



The Ideal Vision of the Constitution According to Socrates: An Analysis of Critical Philosophy in the Realm of Political Law

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Abstract

This study examines the vision of the ideal constitution according to Socrates, viewed from the perspective of legal and political philosophy, as well as its relevance to the modern context. The method used is normative legal research, through a statute approach and a conceptual approach. The results of the study show that Socrates, who is often labeled as a negative thinker because of his elenchus method, actually provides a critical framework that emphasizes justice and morality in the formation of the constitution. This review is relevant amid the challenges of corruption, oligarchy, and potential human rights violations. In practical terms, it includes the urgency of freedom of expression, leadership integrity, and the rule of law that promotes the common good (*algemeen stripe*). This article recommends strengthening the mechanism for testing constitutionality and the implementation of deliberative dialogue in order to achieve an ideal constitution which is in line with the principles of justice and people's welfare.

Keywords: *Socrates; Ideal Constitution; Elenchus; Rechtsstaat; Freedom of Expression, Justice*

1. Introduction

1.1. Background

The debate over how to form an ideal constitution has actually been going on since the ancient Greek era to modern times.¹ In the Western legal tradition, the concept of the constitution is not only seen as *legibus solutus* (the supreme law that stands alone), but also as a means of ensuring social justice,

¹ Jürgen Habermas, *Between Facts and Norms* (Cambridge, MA: MIT Press, 2019), 53.

regulating the distribution of power, and protecting individual rights.² In this regard, the ancient Greek thinkers, especially Socrates, Plato, and Aristotle, provided a philosophical basis regarding moral superiority in the state system.³

Socrates (469–399 BC) is often identified with his distinctive style of questioning, namely *elenchus*, who methodologically leads the interlocutor to test the consistency and correctness of his arguments.⁴ Some view this method as "negative" because it tends to undermine the original definition. However, the essence of *elenchus* actually purifies the definition in order to find *a more solid de waarheid* (truth).⁵ In *Apology*, Socrates asserted that *the unexamined life* is meaningless, underscoring the importance of moral reflection before accepting a premise—including in terms of legislation.⁶

In the modern context, the practice of legislation is colored by the challenges of corruption, oligarchy, and structural constraints that threaten human rights.⁷ Freedom of expression, although protected by the constitution, is often hit by rubber articles in several laws that have multiple interpretations. Therefore, a re-examination of Socrates' thought becomes important to understand that every legal norm must be critically tested with due regard to morality and the public interest.

1.2. Problem Formulation

1. How was Socrates understood as a *negative thinker*, and what are its implications for the conception of law and justice?
2. How can *the elenchus method* influence the formulation of an ideal constitution within the framework of a philosophy of law-politics?
3. What is the relevance of Socrates' thoughts on morality, the rule of law, and freedom of expression in the context of Indonesia today?

1.3. Research Objectives

1. Revealing the character of Socrates who is often considered "negative," but actually contains constructive moral values.
2. Analyze the *elenchus* method as a critical framework in the formation of laws and constitutional order.
3. Evaluate the relevance of Socrates' thought to the reality of Indonesian law-politics, especially regarding freedom of expression, leadership integrity, and *the rule of law*.

2. Literature Review

2.1. Legacy of Ancient Greek Philosophy: From *Polis* to *Rechtsstaat*

Ancient Greek thinkers emphasized that *the polis* should be built on the values of justice (*dikaiosyne*) and virtue (*aretê*).⁸ Aristotle, for example, explained the concept of distributive and corrective justice, which is a guide for the fair distribution of resources and the handling of disputes.

² John Rawls, *A Theory of Justice (Revised Edition)* (Cambridge, MA: Harvard University Press, 2020), 14.

³ Jimly Asshiddiqie, *Indonesian Constitution and Constitutionalism Revised Edition* (Jakarta: Sinar Grafika, 2020), 34.

⁴ George Klosko, *The Development of Plato's Political Theory, 3rd ed.* (Oxford: Oxford University Press, 2021), 26.

⁵ *Ibid.*, 28.

⁶ Plato, *Apology (Apologia) Indonesian Edition*, translated by Lentera Publishing Team (Yogyakarta: Lentera, 2021)

⁷ Moh. Mahfud MD, *Politics of Law in Indonesia (Revised Edition)* (Jakarta: Rajawali Pers, 2021), 45; Ramlan Surbakti, *The New Paradigm of Governance in Indonesia (Surabaya: Airlangga University Press, 2022)*, 77.

⁸ Aristotle, *Politics (Politika): Indonesian Edition*, translated by Tim Nusantara (Yogyakarta: Nusantara Publisher, 2018), 12.

Plato, in *Republic*, initiated an ideal political system led by a "king-philosopher" who possessed profound knowledge and moral virtue.⁹

These ideas influenced the development of *the rechtsstaat*, which is a state of law that upholds justice and limits power. Indonesia, post-Reformasi, asserts itself as a state of law in the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3).¹⁰ However, *the rechtsstaat* does not simply demand formal legality; it requires morality and substantive justice in every political decision-making.

2.2. Method *Elenchus* dan *Deliberative Democracy*

The *elenchus method* demands that every definition—including legal norms—be tested through a series of critical questions, so that contradictions and logical weaknesses can be exposed.¹¹ This effort is similar to the conception of *deliberative democracy* initiated by Habermas, where legal legitimacy is built from a rational-communicative discourse involving all stakeholders.¹² If open and critical discussions are ignored, the law is vulnerable to being infiltrated by oligarchic interests, weakening *the rule of law*, and causing injustice.

2.3. Socratic Critique against Corruption and Oligarchy

Socrates, in *his Apology*, explicitly criticized the "false wisdom" of the *sophists* who often distorted logic for personal or group interests.¹³ The phenomenon of corruption and oligarchy in Indonesia shows how legal norms can be used as a shield to satisfy the interests of a few elites.¹⁴ The *Socratic dialogue* method offers a way to counter this by encouraging the public to test the moral legitimacy and rationality of each policy, and ensure that the legislation process is not just a formality.

3. Research Methods

This study uses **normative law research methods**, which focus on the analysis of legal concepts in a normative and philosophical framework.¹⁵ Some of the steps of approach taken include:

1. **Statute Approach:** Examine the 1945 Constitution of the Republic of Indonesia (1945 NRI Constitution) along with several key laws, such as Law Number 11 of 2020 concerning Job Creation and Law Number 19 of 2016 concerning Information and Electronic Transactions, to assess the level of justice.
2. **Conceptual Approach:** Studying the literature of legal philosophy, especially Socrates' dialogues (Plato 2021, Plato 2022) as well as interpretations by contemporary thinkers such as Habermas, Rawls, and Dworkin.
3. **Analytical Approach:** Examining moral principles and legal rationality in a Socratic framework, and then comparing them with modern legislation practices in Indonesia.¹⁶

⁹ Plato, *Republic (Politeia) Indonesian Edition*, translated by the Narasi Publishing Team (Yogyakarta: Narasi, 2022), 30, 45.

¹⁰ Asshiddiqie, *The Constitution and Constitutionalism of Indonesia*, 35.

¹¹ Plato, *Apology*, 5.

¹² Jürgen Habermas, *Between Facts and Norms*, 56.

¹³ Plato, *Apology*, 12.

¹⁴ Budi Nugroho, "Rule of Law and Constitutional Democracy in Post-Reform Indonesia" *Jurnal Konstitusi* 19(2) (2022):101–120.

¹⁵ Teguh Wicaksono, "The Constitutional Amendment and The Principles of Democracy in Indonesia," *Jurnal Hukum & Pembangunan* 51(3) (2021): 342.

¹⁶ Ronald Dworkin, *Law's Empire*, 2nd ed. (Cambridge, MA: Harvard University Press, 2020), 28.

Primary data is obtained from laws and regulations, while secondary data comes from books, scientific journals, and philosophy studies. The analysis technique is qualitative, linking normative findings to ancient Greek philosophical theories of law and modern thinking about *the rule of law*.

4. Results and Discussion

4.1. Socrates as a *Negative Thinker*: Concept and Implications

4.1.1. The Nature of *Negative Thinking* in the Socratic Method

Socrates is often labeled a *negative thinker* because he seems to prefer to "dismantle" rather than "construct" arguments.¹⁷ However, the purpose of *elenchus* is to clear up the wrong definition so that the correct definition can emerge. In the legal framework, this approach emphasizes the importance of testing a norm before it is promulgated. If laws are made solely on the basis of political agreement without moral verification, then the potential for injustice increases.¹⁸

4.1.2. Epistemic Humility in Legislation

One of the main traits of Socrates was "I know that I know nothing."¹⁹ This attitude emphasizes *epistemic humility*. In the context of legislation, this means that lawmakers should not be dogmatic. They need to be open to public criticism and analysis, ensuring that the bill is not born from mere *blangstelling* (one-sided interests). Without humility, the legislative process will be trapped in formalities and vulnerable to being infiltrated by hidden agendas.

4.2. The *Elenchus* Method as an Ideal Constitution Formation Mechanism

4.2.1. *Elenchus*' Basic Principles and Their Relation to Deliberative Democracy

Elenchus' steps consist of: (1) hearing definitions/arguments, (2) asking for detailed elaboration, (3) exposing contradictions, (4) pushing for revisions or impasse (*aporia*).²⁰ *Deliberative democracy* in Habermas' view demands public participation in the legislation process, testing every definition and article of the bill at an empirical and moral level. If *elenchus* is adopted, then the bill will only be passed if it passes the test of rationality and morality.

4.2.2. Implementation Challenges in Indonesia

In Indonesia, the application of *Socratic dialogue* in the formation of laws faces several obstacles:

1. **Political Party Dominance:** A parliamentary majority can impose a bill without in-depth discourse.
2. **Limited Public Participation:** Low legal literacy, limited access to information.
3. **Culture of Patronage:** The tendency to submit to the elite, inhibiting open criticism.
4. **Minimal Discussion Time:** Bills are often rushed for political targets, ignoring *elenchus* which takes longer.²¹

¹⁷ Klosko, *Development of Plato's Political Theory*, 29.

¹⁸ Moh. Mahfud MD, *Politics and Law in Indonesia*, 48

¹⁹ Plato, *Apology*, 10.

²⁰ Plato, *Republic*, 50.

²¹ Surbakti, *The New Paradigm of Governance in Indonesia*, 81.

Nevertheless, *the judicial review* mechanism at the Constitutional Court can function as a "second path" to critically test the law.²² The public can apply for a material test if they feel that the law is contrary to constitutional justice or morality.

4.3. Relevance of the Socratic Method in the Modern Context

4.3.1. Freedom of Expression as a Voorwaarde (Prerequisite) Discourse

Freedom of expression is the main prerequisite for Socrates-style critical discussion. In Indonesia, this is regulated by Article 28E of the 1945 Constitution of the Republic of Indonesia, but it is often limited by regulations such as the ITE Law which has multiple interpretations.²³ If public criticism is perceived as an insult, then *the process of elenchus* demanding sharp questions will inevitably be hampered. In fact, without the free space to ask, legal norms tend to only represent the interests of the majority or political elite.

4.3.2. Leader Integrity and *Common Good*

Socrates considered that leaders must be based on *sophia* (wisdom) and *aretê* (virtue).²⁴ In Indonesia, the selection process for public officials often prioritizes popularity and political affiliation. Public debates are sometimes dragged into superficial rhetoric without exploring morality. If the Socratic method is applied, then the prospective official will be tested with critical questions, so that the integrity aspect will be more prominent. This is in line with the conception of *the common good*: that public office is a means of serving the people, not just *machtspolitiek* (power politics).

4.3.3. Substantive Justice-Based Rule of Law

Socrates once received a death sentence even though he believed the Athenian court was wrong.²⁵ He respects the legal institution, but still questions the substance of justice. This is relevant to the *rule of law* in Indonesia, whose integrity is still often questioned. The checks *and balances* mechanism through judicial review, legislative review, and public participation should be able to correct laws that violate substantive justice.

4.3.4. The Digital Age: Socratic Dialogue and the Challenge of Disinformation

Digital technology presents online discussion platforms, such as social media and webinars. On the one hand, the opportunity for public participation is increasing; On the other hand, the challenge of *the Echo Chamber* and *fake news* can damage the quality of the discussion.²⁶ The *Socratic dialogue method* requires that each argument be validated and tested for morality. High digital literacy is a requirement so that the public is not trapped by manipulative rhetoric and can filter information critically.

²² Jimly Asshiddiqie, *Indonesian Constitution and Constitutionalism*, 37.

²³ Law Number 19 of 2016 concerning Information and Electronic Transactions; Nugroho, "Rule of Law and Constitutional Democracy," 111.

²⁴ Plato, *Republic*, 51

²⁵ Plato, *Apology*, 25.

²⁶ Muhamad Siregar, "Revisiting Socratic Method in Contemporary Indonesian Education," *Journal of Philosophy Education* 5(1) (2023): 19.

4.4. Socratic Dialogue in Facing Corruption and Oligarchy

4.4.1. Integrity of Public Officials

Corruption often thrives in a political system that lacks critical discussion. The Socratic method requires leaders to answer a fundamental question: Does this policy serve the interests of the people, or simply enrich a few elites?²⁷ If they fail to explain the moral rationality of the policy, then the public has the right to reject it. *Socratic hearings* in parliament can suppress corrupt practices and *political pat-gu-rigging* behind the scenes.

4.4.2. Realizing the Common Good through Normative Tests

The concept of *common good* was raised by Socrates and Plato as the moral basis for law. In the Indonesian system, the bill should be tested through various forums such as public hearings, public consultations, and *academic hearings*, ensuring that the articles do not deviate from *gerechtigheid* (justice).²⁸ The Socratic method ensures that every part of the bill is morally accountable, preventing the drafting of norms that only benefit the oligarchy.

4.4.3. Perspective of Rechtsvorming and Structural Corruption

Rechtsvorming (law-making) involving Socratic culture rejects compromise on morality. If an article has the potential to perpetuate structural corruption, it must be dismantled. The role of civil society, the media, and academics is very important in launching a public *elenchus*. Without this oversight, oligarchs will continue to exploit legal loopholes to maintain their economic and political power.

Conclusion

Socrates, with his *method of elenchus*, showed that what appears to be "negative" (dismantling the opposing argument) is actually an attempt *to purify* ideas in order to achieve higher truth and justice. In the context of an ideal constitution, the Socratic approach emphasizes the need to reject any norm that has not been tested rationally and morally.

In Indonesia, Socrates' thinking is relevant when we see the challenges of corruption, oligarchy, and the rampant restrictions on freedom of expression. The Socratic Method provides a critical framework for testing the moral legitimacy of every law and policy. Despite the patronage culture, The lack of legal literacy, and the dominance of the political elite are still obstacles, the mechanism *of judicial review* and public participation through *public hearing* can be developed into an institutional *Socratic dialogue*.

Through freedom of expression, leadership integrity, and the rule of law that prioritizes *gerechtigheid*, a vision of an ideal constitution that *is socratis* can be approached. The Constitution is not just a text, but a reflection of a common moral agreement that upholds virtue (*aretê*) and substantive justice. Thus, the law really becomes a tool to guide the community towards collective welfare (*bonum commune*) and not just a formal stamp of power.

²⁷ Surbakti, *New Paradigm*, 85.

²⁸ Plato, *Republic*, 60.

6. Implications and Recommendations

1. Theoretical Implications

1. Affirming *Socrates' negative thinking* as a critical normative validation process, relevant to the concept of *deliberative democracy*.
2. Strengthen the moral foundation of law formation so that *nomos* is not only a formal legality, but has moral legitimacy.

2. Practical Implications

1. Socratic hearings *are needed* in the legislative process, involving in-depth questions and rational discussions.
2. It is also necessary to evaluate laws that have the potential to curb freedom of expression, so that *the rule of law* runs in balance with human rights.
3. Building *a fit and proper test* based on morality and rationality for strategic public offices, ensuring that leaders are truly *fair and wise*.

3. Advanced Recommendations

1. Empirical and comparative studies on the effectiveness of the implementation of *elenchus* in the parliaments of other countries are needed as an example for Indonesia.
2. Strengthening people's legal literacy through critical education, so that the public is able to ask questions (*elenchus*) and challenge morally flawed policies.
3. Bridging the digital era with the Socratic method, developing *digital ethics* so that online forums are not just an arena for polarization, but a forum for deliberative dialogue.

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