The Synthesis of Indonesian Socialism According to The Constitution

Aurora Jillena Meliala
Universitas Pembangunan Nasional Veteran Jakarta, Indonesia
aurora@upnvj.ac.id

Jonathan Andre Woods
Universitas Pembangunan Nasional Veteran Jakarta, Indonesia
jonathanandrew@upnvj.ac.id

Abstract

This article is aimed to narrate the core value of the Indonesian economic system as stipulated by the founding fathers. And it was called Ekonomi Kerakyatan (Proletarian Economy), introduced by Muhammad Hatta and is the distinctive feature of Indonesian democracy. A system that is centered on people’s empowerment. The Indonesian “third way” was introduced long before Giddens’s idea and it was claimed as the authentic Indonesian socialism. One that is rooted in the value of Pancasila as Indonesia’s Weltanschauung (Philosophische-Grundslag). A People-centered economy based on cooperativism and kinship. The paper used a qualitative method in its research. The first part will explain how Ekonomi Rakyat was defined and postulated under the Indonesian Constitution. Then, it will explain the transformation of the economic legislature and its implication to national development. Lastly, the resolution to reinvigorate the idea of a people-centered economy in Indonesian Economic Democracy and Legal framework is explained. The research finds that Indonesia’s inherent economic system is yet to be
implemented in the national legal life and that it greatly impacts the nation’s notions of prosperity. In the end, the research concludes that the economic system should be narrated in a sound legal framework, while the process of legal drafting and enforcement depends on political commitment.

A. Introduction

It is obvious to say that since the ancient times, what was called Nusantara - and what is now Indonesia - although comprised of different polities and cultures, were united in a common system of economic principles unique to it alone. In the midst of capitalistic hegemony, Gidens offers an idea of hegemony theory in the form of the third way of the midway in modern economic development.\(^1\) As neither the modern constructions of economic ideologies or the so-called third way proposed by Anthony Giddens fully embodied what was and is thought to be the spiritual breath of Indonesian societal-economical development. It was first and foremost, an ancestral idea and to abandon it in a careless manner was not without certain repercussions. One of which was the search of a state-saving economic ideology. Thus, both in Indonesia and the rest of the world, the topics of ideology, economic development, and state building have been several of the most enduring issues of political and economic nature in the history of nation-building until the present day. The fact of how impactful these topics are to a nation’s livelihood cannot be divorced from how they are actually implemented in state development. Furthermore, the dialectic of economic and political governance is still an up-to-debate issue considering how even the UN sees it necessary to establish what is called Sustainable Development Goals (SDGs). These goals range from public well-being, clean energy and to the establishment of just and strong institutions (state-building) as mandated by goal 16. This call by the UN, indicates the need for further development even in the international level of sustainable future even in the dynamics of statehood.

The changes to the international environment, like the COVID-19 Pandemic, necessitates this talk even more, especially when conferences such as the latest one in 2022 on the aforementioned goal 16 is concerned. Despite the polarity of ideologies and thoughts that is prevalent in the world such as between capitalism and socialism, it is still surprising how in that conference, in discussing the wide breadth of goal 16 and explaining the economic impacts the world is facing, the importance of people-centered governance is stressed. The age-old topics on social contract, trust between state and people, and the structuring of enduring institutions are taken up again with the people at the center, perhaps in search of an organic government that portrays cooperation between state and society at large. This oriental-like approach is reminiscent of the old rivalry between capitalist and socialist values, capital and social community of the people. Capitalism here seems to be imagined as a production system in the control of capital.\(^2\)


The ideologies of Individualism and communalism present a dichotomy that covers broad themes of government such as economics, politics, law, state administration and even state philosophy. Communalism/Collectivism is centered on linked individuals as part of one collective. One that is connected by common traditional norms, duties and goals. While Individualism is patterned on loosely-related individuals, who are independent of the collective. Each with their own norms, needs, and preferences.

In relation to this, and in determining the Indonesian principle, Jimly Asshidiqie seeks to identify Indonesian democracy by measuring the value of both ideologies in the regulations of economical-political sectors of the time. At the end of Asshidiqie’s 1993 dissertation, he concluded and further predicted the shifting values of the Indonesian economy from communalism to individualism. Under such conditions, Indonesia’s democratic system began a shift towards liberalization and the construction of its regime.

Kaelan, in one of his books entitled "Liberalization of the Pancasila State Ideology" further illustrates that Indonesia’s staatsfundamentalnorm is based on communalism. An embedded ideology of mutual help and brotherhood that is preserved from long past times up until the very present day. This stance was factual in regards to the contents of the 1945 Constitution which underwent an incoherent amendment in 2002. Kaelan sharply pointed out that there are at least two amendment-produced articles of the Constitution that deviates from the inherent views of what is called Pancasila, the state-sanctioned base of state philosophy: Article 22E concerning General Elections and Article 33 concerning National Economy and Social Welfare. Even so, Kaelan's elaboration in the book is more focused on the first point (on political democracy). In regard to this, Romli Atmasasasmita also described the factuality of libertarian domination in the realm of law both in theoretical thought and legal practice.

Various literatures have often described that the basic values of Indonesia lies in socialism, the value of togetherness, the congregation of people, the spirit of brotherhood and communal collectivity. The philosophy of Pancasila, a collection of five principles widely practised in Indonesia from age to age and whose values incorporate all those mentioned, came as an answer to the need for unity and the familial spirit of Indonesian communal life. The value of communalism, engraved in the body of Pancasila, was further postulated as the unique characteristic of Indonesian democracy. The economic development agenda is basically a reflection of the ideals of independence and Pancasila.

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4 Triandis, Individualism, 3.
8 Romli affirmed that the “Reception of foreign legal systems or certain areas of legal discipline from one foreign system must be done under the home design of Pancasila. Whatever foreign legal elements that will be transferred and received as a part of the national legal system must be executed through the Pancasila Perimeter.” see Romli Atmasasmita, Moral, Pancasila, Hukum dan Kekuasaan (Bandung: Refika Aditama, 2020), 47.
Further, it can be inferred that collectivism is often regarded as an important fundamental, more specifically in regard to the nature of Indonesian nationalism and culture. In its very essence, it opposed individualism which is metaphysically defeated by it and its other antonym, togetherness. Collectivism has long been considered to be ever present in the characteristics of the Indonesian nation. Indonesia also adheres to a cultural pattern of collectivity and the influence of high power.\textsuperscript{11} Thus it may be seen as the opponent of Individualism, another prevalent ideology of the modern era. The synthesis of these two contrasting notions presents the current polar economic dichotomy currently prevailing in the world. Adversity between the two is apparent for anyone who considers how socialism is apparently based on collectivism and capitalism on individualism. However, what and how to determine the epistemology of these two values are rarely discussed comprehensively.

The university research tends to postulate and view collectivism as an ideal value that is somehow difficult to achieve in the current era of modernization. Such research will then describe individualistic values that are considered contradictory to, ambivalently or even antagonistically, characterize the development and occurrence of liberalization. In this regard, an academic can correctly assume that the two (individualism and collectivism) are intertwined and related to each other. But to what extent such a relation can produce positive or negative impacts shall also be elaborated more readily, and one of them who succeeded in doing so was Emil Durkheim. In a concept he calls \textit{anomie}, Durkheim explained that the alliance between individualism and collectivism, along with each of their values will possibly result in a social situation/environment that is worthless and morally absent. \textit{Anomie}, in simple words, results in the breaking of social ties between individuals and their communities.\textsuperscript{12}

Then, on which polar antipode, shall Indonesia be embedded? In the BPUPKI’s plenary meeting, Individualism is opposed\textsuperscript{13} and strongly rejected.\textsuperscript{14} They seem to come into agreement on the idea of collectivism, but collectivism in the national, Indonesian, context is yet to be expounded. In that historical moment, the question of what exactly the characteristic of Indonesian socialism was not clearly defined. Muhammad Yamin, one of the fathers, proposed that collectivism must be defined as the representation of people sovereignty under the president’s authority as it is characterized in a democratic state. Soepomo, however, emphasized that unlike western democracy that was based on the master president’s authority as it is characterized in a democratic state. Soepomo, however, emphasized that unlike western democracy that was based on the masterpieces of Thomas Hobbes, John Locke and Jean-Jacques Rousseau, Indonesia must refer its democracy to the integralist theory of Spinoza, Adam Muller, and Hegel. Despite these wide-ranging proposals, the characteristic of Indonesian economic democracy, as opposed to the political one already proposed above, was still not clearly defined. Furthermore, the role of people, pertaining to the idea of collectivism, in the national economy is yet to be expounded.

\begin{itemize}
\item \textsuperscript{11} Dasrun Hidayat, “Social and Cultural Identity Pendekatan Face Negotiation Theory dan Public Relations Multikulturalism Negara Jerman-China dan Indonesia”, \textit{Jurnal ASPIKOM (Asosiasi Pendidikan Tinggi Ilmu Komunikasi)} Vol 2, No 2 (2014) : 120
\item \textsuperscript{12} Durkheim used the term anomie to describe the state of normlessness, chaos and the insatiable human condition – “the malady of the infinite”. Anomie results in a discrepancy between the individual and the ethical standards prevailing in a communal society. He further postulates that if the solidarity that occurs in society is organic – determined by members of the community to take on roles and functions – then anomie cannot occur. This is because each individual has a sensitivity to shared needs which then drives the evolution in the division of labor. For example, producers because of their understanding and proximity to consumers, can easily calculate the need to be supplied with their products. See Emile Durkheim and George Simpson, \textit{The Division of Labor in Society} (London: Collier Macmillan Publishers, 1964), 368–369.
\item \textsuperscript{13} In its sessions, the atmosphere that enveloped BPUPKI’s members was primarily anti-colonialist and anti-imperialist. Such sentiments made the nation’s founding fathers see everything which smells of individualism and liberalism as being directly affiliated with colonialism and imperialism. Thus, they view these things with ingrained hatred over the years of persecution under foreign colonial powers. In its stead, the thoughts and notions that oppose western colonialism and its ideas became so popular or at least not denounced as enemies by the principal personages of the era. See also, Aurora Meliala, \textit{Melawan Kapitalisme dengan Hukum Ekonomi Kerakyatan} (1st edition, Depok: PT. Rajagrafindo Persada, 2021), 124.
\item \textsuperscript{14} Muhamad Saleh, Anomali Kedaulatan Rakyat dalam UUD 1945 Pasca Amandemen (Jakarta: Yayasan Rumah Peneleh, 2019), 8.
\end{itemize}
In considering the shape of a nation-wide economic base, one must refer to Indonesia (the Dutch East Indies) at the time of the big economic depression of the 1930s. Mohammad Hatta, the father of Indonesian economy, has put forward the exegesis of the miseries of Indonesian people under the regime of *Cultuurstelsel* (a Dutch cultivation policy requiring a portion of agricultural production to be devoted to export-purposed crops). His exegetical concerns were written in several declamatory articles, the two primary influential ones titled “*Pengaroeh Koloniaal Kapitaal di Indonesia*” (Impact of colonial capital in Indonesia) and “*Ekonomi Ra’jat*” (people-centered economy). There are at least three big structured points that were delivered on these articles:

1. The rejection of the idea of national dependency on colonial capital. Hatta strongly criticized the premise stating that the economy of Indonesia is dependent on the capital injected by colonial and/or foreign capital because of its contribution to the national tax.

2. The emphasis on the decrease of the state’s stock is not only solely related to *belasting* (tax), yet also to the two other variables: *invoerrecht* (customs duty) and *handel* (trade income). The domination of foreign investment and/or colonial capital will make a country more susceptible to global crisis.

3. Therefore, the resiliency of the national economy must be built on a robust ideology of people-centered economy.

In this research, the author examines the idea of Indonesia’s economy which is centered on the people in its original perspective. This economic idea has been established by the founding fathers with the values of community empowerment as the center of the economic democratic system which is claimed to be Indonesian socialism. Because this system has a characteristic that is sourced from the values of Pancasila as the basic norm (Grondslag) in its implementation. The novelty of this research will provide a significant contribution to the government in formulating policies related to the economy in Indonesia. Indonesian socialism and its characteristics centered on people’s empowerment occupy a central position. So that the reconstruction of socialism is embedded and legitimized in a binding regulation.

To assist in the research of this article, qualitative method is used. Qualitative research is an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem. The process of research involves emerging questions and procedures, data typically collected in the participant’s setting, data analysis inductively building from particulars to general themes, and the researcher making interpretations of the meaning of the data. The final written report has a flexible structure. Those who engage in this form of inquiry support a way of looking at research that honors an inductive style, a focus on individual meaning, and the importance of reporting the complexity of a situation.\(^\text{15}\) Essentially, This method of research, in its process, hypothesis, analysis, and conclusion among others up to its writing utilizes aspects that are non-numerical, descriptive-situational, and analytical. Essentially, This method of research, in its process, hypothesis, analysis, and conclusion among others up to its writing utilizes aspects that are non-numerical, descriptive-situational, and analytical.\(^\text{16}\)


The strong correlation between the observer and the data is a marked difference from quantitative research, where the researcher is strictly outside of the phenomena being investigated. There is no beginning point of truth or any established assumptions from which the researcher can begin. Therefore, it is clear that in this mode of research, the researcher is deeply involved in the examination of sources and data. In such a style of data-gathering and examination, the researcher is to scrutinize all questions and problems posed by the dilemma at hand. Furthermore, this research also applies some approaches in its construction. They are:

1. Conceptual Approach
   Firstly, it is necessary to outline the concept of Indonesian economic ideology under its constitution. Formulation of this concept will be done when one also regards the big concepts of existing global economic systems which are capitalist and socialist.

2. Philosophical Approach
   Having fully understood the concept of Indonesian system of economic ideology, the authors will further examine whether the ontological, epistemological and teleological aspects of the fundamental idea that have been manifested in the national laws and economic policies of investment.

3. Analytical Approach in Conclusion and Prescription
   The method used when drawing a conclusion is the deductive method that is used to firstly discuss general matters (theories, legal sciences and legislation) and compares them with special (empirical and practical) data. Then, from the concept of populist economic ideas, the author will attempt to attract it to the ideal investment arrangements and matters that are in accordance with the legal ideals as narrated by the founding fathers.

B. Discussion

1. Values as The Root of Economic Law

   Individualism as a concept first developed during the age of the Enlightenment. The concept is thought to be the answer to the need for a new social order after the decline of feudalism which strictly attributes various social roles to everyone. This concept initially developed with criticism that is emphasized on the right of each person to determine the direction of his work. This also includes how such works contribute to society. Justification for resistance against the government which rigidly determines the order of social life is also a vocal point in this concept. In the light of this idea, Individuals are considered independent members of society that can determine their own destiny.

   The meaning of the word “individualism” in its own merit, began to receive its pejorative notion when the Owenites, followers of the utopian socialist Robert Owen, labeled all anti-socialist parties as "individualists". Even so, the study of Individualism and its concept does not stop with the study of such a label, which can be arguably subjective in light of the number of its adherents in the western world. Further in such a study, The meaning of individualism was explained both logically and academically in the 1847 book entitled the "Elements of
Individualism" by William Maccall. In his teaching, Maccall uses the term "individuality" and not "individualism". In this regard, Maccall is of the view that individuality – “an individual’s awareness of his own profile” – can generally strengthen one’s will, to progress and develop. Maccall’s exposure to a concept of individuality actually rejects individualistic attitudes. He emphasizes the fulfillment of individual responsibilities towards other individuals as an integral part of that idea and rejects the forms of self-isolation and egoism.²⁰

Maccall believes that as altruistic beings, humans have a great natural sense of sympathy for each other. The closer humans are to their natural individuality and human side, the more naturally they will have the opportunity - even a want - to contribute to the development of their society. ²¹ Maccall's idea was later reforged by the thoughts of John Stuart Mill in his work, "On Liberty". In Chapter III of the book, Mill represents the human individual as a free, independent soul. He constitutes that the human has within them, personality and character. The individual lives in originality and valuable ideas, which in itself have unique uses. This individuality is spontaneous. It dares to make decisions, reflects on its own personality and does not hesitate to oppose traditional patrons in and of society. However, in his presentation, Mill emphasizes this idea from a more utilitarian side of matters, which is primarily aimed at social transformation. Mill's assessment of individuality is not based on the value of intrinsic character, but on its usefulness of contribution to the moral reform in society.²²

This conception plays a major role in the formulation of the individuality of the state – despotism – which is the fundamental element that distinguishes civilized and barbaric states. According to him, China and India at certain times were progressive countries, but they stagnated until they were finally colonized by the British due to the strong element of despotism. In light of the concept of a state, Mill introduced the following principle: that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”

In this context, it is necessary to distinguish between people who do not have the ability to fulfill responsibilities to their state, such as children and underdeveloped communities, and those who have. Furthermore, in his view of freedom, Miller was influenced by Joseph Priestley and Josiah Warren who held the view that individuals should be free to do what they want unless they harm others. Thus, the new government only needs to intervene when it is necessary to protect the public when something threatens it. The result of this individualism was thought to be liberalism in regard to economic elements. Additionally, it must be said that the concept of individualism in the economy is becoming more solid with the presence of Adam Smith and his work "The Wealth of Nations". The idea in it postulates that individualism can produce beneficial productivity for a country's economy. Some of Smith's opinions regarding individualism which later influenced the formation of an economic system, among others, are as followed:

“Each individual becomes more expert in his own peculiar branch, more work is done upon the whole, and the quantity of science is considerably increased by it.”²³

“A monopoly granted either to an individual or to a trading company has the same effect as a secret in trade or manufacture. The monopolists, by keeping the market constantly understocked, by never fully supplying the effective demand, sell their commodities much above

the natural price, and raise their emoluments, whether they consist in wages or profit, greatly above their natural rate."²⁴

“People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.”²⁵

Different from individualism, collectivism is a set of ideas, principles, and approaches to the view of aspects of togetherness in social life. While individualism sees actions, opinions and policies from the perspective of an independent and single actor, collectivism focuses on social groups, communities and society at large. Collectivism is a value, a characteristic, that is distinguished by its integration of individual interests and the priorities of the interests of certain community groups. Ferdinand Tonnies, a German sociologist described the correlation model between collectivism and individualism by using the terms *gemeinschaft* (community) and *gesellschaft* (patembayan). Gemeinschaft refers to a social group whose members are closely related, intimate, exclusive and private. Gemeinschaft can occur based on blood ties, place or shared views/ideology. Meanwhile, gesellschaft is a social group whose members are formally related based on certain interests, usually economic/use value oriented, for example a company. Hofstede conceptualizes collectivism and individualism as mutually sustainable systems, each culture at least representing one of the poles of the two. According to Hofstede, collectivism is a continuation of the character of individualism at a higher level which involves oneself as a part of society and prioritizes common interests above personal interests.

Meanwhile, A. V. Dicey places the position of collectivism as a limitation to individual rights to freedom and property. He describes the relationship pattern of individualism-collectivism concretely in the analysis of changes in people's behavior towards the concept of "peace and economy" as follows.

“... change in political opinion is to be found in the altered attitude of the public towards peace and economy. During the era of Benthamism, “peace and retrenchment” were the watchwords of all serious statesmen. This formula has now fallen out of remembrance. The point to be noted is that this fact is significant of a very profound revolution in political belief. The demand for peace abroad and economy at home stood in very close connection with the passion for individual freedom of action which was a leading characteristic of Benthamite liberalism. Peace ought to mean light, and war certainly does mean heavy taxation, but heavy taxation, whether justifiable, as it often is, or not, always must be a curtailment of each citizen’s power to employ his property in the way he himself chooses.”²⁶

Political views according to Dicey are not the same as legal opinions. But in the early era of modernization in England, it is almost certain that a revolution in political views will also have implications, changes, in the national legislation.²⁷ According to Dicey, the patrons of political views, no matter how many directions, parties, or political camps are present in the parliament, are divided into two main poles: individualism and collectivism. In addition, when collectivism is present in the "state" packaging, it is actually vulnerable to forms of crime that can only be balanced with individual radicalism. Dicey argues that the dynamics between individualism and collectivism show that political change always represents a close correspondence to changes in legislation.

²⁴ Smith, An Inquiry, 92.
²⁷ According to A. V. Dicey’s classical explosion, Legal sovereignty can be defined as supremacy or absolute authority of the law which is the opposite of lawless influence of power, government prerogative or unlimited authority. See Albert Venn Dicey, *The Law of the Constitution* (Oxford University Press, 2013), 198.
In line with Dicey’s opinion was Frederich Hayek, who opposed collectivism. He stated that collectivism thrives in and grips the socialist state. But in fact, the effort to achieve a collective interest remains a dangerous matter, because the government requires repressive force to support its extensive authority for the application of a wider all-encompassing system. In light of such thoughts, the application of collectivist values in a planned economic system is viewed as an example of governmental repression. The centralized direction of all economic activities based upon a single authorized plan will result in grave repercussions. Even so, Hayek has a different opinion from Dicey when it comes to the law. He said that the rule of law must be kept in an independent position. This is to keep any ad hoc actions from the government that might weaken any individual efforts. It is in his view that individual effort plays a pivotal role in the economy, and the adverse effect of Dicey’s theory of legislation change might ensure the weakening of the economy as a whole. Moreover, the centralized control that might exist will form certain barriers to the price and quantity of commodities. Such a situation will actually eliminate competition that is aimed to produce effective-efficient products. In such a case, price volatility will no longer indicate relevant changes. It will not provide sufficient and reliable guidance for an entrepreneur as an independent individual. As a matter of fact, the entrepreneur is in no position to make any action based upon logical economic considerations, experience and knowledge.

In a more macro context, cultural views are often believed to have a correlation to national interests. This includes economics as well as social and political change. The conceptions of individualism and collectivism is crucial considering its implications towards wider social relations. In Western culture, the dominance of individualism can be seen in its communal interaction; this is obvious when one considers the systematic pattern of metropolitan societies in America and Europe. Meanwhile, in Eastern culture, it can be inferred that social institutions are built on the element of collectivism. The character of this value is also imprinted in various aspects of state-being including economy.

The history of economic thought is differentiated by at least two general genres known as “oriental” economic thought – depicted as moralistic, religious, familial – and “occidental” economic thought – depicted as individualistic and materialistic. Individualistic characters and cultures often give birth to competitive patterns of economic interaction, while collectivism creates cooperative ones. The dualism of individualism and collectivism is also described by Sri Edi as contradictory and irreconcilable. However, Sri-Edi further explained the derivatives of individualism and collectivism by elaborating on the concepts of competition and cooperation. The domination of individualistic spirit when it is considered in the context of the state will result in a competitive society. Such a society will rely on competition that can easily cause socio-psychological fatigue which in fact no longer encourages humans to effectively maximize their potential. In the end, it will keep people from living a happy and peaceful life.

This is reflected in the free market era where the free-fight economy is often glorified as the key to development. The world is increasingly directing its people to compete as efficiently as possible, yet it will also bring an unavoidable implication. It will shape the world into a "restless" and "stressful society". Even China, which was known to be the most communist and anti-liberalist, gradually adhere to liberalist culture and became synonymous with individualistic characteristics.

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29 Hayek, Ancaman, 90.
31 China in the beginning of the 1980s experienced a dramatic economical and social structural change. This change is marked with the signing of a historical act in 1979 between Jimmy Carter and Deng Xiaoping. Deng then enacted several economic reforms that enabled the growth of private sector business. He also built a special economic zone as a means to attract foreign
The sheer banality in the academic field that postulates individualism as a basic element of economic growth has become even more ironic. Thus, the idea of collectivism has been underestimated and has yet to be fully explored. Even when it is logical to say that the manifestation of collectivist values as a pattern of social behavior existed long before the individualist movement was born. They reason with the later without consulting the former or considering it with much thought.

Different from capitalism, collectivism exists in humans as social beings. This (collectivism) is the idea that is often regarded as the core value of Indonesia. Traditions and social patterns that enveloped the native economic life shall be regarded as fundamental that must be deeply appreciated. However, Hatta sharply explains that despite this, Indonesia's social structure is actually built on both contradictory values: collectivism and individualism. Collectivism is the basic value of Indonesian people. It was the fundamental spearhead of its social life for a very long time. But, individualism also exists. It exists and persists in the spirit of the Dutch East Indies society which will become the basis of modern Indonesian one. However, when this historical notion is brought into the context of nationality, Hatta argued that Indonesia must return to its original character, collectivism. This collectivism is what distinguishes Indonesian democracy from any others. It was the main point on why the most appropriate form of the Indonesian state is a republic that is heavily based on popular sovereignty. However, popular sovereignty as understood and propagated within the Indonesian national movement is, in its fundamental form, different from Rousseau's conception of one in the spirit of individualism. Sovereignty of the people created by Indonesia must be rooted in the Indonesian communal interest. It must be rooted in the prevalent legal and social norms that were practiced so thoroughly and existed even in ancient and colonial times. This was the prevalent thesis of the time. In line with Hatta's opinion, Radjiman Wediodiningrat, the Chairman of BPUPKI, said that "the principle of an individual in the form of personal gain is a social disease".

This notion of communalism was later embedded in the nation’s 1945 Constitution which also includes the country’s economic ideology. Its core being the constitution’s Article 33. According to Hatta, economic activities must be carried out as the embodiment of a “joint effort” and based on “the principle of kinship”. Hatta then introduces the co-operative system that is aimed to challenge, and is adverse to capitalism. Indonesian economic law must not contradict the existing customary laws which are rooted in people’s culture – such as gotong royong (roughly, communal help/cooperation) and popular deliberation - and is expressed in the state’s original ideology. Therefore, a good economic model must exist without any investment. That change resulted in a significant income gap between families, minimal government involvement and the growth of competition between citizens on professionalism. Cultural ideology also underwent a major change from collectivist in nature to individualist. Such a change is clearly reflected in classrooms where teachers began encouraging students to develop personal opinions, critiquing and delivering arguments. See Ronald Coase, How China Became Capitalist (New York: Palgrave Macmillan, 2012), p. 36.


33 There are at least three sources of sosialist democracy as posited by Hatta. They are: the first was Western Socialism which excels in the ideas of humanism, ideas that are so defended and has become a major purpose of a state. The second is Islamic Socialism that upholds truth and divine justice in society as well as brotherhood between men as a reflection of a loving and compassionate God. The third is knowledge based on collectivism of Indonesian society. From the combination of these three, Hatta believes, an Indonesian democracy shall emerge. See Mohammad Hatta, Membangun Ekonomi Indonesia (Jakarta: Inti Idayu Press, 1985), 7.

34 Sri Edi Swasono, Indonesia dan Doktrin Kesejahteraan Sosial: Dari Klasikal dan Neoklasikal sampai ke The End of Laissez Faire (Jakarta: Prakarsa, 2010), 100.

oppression, coercion of capital-wielding interests and the prioritization of public necessities. Furthermore, the main task of cooperation in economic law is to build solidarity as well as a sense of individuality – namely awareness of self-worth - within the context of communalism. The co-existence of these two notions within cooperation was supported by Hatta, as he viewed that collectivism and individuality are correlated.

This viewpoint represents a spirit that characterizes cooperation as tolerance. It acknowledges others’ opinions, and has a well-developed sense of shared responsibility. Such characteristics ought to be present and strengthen the characteristics of Indonesian democracy. Swasono also tried to reconcile the two values without forgetting to affix a moral message of nationality as the main concern in their adoption: "Competitive power" and "co-operative advantage" are both realities. And to reconcile the two, the word "cooperation" was thus coined. Its meaning is to regulate competition through good cooperation. Competition needs to be reduced and transformed into friendly competitions. Thus, the defeated will still be nurtured and empowered. Let us end this national ambivalence. This means that we have to leave the mindset of 'shaking the pendulum' (either to the left or to the right) or the 'swing of the pendulum', which only seeks partial abilities, without ideological grip. Our way is the 'straight path', named the 'path of Pancasila'."

2. In between the Staatsidee and Rechtsidee

At the BPUPKI General Meeting on May 31, 1945, the agenda was to talk about the Basics of the Indonesian State, Soepomo put forward an inquiry; “basically the State of Indonesia is Independent. However, what exactly will Indonesia's basis of understanding (Staatsidee) be?” against this question, he describes several schools of thought contained in political science: 36

The first, the notion of state is based on the individualistic theory as taught by Thomas Hobbes and John Locke (17th century), Jean Jacques Rousseau (18th century), Herbert Spencer (19th century) and HJ Laski (19th century) among others. According to this school of thought, the state can be defined as a legal society which is structured upon a contract between all the people in that society (social contract). This was the norm in Europe and Western America where State laws based on individualism also exist.

The Second is the class theory of the state as taught by Marx, Engels and Lenin. The state is considered to be a tool of one group (a particular class) that oppresses another class. Essentially, it is a means for the group that has the strongest economic position to oppress other weaker groups. The capitalist state is a medium for the bourgeoisie to oppress the workers and their class. Therefore, Marxists advocate a political revolution of and from the workers to seize state power. This is done so that the workers can end and replace the oppression placed upon them.

The Third pertained to the integralist theory as taught by Spinoza, Adam Miller, Hegel and others (18th and 19th centuries). According to this particular thought, the state is not to guarantee the interests of a person or a group, but to guarantee the interests of the whole community as a unit. In regard to this, Supomo emphasized that the state is essentially, a societal structure that is integral. All classes, all parts, and all members of the state are deeply interrelated with one another and the society is organic in nature. The main idea was:

"...The state does not take sides with the strongest, or the largest group. It does not regard one person's interests as the center point. The state guarantees the safety of the nation's life as a whole. It guarantees it as an inseparable unity."

According to Soepomo, the relationship between the state and the economy should be managed in an integralist state order. The most important factor for that being unity. Thus, the system that corresponds to such an idea will be "state-socialism". The state will determine whether a company can play an important role in the people’s livelihood. The state, either through the central government, regional government, or even private business entities, will also be in direct charge of managing state-owned enterprises. The same control scheme is also applied for land matters. Thus, the state fully controls the land or regulates that the homeland shall be controlled by the people. In the economic field, the state will be familial and colored with the spirit of mutual assistance. Thus, it is clear that the cooperative system should be used as the basis of the state's economy.

Even though Soepomo was precise in describing the staatsidee, he had not succeeded in explaining how the staatsidee can be integrated within the sovereignty of the Indonesian people. According to Jimly Asshiddiqie as outlined in his dissertation titled "Ideas of People’s Sovereignty in Indonesia", Soepomo's thoughts represent a democratic view that emphasizes collectivism. Meanwhile, Marsillam Simanjuntak, who through his thesis analyzed the roots of Soepomo's integralist idealism, stated that the idea originated from Hegelian thought. Marsillam opposes the idea of a totalitarian organizational unity. To him, the state as portrayed by Hegel - and later interpreted as a totalitarian idea by Soepomo - contained a danger to the principle of people's sovereignty which includes the basis for the Indonesian democratic system. The underlying reasons for this assertion is that: First, Soepomo's integralist idea failed to define the role of state power/rule; Second, it does not put the sovereignty of the people in the hands of the people themselves. This notion has been debunked since the beginning of the state which, with the 1945 Constitution, has guaranteed the rights of the citizens of the state.

Against Soepomo's idea, Mohammad Yamin put forward another thought. He proposed a "People's Welfare State as the Basis of an Independent Indonesia" in the sessions of the Preparatory Committee for the Investigation of Indonesian Independence (BPUPKI). Through a speech of his on May 29, 1945, Yamin said:

"...Therefore, it should be carefully considered from now on, that the country is not perceived as a legal bond that constrains people's lives or is seen as an autocratic or oligarchic structure. Excitement and joy will certainly grow, if the country that is composed of our civilization provides guarantees in the kenpo rules or the Constitution, that major changes will take effect with the inauguration of the state. The big changes are not only about the composition of the central state, the central regions and the composition of subordinate communities such as villages, but also in regard to everyday social and economic life, which concerns the wellbeing of the children of the state."

In a speech on 11 July 1945, Yamin further elaborated on the urgency of guaranteeing the people's welfare as outlined in the constitution. It reads as follows:

"...but if the constitution of the Republic of Indonesia is able to compile a “declaration of rights, declaration of independence” and a constitution for the composition of the central and

37 Bahar and Hudawati, Risalah Sidang, 54.
38 Soepomo emphasizes that in a state based on totalitarianism, it demands the organisation of an integralist law, where the state will appear and act as the spirit of the people’s justice. His stance was that “in the field of economy, the state shall be familial, which is the characteristic of oriental peoples.” See Muhammad Yamin, Naskah Persiapan Undang-Undang Dasar 1945 (Jakarta: Yayasan Prapanca, 1959), 63.
40 Yamin, Naskah Persiapan, 103.
regional governments and others, then the question arises whether this constitution will be welcomed by the Indonesian people. I said no, because what I mentioned earlier is not related to the fate of the people. We must guarantee in our constitution, improvements for the Indonesian people as a whole. Therefore, it should be explained in the basic law in one article, namely those relating to welfare: spiritual welfare, material and economic welfare. So, in the constitutions that were older than the Versailles agreement, the constitution never contained guarantees or promises from people in power to the common people. But the new constitutions, such as the Chinese Kuomintang constitution and the Republic of the Philippines constitution, the Weimar constitution and the Russian constitution (1936), all of which became the most recent constitutions in history, all contain the welfare paragraph (article) as an obligation of the state to put the people's welfare first. 41

Furthermore, at the BPUPKI General Meeting on July 15, 1945, Yamin stated:

“Let the articles on welfare, as promised in the preamble to the Constitution, be given a wider, clearer guarantee. As for the Republic of Indonesia, which is a welfare state, such as the Weimar Constitution, Russia, the Philippines and the Republic of China, the welfare outlines should be regulated as well and as clearly as possible. This (present) draft has a very simple content and does not provide a firm guarantee on a basis, which has been promised in the declaration of independence and the preamble to this Constitution.” 42

From the speeches above, it is clear that the idea proposed by Mohammad Yamin is that the state must provide guarantees for the welfare of the people, which are outlined in the constitution. In the first and second speeches, Yamin mentioned that the independence process shall not only labor on administrative inquiries. It shall not only concern itself to things that are abstract. The idea of welfare promoted by Yamin demands constitutional protection for citizens who have submitted to state’s sovereignty. Yamin's speech also cited a shift in the arrangement of various national constitutions, from those where obligations of the authorities are absent to the existence of those that guarantee the welfare of the common people. Thus, Yamin brought the ideals of the Indonesian state to be realized in the form of legislation. In light of this, the state is obliged to bring prosperity to the people and furthermore, this act of sovereignty-transfer to the state must be done with the people in mind. However, in reading Yamin's opinion, one can get the impression that he himself did not have a comprehensive picture of the form of Indonesian economic democracy that he wanted to aim for. This was because the Indonesian democracy, based on the principle of kinship, is different from the common welfare state which is individualistic.

A characteristic view of democracy that is distinct and is aimed at social welfare was also initiated by Soekarno in his speech on July 1, 1945. Soekarno elaborated the welfare principle by asserting that, "there will be no poverty in an independent Indonesia. It is a state where all the people are prosperous, where everyone is safe. Where the people have enough to eat, to clothe themselves, and to live in prosperity. To stay on the lap of Mother Earth who provides enough food and clothing for him." 43 A state that is all for all. 44

Soekarno further defined the welfare state as politieke rechtvaardigheid and sociale rechtvaardigheid. This is described in the following idea:

“Brothers and sisters, I propose: if we seek democracy, it should not be western democracy, but (popular) deliberation that gives life, namely politiek-economische democracy that is able to bring about social welfare! Indonesian people have been talking about this for a

41 Yamin, Naskah Persiapan, 239–240.
42 Yamin, Naskah Persiapan, 334.
43 Yamin, Naskah Persiapan, 75.
long time. What is Ratu Adil? What is meant by the understanding of Ratu Adil is sociale rechtvaardigheid, the will of the people who want to prosper. The people, who previously felt that they had not eaten enough and had no clothes, have now created a new world in which there was justice, under the leadership of Ratu Adil. Therefore, if we truly understand, remember and love the Indonesian people, let us accept the principle of sociale rechtvaardigheid, namely, not only political equality, brothers and sisters, but also in the economic field in that we must hold equality, meaning that there is common prosperity."

The concept of sociale rechtvaardigheid is in line with the idea conveyed by Yamin. Where the constitution must provide guarantees from the authorities to the common people. More explicitly, Soekarno stated that there must be equality in the economic field, which is to be realized in the existence of shared prosperity. The concept of Ratu Adil mentioned by Soekarno is a crystallization of the people's mandate that hopes for a change in fate. A change that was hopefully manifested in the Indonesian independence. Thus, independence is not only realized politically but also economically. Independence must change the condition of the people from a not so well-off situation to one that is.

Mohammad Hatta postulated the same idea. He entertained the notion that in the administration of the state, including in the economic sector, Indonesia must carry out the constitutional mandate oriented towards the sovereignty of the people. Indonesian democracy must be based and is aimed at people's sovereignty. In this economic philosophy, Hatta became an intellectual actor who first voiced his concern. It was he who incubated the concept of people's economic thought. The term people-centered economy was introduced by Hatta in articles with one entitled the "Impact of Colonial Capital in Indonesia" and the other, "Economy of the People in Danger" which was a pioneering material in the field of Indonesian structuralism. In them, Hatta opposed liberalism which carried the spirit of displacement and the annexation of the people's economy (ausschaltungstendenz and einschaltungstendenz). Moreover, his contribution to economic ideology is clearly defined by him being the intellectual actor behind economic articles of the 1945 Constitution. Even so, these ideological values cannot be fully manifested without them being embodied in modern regulations. Therefore, the basis of economic ideology in the articles of the constitution (Article 27 paragraph 2, Article 33 and Article 34) must be read in conjunction with Article 1 paragraph 3 of the 1945 Constitution which reads; “the State of Indonesia is a state of law”.

3. The Foundation of Indonesian Economic Law

The ontology of people-centered economy cannot be separated from Hatta's thoughts which interprets it beyond its position as a constitutional mandate. It is clear that populist orientation has become his morals. In it, he has positioned himself as an integrated part of the people and their conscience. From the readings of Hatta's writings and speeches, it is clear that the ontological meaning of the people-centered economy is the position of the people

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45 Mohammad Hatta, Daulat Ra'jat Book I (Jakarta: Reprint, Yayasan Hatta, 2002), 67.
46 Mohammad Hatta, Daulat Ra'jat Book II (Jakarta: Reprint, Yayasan Hatta, 2002), 34.
47 In a dissertation tutoring on 23 March 2018, Sri Edi Swasono explained that the concept of such does not appear suddenly. Hatta was the intellectual actor of that concept. Previously, Supomo suggested that the State shall be shaped as an integralist institution. But Hatta objected with the argument that an integralist state concept is very similar with the totalitarian ideology which at the time was initiated by Germany. Totalitarian concept will only give birth to a state of power that disregards individual rights. Because of this, Hatta also prescribed a formula of a state of law (rechtsstaat) where its rechtsidee is rooted on the recognition of individual rights.
themselves.\textsuperscript{49} Their position as sovereigns and national values that are attached to them. This becomes more clearly reflected in the attitude of state administration.

The people’s characteristics were reflected in the composition of the cabinet of the Republic of Indonesia post-independence. A particular system has been drawn out; one that consists of the leadership of the president and the vice president along with a cabinet that prioritized people’s prosperity. During the first days of Indonesia, the Ministries of Prosperity, of Health, of Teaching (Education) and of Social Affairs were formed. Likewise, in subsequent cabinets, the Ministers of Welfare, of Health, and of Social Affairs were established for the sake of general prosperity. One particular example being the Hatta Cabinet, formed on August 4, 1949, with Hatta as the prime minister. Such ministries as the Ministry of People’s Welfare & Food Affairs was established to concern itself with people’s welfare. Even in the earlier Hatta Cabinet of December 19, 1945, Hatta emphasized that the cabinet was “trying to improve the people’s economic situation so that the prosperity of the people as a whole can be realized”.\textsuperscript{50}

This fantastical series of ideas, simply named “people-centered economy” as coined by Hatta, comes from empirical experience of the people from time to time which has proved how the notions of communalism and cooperation are beneficial for the Indonesian people. In order to explain the core value of Indonesian socialism which differs from the value of the main two economic ideologies of socialism and capitalism, Hatta introduces the term “Ekonomi Rakyat” (people-centered economy) which have its core on the people’s idealism (volksgeist)\textsuperscript{51}. The distinctions of people-centered economy from other ideologies are as follows:

\textbf{Table 1. Distinction between Neoliberalism, Old Socialism and Ekonomi Rakyat}

<table>
<thead>
<tr>
<th>Neoliberalism - Capitalism</th>
<th>Old Socialism/Third Way</th>
<th>EKONOMI RAKYAT (Indonesian Socialism according to Article 33 UUD 1945)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Based on the Principle of Personal Freedom / Liberalism</td>
<td>Based on the Principle of rights and responsibilities;</td>
<td>Based on the principle of Mutualism</td>
</tr>
<tr>
<td>Individualism</td>
<td>State/Civil Society</td>
<td>Fraternity/ Brotherhood</td>
</tr>
<tr>
<td>Competitiveness</td>
<td>Universalism/ Pragmatic mix of universalism and selectivity</td>
<td>Cooperativism</td>
</tr>
<tr>
<td>Market-sovereignty</td>
<td>Market-sovereignty</td>
<td>People-sovereignty</td>
</tr>
<tr>
<td>Self-Interest</td>
<td>State</td>
<td>Mutual- Interest</td>
</tr>
</tbody>
</table>

\textsuperscript{49} For further explanation in regards to Hatta’s point of view in the construction of Indonesian economic ideology, please see, Fadli Zon, Muhammad Iskandar, and Susanto Zuhdi, “Tinjauan Sejarah Hukum Pasal 33 UUD 1945 Sebagai Ideologi Ekonomi,” \textit{Negara Hukum} 7, no.1 (June 2016): 111.

\textsuperscript{50} Mohammad Hatta, \textit{Memoir} (Jakarta: Tinta Mas/Yayasan Hatta, 2002), 561-562.

\textsuperscript{51} The foundation of Indonesia’s economic democracy principles stipulated the concept of togetherness in its entirety. It expounds on the familial spirit that the domestic national economy must be built on and presents the underlying historical context of traditional, now continuously modern, spirit kinship of Indonesian society. For further exploration on its basis and the realization of its ideal, see Novi Eko Prasetyo and Miftah Rakhmadian, \textit{Ekonomi Indonesia: Wujud Internalisasi Nilai-Nilai Keindonesiaan} (Malang: Media Nusa Creative, 2019), 11-12.
Attention is thus firmly directed towards the people-centered economy as expressed by Hatta. He argues that domestic economic development is essentially the development of a populist economy and his focus on the historical background of colonization in Indonesia itself has become one of the fundamental reasons behind his economic thought. Unlike others’ economic nature, the Indonesian economy is not only determined by its natural resources, its international bargaining position and its people’s aspirations, but also influenced by the shadow of colonization which impoverished its citizens. Thus Ekonomi Rakyat is there to rectify such a scale of destruction and to return the new state to the condition of prosperity that existed in the far past.

This particular idea is present in the 1945 Constitution. In it as well as in theory, the value of Article 33 has supposedly become the core framework of all legislatures in Indonesia. However, many economic laws do not adopt the philosophical value behind Article 33 and its well-deliberated origin. If we refer to the relevant historical background, there is a possible reason why this is possible. There was a significant moment at the time of Independence when the “transformation rules” gained prevalence in the 1945 Constitution. This can be explained by the following figure:

<table>
<thead>
<tr>
<th>Capital-centered</th>
<th>Authority-centered</th>
<th>People-centered, people-based</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Individual Profits</td>
<td>Equality of outcome/ Employability</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>Exploitation Economics</td>
<td>Equitable economic Access</td>
<td>Democracy-based Economics</td>
</tr>
<tr>
<td>Individual Business Ownership</td>
<td>High cash/ asset redistribution</td>
<td>Public Business Ownership</td>
</tr>
<tr>
<td>Social Ideology is considered as <em>caritas</em> and/or philanthropy</td>
<td>Social Ideology is defined by state or is limited only to pragmatical benefit such as national minimum wage</td>
<td>Social ideology embodied social civil rights</td>
</tr>
</tbody>
</table>
However, the ambivalence now present in regard to the values in Article 33 of the 1945 Constitution can be solved through the creation of legislative products that reflect Hatta's populist economic thinking. In this, it is beneficial for one to mention that the Constitutional Court can play a role in such matters. The Court can provide a limited interpretation of Article 33 and so that it can be further applied to various economic laws and regulations.

To further brought this idea to reality, the key orientation to Indonesian-style socialism was sharpened by Swasono through the application triple-co principle namely: co-ownership (participation in joint ownership), co-determination (participation in observing and in determining company policies), and co-responsibility (participation in responsibility). This can be a means of integrating the people-centered economy into the structure of the current national legal strata. With the triple-co principle, the idea of joint ownership can be realized. For example through a share ownership program for employees. Thus, the people, in this case the employees, are placed in a central position which is the essence of Hatta’s populist economy.

C. Conclusion

Indonesian Socialism according to this study was found to have its own characteristics which is way different than the characteristics of polarized ideologies in the current economic world. As what has been duly noted by Article 33, economics must be built as a collective means based on kinship and therefore economic law must also be structured in synchronization with that principle. The exploration of literature in regard to Hatta and his thoughts hold a central place in this study. As within it, the image of Indonesian socialism and its characteristics that is centered around “people empowerment” is portrayed clearly. Therefore, it is clear that all economic policies and the economic legislature must be oriented towards the people’s dignity. It is factual to say that it must not be trapped within global indicators or superficial achievement figures.

Figure 1.
Evolvem
ten of Law in Indonesia
More extensively, the reconstruction of Indonesian socialism must be embedded and legitimized in the structure of law. The Constitution is, ultimately, the key on how the ideology shall be transformed into a binding regulation. But more than that, the understanding of jurists and economists also constitutes a determinant part in the establishment and preservation of Indonesia socialism which is named by Hatta as “Ekonomi Kerakyatan” (people-centered economy) in all economic policies and regulations.

Connecting this with the theme of introduction, it is not that surprising therefore, as far as tradition-derived countries such as Indonesia are concerned, to encounter how the age-old notion of people-centered economy (and governance in a macro sense) is still discussed on modern state-building when situations necessitate its discussion like the one Indonesia has already experienced in the beginning of its independence. The organic nature of people-centered economy and governance is maybe the answer for the international community or that exegesis of its people’s spirit can bring about their own people-centered governance as is the case with Indonesia. Whatever it may be, the modern discussion of people-centered livelihood necessitates the return of Indonesia to its authentic form of such governance, both for its people and for the state-building nations of the west.

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B. Journal


