

Globalization Impacts on Pancasila Economic System in Indonesia Implies on a Major Legal Reinforcement

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ABSTRACT

Globalization, is an unmitigated thing. The relentless domination of western culture hits and penetrates the boundaries of local civilization to the most remote areas in the world. Our task here is not to fight it, but to explore the impact of globalization on the development of economic law and the Pancasila Economic System in Indonesia. The Pancasila Economic System, in fact, has emphasized and reflected the character of the Indonesian nation; a market economy that refers to the Pancasila ideology, an economic life driven by all levels of society. Humans are seen as social beings (*homo socius*), moral beings (*homo ethicus*), as well as creatures with needs (*homo economicus*). The Indonesian economy, which refers to Pancasila ideology, is an economy system with noble moral and ethical values that can fortify humans from greed. It implies that the law in Indonesia should be able to fortify the flow of globalization that may harms the Pancasila economic system as Indonesian nation identity, as it has been regulated and confirmed in the 1945 Constitution as a ground norm. This writing is a normative research using a qualitative approach. From this research, it is answered that the state and society must have the commitment and strength to carry out reforms in the political, economic and legal fields. There must be a main priority scale in the development of economic law with the principle of “kinship (*ukhuwah*)” or “democracy” in Indonesia. As stated in the values of Pancasila and Article 33 of the 1945 Constitution. A quality economic law system is “kinship” or “democracy”, while still taking into account onto the concept of sustainable economic law development.

Keywords: *Pancasila Ideology, Globalization, Democracy, Economy System, Legal Reinforcement, Liberalization*

1. INTRODUCTION

1.1. Related work

There's nothing inherently evil about globalization, although it certainly does make some sections of society stressed by it. However, the benefits are also many and spectacular. Half a century ago, anyone interested in a particular indigenous community in northwestern South Australia would have had to venture there on their own (a long and arduous journey), had to consult a knowledgeable anthropologist (of whom there were very few), or go to a library center. Today, one can visit a community's website and become a virtual tourist. More broadly, greater accessibility of information has dramatically improved lives in many places around the world. However, the manifestation of globalization seems to occur in a much

larger variation, especially to the economic development of a country.

Economics is essentially a Moral Science, which is based on a footing of justice, concerned with equality and equity, humanity and religious values, some of the pioneers of the world economy such as Adam Smith, in *The Theory of Moral Sentiment* actually strengthen the picture of equality and togetherness. in economics which is described as moral sciences.[1] This view is also extended by Joan Robinson that economics should uphold collectivism, ignoring western-style individualism which leads to egoism.[2]

This is of course in line with the principles of the Pancasila economic system which has noble moral and ethical values that can fortify humans from greed. When moral values can no longer be held by members of the community, then a moral fallacy has occurred. Nassim Taleb uses the term moral fallacy to describe the condition of people who are increasingly greedy and oriented to profit maximization, in ways that violate existing norms.[3]

1.2. Contribution

In this paper, the authors collect material from various sources, both printed media, journals or related regulations, so as to find a process of discovery that has systematic, controlled, empirical characteristics and is based on appropriate theories and hypotheses. Thus, the results of this paper have the latest conclusions and there is an element of novelty from previous papers. Therefore, it may be used as research material for those who need it, and as inputs for the government use on policies improvements.

The paper presents findings by comparing Indonesian's constitution and regulation to both theories and the economic & political decisions done by the government which is not in accordance with Pancasila economic system as the *grundnorm*.

1.3 Paper Structure

The rest of the paper is organized as follows. Section 2 stating the problem on the Law basis in terms of power abuse done by government. Section 3 presents a methodology framework applied on the research. Then, the framework is supported by theories as stated Section 4. Section 5 develops discussion and conclusion on the normative and empirical research. Finally, Section 6 presents recommendation and direction for improvements.

2. PROBLEM STATEMENT

Instead of being a process towards the era of world globalization, in reality the economic crisis in Indonesia is still ongoing and has not shown any signs of ending. Liberal and capitalist economic theories are increasingly being used excessively, which is clearly not in accordance with the conditions and characteristics of the Indonesian economy. Whereas in western countries themselves, liberal economics are increasingly being sued and condemned as anti-social and immoral acts. Materials seems to blind many people today. The human view is also transitioning to "living for money". The creation of a market-based economy (which means minimizing government intervention), which allows the market to achieve its own efficiency, when economic actors undermine each other, clarifies the moral fallacy as a result of capitalism. And globalization is the cause of the explosion of economic liberalization and capitalism.

The strength of the Pancasila Economic System which is based on Article 33 of the 1945 Constitution is now start being "castrated". It has been replaced by various forms of global-scale economic deals and agreements that have been adopted, adapted, and implemented in the practice of the Indonesian economy. The government began to "blindly" privatize various state-owned enterprises, as well as serve more conglomerates and foreign investors. In fact, if we look closely, the overall characteristics and norms in Article 33 of the 1945 Constitution are not at all close to

the ideas of market, efficiency, or globalization. Therefore, the "coercion" of this economic practice, Indonesia has dropped itself as a "victim". Which does not seem to be a concern and priority for the Government as part of Indonesian economic system improvement.

Globalization, refers to many journals writing, mostly emphasizing on its benefits, on how the country reach its growth thorough globalism. This research will moreover be emphasizing on how globalization has smeared the nation's identity unconsciously. The questions are, how far has the impact of globalization actually been? What can the law do to fortify and control the globalism?

3. METHODOLOGY

The approach method used in writing this journal is the normative and empirical juridical approach which seeks to synchronize the applicable legal provisions in legal protection against other legal norms or regulations with their relation to the application of these legal regulations in practice field. The research specification used is descriptive-analytical, by describing the applicable laws and regulations in relation to legal theories and practice of implementing positive law related to the problem. This writing also looks at related regulations to money politics and also looks at the factors that support the practice of economic system as well reveal and analyze the reinforcement of law in governing the globalization and achieving the goals of sustainable economic law.

The implementation of materials and research data will be supplemented by Primary Data and Secondary Data. Primary data is obtained from constitution, laws and regulations, official legal institution, as main source of research, while Secondary Data is equipped from various complementary sources such as law literacy, legal research, libraries, books, and Google search engines.

4. LITERATURE REVIEW

Globalization is a process that places the world's people can reach one another or are interconnected in all aspects of their lives, both in cultural, economic, political, technological and environmental aspects.[4] Globalization is a social process in which the geographical barriers to the socio-cultural order are shrinking and everyone is becoming increasingly aware that they are getting closer to each other.[5] Economic globalization is the increasing economic integration and interdependence of national, regional and local economies around the world through the intensification of the cross-border movement of goods, services, technology and capital.[6] Economic globalization consists of the globalization of production and finance, markets and technology, organizational regimes and institutions, enterprises and labor.

System comes from the Greek (*sustēma*) and Latin (*systēma*). System in the Big Indonesian Dictionary means (1) a set of elements that are regularly interrelated to form

a totality; (2) an orderly arrangement of views, theories, principles and so on, where the understanding of the system according to experts:

- A system is a collection of objects that includes the functional relationship between each object and the relationship between the characteristics of each object, and which as a whole is a functional unit. (Prof. Harijono Djodihardjo)
- The system is a set of interrelated parts that together achieve the same goals. (Lani Siddhartha)

An economic system can be defined as a set of mechanisms and institutions to answer the questions of what, how, and for whom goods and services are produced.[7] The purpose of the economic system is to improve the welfare of the people of a country.

Pancasila economy is defined as an economic system imbued with the Pancasila ideology which is a joint effort based on kinship and national mutual cooperation. The Pancasila Economic System is actually an idea put forward by Prof. Mubyarto in the 1980s in his book "Building an Economic System". In the Pancasila Economic System, there are 2 (two) points of view adopted by the pioneers: the formal juridical path and the orientation path.[8] The formal juridical path departs from the belief that the legal basis for the Pancasila Economic System is Article 33 of the 1945 Constitution, which is motivated by the spirit of the Preamble to the 1945 Constitution and is complemented by articles 23, 27 paragraphs 2, 34, as well as an explanation of Article 2 of the 1945 Constitution. please in Pancasila. Basically, they interpret the Pancasila Economic System as an economic system oriented to the principles I, II, III, IV, and V of Pancasila. The Pancasila Economic System is a mixed economic system which contains in itself the positive characteristics of the two known extreme systems, called capitalist-liberalism and socialist-communist. The role of religious elements is very strong in the concept of Pancasila Economy. Because the moral element can be one of the main guides of thought and economic activity. If Smith's economic morality is freedom (liberalism) and Marx's economy is the dictatorship of the majority (by the proletariat), then Pancasila's economic morality includes divinity, humanity, unity, democracy, and social justice.[9]

The concept of Pancasila economics ethics by Mubyarto in his book Pancasila Economic System and Morals is characterized as follows:[10]

1. The wheels of the economy are driven by economic, moral and social stimuli.
2. There is a strong will from all members of society to create a state of socioeconomic equality.
3. The priority of economic policy is the development of a strong and resilient national economy, which means that nationalism always animates every economic policy.
4. Cooperatives are the pillars of the national economy.
5. There is a clear and firm balance between centralism and decentralization of economic policy to ensure economic justice and social justice while at the same time maintaining efficiency and economic growth.

Referring to the theory of comparative supremacy put forward by David Ricardo, the emphasis on production specialization in each country with the lowest production cost factor, of course this will increase demand from other countries resulting in cross-border export-import activities which are also supported by cross-border financial transactions, or what we know as international trade. Supported by the era of free trade agreed upon in several countries of the world, international trade aims to increase a country's GDP. International trade has also contributed to the development of globalization. Characterized by the number of new business industries to new business practices that adhere to various patterns and methods, encouraging the globalization of the production economy, finance, technology, to organizational regimes.

5. DISCUSSION AND CONCLUSION

Unfortunately, now the nature of crime has changed significantly in one generation. It was only 20 years ago that crime was organized in the hierarchy of an organization's operations. It later became an "industry" because it contained division of labor and specialization of operations. Later this structure was expanded internationally, as organized crime reflected the world of business and the economy. Then, as is the case in the business and economic world, the vertical and horizontal hierarchies of organized crime blend into a large number of networks that are loosely connected through various agreements and regulations established by countries. The network system stretches all over the world. An event in one place may have a significant impact on the other side of the world. In short, "law" becomes a global "commodity". The world of business and the economy has benefited from globalization, but it has also permitted laws and regulations that are inappropriate to enforce by force. Laws and regulations are treated as a special form of business activity. According to Sunaryati Hartono, so far Indonesia's economic system has been a "shy" capitalist economic system, meaning that the government is ashamed to admit it, that the laws and regulations in the economic field are more devoted to conglomerates than to small people (farmers, fishermen, or small businesses).

According to Gregory and Stuart, the capitalist economic system is characterized by the control or ownership of the factors of production by the private sector, while the decision-making of what to produce is in the hands of who owns the factors of production. The decisions made are guided by market mechanisms that provide the necessary information while material incentives are the main motivators for economic actors. This system is often contrasted with the system of socialism, which academically can be divided into market socialism and planned socialism. In the system of market socialism (market socialism) the characteristics are ownership of production factors by the state and or collective ownership by the public. Decisions on what to produce are decentralized and made based on needs that work based on market mechanisms. The motivation of economic actors is

material and moral incentives. Meanwhile, planned socialism is characterized by state ownership of every factor of production. What must be produced is in accordance with central planning and economic actors are bound to carry out what has been planned by the center. The motivation of economic actors is material and moral incentives. The Pancasila economic system has different factors and characteristics with respect to the systems described above.

Normatively, the provisions of Article 33 of the 1945 Constitution are often understood as an economic system that is suitable for use by the Indonesian people. Article 33 paragraph (1), for example, states that the national economy is structured as a joint effort based on the principle of kinship. This principle can be seen as a collective common principle) which is meaningful in the present context are brotherhood, humanism, and humanity. This means that the economy is not seen as a form of Western-style liberal competition system, but there are moral nuances and togetherness, as a reflection of social responsibility. The ideal form looks like the form of the social market economy system, which is quite developed in Western European and Scandinavian countries. As said by Didik J. Rachbini, this article is considered.[11] Article 33 paragraph (2) and paragraph (3) show that the state still has a role in the economy. According to M. Dawam Rahardjo, there are 2 (two) kinds of roles, as a regulator and as an actor.[12] Paragraph (2) emphasizes the role of the state as an actor in the form of State-Owned Enterprises (BUMN). The role of the state as a regulator is not explained in the existing formulation, unless the term "controlled" is interpreted as "regulated", but what is regulated here is natural resources that are directed to the greatest prosperity of the people. The controversial thing, in Dawam Rahardjo's view, appears in the norm as verse (4).[13] This provision should emphasize the use of the "market" or "fair market" principle. But it seems that the term "market" is rejected and the term "efficiency" is used. Unfortunately, this efficiency is left without a predicate. Efficiency alone means "micro-efficiency" which cannot be applied at the macro level. Therefore, macro efficiency is termed "fair efficiency". Another element of liberal thought is the term "progress". But even this progress is not left unexplained. Here progress must be balanced with "national economic unity". If progress only occurs in certain regions or groups, then this progress is lame. The desired "progress" is progress that is evenly distributed throughout Indonesia. If we look closely, the overall norms in Article 33 of the 1945 Constitution today are not close to the ideas of market, efficiency or globalization. Some terms are closer to the notion of social democracy, for example, togetherness, sustainability, environmental insight, and independence. These values emerged as a reaction to global economic developments. Even in paragraph (4) it is also called "economic democracy". However, the term actually existed in the 1945 Constitution before the amendment, even though it was an explanation of paragraph (1) Article 33. The term is actually an explanation of what is meant by a joint effort based on the principle of kinship. In principle, this

principle is the main substance of the Pancasila economic system.

The big problem faced by developing countries in the face of globalization and the demands of the international world to liberalize the economy of developing countries. Globalization is also blasphemed in various countries, because in terms of the international political economy structure approach, what is actually happening is not global. The reality is that there is a spatial imbalance, as indicated by the concentration of economic activity in the Triad region. Prior to the globalization of law, the government had full sovereignty to change or form legislation in the economic field. However, this sovereignty has now been lost, in particular the legislation in the fields of trade, investment services, intellectual property rights, and other provisions as stipulated in the GATT-PU (General Agreement on Tariffs and Trade). Indonesia as a country that has agreed to the provisions contained in the GATT-PU must inevitably be enforced in the territory of Indonesia. If Indonesia does not want to pay attention and obey the agreement, then all export products will be hampered and cannot be accepted in all countries. This GATT-PU membership will worsen the condition of Indonesia, which is in the category of poor countries and has a slumping economy. Even when the IMF was still entrenched in Indonesia, they often forced the formation of a law as one of the conditions for debt disbursement, for example in the 2003 Letter of Intent, they asked for an amendment to Law No.23/1999 on Bank Indonesia.

Another example, in the foreign investment law promulgated on Article 1 of 1967 concerning Foreign Investment. The law allows 100% foreign ownership at the time of formation of a foreign investment project or company. At that time, these provisions were quite liberal. In this law there are only restrictions on the ownership of foreign companies, such foreign investment business permits are granted for a period of 30 years. The new law is Law Number 25 of 2007. In this legislation, there is no longer any distinction in provisions between foreign investment and domestic investment. The realization of this law was made from an agreement in the world trade organization, by treating the principles of international trade contained in the GATT/WTO (World Trade Organization), are the principle of non-discrimination (most favored nations) and the principle of equal treatment (National Treatment).[14] Investment provisions are increasingly liberal and globalization has penetrated almost all areas of people's lives, be it economics, politics, science and technology, culture, education, and others.

6. RECOMMENDATIONS

The impact of globalization on the Pancasila Economic System has certainly been felt by the Indonesian people with the decline in national, economic and military power, besides that at this time Indonesia does not have bargaining power in the face of pressure from developed countries and the world economic system, in freedom in

the era of globalization and reform. is out of control, the ideology in the Pancasila economic system as a unifier to revive a sense of nationalism and the concept of defense to promote democratic economic growth among political leaders, businessmen, youth and religious figures is starting to become fragile and it is hoped that in the future it will not experience bad things. Likewise, the direction of Indonesia's development that will be achieved in the future no longer has a strong foundation as in the New Order with its GBHN and REPELITA. Moral decline among youth, violence, poverty and social inequality and the lack of skilled and educated personnel as a result of globalization and weak law enforcement, conspiracy and collusion among the bureaucracy, military and law enforcement make it increasingly difficult for Indonesia to become a nation that can stand alone. facilitate foreign intervention to interfere in Indonesia's internal affairs. Because globalization only provides 2 (two) possibilities: providing prosperity and freedom as well as bringing poverty and dependence on other countries as Indonesia is currently experiencing.

The current role of the Pancasila Economic System in the practice of the Indonesian economy is to increase the nation's competitiveness, the practice of law in Indonesia continues to direct legal development to support the realization of sustainable economic growth, regulate problems related to the economy, especially the business world and the industrial world, and create investment certainty, especially in terms of legal confirmation and protection. If we realize that we have a lot behind other countries in economic development. One of the indicators is that for more than 1 (one) decade, Indonesia has always been at the top of the most corrupt country, plus if you look at the reality that exists in society, there are many big businessmen who also work as looters of people's money, is a portrait of the decline in political credibility, law enforcement officers, state agencies and state commissions. The economic role of Pancasila is certainly voiced to build the nation's economic base which is rooted in the values of Pancasila as the nation's ideology. Unfortunately, this has not received special attention from both Indonesian economists and the government. They tend to dwell in debates about the current world economic ideologies such as capitalism and socialism. In fact, the economic idea of Pancasila has gone beyond these two notions. However, each idea has its strengths and weaknesses. Therefore, the Pancasila economy must continue to be voiced to be perfected for the sake of mutual prosperity and prosperity.

Next is the solution to moral hazard, which is one of the causes of the prolonged economic crisis in Indonesia, the occurrence of moral hazard in various economic and political sectors is very broad and deep, important factors such as morals and ethics must be made a top priority as an important economic variable, especially In the application of the real sector and the role of economic actors and regulators related to the economy and business, moral principles such as truth, goodness and justice which become role models for individuals as members of society, are the source of attitudes of action, of norms of belief,

thereby giving birth to behavior. Social behavior such as honor, loyalty, fair treatment of others, respect for life and human dignity.

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