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The Essence of the Importance of Philosophical Foundations in the Formation of Laws in Indonesia

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ABSTRACT
This study aims to determine the nature of the position of the philosophical foundation in the formation of laws in Indonesia, find the ideal concept of formulating the philosophical basis in the formation of laws and explain the legal implications that arise if the philosophical basis is not considered in the formation of laws in Indonesia. Research Using Normative Juridical Law Research Methods. The data obtained from the results of library research were analyzed descriptively and qualitatively. The results of this study indicate (1) The nature of the position of the philosophical foundation is the embodiment of the values that live in a nation. These values are summarized in Pancasila as a value system which is the source of all sources of law (Staatfundamentalnorm). (2) The ideal concept of formulating a philosophical basis in the formation of laws can be carried out by applying consistency to each process of forming laws. The process includes the formulation of academic papers, political papers and legal papers. (3) The legal implications that arise if the philosophical basis is not considered, then the law conflicts with the 1945 Constitution of the Republic of Indonesia because Pancasila is the main element described in each of the articles of the 1945 Constitution of the Republic of Indonesia, this can serve as the basis for examining the law. Judicial Review) By the Constitutional Court.

Keywords: Nature, Philosophical Foundation, Act, Review of the Act

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I. Introduction

Laws have a crucial position and have a great responsibility in the hierarchy of laws because laws become rules that explain constitutional orders as well as MPR decrees and at the same time serve as a reference for the implementing regulations under them. Thus, in the formation of each law, three foundations *(Grondslag) are required*, namely the philosophical foundation *(FilosofischeGrondslag*), the sociological foundation *(SoziologischeGrondslag)*, andJuridical Foundation *(WettelijkeGrondslag).* Every Law that is formed is expected to contain these three foundations.

The philosophical basis is the consideration that the regulations formed to take into account the outlook on life, awareness and ideals of law which include the mystical atmosphere and the philosophy of the Indonesian nation originating from Pancasila and the preamble of the 1945 Constitution of the Republic of Indonesia. , And Juridical Basis Namely Rule Considerations Formed To Overcome Legal Issues Or To Fill Legal Vacuums By Considering Existing Rules, Which Will Be Amended, Or Which Will Be Revoked To Guarantee Legal Certainty.[1]

The philosophical basis for making good laws and regulations is important because of these conditions *"rechtsidee" law.* Article 2 of Law Number 15 of 2019 concerning Amendments to Law 12 of 2011 concerning the Formation of Legislation, Stipulates that "Pancasila is the source of all sources of state law". The meaning of these provisions places Pancasila as a *"rechtsidee"* for the sake of realizing justice, certainty and legal benefits. For this reason, the formation of laws and regulations must be guided by Pancasila values.

Pancasila as the Ideal of Law *(Rechtside)* Is the Source, Basis, and Guidelines for Forming Legislation Under it Pancasila in the Indonesian Legal Order Has Two Dimensions, Namely "(1) As a Norm of Criticism, Namely as a Test Stone for Norms Norms Underneath, And (2) As Guiding Stars That Become Guidelines In Forming Laws Underneath. This Requires Lawmakers to Be Able to Achieve the Ideas Contained in Pancasila, and Can Be Used to Test Laws.[2]

Based on the author's search, there are currently many laws in Indonesia that do not prioritize the legal *"rechtside"*. This Shows That The Law Does Not Fully Contain Pancasila Values. It is also not uncommon to find that some of the provisions in the law hurt the general public.

Referring to the Recapitulation of Judicial Review Cases (Uu) Registered at the Constitutional Court (Mk) From 2003 to 2022, 1,449 cases were filed. Of these, Mk has made 1,401 decisions. A total of 269 or

about 19.2 per cent of lawsuits were granted. This shows that there are still many laws and regulations that are contrary to the Constitution, and can certainly also conflict with Pancasila. Because all legal norms regulated in the constitution are sourced from and inspired by Pancasila.[3]

We can see the conditions for the formation of the current law that contradict Pancasila values in various laws, one of which is Law Number 11 of 2020 concerning CiptaKeja*(Omnibus Law),* althoughThe Constitutional Court has submitted a Judicial Review and declared a formal or conditionally unconstitutional defect and has given the House of Representatives (DPR) 2 (two) years to make improvements. However, several things should be of substantive concern that the Constitutional Court missed, namely the material for the Job Creation Law.[4]

The details are Law Number 11 of 2020 Regarding Job *Creation (Omnibus Law)* The Government Wants Foreign Investors To Improve Indonesia's Current Economy. The incoming investors have indeed made the Indonesian economy grow, but at the same time, the rights that should have been owned by a worker have been taken away. For example, the rights that have begun to be reduced are the minimum wage for workers, which should have been set between the government and workers, now starting to be reduced depending on the investor's agreement on how much payment they will pay.

In the fourth point of the precepts which reads "Populist Led by Wisdom in Representative Deliberations". The Job Creation Law is contrary to the core of these precepts, which are about deliberation or deliberation. Where in the meeting for the formulation of the Job Creation Bill, the people as representatives of labour workers could not express their aspirations or opinions regarding the bill. Even though members of the DPR at that time came to represent the people, it was not enough to accommodate all the aspirations of all the people, especially those who worked as labourers. Of course, this is very contrary to the meaning of the fourth precept, which is about deliberation to reach a consensus.

Then for the Fifth Precept which reads "Social Justice for All Indonesian People". The Job Creation Law Contradicts the Fifth Principle of Precepts Because the Job Creation Law Abolishes the Minimum Wage, Eliminates Severance Received by Lower and Middle-Class Labor Workers, Free Use of *Outsourcing* for All Types of Work and Without Time Limits So It Doesn't Provide Social Security On Labor Workers.

On February 18 2015, the Constitutional Court in its Decision Number 85/Puu-Xi/2013 Regarding Cases Reviewing Law No. 7 of 2004 concerning Water Resources. Indirectly, the Constitutional Court Has Recalled Its Function As*The Guardian Of Ideology* (Guardians Of The Nation's Ideology). That is why, when one examines the legal considerations, the court states that Uu *A Quo* is not by the spirit or heart of the Indonesian nation, namely the values of Pancasila, because according to the Constitutional Court, water is a basic need of the Indonesian people which must be fulfilled by the government and cannot be privatized and commercialized by companies. Private.[5]

The government is also obligated to manage and utilize water for the greatest prosperity of the people, not for the other way around it is used by the government for commercial or business purposes. For further details,Article 33 Paragraphs (2) and (3) of the 1945 Constitution: *"(2) Branches of Production Which are Important for the State and Control the Livelihoods of the Many People Are Controlled by the State; (3) Earth and water and the natural wealth contained therein are controlled by the state and used for the greatest prosperity of the people."* The articles being tested have provided the widest possible space for the private sector (business entities and individuals) to control water resources. Granting of Right to Private Control Water Resources Mainly Through Cultivation Right Permit. Cultivation Rights Become a New Instrument Determining Concession Rights Over Existing Water Sources.[6]

Regarding Implementation Into the Constitution Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia Not Only Shows As The Basis Of The State But Also As The Purpose Of The State. In other words, the Fifth Precept "Social Justice for All Indonesian People" as the basis of the state is implemented in the 1945 Constitution of the Republic of Indonesia regarding the administration of the state to realize the greatest prosperity of the people. That is the core meaning of social justice, which is also interpreted as a just and prosperous society. That is why the Constitutional Court expressly annulled the UU SDA *A Quo* as seen in its rulings number 3 & 4 which stated that "Law Number 7 of 2004 concerning Water Resources (State Gazette of the Republic of Indonesia of 2004 Number 32, Supplement to the State Gazette of the Republic of Indonesia) Indonesia Number 4377) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force."

Pancasila As The Source Of All Sources Of Law, Provides Affirmation That The Formation Of Laws May Not Contradict The Values Of Pancasila. If you borrow Hans Nawiasky's term, namely *"Staatfundamentalnorm"*, to say that Pancasila is the basic norm of the Republic of Indonesia. Moreover, the position of Pancasila, which is a nation's philosophical value, has been reduced to a normative level, namely to the constitution.[7] Hierarchically, position of the 1945 Constitution of the Republic of Indonesia is the highest regulation so it becomes a source for the rules below it. Thus, Pancasila is a guideline that must be actualized in every law and all state policies. Thus, the philosophical foundation in the formation of laws is not only a mere

formality in forming laws but rather a reference for the legislators to make Pancasila the source of all sources of law. So that every law that is formed reflects the clarity that Pancasila values exist in every law in Indonesia.

The research method

This research is normative legal research, namely legal research which is carried out by examining library materials that use the object of the study of writing in the form of existing libraries, both in the form of books, journals, and regulations that have links to the discussion of the problem so that the writing This Is Also Literary Writing (*Library Research*).

II. Results of Research and Discussion

The Nature of the Position of the Philosophical Basis in Forming Laws

Theauthority forms laws based on Article 20 of the 1945 Constitution of the Republic of Indonesia states that the House of Representatives has the authority to form laws with mutual consent with the government.[8]

The term used is "law" in lowercase. If the term "law" is used, does it have a significant difference in understanding from the word "law" in lowercase? Usually, the use of capital letters "law" is understood in the meaning of the name or designation of a law that is certain (definite), for example with a certain number and name, such as law number 24 of 2002 concerning the Constitutional Court. If lowercase "law" is used, what is meant is the word law in a general or unspecified sense or related to a specific number and title. In other words, "law" is a genus, while "law" is a word related to a certain law or associated with a certain name.

If so, then the law can be understood as a legal document in a broad sense, which concerns certain materials and forms. Jeremy Bentham and John Austin, Associate the Term Legislation *as "Any Form of Law Making". "The Term Is, However, Restricted To A Particular Making Form Of Law Making, Viz. The Declaration In Statutory Form Of Rules Of Laws By The Legislature Of The State. The Law That Has Its Source In Legislation Is Called Enacted Law Or 'Statute Or Written Law"*. Thus, the form of regulations set by the legislature to bind the public can be associated with the notion of "*enacted law"*, "or" sense.

The form of regulations set by the legislature differs from the regulations set by the executive or judiciary. For example, the Constitutional Court and the Supreme Court also have the authority to regulate and determine regulations of the Supreme Court (Perma). The Government/Executive Has Regulatory Authority By Establishing Government Regulations (Pp) or Presidential Regulations (Perpres). Therefore, it is often distinguished between the notions of (I) "*judicial legislation*", (ii) "*legislation act",* and (iii) "*executive act*" or "*executive legislation"*. What We Mean By Law In The Narrow Meaning Is A "*Legislative Act*" Or A Legal Deed Formed By The Legislature With Mutual Agreement With The Executive Agency. What distinguishes the written legal text is referred to as a "*legislative act"*, not an "*executive act*" because, in the process of establishing *the legislative act*, the role of the legislature greatly determines the material validity of the intended regulation. With the very decisive role of the legislature, it means that the appointment of elected representatives of the people and representing the interests of the sovereign people, where state sovereignty comes from, greatly determines the legitimacy and binding power of the law for the public.[9]

The House of Representatives and the Government as Parties that have a mandate of trust to carry out the tasks of state administration may not determine for themselves everything related to state policies that will bind citizens with obligations that are not agreed upon by themselves, whether those relating to freedom *(liberty).),* the Principle of *Equality*, Or Ownership *(Property)* Concerning the Interests of the People. If these state policies will burden the people, then the people must express their consent through the mediation of their representatives in the legislature. Therefore, these state policies must be outlined in the form of law as a legislative product (*legislative act)* as referred to above.

Laws in the sense of material *"wet in material zin"* and laws in the sense of formal "*wet in for male zin"*. The meaning of the law in the material sense concerns the law in terms of its material or substance, while the law in the formal sense is seen in terms of its content and form. The difference between the two can be seen only in terms of emphasis or point of view, that is, a law that can be seen in terms of its material or seen in terms of its form which can be seen as two completely separate things.

Mian Khurshid divides laws into five groups, namely: (1) *(statutes* general *);* (2) Laws that are Local *(Local Statute, Locale Wet); (* 3) Laws that are Personal (*Personal Statute)* or Laws that are Individual (Individual Statute); (4) Laws that are Public (*Public Statute); (*5) Laws That Are Civil *(Private Statute).*

The law is classified as a General *"General Statute"* is because the law applies to all citizens *(the whole community)* or in Dutch it is commonly referred to as "*Algemeneverbindendevoorshriften*". Laws Can Be Classified As Local Laws Or "*Local Statutes" (Local Wet),* That Is Only Limited To Areas Or In Certain Areas. Laws can also be determined to apply to certain legal subjects or even certain individuals and this is referred to as a *"personal statute*". The legal norms contained therein are not general and abstract as stated by Han Kelsen, but are concrete and individual.[10]

The State of Indonesia is not a pure TriassPolitika adherent in implementing its state administration which divides its power among the legislature, executive and judiciary, each of which stands alone. Because in the function of a state institution, it is also owned by other state institutions. We Can See This From The Authority In Forming Laws.

1. The President's Authority in Forming Laws

Prior to the Amendment to the 1945 Constitution of the Republic of Indonesia, the President's Powers Under Article 5 Paragraph (1) Which reads "The President Holds the Power to Form Laws With the Approval of the House of Representatives". This is a very basic deviation from the principle of administering state administration where the institution that has the authority to form laws is in the legislative power, not in the executive. But what happened was on the contrary that the DPR, which is an extension of the people's hand as the holder of people's sovereignty, turned out to only function as a sealer for the "institution of approval" for the draft laws that had been formed by the president.

As a result, such a large power of formation was given to the executive, who incidentally is the head of state as well as the head of government (executive), so that happens is that there are many legislative products whose contents are only for the interests of those in power. As stated by Lord Acton, "*Power Tends To Corrupt And Absolute Power Corrupts Absolutely*", (Power always tends to develop into arbitrariness, and absolute power also tends to be arbitrariness). The state is synonymous with power and tends to be corrupt, in the sense of abusing its power *(abuse of power)* because the state also has its interests and goals which are sometimes detrimental to the public interest.

The law referred to in this case is the law in the narrow sense a "*legislative act"* or a legal deed formed by the legislature with mutual agreement with the executive branch. After the Amendments to the 1945 Constitution of the Republic of Indonesia, the Authority to Establish the "Legislative Act" Law Has Been Handed Over to the Legislature As In the Amendments to Article 5 Paragraph (1) Juncto Article 20 Paragraph (1) In the First Amendment to the 1945 Constitution of the Republic of Indonesia which Reaffirmed With the Addition of Article 20 Paragraph (5) Second Amendment to the 1945 Constitution of the Republic of Indonesia Where the President Is Authorized in the Form of the Right to Submit Draft Laws to the House of Representatives While the Power to Form the Laws Itself Is in the Hands of the People's Legislative Assembly, However, the Ratification of the Law -The law itself turns out to be in the hands of the president.

As for the President's Authority in Forming Laws in the Meaning of "*Executive Act*", Namely the President's Authority in Forming Other Legislations Such as Government Regulations instead of Laws Stipulated by the President In Matters of Compelling Emergencies, Government Regulations Defined by the President Executing the Act As It Should And Presidential Regulations Namely Legislation Made By The President. The Authority in Forming the "Executive Act" Act is Derivative of Legislative Authority. This means that the President may not stipulate anything, for example, a presidential decree may no longer be self-regulating as understood so far.

Based on Article 47 of Law Number 12 of 2011 Amended by Law Number 15 of 2019 Concerning the Formation of Legislation Stating that the Draft Law Submitted by the President is Prepared by Ministers or Leaders of Non-Ministerial Government Agencies By the Scope of Duties and Responsibilities he replied.

In preparing draft laws, ministers or heads of related non-ministerial government agencies form inter-ministerial and/or inter-non-ministerial committees. President of the Republic of Indonesia Number 68 of 2005 concerning Procedures for Preparing Draft Laws, Draft Government Regulations instead of Laws, Draft Government Regulations and Draft Presidential Regulations.

In the Context of Drafting Laws, Membership of the Inter-Departmental Committee Consists of Departmental Elements and Non-Departmental Government Institutions Related to the Substance of the Draft Law. The Inter-Departmental Committee for Drafting the Law Was Formed After the Prolegnas were Stipulated by the DPR. The Inter-Departmental Committee focuses on a discussion on principal issues regarding the object to be regulated, and the scope and direction of the regulation. Interdepartmental Committees May Invite Experts in Higher Education Environments or Organizations in the Social, Political, Professional and Other Social Fields According to the Needs of Drafting Laws.

2. The Authority of the House of Representatives (DPR) in Forming Laws.

In the 1945 Constitution of the Republic of Indonesia, it is clearly illustrated that the legislative function is in the hands of the House of Representatives, Article 20 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia confirms, "The House of Representatives holds the power to form laws". Compare that with the provisions of Article 5 paragraph (1) which reads "The President has the Right to Submit Draft Laws to the House of Representatives". Article 5 Paragraph (1) Before the First Amendment of 1999 It reads "The President Holds the Power to Form Laws With the Approval of the House of Representatives".

These two articles, after the first amendment in 1999, changed drastically so that they transferred the actors in power or the power to form the law from the hands of the president to the hands of the DPR. In

essence, we can call the transfer of power for the formation of this law a shift in legislative power from the hands of the president to the hands of the DPR. Now the President is no longer the main legislator like before or *"the main actor on the process of legislation"*, *"primary legislator*", or *"principal legislator"*.

Besides that, according to the provisions of Article 21 of the 1945 Constitution of the Republic of Indonesia, each member of the DPR has the right to submit proposals for draft laws whose conditions and procedures are regulated in the Rules of Procedure. It is even more emphasized in Article 20 Paragraph (1) of the 1945 Constitution that it is also determined, "The House of Representatives Has Legislative Functions, Budget Functions, and Oversight Functions". This means that legislative power, budgeting power, and control power *are* hands of the House of Representatives.

For a more complete description of the powers of the DPR, you can quote here the provisions of the 1945 Constitution, Article 20 and Article 20 A, each of which contains five paragraphs and four paragraphs. Article 20 Provides That:

(1) The DPR Holds the Power to Form Laws.

(2) Each Draft Law is Discussed by the DPR and the President to Obtain Mutual Approval.

(3) If the Draft Law Does Not Get Mutual Approval, That Draft Law May Not Be Resubmitted at the Session of the House of Representatives at that Period.

(4) The President Ratifies the Draft Law which Has Been Approved Together to Become Law.

(5) In the event that the president does not ratify the jointly approved draft law within thirty days of the approval of the draft law, said draft law becomes law and must be promulgated.

Furthermore, the provisions of Article 20 A read:

(1) The DPR Has Legislative Functions, Budget Functions, And Oversight Functions.

(2) In carrying out its functions, apart from the rights regulated in other articles of this Constitution, the DPR has the right to interpellation, the right of inquiry, and the right of expressing an opinion.

(3) In addition to the rights regulated in other articles of this Constitution, every member of the DPR has the right to ask questions, submit suggestions and opinions and have the right to immunity.

(4) Further Provisions Concerning the Rights of the People's Legislative Assembly and the Rights of the Members of the People's Legislative Assembly are to be regulated by law.

Each draft law must be discussed jointly by the DPR and the government to obtain mutual approval. In order to be passed into law, it is absolutely required that the draft law must obtain mutual approval between the DPR and the president or the government. In all countries, every draft law is always discussed jointly by the parliament and the government. Because it is the government that will later implement the law, it is the government that discusses it together with the parliament to obtain mutual approval. After obtaining mutual approval, each draft law will be ratified as appropriate by the president.

3. The authority of the Regional Representatives Council (DPD) in forming laws, the

powers of the DPD in the field of legislation are only limited to proposing bills related to regional autonomy, central and regional relations, formation and expansion and merger of regions, and management of natural resources and other economic resources. As well as Central and Regional Finance. In the field of consideration, only giving consideration to the DPR on the draft law on the State Budget, and the draft law relating to taxes, education and religion, and giving consideration in the selection of members, Mr The Dpd Oversight Division Supervises the Implementation of Laws Regarding Regional Autonomy, Formation and Expansion and Merger of Regions, Central and Regional Relations, Management of Natural Resources and Other Economic Resources, Implementation of State Budget, Taxes, Education and Religion The Results of Supervision Will Be Delivered to the DPR. Subsequent actions from the results of supervision depending on the DPR to follow up through the right of interpellation, the right of inquiry and expressing opinions.

The Dpd Institute Was Originally Designed As The Second Chamber Of The Indonesian Parliament In The Future. However, one of the characteristics of bicameralism that is known in the world is when the two chambers in question both carry out their legislative functions as they should. In fact, if you pay attention, Dpd has absolutely no power in this field. The Dpd Only Gives Considerations, Proposals, Or Suggestions, While Those Who Have the Right to Decide Are the Dpr, Not the Dpd. Because of this, the existence of the Dpd beside the DPR cannot be called bicameralism in the usual sense.

, it has been understood that if the positions of the two chambers in the legislative field are equally strong, then the nature of bicameralism is called '*Strong Becameralism'*, but if the two chambers are not equally strong, then it is called *'Soft Becameralism'*. However, in the provisions of the 1945 Constitution of the Republic of Indonesia after the Fourth Amendment, it is not only that the structure adopted cannot be called *'Strong Becameralism'* whose position is not equally strong, but also that it cannot even be called *'Soft Becameralism'*.

The Dpd, according to the provisions of Article 22d (A) can submit certain draft laws to the DPR (paragraph 1), (b) participate in discussing specific draft laws (paragraph 2), (c) give consideration to the DPR for the draft state budget and certain draft laws (Paragraph 2), (D) Can Supervise the Implementation of Certain

Laws (Paragraph 3). In other words, the DPD only provides input, while the Dpd decides, so this Dpd is more accurately called the DPR Advisory Council because its position only gives consideration to the DPR.

This limited constitutional authority is exacerbated because, in its implementation, the role and involvement of the Dpd in carrying out its legislative functions are "castrated" in such a way by the provisions of Law no. 27 of 2009 concerning Md3 and Uu No. 15 the Year 2019 Year Concerning P3, Where in the Formation of Certain Laws which are the Authority of the Dpd Based on Article 22d Paragraphs (1) and (2) of the Constitution, the Dpd is not involved as it should be according to the 1945 Constitution of the Republic of Indonesia.

JimlyAsshiddique emphasized the existence of the Dpd, It started with an attempt to find a compromise between the idea of maintaining a unitary state structure and the idea of forming a federal state. Federal State Discourse Had Enlivened Discussions During the Beginning of the Reformation Era. The agreement reached was that Indonesia remains a unitary state, but the nature of federal equity is reflected in the existence of the DPD and the affirmation of the Basic Law on Regional Autonomy. There are a number of duties and powers of the Dpd that were formulated in the 1945 Constitution after the amendment, including being able to submit draft laws to the DPR, relating to regional autonomy, central and regional relations, formation, expansion and merger of regions, management of natural resources and other economic resources. , As well as Central and Regional Financial Balance. The Dpd is also given the authority to supervise the implementation of certain laws as stated in Article 22 D paragraph (3) of the 1945 Constitution 45.

Imbalance in Position Between Dpd and Dpr, Dpd Conducts Judicial Review of Those Authorities Regulated in the Law, Now With the existence of an Institution that can ensure that the provisions of the law made by the legislators are truly appropriate and not contradictory to the 1945 Constitution of the Republic of Indonesia. In this case, Judicial Review is the authority to investigate and further assess whether a statutory regulation is in accordance with or contradicts a statutory regulation of a higher degree, as well as whether a certain power has the right to issue said regulation (VeroordenendeMacht).

The amendments to the 1945 Constitution have reversed the power to form laws, which were originally in the hands of the President, *"Heavy Executive*Power*Heavy Legislature"*. However, every draft law, whether coming from the DPR or from the President, is obliged to be discussed together to obtain mutual approval. Without the approval of both parties, the draft law cannot be passed into law. As we understand, since the beginning of the 1945 Constitution did not apply the TriasPoliticaMontisquie in terms of the power to exercise legislative authority. Even though the DPD has the authority to submit bills in certain fields, the Council cannot submit them directly to the President. Thus, the bill submitted to the Dpd may be rejected by the DPR to be used as an initiative proposal.

Content Material of the Law

The term "Content Material" was first introduced by A. Hamid S. Attamini, as a substitute for the Dutch word "*HedOnderwap*". A. Hamid S. Attamni Translated it as "Material Content that is Typical of the Law".

Article 1 Number 13 Law Number 15 of 2019 Concerning the Formation of Legislation Regulates That the Content Material of Legislation Is Material Contained in Legislation According to the Type, Function and Hierarchy of Legislation.

Article 7 Paragraph (1) Types and Hierarchy of Legislation Consists of A. The 1945 Constitution of the Republic of Indonesia; B. Decree of the People's Consultative Assembly; C. Laws/Government Regulations in Lieu of Laws; D. Government Regulations; E. Presidential Regulation; F. Provincial Regulations; And G. Regency/City Regional Regulations. Based on the description of the content of the law, the formation of the law must also pay attention to the principles of forming statutory regulations.

The Concept of Forming Legislation in Indonesia Must Be Completely In Accordance with Basic Norms and Principles in Forming Legislation. Thus, the formation of laws and regulations will form laws that are in accordance with the ideals of the law of the Indonesian nation itself by putting forward a good concept in forming good laws and regulations, which are able to regulate, maintain and protect the entire Indonesian community, nation and state.

Formation of Legislation Aims To Form A Good Legislation. The Formation of Good Legislation Must Include Two Formation Principles, namely, the Formal Principle and the Material Principle. The formal principles include the principle of clear objectives, the principle of the need for regulation, the principle of the right organ or institution, the principle of proper content, the principle of being able to be implemented, and the principle of being recognizable. Meanwhile, the material principle, namely, the principle in accordance with the ideals of Indonesian law and the fundamental norms of the state, the principle in accordance with the basic law of the state, the principle in accordance with the principles of the state based on law, and the principle in accordance with the principles of government based on the constitution.

A. Hamid S. Attamimi is divided into 2 (two) classifications, namely formal principles and material principles. Formal Principles Include The Principle of Clear Purpose or *Beginsel Van DuideleijkeDoelstelling*; The Principle of Proper Organs/Institutions or Beginsel Van Het Juiste Organs; The Principle of the Need for Arrangements or *Het NoodzakelijkheidsBeginsel*; The Principle of Can Be Implemented or *Het Beginsel Van Uitvoerbaarheid;* The Principle of Consensus or *Het Beginsel Van Consensus.* While the material principles include: The principle of correct terminology and systematics or *Het Beginsel Van Duidelijke Terminology EnDuidelijkeSystematiek*; The Principle of Being Recognizable or *Het BeginselVan De Kenbaarheid;* The Principle of Equal Treatment in Law or *Het Rechtsgelijkheidsbeginsel*; Principle of Legal Certainty or *Het RechtszekerheidsBeginsel*; The Principle of Law Enforcement According to Individual Conditions or *Het Beginsel Van De IndividualeleRechtbedeling*.

The above principles for the formation of laws and regulations reflect the form of good laws and regulations. If It Is Applied Into A Statutory Regulation, A Good Legislative Regulation Will Be Formed That Is In Accordance With The Principles That Have Been Set In The Act Without Leaving The Principles Of Justice.

A. Hamid S. Attamimi Opinions Regarding the Establishment of Good Legislation. Attamimi's Opinion Mentions That, The Formation of Appropriate Indonesian Legislation, Is As Follows: Ideals of Indonesian Law; State Principles Based on Law and Governance Principles Based on the Constitution; Other Principles.

The Formation of Legislation Must Prioritize Clarity of Purpose, In Meaning that the Purpose of Forming Such Legislation Must Be Clear, Fulfilling the Desires of the Widespread Society in order to Create Equitable Certainties So as to Distribute Benefits to All Indonesian People. In addition, the concept of an institution or official forming legislation must be a credible institution, which is recognized democratically by the general public. The formation of Legislation Must Adjust Between Types, Hierarchies, Content Materials and Principles In Accordance with the Basis for the Formation of Legislation.

As a rule-of-law country that has a legal level, it must attach importance to the hierarchy of legislation in the formation of laws and regulations, especially the constitution as the highest law. In the Formation of Laws and Regulations in Indonesia, it must be guided by a number of things as follows. The first is the nation's ideology, namely the ideals of Indonesian law which are none other than Pancasila. The second is that the state's fundamental norms are nothing but Pancasila. The third is the principles of the state based on law and the principles of governance based on the constitution.

The principle of forming good laws and regulations includes: First, the principle of clarity of purpose, this principle means that every formation of laws and regulations must have clear objectives to be achieved. Second, the Institutional Principle or Appropriate Establishing Officials, this principle means that every type of legislation must be made by a state institution or an authorized official forming legislation, said legislation can be cancelled or cancelled by law if it is made by an institution. State Or Unauthorized Officials; Third, the principle of conformity between types, hierarchies and content material, this principle means that in the formation of laws and regulations one must really pay attention to the right content according to the types and hierarchies of laws and regulations; Fourth, the principle can be implemented, this principle means that every formation of laws and regulations must take into account the effectiveness of these laws and regulations in society, both philosophically, sociologically and juridically; Fifth, the Principle of Usability and Efficacy, this principle means that every legislative regulation is made because it is really needed and useful in regulating the life of society, nation and state; Sixth, the principle of clarity of formulation, this principle means that each law and regulation must meet the technical requirements for the preparation of laws and regulations, systematics, choice of words or terms, as well as legal language that is clear and easy to understand so that it does not give rise to various kinds of interpretation in its implementation; Seventh, the principle of openness, this principle means that in the formation of laws and regulations starting from planning, preparation, discussion, ratification or determination, and promulgation are transparent and open. Therefore, All Levels of Society Have the Widest Opportunity to Provide Input in the Formation of Legislation.

The content material of Legislation Must Reflect the Principle of Protection. This Principle Means That Every Content Material of Legislation Must Serve To Provide Protection To Create Public Peace. The Humanitarian Principle Interprets That Every Content Material of Legislation Must Reflect the Protection and Respect of Human Rights as well as the Dignity and Dignity of Every Indonesian Citizen and Resident Proportionally.

In this study, the authors focus on one type of legislation based on its hierarchy, namely laws. Matters Causing the Material Content of the Law to Contrary to Pancasila Values, That the Formation of the Law Has Not Fully Used Clear and Precise Criteria So That Does Not Reflect A Further Arrangement Of Pancasila Values. This resulted in a large number of material substance contents of the law contrary to the 1945 Constitution of the Republic of Indonesia which is imbued with the values of Pancasila.

The process of forming a law is inseparable from the academic text as regulated in Article 19 paragraph (3) of law number 12 of 2011 concerning the formation of statutory regulations, namely: "Material regulated as

referred to in paragraph (2) that has passed Assessment and Alignment Set Out in Academic Manuscripts ". This means that each bill must have an academic text.

The following matters cause the content of the law to conflict with the 1945 Constitution, namely regarding the determination of content that is not in accordance with existing guidelines, as proposed by A. Hamid S. Attamimi. According to A. Hamid S. Attamimi, 3 (three) guidelines are used in finding material content of the law, namely: (1) from the provisions in the body of the 1945 constitution. (2) based on state insight based on law (rechtstaat). (3) Based on the Insight of Government Based on the Constitutional System.
Provisions on the Content of Indonesian Laws that Must Be Regulated According to Law Number 12 of 2011 Article 10 Paragraph (1) are as follows:

1. Further Arrangements Concerning the Provisions of the 1945 Constitution of the Unitary State of the Republic of Indonesia;
2. Order of a law to be governed by law;
3. Follow-up on Constitutional Court Decisions; And Or
4. Fulfillment of Legal Needs in Society.

In addition to the content of the law as described above. The author explains that laws must reflect the principles, rules and morals of the nation itself, including: "(1) each law must shape and reflect the personality of a nation that fears God Almighty; (2) Each law must reflect human values and uphold human dignity and worth; (3) Each law must create a sense of security and peace in the spirit of national unity and unity; (4) Each law must provide space for the representation of members of the public in the formulation, application and review of laws; (5) Every Law Must Be Able to Prosper the Society.

According to the writer, the substance of the law is required to be able to provide protection for the people of Indonesia, guarantee public services, provide guarantees for education to educate people's lives, as well as content material that contains social justice or justice that society actually wants. That way, Indonesia will achieve prosperity.

Philosophically, the contents of the law are the values that live in society. As the Law Regulates Further Provisions of the 1945 Constitution of the Republic of Indonesia, which is the elaboration of the values contained in Pancasila. Thus the Content Material of the Law Must Be Guided by Law Number 15 of 2019 Concerning the Establishment of Legislation, So There Is No Arbitrary Formation of Legislation in Forming a Law, Because Law is a Community Need for Regulation of All Aspects of The life of citizens to carry out a behavior in order to create welfare in society.

III. Conclusion

The ideal concept of formulating a philosophical basis in the formation of laws can be done by applying consistency to each process of forming laws. This process includes the formulation of academic papers, political texts when the draft law has entered into the discussion in the legislative body, namely the House of Representatives, and legal text when the draft law is officially passed into law by the president

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