

Analysis of the debate on the concept of the state and citizens in the BPUPK meeting treatise

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ABSTRACT

In the learning of Pancasila and Civic Education, discussions about BPUPK are often attached to debates about the formulation of Pancasila as the national principle. In fact, the debates in the BPUPK meeting did not only concern the national principle, but also the concept of the state and the citizen. This research aims to analyze how the debate over the concept of the state and citizen is in the treatise of the BPUPK meeting. This research uses a qualitative approach with library research methods and qualitative data analysis techniques. The results of this research show that the debate on the concept of the state is divided into two, namely the debate on the form of the state which is faced with the form of a unitary state, union state, and state union, and the debate on the form of government which is faced with the monarchy and republic. Furthermore, the debate about citizens is also divided into two, namely the debate on citizenship for foreign descendants which debates whether to make foreign descendants Indonesian citizens in the Constitution, and the debate on the rights of citizens which debates whether to include or not, the rights of citizens in the constitution.

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Introduction

In his speech, Soekarno, the first President of the Republic of Indonesia, once said the slogan "Jas Merah," which means do not leave history. This slogan reminds the Indonesian people not to leave the history of their nation's struggle. Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan (BPUPK)/Investigation Agency for Preparatory Efforts for Independence or Dokuritsu Zyunbi Tyoosakai plays a vital role in the history of the struggle of the Indonesian people to achieve independence. BPUPK was formed on April 29th, 1945, coinciding with Hirohito's birthday (Tenno Haika) as Emperor of Japan.

This agency consists of one Kaityoo (Chairman), namely Dr. Radjiman Wedyodiningrat, and Fuku Kaityoo (Vice-Chairman), namely R.P. Soeroso and Ichibangase Yosio, as well as 60 lin (members), including 4 Chinese, 1 Arab, and 1 Dutch. The four of Chinese descents are Lim Koen Hian, Oei Tiang Tjoei, Oei Tjong Hauw and Tan Eng Hoa. The Arab descent is Abdul Rahman Baswedan, and the Dutch one is Pieter Frederich Dahler. In addition, there are also 7 Tokubetu lin (Special Members) from Japan who do not have voting rights. At the second meeting on July 10th, 1945, there were additional

six members without the Japanese government's acceptance to strengthen the agency's activities and add input and suggestions during the meeting.

Establishing the BPUPK is to conduct examinations and investigate efforts to prepare for Indonesian independence (Kaelan, 2016). BPUPK held meetings in two sessions. The first session was born on May 29th– June 1st, 1945, which discussed the main issues of the state. Then on June 2nd - July 9th, 1945, BPUPK underwent a recess and continued with a second session which was held on July 10th – 17th, 1945, to determine the form of the state, the form of government, state territory, citizens, and the draft of the constitution. Even though Japan initiated it, all of its activities were not in favor of Japan but to prepare for Indonesian independence (Rohayuningsih, 2009). To qualify for the independence of Indonesia, the founding fathers organized themselves in this agency first to determine the form of the state. (Khalik, 2016). The meeting in this agency is arduous and full of risks and accountability because it concerns the fate and future of the Indonesian if the ideals of independence have been achieved (Setialaksana, 2017).

In Indonesia, in the learning of the Pancasila and Civic Education at the primary and secondary school, as well as at the higher education level, which is packaged into two subjects, namely Pancasila Education and Civic Education, discussions about BPUPK are often attached to debates about the formulation of Pancasila as the national principle only. The debates in the BPUPK meetings did not only concern the national principle but also related to the form of the state, the form of government, state territory, citizens, and the Draft of the Constitution. Besides that, most of our society still uses the meeting treatise of the BPUPK and PPKI published by the State Secretariat, whose disputed authenticity. In these cases, the State Secretariat has published the meeting treatise of the BPUPK and PPKI three times, namely Second Edition (1992), Third Edition (1995), and Fourth Edition (1998). The second treatise is a copy of the treatise contained in the Preparatory Manuscript of the 1945 Constitution composed by Muh. Yamin was edited and published in 1959. Apart from being inauthentic, there are found typos and vocabulary errors that change the meaning of sentences.

Furthermore, in Second Edition, published in 1995, although the editing was carried out using the materials that had been found, there were still printing errors that had not been corrected, and there were deliberately unmodified manipulations. The changes are only in the preface, full of manipulation and the speech of Ki Bagoes Hadikoesoemo, published by the Ministry of Education and Culture in 1982 (Kusuma, 2004). Ironically, this treatise was copied as it is in Fourth Edition, which was published in 1998. The next problem is that people often called this agency the Investigation Agency for Preparatory Efforts for Indonesian Independence. According to Kusuma (2004), adding the word "Indonesia" at the end of the agency's name is not appropriate. It is because the XVI Army formed this agency, the Rikugun (Japanese Army), and its authority only covers the islands of Java and Madura. Japan gave the agency the name and did not include the word "Indonesia," which is only *Dokuritsu Zyunbi Tyosakai*. Japan changed the term *To Indo* (Nederlands-Indië) to "Indonesia" on April 29th, 1945. The central government in Tokyo recognized Indonesian independence, which covered the entire territory of Indonesia, on July 20th, 1945 (Kusuma, 2004).

Every decision-making in the BPUPK meeting has gone through debates between members due to differences of opinion. The educational background of the figures greatly influences their thoughts, behavior, and understanding of the life of the nation and state (Ilyas, 2020). The debate occurs not only in the discussion of the national principle but also in other discussions, including the concept of the state and citizens. The idea of the state and citizen is fundamental to study. Both are interrelated and cannot be separated. Citizens are one of the essential elements of a state. One of the vital things for a state is the existence of citizens, so legal certainty and guarantees for citizens should be provided by the state (Charity, 2016). The lack of literature on the debate on the concept of the state and citizen in the BPUPK meeting is important and makes it interesting to study. Understanding and

exploring the state's history and citizens is fundamental in Civics Education. It becomes an integral part of its study.

There has been much previous research related to the BPUPK meeting. However, what distinguishes it from this research is the in-depth discussion of the debate on the concept of the state and citizen in the BPUPK meeting. In addition, this study uses the authentic BPUPK meeting treatise from Abdoel Gaffar Pringgogidgo's collection, which were attached in the book compiled by RM. A.B. Kusuma with the title *Lahirnya Undang-Undang Dasar 1945, Memuat Salinan Dokumen Otentik Badan Oentoeik Menyelidiki Oesaha-Oesaha Persiapan Kemerdekaan/ The Birth of the 1945 Constitution, Contains Copies of Authentic Documents The Investigation Agency for Preparatory Efforts for Independence*. This research did not use the BPUPK and PPKI meeting treatise from State Secretariat because the authenticity is doubtful.

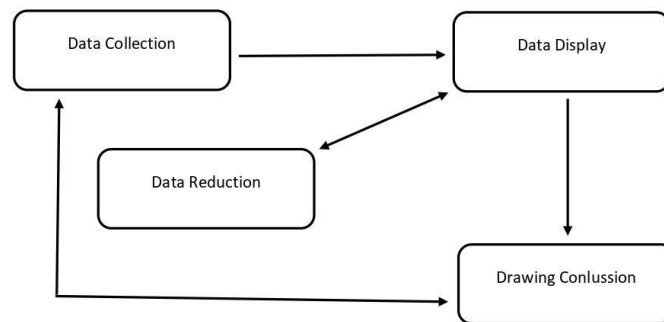
It can be seen from the discrepancy between the contents and the meeting treatise written by the Pringgogidgo brothers, who had become the secretary of the BPUPK meeting at that time. For example, the speech of Muh. Yamin dated May 29th, 1945, which is not authentic and very different from the original manuscript. It is also reinforced by the statement of the Committee of Five (Panitia Lima), consisting of Moh. Hatta, Ahmad Soebardjo, A.A. Maramis, Soenario, and A.G. Pringgogidgo who was directly involved in the BPUPK meeting. It is recorded that Moh. Yamin delivered his speech and ideas on that day, but not the speech as claimed in the Preparatory Manuscript of the 1945 Constitution (Polamolo, 2018). Furthermore, there is also social engineering known as *desucarnoized* (reducing the role of Ir. Soekarno), and then what is also convincing is the statement from AB. Kusuma himself, who previously served as the Editorial Team for the Second Edition of BPUPKI/PPKI meeting treatise, stated that the Preparatory Manuscript for the 1945 Constitution was used as a reference was indeed not authentic (Kusuma, 2004).

Method

This research uses a qualitative approach with library research methods. The data collection techniques used are the table of contents and documentation techniques. The table of contents was used to obtain primary data from the BPUPK meeting treatise. The table of contents includes several columns containing observed items, such as characters, arguments, and descriptions of time and events. Meanwhile, documentation is used to obtain secondary data from relevant documents such as books and articles. Qualitative data analysis techniques were used in analyzing the data, including data collection, data reduction, data display, and drawing conclusions. With this technique, the analysis process can occur back and forth between the four axes.

The data that has been collected is reduced by summarizing, simplifying, selecting the important data, and removing unnecessary data. Furthermore, the data is presented by describing the debate on the concept of the state and citizen that occurred at the BPUPK meeting. Then, conclusions are drawn through observations of the data displayed regarding the debate on the form of state, the structure of government, citizenship for foreign descendants, and the rights of citizens analyzed from the BPUPK meeting treatise. Data analysis techniques can be described in the following figure:

Figure 1
Data analysis techniques



Result and Discussion

The debate on the concept of the state in the BPUPK meeting treatise is divided into two topics: the debate on the state and the form of the government. It can be seen from the subject matter of the debate between unitary state, union state, and state union. Then, they continued by debating the form of a republic or monarchy. However, the mention of the state and the form of government in the BPUPK meeting seemed biased because the members referred to both as the form of the state. There is a difference between the state and the form of government. According to Grabowsky, the form of the state is related to the structure and order of a state in relation to the highest organs in the state, as well as each organ in state (Astawa et al., 2018).

Meanwhile, according to Huda (2015), the form of the state (*staatsvorm*) is the limit of sociological review and juridical review of a state. A sociological review of a state is viewed from the whole without reviewing its contents. Meanwhile, the juridical review is seen from the content and structure of the state. The current form of state can be in the form of a unitary state (unitarism/*eenheidstaat*) and a federal state which is divided into a union state (federation/*bondstaat*) and a state union (confederation/*staatbond*).

A unitary state is a state under the control of a central government (Strong, 2011). The logical consequence is that the power of each government unit must be based on policies made by the central government. In exercising its power, the regional government must comply with all laws and regulations set by the central government. Without compliance with the laws and regulations, the implementation of authority will conflict with each other and overlap, which is the principle of unity of command (Gusman, 2019). Unitary states can be run in a decentralized or centralized system, but globally unitary states tend to be decentralized (Susanto, 2019). A unitary state that uses a centralized system requires centralization of authority in the central government (Nuradhawati, 2019). Centralization can also be accompanied by the existence of central organs that carry out central government authority in the regions, called deconcentration (Huda, 2015).

Meanwhile, a unitary state that uses a decentralized system requires an autonomous regional government. The central government gives the autonomous regional government some power to manage its household independently (Marpaung, 2018). The authority given by the central government to regional governments to manage their own households according to their respective potentials is called regional autonomy (Dewirahmadanirwati, 2018).

Furthermore, the union state is a state whose structure consists of several states, and the sovereignty belongs to the federal government (the combined of the state government). Each state has power over its own life as long as it's not contradicting the policies made by the federal government (Astawa et al., 2018). It causes the states only to have sovereignty over their citizens and do not have external sovereignty to establish foreign relations. It is because the sovereignty of foreign

relations is the federal government's authority. In this case, the federal government can make a policy that is directly binding on all citizens in its states. However, for certain purposes, it is left to the state governments.

In the BPUPK meeting treatise, the discussion on the form of the state was held at the second session, on July 10th, 1945. However, the members' suggestion or proposals for the form of the state had actually been mentioned and proposed in their speeches since the first session, which was held on May 29th - June 1st, 1945. In the meeting, not all members proposed their proposals. The members whose given proposals regarding the form of the state are Muh. Yamin, Johannes Latuharhary and Abdul Rahim Pratalykrama. In general, the members debated the form of the state, which was faced with a unitary state, a union state, and a state union.

In his proposal, Muh. Yamin wants the form of a unitary state with internal and external sovereignty. The purpose of internal sovereignty is state sovereignty in providing protection and supervision to citizens. Meanwhile, external sovereignty is the state sovereignty in regulating its relations with other states. Muh proposed the concept of a unitary state structure. Yamin consists of three parts. *Nagari*, villages, and customary law alliances, which were customized with rationalism and the times, became the bottom line. *Nagari*, according to Muh. Yamin is an administrative area after the sub-district, or in Indonesian, it is called *kelurahan*. This term is well known among the people of West Sumatra, especially Minangkabau. From a historical view, *nagari* is a traditional government led by the *Penghulu* (customary leaders) who are members of the *Nagari Customary Association/ Kerapatan Adat Nagari* (Situmorang, 2016). However, it has the authority to regulate its area, *nagari* in Muh. Yamin's perspective becomes part of the Unitary State of the Republic of Indonesia. Thus, the status of *nagari*, village, and customary alliances is integrated with the state and becomes the lower state structure. Meanwhile, the central government becomes the upper state. The local government becomes the middle state between the lower and upper states. These three parts of the state only uphold one sovereignty that belongs to the central government within the framework of a unitary state. Moh. Yamin showed a desire to maintain the village government system by updating and adapting it to the times and making it part of the national government (Bakarbesy, 2018).

In the Unitary States of Indonesia proposed by Muh. Yamin, the implementation of government is carried out by decentralization or deconcentration. Decentralization is the delegation of authority from the central government to regional governments based on regional autonomy. The existence of diversity between regions requires Indonesia to use a decentralized system in order to give the central authority to manage the regions within it (Sung & Hakim, 2019). Meanwhile, deconcentration is the transfer of part of the responsibility of the central government to other agencies under it. Through deconcentration, the central government has authority over these agencies and exercises that authority through the central government's bureaucratic hierarchy (Schneider, 2003). Decentralization and deconcentration aim to provide opportunities for regions to manage their households according to their own potential.

Although decentralization can be implemented as a union state, Muh. Yamin said that the problem is in an absolute condition that cannot be incarnated: to form states under the Republic of Indonesia. Moh. Yamin viewed that they did not have the power to form several states at that time, so the existing power should be used as much as possible to form a strong country and not waste time and energy. Moh. Yamin also had reasons that made him not choose a union state. First, if Indonesia consists of a central state and part of the state, then the state will be two-faced. It means that the upper state is unitarist, while the lower states are federalism. Or it can be said that the state is unitarism outside and federalism inside. Second, each region has different population conditions

and natural resources. Moh. Yamin said that there are differences between Java Island and the other islands. At that time, there were many educated people on Java Island, while there were still few on other islands. The efforts to form a union state will be difficult to realize if there is a lack of educated people on other islands. In addition, each region in Indonesia also has unequal natural resources, so if the form of a union state is still chosen, this will lead to chaos and economic inequality. Development in areas with few natural resources may be slower than in areas with abundant natural resources.

On the other hand, Johannes Latuharhary proposed the formation of a union state which he thought was more suitable to be applied in Indonesia. This can be seen from his proposal when collecting votes at a small committee meeting during recess. He thought that basically, the Indonesian people are a unity, but because of external influences, it causes *groepsvorming* (formation of groups). For example, Aceh, Minangkabau, Sunda, Java and Madura. In addition, there are also *zelfbesturende rijken* (self-governing kingdoms) and different landscapes, so that the form of a union state is more in line with the demands of the conditions of the Indonesian people and *uitvoebaar* (can be realized). If one-day circumstances need a change, the union state must be transformed into a unitary state. If we analyzed, Latuharhary's proposal is based on a sociological and historical review by observing the existence of community groups in Indonesia and the history of the formation of these community groups. It also can be seen from the perspective of the historical school, which Frederich Karl von Savigny pioneered. This school believes that law is not made by the government but grows and develops with the community (Latipulhayat, 2015). In the historical school, the law comes from the soul of the nation (*volgeist*), so every society has its own peculiarities. Savigny views that every law begins with customs and habits, then from jurisprudence (Aulia, 2020). This may influence Latuharhary to choose a form of the union state. Because he views that every nation as a group of people has its own peculiarities. Thus, all laws that regulate people's lives must come from the soul of the nation in the form of customs and habits. If the circumstances require the formation of a unitary state, the form of a union state can be transformed into a unitary state.

Meanwhile, Abdul Rahim Pratalykrama wanted the form of a state union. The reason is to maintain the existence of small kingdoms in Indonesia by making them union members who have internal sovereignty but do not have the external sovereignty to establish foreign relations. If we analyzed, Abdul Rahim Pratalykrama's proposal is only possible if the small kingdoms have fulfilled the requirements for the establishment of a state. According to Article 1 of the Montevideo Convention of 1933, the requirements for establishing a state are having a population, territory, government, and the ability to build relations with another state (Bakhri, 2018). Once established as a country, these kingdoms can form a state union with a common vision abroad. It should be underlined that if a sovereign state unites itself in a state union, sovereignty remains with each state, not with the federal government. Thus, each state in a union can still establish foreign relations. The form of a federal state that does not allow its states to establish foreign relations is the form of a union state. So, what Abdul Rahim Pratalykrama said about the state's unification, which seems to make the small kingdoms in Indonesia do not have the external sovereignty to establish foreign relations, can be incorrect.

During the recess, which was held on June 2nd, 1945 – July 9th, 1945, proposals for the form of state from members of the BPUPK were compiled by the Small Committee. The proposals consisted of 17 proposers for a unitary state, 4 for a union state, and 1 for a state union. The final agreement on the form of the state was made at the Basic Law Committee Meeting on July 11th, 1945, attended by 19 members plus one special member from the Japanese. To determine the form of the state, Sukarno as chairman, asked the members who approved the form of a unitary state to stand. At that time, from 19 members present, only two people are not standing.

In addition, there is also a debate about the form of government that is faced with the monarchy and a republic. The form of government is a series of political institutions that are used to regulate a state in enforcing its power. According to L. Duguit (see Marpaung, 2018), The form of government can be determined by appointing the head of state and how long the head of state has been in office. If the appointment of the head of state is based on an inheritance system and there is no time limit for serving, this form is called monarchy. On the other hand, if the appointment of the head of state is based on elections and there is a time limit for serving, this form is called a republic. Meanwhile, Jellineck said that the difference in the form of government is seen from the manifestation of the will of the state (Astawa et al., 2018). If the manifestation of the will comes from one person, the form is a monarchy. Then, if the manifestation of the will comes from the people, the form is a republic.

The one who proposed monarchy is Pieter Frederich Dahler, a Dutch descendant who sat as a member of the BPUPK. His proposal was motivated by a meeting with an eastern philosopher, but he did not mention the name. The philosopher said that monarchy was a sign of human and religious progress. When analyzed, the eastern philosopher who was used as a reference by Dahler was a Muslim. Likewise, with Dahler himself, who is also a Muslim. So, religion is mentioned in Islam. However, apart from not citing a clear source, Dahler's proposal is only based on the implementation of monarchy in the past. On the other hand, over time, every state has begun to realize the importance of human rights and democratic values that can be realized through a republican government.

Unlike Dahler, other members such as Soekarno and Muh. Yamin wanted a republic form. Soekarno wanted a republic because he wanted everything regarding the implementation of government to be based on the people's will through deliberation in the People's Representative Council, not only based on the will of the leader. So, this concept has moved away from the monarchy, where everything is based on the will of the king as head of state. In addition, it can also be observed from his statement, which openly rejects the form of the monarchy because the appointment of the head of state is hereditary. Sukarno preferred the republic because he wanted consensus, so the appointment of the head of state had to be chosen. This is the same with Moh. Yamin wants the head of state to be determined by election because the inheritance system does not guarantee the birth of a strong and perfect head of state in carrying out his duties.

Besides the monarchy and republic, several members propose alternative forms such as Hendromartono with the concept of *Ratu Adil* (The Queen of the Justice). Ki Bagoes Hadikoesoemo with his concept of *Daulat Rakyat* (People's Sovereign) and Soekiman Wirdjosandjojo with his *Maharaja*. The proposals for alternative forms of government aim to find an alternative form of government except for monarchy and republic, which are regarded as borrowed words from the West. However, these proposals are only a matter of terms which in practice tend to be in the form of a monarchy or a republic.

The concept of *Ratu Adil* (The Queen of the Justice) proposed by Hendromartono offers a head of state that is based on *among-kinemong* (mutual care for each other), loving love to the people, not based on an inheritance system and periodic election patterns and does not want absolute government. In addition, in holding the control of the government, the head of state is side by side with the consensus council. When analyzed, even though Hendromartono's proposal uses the term *The Queen of The Justice*, this form of government is not a monarchy because the determination of the head of state is not based on heredity rules or the inheritance system according to state law. The concept of *Ratu Adil* is more inclined to a republic because the head of state is based on elections, although it is not periodic patterns. In addition, another reason is that there is a consensus council

which shows that the manifestation of the will of the state is based on the will of the people. The concept of *Ratu Adil* actually comes from the belief in a leader who is able to exercise his power fairly. *Ratu Adil* is a figure who represents the millenary movement who is also considered a savior (messianism), the fulfillment of local prophecy or prophetic and wants to revive the lost spirit (Herliany et al., 2015).

Then, the concept of *Daulat Rakyat* (People's Sovereignty) proposed by Ki Bagoes Hadikoesoemo offers a form of government headed by someone who is agreed by the people and a government based on people's deliberation. The proposed form of government can be said to be a republic form because the head of state is agreed upon by the people and is not hereditary. In addition, this also can be seen from the manifestation of the will that comes from the people. Ki Bagoes Hadikoesoemo proposed the form of this concept to take a middle path between republic and monarchy. Apart from being considered a western loan word, he argues that there are demons and devils behind the terms of republic and monarchy because both will only lead to debates that will only please the enemy. Yamin later refuted this statement. Yamin said that devils and demons do not exist in a republic or monarchy but exist in humans.

Meanwhile, Soekiman proposed the form of monarchy without the principle of a monarchy but holding elections at any time in determining the head of state. The designation of the head of state proposed is Maharadja, whose position is not hereditary, and the term of office is limited to a certain time, for example, until 60 years old. When analyzed, the proposed form of government is basically a republic because the position of head of state is not hereditary and is obtained through elections, not through an inheritance system as in the monarchy.

The consensus of the meeting regarding the form of government was obtained through voting held at the second session of the BPUPK on July 10th, 1945. This vote was won by the Republicans, with the most votes being 55 votes out of 64 members present. The results of the voting regarding the form of government can be seen in the following table:

Table 1
Voting Results

Proposed Form of Government	Number of proposers
Republic	55
Monarchy	6
Etc	2
Blank	1
Total	64

When analyzed as a whole, the reason for choosing a republic is because the system of appointing the head of state is based on elections, the implementation of government is based on the will of the people, and there is a division of power so that the government is not absolute.

The next debate is the debate about citizens. Like the debate on the concept of the state, the debate on citizens is also divided into two discussions, namely the debate on citizenship for foreign descendants and the debate on the rights of citizens. This can be seen from the topic of the debate that at the beginning discussed who is an Indonesian citizen in the constitution, then continued by the discussion about their rights.

Citizenship is understood as the status granted to full members of the community (Marshall, 1970). Someone's citizenship causes the state's obligation to be able to protect that person. Marshall (1970) divides the elements of citizenship into three, namely civil rights, political rights, and social rights. Civil rights include the rights of individuals to obtain various freedoms such as freedom of speech, thought and belief, property ownership rights and making legal contracts, and the right to

obtain justice. Marshall explained that the right to obtain justice is different from others because it is a right that maintains and affirms the right of everyone to obtain equality before the law. Furthermore, political rights consist of the right to participate in the implementation of politics, either by becoming a member of an authorized institution or as an elector of a member of that institution. Meanwhile, social rights can consist of economic rights, the right to obtain a decent life and work, and the right to obtain education and health services.

The debate on citizenship for foreign descendants debates whether or not to make foreign descendants in Indonesia as Indonesian citizens in the constitution. Those who agree are Muh. Yamin, P.F. Dahler, Liem Koen Hian, Abdul Rahman Baswedan and Johannes Latuharhary. The proposal for foreign descendants was represented by P.F. Dahler as Dutch, Liem Koen Hian as Chinese, and Abdul Rahman Baswedan as Arab. All three of them want the descendants in Indonesia to acquire Indonesian nationality, which will automatically make them Indonesian citizens.

Based on the Draft Constitution (RUUD), which was drafted by the Small Committee for Basic Law Drafters, the matter of citizens is regulated in Article 26 Paragraphs 1 and 2. From that article, those who became Indonesian are the people of original Indonesians and other nations ratified by law as citizens. Furthermore, in paragraph 2, it is stated that the conditions and citizenship are further stipulated in the law. Thus, foreign descendants in Indonesia do not automatically become Indonesians and acquire Indonesian citizenship. Before becoming Indonesian citizens, they have to be determined through a law which will then be drafted by the government. The reason for not making foreign descendants as Indonesian citizens in the constitution is because it is feared that there will be loss of citizenship (apatride) or dual citizenship (bipatride) due to differences in the principle of citizenship in the other state where the descendants from. In essence, a person is not allowed to be in a state of apatride or bipatride. This is because this condition impacts their rights and obligations with the country concerned. A person who does not have citizenship cannot claim guarantees for his rights and obligations in any country. On the other hand, someone with dual citizenship must carry out dual rights and obligations.

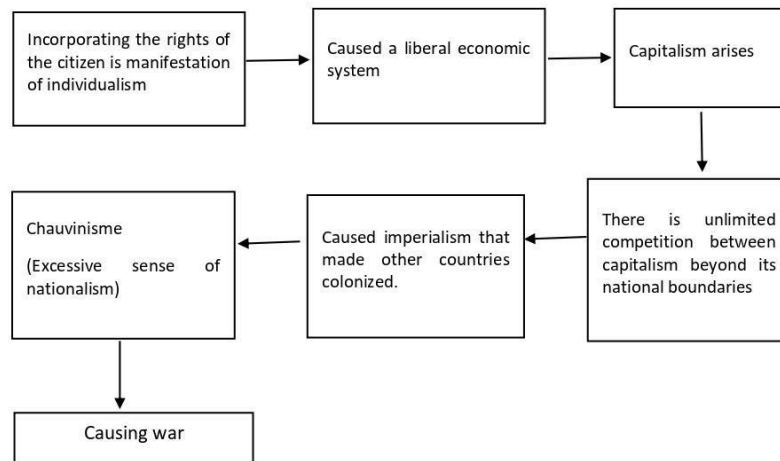
The first Law concerning Citizens and Residents after Indonesian independence is Law Number 3 of 1946 regarding Citizens and Residents of the State. Provisions for foreign descendants who wish to acquire citizenship are contained in Article 5 Paragraph 1 to Paragraph 13. It stated this article provides an opportunity for anyone wishing to obtain Indonesian citizenship through naturalization on the conditions that they must be 21st years old or married, have been living in Indonesia for five consecutive years, and proficient in Indonesian. This naturalization way can be reached by paying a fee of Rp. 500,- to the State Treasury and write a statement on stamped paper which is submitted to the Minister of Justice through the District Court in the applicant's area. If the applicant comes from another state, this citizenship can be accepted if the citizenship law in his country does not become an obstacle.

The next debate is about the rights of citizens who argue between including or not including the rights of citizens in the constitution. Those who did not agree were Soepomo and Soekarno. Soepomo views that the inclusion of the rights of citizens in the constitution is the same as basing the state on individualism. Meanwhile, the state to be built is based on family understanding. Soepomo views that the Declaration of Rights is based on individual understanding, such as in France and America. The existence can separate the individual from the state and society. So that the state and citizens as individuals are considered two different things and both will have different interests.

In line with this statement, Soekarno viewed that including the rights of citizens in the constitution would lead to a conflict because the state and citizens have their respective sovereignty and have the potential to have different interests. Soekarno also viewed that the inclusion of the

rights of citizens in the constitution was the manifestation of individualism. According to him, the ideology of individualism has led to many conflicts in Europe and America. This is because the ideology of individualism is the source of the existence of a liberal economic system. Furthermore, the system requires every individual to have private property rights and the freedom to freely carry out economic activities and reap the maximum profit by referring to the market mechanism without government intervention. As a result, there is capitalism, which gives space for the strong group to extort and oppress the weak group. Capitalism also creates unhealthy monopolies and unrestricted competition across national borders, resulting in cooperation between one state and another which in turn gives birth to imperialism. This imperialism caused other states not to be independent at that time, such as India, Egypt, and Indonesia itself. These conflicts will lead to excessive feelings of nationalism and want to attack (chauvinism), as the British motto is "British Rule, Rule the waves, Britains never shall be slaves," and the German motto is "Deutschland über alles." Finally, the existence of this chauvinism led to a war that became a disaster for humanity. The description of Soekarno's view regarding the adverse effects of the inclusion of citizens' rights based on individualism can be explained in the following figure:

Figure 2
Soekarno's View on Citizens' Rights as the Manifestation of Individualism



Meanwhile, those who agree are Moh. Hatta, Moh. Yamin, Soekiman Wirdjosanjojo and Liem Koen Hian. Actually, Moh. Hatta is against the idea of individualism, but he feels the state needs to guarantee the rights of citizens, especially the right to vote, the right to assemble, the right to convene, the right to correspondence, and the right to think. According to Hatta, *Droits de l'homme et du Citoyen* or the Declaration of Rights as reviewed by Soepomo and Soekarno did not need to be incorporated in the constitution

The existence of guarantees for the rights of citizens aims to prevent the state becomes a state of power. Hatta wanted a governing state that could build a new society based on collectivism. Therefore, the state should not be given the widest possible power so that it does not become a state of power. The regulation of the rights of citizens in the constitution is very necessary. This arrangement will be a reference for state officials to avoid acting arbitrarily in carrying out their duties (Liany et al., 2020). Hatta's thoughts refer to collectivism which emphasizes democratic values, not authoritarianism.

On the other hand, Moh. Yamin emphasized the importance of the content of the rights of citizens in the constitution. In addition to preventing the state from becoming a state of power, as stated by Moh. Hatta, this is also necessary for the state to protect the rights of its citizens. Moh. Yamin also explained that the basic rules regarding the rights of citizens are not related to liberalism

but are a form of protection that must be recognized in the constitution. Basically, almost all constitutions in other states have contained basic rules of human rights and become the core material in their constitutions (Muni, 2020). The constitution is an important instrument that must be owned by every state as a protector of human rights (Tibaka & Rosdian, 2017).

Furthermore, Soekiman proposed that some of the rights of citizens should be incorporated into the constitution to strengthen the relationship between the state and citizens. According to him, the state needs to pay attention to the feelings or mental of the people who have been victims of colonialism for 350 years. During the colonial period, the people felt they had nothing and were ruled by a sense of no self-worth. Therefore, Soekiman proposed to include the rights of citizens but not all rights, only a few, such as the right to assembly and the right to write to encourage people. Because it is natural for citizens to have certain rights as sovereign citizens. On the other hand, Liem Koen Hian views the need for freedom of mind and freedom of the press as a tool to control the badness of society and the government. Freedom of expression is a reflection of the freedom of mind that every individual has and is one of the fundamental human rights (Ariyanti, 2010). Meanwhile, freedom of the press is the freedom to communicate, express, and provide information to the public through mass media, both printed and electronic (Mahdi, 2014). This freedom means that there is no government or public intervention in the press in carrying out its duties to provide information to the public.

It should be underlined that the debate on the rights of citizens occurred mainly between Soepomo, Soekarno, and Moh. Hatta and Moh. Yamin on civil rights, which include the right to express opinions both orally and in writing, the right to assemble, and the right to associate. The difference in views between them lies in the view of the ideology of individualism which is often manifested by the guarantee of the right to express opinions the right to assemble and associate. Their differences in views regarding the substance of human rights and the existence of the state are constructed between individualism which is considered a Western character, and collectivism which is considered an Eastern character (Nurhardianto, 2014). Soepomo thought that by incorporating these rights, it is feared that there will be differences in interests between the state and citizens as individuals. Likewise, Soekarno was worried about the existence of different interests because the state and citizens were considered to have their respective sovereignty, so they saw it as the cause of a conflict. However, the consensus of this debate ended with a compromise with the inclusion of guarantees for these rights in Article 28, but the provisions are further regulated in the Law.

When analyzed, Soepomo and Soekarno, who at first refused to incorporate the rights of citizens, could be part of their efforts to prioritize unity by prioritizing common interests. Because, at that time, the State of Indonesia was just about to be established, and to maintain it, a spirit of unity was needed. However, the state needs to guarantee the civil rights of its citizens, which include the right to speak (expressing opinions) both orally and in writing, the right to assembly and association. Because, as a state that adheres to a democratic system, it is necessary to guarantee these rights as a manifestation of democratic values.

Conclusion

Based on the research conducted, it can be concluded that there is a debate on the concept of the state and citizen in the BPUPK meeting treatise. The debate on the concept of the state is divided into the debate over the form of the state, which results in the form of a unitary state, and the debate over the form of government which results in the form of a republic. In fact, there are also members who propose alternative forms of government such as the concept of *Ratu Adil* (The Queen of Justice), *Daulat Rakyat* (People's Sovereignty), and the *Maharaja*. However, the alternative form is essentially just a matter of terms that, in practice, tend to be monarchy or republican. Meanwhile,

the citizen debate is divided into the citizenship debate for foreign descendants, which ends by not making them Indonesian citizens in the constitution but giving them the opportunity to go through the naturalization process in accordance with the Law on Citizenship Number 3 of 1946. Next, the debate over the rights of citizens ended with a compromise, that is, the inclusion of guarantees for the rights of citizens in the constitution.

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