: Constitution Press.
- Haris, S. (2006). *The DPD dilemma and restructuring the representative system*. (M. Muchdhor, Ed.). Jakarta: DPD group in MPR.
- Kaelan. (2004). *Pancasila Education*. Yogyakarta: Paradigm.
- Lubis, S. (2003). The position and role of the regional representative council in the Indonesian State Administration System. (Janedjri, Ed.). Jakarta: Cooperation of the Secretariat General of the MPR with UNDP.
- Magnis-Suseno, F. (1988). *Political Ethics: Basic moral principles of modern state*. Jakarta: Gramedia Pustaka Utama.
- Notonagoro. (1967). Some things about Pancasila Philosophy, Scientific Oration Dies Natalis I University of Pancasila. Jakarta.
- Nurtjahyo, H. (2006). Democratic philosophy. Jakarta: Earth Literacy.
- Poespowardojo, S. (1991). *Pancasila as an ideology in terms of a shared view of life. In Pancasila as an ideology in various fields of life in society, nation and state*. Jakarta: Directorate of Publications, Directorate General of PPG, Ministry of Information, Republic of Indonesia.
- Purnomowati, R.D. (2005). *Implementation of the bicameral system in the Indonesian Parliament*. Jakarta: Rajawali Press.
- Ranawijaya, U. (1983). *Indonesian constitutional law: The Basics*. Jakarta: Ghalia Indonesia.
- Rousseau, J.J. (2009). *Social agreement or Du contract social*. Jakarta: Media Vision.
- Safa'at, M.A. (2010). *Bicameral parliaments comparative studies in the United States, France, Netherlands, United Kingdom, Austria and Indonesia*. Malang: Universitas Brawijaya Press.
- Schmandt, H.J. (2009). Western political philosophy historical studies from ancient Greece to modern times. (A. Baidlowi & I. Bahehaqi, Eds.). Yogyakarta: Student Library.
- Sibuea, H.P. (2004). *State science*. Jakarta: Erlangga.
- Sibuea, H.P. (2013). Juridical consequences of the proclamation of independence for the Indonesian Nation in State Life and State Administration Practices. *Journal of Law Review*, 7(3).
- Strong, C.F. (1966). *Modern political constitutions*. London: Sidgwick & Jackson Limited.
- Suhelmi, A. (1999). *Western political thought: A Study of the History of the Development of State, Society, and Power Thought*. Jakarta: Darul Falah.
- Sulaiman, K.F. (2013). Bicameral system in the spectrum of Indonesian parliamentary institutions. Yogyakarta: UII Press.
- Sulardi. (2012). *Towards a pure presidential government system*. Malang: Press Equivalent.
- Wheare, K.C. (1975). *Modern Constitutions*. London: Oxford University Press.
- Widjaja, G., & Sijabat, H.H. (n.d.). "Rules-raised ethical issues during the covid-19 pandemic in Indonesia." *Systematic Reviews in Pharmacy*, 12(1), 623-632
- Yamin, M. (1982). *Proclamation and constitution of the republic of Indonesia*. Jakarta: Ghalia Indonesia.