

instrument of collectivism in economy to achieve social justice for all the people of Indonesia. Meanwhile, the founders enacted the constitutional provisions to preserve adat law and native structure that practiced in several regions and villages in the entire of Indonesia. Those included preservation of monarchy that until today practiced in Province of Yogyakarta and various native villages such as *desa* in Java, *nagari* in Minangkabau-West Sumatra, *gampong* in Aceh, *dusun* and *marga* in South Sumatra, *huta* and *kuria* in Tapanuli-North Sumatra (Kusuma, 2004: 359-370).

VIII. DEVELOPMENT OF THE RECONSTRUCTION OF TRADITION BEFORE THE CONSTITUTIONAL AMENDMENT

Practically, the ideas of reconstruction of tradition had created two authoritarian regimes that occurred during the Guided Democracy and the New Order eras. However, the same idea also created a democratic system during the parliamentary government. In fact, authoritarian regimes were evolved after the 1945 Constitution reapplied on 5 July 1959. Meanwhile, democratic regime was occurred under the Provisional Constitution during 1950s. Those facts made an understanding that the reconstruction of tradition in the 1945 Constitution was interpreted based on authoritarian sense. Moreover, democratic practice during the parliamentary era was also viewed as an expression of liberal democracy that contradicted with the genuine democracy of Indonesia.

The following section will describe development of the reconstruction of tradition that practiced in those regimes: the parliamentary democracy, the Guided Democracy, and the New Order.

Firstly, the parliamentary democracy was actually established since 14 November 1945 when the members of parliament made a convention that applied the parliamentary system under the 1945 Constitution which apply the presidential cabinet. After the

independence revolution during 1945-1949, the parliamentary democracy was continued under the Constitution of the Republic of the United State of Indonesia and the Provisional Constitution of 1945. Particularly, the Provisional Constitution of 1950 maintained five principles of Pancasila, which reconstructed by the founders from traditions. In addition, the Provisional Constitution maintained three provisions of the 1945 Constitution—called as the essential of the 1945 Constitutional—that are article 27, 29, and 33 of the 1945 Constitution. Those articles expressed the ideas of reconstruction of traditions, particularly article 29 and 33. Article 29 contains the principle of monotheism and article 33 consists of collective economy system. Particularly, the Provisional Constitution recognized collectivism in property right, which determined in article 26 (3) that: “Property right has a social function.” In addition, the constitution determined explicitly the application principles of deliberation and representative in system of government in every stage: national, regional, and village communities (art. 131 and 132).

However, structurally the Provisional Constitution of 1950 applied the parliamentary democracy, which the founders denied because it expressed Western liberal democracy. As it was explained above, the founders agreed to refuse the Western liberal democracy because the system encouraged equality in politic but created social injustice. For that reason, there was an opinion that liberal democracy was inconsistency with tradition values that reconstructed in five principles of Pancasila. In fact, although liberal democracy created democracy in politic, but most people have opinion that the parliamentary government ineffective to maintain political stability. Proliferation of political party and political brokerage caused by government should resign in short term. Political conflict escalated into ideological conflict. Political discontent in several regions developed into separatism. Consequently, political conflicts and separatism spread throughout the country. Eventually,

government was ineffective to implement the national development (Azhari, 2011; Nasution, 1993).

Therefore, President Soekarno as a Head of State decided to reapply the 1945 Constitution to settle ideological conflict and separatism and to ensure the implementing of national development. Then on 5 July 1959, President Soekarno promulgated a Presidential Decree that comprises: (1) dissolving the Constitutional Assembly, (2) restoring the 1945 Constitution and (3) the establishment of the Provisional People's Consultative Assembly (MPRS) and the Provisional Supreme Advisory Council (DPAS). The Presidential Decree marked the beginning of the Guided Democracy era.

Secondly, the Guided Democracy was a system that created by President Soekarno as the interpretation of the 1945 Constitution based on the original democracy of Indonesia. However, his interpretation was different from his opinion when constitutional making process in 1945. If at the time of the constitutional making process Soekarno saw the Indonesian tradition as a democratic tradition with social justice, then in the Guided Democracy he interpreted the Indonesian tradition based on autocratic paradigm. Soekarno explained about the Guided Democracy as follows:

The Guided Democracy is a democracy that suitable with character and life of Indonesian nation.... The core of "guided" in the Guided Democracy is a deliberation, but a deliberation that "led by wisdom," not by debates and political strategy that finished with power struggle and voting based on "pro and contra". The results of "deliberation that led by wisdom" then handed over to the President, who also elected by "deliberation" (Soekarno, 1959:20)

Based on his explanation, Soekarno believed that the Guided Democracy was a kind of reconstruction of Indonesian tradition. However, on contrary to his opinion in 1945 that promoted democratic process, in the Guided Democracy he emphasized more on role of the leader to guide deliberation process. Dissatisfied with liberal democracy that gave more emphasis to power struggle and voting than deliberation process encouraged Soekarno to take

over all of the constitutional process and put it under his control. He believed democracy would be more effective to achieve the social prosperity if it can be controlled by a concentric leadership. Structurally, his opinion can be realized with the presidential government that provides legitimacy to President to develop a concentric government. In addition, the interpretation of deliberation as a process without voting enabled President to interfere deliberation process in representative bodies.

In fact, there was no significant rejection among the people against the idea of Guided Democracy. It does not mean that people were fed up with the political conditions or that they were powerless to fight President Soekarno that backed by the military. However, people felt that a concentric government and held by a strong leader were more suitable with the native structure of Indonesian society. Particularly in Javanese tradition, the region where Soekarno came from, the state or *Nagara*, is believed as a concentric power with the leader as the center whose absolute power controlled not only human and society but also the universe (Lombard, 2008:60-71; Seomardjan, 1961:113-114).

For the first two years, Guided Democracy had succeeded in creating a political stability and quelling separatism in various regions. For that reason, the Provisional People's Consultative Assembly appointed Soekarno as a life President to appreciate his merit in national integration. However, Soekarno cannot manage economic development effectively. His success in national integration cannot be followed by the achievement in economy and it emerged dissatisfaction among the people. Even, Soekarno was entrapped in a political adventure with communist party that culminated in a chaotic situation during 1965-1966. It caused mass murder with victims approximately 500,000 people. Economic discontent and political uncertainty eventually forced Soekarno to hand over power to Lieutenant General Soeharto on 11 March 1966, who then substituted Soekarno as the second Indonesian President. Then, the New Order ruled Indonesia until 1998.

Thirdly, the New Order, basically, maintained the interpretation of Soekarno about the genuine Indonesian democracy. However, New Order officially developed a discourse as an order to correct deviation of the Pancasila and the 1945 Constitution that practiced by Soekarno and his Guided Democracy. Therefore, the New Order claimed that they practice a system of democracy consistent with Pancasila as the state ideology and the 1945 Constitution as the state constitution.

Nevertheless, the interpretation of genuine democracy did not refer to Soekarno anymore. The New Order referred to the idea of Soepomo about the integrality state (Decree of MPR No. II/MPR/2993). The idea of integrality state provided many benefits to the rulers of the New Order because it gave legitimacy for them who came from the army. It was different with the idea of Guided Democracy that provided legitimacy personally for Soekarno. In addition, it can be exploited to eradicate Soekarno influences in constitutional discourse of Indonesia.

Based on the integrality state, the New Order developed a concept about democracy of Pancasila that is viewed as a manifestation of genuine democracy of Indonesian people as interpreted within the integrality state concept. The relation between citizen and the state was interpreted based on a concept of “*manunggaling kawula lan Gusti*” which means a unity of the servant as people protected and the Lord as the protector or patron. This is a patron-client relationship to create a political hegemony, where the State interests transcend the citizen ones. As intended by the integrality state, the New Order developed into a totalitarian state, where the State with his apparatus, particularly the army, controlled over all of the people, both consciousness and activities. The control of consciousness was examined by an ideological indoctrination of Pancasila—known as *Penataran Penghayatan dan Pengamalan Pancasila* or *Eka Prasetya Pancakarsa* (or Upgrading of Internalization and Implementation

of Pancasila). The control of activities were executed by various operation of intelligence and political oppression, included kidnapping, torturing, and killing.

New Order regime, however, understood “*manunggaling kawulo lan Gusti*” not only in rational sense, but also in mystical sense, which expressed Javanese tradition. Therefore, New Order used some mystical terms to legitimize several political or constitutional events, such as *Kesaktian Pancasila*. Term of “*kesaktian*” refers to a supernatural or magic power that gained from divine power. *Kesaktian Pancasila* is a celebration on October first every year to remember a victory day of the army against communism. New Order interpreted the victory of army as a supernatural or magic power of Pancasila in protecting Indonesia.

Those phenomena pointed out that New Order exploited concept of integrality state to legitimize their interests to maintain hegemony in Indonesia. Culturally, those phenomena showed that the New Order interpreted the 1945 Constitution based on Javanese traditions. This was comparable with Soekarno who also used Javanese traditions as a basis for legitimacy of Guided Democracy. Both Soekarno and Soeharto interpreted Indonesia constitutional system as a concentric state, where President or Government as a centre of the State. Soekarno with Guided Democracy interpreted President as the highest national leader as the center of the State, while Soeharto with Democracy of Pancasila positioned President and Government—that controlled by army—as a *Gusti* (or patron) who gives protection for all the people as a *kawulo* (or servant) who require protection. This indicates that both Soekarno and Soeharto interpreted the reconstruction of tradition within the 1945 Constitution based on Javanese traditions.

However, in the end of 1980s, it had been occurred a significant development. Soeharto tended to exploit Islam as a political legitimacy. The development caused New Order policy gave benefits politically for Muslim and Islamic law, particularly prevailed of the Religion Court Law of 7/1989, recognition of Islamic Banking, and establishment of

Association of Indonesian Muslim Intellectual (ICMI). That development, obviously, has shifted a constitutional reference from Javanese to Islamic politics. It also means a paradigm shift from Javanese to non-Javanese tradition. It also encouraged Islamic traditions as an antithesis of the concentric Javanese state, which later led to democratization process in Indonesia—in addition affected by democratization trend at global level. Finally, those development forced Soeharto to resign on 21 May 1998, which marked formally the end of the New Order regime after 32 years in power in Indonesia. A reformation era purposed to eradicate the New Order system and build a democratic state in Indonesia. Among the reform agendas, the constitutional amendment was a main agenda that aim to create a more democratic constitution.

In general, both Guided Democracy and New Order interpreted reconstruction of tradition in the 1945 Constitution based on absolute particular model that emphasized on originality of tradition absolutely. The tradition was viewed as norms, institutes, and procedures that different completely from those similar things in modern state. In cultural context, the interpretation referred to Javanese traditions that emphasize on a concentric state, which exploited to provide legitimacy for authoritarian practices.

IX. RECONSTRUCTION OF THE TRADITION AFTER THE CONSTITUTIONAL AMENDMENT

For four years, the MPR has carried out the constitutional amendment four times, namely 1999, 2000, 2001 and 2002. In general, the first and the second amendments contain limitation of Presidential term, reinforcement of the DPR, decentralization, and strengthen of the human rights. The third and the fourth amendment contain the alteration of government system, reduction of authority of the MPR, and establishment of some new organs namely