



Legal Politics Economic Democracy in Indonesia

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Abstract

This research aims to explain process of developing the Indonesian nation in this global era requires a strong economic system so that the general welfare of the people can be realized following the state objectives listed in the Fourth Paragraph of the Preamble of the 1945 Constitution. To realize these state objectives are further regulated in Article 33 of the 1945 Constitution (Post Amendment). Article 33 of the 1945 Constitution provides a foundation for building and developing the Indonesian economy. Apart from that, it can also be used as a filter by the government and the people of Indonesia in dealing with the negative impacts of the development of liberalization in the world economy in the 21st century. However, the Indonesian economic system which is based on Article 33 of the 1945 Constitution, at the level of implementation regulated by law, is not in line with the goals of the state and the interpretation of Article 33 of the Constitution itself, in the end, it is often not achieved in building and realizing an Indonesian economy that can realize people's welfare or people's prosperity. This is because the legal politics of the legislators wrongly designed the implementation of legal products in the Indonesian economic system which is based on a family economy called cooperatives which is difficult to materialize and is only for certain interests.

Keywords: economic democracy, family principles, legal politics, welfare state, Indonesia, economic political

Introduction

The 1945 Constitution of the Republic of Indonesia (abbreviated as the 1945 Constitution) which was used as the basis for regulating the life of the state in Indonesia was stipulated on August 18, 1945, by PPKI one day after Indonesian Independence (Ahmad, 2019). The 1945 Constitution is one part of the basic law that applies in Indonesia because, in addition to the 1945 Constitution (as a written basic law), there is also an unwritten basic law, namely the basic rules that arise and are maintained in state administration practices or are called conventions. (Supena, 2020)

Regardless of the issue, whether the 1945 Constitution was of a permanent or temporary nature which was often debated by several constitutional law experts in Indonesia at that time, the 1945 Constitution as a basic rule is an official document that contains the basic foundations for managing Indonesian constitutionalism. The foundation of the state in the constitutional system is Pancasila as the ideal foundation, the 1945 Constitution as the structural constitutional basis, and laws as the operational basis. According to M. Sooly Lubis that the 1945 Constitution is the basic concept for the life management system of the Indonesian nation.(Chryshna, 2020)

According to the opinion of G. Jellinek and CF Strong, the substance of a state constitution according to the opinion of A. Hamid S. Attami, is stated as follows:

"That is the Constitution of a country will be regulated regarding the highest and highest organs in a country, the procedures for establishing these organs, the procedures for relations with each other, and the scope of work of each, as well as the reciprocal relationship between the state and citizens." Sri Soemantri stated that in general the constitution or constitution contains three main things, namely: First, there is a guarantee of human and civil rights; Second, the establishment of a fundamental constitutional structure of a country; and third, there is a division and limitation of constitutional tasks which are also fundamental.(Affandi, 2017)

When the opinion above is implemented in the provisions of the 1945 Constitution Post Amendments which are marked by changes to the Indonesian constitutional system from the first, second, third, and fourth changes. Article 7, (iii) Article 9 paragraph (1) and (2), (iv) Article 13, (v) Article 14, (vi) Article 15, (vii) Article 17, (viii) Article 20, (ix) Article 21. The amended provisions in the nine articles relate to 16 provisions. The Second Amendment to the 1945 Constitution which was ratified on 18 August 2000 deals with 25 articles containing 59 points of provisions. The articles in question are (i) Article 18, (ii) Article 18A, (iii) Article 188, (iv) Article 19, (V) Article 20, (vi) Article 20A, (vii) Article 22A, (viii)) Article 228, (ix) Article 25E, (x) Article 26, (xi) Article 27, (xii) Article 28A, (xiii) Article 288, (xiv) Article 28C, (xv) Article 28D, (xvi) Article 28E, (xvii) Article 28F, (xviii) Article 28G, (xix) Article 28H, (xx) Article 28I, (xxi) Article 28J, (xxii) Article 30, (xxiii) Article 36A, (xxiv) Article 368, (xxv) Article 36C. Meanwhile, the third amendment to the 1945 Constitution which was ratified on 9 November 2001 concerned 23 articles containing 68 points of provisions. Whereas the Fourth Amendment which was passed on August 10, 2002 concerns 18 articles containing 31 points of provisions. of 300% contents of the 1945 Constitution.(Ningsih, 2021)

The substance of the amendments to the 1945 Constitution includes matters relating to (1) provisions concerning human rights, rights and obligations of citizens as well as mechanisms for their relationship with the State and procedures for defending them if rights are violated, (2) basic principles of democracy and the rule of law. law and the mechanism for its embodiment and implementation, and (3) the format of state institutions and the mechanism for relations between state organs and the accountability system of its officials. In other words, what is regulated in the First Amendment to the Fourth Amendment to the 1945 Constitution includes all matters that make up the material of all modern State constitutions everywhere. 7 Thus, from the various contents put forward, it shows that the 1945 Constitution has provided a basis for how to manage the life of the Indonesian nation and its boundaries, goals, and duties of the state, as well as the consequences of the existence of the Indonesian state. (Hutagaol, 2016)

In connection with the changes and additions to the Articles of the 1945 Constitution, including Article 33 of the 1945 Constitution, rules regarding economic politics in Indonesia. Therefore, the author would like to critically describe issues related to the legal politics of the Indonesian economic system after the amendments to the 1945 Constitution, because the provisions of Article 33 of the 1945 Constitution have a strategic position for the life of the state and nation in realizing social justice for all Indonesian people.(Pardi, 2019)

The process of developing the Indonesian nation in this global era requires a strong economic system so that general welfare for the people can be realized as the goals of the Indonesian state based on the Fourth Paragraph of the Preamble of the 1945 Constitution, which states as follows:(Polamolo, 2018)

Then instead of that to form an Indonesian state government that protects the whole nation and all of Indonesia's bloodshed, promotes public welfare, educates the nation's life, and participates in carrying out world order based on freedom, eternal peace, and social justice, independence of the Indonesian nation was drafted. that is in the Constitution of the state of Indonesia, which is formed in a state structure of the Republic of Indonesia which has the sovereignty of the people, with

Article 33 of the 1945 Constitution (Post Amendment), states:

- (1) The economy is structured as a joint venture based on the principle of kinship;
- (2) The branches of production which are important for the State and affect the life of the people at large are controlled by the State;
- (3) Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people;
- (4) The national economy is organized based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental awareness, and independence, and by maintaining a balance of progress and national economic unity;
- (5) Further provisions regarding the implementation of this article are regulated in the law.

The Fourth Amendment is by adding 2 paragraphs namely paragraph 4 and paragraph 5, this is to provide clarity of intent in carrying out the Indonesian economic system. Therefore, Article 33 of the 1945 Constitution provides a foundation for building and developing the Indonesian economy. In addition, it can also be used as a filter by the Government and the people of Indonesia in facing the negative impacts of the development of world economic liberalization today (21st century). However, the Indonesian economic system which is based on Article 33 of the 1945 Constitution, at the implementation level as stipulated in the law, is not in line with the goals of the state and the interpretation of Article 33 of the 1945 Constitution itself, which in the end often does not achieve an Indonesian economic system that is based on social justice for all people. Indonesia, because the legal politics of the legislators are not in line with the Indonesian economic system which is based on Pancasila economic democracy, namely the family economy or cooperatives.(Ismail, 2018)

This can be seen from the fact that many state-owned assets have been privatized/privatized, instead sold to foreign parties, and/or many foreign parties have played a role in controlling the economy in Indonesia, especially natural resources which are very vital for the interests of the people at large, which should be regulated and controlled by the state. With these existing problems, the elaboration of Article 33 of the 1945 Constitution becomes

blurred as to what is meant by a joint venture, the principle of kinship is important for the State, controls the livelihoods of many people, and is controlled by the State.

Literature review

Views of Experts on Legal Politics

Among scientists/legal scholars there is no unified language in formulating definitions of legal politics, even throughout history, it seems very difficult to find scientists/legal scholars to have the same view of something, namely a common understanding of the law (Manullang, 2015). Immanuel Kant once put forward a famous adage "Noch Suchen die, Juris, definitionen zu ihrem Begriffe von Recht, " and this adage is still valid today, including the definition of "Political Law". (Ainun Najib, 2020)

In interpreting legal politics, Teuku Mohammad Radhie argues that legal politics is a statement of the will of the State Authority regarding the law that applies in its territory and regarding the direction in which the law is to be developed. According to Abdul Hakim, Garuda Nusantara equated legal politics with development politics, which was later followed by Moh. Mahfud MD. said that legal politics is a legal policy that will be or has been implemented nationally by the Government of Indonesia as follows: (Pesurnay, 2018)

1. Legal development and development, as stated: "Demands for development and development or legal politics...".
2. Legal development, implied in the sentence "GBHN has outlined national legal politics in Chapter IV which, among other things, is formulated as follows: . . . "
3. Legal renewal is stated in the sentence "A new legal policy or legal renewal ..." and the sentence "The basis for the renewal is the 1945 Constitution which contains basic principles that demand a new legal policy".
4. Changes in law, expressed in the sentence "...changes in law as an important part of legal politics...".

The meaning of legal politics is further confused by the inclusion of the term "national law development politics," which is implied in the sentence "also as another input for national law development politics so that it can be in line with, or at least closer to, the idea of legal development desired by the 1945 Constitution. (Huda, 2018a)

In another section, Moh. Mahfud MD. make an operational definition of legal politics for research and dissertation writing, namely: (Wahid & Ghazal, 2010)

"Legal Politics" is a legal policy that is intended or has been implemented nationally by the Indonesian government, which in its implementation includes:

- a. Legal development with the core of law-making and renewal of legal materials that are considered foreign or not following the needs of the creation of the required law.
- b. Implementation of existing legal provisions including affirming the functions of the institution and coaching members of law enforcement.

Even though the terms used to define legal politics vary widely, from the study of Moh. Mahfud MD. it seems that there are lines of similarity that can be connected to build a legal political understanding, namely on the aspects of the future law that are to be realized and the

aspect of implementing the current law. The future aspects include legal development, legal development, legal renewal, and legal changes. In this regard, Padmo Wahjono provides the notion of legal politics as the policy of state administrators regarding what is used as a criterion for punishing something. The policy can relate to the formation of the law, application of the law, law enforcement agencies, and enforcement itself. Satjipto Rahardjo explained that legal politics is an activity to determine a choice regarding the goals and methods to be used to achieve legal goals in society. Legal politics is one of the factors that cause the dynamics of society because legal politics is directed to the *ius constituendum*, the law that must apply. (Gumbira & Wiwoho, 2019)

Legal politics is projected to create an *ius constituendum* for certain fields (substances) in society, so Bagir Manan argues that legal politics is none other than economic politics, cultural politics, defense and security politics, and politics from politics itself. So legal politics includes the politics of forming laws, the politics of determining laws, and the politics of implementing and enforcing laws. Furthermore, the basics of legal politics are philosophical, constitutional, stateside, reconsider, and various ideological and normative considerations. Thus, it can be concluded that legal politics is a means/step that can be taken to create the desired national legal system, and with the existence of a national legal system the ideals of the Indonesian nation will be realized. 17 Therefore, legal politics is principally a state policy regarding the law ideal (what one aspires to) in the future (*ius Constituendum*) and embodying existing legal provisions (*ius Constitutum*). (Huda, 2018b)

From the previous descriptions, it can be said in general that legal politics is a state policy that wants to empower the law. Some say it is not government policy. But from all these opinions it can be ascertained that legal politics concerns the power of the State to form laws or laws that are implemented by institutions, State agencies, and government officials both at the central and regional levels. And all of these are problems that are the object of study in constitutional law.

Research Method

This research is qualitative using a normative juridical approach. Legal and non-legal materials are collected by legislation, books, journals, opinions of legal experts, and online articles. Then legal and non-legal materials in the next inventory are analyzed in detail, new conclusions are drawn.

Results and Discussion

Pancasila as the Philosophical Foundation for Article 33 of the 1945 Constitution

1. The Role of Pancasila in the Legal Life of the Indonesian Nation

State buildings that were established have a certain philosophical basis, a certain philosophy is a manifestation of the will of its people. Therefore, every country has a different philosophy. Because philosophy is synonymous with the desires and character of the people and the nation, it is impossible to simply adopt another country's philosophy to make it the nation's philosophy. Because philosophy is an embodiment of the character and desires of a

nation, all aspects of the nation's life must be following its philosophy. 18 Therefore, this understanding of Pancasila is often called the basis of state philosophy (Philosophische Grondslag), and state ideology (Staatidee). In this case, Pancasila is used as the basis for governing the state government, or in other words, Pancasila is used as the basis for regulating the administration of the state. 19 The formulation of the Pancasila precepts is contained in the Preamble of the 1945 Constitution, Fourth Paragraph: in the composition of the Republic of Indonesia which has people's sovereignty based on Belief in One Almighty God, just and civilized Humanity, Indonesian Unity, and Democracy led by wisdom in Deliberation/Representation, and realizing social justice for all Indonesian people." (Hufron & Hajjatulloh, 2020)

It is the formulation of Pancasila in Indonesian positive law that is juridically constitutionally valid, valid, and binding on all state institutions, community institutions, and every citizen, without exception, to carry it out in the state, constitutional, national, and social spheres. It is the formulation of Pancasila that must be implemented imperatively by the Indonesian people in the life of the Indonesian society, nation, and state. Thus, the Pancasila formulation is harmoniously intertwined, hierarchical, pyramidal, integrated, solid, whole, round, and comprehensive, in which the first precept "Belief in One Almighty God" illuminates and underlies the other four precepts of the formulation. (Pesurnay, 2018)

About the law that was stipulated and applied to the Indonesian nation, the position of Pancasila was declared by the founders of the state, as can be seen in the 1945 Constitution along with its general explanation. There it is emphasized that Pancasila is the Gita Hukum (Rechtsidee) which controls the Basic Law of the State, both written and unwritten. In other words, Pancasila is an ideal that consists of a set of intrinsic, normative, and constitutive values that underlie law. 21 This shows that for the laws that are stipulated and applicable to the Indonesian people, Pancasila functions as a legal constitutive basis and as a regulative benchmark. With its constitutive function, Pancasila will determine the basis of a legal system, in the sense that without being based on Pancasila, the legal system in question will lose its meaning and significance as law. With its regulative function, Pancasila will determine/assess the fairness or unfairness of existing positive law. (Anggono, 2020)

Apart from being a legal ideal, according to the 1945 Constitution, Pancasila is also positioned as the highest legal norm, that is, it creates all lower norms in the existing system of legal norms, and determines whether the norms in question are valid or not. In this case, Pancasila is the main idea of the Preamble of the 1945 Constitution which creates the articles or body of the written basic law and determines the content and forms of lower legal products. Therefore, in the arrangement of legal norms, both low and high, it must be able to draw a common thread or harmony with the values contained in Pancasila. The inconsistency and conflict between a legal norm and a higher legal norm, and between the system of legal norms and Pancasila cause unconstitutionality and illegality of the relevant legal norm so that it becomes non-binding and valid. (Tardjono, 2016)

Thus, the relationship between Pancasila and existing legal norms inherently concerns the relationship between Pancasila and the 1945 Constitution in general and Article 33 in particular. Therefore, the content material contained in the 1945 Constitution, specifically in Article 33 of the 1945 Constitution is the elaboration of and/or imbued with the values of

Pancasila which wants the ideals of the state and the goals of the state to be realized, namely social justice for all Indonesian people.(Karsayuda & Tektona, 2021)

2. The Role of Pancasila in the Economic Life of the Indonesian Nation

For the Indonesian nation and state, Pancasila is an ideology and the only principle in various fields of social, national, and state life. This affirmation has the consequence that every movement and step of people's life (including in the economic field), must always be based on or constitute an elaboration of the noble values contained in Pancasila. The consequences are not solely directed at the community alone, but also towards the Government's actions which are legally implemented through the legal products it stipulates. As we have previously known, the MPR once established the Outline of State Policy (GBHN) whose contents were basic directives that Pancasila should be applied to various aspects of the life of the Indonesian people, nation, and state, we can see this in Chapter II letter A of the 1996 GBHN concerning The Meaning and Nature of National Development, which states as follows:(Wiyono et al., 2021)

"The whole soul, direction, and movement of development are intended as the implementation of all the Pancasila precepts in harmony and as a unified whole, which includes:(ALW, 2020)

1. The practice of the Precepts of Belief in the One and Only God, which among other things includes the joint responsibility of all religious groups and beliefs in God Almighty continuously and together to lay a strong spiritual, moral, and ethical foundation for national development as the implementation of Pancasila.
2. The practice of just and civilized human ethics includes increasing the dignity and basic rights and obligations of citizens and eradicating colonialism, misery, and injustice from the face of the earth.
3. To practice the Precepts of Indonesian Unity which includes, among other things, increasing the development of the nation in all areas of human life, society, nation, and state, so that the sense of solidarity becomes stronger to strengthen the unity and integrity of the nation.
4. The practice of Populist Precepts Led by Wisdom of Wisdom in Deliberations / Representations, which includes efforts to further grow and develop the Pancasila Democracy political system that is increasingly capable of maintaining dynamic national stability, developing citizens' political awareness and responsibility, and stimulating the people in the process political.
5. The practice of the Precepts of Social Justice for All Indonesian People, which includes efforts to develop high enough economic growth that is associated with equitable development and its results lead to the creation of just prosperity for all Indonesian people in an economic system structured as a joint effort based on family principle.

The formulation mandates the existence of "a spirit of kinship, togetherness, unity, and integrity contained in Pancasila both philosophically and ideologically so that the Government and the people are seen as one unified whole and mutually supportive in the development process of the Indonesian nation. Concerning the nation's directives and commitments above, one issue that needs further investigation is regarding the Pancasila values that can be applied to the economic life of the Indonesian nation. In other words, how is the application of Pancasila ideology in the economic field? Is it solely based on one precept, or does it make it

possible for the five Pancasila precepts which form a single unit to be implemented in the economic life of the Indonesian people? Getting a complete and satisfactory answer about this is not an easy task, considering that Pancasila is an "open ideology".(Wisnaeni & Herawati, 2020)

With this nature, the values of Pancasila will always develop and adapt to the development of science, technological sophistication, and the acceleration of communication facilities. His openness does not mean that he will change the basic values of Pancasila but only makes his insights more concretely explicit so that he can solve new problems as well as be resilient in facing the negative impacts of progress.(Ashifa & Dewi, 2021)

On the other hand, the elaboration of Pancasila values must be carried out systematically and integrated into all aspects of the life of the Indonesian people and nation. When the above is related to economic life in Indonesia, then the implementation of Pancasila values, among others, we can formulate as follows:(Fatlolon, 2019)

- a. The Precepts of Belief in the One and Only God, are implemented through the wheels of the nation's economic life which are driven by moral stimuli;
- b. The Precepts of Just and Civilized Humanity are implemented through economic life with an insight into social equality based on humanity;
- c. The Precepts of Indonesian Unity, implemented through the wheels of the nation's and state's economy are oriented towards creating a strong national economy and imbued with the spirit of nationalism;
- d. Populist Precepts Led by Wisdom of Wisdom in Deliberations/Representations, implemented through the realization of efforts that are based on joint efforts and based on the principle of kinship;
- e. The precepts of social justice for all Indonesian people are implemented through the nation's economic life which is oriented towards realizing economic justice and social justice for all Indonesian people.

Thus it is clear that the values of all the Pancasila Precepts, as a whole and systematically, can permeate the economic life of the Indonesian nation. However, as we all know, history shows that the implementation and elaboration of Pancasila values in various national lives (including in the economic field) has not been fully realized.(Effendi, 2019)

Characteristics of Legal Products in the Economic Sector that are oriented towards Social Welfare

Historical Perspective from the Preparation of Article 33 of the 1945 Constitution

The history of the formulation of Article 33 of the 1945 Constitution which is recorded simply until now is that the BPUPKI in its meeting on 11 July 1945 formed three committees, one of which was called the Committee for Finance and the Economy. Regarding the membership of this committee, among others are Surachman, Margino, Sutarjo, Surjo Atmodjo, Dewantara, Kusuma Atmodjo, Oei Tiong Hauw, Asikin, Yamin, Baswedan, Abdul Fatah Hasan, Oei Tiang Tjoei, Suwandi, and Tokojami Kakka from the Japanese Government. The Finance and Economic Committee is chaired by Moh. Hatta. However, there is no complete documentation about how and how the committee meeting took place, which was clear on July 13, 1945 (2 days after the committee was formed). Soepomo reported on the Draft Constitution, and one of the articles that were proposed was Article 32 containing the

formulation which became Article 33 of the current 1945 Constitution. The contents of the formulation of Draft Article 32 of the Constitution are as follows:(Irsan & Utama, 2019)

Article 32

- 1) The economy is structured as a joint venture based on the principle of kinship;
- 2) The branches of production which are important for the state and which affect the livelihood of many people are controlled by the Government;
- 3) Earth and water and the natural wealth contained therein are controlled by the state and must be used for the greatest possible prosperity of the people.

Furthermore, at the plenary meeting to discuss the proposed Draft Constitution, Moh. Hatta as chairman of the Committee on Finance and the Economy gave the following statement:(“Regional Autonomy Political Politics Of Regional Liability Reports To Regional Representatives In The Implementation Of Local Government,” 2020)

- i. But we are building a new country. We must pay attention to the conditions so that the country we create does not become a powerful country. We want a managing state, we build a new society based on cooperation and joint efforts; Our goal is to reform society.
- ii. Also in collectivism, there is some right for the members of the family to express their feelings to establish, and make the best possible body of collectivism. My suggestion is none other than to ensure that the country we are establishing is a governing country so that the governing country does not later become a country of power, a country of oppression. The basis that we put forward is the basis of cooperation and joint efforts. In short, collectivism.

Against the opinion expressed by Moh. Hatta above, Soepomo as Chairman of the Small Committee for Drafting the Constitution responded as follows:(Nor et al., 2022)

The Chairperson of the Organizing Committee for the Constitution has already explained that our country is family in nature, meaning that it is based on family life, and not only family life inside but also outside. However, we advocate and also have to educate, because the Constitution also has elements to educate the public. We want the spirit of kinship which must pervade all aspects of human life, not only in the economic and social spheres but also in the political and governmental fields, meaning that the relationship between the government and citizens, all of this must be encompassed by the notion of kinship. So with that attitude, there is no question: do I have the right or not have the right to gather?(Agussalim et al., 2021)

That's the attitude of individualism. Itself, for example in the villages, we are also recommending a deliberative system: with that recommendation, of course, people can and should be given the opportunity and have the right to gather, to organize kinship. In this system, the attitude of citizens is not "what are my rights?", but "what are my obligations as a member of this large family?" We are all human. What is my position as any member of the family in the kinship of the family, village, region, country, Greater East Asia, and the world? So by changing that attitude by itself it cannot be proposed in the law(Hidayah et al., 2021)

The basis for guaranteeing rights rests on the rights of individualism. Perhaps, honorable congregation, some members want to ask questions but right now I am giving away a secret. Article 27 paragraph 2 reads "Every citizen has the right to work and a life worthy of humanity".(Hamid, 2022)

Finally, when the Preparatory Committee for Indonesian Independence held a meeting on 18 August 1945 (the day after the Proclamation of Independence) to ratify the draft UUD, it turned out that there were not many changes to the contents of Article 32 of the RUUD. The changes only occur in the number of articles that regulate it to become Article 33, and some of the words are refined or eliminated, such as the words "controlled by the Government are enhanced to "controlled by the state", the word "must" in paragraph 3 of the RUUD is abolished in paragraph 3 of Article 33 of the 1945 Constitution.(Subroto, 2015)

Based on the historical trajectory of the preparation of Article 33 of the 1945 Constitution, we can see how big the role of Moh. Hatta and Soepomo in giving birth to the principles that underlie the legal system and politics for economic life in Indonesia. The principles that the author refers to are:(Lenggono, 2021)

- a. the principles of joint ventures and kinship that underlie the economic system in Indonesia; This principle is contained in Article 33 paragraph (1) of the 1945 Constitution which talks about the structure of the economy following the spirit and personality of the Indonesian nation. The economic structure meant by this provision is not seen as something that stands alone but is part of social welfare. This principle also rejects the existence of the concept of individualism in the economic field, because it is the prosperity of society that takes precedence. In other words, the principles of justice, protection, and the principle of kinship are implied in this principle.
- b. the principle of economic democracy; We can see this principle from the explanation of Article 33 of the first and second paragraphs of the 1945 Constitution. The explanatory statement of Article 33 as a whole is put forward as follows: In Article 33 it states the basis of economic democracy, production is carried out by all, for all under the leadership or ownership of members of the community. It is the prosperity of society that takes precedence, not the prosperity of individuals. Because of that the economy is structured as a joint effort based on the principle of kinship. The appropriate company structure is a cooperative.

The economy is based on economic democracy and prosperity for all. Because of this, the branches of production which are important to the state and affect the livelihood of many people must be controlled by the state. If not, the reins of production fall into the hands of those in power and the people they oppress a lot. Only companies that do not control the lives of many people can be in the hands of one person.(Jaelani, 2016)

Earth and water and the natural wealth contained in the earth are the pillars of people's prosperity. That reason must be controlled by the state and used for the greatest prosperity of the people. This principle implies an insight that economic activity in Indonesia is of all, by all, and for all, even under the ownership of community members.(Azikin, 2018)

the principle of the welfare state; we can see this principle from the contents of the provisions of Article 33 and its explanations (paragraphs 2 and 3) which emphasize the importance of the role of the state to intervene in economic life and the nation's potential which concern the lives of many people. The active role of the state (cq Government) is solely aimed at creating prosperity for all Indonesian people. The principles above show the view that "the structure of the economy is not a goal, but as a function or vehicle to achieve the goal of the state to create a prosperous, just and prosperous society both materially and spiritually. In other words, economic democracy is not the main goal/ last but is the core bridge in realizing the

society mandated in the fourth paragraph of the Preamble of the 1945 Constitution as well as in various provisions of its elaboration as contained in each GBHN.(Gunawan, 2017)

Characteristics of Social Welfare-Oriented Legal Products in the Economic Sector

The discussion on the characteristics or characteristics of legal products in the economic field in this sub-discussion will be limited to the study of the aspects of material content and the nature of the legal products. Likewise, the discussion is not empirical, but is still at an aspirational level, by elaborating on the mandate contained in Article 33 of the 1945 Constitution in the field of the Indonesian nation's economic life.(Zulkarnaen, 2020)

Concerning the previous sub-discussions, the contents of legal products in the economic field that will be determined or addressed by the Government of Indonesia must reflect the nature, insights, and principles contained in Article 33 of the 1945 Constitution both implicitly and explicitly. The Government of Indonesia (in a broad sense) in developing economic life in Indonesia should make legal products stipulated to create a conducive atmosphere and enable the development of every business entity based on joint ventures and kinship. The dualism of legal products in the economic field was born as a result of Article II of the Transitional Rules of the 1945 Constitution, it is time to abolish this in the wheels of the nation's economic life which have reached its 66th year until now.(Putra, 2017)

Efforts to realize the dream above can be carried out through reviewing, adjusting, and perfecting the contents of legal products in the economic field that have been stipulated/enforced to bind society by basing them on the basic principles contained in Article 33 of the 1945 Constitution. Furthermore, for legal products that are to be formed, should the legal product be truly tested for compliance and synchronization of its material content with the basic principles of Article 33 of the 1945 Constitution? the basis contained in Article 33 of the 1945 Constitution should be used as a guideline by the Government in carrying out guidance, as well as its application and rejection. In other words, the contents of legal products in the economic field that will be and have been determined by the Government or those that grow and develop in people's lives should be insightful or contain basic principles such as:(Dimyati et al., 2021)

- a. based on Pancasila and the 1945 Constitution;
- b. oriented to realize justice and essential truth;
- c. creating a conducive atmosphere for economic development based on the principle of kinship and preventing and eliminating the emergence of an individualistic economic life;
- d. provide shelter or protection to all economic actors in general and the small community in particular;
- e. based on archipelagic insights;
- f. creating a gradual, planned, and sustainable development process;
- g. directing cooperative forms of business.

On the other hand, the ability/potential of the community to participate in the process of forming legal products in the economic field should be further enhanced, bearing in mind that the ultimate goal of the legal product being stipulated is in the interests of the welfare of the community itself.(Hariri, 2020)

The dualism that is occurring in our temporary economic system, is the result of the provisions of Article II of the Transitional Rules of the 1945 Constitution. Article II AP states

that "All existing State Bodies and regulations are still in effect immediately, as long as new ones have not been enacted according to the Law." the Constitution", is a legal provision that allows for the enactment of the economic system according to the Book of Commercial Law (KUHD). The KUHD, which was a legal product during the Dutch Colonial Government period, gave legal status to the individual principle (individualism) so that it conflicted with the principles of family and togetherness regulated in Article 33 of the 1945 Constitution. The individual principle in the KUHD was the basis for the birth of the form of companies that motivated to seek as much profit as possible for the owner or a group of owners of the company concerned, such as PT, Firma, CV, and so on. Meanwhile, Article 33 directs the existence of economic democracy based on joint efforts and kinship toward the creation of economic equity, economic justice, and prosperity for all Indonesian people. Therefore, theoretically, Article 33 of the 1945 Constitution rejects the principle of the individualism which is inherent in liberalism and is the basis for the birth of capitalism.(Bagiastra, 2020)

In efforts to overcome the problems described above, it is necessary to shift the mission of the companies that were created to be determined by the Commercial Code (KUHD). Juridically, the Government should stipulate a legal product that obliges companies that are outwardly created by the Criminal Code so that their mission or spirit is oriented to the basic principles mandated by Article 33 of the 1945 Constitution. For example, legal products increase the enthusiasm of private companies to go public and comply with industrial Pancasila. The principle of togetherness can be included in private companies through collective ownership of company shares by employees, company cooperatives, or the wider community if possible (go public). Likewise, the principle of kinship can be included in a private company through recognition of the position of employees as production partners, and not as production capital that can be managed at will by the employer/company owner. Pancasila industrial relations should be upheld in economic activities by companies oriented to the pursuit of maximum profit through the application of economic principles.(Wiguna, 2021)

Then, when viewed from the nature of the legal product, based on the material content that it regulates and the purpose of the law itself, the legal product that exists and will be stipulated by the Government in the economic field should be responsive and modern. Moh. Mahfud MD. stated the basic characteristics of responsive law, among others:(Indrastuti & Prasetyo, 2020)

- a. the goal is competence (authority);
- b. the basis of its binding power is substantive justice;
- c. the rules are under the principles of law and policy (policy); d. relation to power, that legal aspirations and political aspirations are integrated into a blending of powers;
- d. inclusion of expanded participation with the integration of legal and social defense.

The basic characteristics of responsive law as a feature of modern law are quoted by R. Otje Salman and Ronny Hanitijo Soemitro as stated by Marc Galanter, including:(Tisnanta et al., 2018)

- a. consists of uniform and consistent rules in its application that are territorially oriented without discriminating against religion, gender, ethnicity, or caste.
- b. transactional, universal, rational, bureaucratic, and flexible (not sacred).
- c. bureaucratically organized and run by professional experts.

- d. the task of forming and implementing it is based on the principles of a clear separation of powers.

The characteristics of the law above are in essence in line with the understanding or legal limitations put forward by Mochtar Kusumaatmadja, namely:(Anwar & Fathonah, 2021)

"If we interpret it in a broad sense, then the law itself is the whole of the principles and rules that govern human life in society but also includes institutions and processes that embody the enactment of these rules. in society. The principles and rules in the formulation show or reflect the influence of legal positivism, while institutions and processes reflect the influence of Sociological Jurisprudence and Pragmatic Legal Realism. The legal formulation also implies conditions that must be considered by lawmakers so that the legal products they form can be valid, namely philosophical, sociological, and juridical requirements. Philosophical requirements are following the philosophy of the Indonesian nation and state; sociological requirements, namely following the values that live, grow, and develop in society Indonesia; and the juridical requirements are following the applicable provisions and procedures."(Samputra, 2018)

Thus, if the responsive and modern characteristics stated above are related to the principles contained in Article 33 of the 1945 Constitution, then the characteristics of legal products in the economic field that should be developed by the Indonesian Government are:(ELVIANDRI, 2019)

- a. is open to change, is functional, pragmatic and rational;
- b. directing to the realization of the values embodied in the ideals and desires of all Indonesian people;
- c. provide direction for the development process as well as for the political life and legal life of the Indonesian people;
- d. can be used as a tool or means of renewal in solving national problems;
- e. can act as a responsive facilitator to the needs and aspirations of the community and the government;
- f. reflects certainty, and creates order and justice.

The characteristics that have been stated above are the basic characteristics that should be considered in the formation and development of law in the economic field in Indonesia which has been eroded by the currents of globalization. As basic characteristics, it means that other characteristics are still possible to be developed in the formation and development of law in the economic field, provided that these characteristics are following Pancasila, the 1945 Constitution (especially Paysal 33), national cultural values, and the interests of the development of the Indonesian nation.(Hadiyono, 2020)

Conclusion

Pancasila as (stateside), the highest legal ideals and legal norms for the Indonesian constitutional system, its intrinsic values which are normative and constitutive as a whole will animate/permeate the articles in the 1945 Constitution, therefore the basic rules in the Indonesian economy that are listed in Article 33 of the 1945 Constitution and it becomes an obligation to be used as an ideological benchmark in the operational juridical elaboration of

the legislators related to the Indonesian economic system, so that social justice for all Indonesian people can be created based on Pancasila values with the basic principles contained in Article 33 UUD 1945 either explicitly or implicitly, among others are:

- 1) the creation of an Indonesian economic system that is characterized as a joint venture and is based on the principle of kinship;
- 2) the realization of economic democracy in the wheel of life of the Indonesian nation and state economy;
- 3) can provide protection, truth, and justice for all economic actors in general and small communities in particular;
- 4) based on the vision of the archipelago for the creation of sustainable coaching.

Legal politics as the policy of state administrators can be related to law formation, law enforcement, law enforcement agencies, and enforcement itself. Legal politics is none other than economic politics, cultural politics, defense and security politics, and politics itself. So legal politics is a means and steps that can be taken to create a national legal system in the field of the Indonesian economy in favor of the public interest which is characterized, among others:

- 1) are open to change, functional, pragmatic, universal, tiered, flexible, and rational;
- 2) leads to the realization of the basic principles in Article 33 of the 1945 Constitution as well as the ideals of all Indonesian people; 3) reflects certainty, order, and justice in the economic life of the Indonesian people; 4) defends the interests of the people.

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