

## BOOK REVIEW

# Democracy on Indonesian Legal Reform: How Can People Participate on Laws and Regulations Establishment Process

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### DATA of BOOK

Author	: Rodiyah
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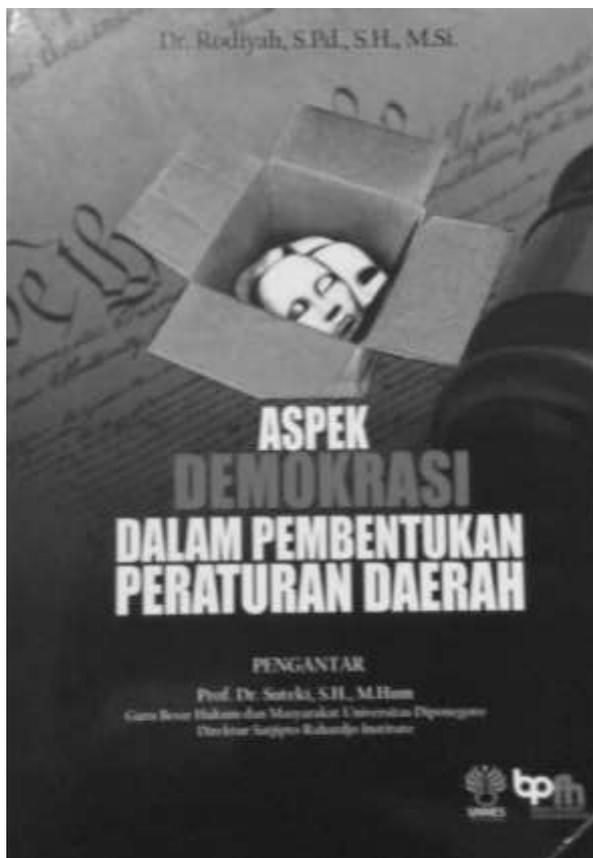
## INTRODUCTION

SINCE the collapse of Suharto's New Order regime in 1998, world's most populous Muslim nation has undergone the process of *Reformasi*—evolving from a highly centralized, authoritarian state to the third-largest democracy and one of the most decentralized political systems in the world. While its neighbors in Southeast Asia have become increasingly autocratic, Indonesia continues to quietly consolidate its democratic institutions and run successful elections for numerous levels of government (Walden, 2017, para. 3). In 1999, the Habibie government enacted Law 22 and Law 25, which entailed a radical devolution of governmental and fiscal responsibility from the central

government to locally elected representatives at the district (*kabupaten*) and municipality (*kota*) level. Provincial governments also hold significant power. Accordingly, the Indonesian central government is left only with a few key areas of policy (justice, foreign policy, defense and religious affairs), making local elections very important (Walden, 2017, para. 4), and the issue of democracy is the most frequent issue in all aspects of the nation and state in Indonesia, including on the laws and regulations establishment.

Democracy is increasingly a component of Indonesia's engagement with its external environment. Indonesia launched the Bali Democracy Forum in November 2008 with the aim of "promoting regional and international cooperation in the field of democracy." The Bali Forum is taking an inclusive approach that brings together democracies as well as those "aspiring to be more democratic." The forum is to act as a platform for countries to "exchange ideas and knowledge and share experience and best practice" (Institute for Peace and Democracy, 2008).

## LOOKING FOR DEMOCRACY AND PEOPLE PARTICIPATION ON ESTABLISHMENT LAWS AND REGULATIONS



THE guarantee of the real implementation of democracy is the emergence of the law on which to base the development of democracy. It is often stated that between law, democracy and human rights has a pyramidal relationship. The law becomes the basis of the implementation of democracy and democracy becomes the main basis for the realization and respect for human rights. That is, it is impossible to establish a democratic government without a law, and it is impossible to realize human rights awards (one of which is to obtain education) without a democratic state government.

This issue—democracy—become one of the parts raised

and discussed further in the book "*Aspek Demokrasi dalam Pembentukan Peraturan Perundang-undangan*", written by Rodiyah. There are two main categories (models) of democracy when associated with the ideal conception of democracy itself. Two models of democracy are substantive democracy and procedural democracy. The character of the first model (substantive democracy), among others, is marked by the existence of similarities between classes, ethnic, gender, and other forms of identity or affiliation in society. This model is essentially, many referring to the model of "ideal democracy" or the concept of populist democracy. While the character of procedural democracy model, among others, is shown by the existence of civil liberties, and the implementation of general elections on a regular basis (Rodiyah, 2016, 1-2). Rodiyah on her book emphasized that until today the most appropriate model of democracy and the most appropriate implementation of democracy has not been found, even throughout history Indonesia is still in trial and error of concepts of democracy while seeking the most suitable. The fluctuations of democracy have ups and downs as the implementation of its basic aspects, both formal and material aspects (Rodiyah, 2016, 4).

Furthermore, Rodiyah (2006) highlighted that Indonesia is a state of law, meaning that the state of Indonesia has a strong juridical foundation in its role of carrying out development. The state must be built from two concepts, namely law and democracy. Indonesia embraces Pancasila democracy, a democracy based on Godhead, Humanity, Unity, People and Justice. The concept of democracy shows two aspects: (1) the material aspect of Pancasila Democracy must be imbued and integrated with other precepts, therefore, the notion of Pancasila Democracy is not only political democracy but also economic and social democracy culture (education) to create justice, and (2) formal aspects, namely Pancasila Democracy is a form / decision-making (political democracy) contained in the fourth precept, namely "Democracy led by wisdom in deliberation/representation, *Demokrasi yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan perwakilan.*"

Rodiyah—with *Aspek Demokrasi dalam Pembentukan Peraturan Perundang-Undangan*—analyzed some theories from legal scholars to strengthen and sharpen her arguments on her book, and concerning to law enforcement and democracy as well as on laws and regulations establishment, according to Robert B. Seidman and William J. Chambliss (1971, 56) as cited by Rodiyah (2012, 148), the process of legal work is determined by four major components, namely law-making institutions, law enforcement bureaucracies, role-holders, and the influence of personal and social forces. The first three components (law enforcement, law enforcement bureaucracy, and role-holders) play a role in the legal corridor, while personal and social forces are "non-legal" components.

Finally, with five chapters on her book, Rodiyah tried to explain that democracy in the meaning of people participation on laws and regulations establishment was accommodated on the Act but lack in the implementation. The problems can be legal substance, legal structure or even legal culture

itself. After reading this book, we can assume that, democracy in Indonesia especially in the establishment of laws and regulations processing is very complicated thing.

## REFERENCES

- Chambliss, William J. & Robert B. Seidman. *Law, Order and Power*. Reading, Massachusetts: Adison-Wesley Publishing Company, 1971.
- Institute for Peace and Democracy, "The Bali Democracy Forum Inauguration", November 9-11, 2008.
- Rodiyah. *Aspek Demokrasi dalam Pembentukan Peraturan Perundang-Undangan*. Semarang: BPFH UNNES, 2016
- Rodiyah. "Aspek Demokrasi dalam Pembentukan Peraturan Daerah dalam Perspektif Socio Legal," *Masalah-Masalah Hukum Journal*, UNDIP Jilid 41 No. 1, January, 2012, 144-152
- Walden, Maw. Democracy in Indonesia: A cause for celebration, retrieved from <https://www.lowyinstitute.org/the-interpreter/democracy-indonesia-cause-celebration>, 20 February 2017