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The Ideal Law State Concept in Indonesia; The Reality and The Solution

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Abstract: The rule of law concept that has developed in Indonesia is a modern rule of law concept that has a distinctive feature compared to the concept of a rule of law state that developed before. However, in the development process, it is difficult to escape from the sparks of thinking about the concepts of "*the rule of law*" and "*rechtsstaat*". The ideal Indonesian legal state concept has the following characteristics: The administration of the state and government is always based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. The state places the constitution, laws and statutory regulations as guidelines that must be obeyed in every life; The principle of legality is the main thing that must be guided by state and government administrators. Making law a means of realizing a welfare state and a democratic state; "The state recognizes and operates a power-sharing system and has checks and balances with each other." There is an independent and impartial judiciary that guarantees justice for everyone, including against abuse of authority by those in power; There is protection of Human Rights that is in balance with the obligations of Human Principles; The existence of democratic principles in the life of society, nation and state; There is a balance, harmony and harmony between rights and obligations; Recognition and realization of the principle of "good governance": realization of justice, order, legal certainty, benefit, welfare, and happiness for every citizen.

Keywords: The Concept of an Ideal Rule of Law, Reality and Its Solutions

INTRODUCTION

A philosopher named Marcus Tullius Cicero said "*ubi societas ibi ius*" which means that society and law are something that cannot be separated. In regulating people's lives in Indonesia, there are known laws in the form of statutory regulations.

In the legal and political science literature in Indonesia, the term "rule of law" is equated with the terms *rechtstaat* (Dutch), *etat de droit* (French), the state according to law, legal state, and the rule of law (English). In Indonesia, the term "rule of law" has been used

since this country proclaimed itself an independent country. As a rule of law country, Indonesia places the law as the commander in chief in enforcing the law. The concept of a rule of law has now become a model for modern countries; it can even be said that it is almost adopted by most countries in the world. The rule of law concept has been adopted by most countries as a concept that is considered ideal. This concept was originally developed in the continental European region. (Asshiddiqie, J.; 1999). In fact, the law is expected to fulfill the interests of development and people's welfare. To achieve this, of course, an ideal law is created for a particular society and nation. The existence of a legal state of Indonesia in a material sense must be interpreted that the state of Indonesia is a dynamic legal state, or a welfare state, a democratic legal state which has implications for state administrators to carry out their duties and authorities broadly and comprehensively based on creative ideas. and innovative. In this way, the existence of a pluralistic Indonesian society and nation with a distinctive culture has led to a dynamic societal character that can influence the development of the law.

Prior to the amendment to the 1945 Constitution, the principle of a rule of law state was formulated in the General Explanation. In point I regarding the Government System, it was stated that "Indonesia is a state based on law (*rechtsstaat*) and not based on mere power (*machtsstaat*)". The mention of the word "*rechtsstaat*" in this general explanation shows that the concept of *rechtsstaat* also sparked and inspired the thoughts of the architects or designers of the 1945 Constitution. However, this does not mean that the concept of *rechtsstaat* is synonymous with the concept of the Indonesian rule of law. because of the very different philosophies and cultural backgrounds of the two people. After the amendment, it turned out that the concept of a rule of law state was again emphasized in Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia: "Indonesia is a country based on law." The inclusion of this provision in the body or row of the Articles of the 1945 Constitution of the Republic of Indonesia shows the stronger legal basis and becomes the mandate of the state, that the Indonesian state must be a constitutional state.

In order to strengthen the concept of an ideal rule of law state, Indonesia needs to carry out a reconstruction of the paradigm of the concept of developing a national legal system, namely not only focusing on the formation of legal material, but the development of the legal system must be systemic. This means that the concept of development of the Indonesian national legal system must be interpreted as a systemic development, namely development as a whole, which includes a sub-system; legal materials; legal people (formers, executors, and enforcers of law, including the community); legal infrastructure; a budget; and legal culture. These activities are carried out in a planned, periodic, simultaneous, integrated, comprehensive, and sustainable manner. On the basis of the aforementioned concept, the concept of a "rule of law" state at least refers to the concept of developing the legal system.

In relation to the implementation of the ideal rule of law concept referred to, the author observes that in reality there are a number of issues that need to be studied, namely: first, in terms of material law and statutory regulations, they still experience weaknesses both from a formal aspect and from a material aspect, so that many law products end up in the Constitutional Court, because the process of their formation determines the interests of the ruling political elite. According to data from the Constitutional Court, from 2021 to early 2022, there were 54 laws that had been submitted for application or judicial review.

The large number of laws that have been submitted for judicial review to the Constitutional Court illustrates the rejection of a person or group due to the fact that their rights or interests have not been accommodated, such as when their passage does not fulfill the sense of justice, benefit, and legal certainty. Second, the human legal aspect, namely the formation of laws and regulations, is still weak, as is the aspect of law enforcers whose commitment is still weak in carrying out their duties, functions, and authorities, so that not a

few are trapped in actions that are contrary to the principles and legal norms that are in force, such as corrupt, collusive, and nepotistic behavior, as well as other dishonorable acts. Still in the weak aspect of legal people, namely law enforcement, namely all citizens, be it officials, bureaucrats, state civil servants, businessmen, politicians, religious leaders, community leaders, academics, practitioners, ordinary people including the public, they still tend to do transactional-pragmatic- consumption in the form of acts of bribery, kickbacks, and other unlawful acts. Fourth, there is the aspect of the lack of an adequate budget in order to support the development of the national legal system. Fifth, the weakness in terms of infrastructure is still limited, especially Internet facilities and other facilities. years, it turns out that the ideal principle of the rule of law in Indonesia has not been realized in accordance with what was aspired to.

The research problem in this study is "How is the ideal rule of law concept implemented in Indonesia, and what factors are the obstacles and what are the solutions?".

LITERATURE REVIEW

1. The Ideal Rule of Law Concept

Discussions about rule of law have long been the subject of discussion by jurists since the time of Ancient Greece. The idea of a rule of law had emerged long before the 1688 (English) Revolution, reappeared in the XVII century, and was popular in the XIX century (Hadjon, P., M., 1996). Until now, the concept of “rule of law” has been very interesting to be studied by legal experts in various parts of the world, departing from the notion of *Rechtsstaat*, especially in countries with a civil law legal system, such as France, Germany, the Netherlands, and Indonesia. In countries with a common law legal system, such as England and America, the term "rule of law" is known as the "rule of law" (Alder, J.; 2002).

Meanwhile, the history and development of society in each country are not the same, so the meaning and elements of the rule of law are also different. This has given rise to the existence of various types of rule of law countries, ranging from the Anglo-Saxon Law State, the Continental European Law State, the Socialist Law State, the Islamic Law State (Islamic Nomocracy), and the Pancasila Law State, each of which has its own rationale and characteristics. Azhari, M.; T.; 1995). The 1945 Constitution of the Republic of Indonesia explicitly formulates in Article 1 paragraph (3), states that "Indonesia is a country based on law". In the concept of the ideal Indonesian rule of law that what should be the commander in chief in the dynamics of state life is law. The common goals for the nation and state of Indonesia are listed in the fourth paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia, namely, firstly, "protecting the entire Indonesian nation and all of Indonesia's bloodshed," secondly, "promoting public welfare," thirdly, "educating the nation's life," and fourthly, "participating in carrying out world order based on freedom, eternal peace, and social justice." The rule of law functions as a means to realize and achieve the four goals of the state. Thus, the development of the Indonesian state is based on the rule of law.

The purpose of opening the 1945 Constitution of the Republic of Indonesia is fourfold: (1) a declaration of independence; (2) setting the ideals of the Indonesian nation to be achieved with its independence; (3) confirming that the proclamation of independence is the beginning and basis of national life; and (4) carrying out everything in the embodiment of certain basics listed in the fourth part of the Preamble (Notonagoro, 1995). The objective is a particular (special) objective. In addition to these goals, there are still universal (general) objective goals such as carrying out world order based on freedom, eternal peace, and social justice (Attamimi, A., H., and S., 1990).

The Constitution emphasizes that the Indonesian state is a state of law (*rechtsstaat*), not a state of power (*machtsstaat*) (Asshiddiqie, J.; 2010). It contains the notion of existence;

1) In recognition of the principle of the rule of law and the constitution;

2) The principle of separation and limitation of powers according to the constitutional system regulated in the Constitution;
3) There are human rights guarantees in the Constitution;
4) The existence of the principle of an independent and impartial judiciary that guarantees the equality of every citizen in law;
5) Ensure justice for everyone, including against abuse of authority by those in power;
6) In the legal understanding adopted, it is the law that holds the highest command in the administration of the state; and
7) What actually leads in administering the state is the law itself in accordance with the principles of the Rule of Law, and not of Man, which is in line with the notion of *nomocratie*, namely power exercised by law, *nomos*.

The elements or characteristics of the Pancasila legal state are (Hadjon, P., M., 1987):

1) A harmonious relationship between the government and the people based on the principle of harmony;
2) Proportional functional relationship between state powers;
3) The principle of dispute settlement by deliberation and justice is the last resort; and
4) The balance between rights and obligations.

In the Pancasila legal system, the rule of law harmoniously combines the elements of both the *Rechtsstaat* (legal certainty) and the Rule of Law (substantial justice). Within this concept, the principles of *Rechtsstaat* and the Rule of Law are not positioned as two alternative or cumulative conceptions whose application can be chosen based on taste but as cumulative conceptions. Furthermore, a country can be said to be a rule-of-law state if it has fulfilled the four requirements stated by Burkens, which consist of the principles of legality, division of powers, basic rights, and court oversight. Especially for the concept of an ideal Indonesian legal state, besides having its own character, the conditions mentioned by Burkens can still be guided and even enforced as long as there is an Indonesian soul and character. There are also those who say that the desired legal state is a welfare democratic legal state (Sidharta, B.; A.; 2000).

The State of Indonesia is a Pancasila legal state with the following characteristics:

1) Pancasila State is a constitutional state, in which all uses of power must always have a legal basis and be within the framework of the limits set by law, a fortiori for the use of public power. So, the government that is desired is a government based on, with, and by law;
2) The Pancasila State is a democratic country in which all the activities of the state are always open to the participation of all the people, in which the implementation of authority and the use of public power must be accountable to the people, and must always be open to rational assessment by all parties within the framework of the values and legal order that apply. In addition, the judiciary exercises its authority freely, other government bureaucracies are subject to the decisions of the judicial bodies, and citizens can submit government bureaucratic actions to court; and
3) The State of Pancasila is an organization of all the people who organize themselves rationally to work together in endeavors, within the framework of and through the prevailing legal order, to create physical and spiritual well-being for all people by always referring to the values of human dignity and belief in one almighty God. Thus, it can be said that the aspired Pancasila state is a constitutional state based on the principle of democracy that aims to realize equitable welfare (social justice) for all Indonesians. The state must be present as a rule of law when state administration is able to prevent corruption, collusion, and nepotism (Thantowi, J.; 2016).

From several thoughts on the concept of a rule of law state as described by the legal experts above, the authors note that the concept of an ideal state of law in Indonesia has at least the following elements:

1) The administration of the state and government is always based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia;
2) The state places the constitution, laws and statutory regulations as guidelines that must be obeyed in every life;
3) The principle of legality is the main thing that must be guided by state and government administrators;
4) Making the law a means of creating a welfare state and a democratic state;
5) The state recognizes and operates a power-sharing system and has checks and balances;
6) There is an independent and impartial judiciary that guarantees justice for everyone, including against abuse of authority by those in power;
7) There is protection and balance between human rights and human obligations;
8) The existence of the principles of democracy and people's sovereignty in the life of society, nation, and state;
9) There is balance, harmony, and balance between rights and obligations;
10) Recognition and realization of the principles of good governance; and
11) Realization of justice, legal certainty, benefits, and happiness for every citizen.

2. Implementation of the Ideal Concept of Indonesia's Law State

Guided by the 11 (eleven) elements of the concept of an ideal Indonesian rule of law above, to assess its implementation, it is necessary to put forward several thoughts of legal experts whose quality, validity, and objectivity can be accounted for. If our attention is focused on the current factual reality, after 50 years of national and state independence, it will still appear quite clear that between the ideals of a Pancasila legal state and the factual reality there is quite a wide difference. The quality and quantity of various instruments of positive rule of law, with their implementation and enforcement as well as the distribution of welfare, still generate feelings of dissatisfaction and complaints among the general public, which are quite widespread. This wide gap between ideals (*das Sollen*) and factual reality (*das Sein*) naturally raises the question of why and how to overcome it. To be able to understand well the symptoms of this gap, historical analysis will be very helpful because, after all, the present factual reality is a product of history, which means that it is determined by historical processes. This historical study, apart from being important in helping to understand the current situation, is also very much needed as input in considering policies to be pursued in the future, a fortiori if linked to the impact of globalization and free market processes with their current "heavy competition." it is too difficult to be circumvented (Sidharta, B.; A.; 2004).

What is more worrying is that law enforcement officials are becoming suspects in corruption crimes. Former Chief Justice of the Constitutional Court (MK) Akil Mochtar, chairs of political parties, governors, ministers, members of the DPR, and others have been shown to be corruptors. Efforts towards purifying the quality of administering a clean and corruption-free state absolutely must be a strategy in building a rule of law nation without corruption. It seems that Indonesia's situation has worsened when almost all institutions of power, including the executive, legislative, and law enforcement officials, are involved as suspects in corruption crimes (Thontowi, J.; 2016).

On the issue of law implementation and enforcement in Indonesia, we can say that long before the reformation, there had been complaints about the performance of law enforcement and implementation. application and law enforcement is far from efficient, far from justice and truth. All of this has to do with an unclean government and an authoritarian political system that is not open. Updates must be complete. It is not enough just to renew law enforcers (judge, prosecutor, and police). No less important are the supporting units, which are related to work

procedures or management systems in general. This also includes supporting staff, namely the administrative work units within the courts, prosecutors, and police.

The same thing applies to the sector of law enforcement (more precisely called legal services), which must also be reformed, such as the service system in the fields of licensing, validation, and others (Manan, B.; 2003).The opinions of the three legal experts above provide an almost identical portrait: at the level of implementation, it turns out that the ideal concept of the rule of law in Indonesia has not been perfectly executed in real life; there are still many weaknesses and obstacles. In this regard, the authors would like to present several examples of actions or policies taken by state and government administrators or politicians, law enforcers, or the public that have undermined the ideal concept of Indonesia's rule of law.

Recently, there was a Constitutional Court ruling, Number 91/PUU-XVIII/2020, which ruled that "declaring the formation of Law Number 11 of 2020 concerning job creation is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force." conditional as long as it is not interpreted as meaning that corrections are not made within two years since this decision was pronounced. The formation of the Job Creation Law is contrary to the principles of forming statutory regulations. At the regional level, the decline is no less in relation to the process and content of regional regulations. A total of 3,143 provincial or regency/city regional regulations throughout Indonesia were canceled by the government in 2016. During the 2014–2019 period, the Supreme Court registered 435 cases of requests for judicial review of laws and regulations under laws against laws (PPPU). The behavior of the legislators of laws and regulations that ignore the principle of rule of law, legality principles and guidelines for the formation of laws and regulations as stipulated in Law Number 12 of 2011 concerning Formation of Legislation and has been amended by Law Number 15 of 2011 2019, will have an impact on social life in society. The state places the constitution, laws and statutory regulations as guidelines that must be obeyed in every life, but in reality it is still far from what it aspires to be.

Likewise in the field of citizens constitutional rights, one of which is the basic right of the people that must be protected by the state, namely freedom of expression. As a constitutional state, this freedom is guaranteed in the fourth amendment to the 1945 Constitution of the Republic of Indonesia in Article 28E paragraph (3), which states that "everyone has the right to freedom of association, assembly, and expression of opinion." Then the interpretation of the article is accommodated through Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public. Article 1 paragraph (1) provides "freedom to express thoughts orally, in writing, and so on freely and responsibly in accordance with the provisions of the applicable law."

What is the concern and fear of many civil society, activists, academics, citizens and journalists is the enactment of Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). The law, which was originally expected to protect constitutional rights and become part of the implementation of the spirit of Article 28E paragraph (3) and Article 28F of the 1945 Constitution, has become a scourge for freedom of opinion, expression, and expression of thoughts. In a democracy, freedom of thought is part of the basic rights that must be protected by the state. When freedom of thought and expression expressed in an opinion is interpreted by the authorities as a threat, of course this is an arbitrary action by the state towards its people. In fact, the constitutional state, which originates from the concept of "*rechtsstaat*" aims to limit the power of the state to act arbitrarily. in the field of power sharing. Indonesia adheres to the Trias Politica system developed by Montesquieu.

However, in reality, the atmosphere of checks and balances in state governance is still very difficult to achieve. In this case, the author uses the example of the legislative and executive branches, which are characterized by various problems that may hinder the operation

of the principle of checks and balances. Executive power is now more dominant than legislative power in making laws. Juridically, what is granted by the 1945 Constitution of the Republic of Indonesia is that the legislative power is greater than the executive power. In addition, legislative power tends to follow the wishes of the executive in capturing legal issues in society. For example, there is an urgent legal need for the community, such as the Bill on the Crime of Sexual Violence (TPKS), which has been registered in the national legislation program since 2016. Until now, it has not succeeded in getting approval to become law. It is different when compared to the Bill on the State Capital (IKN), which began to be discussed intensively in the Indonesian Parliament together with the Government starting from December 7, 2021, in a very short time, January 18, 2022, it was successfully passed into law.

In the field of justice, the principle of an independent and impartial judiciary with the principle of upholding law and justice, it turns out that in reality it has not been fully presented and given to those who are entitled. For example, I still remember the unlawful act committed by the chief judge of the Constitutional Court for the 2013–2016 term, Akil Mochtar, in the practice of bribery, gratuities, and money laundering crimes. What he did really hurt the hearts of all elements of the Indonesian nation and undermined public trust in the Constitutional Court as the last bastion of law enforcement and justice. At the cassation level, case number 336K/Pid.Sus/2015 dated February 23, 2015, Akil Mochtar was found guilty of committing various acts of corruption during the period 2010 to 2013, such as accepting bribes from 10 (ten) cases handling regional head elections and money laundering, which resulted in the imposition of a cumulative crime, namely life imprisonment, revocation of the right to vote and be elected, and a fine of IDR 10 billion.

Of the many examples of cases above, the authors consider that the implementation of the 11 (eleven) ideal Indonesian legal state concepts as mentioned above, namely the administration of the state and government, is always based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia; The state places the constitution, laws and statutory regulations as guidelines that must be obeyed in every life; The principle of legality is the main thing that must be guided by state and government administrators.

Making law a means of realizing a welfare state and a democratic state; "The state recognizes and operates a power-sharing system and has checks and balances with each other." There is an independent and impartial judiciary that guarantees justice for everyone, including against abuse of authority by those in power; There is protection of Human Rights that is in balance with the obligations of Human Principles; The existence of democratic principles in the life of society, nation and state; There is a balance, harmony and harmony between rights and obligations; Recognition and realization of the principle of "good governance"; The realization of justice, legal certainty, benefits, and happiness for every citizen has not been realized as envisioned.

RESEARCH METHODS

The research method can be interpreted as a set of principles and procedures for solving problems encountered in conducting research. Types of legal research can be divided into two categories, namely normative legal research or library law research and empirical or sociological legal research. Above is legal research, so the research method used is one that is in accordance with the Science of Law, namely the juridical-normative research method.

Normative legal research is legal research that prioritizes the use of secondary data, while empirical legal research is legal research that prioritizes primary data. Primary data is obtained directly from the community, while secondary data is obtained from library materials. This type of research is normative legal research and prioritizes the use of secondary data obtained through library research. Even though the research conducted is

normative legal research, field studies are still needed to complement and confirm the research results.

Data analysis is the process of simplifying data into a form that is easier to read and interpret. Data analysis can also be referred to as the activity of providing a review, which can mean opposing, criticizing, supporting, adding, or commenting, and then drawing a conclusion. Data analysis can be carried out in two ways, namely quantitative analysis through statistical tests and qualitative analysis through categorization based on the problems studied and the data collected. The data analysis method used is qualitative analysis because the data used is not in the form of numbers or quantities but rather library data obtained by conducting a study of documents using materials from secondary data.

The presentation of the results of data analysis in this study uses a descriptive-qualitative method to provide an overview or explanation of the subjects and objects of research as well as the results of the research conducted. Furthermore, all legal material that has been collected is inventoried, classified, then processed and analyzed in a comprehensive manner, so that from this analysis it can be used as a reference in order to understand and gain in-depth understanding and conclusions can be drawn to answer the problem completely and thoroughly.

RESULT AND DISCUSSION

From the explanation given by the author in the portrait of the implementation of the ideal Indonesian rule of law concept, it is revealed that there are several inhibiting factors to making it happen, including;

a. Humans, the factor of weak commitment and integrity of our legal people (lawmakers, law enforcers, and law enforcers) in carrying out their respective duties, authorities, and functions. Our lawmakers, whether in the legislature, DPRD, or executive branch, or government bureaucrats in regional government and in ministries or institutions/agencies as the shapers of our legal material and statutory regulations, are not qualified, overlap, have multiple interpretations, and are full of flavor. subjective politics of elites or groups that lead to injustice in legal material and applicable legislation. Law enforcers, namely all bearers of rights and obligations (former lawyers, government officials, state administrators, politicians, academics, civil servants, and so on, including law enforcers), still show the same behavior and character, namely being pragmatic, consumptive, and transactional.
b. There is still a lack of budgetary support in the education sector, especially in the APBD of each region, which has not complied with the instructions of Article 31 paragraph 4 of the 1945 Constitution of the Republic of Indonesia, which prioritizes a minimum budget of 20 percent of the APBD and includes the lack of a budget for the development of the national legal system, legal research, legal service, legal counseling, and law enforcement.
c. Weak legal culture Basically, culture includes the values that underlie applicable law—which values are considered good (so they are adhered to) and which are considered bad (so they are avoided). the factor that has not yet been entrenched in law as a necessity in everyday life is one of the inhibiting sectors in.

There have been several attempts to find solutions to the inhibiting factors in order to realize the concept of an ideal Indonesian legal state, namely:

a. Build reliable human resources, both physical and non-physical. non-physical, namely by carrying out a mental-spiritual, spiritual, and educational revolution. This mental-spiritual, spiritual-educational revolution is a force built by civil society as part of strengthening the legal culture when viewing law as a system. The purpose of this revolution is to change the paradigm, or way of thinking, dealing with problems, and

ways of acting and behaving aimed at our legal people so that they make fundamental changes in seeing the interests of the state and nation as an absolute priority. Thus, if this orientation is built as a foundation in society, nation, and state, it is almost certain that the values of Pancasila will gradually be internalized and institutionalized into everyday life. Because this paradigm will function as the concept of a Pancasila (ideal) legal state in real reality, for example, the attitude of equal treatment before the law and the embodiment of the principles of justice, order, legal certainty, benefit, welfare, and happiness, Also, involving community participation in law formation is the value of deliberation for consensus; awareness of rejecting corrupt, collusive, and nepotistic actions is the value of nationalism. A mental-spiritual, spiritual, and educational revolution is one of the ways sought by the government to tackle these factors. inhibiting factors of the ideal Indonesian rule of law concept. The paradigm of state administrators, lawmakers, executors, and law enforcers, including people who avoid and refuse corruptive, collusive, and nepotistic behavior, is one of the targets to be achieved. This includes building a legal culture for state administrators, lawmakers, implementers, law enforcers, and the public. These are things that should be a concern as an awareness that emerges from society. Society must have the courage to refuse and not be easily influenced to pawn integrity for the sake of momentary interests. In the concept of a rule of law, society must also understand and obey the concept of an ideal Indonesian rule of law.

b. In order to improve the quality of legal material and statutory regulations that are guaranteed to be fair, not overlap, and have multiple interpretations, it is necessary to increase the knowledge and education of members of the DPR, DPD, and DPRD in the fields of theory, science, and techniques for forming statutory regulations.
c. To support the effort in number 2 above, it is important to hold a special education program for members and administrators of political parties in the fields of Pancasila and the 1945 Constitution of the Republic of Indonesia, integrity, nationalist insight, psychology, knowledge of the vision and mission of the nation and state, and knowledge in the field of parties politics. This education is based on a formal curriculum that is carried out by the government and an independent team that has qualified capacity and integrity, not the one held by political party officials so far. But it's really done objectively, competitively and pass and don't pass system. Those who pass have the right to nominate or be nominated as a candidate for a member of the legislature or a candidate for regional head and deputy regional head.
d. The ASN sector is really recruited and positioned proportionally and professionally, openly, objectively and not from KKN products.
e. The law enforcement sector—the police, prosecutors, judges, and notaries—must also be evaluated on a fundamental basis so that KKN practices in recruitment and placement can no longer be tolerated. Indeed, in the meantime efforts towards a more advanced and clean, transparent direction have begun to be pursued, but there is still potential that can be exploited by unscrupulous officials.
f. Especially for advocates, through PERADI, a fundamental re-evaluation should be carried out in the recruitment process through tightening based on scientific quality, integrity, and competence as an advocate. Unlike today, it tends to be regarded as a "leftover" or "forced" profession. This is because in general a person becomes an advocate not out of a will from the start, but because the person concerned has had bad luck elsewhere. Even if they were serious from the start about pursuing the advocacy profession, the percentage was not that high. As a result, it is not surprising that many lawyers in Indonesia are certified as soon as they graduate. Such an attitude will affect the quality of the performance involved in carrying out the advocate profession.

CONCLUSION

From the descriptions, explanations, and facts that have been disclosed earlier, the authors draw the following conclusions:

1. The ideal implementation of the concept of the rule of law of Indonesia has not yet been fully realized as aspired;
2. Factors that become obstacles in implementing the concept of an ideal rule of law state include the weaknesses of our legal people (formers, implementers, law enforcers, and the general public) in carrying out their respective duties, authorities, and functions. Other factors are overlapping factors, multiple interpretations, weak legal materials, weak budgets, and weak community legal cultures;
3. As for efforts to resolve or find a solution so that the concept of an ideal Indonesian legal state can be realized:
   a) Building human resources (legal people), including people who are reliable both physically and non-physically, in the form of mental, spiritual, and educational revolutions;
   b) Arranging and establishing the quality of legal material and statutory regulations that guarantee a sense of justice for every citizen, not overlapping and not having multiple interpretations For this reason, it is necessary to increase the knowledge and education of members of the DPR, DPD, and DPRD in the fields of theory, knowledge, and techniques for forming statutory regulations;
   c) Increase budget support in the field of developing the national legal system, legal education, research, service, and counseling;
   d) The ASN quality sector really needs to be recruited and positioned proportionately and professionally, openly and objectively, and not by the KKN;
   e) Law enforcement Sector: The police, prosecutors, judges, and notaries must really be evaluated fundamentally so that the potential for KKN practices in recruitment and placement is no longer carried out; and
   f) Specifically for advocates, through PERADI, a fundamental re-evaluation should be carried out in the education and recruitment processes by tightening graduation.

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Undang-Undang Dasar Tahun 1945,

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945,

Undang-Undang Nomor 12 tahun 2011 Jo. Undang-Undang No 15 tahun 2019 tentang pembentukan peraturan perundang-undangan,

Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja,

Undang-Undang Nomor 19 Tahun 2016 atas Perubahan Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE),

Undang-Undang Nomor 9 Tahun 1998 tentang Kemerdekaan,

Pedoman Nomor 7 Tahun 2020 tentang Pemberian Izin Jaksa Agung atas Pemanggilan, Pemeriksaan, Penggeledahan, Penangkapan, dan Penahanan terhadap Jaksa yang Diduga melakukan Tindak Pidana

Putusan Lembaga Peradilan;

Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 tentang Cipta Kerja,

Putusan MA, tingkat kasasi perkara Nomor 336K/Pid.Sus/2015 tanggal 23 Februari 2015

Putusan Majelis Hakim Pengadilan Negeri Jakarta Pusat Nomor 38/Pid.Sus-TPK/2020/PN Jkt.Pst tanggal 8 Februari 2021

Putusan Majelis Hakim Pengadilan Tinggi Jakarta Nomor 10/PID.TPK/2021/PT DKI tanggal 14 Juni 2021