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The Influence of Political Configuration in The Creation of The New KUHP (An Examination of the New Wave of Indonesian Democracy in the Reformation Era)

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Abstract	The intervention of political power based on the facts of law enforcement can affect responsive and conservative patterns in the formation of legal products, indicating that certain political situations can produce legal products that are in accordance with their political nature, including in the formation of the new Criminal Code which has become a public concern in Indonesia. This research aims to provide a deeper understanding of the relationship between political structure and the development of criminal law in Indonesia. The method used in collecting legal materials in this research is carried out using library research, namely by using archival review techniques or literature studies of books, journals, articles, theses or works of experts related to the research conducted. The results of this study show that in the current reform era, political configuration has a dominant influence on the structure and substance of law. Political power plays a key role in the formation of laws, where the interests of certain groups often dominate the resulting policies. Legal products are often used as a means of justifying power policies, even though they may contradict the values of public justice and are no longer in accordance with Indonesia's cultural dynamics.
Keywords	Criminal Code; Formation; Legal Political Configuration

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1. INTRODUCTION

The impact of politics in regulation also applies to its enforcement, the characteristics of legal goods, and the assembly system. The above should be seen in the reality or facts throughout Indonesian history, the implementation of legal capabilities and requirements in general is not always closely related to the improvement of its construction. This becomes clear if the proportion of legal progress in Indonesia is legal unification and codification, then the improvement of legal construction has been well underway and stable. Because occasionally the efficiency of regulation increases. But on the other hand, in terms of legitimate ability, there is a decline (Mahanan, 2017).

Legitimate design can develop in any political condition, which is separated by the progress of legal codification and unification as contained in the National Legislation Program (Manan et al., 2021). Nonetheless, the implementation of legitimate capabilities or capability requirements will generally be weak. Although the number of legal products produced has quantitatively increased, their substance and legitimate functions have not developed much or in accordance with the aspirations of the people for whom they are intended. This occurs as a synchronization between legitimate construction and legitimate ability as referred to above due to mediation or obstacles in political activities. Regulations sometimes cannot be enforced due to the interference of political power.

Local governance arrangements in Indonesia existed along with the establishment of the Unitary State of the Republic of Indonesia, even if it goes back to the Dutch East Indies government. Over this period of time, there have been several changes in accordance with constitutional changes and changes in the political framework. The relationship between the whole set of laws and the different frameworks with respect to the formation of legitimate public demand is in accordance with the verified stream perspective pioneered by Von Savigny that regulations develop naturally from within society itself and the social benefits of the state. 135 Meanwhile, Roscoe Pound, a figure of Sociologycal Jurisprudence views regulation as A Tool of Social Engineering. This can be interpreted that public authorities with their political power can involve the entire set of laws as an apparatus to change the demands of society in a superior and fair direction. With the socio-social truth of Indonesian culture, as Muchtar Kusuma Atmaja revealed, the law has two abilities, namely how to maintain public control and how to social restoration. Regarding the latter, regulation is important for the course of rapid change in a country that is creating. This function of the legal system can be carried out well if it is supported by a democratic political system through policies that are responsive to changes and demands of society.

In the historical practice of state governance around the world, democracy and authoritarianism are paradoxical and ambiguous. Various countries that are considered majority countries have implemented vote-based systems in various ways, making it difficult to determine which one is truly considered ideal.

Democracy as a modern political system (modern democracy) is not simply village democracy or city-state democracy as it was in Ancient Greece and Rome. Nonetheless, the emerging nation-state democracy is linked to the development of the nation-state.

This kind of democracy emerged in the West since the XVII century, while in the new countries in Asia, Africa and Latin America it emerged after the countries in the region turned into nations and independent states after World War II. Samuel P. Huntington interestingly named the development of democracy in modern nation-states with the term democratic wave or democratization wave, which indicates the phenomenon of transition of a number of countries from non-democratic (authoritarian)

regimes to democratic regimes that occur in a certain period of time and are significantly more in number than the transition to the opposite direction.

The first wave of democracy (1828-1926) emerged from the French Revolution through the 19th century, which was characterized by the development of public popularity-based organizations called public democratic institutions indicated by the tendency for elections to be necessary, where 50% of adult males voted and the executive holding public power had to gain more support in both parliamentary and presidential frameworks.

The second wave of democracy (1943-1962) came after World War II and was characterized by triumphs and disappointments. Indonesia during the Old Order era practiced parliamentary democracy and guided democracy under Soekarno, as well as a democratic system of government that Huntington called turbulent.

Meanwhile, the third wave of democracy (1974-1990) emerged simultaneously starting around 1974, starting from Portugal and spreading to about 30 different countries in Asia, Africa and Latin America that were initially limited by dictatorships (military systems), then, at that time, transformed steadily into countries under vote-based systems. This time it reminds us of the collapse of socialist countries in Eastern Europe that transformed into vote-based systems or the development of countries with dictatorial systems.

The transition from authoritarian rule to democratic rule is a complex process involving a number of stages. In many cases, the beginning of the cycle is defined by a state of emergency and the eventual breakup of the dictatorship. Assuming that progress towards majority rule begins with the tyrant's realization that it must open up and adopt majority rule standards, this stage will end with the development of another government with free races in mind. However, the interaction does not end there, as the new system is often a limited majority rule, but not fully just. In the stage of democratization after the start of majority rule (the opening of majority-rule government) that is separated by divisions within the alliance - either in tyrannical states or after the fall from power of majority-rule systems - then, at that point, a phase of vote-based expansion may be necessary before the next stage is reached. The new system actually has to come together totally and decisively to achieve a stable government with strong majority rule. The full cycle to strong majority rule takes most of the time, often years and, surprisingly, for the UK and the US, interaction generally takes hundreds of years.

Britain, France and America implemented vote-based systems through the transformation of the middle class illustrated by free enterprise and parliamentary majority rule, while Germany and Japan before the Second Great War brought majority rule through progressive means which then, at the time, ended in the years of pacifism. Eastern European countries, particularly the Soviet Association (now Russia) and China, implemented majority rule through the communist path of socialism with lower-

class unrest, for example the Bolsevick transformation in 1926 that brought Lenin to the wheel.

Here, it turns out that vote-based systems have various definitions with different study programs. Meanwhile, countries that are seen as extremist or dictatorial often ensure that their governments are majority-dominated. For them, a vote-based system lies more in the substance of building government assistance to other states and less in the liberal-pluralistic components of representation. Assuming that the state tries to prioritize individual interests, even though it is controlled authoritatively, according to him, the current government is majority-ruled. Because the majority government system is liberal, the majority government system is directed towards Pancasila, which is a vote-based system with various courses and vote-based characters. Therefore, M. Amien Rais as a figure of change suggested that the majority government system be run without embellishment in all public authorities.

Apart from the ambiguous polemic of democracy and authoritarianism, mapping the political configuration and legal character born in the old order and new order will refer to the above indicators as a Mapping Guide to determine the typology of democratic or authoritarian regime governance. In looking at the ongoing political and legal arrangements, a mapping is used that is divided into two periods. First, the 1945-1959 period, and second the 1959-1965 period, while the New Order regime began in 1966-1998. The periodization is based on changes in the State Constitution (UUD) and the change of leadership of a regime from ascension to abdication or when a change of leadership occurs.

The period 1949-1950, through the process of diplomacy with the Netherlands in the form of the Round Table Conference (November 2, 1949) which discussed the confirmation of Indonesian independence taking place in The Hague, the Netherlands, dramatically changed the political system and constitutional structure with the enactment of the constitution of the Republic of Indonesia Union (RIS) on December 27, 1949. The change in the constitutional political system was based on the Dutch desire to re-colonize Indonesia after Japan lost the war against the allies by bringing in allied soldiers who were actually tasked with disarming the Japanese soldiers.

The Dutch specifically engaged several urban communities in Indonesia, and restored Dutch power. With this disposition, the communities again fought against the Dutch like an unstoppable flood, making the Dutch realize that the transformation of society could not be resolved by mere conflict. So the gap and rule strategy was chosen, especially the attempt to make Indonesia a Republic of the United States. Thus, the Republic of Indonesia, which had recently been established on a unitary basis, was coordinated into a union of states. The Dutch believed that with this strategy, the states could oppose each other so that in the event of an emergency, the Netherlands could take action to control Indonesia.

Several states were members of the Unitary State of the Republic of Indonesia (RIS), namely East Indonesia Province (1946), East Sumatra Region (1947), Pasundan Region (1948), South Sumatra Province (1948), East Java Province (1948), Madura State (1948), and several other states that were still

in the planning stage at the time (Mursal, 2020). This design was in line with the Dutch attacks in Animosity I (1947) and Hostility II (1948) which caused socio-mental impacts. However, the Dutch draft could be listened to by the early architects so that Indonesia singularly declared the RIS Constitution invalid and replaced it with another Constitution which was the result of elaboration by Indonesian leaders without the intercession of the Dutch government.

Period 1950-1959, parliamentary government based on the Constitution (Nurdamarsah, 2018). At the same time, the Multy Party Framework was adopted with a liberal-individualistic model. The general election of 1955 witnessed the clash of more than 20 ideological groups that featured parochial and political examples, political groups and political loyalties, mostly based on early stages and paternalistic ties. This is for example seen in political groups that have a sect design. In this stream design, a large ideological group fights as the center and pays for the strength of a confluence of interlocking hierarchies that help the ideological group. For example, the Nadhlatul Ulama (NU) Party has formed supporting organizations, especially Muslim women, Anshor youth, Pertanu, Perbunu, IPPNU, and others. Thus, the clashes between ideological groups that illustrate political struggles originated from philosophical clashes, especially Patriotism, Islam and communism. This progress led to political unrest and the development of dissident groups with strong resistance, which also affected various fields, especially finance and politics.

There are several studies related to political configuration, especially in the reform era, one of which is research conducted by Syamsuddin Radjab, Hanafi Amrani, and Lintje Anna Marpung who both conducted research on political configuration in the reform era which states that the reform era after the fall of the New Order authoritarian regime resulted in significant changes in Indonesia's political structure. Constitutional changes, the dissolution of unnecessary institutions, and the establishment of new institutions such as the Constitutional Court and the Regional Representative Council became important milestones in strengthening people's representation and eliminating elements of authoritarianism. The evolving multi-party system provided wide freedom for people to participate in politics, while elections became an important means of channeling people's aspirations and implementing democratic principles. In addition, freedom of the press also developed rapidly, strengthening their role as the fourth pillar of democracy and making the reform era a period of awakening for freedom of information in Indonesia. Based on this, there are differences with the research to be conducted, because the previous research did not explicitly discuss how the influence of political configuration on the formation of the new Criminal Code, therefore this research becomes a new thing that can make a reference to the lawmaking apparatus and the public.

This research is important because it presents a new contribution to the understanding of the influence of political configuration on the formation of the new Criminal Code in Indonesia. Although

there have been previous studies that examine the political configuration in the reform era, this research offers a more specific approach to its impact on the lawmaking process. Thus, this study will provide a deeper understanding of the political factors that influence the formulation of law in Indonesia, so that it can serve as a guideline for lawmaking officials and the public in understanding the political dynamics related to the formation of the new Criminal Code.

The discussion of political configuration in this talk is linked to the notion of "vote-based system" and the notion of "dictatorship" to distinguish whether the legislative institutions in the Old Demand and New Demand are qualified in the development of the New Penal Code, whether they are majority rulers or tyrants. In addition, from this ability we will also see the personality of the legal products created as well as the cycle of political battles between political actors and the institutions they play. Clues that a legal item is considered responsive or conventional should be visible in the assembly system, materials, properties and capabilities as well as the expected translation. Meanwhile, the mark of vote-based or dictatorial politics uses a Dahrendor or Carter and Herz-style design, specifically examining a country from the distance between the real world and ideality in social demand. The more liberal and pluralistic a country is, the more just it will be perceived, and conversely, if a country exercises harsh authority, it will be perceived as a tyrant.

2. METHOD

A technique is a methodology or approach to knowing, which has a deliberate progression. Strategy is a concentration in focusing on the guidelines of a technique. So research philosophy is an assessment in focusing on the standards contained in research. From a philosophical point of view, research strategy is an epistemological research, especially concerning how we direct the examination. In researching logical works, one of three excellent techniques can be utilized: specialized library research, especially logical works in view of writing or libraries; field research, and bibliographic exploration, which is research that highlights the thoughts contained in principles. (H.A. Kadir Sobur : 2015)

The collection of legal materials in this research is carried out using library research, namely by using archival review techniques or literature studies of books, journals, articles, theses or works of experts related to the research conducted. The steps to be taken are (1) Collecting and reviewing regulations, books and other search sources related to the problem to be studied, (2) Compiling regulations, books that have been collected to be used as essential and selected materials, (3) Reading, understanding, and quoting both directly and implicitly from the sources that have been read related to the problem being contemplated.

3. FINGINGS AND DISCUSSION

In political and legal discourse, the definition of the rule of law is rather difficult to distinguish from democracy, although the rule of law cannot be equated with the concept of democracy, but both have a symbiotic-mutualistic relationship that is difficult to separate from each other. Authoritarian governments can obey the law, according to them, without being subject to the principles of democracy. But a democratic state without being based on the law by Franz Magnis Suseno, is referred to as a pseudo-democracy or frozen democracy (Frozen Democracies) by George Sorensen. Meanwhile, politics or a political system is a series of policies of a country based on the rule of law to lead to a democratic state order because the government is based on, by and for the benefit of the people alone. According to M. Mahfud, MD, democracy without law will not be well developed and may even lead to anarchy, while law without a democratic political system will only become a static and repressive law. This is where the interdependence between politics, law and democracy appears.

The concept of democracy is epistemologically (language) from Greek, namely demokratia. Demos means people and kratos means rule. Democracy means a political system where the people hold the highest power, not the power of the king or the nobility. Democracy in other definitions is defined as "Rule by the people", namely a system of government or power by the people, both direct democracy and representative democracy (indirect democracy) (Rohmatillah et al., 2023). The concept of democracy in both thought and practice has long been debated since the time of Ancient Greece. Plato and Aristotle, for example, are philosophers who do not agree with democracy in state government, for them, democracy is a government by many people that will bring anarchy and chaos, so they agree more with the concept of monarchical government led by philosophers who are considered wise and wise.

The concept of democracy with all its weaknesses has universally changed the world order of life. Since its inception in Athens, Greece. Then it was created in the Islamic world (in the mid hundreds of years VI-XV) pioneered by Ibn Abi Arabi, Al-Mawardi, Ibn Taimiyah, Ibn Khaldum, etc. until the collapse of the Islamic caliphate framework.

Then, the possibility of majority rule - with its various explanations - spread to the central region of Europe in the late era (16th - 20th centuries) after a long period of gloom. The popularity-based framework has provided certainty for today's states, and has even turned into a global issue close to common freedom, orientation and ecological issues as the best state structure, so majority rule has turned into another legend in state organization until the beginning of the 21st century. Democracy is not all good. In certain historical experiences, such as in the United States and Europe in general, the issue of racial discrimination is very prominent in their societies, including discrimination in political access and legal justice. However, by recognizing these weaknesses, democracy has become the choice

of most nations or countries, especially for countries that want to be considered modern. When compared to other political systems, democracy is considered to have relatively fewer disadvantages.

Through democracy, it is possible for the people in general to influence the political process of a country's power. According to the orthodox approach, democracy has become a popular political system because through democratic arrangements, basic human rights can be developed. In this way, in addition to being superior, the application of solutions is no less important in how to ideally exercise majority rule, so that the shortcomings of a vote-based system can be limited to a great extent. In the West, since the Edification of the seventeenth and eighteenth centuries, popularity-based thinking has increasingly developed along with the possibility of law and order as the absolute opposite of the tyrannical political framework of both rulers and Congregational authorities. John Locke, JJ Rousseau, Motesquieu, John Stuart Factory, and others were fundamentally opposed to an absolutist framework of government (Simarmata, 2010).

In the liberal social order, majority rule is created in opposition to progressive intermediary foundations, particularly dictatorial governments whose power is firmly established if they have divine assistance. Radicalism follows the old framework in two specific ways: First, dissidents strive to undermine state power and establish a climate of shared society in which social relations, including individual enterprises, foundations and non-legislative associations (NGOs), families, and secret lives, can be created without state constraints. Second, "old school" Progressivism asserts that state power does not depend on essential freedoms and exceptional privileges, but on the will of a sovereign society. Ultimately, this assurance drives the demand for a system of majority rule, or at the very least, the production of a delegation component that ensures that those who hold state power have the assistance of individuals. However, the practices that make up liberal majority rule are both liberal at first (leading to a limitation of state control over the general public) and then popularity-based (leading to the creation of structures that will bring order to individuals who wield great influence). In addition, the liberal vote-based system had led to the financial inequality that later gave birth to free enterprise as the Renaissance was separated by modern progress.

It also encourages domination and expansionism to provide the rough elements to modern states in Europe. Meanwhile, financial inequality will prevent citizens from gaining equal political freedom. Overall, with a high financial gap, there will be no political majority rule system. In this way, creating growth and financial correspondence for individuals is essential for a vote-based state. Martin Lipset expresses this by stating that the more extravagant a country is, the more likely it is to organize democracy.

In addition to several approaches to democracy, as expressed recently, majority-dominated government is "almost" indistinct from law and order (rechtstaat). Miriam Budiardjo forms an

established system of majority rule with the following elements: a) Constitutional protection; b) Free and impartial judiciary; c) Free elections; d) Freedom of expression; e) Freedom of association/organization and opposition; f) Civic education; and g) Political policy is determined on the basis of the will of the majority. Furthermore, according to him, the characteristics of democracy can be achieved through an institutional structure that contains elements, namely a) A responsible government; b) A freely elected parliament for oversight; c) The existence of political parties; d) Freedom of the press/media; and e) A free judicial system that guarantees human rights. Meanwhile, M. Amien Rais stated that there are at least ten criteria for democracy, when a country wants to be said to be implementing a democratic system. The ten criteria are as follows: (1) Participation in decision-making, (2) Equality before the law, (3) Fair distribution of income, (4) Equal educational opportunities, (5) Four kinds of freedom, namely freedom of expression, freedom of the press, freedom of assembly, and freedom of religion, (6) Willingness and openness of information, (7) Heeding fatsoen or political manners, (8) Individual freedom, (9) Spirit of cooperation, and (10) Right to protest.

Based on the above criteria, in principle, democracy and the rule of law have similar meanings. This also implies that in a state based on popularity all its inhabitants must be free from all dangers and terrors, whether originating from their own country or from government authorities, a similar sense of security is provided in the idea of law and order with the insurance of mutual freedom. Sri Soemantri provides four standards on vote-based rule-making instruments, namely: a) The law is not enacted except by the decision and consent of the freely elected representatives of the people; b) The result of elections can be a change of people in government; c) The government must be open; d) The interests of minorities must be considered. Achieving a democratic state with the criteria and characteristics that have been stated is not an easy matter. The developed countries themselves are examples of the fact that democracy cannot be achieved overnight; it is a long-term process of gradual change. When efforts to implement a multi-party system, for example, were replaced to patiently pave the way for a democratic state, the results gave birth to an attitude of indecision and opportunism among the community's community leaders by forming "random" political parties with the intention of fulfilling short-term interests and not to truly fight for the aspirations of the community.

On the other hand, the government system that is still controlled by the old people does not make fundamental changes in the constitutional structure except on the outer skin by changing the laws and regulations to make it look democratic.

Robert A. Dahl noted five conditions that are considered most supportive of the development of a democratic political system - a monarchy, as he popularized it - before reaching the real goal of democracy. These conditions are: First, leaders do not use the main instruments of violent coercion, namely the police and the military to achieve and maintain their power; Second, there is a modern and

dynamic organization of pluralist society; Third, the potential for conflict in pluralism is maintained at a tolerable level; Fourth, among the population of the country, especially its politically active layers, there is a political culture and belief system that supports the idea of democracy and the institution of polyarchy; Fifth, the impact of influence or control by foreign countries can be inhibiting or positively supportive.

Most of these conditions, especially in developing countries, cannot be found including in Indonesia. On this basis, it cannot be anticipated that the starting point of majority rule will be a strong vote-based system. However, it should be noted that this condition is not impossible to achieve if there is a real political will from the government, an increasingly educated society and the growth of public participation in the formulation of government policies together. Indeed, democracy is not something that arrives and comes or is given. Democracy is caused by the efforts of individuals and groups, by social actors, who strive for democracy, especially the middle class in the socio-societal structure (Iskandar, 2017).

3.1. The New Wave Of Indonesian Democracy In The Reform Era

The transition from authoritarian to democratic rule is a complex process involving a number of stages (Martin, 2020). In many cases, the beginning of this cycle is defined by the emergency and eventual breakup of the dictatorial system. Assuming that progress towards majority rule begins with the tyrant's realization that it must open up and adopt majority rule standards, this stage will end with the development of another government with free races in mind. However, the interaction does not end there, as the new system is often a limited, but not entirely just, majority rule. Nonetheless, if the process of changing majority rule is completed out of legitimate necessity due to external tensions - an apathetic vote-based system - or individual power constraints, then, at that point, the public authority is usually a dictator with a commitment to change in all areas of governance. Regardless of whether there is a transfer of power, it is simply a transition from one tyrannical system to the next, or sometimes, a dictatorial state that loses out on political decision-making eventually declines due to divisiveness and, surprisingly, respectful conflict.

In the democratization stage, after the start of a majority rule system (the opening of a government with majority rule) that is separated by divisions within the alliance - either in tyrannical states or after the fall of a government that favours the majority - a phase of vote-based development may be necessary before the next stage is reached. The new system actually has to come together totally and decisively to achieve a stable government with a strong majority rule. The full cycle to strong majority rule takes most of the time, often years and, surprisingly, for Britain and America, interaction generally takes hundreds of years. In the vote-based change, Dankwart Rustow conveyed some straightforward stages

to go through before emerging in a strong majority government, namely: First, there is a basic requirement by instilling the principle of public solidarity that must be seen. First. This shows that public solidarity essentially indicates that the majority of the people, in the feelings of the citizens, do not feel the least bit indecisive or complaining about the political goals to be achieved, so that ethnic or group divisions can be avoided; Second, the preliminary stage which is characterized by the fall of the tyrannical system due to internal divisions among the power holders; Thirdly, the choice phase by starting to gather vote-based demand by working on the design of infra-state institutions with different administrative guidelines that contradict the values of majority rule (Testriono, 2015). The combination of the three phases is where the public authority and the community (population) mutually foster the majority rule system with responsive guidelines until it turns into a vote-based political culture.

In the context of Indonesia, democracy has been an ideal that began since the founding of this country by the architects of the Main with the acceptance of law and order as the order of command over the administration of the state, even long before the birth of the freedom decree, the vote. System-based - in the narrow sense - had been drilled into Indonesia's cultural existence in the pre-independence period with government exercises and individual support in governance. Mattulada expressed this by saying that:

"If democracy is the form of government of a self-governing community in which most of its members take part, then in this community of people, although still simple, this characteristic has already been found" (Mattulada, 1996).

Thus, it turns out that in pre-independence societies (the royal period) a democratic system of group living was already known. According to Mattulada, this example began to change when Hinduism appeared in the archipelago. From the development of Hinduism, it was realized that there was a contrast in the layers of friendship that began with the gathering of power holders who made the local area segregated from the layers of decision makers from outside. Here the vote-based lifestyle began to be shaken and the well-known local affiliation guidelines fell into the least contempt. Pre-independence (royal) societies were already known for democratic group living. According to Mattulada, this example began to change when Hinduism appeared in the archipelago. From the development of Hinduism, it was realized that there was a contrast in the layers of friendship that began with the gathering of power holders that made the local area segregated from the layers of decision-makers from outside. Here the vote-based lifestyle began to be shaken and the well-known local affiliation guidelines fell into the least contempt.

In the current reform era, democracy has increasingly found its "Crater of Candradimuka" to be more seriously appreciated in a more empirical sense. The reform-era government, which is the turning point of the authoritarian regime, holds a lot of hope for reforms in all fields, social, cultural, political,

legal, and social order and so on (Halim, 2016). Although the change towards democracy in Indonesia was only through gradual reforms and negotiations between old and new forces, between reformers and status-quoists, but at least there was a regime change from authoritarian to democratic. In this transition, pro-democracy forces (reformists) must be extra careful because the experience of various countries shows that it is not easy to go through the post-authoritarianism phase, even creating a reconsolidation of authoritarianism so that only the leadership actors change but the authoritarianism character remains inherent in the new government that is formed (Rianto, 2019).

Eep Saifullah Fatah raised this concern for reformists with the possibility of reconsolidating authoritarianism or the authoritarianism cycle in Indonesian politics which is only reform (improvement) not revolution (replacement). The concerns are, First, that the change that occurs is not a revolutionary change in the form of a complete and fundamental regime change. The old regime seems to have been destroyed but the new government that was formed afterwards was still characterized by the strong position and role of elements of the old regime. Even the strategic alliances that were the pillars of the old regime were still maintained as pillars of the new government. Second, protracted and unmanageable uncertainty. Transitions from authoritarianism are always characterized by an atmosphere of uncertainty at first. On the one hand, this uncertainty fertilizes political dynamics. But on the other hand, protracted and unmanaged uncertainty can be tricky. It can invite practices of political violence. This opens up opportunities for the instrument of state violence, the military, to play a larger role than it should. Within this framework, authoritarian structures are maintained and preserved, while new, more democratic structures cannot be built effectively because they are crushed by militarization.

Third, the military factor. Authoritarian states generally rely on the military as their backbone. The fall of authoritarianism is often not synonymous with the political demise of the military. The fall of an authoritarian government may only stop at the end of the authoritarian leadership period. But the military as a political institution remains entrenched in a political position that still determines its favorability or unfavorability among pro-democracy groups. Nonetheless, the military as a political office remains in a political place that actually decides whether or not the military will be enjoyed by government meetings that favor the majority. This must be seen from the TNI's new worldview, both involving and impacting. This means that the tactics will not leave the political field, it's just that the game design is different compared to the New Request system. Fourth, the expansion of opportunities has triggered clashes at the bottom of society (Grass Roat). Fifth, a government that supports majority rule must maintain the durability of social development. The post-tyrant stage requires supporting the social development of a majority rule system that is solid, unified - essentially at the level of thought and speech - and versatile. In addition to the accessibility of solid social development and support for

vote-based systems, the failure of this development can open up opportunities for the reconsolidation of tyranny. That progress does not lead directly to democratization but can lead back to authoritarianism.

3.2 *Political Determinations of Law: The Push-Pull Of Power*

The attempt to look sensationally and logically at the consequences of the design of the political configuration in Indonesia during the period of change must really start from a structuring of the meaning of order and the problem of governance. A fundamental understanding of the terms used as watchwords for understanding this situational perspective will make it easier for us to utilize the meanings it contains. As hypothetically and convincingly understood in the previous section, setup is characterized as a form or frame to describe something.

That in the push-pull relationship between politics and law, it is law that is affected by politics, because the political subsystem has a greater concentration of energy than law. So that if it has to deal with politics, then the law is in a weaker position (Mahfuz, 2019).

Meanwhile, the problem of legislation is characterized as all matters, strategies and approaches to actions (activities) related to the administrative framework of a country. Therefore, assuming that the two figures of speech are assembled in one term to describe a condition, especially Indonesia during the period of change, what is meant is the form or type of governance problem that becomes the dominant element that has an impact on the incomparable quality of regulation.

A study of the political configuration in Indonesia's incomparable regulatory quality during the period of change will show the development of real conditions related to political determination (Sriwidodo, 2014). This is reasonable considering that currently the affairs of government are still seen as presidential, which holds a firm position in determining what the face and fate of a nation will be. In fact, there is no denying that through political power and strategy, certain circumstances can be orchestrated based on whims that often make it difficult for us to recognize false vision and true optimism.

The existence of regulations in a country is basically dominantly influenced by the existing political forces (Salam, 2015). How not, the development of the interests of certain parties, especially the power holders, will change every strategy that is formulated, including matters that are halal. Therefore, the law is expected to be used to legitimize a strategy, so that support for the law must be recognized in accordance with the provisions contained in the law.

For example, we can see in various cases that could have been tried on legitimate grounds, which often have to be stopped only because of basic freedom considerations and reasons. Our vulnerability relates to the area of basic freedoms and the zone of individual security, as a rule also deliberately

masked by various supporting language for legitimacy and legitimacy or public recognition. Terms that are generally powerless to deal with this issue are pluralism or heterogeneity in terms of both religion and nationality.

As a result, things that are legitimate based on certain strict philosophies do not matter in general. There is a perception that in countries with pluralistic populations, there is social progress and, surprisingly, strict philosophical freedoms that can undermine the use of legitimate arrangements in general even though we are objectively aware of their viability. For example, the implementation of Islamic Sharia, which has recently envisioned the assimilation of Islamic regulations into the state constitution, must obviously be rashly abandoned by certain associations that are indeed of Islamic origin themselves.

This picture demonstrates a major strength in ensuring the incomparable quality of regulation in Indonesia. Understanding the state of affairs, even if it does not match the ideal state of affairs that it should be, must sometimes be the ultimate decision, especially for those who think fundamentally. This is where political control demonstrates the idea of its power in determining the example of society, and, surprisingly, legitimate arrangements are often made to regulate the approach and sanction certain activities so that they have all the rights to be protected. So, it can be said that regulation is a political item.

In relation to the link between the issue of legislation and regulation, Mahfud MD once put forward the proposition that regulation is essentially an object or a governing and enforceable crystallization of conflicting political wills, so that each object must have a personality in accordance with the political design in which it was born (MD, 2012).

Through a verifiable sequential methodology, similar sources also explain that in Indonesia there is a political pattern that goes back and forth between responsiveness and moderation. Meanwhile, to build legitimate demand and limit the impact of politics, "legal surveys" can actually be used as a viable control tool (Putra & Ratnawati, 2023).

This picture shows that legal surveys can be used as instruments of control to limit the impact of politics. The desperation in trying to limit the impact of politics should at a very basic level be an important and fundamental part of the incomparable quality of regulation given that so far the personality of legitimate goods in Indonesia has been shaped by political design. In other words, the legitimate independence of the nation is generally powerless and does not demonstrate its autonomy. Moreover, when confronted with the political subsystem, it is very weak and will generally be weak. Thus, in describing the relationship between laws and regulations, using Satjipto Rahardjo's term, it can be said that the grouping of legal powers is always less strong than the convergence of political powers.

The weakness of regulation in stemming the power of legislative issues during the alternation of

power in Indonesia has indeed become a fundamental part that cannot be separated dichotomously from the historical background of the Indonesian government (Wiyanto, 2010). This should be seen in the implementation of capabilities and policing over the years, which have not gone hand in hand with development progress. However, this does not mean that the development of law in Indonesia has not progressed.

This stems from the assumption that if a legitimate codification and unification program is put in place, then legitimate remedies are well-established and stable as there is sometimes an increase in efficiency. However, it should also be borne in mind that the potential for regulation will generally decrease. It can be said that legitimate design can support all the political arrangements dictated by the codification and unification of different regulations, but the implementation of regulations or the application of legal capacity will generally become more fragile. This is due to the unsynchronized development between legal capacity and design, which is also generally caused by activities that politicize the implementation of legal capacity.

In order to elaborately understand the political legal certainty that exists here and there, the subject matter that must be pursued first is an understanding of the concept of political design and the kinds of legal things that include its personality. This will be revealed in the following description:

1. Vote-based political design is an arrangement that opens a valuable door for every individual who has the most extreme ability to take part effectively in determining the strategy of the state.

2. A tyrannical political arrangement is one that places the public authority in a very dominant and interventionist situation in deciding and executing state strategy so that the potentials and yearnings of the people cannot be totalized and expressed relatively.

3. Responsive / independent legal goods are legal goods whose nature reflects the satisfaction of the requests of two people and different encounters in the eyes of society with the aim of being better able to reflect a sense of justice in the eyes of society.

4. Moderate/standard legal goods are legal goods whose character reflects the political vision of the dominant power holder so that their production does not accept authentic public cooperation and wishes.

In the majority rule setting, the conditions indicate that the public authority is more of a panel that must carry out the wishes of individuals, fairly constituted, delegated bodies of individuals and ideological groups are relatively capable and more definitive in making state strategies. Meanwhile, the press can exercise its abilities unhindered and without the danger of prohibition. On the other hand, dictatorial political systems often exhibit conditions as the government's task is very dominant, individual delegate bodies and ideological groups do not function well and are to a greater extent a method of legitimizing (elastic stamp) the public authority's will; while the press has no chance and is

generally under government control and in the shadow of prohibition.

Comparable to legitimate and responsive items, this suggests that a responsive rule-making process straightforwardly welcomes the interests and wishes of the region, and legal, regulatory bodies are given the ability to exercise the tools for the benefit of the region; although the definition is usually complex enough that it is not entirely clear given the wishes and vision of the public authority itself. With respect to moderate (conventional) legitimate items, they are usually more formal in nature. In this case, regulation is largely given positivist-instrumentalist capabilities or becomes a tool to carry out taxpayer-supported belief systems and initiatives. The definition of legitimate material is usually essential so that it can be elaborated by the public authority according to its vision and wishes with different implementation guidelines.

If we assume that there is a connection with the political design in Indonesia after the reorganization, then it seems to show unexpected conditions as a political practice characterized by popularity-based and covering all components of the country in a participatory manner. Contrary to the norm, what happens instead gives the impression of a tyrannical political order and, surprisingly, legitimate matters show a decisive vision of political power. The consistent result that emerges is that the state of law in Indonesia appears to be in disarray.

It is undeniable that the current public regulation is not only bad for the people of Indonesia. In addition, it also causes uncertainty among outside investors to invest in Indonesia, which will certainly have an impact on various aspects and the survival of the country and state. This is truly an unexpected situation that should not have happened, especially since Indonesia is currently pursuing a process of change, which has created public doubts about the law and public safety. The lack of regulation in Indonesia must be recognized in an objective manner and based on the observation that public authorities focus on the interests of experts rather than the interests of the general public in implementing the law. In fact, the law should demand fairness and uniformity, whereas power does not require such correspondence (Luthan, 2007).

Under these conditions, according to Dimyati Hartono, consistency will disappear and be replaced by segregation (Noor, 2012). Segregation starts in the political sphere, but then extends to the social, financial, security and other fields.

The blurring and even lack of consistency, which has led to an unfair situation, is by far the most certain reality. The set of strategies that emerge from government directives are largely a reflection or impression of the various interests and dreams of those who wield great influence without regard to the evolving impact and possible harm to individuals.

The political certainty of regulation in Indonesia is also evident in the issuance of 32 Regional Regulations in 1997, which further reinforce the duties of the state and contradict norms that undermine

individual interests and standards of fundamental freedoms. A total of 19 (61.29 percent) regulations have the potential to undermine the work of society, 21 regulations (67.74 percent) have the potential to ignore basic freedoms, 19 regulations (61.29 percent) have the potential to become an instrument of heaviness, and 13 regulations (41.39 percent) encourage sacred change in an oppressive direction.

The main types of force fields for progressive control include those reflected in Regulation No. 28 of 1997 on the Indonesian National Police. As a general rule, this General Police Regulation further fosters a political focus to straightforwardly control larger local areas. It is not only limited to experts in investigations related to the Criminal Code, but also in Binmas (Community Group Improvement) control, broad communication and, surprisingly, friendly cases. In addition, the General Police Regulations also provide legitimacy for draconian measures against targets in the general public and emphasize military techniques in dealing with the General Police.

Looking at this picture, it is realized that the existence of regulations that are deliberately created and designed to support individuals, are actually used for the purpose of legitimizing or defending various government activities and approaches. Under these circumstances, various unilateral interests (experts) are often authorized by regulations that are planned to be implemented properly and as if they are sacred.

One clear illustration of the battle between regulation and power (legislative issue) should be seen through the example of Syahril Sabirin some time ago. As the Legislative Head of Bank Indonesia, Syahril was appointed based on the President's proposal to the DPR. The facts do confirm that it is ultimately the DPR that determines and elects the Legislative Leaders of Bank Indonesia, but this is still a continuation of the proposal that has been put forward by the president. In light of this situation, Syahril Sabirin and the House of Representatives handling the legislation were sharply analyzed by President Abdurrahman Wahid and his Chief Legal Officer Marzuki Darusman, who addressed the experts at the time. Subsequently, the President attempted to oust Sahril Sabirin from the post of Legislative Chairman of BI, but was met with resistance from the legislature.

In another sense, no matter how strong the desire of the Indonesian people to change by the standard of all-out change, considering the police, it will generally fail, especially if it has entered the level of proposals with various political interests. Thus, the different political assessments (controls) of Indonesian law reflect how difficult it is to establish the incomparable quality of law as essential to the ideal society that is envisioned, especially the general public.

From the description above, the Old Demand and New Demand systems each exhibit a political order that is tyrannical/non-popularity and its implementation becomes a rule that has a harsh universal character, although some legitimate matters are found to have a vote-based judgment, but usually the rules are irrelevant to the power or political interests of the ruler. Although both systems are seen as

non-vote-based or tyrannical, there are several things that distinguish them, namely: First, the Old Demand did not aim for a party framework, whereas the New Demand has over time created a dominating party framework. Second, the foundation of power in the Old Demand was Soekarno as president, while the foundation of power in the New Demand was president Soeharto, ABRI, Golkar and the Organization. Third, the method taken during the Old Demand period was against the law, while during the New Demand period chose defense through protected means. Fourth, the fundamental fixation in the Old Demand period was the convergence of forces to prevent the deterioration of society, while the New Demand fixated on building public security as important in the turn of financial events.

The Draft Criminal Code, which has been known to have gone through a long cycle in its readiness. This cycle is not without reason, but the drafters of the Criminal Code must also really know the social and social aspects of Indonesian culture so that the subsequent articles of regulation are in accordance with the conditions or patterns of life of the existing society. During independence, the Criminal Code obtained from the Dutch Government (WvSNI) and the Japanese government (gunsei keizirei) was still used to avoid the legal vacuum contained in article II of the Temporary Protected Guidelines of 1945. In addition to article II of the Temporary Guidelines Established in 1945, this implementation is also interpreted in Official Guideline Number 2 Article I. On August 17, 1945, guidelines that were not in line with the character of the Indonesian state were generally not enacted.

Post-autonomy, the most memorable attempt by Indonesians to refresh the Criminal Code was completed at the Workshop on Basic Public Regulations in 1963 (Hatta, 2022). Through these discussions, Indonesia began to explore and work itself through activities or efforts to amend the Criminal Code. Since then, the Criminal Code Bill has gone through recodification to date. The 59 government groups that supported the Draft Criminal Code have solidified and harmonized both upward and at the same level all legal guidelines that relate to the criminal point of view. The drafts continued to be made until the last form, especially the 2015 draft. The government and the House of Representatives had been discussing the bill for a long time and it was almost passed during the entire 2019 meeting. This means that the new Criminal Code was made solely for the future of the country. President Joko Widodo (Jokowi) has also officially signed the Criminal Code after the draft was passed by the House of Representatives. Based on a copy of Law No. 1 of 2023 on the Criminal Code, President Jokowi signed this regulation on January 2, 2023, based on the issuance of Law No. 1 of 1946 on February 26, 1946, on Criminal Law Regulations which will be effective 3 (three) years after its enactment.

This colonial legacy Criminal Code is not a complete criminal law system, because it contains several articles/elicits that have been revoked. Therefore, new laws have emerged outside the KUHP that regulate special offenses and special rules. However, these new laws, although they are national products, still fall under the general provisions of the Criminal Code (WvS) as the colonial master

system. The new Penal Code also features changes in the proposed sentencing system (Malau, 2023).

Criminal law can be defined as part of the rule of law of a sovereign state, containing prohibited acts, accompanied by criminal sanctions for violators, when, and in what cases the criminal sanctions are imposed and how the enforcement of criminal enforcement is enforced by the state. The regulation in criminal law is a reflection of the political ideology of a nation where the law develops and it is important that the entire legal structure rests on a healthy and consistent political view. It is time to overhaul the criminal law system and criminal law that is still based on the principles and fundamentals originating from the colonial era and replace it with the Indonesian criminal law system and criminal law, whose principles and fundamentals are based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

4. CONCLUSION

Based on the explanation above, the following conclusions are proposed; First, the political configuration of law in the reform era at this time, appears in several indications such as the functional existence of law is very dominantly influenced by existing political forces. A series of interests from certain groups, especially those who hold power, color every policy that is born; Second, that legal products in the form of laws are often used as justification for a power policy from the authorities so that justification for them must be accepted based on normatively written provisions even though they are contrary to the substance of the value of public justice. This is no longer in accordance with the cultural dynamics of Indonesian society. The article on criminalized customary law is also controversial because it has the potential to cause a loss of justice and cause discrimination against the living law where customary law has been born first compared to laws made by the government.

In upholding the rule of law by the apparatus, it is expected to pay attention to and implement democratic values based on the rules of law as a consequence of the rule of law and not otherwise take action in favor of certain interests. And also democratization values must be made a condition where it is impossible for us to build a responsive law without first building a democratic political system, because responsive laws are not born in an authoritarian political system.

In addition, professional cooperation between state institutions is needed to synergize the implementation of legal political products in the form of democratic-responsive laws for the creation of good governance and client governance as the ideals of reform towards true people's welfare.

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