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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Implementation of Economic Law on Economic Development in Indonesia

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Abstract. *Economic law grows and develops because it is based on the rapid economic activity that exists throughout the world. The purpose and purpose of the birth of this economic law is to regulate and provide restrictions on all forms of economic activities to run according to norms, so as to minimize the neglect of people's rights and interests. This research uses normative juridical method. The purpose of the enactment of economic law in Indonesia is to regulate legal regulations so that pro-people policy making, especially in the field of economic planning, can be easier. In Indonesia's upcoming economic law, which according to the Working Group on Economic Affairs is seen as an issue that is still not sufficiently touched by Indonesian Corporate Law. The field of economics must be handled conceptually, systemically and professionally, but the field of economic law must be in line and in line with policy and decision-making in the field of economics.*

Keywords: *Development; Economic; Law.*

1. Introduction

The state is an organization of power. The organization is the working system of the state instruments which is a whole. The working system illustrates how important a country is in implementing relations and the division of their respective duties and obligations, especially the role of the state in the field of law and economics. The term economic law today is not a foreign thing, even the term economic law in the legal system in Indonesia has no doubt about its existence. The existence of economic law in Indonesia is inseparable from the Explanation of Article 1 Paragraph 3 of the Constitution of the Republic of Indonesia Year 1945

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(hereinafter referred to as the 1945 Constitution) which essentially describes the concept of the rule of law in Indonesia. In essence, the State upholds legal norms that aim to create order, security, justice and welfare of the Indonesian people. The 1945 Constitution as the basis of the constitution provides guarantees in the existence of economic law, this can be seen in Article 33 of the 1945 Constitution that:

Paragraph (1)

"The economy is structured as a joint effort based on kinship",

Paragraph (2)

"Those branches of production which are important to the state and which control the livelihoods of the people are controlled by the state"

Paragraph (3)

"Earth, Water, and Natural Resources contained therein are controlled by the state and used for the greatest prosperity of the people"

Paragraph (4)

"The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence and by maintaining a balance of progress and national economic unity.

In this case, "the concept of economic law is a legal arrangement that is specialized in the field of economics that is not law in the sense of economic determination that exists in economic activity (economics). Both of these things are almost the same meaning when you first know the laws of economics. Economic laws exist, due to the background of the increasingly rapid development of economic activity throughout the world. The presence of economic law primarily aims to regulate and limit all economic activities so that the implementation of economic activities and economic development is always appropriate and does not ignore the rights and interests of the wider community. According to Jeremy Bentham, rights are children of the law. From real law comes real rights. On the contrary, from imaginary laws, namely natural laws, imaginary rights arise. Natural rights are completely unreasonable. Before Bentham, David Hume also argued that natural laws and natural rights were metaphysical and unreal. Bentham therefore argued that real laws are not natural laws, but laws made by legislatures. In the theory of expediency first encountered in Bentham's work

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which was later adopted by Rudolf von Campbell, and others. According to Ihering, the purpose of law is not to protect the will of individuals, but to protect certain interests. There fore he defined rights as interests protected by law. These interests are not created by the state because they already exist in public life and the state only chooses which ones need to be protected. The presence of economic law is the most important part of something that can provide guarantees or mandates from the constitution. According to Jimly Asshiddiqie, constitutional rights are rights guaranteed in and by the 1945 Constitution. As the guarantee of such rights is either expressly stated or implied. For this reason, the need for the construction of economic law in guaranteeing economic law in guaranteeing human interests based on the concept of justice, According to Theo Huijbers, law must be closely intertwined with justice, Law can only become law if it meets the principles of justice.

2. Results and Discussion

2.1. Characteristics of Economic Law on Economic Development in Indonesia

In legal theory, the term "Economic Law" is a translation of Economisch Recht (Belanda) atau Economic Law (America). However, the meaning or connotation of Economisch Recht in the Netherlands turned out to be different from the meaning Economic Law in The United States. The definition of Economisch Recht (Belanda) actually comes from the term Droit É'conomique (France) and after the second world war developed into Droit de l'Économie which means the rules of state administrative law (especially derived from executive power which began around the 1930s to limit market freedom in France, for the sake of economic justice for the poor, so that not only those with money can meet food needs, But so that the peasants and workers will not starve to death either. The world economic crisis known as "malaise" in the 1930s resulted in a correction of free market ideas, because the French government felt obliged to issue regulations of the State Administrative Law that determined maximum and minimum prices for basic commodities and determined government permits needed for various businesses in the economic field, such as to open companies, determine the amount of "investment, the business field in which capital is invested, importing or exporting goods, destination, quantity, quality, and so on.

Such regulations of the State Administration Law are covered under the name Droit É'conomique (economic law in the narrow sense). Then, after the second world war, which was around 1945, European countries that had to rebuild their countries with the help of the International Bank for Reconstruction, the United Nations was obliged to prepare a Five-Year Development Plan at that time, which underpinned the decision of the International Bank for

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Reconstruction to provide assistance to the country concerned. The International Bank for Reconstruction Agreement between IBR and recipient countries is set forth in the policies and legal regulations of recipient countries to be implemented, as for example until now also occurs in Indonesia since the new order. All legal policies and regulations that are not limited to State Administrative Law, but also regulate matters that include the substance of Criminal Law, Civil Law, Commercial Law, Private International Law, even Civil and Criminal Procedure Law, are covered by the name Droit de l'Économique or economic law in the broadest sense.

Economic law is the whole of the norms established by the government or ruler as one personifi of society that governs economic life in which the interests of individuals and the interests of society confront each other. Within these norms, the government tries to include provisions that place more emphasis on the interests of the community, even if necessary to limit the interests and rights of individuals. Economic law is a causal relationship or relationship of economic events that are interconnected with each other in everyday economic life in society or the birth of economic law due to the increasing growth and development of the economy of society.

According to some experts, there are several notions of economic law, including:

a. Rochmat Soemitro argues that economic law is the whole norm or rule of law made by the government or ruling authority as a personifier of society that regulates economic life, where individual interests and community interests face each other.

b. Adi Sulistiyono argues that economic law is legislation made by institutions or officials who have the legality (authority) to regulate the activities and behavior as well as the growth of the economic sector and dispute resolution that occurs where the substance of the legislation is influenced by the economic system in the constitution of the country concerned.

c. Sunaryati Hartono argues that economic law is the entire rule and decision of law that specifically regulates economic activities in Indonesia. Furthermore, Sunaryati Hartono argues that economic law is an elaboration of development economic law and social economic law

There are two models of economic law in Indonesia, the law of development economics and the law of social economy. Development economic law is a regulation of law that includes legal arrangements and thoughts on how to improve and develop economic life in Indonesia nationally or as a whole, while social economic law is a regulation of how the results of national economic development can be shared fairly and equitably in accordance with human values. There are various studies of economic law cases, including the following: if the price of

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basic food goes up, the price of other goods usually goes up; If at a location stands a large hypermarket shopping center at a very cheap price, it is certain that retailers or small shops in the vicinity will lose turnover or die out of business; if the exchange rate of the US Dollar rises sharply then many companies whose capital comes from foreign loans will go bankrupt; The decline in LPG prices will increase the number of sales of gas stoves both domestically and abroad; the higher the interest rate of the savings bank, the money supply will decrease and there will be a decrease in the amount of demand for goods and services in general; and others.

Meanwhile, the laws of "economics" in Indonesia have the following principles:

benefits; humane justice and equity; balance, harmony and harmony in life; independence with a national outlook; joint or familial effort; economic democracy; and build without harming the environment. Economic law is the elaboration of the economic law of development and the law of social economy, so that economic law has "two aspects", that is:

a. Regulatory aspects of economic development efforts in the sense of improving national economic life as a whole; and b. Aspects of regulating efforts to share the results of economic development equally among all levels of society, so that every citizen can enjoy the results of economic development in accordance with his contribution to the economic development effort.

Economic law, if it is based on an international classification, its division is as follows:

a. Agricultural or agrarian economic law, which includes norms concerning agriculture, labor, animal husbandry, fisheries and forestry;

b. Economic laws of mining;

c. Industrial economic law, processing industry;

d. Law of development economics;

e. Trade economic law, including norms regarding hospitality and tourism;

f. Economic laws of infrastructure including gas, electricity, water, roads;

g. Economic law services, profession of doctors, advocates, domestic helpers, labor;

h. Economic law of transport;

i. Economic law of government including defense and security (hankam), etc.;

Principles of Economic Law Development in Indonesia Legal principles are philosophically the foundation or basic points of thinking or acting that provide direction, goals and fundamental judgments, contain values and ethics.

Some experts provide limitations or understanding of legal principles as follows:

a. Bellefroid posited that general law principles are basic norms that are elaborated from positive law and which legal science does not ascribe to more general rules. So the principle of common law is the crystallization (precipitation) of positive law in a society.

b. Van Eikema Homes suggests that principles are not concrete legal norms, but as a general basis or guiding point for applicable law. So it is the basis of direction in the formation of positive law so that in the formation of practical law must be oriented to legal principles.

c. Paul Scholte, elaborated that the principle of law is the mind of the basis contained in and behind the respective legal systems formulated in the rules legislation and judges decisions relating to individual provisions and decisions can be viewed as elaboration.

Based on the above description, the position of legal principles as legal meta- norms basically provides direction, goals, and fundamental assessments for the existence of a legal norm. The basis or "the basis is set forth in the constitutional basis in article 33 of the 1945 Constitution which states as follows: Paragraph (1) reads; The economy is structured as a joint effort based on the principle of kinship, Paragraph (2); The branches of production which are important to the State and which control the livelihoods of the people are controlled by the State, Paragraph (3) states; Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people, Paragraph (4), The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and unity of the national economy.

Based on the provisions above, the application of economic law in Indonesia as part of building a justice that regulates the following:

a. Regulate legal regulations so that it is easy to plan related to economic matters.

b. Regulate the existence of equitable development and equitable distribution of income when referring to national development law. This concerns the law of social economy which contains

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equitable development so that all development results can be enjoyed by all levels of society wherever they are in the territory of Indonesia.

c. Regulate economic policies so that there is no violation of law in social aspects when an economic policy decision is made.

The essence of this "economic law" is all policies based on the interests of society and the state, so that the interests of the state can be achieved without having to mistreat the community. Those are some of the economic laws that occur and exist in the country of Indonesia, both easily visible and natural, so that in the future it is expected to run well and function well for the welfare of all Indonesian people. Bentham argues:

“Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and eff ects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every eff ort we can make to throw off our subjection, will serve but to demonstrate and confi rm it. In word a man may pretend to abjure their empire: but in reality he will remain. Subject to it all the while. The principle of utility recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law. Systems which att empt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light.”

Based on Bentham's statement, nature has placed humanity under the control of two dominions, pain and pleasure. Only these two show what man should do, and determine what man will do. The standard of right and wrong on the one hand, as well as causation on the other, is closely attached to the two powers. With regard to the principle of utility, Bentham based his entire philosophy on two principles: the associationprinciple and the greates happiness principle. The principle of association is rooted in psychology about the existence of conditioned reflexes. In this context Bentham showed that law has the ability as a stimulus to condition ideas "about the good"16. While the second principle is the principle of greatest happiness.

Pleasure or "expediency" as referred to above can be achieved by the measure of effect (consequence). Thus a good law is one that can have the greatest effect or bring happiness to the greatest number of people. This happiness arises inseparably from the function of the law itself. According to Bentham "All the functions of law may be referred to these four heads: to provide subsistence; to produce abudance; to favour equality; and to maintain "security". Furthermore, "in interpreting the law, according to Bentham the law is a set of signs (assemblage

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of signs)17. The sign referred to by Bentham is the expression of will that arises from the will understood and absorbed by the ruler of the state. Bentham further states that 18: "A law may be defi ned as an assemblage of sign declarative of a volition conceived or adopted by the sovereign in a state, concerning the conduct to be observed in a certain case by a certain person or class of persons, who in the case in question are or are supposed to be subject to his power: such volition trusting for its accomplishment to the expectation of certain events which it is intended such declaration should upon occasion be a means of bringing to It is hoped that national law may be revealed in the manner of how legal institutions, as well. Other state institutions can play a role in changing the face of the state apparatus, government (bureaucracy) and judiciary; tends to be considered a place for KKN and an "entrance" to corruptive behavior, becoming a clean, beautiful, and trusted face because it provides excellent service to the community. It is also expected that various policies in the economic field receive direction and regulation in legal norms, namely both in laws and regulations, but also in jurisprudence and customary law; even in the scientific field, namely the Science of Economic Law, so that with a systemic approach it is hoped that our national economic system is truly a legal system in the true sense. A grand design and a shared paradigm are needed that must underlie all and every aspect of economic activity (macro and micro) and the development of economic law as a whole system, so that economic law and legal regulation in the field or that touches economic life no longer only provide or meet momentary needs such as firefighting, but so that economic law really provides channels or channels through which everything Economic activity can be channeled towards the national economic system to which we aspire.

Therefore, efforts are made so that every topic of discussion is carried out by experts in the field of economics or technology as well as legal experts concerned, especially regarding the development of various forms of corporations in the future Indonesian economic law, which according to the Working Group on Economic Affairs is seen as a problem that is still not sufficiently touched by Indonesian Corporate Law. Although regulations derived from the Dutch East Indies Commercial Law Code include Firms, C.V., N.V., Cooperatie, and others, since the New Order it has only been a form of N.V., or P.T., and a form of cooperatives that is of concern to legal scholars and economists. New hybrid forms have developed and newer forms of corporations are needed, such as statutory boards that allow the merger of private and local or central governments, as is possible in foreign legal systems. That is still the question is where the place of Trading Business, SOEs, especially PERUM and PERSERO and other hybrid forms such as Domestic Private Companies, or Foreign Investment Companies, or Multinational Companies, and so on. It is time for the law on economic actors to be examined integrally, both in terms of its economic role in the national economy and as a legal institution in the entire system that regulates the rights and obligations of each legal actor.

Until now, "contract law has never been properly regulated which must apply to different activities and contract drafting, such as for example for various adhesion contracts (contrats d'adhesion), which in Indonesian are sometimes translated as standard contracts or standard contracts, and which are already much different in nature from simple contracts regulated in the Indonesian Civil Code. Therefore, the Netherlands itself has almost 15 years ago changed its principles and legal regulations for this standard contract, in its new Burgerlijk Wetboek, because the application of the old principles and regulations (which are still applied today in Indonesia) is believed to result in injustice for the weak. Similarly, our law does not clearly set out the principles and regulations that should apply to "government contracts" or contracts with government agencies or agencies that may change the position of the private sector at any time, either at the discretion of the government or through changes in legislation. The same applies to international contracts as can be seen in the chapter on "Algemene Voorwaarden". Moreover, regarding contracts carried out via computer or internet (e-contracts) in Indonesia there is still a legal vacuum, and it is very incorrect and unfair, if for e-contracts and other contracts mentioned above easily and immediately just use the regulations on Contract Law derived from the Napoleonic Code, which was born in 1800 to be applied more than 2 (two) centuries later. There is no denying that almost every economic activity is based on contracts21.

When societies are committed to political, economic and legal reforms, mistakes made in the past, when laws were constantly neglected, should not be repeated. For this reason, it is appropriate that at a time when Indonesia's economic conditions are still not recovering as they are today, we begin to give top priority to the development of economic law in Indonesia, so that it can be used as a foundation and guide for economic actors to carry out their activities. That is why the Indonesian government should not only focus on economic recovery, but should also lay the foundation for sustainable, more efficient and "more equitable" economic growth.

3. Conclusion

From the explanation that has been explained by the author that Indonesia has two models of economic law, namely social economic law and development economic law. Development economic law is a regulation of law that includes legal arrangements and thoughts on how to improve and develop economic life in Indonesia nationally or as a whole, while social economic law is a regulation of how the results of national economic development can be shared fairly and equitably in accordance with human values. Legal principles as a meta legal norm basically

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provide a direction, goals, and fundamental assessments for the existence of a legal norm. The direction of objectives and fundamental assessment of the application of economic law as part of policy on the basis of the interests of society and the state, so that the interests of the state can be achieved without having to mistreat the community. Those are some of the economic laws that occur and exist in the Indonesian state, both easily seen and experienced, so that in the future it is hoped that it can run well and function well for the welfare of all Indonesian people. Economic law is part of the existing legal system in Indonesia and plays a very large role in regulating economic activities in Indonesia as something that is very fundamental, so the regulation of economic law can actually be found easily various laws and regulations in Indonesia. It is clear that not only the field of economics must be dealt with conceptually, systemically and professionally.

5. References

Adi Sulistiyono 2005, Mengembangkan Paradigma Non-Litigasi di Indonesia, Surakarta.UNS Press.

Adi Sulistiyono 2005, Reformasi Hukum Ekonomi dalam Era Globalisasi Ekonomi, Surakarta. UNS Press

Ai Siti Farida 2011, Sistem Ekonomi Indonesia, Jakarta, Pustaka Setia.

Charles Himawan dan Mochtar Kusumaatmadja 1984, Business Law,Bandung, Padjajaran University Press, hlm 22.

Charles Himawan dan Mochtar Kusumaatmadja 1984, Business Law,Bandung, Padjajaran University Press.

Christianto Wibisono 1998, Menelusuri Akar Krisis Indonesia, Jakarta, PT. Gramedia Pustaka Utama.

G.W Paton 1972, Textbook of of Jurisprudence, English language book Society, Oxford University Press, London. dikutip dari Peter Mahmud Marzuki I.

Gunarto Suhardi 2002, Peranan Hukum Dalam Pembangunan Ekonomi, Yogyakarta, Universitas Atma Jaya.

Hikmahanto Juwana 2002, Bunga Rampai Hukum Ekonomi dan Hukum Internasional, Jakarta, Lentera Hati.

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Jeremy Bentham 2000, An Introduction to the Principles of Morals and Legislation, Kitchener, Batoche Books.

Jimly Asshiddiqie 2005, Konstitusi & Konstitusionalisme Indonesia, Jakarta, Edisi Revisi, Konstitusi Press.

M. Noor Syam, Penjabaran Filsafat Pancasila Dalam Filsafat Hukum, Malang, Lab Pancasila Ikip.

M.D.A. Freeman 2001, Lloyds Introduction to Jurisprudence, London, Steven and Sons.

Marzuki, Peter Mahmud. 2014. Penelitian Hukum. Jakarta: Kencana

Peter Mahmud Marzuki 2016, Pengantar Ilmu Hukum, Jakarta, Kencana.

Shindarta, Utilitarianisme 2007, Jakarta, Penerbit UPT Universitas Tarumanegara.

Soekanto, Soerjono dan Mamudji, Sri. 2009. Penelitian Hukum Normatif Suatu Tinjauan Singkat. Jakarta: PT. Raja Grafindo Persada

Sumantoro 2008, Hukum Ekonomi, Jakarta, UI Press.

T Mulya Lubis 1991, Hukum dan Ekonomi: Beberapa Pilihan Masalah, Jakarta, Pustaka Sinar Harapan.