

Pancasila as the Highest Legal Source and Inspiration for Other Countries in the World

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Abstract- Based on Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Establishment of Regulations which is actually the 1945 Constitution of the Republic of Indonesia (1945 Constitution) is the highest order in the statutory order, temporarily it has been stated in Article 2, that is that Pancasila is the source of all sources of State law in terms of source or basis cannot be interpreted only as legal parameters when it is not placed in the highest hierarchy even though in the 1945 Constitution of the Republic of Indonesia is stated in the preamble but it does not have "legal co-optation" against the law referred to as the constitution, therefore Pancasila as the source of all sources of the law does not have a function as the foundation.

Keywords- Pancasila, Constitution, Indonesia

I. INTRODUCTION

By the success of Indonesia that until now still survive and even continuing to grow since independence, August 17, 1945 in the midst of globalization so great line that needs internationalization continues to erode the countries that are not up to date or even as the class of the Soviet Union crushed or broken into independent countries, while Indonesia itself is still not at the level of "Self-Confidence" in its own ideology namely Pancasila, the Pancasila statement is final" a manifestation of distrust of self is a very prominent indicator, in fact Pancasila should not only be remembered as a powerful Pancasila without being implemented fairness of life and nationality, structurally, massive and systematic.

The analysis of self-mistrust is reflected in the application and planning of legal compilers in the form of infrastructure that is the source of all legal sources, proven to be seen by many regulations and laws that are not in accordance with Pancasila, even becoming "Tools" that are used to hit political opponents with reasons because they are not in accordance with the ideology of the Pancasila.

Again this analysis has a background of facts and history accumulated with the building of theories with a comparison of the ideologies that developed in the international world, from a simple meaning that can be absorbed by the statement of Ir. Soekarno over 5 (five) principles were read before a superpower country, where Bung Karno with the interests of the world today and in the future.

II. RESEARCH METHOD

Presentation of data and research approaches of this title some kind of wearable whom (State) just for this time to come, and certainly not unconnected with the realities in the country in particular and the whole world, the post presentation qualitative can be seen from the side of 5 (five) principles that become ideology with the position of the hierarchy as a binding structural structure but the application of democracy to the implementation of the state with "binding" and quantitative in the analysis of countries that hold on as an immunity to the effects of democracy has been endemic, even the level of immunity cannot be separated from various types of legislation as a form of sovereign or not sovereign people.

III. FINDINGS AND DISCUSSION

Reflecting on the world in this case dozens of western and eastern worlds, we will review history both from the development of civilization as well as the development of the birth of religion to intellectuals IbnChaldun, Algebra, Plato, Aristotle, Aesehayturalso by Newton, Kepler, valtara, Gandhi etc. which in the analysis because of something supernatural scientists think whether life is only a dream? and thus we can imagine ourselves entering the minds of the ancients, who arrived at the analysis of life like the earth rotating but not limited to just like our spinning wheels sometimes above and sometimes below but also the rotation of the globe since its formation thinking first (ancient times) will be back in the present but clearly has a paradigm with the same rationale, first human comfort is enough to adapt to natural conditions with cool air, at this time to find it then in our room we need an air conditioner (AC).

Exclusively for the purposes of analysis in this journal the super natural natures in question cannot be separated with the actual legal history, the nature has set this from the eastern hemisphere known as the shift from an era of ignorance into Rahmatan Lil Alamin with the parameters (oriented) in Al-Qur'an and the Hadist also in the western hemisphere, namely the shift of thought from the Greek era to the era of Modernism then in fact scientists always poured thought into the findings of studies so that it can be used as a rule and norms not separated from the development of previous thoughts as well as Hans Kelsen

(1881-1973) tried to translate the Kantian thinking about legal positivism, norms will be binding on the community if desired norm desired and must set forth a written form and issued by competent authorities and load commands even form sensibilities thoughts which continues to grow until the development is inseparable from the things that highlight but over different civilizations that gave birth to new thoughts that can also be called transplantation.

1. Democracy

The development of a shift between understanding and adjudication from time to time as a whole will be bound in law only in practice is indeed a school, even more to ideology does have differences but generally agreed to shift to this millennial era democracy becomes the hope of every nation / people. a government that uses the Democracy Principle will make the government carried out of the people, by the people and for the people principle that underlie democracy and make the well-known hallmark of the government system counter of this social-communist.

The Soviet Union shaped republic in charge of 15 countries that was established on October 15, 1917, three years after being established Vladimir Lenin expand Communism exit eastern Europe (Komintern, the International Communist) and fell down on December 25, 1991, with the cause of the collapse: [1]

1. Cultural diversity
2. Totalitarian
3. Poor
4. Age Progress
5. New generation
6. Dissolution of the Warsaw Pact

From the six-point the cause will collapse there are five (5) points equal to condition as well as threat in Indonesia and particularly a similarity of shape countries, namely the Republic, it must be recognized by the Indonesian people having also 74 years of independence coincidentally also the Soviet Union at the age since its establishment 74 (Seventy four) years but it is different in reality the Republic of Indonesia remains Glorious.[2]

That the handling of the Soviet Union Government in dealing with the diversity of cultural poverty, the times and new generation with totalitarian background of the Mahabahcommunist was evident at that time in 1991 the development of democracy had greatly eroded the state because the country's defense level was weak and finally destroyed, Indonesia behind the different because they both face the colonialist Dutch colonialism, the nation has recorded its struggle with unity "even the inspiration of unity took place on 28 October 1928 known as the Youth Oath" which declared the unity of various islands, tribes as the Indonesian nation.

So from the comparative analysis with the Soviet Union with its history Indonesia should not lose confidence in a state system based on Pancasila there is

deep conviction in this journal writing about the issue of the statement "Pancasila is final" because it only avoids differences or even a new definition of Pancasila democracy which in fact makes different interpretations when the equality of democracy in Indonesia leads to democracy that adheres to liberalism

Beliefs in the Pancasila must be rationalized properly to be able to apply to every part of life in the nation and the level of rationalization must be believed to come up with legislation that has a proportional position or hierarchy of beliefs that the Pancasila process will become a strong immunity It can be seen that in Lampung Province, seeing the comparison in the capital city of DKI Jakarta is a reason because it is very close to the government and even the transformation of the world to the position of DKI Jakarta, the development of Science and Technology

Pancasila conclusively been plagued swift and strong, especially in the province of Lampung because almost entirely the tribe, race and religion to society that is pluralistic united to build the area in Lampung are views of temples, mosques, churches, temples as building a place of worship for followers of the Islamic religion, Hinduism, Buddhism, Christianity, Catholicism is a dynamic building that signifies harmonization of differences, even though the tribes are also very much like the tribe of Java, Bali, Padang, Palembang, Samedo, Batak, Manado and others including the tribe of Lampung itself far between ethnic differences the languages and dialects of each tribe are controlled by other tribes

So the hesitation to place Pancasila as the "Source of all sources of law" in the form of the highest Hierarchy in the highest order of legislation is a process of rationalization that is truly without exception so that the Pancasila is not only a jargon, but has been proven in Indonesia to be Immunity or protection of the flow of globalization and understanding that has plagued the whole world called democracy, Precisely democracy in the hands of Indonesia is more modern and developing even the world has seen Indonesia as a country that is successful in democracy, but in its own country there are many discussions of people who are chaotic and even contain disunity, this feeling of society is called the general feeling of the Indonesian people who also towards the Pancasila.

2. Pancasila Source of All Sources of Law

As contained in article 2 of Law No. 12 of 2011 concerning the establishment of legislation namely "Pancasila as the Source of All Sources of Law" in the regulation does not explain what the role of Pancasila is in the formulation of legislation and only stops in Article 2, even though the establishment of legislation must have continuity that then it turns out that the Pancasila as the source of all sources of law has no meaning whatsoever when it turns out that the source of all legal sources does not have the power and power in legislation.[3]

On the other hand the Pancasila is a Grundnorm for the life of the nation, the people and the state of Indonesia. In fact, the nature referred to by Hans Kelsen about Grundnorm is only the basic norm of a legal order which describes the perspective of basic norms with a basic understanding of the source of all sources, but also not permissive with the names of the definition of Pancasila with no further explanation such as the Pancasila way of life, Pancasila as ideology, Pancasila as the basic of the state, precisely the weakness of article 2 which has no explanation of continuity there is great power and magnetism for rationalization so that there is a relationship and the Pancasila has the power of co-optation to the applicable legislation or there will be no legislation that is not in accordance with the Pancasila.[4]

Hans Kelsen as the figure of legal positivism explains law is a system of norms, a system based on powers (what should or *Das Solen*) must be written in written form, in his thinking this is reinforced again by legal positivism considers moral talk, values have finish and final where when it comes to the formation of positive law, it is a necessity of Pancasila placed in the highest hierarchy of legal structures in Indonesia

In rationalizing Pancasila as a source of all sources of law, the way of looking at it must focus on a legal perspective even though the influence of views on the Pancasila has developed because its magic has been proven but the application and application of Pancasila as the basic of the state, ideology way of life and others is not a process of fragmentation or process crystallization, on the contrary leads to a very synergistic integrated perspective, but Indonesia as a legal state (*Rechtstaat*) must be able to adjust the way Grundnorm (basic norms) become positive law

3. The Necessity of Pancasila as the Highest Hierarchy in the Order of the Legislation

Pancasila as an arrangement of pyramid hierarchies from each of the precepts which then becomes a unified and unified whole so that the implementation of the whole Pancasila is not a multi-interpretation that brings a composition of legislation that binds one another with Pancasila as the source of all legal sources, this presented by Prince Notonegoro, about their need to be decided by the state, it is a prerequisite to formal but in reality to be placed as a hierarchy supreme process rationalization not only on "dream," but also would apply the law to any law by and in the form of Indonesia became a law state guided by Pancasila.[5]

Pancasila as the Hierarchy highs can also be interpreted as *Recht* finding would be the parameters and corrections that are revolutionary in politics law that aims at justice, certainty and effectiveness of law [6], then saw it not locally on legislation that is formed with three objectives are even the political perspective of democracy

in Indonesia is very elegant, making democracy that produces happiness and not disunity.

IV. CONCLUSION

Finally, in this Journal, it can be ensured that in the perspective of Pancasila law not only as a jargon, not even as a tool of power, Indonesia is the opposite because Pancasila is truly a people's right which is believed to be able to last a long time to guard the NKRI. in order to have a state manifestation of popular sovereignty, then the constitution and legislation will be legislated by the House of Representatives (DPR), placing Pancasila as the highest hierarchy in the legislation must be based on the vision of Indonesia's rule of law and not mixed with Pancasila as a definition others, although they can be referred to as life views, ideologies and the basic of the state and will instead become the rationale for rationalizing the Pancasila applicable in the Law.

REFERENCES

- [1] A. K. Jaelani, Haeratus and Soelean Djaiz B, "Pengaturan Kepariwisata Halal di Nusa Tenggara Barat Pasca Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015", *Jurnal Hukum Jatiswara*, Vol.33, No. 3 November 2018.
- [2] Sejarah Runtuhnya Uni Soviet-Penyebab, Proses dan Akibat Keruntuhan, Online, Internet, <https://sejarahlengkap.com/dunia/sejarah-runtuhnya-uni-soviet>.
- [3] K. Yuda, Pancasila & Undang-undang; Relasi dan Transformasi keduanya dalam Sistem Ketatanegaraan, Kencana, Jakarta, 2006.
- [4] M. Mahfud MD. *Politik Hukum di Indonesia*, Jakarta: PT. Raja Grafindo Persada, 2009.
- [5] A. Adji & Wiwie Heryani, *Menjelajah Kajian Empiris Terhadap Hukum*, Jakarta: Kencana Pranada Media Group, 2016.
- [6] Y Saefudin, A Raharjo, B Budiono, *Urgency of Integrated Assessment on Drugs Crime (a Study in Purbalingga Regency)*. *Jurnal Dinamika Hukum* 17 (1), 2017. Pp. 40-52