

## **KARL MARX'S THEORY AND ITS APPLICATION IN LAW IN INDONESIA AS A DEMOCRACY**

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### **Abstract**

This study aims to analyze Karl Marx's theory and its application to law in Indonesia as a democratic country. The results showed that Marxism is an understanding taken from the philosopher Karl Marx, where it rejects the theory of natural rights, because a right is state ownership or collectivity (respository of all rights). Marxism is a philosophy that must not be static, but must actively make changes because the most important thing is action and matter, not ideas. Marx explained his views on the theory of class conflict, giving birth to Communism. Communism in Indonesia which is considered as a prohibition through the Decree of the Provisional People's Consultative Assembly of the Republic of Indonesia No. XXV / MPRS / 1966 concerning the Dissolution of the Indonesian Communist Party, Declaration as a Banned Organization throughout the territory of the Republic of Indonesia for the Indonesian Communist Party and Prohibition of Any Activities to Spread or Develop the Beliefs or Teachings of Communism / Marxism-Leninism (TAP MPRS No. XXV / MPRS / 1966).

**Keywords:** Karl Marx Theory, Communism, The State of Law, Democracy

### **1. INTRODUCTION**

Marx's philosophy is based on the philosophy of materialism. Marx's philosophy of historical materialism is primarily directed towards praxis, that is, the change of society. Marx's influence on thought today is not sufficiently explained on the basis of the historical study of Marx, but also the appearance of answers in politics and philosophy to today's problems. The direction of Marx's dialectical philosophy, especially his view of the individual and society, as well as his humanist insight, not only understanding class society where all injustices flourish, but how to eliminate injustice, his defense of man's liberation from the shackles that hinder his appearance in full form, are brilliant humanitarian ideas, and become the subject of thought in studies related to social justice.<sup>1</sup>

Marx's theory remains valid and is still considered important today. Marx understood society not statically, but dynamically. Society is developing, and Marx gives a prognosis of that development. Marx's teaching offered the promise and hopes of prosperity and prosperity, peace and security, and the solution of the problems facing the proletariat, for the creation of social justice. Social Justice contained in the Preamble to the 1945 Constitution and its articles, the state is burdened with social responsibility, the state must side with those who are weak by actively involving them in decision making in the political, economic and cultural fields, and the state is required to be fair to its citizens without discrimination against anyone, to build a democracy that is humane and socially just.<sup>2</sup>

Marx's philosophical materialism has shown the working people the way out of the bondage of the soul. Marx's Political Economy has its source in British classical economics. Marx

continued the work of Adam Smith (1723-1790) and David Ricardo (1772-1823) who, thanks to their investigations in the field of the economic system, laid the foundations for the labor theory of value. Marx had revealed the relationship between human beings in exchange between one merchandise and another. In this case, bourgeois economists see only the relationship between goods, not reveal the relationship between people. Marx proved that even in the capitalist system human labour becomes a trade good.<sup>3</sup>

Karl Marx borrowed the concept of the state to realize his ideals from Hegel, but he criticized Hegel's concept of the state as the embodiment of the "Holy Spirit". For Karl Marx, the state has been used as a tool for the powerful to perpetuate their power. Karl Marx's opinion is obtained from the understanding that society is actually always in a state of conflict between classes (ruling class and controlled class). Every class battle that takes place is always won by the ruling party so that they can easily fool the controlled class through the mechanisms of statehood (institutions, products and systems).<sup>4</sup>

Karl Marx's theory is also widely applied in Indonesia, one of which is its application in law in Indonesia where Indonesia is a Democratic State. Therefore, this will be studied further in this writing, so that a picture is obtained regarding the relationship between Karl Marx's Theory and Indonesia as a State of Law that upholds Democracy.

## 2. DISCUSSION

### 1. The Relationship between Karl Marx's Theory and the State of Law

Marxism according to Mujaid Kumkelo, et al is an understanding taken from the philosopher Karl Marx, where the understanding rejects the theory of natural rights, because a right is state ownership or collectivity (*respository of all rights*). According to Teguh Presetyo, Marxism is a philosophy that must not be static, but must actively make changes because the most important thing is actions and materials, not ideas. According to Marx, man is always linked to the relations of society that gave birth to history. Menusia is a creature of society, which is active, visible in a production process. Human nature is work (homo laborans, homo faber). So there is a close link between philosophy, history, and society. Marx's thought is known as Historical Materialism or Dialectical Materialism. Still from the same source, with this line of thought Marx also explained his views on the theory of class conflict, so that in subsequent developments gave birth to Communism.<sup>6</sup>

The relationship between Marx's theory and the rule of law can be seen from Toeri Marx who describes workers as alienated from their jobs because the benefits of work are only enjoyed by the owners of capital. In addition, they are also alienated from their fellow workers because each worker competes for work. They are also alienated from their master because they are always under his control and their fate depends completely on the master. Marx said that such a situation has survived for centuries because of two human creations, the state and the legal system.<sup>7</sup>

The state issues products of laws and rules drawn up by powerful people. Rules are drawn up to protect first of all the privileges of powerful people. Laws were made in their favor. Marx

said that the state also strengthens their position because the state is nothing but an organization of power of the owners of capital. Through the state, they can maintain the state of society in their favor. This is what Marx called "systematic colonization", that is, capitalists use the power of the state to exploit the workers.<sup>8 9</sup>

Therefore, according to Marx, a revolutionary consciousness of the workers is needed, which consciousness is not a concept resulting from the reflection of intellectuals, but the result of the dialectic of the struggle of the proletariat itself. The revolutionary consciousness of the proletariat will grow and develop in its struggle. Lenin, who claimed to be the sole heir to Marx's ideas, said that the consciousness of the workers was pumped from outside (the communist party). According to Lenin, revolution will not arise by itself. Likewise, the revolutionary consciousness of the workers does not automatically grow. It takes a party that encourages and creates that awareness. The existence or absence of revolution depends largely on the revolutionary will, and the revolutionary will cannot automatically exist, but must be 'held'. That is where the function of the revolutionary party is, which is to inject revolutionary consciousness. This shows that Karl Marx wanted a justice that should be given and guaranteed by the State of Law.<sup>10 11</sup>

The ideal of the rule of law does stand on the law that guarantees justice to its citizens. The absolute requirement for achievement must certainly be the realization of the rule of law, equality before the law, and the guarantee of citizens' rights in the name of the law. The concept of the rule of law is in line with the opinion of <sup>12</sup>Jimly Asshiddiqie who formulated 12 main principles that are the main pillars supporting the establishment of the modern state which can be called the *rule of law*, or *rechtsstaat* in the true sense, as follows:<sup>13</sup>

- 1) Recognition of the rule of law;
- 2) The existence of equality in law;
- 3) The enactment of the principle of legality;
- 4) The effectiveness of the limitation of power;
- 5) Guaranteed independence of technical power functions;
- 6) The existence of a free and impartial judiciary;
- 7) There is a judicial mechanism for state administration;
- 8) The existence of a constitutional judicial mechanism;
- 9) Guaranteed protection of human rights;
- 10) Adherence to democratic *rule of law*, *demokratische rechtsstaat*);
- 11) *Serves as a means of people's welfare (welfare- rechtsstaat)*;
- 12) Transparency and social control.

Therefore, the rule of law should ensure social justice for its citizens, not rely on greed or the interests of the political elite or bourgeoisie. Marx argued that greed is a product of the

historical process or referred to as historical materialism. Socialism hopes that materialistic and individualistic traits can undergo changes and humans become more tolerant of each other. The transfer of the right to control the factors of production from individuals in Marx's perspective had to occur in a revolutionary way, so Marx's socialism came to be called communism.<sup>14</sup>

Injustice in Marx's view means the exploitation of the workers by the capitalists. The author of Introduction to Contemporary Political Philosophy, Will Kymlicka, argues that justice in Marxism is not about the reach to whom resources should be equalized, but rather about the form in which leveling should occur. Generalizing productive resources must be the socialization of the means of production, so that everyone participates equally in the collective decisions around the distribution of production assets. For Marx, justice meant that the means of production must be social, that is, they must belong to society, because these tools are made by the people and for the benefit of the people. The means of production must be owned together, become <sup>15</sup>*communis*. And this joint ownership of the means of production will only be achieved through the path of revolution.<sup>16</sup>

In his theory of accumulation, Marx suggested wild competition between big financiers and small financiers. According to Marx, big investors are the most successful in large companies, because the big companies will monopolize so that small firms disappear. Wild competition like this will lead to an economic crisis, which is when the necessary profits decrease. As production increases, eventually the market will be flooded with goods until there are no more buyers. Then, production stalled, workers were fired and became poorer. At its peak, the workers will rebel and take power.<sup>17</sup>

## 2. Application of Karl Marx's theory to law in Indonesia as a Democratic State

Karl Marx also gave a synthesis that the form of society is influenced by the means of production. According to Karl Marx, the development and structure of society is determined by the division of labor and forms of property rights in society. Indeed, Karl Marx's conception of "mode of production" was a sketch that was never completed, according to Tom Bottomore there are four questions that Marx's sketch was unable to answer, namely; how many modes of production there are at each stage of development; under what circumstances will the modes of production succeed each other; how to describe the series of processes about the form of society that relate to, arise from or are determined by the mode of production; and what kind of state and political system can be characterized or produced by these different economic structures and forms.<sup>18</sup>

Nevertheless, the Marxist conception is used as a basis for analyzing the state. Marxist theory is used to relate types of states to distinguish socioeconomic structures, to explain changes in states based on the individual characteristics of the structure of certain forms of society that jeopardize structural transformation. There are two points of view using this Marxist theory, the first is the non-evolutionist point of view, which explains that the formation of the state is a consequence of the structural transformation of primitive communal society, the types of states associated with historically determined modes of production, and the conditions that result in the transition from one type to another, structural characteristics, The contradictions

that can affect one transition to another cannot be known.<sup>19</sup>

The second view is the evolutionist point of view, that the type of state and the view of the relationship of the state to the structure of society are determined evolutionarily by the following two factors: first; Changes in the *mode of production* have several effects, including one of them is a sharp gap in property ownership as a result of the development of productive forces through technological advances. Second; Conquest played a role in the creation of the state (but for this second factor there is no research on the influence of war, and military organization, or research on the consequences of growing society).<sup>20</sup>

To explain the relationship between society and the state within the scope of a political system, which is as follows:

- 1) States exist because of increasing differentiation in social functions as human societies grow larger and more complex, and because of the need for higher powers in society by which they are able to manage conflicts of interest between individuals and groups and display in a particular way common interests.
- 2) The state arises as a means of domination derived either from the internal differentiation of society into dominant classes and subordinate classes (according to Marxist theory), or from the provision of rule by one group of people over others through conquest.<sup>21</sup>

Indonesian people who understand themselves as the owners of the Indonesian State together, a political system built using the principles of, by, and for the Indonesian people themselves or known as democracy is not subject to political change. The history of political upheaval in Indonesia shows this. At the beginning of Indonesia's independence, the government system used was a parliamentary cabinet system. In a parliamentary cabinet system, the cabinet that will help exercise executive power as the executor of the government is arranged by parliament, and the composition of parliament is arranged based on the votes of political parties in general elections. The number of votes of a political party determines the number of seats of a political party in parliament. At this time political parties were the determinants of change, but the regeneration process was not democratic. In addition to the parliamentary system, Indonesia has also switched to the system of Liberalism, namely when Indonesia was transformed into the Republic of the United States of Indonesia (RIS) in 1949, but it seems that the system is not in accordance with the history of the birth of the Indonesian nation, then Indonesia changed back to the Unitary State of the Republic of Indonesia.<sup>22</sup>

For Marx, the minimal role of the state was only to institutionalize a prolonged conflict between the working class and the capitalist class. At its peak, the workers will rebel and take power and seek socialism – that is, the wealth of this world belongs to all. Socialism holds that common property is better than private property. It is said to be better because this principle negates the rich-poor, bourgeois-worker, and financier-worker distinctions. Socialism limits the desire for self-gain, so that self-interest, which is the source of ugliness, envy, and war, can be eliminated because everyone is considered brothers.<sup>23</sup> Karl Mark argued that every class battle that took place was always won by the ruling side so that they could easily fool the controlled class through the mechanisms of statehood (institutions, products and systems). Karl



Marx then advocated a class-led revolution to seize the country which then temporarily created a classless society. After the creation of a communist society, the state was no longer needed. Karl Marx's views on the state inevitably influenced his thinking about law. For Karl Marx, "your law (*Recht*) is the will of your class elevated to law (*Gesetz*), a will that derives its contents from the material conditions of your existence."<sup>24</sup>

Another thought, namely the relationship of state and law in Karl Marx's assumptions, is a reflection of economic factors. The state and law according to Karl Marx are a reflection of social reality. The reality he captured at that time was the existence of a dominant ruling class. He later identified law as a relationship of production associated with the state as an ideology. Ideology is interpreted according to Karl Marx negatively, namely as the power to "outsmart" reality to be perceived as its original reality.<sup>25</sup> An understanding of the relationship between the state and law is well presented when a set of principles or sets of principles and sets of positive legal rules which are inseparable and very important parts of a positive law that have all been designed according to a certain pattern. Closely interrelated between one part and another and shoulder to shoulder between one element and another in a unity of purpose. This is called the theory of dignified justice.<sup>26</sup>

When ideology turns into a propaganda tool, that's where politicization occurs in the life of the nation and state. Those who believe that political revolutions alone are not enough demand a radical overhaul of society are called communists. Communism in Indonesia which is considered as a prohibition through the Decree of the Provisional People's Consultative Assembly of the Republic of Indonesia No. XXV / MPRS / 1966 concerning the Dissolution of the Indonesian Communist Party, Declaration as a Banned Organization throughout the Territory of the Republic of Indonesia for the Indonesian Communist Party and the Prohibition of Any Activities to Spread or Develop the Beliefs or Teachings of Communism / Marxism-Leninism (TAP MPRS No. XXV / MPRS / 1966) where in the consideration section it is stated that "That the understanding or teaching of Communism/Marxism-Leninism is essentially contrary to Pancasila"<sup>27,28</sup>

Karl Marx's theory of communism is incompatible and contrary to the Constitution of the Republic of Indonesia, because communism leads to radical revolutions or rebellions against the state as has happened in the 30 September Movement / G30 S PKI.

Therefore, a theory is needed that is in accordance with the development of the State of Indonesia, including inclusive legal theory. The inclusive legal theory pioneered by Prof. Jawahir as Mahzab Tamsis is very worthy to be developed in the Republic of Indonesia, including the presence of this inclusive legal theory which then perfects the theory as a whole by including religion as a highest value system in the context of Indonesia. Inclusive legal theory present in a legal science thought is an anti-thesis to the dominant role of positivism legal theory (John Austin) and Pure legal theory (Hans Kalsen) which assumes that a regulation is considered a *law* (law) if it contains decisions, is made legislative power (*legislative power*), is *written* (*written inform*), its enactment is imposed by law enforcement, police, prosecutors and judges (*forceable*)), and contains punishment.<sup>29</sup> The presence of inclusive legal theory is also expected to expand the subject of law, justice, and the rule of law. It is recommended that

inclusive legal theory remains in the pancasila paradigm, meaning that it is used as the source, the foundation of the origin and beginning of the existence of inclusive legal theory, which contains a set of values (about God, nature, and humans, and the relationship between the three), which are believed to be true, and further used as law and application techniques of inclusive legal theory. The existence of inclusive law as part of the existing social order in addition to religious norms, decency and decency, basically serves to protect and integrate the interests of existing community members. This is possible because of the nature and nature of Indonesian law which provides guidelines and guidance on how to behave in society. Law through its norms of a regulatory nature in the form of orders and prohibitions.

Inclusive legal theory is built on a tradition of academic freedom of thought, especially in legal creativity and innovation. As a science or law as a tool or guideline that functions to regulate, facilitate law enforcement officials and maintain and uphold human dignity and dignity, personally, collectively both for material and material or spiritual needs. The function of law as a guide in solving human problems in society. It cannot always rely on written legal regulations, or laws but must sometimes be out *of context*.<sup>30</sup>

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### 3. CONCLUSION

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#### Notes

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- 4) Mujaid Kumkelo, et al in their book *Fiqh HAM (Orthodoxy and Human Rights Liberalism in Islam)*, Malang: Setara Press, p. 34
- 5) Teguh Presetyo, *Philosophy, Theory, and Legal Science: Thoughts Towards a Just and Dignified Society*,



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- 6) See Marx, Capital. A Critique of Political Economy Vol. II, ed. F. Engels (Moskow: Foreign Languages Publishing House, 1961Pp. 378
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