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The essence of the 1999-2002 constitutional reform in Indonesia: remaking the Negara Hukum. A socio-legal study

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Propositions relating to the dissertation

THE ESSENCE OF THE 1999-2002 CONSTITUTIONAL
REFORM IN INDONESIA

Remaking the Negara Hukum

A Socio-Legal Study

by Jakob Samuel Halomoan Lumbantobing (Jakob Tobing)

1. The amendment of the 1945 Constitution of Indonesia had transformed the original 1945 Constitution by incorporating the key attributes of both democracy and the rule of law.
2. The authoritarian elements of Indonesia's original 1945 Constitution reflected the past political ideology of Japan which opted for fascism, while it was occupying Indonesia in WW II.
3. The amendment to Indonesia's sacred 1945 Constitution had been solely undertaken by the democratically elected People's Consultative Assembly in response to demands that were deeply rooted in the nation's history.
4. An essential precondition and starting point of Indonesia's remarkable amendment process was the consensus among the major political powers and the armed forces to reform the 1945 Constitution in a constitutional way and on three conditions, i.e. to maintain the Preamble, the unitary form of the Republic of Indonesia and the presidential system.
5. A successful process of constitutional reform requires intensive exchanges of ideas regarding the concepts of popular sovereignty, division and separation of powers, checks and balances, independent judiciary, human rights, and regular and transparent circulation of power.
6. An amendment process in which hundreds of decisions and conclusions are taken by deliberation-consensus, during a long period and in an open way, requires good personal relationships and mutual respect among those involved in the process.

7. The role of Muslim intellectuals in Indonesia, the country with the largest Muslim population in the world, has been crucial in producing a constitution that embraces all citizens without distinction.
8. Between 1999 and 2002, Indonesia turned peacefully into the third largest democracy in the world through a democratic, open, and participatory process.
9. Towards the end of the active period of the 1945 independence fighters, in the early 1980s, President Suharto planned to abolish the dual function of the armed forces (ABRI) to end military involvement in politics, and prepare for direct, free, and secret general elections.
10. The challenge of Indonesia today is to implement the present 1945 Constitution properly amidst the rampant violation of law and attempts to implement authoritarian and/or other ideologies. This requires a well-planned and sustainable program for understanding this Constitution.
11. Being a researcher who was involved directly in the constitutional amendment process has its own advantages and challenges.