
ASPEK HUKUM POLITIK IDENTITAS DALAM NAUNGAN BHINNEKA TUNGGAL IKA

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ABSTRACT:

The meaning of identity can be interpreted as names, tribes, races, groups and so on. In relation to political identity, the meaning of the above ideas is still relevant to provide color or identity characteristics for a political organization or political strategy in achieving the goals of a nation. The purpose of the Republic of Indonesia is stated in the Preamble to the 1945 Constitution (UUD 1945) alenia 4 which states that the Republic of Indonesia was formed in order to improve the welfare of all Indonesian people based on Pancasila. Furthermore, it was affirmed, among others, in Article 28 of the 1945 Constitution that association and assembly are regulated in the 1945 Constitution. Specifically related to "Political Party" associations regulated in Law 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. In Government Regulation Number 66 of 1951, the State emblem has been assigned. Thus it is clear the scope and boundaries of identity politics as stated above. Hans Kohn asserted that a nation grows and develops from factors and roots formed through a historical process. Hans Kohn considered nations to be formed because of similarities in language, race, religion, civilization, region, state and citizenship, and this is the identity of the nation. Considering the cross-opinions regarding the understanding of identity politics, it is appropriate to raise a legal issue, namely how does the law regulate identity politics under the auspices of Bhinika Tunggal Ika in Indonesia? The legal research used in this paper is normative legal research, which is to solve the legal issues or problems raised. The results to be achieved will give a description of what should be.

Keywords: Law, Politics, Identity, State Lembang.

INTRODUCTION

Indonesia consists of various tribes, religions, races and inter-groups. Therefore, management in various aspects of life must pay attention to this (Idris & Zubair, 2019).

Ethnic, religious, racial and group-based identities need to be strengthened by developing values of tolerance for the existence of tribes, religions, races and groups that strengthen harmony by building

an Indonesian identity is absolutely necessary (Napitu et al., 2020). The development of values to divide the nation by providing developing identity politics content with negative narratives needs to be avoided (Liu & Hilton, 2005).

In the 1970s, it began in the United States, in the face of issues of minorities, gender, feminism, race, ethnicity, and other social groups that felt marginalized, whose later developments included diverse religious identities, beliefs, and cultural ties. In Indonesia, identity politics is more related to issues of ethnicity, religion, ideology, and local interests represented in general by elites with their own articulations (El-Tayeb, 2012). Therefore, the notion of identity politics can be multi-interpretation with various meanings (Jati, 2017). Identity can be interpreted as names, tribes, races, groups and so on. Identity politics is simply defined as a political strategy that focuses on differentiating and utilizing primordial ties as its main category. The term identity politics is often used to perceive certain groups negatively .

Negative narratives in giving stereo type (stmpel) to ethnicity, race, religion and between groups can cause polarization of the Indonesian nation which brings social decotomy. Exclusivism and primordial narrow by claiming that their group has a legal identity and considering others to be illegitimate (Daley, 2006). While each who is labeled as not legal, considers himself to be legally valid and the party who gives the accusation is considered as a party that violates legal norms (Bodansky, 2016). Furthermore, Identity Politics is considered deviant and even contrary to Pancasila (Mu'ti & Burhani, 2019). While other parties consider that identity politics does not violate the law as long as it is still within the corridors of the unitary state of the

Republic of Indonesia based on Pancasila (Alfaisal, 2019). Gutmann, whose opinion was cited by Ahmad Syafii Maarif, says identity politics, which is also seen in the movement of Martin Luther King and Catholic bishops in America, is actually driven more by social justice arguments, not for religious reasons.

The issue of identity politics controversy is rooted in an understanding of different concepts and contexts (Marable, 1993). The clash of narratives and arguments of identity politics in these concepts and contexts, built by both parties will not stop at the political elite, but has brought the carriage of sympathetic society to the grassroots to then lead opinions that ultimately cause national disharmony. The discussion of identity politics is now almost non-stop on various occasions and various forums. The discussion was not to find a correct juridical solution, but was used to bring each other down and raise each other's political themes of identity to find a future in the upcoming general election. So it seems that the problem of identity politics is the identity of their respective groups to gain public recognition.

Identity politics is a problem because there is no standard formula (Crenshaw, 1990). The discussion of identity politics is often discussed in relation to politics, so it will encounter empty and dark spaces (Åhäll, 2018). It is in that darkness that the parties want to capture the meaning of identity politics and as a result both parties capture the different meanings of identity politics (Wood, 2012). Then each believed the truth he had captured in the darkness just now (Van Fraassen, 2001). Identity politics is often associated with religion, or more of an ethnic, ethnic, cultural, religious or other prominence as identity (Chalmers, 2007). Identity politics stimulates various

ethnicities, tribes, cultures, religions or others, as a differentiator from other groups. Identity politics can also be used as a unifier of groups (in group unity).

Identity politics is offering ideas through political identity to gain support for a particular issue in order to gain as much and widest as much support. In Indonesia, identity politics is more related to issues of ethnicity – race, religion, ideology, and local interests represented in general by elites with their own articulations.

Who exactly coined the term identity politics in the first place is still vague to this day. But substantively, identity politics is associated with the interests of members of a social group who feel squeezed and excluded by the domination of the mainstream in a nation or state.

To be honest, the use of identity in a democracy is best done by providing solidarity in the public building of a nation that is raging by rejecting discrimination that sows hatred in other groups. Conversely, identity politics will endanger a bangsa if primordialism is excessive in its group and acts of discrimination and hatred against other groups, including legalizing racial violence, including developing ideas of separatism.

Indonesia consists of various tribes, religions, beliefs and cultures that are very diverse. This will highlight pluralism and diverse identities. Therefore, it is very natural that in Indonesia which has such a pluralism to form a plural identity, symbols and ideas under the auspices of the unitary state of the republic of Indonesia. The symbol of Garuda Pancasila, which grips Bhinika Tunggal Ika, is a symbol of the reality of the Republic of Indonesia being formed by a diverse community of tribes, religions, beliefs and cultures. The unification of ethnic, religious, religious and

cultural diversity will counter the diverse nature of the Indonesian nation. In other words, eliminating the identity of the diversity of tribes, religions, beliefs and cultures, is impossible. Therefore, let the plural Indonesian language identity consisting of diversity of ethnicities, religions, beliefs and cultures be their respective identities, as long as in the forum of the Republic of Indonesia that respects, respects and rejects racial violence, intimidation, including developing the idea of separatism.

The fact is that there are still issues regarding identity politics with one another, without placing in the corridors of Indonesian diversity and nationality. As long as the political identity is still within the scope of diversity, it should not be questioned. Questioning identity politics that is still within the scope of Indonesian diversity (bhinka tunggal ika) will actually form (new) identity politics which is actually very dangerous. Because there are symptoms that the concept of Indonesian pride in which there is the concept of diversity and pluralism of the Indonesian nation is still not clearly and standardly understood for all Indonesian people, thus disturbing the diversity and pluralism of the Indonesian nation.

Therefore, in this study the meaning of identity politics is not based on political significant, but more on juridical aspects. Therefore, juridical studies present legal facts and interpretations of social phenomena within a legal framework. This means that this study examines various provisions related to the close relationship with identity politics. The study of law is inseparable from the study of legal history of the birth of a legal product. While the study of legal theories is used as an analytical knife for the legal problems

raised. As a legal review of regulations legislation, this study will use normative legal research by discussing the problems raised, namely how the law regulates identity politics in the auspices of Bhinika Tunggal Ika in Indonesia.

RESEARCH METHODS

The research used in this writing is normative legal research. In accordance with the opinion of Hadin Muhjadi and Nunuk Nuswardani, normative legal research is research that examines legal issues from the point of view of legal science in depth on the legal norms formed". Piter Mahmud Marzuki stated "legal research is the process of finding legal rules, legal principles, and legal doctrines to answer the legal issues faced". In this research, legal issues or legal issues are referred to as Legal Aspects of Islamic Identity Politics Under the auspices of Bhinika Tunggal Ika?;

This study examines these legal issues, by finding legal norms that should be formed, including the rule of law, legal principles and legal doctrine in this case, namely how does the law regulate identity politics in the auspices of Bhinika Tunggal Ika in Indonesia?. The rule of law is established by the ruler through the institution or body authorized to do so, while legal principles are the values that underlie legal norms.

Research is also called legal research as stated by Bambang Sunggono who quoted Pollack's opinion. The main purpose of a study (Legal research) is to test whether a certain normative postulate can

indeed or not, be used to solve a particular legal problem in concreto. This study wants to test normative postulates, namely legal norms (postulates / postulates) contained in laws and regulations. In conclusion, this legal research was carried out to solve the issue or perm of the proposed legal principle. The results to be achieved will give a description of what should be.

RESULTS AND DISCUSSION

A country is formed among others based on the similarity of views, culture, race, ideology and history. Even though based on the theory of state formation put forward by Thomas Hobbes espoused by Grotius (1583-1645), John Locke (1632-1704), Immanuel Kant (1724-1804), Thomas Hobbes (1588-1679), J.J.Rousseau (1712-1778). The main theory of the establishment of this state is the Theory of Community Agreement (social contract). Social contract theory is divided into two theories, namely pactum unionist and pactum subjectionist. A State is formed based on an agreement between peoples. The agreement of such societies is essentially to establish a state. Such an agreement is called pactum unionis. At the same time society also makes agreements with the ruler / government called pactum subjectionist. The main point in the

subjectionist factum agreement, is the declaration of the surrender of the natural rights of society to the ruler, on the other hand the community promises to obey him. Strictly speaking, Pactum Unionis is an agreement between individuals to form a political society and a state, while Pactum Subjectionist is an agreement between the people and the ruler to hand over the management of society.

The phenomenal theory in the establishment of a state is the theory of the social contract as outlined above. It is a theory of the establishment of the state against the background of the Munarki state as a justification for the royal state system at that time. In its development in the era of the modern state system, jurists thought to perfect the theory of social contract with the understanding of democracy. The understanding of democracy still makes the main object is the people as in the theory of the social contract, but the people are given a large portion, so that the people are subjects and objects in the establishment of the state. In this understanding of democracy, the interests of the people are the interests of

the state. The state is the embodiment of the will and interests of the people.

Friedrich Carl von Savigny (Germany) as the originator of the basis of the theory of fiction (Fictie Theorie) his followers included Langemeyer, Opzomer (Dutch), Diephuis and Houwing and Salmond. Tri Budiyono called this theory Fictitious Theory or entity theory or aggregate theory, or symbol theory which basically the state as a legal entity is a symbol of the totality of the number of people (aggregate) associated with the legal entity. The state as a legal entity is an abstraction, not a concrete one. It is thus unlikely to be a subject of rechtsbetrekking. For these rights give to the person concerned a power and give rise to wilsmacht (will of power). Brinz developed the Zweckvermagen Theory, which posited that only human beings could have rights. Satjipto Rahardjo, stated "Besides humans, the law still makes fictitious constructs accepted, and treated and protected like human beings. Free law decides what is created that comes from its imagination". Furthermore, Satjipto argued that the legal entity created by law, then his death was also determined by law.

The formation of the Republic of Indonesia theoretically also went through the stages of the process of forming agreements

called social kontrak above. The people have agreed to form the Republic of Indonesia which is manifested in alenia four preamble to the 1945 Constitution which states Then instead of that to form an Indonesian State Government that protects the entire Indonesian nation and all Indonesian bloodshed and to promote general welfare, educate the life of the nation, and participate in implementing world order based on independence, lasting peace and social justice, the Indonesian National Independence was drafted in an Indonesian State Constitution, which is formed in a structure of the Republic of Indonesia that is sovereign of the people based on the One and Only God, Just and Civilized Humanity, Indonesian Unity and Peoplehood led by wisdom in Consultative / Representation, and by realizing a social justice for all Indonesian people

In the second paragraph of the preamble to the 1945 Constitution stated that the establishment of the Republic of Indonesia, was not born by itself but began with the realization that Indonesian independence was the result of a movement struggle that had ushered in the gate of independence of the State of Indonesia, which was independent, united, sovereign, just and prosperous. Judging from the

history of the nation, the independence of the Indonesian republic, political identity cannot be separated from the organization of the independence movement that began in tahun 1905 dengan berdirinya Syarikat Islam (abbreviated SI), or Sarekat Islam, formerly known as Sarekat Dagang Islam (abbreviated SDI) was founded on October 16, 1905 by Haji Samanhudi. To oppose politics, the Dutch allowed the entry of foreign traders to control the people's economy at that time. At the first congress of SDI in Solo in 1906, its name was changed to Sarikat Islam. On September 10, 1912 HOS Tjokroaminoto was recognized and legalized as a legal entity by the Dutch Government on September 14, 1912. Furthermore, SDI changed its name several times, namely Central Sarekat Islam (abbreviated CSI) in 1916, Sarekat Islam Party (PSI) in 1920, East Indies Islamic Sarekat Party (PSIHT) in 1923, Indonesian Islamic Company Party (PSII) in 1929, Islamic Company (SI) in 1973 because it left the 33rd Tahkim Council in 1972 in Majalaya, and at the 35th (national congress) in Garut in 2003, its name was changed to Islamic Company (abbreviated SI). Since the congress, the existence and movement of the Islamic Company that still

exists and continues to survive until now is called the Indonesian Islamic Company

Furthermore, Budi Utomo (Boedi Oetomo) was founded on May 20, 1908 by Dr. Sutomo, Soeradji Tirtonegoro, Goenawan Mangoenkoesoemo, and others including dr. Wahidin Soedirohusodo. On November 18, 1912 (8 Zulhijah 1330 H), Ahmad Dahlan, founded the Muhammadiyah organization in Kauman Village, Yogyakarta. There are several motives behind the establishment of this movement. Among the most important was the backwardness of Muslim society, Ahmad Dahlan, who was heavily influenced by the Egyptian reformer Muhammad Abduh who considered modernization and purification of religion from syncretic practices vital in religious reform. Therefore, since the beginning Muhammadiyah has been very concerned in maintaining tawhid and perfecting monotheism in society. Nahdlatul Ulama (NU) was founded on 16 Rajab 1344 AH (which coincided with January 31, 1926) in Surabaya City by a cleric and traders to defend traditionalist Islamic practices (in accordance with the Asharite creed and jurisprudence of the Shafi'i School) and the economic interests of its members. NU is also a charity that manages Islamic boarding schools, schools,

colleges, and hospitals and organizes community to help improve the quality of life of Muslims. In 1928 the birth of the Youth Pledge was a major milestone in the history of the Indonesian independence movement. This pledge is considered as a crystallization of the spirit to affirm the ideals of the establishment of an Indonesian state that is United Nusa, United Nations and United Language, namely Indonesia.

When Indonesia was established, it had the national emblem of the Republic of Indonesia which was affirmed in the Government Regulation of the Republic of Indonesia Number 66 of 1951 concerning the State Emblem. That the State Emblem of the Republic of Indonesia is divided into three parts, namely: 1. Garuda bird, which looks with its head straight to its right; 2. Shield in the form of a heart hung with a chain around the neck of Garuda; 3. The motto is written on a ribbon gripped by Garuda. The word Bhinika is a combination of two words: bhinna and ika. All sentences can have different meanings but still one thing. This proverb describes the unity or unity of Nusa and the Indonesian Nation, although outwardly it shows differences or differences. Sembanga Bhjinika Tuggal Ika was once used by the famous poet Empu

Tantular which means that among the pusparagam is unity.

The motto of Bhinika Tunggal Ika is the crystallization of the values of the religion of the Indonesian nation, which consists of various tribes, religions, races, cultures and between groups but still within the container of the unitary state of Indonesia. This diversity can be said to be an identity. The diversity of the Indonesian nation as stated in the Preamble to the 1945 Constitution, is described in the body of the Indonesian Constitution, namely Article 28 of the 1945 Constitution declaring the independence of association and assembly, expressing thoughts orally and in writing and so on stipulated by law. Article 28C (3) of the 1945 Constitution states that everyone has the right to promote himself in fighting for his right collectively to build his society, nation and state, and Article 28E (3), Everyone has the right to freedom of association, assembly, and expression.

Pancasila as a unifier of the nation has been agreed upon by all Indonesians based on the acceptance of the single principle of every organization in Indonesia, including political organizations. Law of the Republic of Indonesia Number 16 of 2017 concerning the Stipulation of Government Regulations

in Lieu of Law Number 2 of 2 Years 2017 Regarding the amendment of Law Number 17 of 2013 concerning Community Organizations into Law. In Law No. 17 of 2013 concerning Community Organizations which is a declaration of Law No. 5 of 1988 concerning Community Organizations provides Restrictions on Community Organizations hereinafter referred to as CSOs are organizations established voluntarily by Indonesian citizens formed based on common goals, interests, and activities, to be able to participate in development for the achievement of the goals of the Unitary State of the Republic of Indonesia.

The principles of CSOs must not contradict Pancasila and the 1945 Constitution of the Republic of Indonesia. In article 3, it is explained that CSOs can include certain characteristics that reflect the will and ideals of CSOs that do not conflict with Pancasila and the Constitution of the Republic of Indonesia Year 1945 The CSOs can be legal entities; or unincorporated. Can be member-based; or not member-based. CSOs incorporated as referred to in the form of associations; or foundation.

Law of the Republic of Indonesia Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. Political Party is a national organization formed by a group of Indonesian citizens voluntarily on the basis of common will and ideals to fight for and defend the political interests of members, society, nation and state, as well as maintain the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the Constitution of the Republic of Indonesia Year 1945

The background of the establishment of the Republic of Indonesia as mandated by the 1945 Constitution of the Republic of Indonesia, freedom of association, assembly and expression of opinion is a human right that must be implemented to strengthen the spirit of nationhood in a democratic Unitary State of the Republic of Indonesia. This right to association and assembly was then manifested in the formation of Political Parties as one of the pillars of democracy in the Indonesian political system.

Hans Kohn asserted that a nation grows and develops from factors and roots formed through a historical process. Hans

Kohn considered nations to be formed because of similarities in language, race, religion, civilization, region, state and citizenship, and this is the identity of the nation. Therefore, there is no mistake or mistake if the identity displayed by political organizations, legislative candidates, presidential candidates and vice presidential candidates each display their respective identities in the corridor of the motto of unity in diversity, by displaying the identity of the components of the plural Indonesian nation including religious identity.

Finally, HMAD Syafii Maarif concluded that identity politics in any form will not endanger the integrity of this nation and country in the future, as long as the ideals of the founding fathers of national unity and integration, the spirit of the Youth Pledge that has merged tribal sentiments, and Pancasila as the basis of the country's philosophy are not left hanging in the air, but are lived and implemented earnestly and responsibly

CONCLUSION

Taking into account the background of the establishment of the Republic of Indonesia as evidenced in historical facts

and recognized formally juridically in the preamble to the 1945 Constitution in the torso and in the State Emblem of the Republic of Indonesia as well as laws and regulations and implementing rules, there is no prohibition to attribute politics by using religious identity, as long as in the corridor of our motto Bhinika Tunggal ika.

In order to create an electoral process and a good program bidding process for election contestants, both for legislative candidates and presidential candidates as well as vice presidential candidates and their supporters, they should still pay attention to the history of the nation which is recognized juridically, formally and guided by the preamble to the 1945 Constitution (UUD 1945) alenia 4 which states that the Republic of Indonesia was formed in order to improve the welfare of all Indonesian people based on Pancasila. Furthermore, it was affirmed, among others, in Article 28 of the 1945 Constitution that association and assembly are regulated in the 1945 Constitution. Specifically related to "Political Party" associations are regulated in Law 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties. In Government Regulation Number 66 of 1951 concerning the State Emblem of the Republic of Indonesia, specifically in the motto Bhinika Tunggal Ika.

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