

Strategies for Implementing Progressive Law for Societal Development and Economic Growth

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Strategies for Implementing Progressive Law for Societal Development and Economic Growth

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Abstract

The concept of progressive law is placed in a sociological perspective where law is directed to serve the interests of society. This research aims to create a more just, sustainable and participatory economy for Indonesian society, by placing sustainability as the main focus. This research identifies the challenges faced by Third World countries, especially in the context of globalization which leads to the domination of global economic actors over resources and markets. This has led to social stratification that is increasingly felt globally, increasing inequality and presenting sustainability and justice issues. Furthermore, concrete steps are needed to improve the legal system and mechanisms that support progressive economic development, including optimizing the Anti-Monopoly Law to prevent economic concentration, as well as implementing a progressive tax system to create a fairer distribution of wealth. In addition, this research encourages the active role of local governments, community-based market mechanisms, and community agricultural development.

Keyword: *Progressive Law, Development, Economy, Economic Paradigm*

A. INTRODUCTION

Development can be seen as a process aimed at achieving progress in the material aspects of a country's economy. The success of development is often measured through indicators such as accumulated investment growth and the level of consumer consumption. Countries with accumulated capital and robust economic resilience tend to expand their economies to Third World countries.¹ The term Third World refers to countries that are still experiencing economic underdevelopment or are in a developmental stage. The concept of development in the Third World has different expectations, focusing on meeting the economic sector's needs. Development in these countries cannot be equated with developed superpower countries. Countries with accumulated capital and solid economic stability tend to expand their economic impact to developing countries in the Third World.²

¹ Olga Vladimirovna Markova, Ekaterina Yevgenievna Listopad, Aleksandr Vladimirovich Shelygov, Alexander Grigorievich Fedorov, and Igor Valentinovich Kiselevich. "Economic and legal aspects of the innovative activity of enterprises in the context of the digital economy." *Nexo Revista Científica* 34, no. 02 (2021): 968.

² Evgenia Evgenievna Frolova, Sergey Sergeevich Zankovsky, Mihail Nikolaevich Dudin, Sergey Borisovich Zinkovsky, and Aleksey Nikolaevich Kirsanov. "Studying concepts of the breakthrough economic reforms

Third World countries face challenges in creating adequate economic foundations to survive and compete in the international market. Conversely, superpower countries are more focused on systematic questions about how to further expand their already mature economies.³ This development approach is often referred to as Fordism, indicating efforts to create a prosperous global society with maximized unlimited benefits. The concept of Fordism includes three key elements: rationality, efficiency, and mass production/consumption. By prioritizing rational decision-making, policy implementation efficiency, and emphasizing mass production and consumption, this development philosophy aims to achieve global prosperity. For superpower countries, this involves expanding already mature economies, while for Third World countries, the focus is on building a strong economic foundation to compete in the international market scenario.⁴

The philosophy of Indonesia's economic development from an international perspective portrays Indonesia as a developing country and is often associated with the Third World zone. During the New Order era, the implementation of economic development in Indonesia brought significant changes, as seen in the increase in national per capita income.⁵ During the New Order era, efforts to develop the Indonesian economy were focused on various programs and policies aimed at improving the welfare of the people. This is reflected in the increase in national per capita income, which is one of the indicators of the success of economic development. Through these steps, Indonesia sought to position itself as an actively participating country in the international economic arena, although still classified as a developing country.⁶

Although on the surface, Indonesia's economic development during the New Order era seems impressive with significant improvements in welfare, a deeper analysis reveals that it left systemic economic suffering in the long-term prospects.⁷ Many of the development policies implemented at that time showed a tendency to focus on rapid economic growth without integrating efforts for sustainable development. Side effects of the fast economic growth strategy include increased economic inequality, neglect of environmental aspects, and dependence on specific sectors. This leaves serious challenges in

in selected developed and developing countries and regions of the world: Economic and legal aspects." *Journal of Advanced Research in Law and Economics* 9, no. 4 (34) (2018): 1239.

³ Muhammad Shidqon Prabowo. "Hukum Progresif, Alternatif Pembangunan Ekonomi Indonesia." *QISTIE* 3, no. 3 (2009): 92.

⁴ O. Sviatun, O. Goncharuk, Chernysh Roman, Olena Kuzmenko, and Ihor V. Kozych. "Combating cybercrime: economic and legal aspects." *WSEAS Transactions on Business and Economics* 18 (2021): 757.

⁵ Ade Reza Hariyadi. "Dinamika Kebijakan Perencanaan Pembangunan Nasional Indonesia." *JDKP Jurnal Desentralisasi dan Kebijakan Publik* 2, no. 2 (2021): 263.

⁶ Yunita Maya Putri, Ria Wierma Putri, and H. S. Tisnanta. "Communal Rights as Hegemony in the Third World Regime: Indonesian Perspective." *Indonesian J. Int'l L.* 19 (2021): 293.

⁷ Buswin Wiryawan. "Paradigma Baru Ekonomi Keluarga dalam Pembangunan Hukum Ekonomi untuk Mewujudkan Ketahanan Nasional." *Jurnal Ilmiah Hukum dan Hak Asasi Manusia* 2, no. 2 (2023): 68.

achieving inclusive and sustainable development. Despite the improvement in welfare during that period, the long-term systemic impact of the New Order economic development becomes a critical concern when evaluating its actual contribution to sustainable development and community well-being.⁸

Law is considered a driver of society towards planned change, playing an active role as a tool for social engineering. In real-life contexts, the law should be more functional as a means of social control in community life. The assumption of economic development, especially in Third World countries like Indonesia, is based on the progressive law paradigm that implements responsiveness and produces social benefits. Progressive law, although not purely an instrument of economics, plays a crucial role in economic mechanisms. Its implementation not only covers legal aspects but also considers the values of certainty, justice, and utility. The progressive law paradigm serves as the foundation for appreciating the dynamics of globalization, involving economic sectors, technology, and specific boundaries. In facing the currents of globalization, every country, including Indonesia, needs to adjust its laws as a form of adaptation to economic development through international market and trade mechanisms.⁹ The progressive law paradigm, with a focus on certainty, justice, and social benefits, serves as a guide to achieving these goals in the context of global dynamics involving various aspects of community life.

B. THE IMPORTANCE OF LAW IN DEVELOPMENT

National development in Indonesia has a significant task of reducing value imbalances in every aspect of social life for its people, continuing the struggle post-colonialism. An optimal development program is one conducted comprehensively, not only focusing on achieving economic growth but also ensuring the implementation of human rights protection for its citizens, as outlined in the state constitution. It is crucial to include civil, economic, social, and cultural rights as integral parts of development, creating a framework that ensures justice and sustainability in the development process.¹⁰ Thus, the government is expected to mobilize active participation from the community in various development stages. By ensuring the protection of community

⁸ Novendri M. Nggilu, Dian Ekawaty Ismail, Suwitno Y. Imran, and Lisnawaty W. Badu. "The Indonesian State Policy: History and the Future." *American Journal of Multidisciplinary Research & Development (AJMRD)* 4, no. 05 (2022): 09.

⁹ Budi Endarto, Taufiqurrahman Taufiqurrahman, Wahyu Kurniawan, Dwi Elok Indriastuty, Indra Prasetyo, Nabilah Aliyyah, Esa Wahyu Endarti et al. "Global perspective on capital market law development in Indonesia." *Journal of Management Information and Decision Sciences* 24, no. 1 (2021): 24.

¹⁰ Faissal Malik, Syawal Abduladjud, Dewa Gede Sudika Mangku, Ni Putu Rai Yulianti, I. G. M. A. S. Wirawan, and Putu Ronny Angga Mahendra. "Legal Protection for People with Disabilities in the Perspective of Human Rights in Indonesia." *International Journal* 10 (2021): 542.

rights, development can become more inclusive and have a sustainable positive impact on all layers of society.¹¹

Law and development indicate that development programs must meet the legal quality that supports their planning and implementation. Some prerequisites for conducive legal quality include stability, planned calculation, justice, education, and legal profession development. Stability and planned calculation are considered primary prerequisites for the optimal functioning of the economic system, especially for countries undergoing changes in economic relations across their traditional social environments.¹² Legal stability becomes important as it has the potential to maintain a balance between various competing interests. Meanwhile, predictability or planned calculation plays a crucial role, especially in countries where their society is newly engaging in economic relations involving a new social environment. The aspect of justice in law is reflected in the legal process, equality before the law, and government attitudes/treatments, all of which affect the sustainability of market mechanisms and play a role in preventing excessive government intervention. Additionally, education and the development of the legal profession are considered necessities in legal practice.⁴

The function and development of law in the economic development of a country are fundamentally related to the economic approach to law or vice versa, known as economic analysis of law. The elaboration between the two disciplines, economics and law, becomes important in facing the driving force of economic globalization. Legal globalization is a phenomenon where legal instruments as regulatory mechanisms of the economy must adapt to international developments that force them.¹³ Various laws and agreements become positive legal sources that must adopt and harmonize with international principles that are cross-border. This adoption is realized through the ratification of agreements, conventions, and international covenants. In addition, private relationships and agreements, as well as new economic institutions, also contribute to facing the dynamics of globalization. Through this process, the law plays a role as an instrument to adjust economic regulations to international developments, creating a responsive framework to global demands. Legal globalization becomes the foundation to ensure that national legal norms are compatible with the flow of global economic

¹¹ Ervina Dwi Indriati, and Nunung Nugroho. "Philosophy Of Law And The Development Of Law As A Normative Legal Science." *International Journal of Educational Research and Social Sciences (IJERSSC)* 3, no. 1 (2022): 317.

¹² Louis J. Kotzé, and Sam Adelman. "Environmental law and the unsustainability of sustainable development: a tale of disenchantment and of hope." *Law and critique* 34, no. 2 (2023): 229.

¹³ Ana Fauzia, Fathul Hamdani, and Deva Octavia. "The revitalization of the Indonesian legal system in the order of realizing the ideal state law." *Progressive Law Review* 3, no. 01 (2021): 16.

globalization, which, in turn, can support the economic development of a country.¹⁴

The economic law approach encompasses transnational and interdisciplinary aspects, specializing in the relationship between economic and social issues at the national, regional, and international levels comprehensively. Regulation in the field of economic law must align with the direction and policies of economic development, legal development, and societal development, both at the national and transdisciplinary levels in a holistic and systematic manner.¹⁵ The economic approach to law becomes a crucial strategy to prevent legal lag in the dynamics of the economy, both domestically and across borders. Thus, this approach becomes an effective tool to ensure the alignment of legal norms with the interests and policies of economic development, not only at the national level but also at the regional and international levels.

The function and role of law in the future stages of national legislation need to prioritize laws related to capital accumulation for development financing and economic democratization, aiming for efficiency and fulfilling the legal function as a business facilitator. Therefore, legal experts involved in lawmaking must have the ability to integrate legal studies with other disciplines comprehensively. This is necessary for the legal system to function as a facilitator that supports business and is responsive to the dynamics of social change and interactions between different social groups, states, and international borders. Lawmaking needs to consider the balance of progressive development interests, both at the national, regional, and international levels. Responsiveness to evolving social changes and interactions is a crucial key for the law to effectively play a role as a facilitator for inclusive and sustainable development.¹⁶

C. CHALLENGES OF ECONOMIC DEVELOPMENT IN THIRD WORLD COUNTRIES

The tide of globalization urges Third World countries to play a more progressive role in economic development. The natural resources owned by these countries are a key factor in their efforts to enhance their economies. Human resource management is also a crucial factor, where the management of productive assets must be optimized to support sustainable economic development. Developing countries in the Third World become the primary

¹⁴ Rian Saputra, and Silaas Oghenemaro Emovwodo. "Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law." *Journal of Human Rights, Culture and Legal System* 2, no. 1 (2022): 6.

¹⁵ Shelawati Emilia, Mutia Andini, and Masduki Asbari. "Pancasila as a Paradigm of Legal Development in Indonesia." *Journal of Information Systems and Management (JISMA)* 1, no. 2 (2022): 24.

¹⁶ Yenny Yorisca. "Pembangunan Hukum Yang Berkelanjutan: Langkah Penjaminan Hukum Dalam Mencapai Pembangunan Nasional Yang Berkelanjutan." *Jurnal Legislasi Indonesia* 17, no. 1 (2020): 99.

targets for the economic interests of developed nations. Therefore, the role of national economic development becomes increasingly crucial, both in the utilization of natural resources and the management of human resources. This phenomenon reflects the complex dynamics that occur in the global order, where developing countries face challenges and opportunities to compete in the economic globalization.¹⁷

Globalization brings about the widespread opening of markets worldwide through various instruments such as the World Bank, International Monetary Fund (IMF), Multinational Corporations (MNCs), Transnational Corporations (TNCs), and World Trade Organization (WTO).¹⁸ However, the impact of globalization often overlooks social aspects, especially changes in human resource management. The main tendency of globalization is focused on the agenda of creating markets to enhance profitability, without thoroughly considering the social aspects and their impacts. Global instruments can be seen as prioritizing economic gain over the comprehensive consideration of social impacts and changes in human resource management. The primary focus is often directed at poverty alleviation efforts and market creation without considering the long-term implications for social sustainability and human welfare.

Indonesia's entry into the 1980s was marked by the increasing integration of its economy into the global market. However, many incidents of globalization have had damaging effects on national sovereignty, legal systems, and the welfare of millions of Indonesians. The ongoing crisis reflects that Indonesia can be considered one of the worst victims of the impacts of globalization. It is important to note that this crisis is often not acknowledged by the IMF and the World Bank. Instead, liberal economists tend to blame the Indonesian government and state, whether related to corrupt practices (Corruption, Collusion, Nepotism) or issues of Bad Governance.¹⁹ From the failure and negative impact of this globalization, concerns about the collapse of the economic theories that have been held for a long time arise. This condition has serious consequences for the traditional views of economic theory, as the failure of the system and its negative impacts have sparked debates and new thinking regarding the direction and consequences of global economic integration for countries like Indonesia.

The approach of globalization towards the economic development of the Third World seems to create an endless space of exploitation. This

¹⁷ Mutia Evi Kristhy, and Hendro Satrio. "Analisis Peran Hukum Dalam Pembangunan Ekonomi Nasional Menghadapi Era Revolusi Industri 4.0." *Jurnal Pendidikan Kewarganegaraan Undiksha* 10, no. 2 (2022): 246.

¹⁸ Muhammad Shidqon Prabowo. "Hukum Progresif; Alternatif Pembangunan Ekonomi Indonesia." *QISTIE* 3, no. 3 (2009): 95.

¹⁹ Anny Riwayati, and Dwi Nur Handayani. "The Ethics Role of Good Governance in Indonesia." *ARRUS Journal of Social Sciences and Humanities* 3, no. 2 (2023): 182.

understanding depicts globalization as a normative project layered with economic theories, aiming to shape a societal order that aligns with market logic. However, criticism of this approach states that globalization is actually a pure mathematical fiction built upon lofty abstractions about reality. Economics, as a social science, is rooted in social reality and cannot be explained mathematically or with absolute algebra. The causal view of economic theory also reflects a framework that involves social factors, not just mathematical or physical aspects. Globalization can be seen as an abstract concept formed by the conception of individual rationality. Individual rationality, as found in the neoclassical paradigm, views individuals as entities striving to maximize utility through the best means to achieve their goals. However, this view is questioned in the context of globalization, where a focus on individual rationality is considered too narrow to explain the complexity of social reality.²⁰

Globalization can be regarded as a coherent discursive regime with the ability to reconstruct social understanding of authority. This phenomenon transforms into a political program aimed at acting and implementing hegemonic meanings on the global stage. Globalization points towards efforts to achieve universal welfare, based on the utopian idea of a free market. Sophisticatedly, globalization can integrate various forms of power, including economic, political, military, social, and technological knowledge, to establish dominance in monopolizing understanding of progress, growth, and prosperity. Its impact is evident in the economic development of the Third World, which tends to become a target market for powerful nations through mechanisms of global trade and international commerce, which are part of the package of global flows. The idea that progressive legal mechanisms are needed to map economic development, without disregarding human values, becomes increasingly relevant. Besides economic factors, legal instruments as regulations are expected to be more responsive to the basic rights of society in carrying out economic development in every country, especially in Indonesia.²¹

D. ECONOMIC DEVELOPMENT THROUGH A PROGRESSIVE LEGAL APPROACH

The progressive legal framework is essentially placed in a sociological perspective, where the law is directed to serve the interests of society. This idea fundamentally represents a process that shapes various desires related to Indonesia's economic sovereignty. The emphasized approach is the

²⁰ Agus Darmawan. "Politik Hukum Omnibus Law Dalam Konteks Pembangunan Ekonomi Indonesia." *Indonesian Journal of Law and Policy Studies* 1, no. 1 (2020): 16.

²¹ Syahril Sidiq. "Interseksi Hukum dan Ekonomi: Analisis Komprehensif terhadap Dinamika Regulasi dan Dampaknya terhadap Pertumbuhan Ekonomi." *Muhammadiyah Law Review* 7, no. 2 (2023): 42.

formation of legislation with an orientation toward economic development policies, with a rational structure based on the depiction of the social structure of society.²² Progressive legal science pays special attention to social inequalities that arise in the context of economic development, especially through the application of neo-liberal economic systems. Behind the fundamental principles of the neo-liberal economic system, the factor of human greed emerges as an embryo closely related to the positivism of law in that economic sector. The neo-liberal economic system, with all its basic principles, opens the door to the emergence of legal positivism that relies on empirical views and measurable legal facts. The factor of human greed becomes the connecting link between this economic system and the development of supporting legal positivism. The presence of globalization, as a process of liberal economic capitalization, can ultimately be rooted in the behavior of individual humans who prioritize worldly greed, even at the expense of the overall interests of society.²³

Developing countries are experiencing increasing economic pressure because global economic actors have control over resources and markets. This has resulted in social stratification that is increasingly felt globally, where wealth and power are concentrated in the hands of a few global actors. The dominance of global actors over natural resources is also closely linked to the concentration of power, posing challenges for the law to remain neutral. The more power global actors have, the greater the justice and sustainability problems that arise. The law, which is supposed to be the guardian of justice, tends to be affected by shifts in global power structures.²⁴ This imbalance raises questions about the sustainability of a global system that currently benefits only a few, while many countries and individuals are marginalized. Serious efforts are needed to achieve equality and justice in the distribution of power, resources and access to law globally in order to realize the goals of sustainable development and social justice.

Furthermore, to maintain healthy competition in the market, it is important to build effective systems and mechanisms. Optimizing the Anti-Monopoly Law is necessary to prevent economic concentration and business monopoly by large companies, thereby creating a transparent and competitive business environment. In addition, the implementation of a progressive tax system supports the democratization of capital by ensuring a fair distribution of wealth in society. This step also plays a role in establishing social funds to

²² M. Yasin Al Arif. "Penegakan Hukum dalam Perspektif Hukum Progresif." *Undang Jurnal Hukum* 2, no. 1 (2019): 173.

²³ Tanvir Ahmed Uddin, and Md Fazla Mohiuddin. "Islamic social finance in Bangladesh: Challenges and opportunities of the institutional and regulatory landscape." *Law and Development Review* 13, no. 1 (2020): 267.

²⁴ Eko Hidayat. "Kontribusi Politik Hukum Dalam Pembangunan Hukum Progresif Di Indonesia." *ASAS: Jurnal Hukum Ekonomi Syariah* 10, no. 02 (2019): 123.

help vulnerable groups, such as the poor and neglected children, in accordance with the state's constitutional responsibility in caring for its citizens. Community economic development that focuses on a progressive approach is an important step in overcoming the economic development crisis in Indonesia. Nevertheless, this concept may still be the subject of ongoing debate in the development process.²⁵

E. CONCLUSION

An alternative approach to progressive economic development in Indonesia involves a shift in focus from a neoliberal economic system that emphasizes free markets, towards a paradigm that prioritizes sustainability, justice and active community participation. This transformation highlights reducing the dominance of conglomerate companies and the central government, as well as increasing the role of local governments, community-based market mechanisms, community agriculture, and a progressive tax system. This step is not only about creating a fair economy, but also ensuring active participation of society in the development process. By placing sustainability as the main focus, this approach supports sustainable economic development for future generations. Its commitment to creating a balanced and sustainable development model is reflected in efforts to create a more just, participatory and sustainable economy. By focusing on justice and participation, Indonesia seeks to build a solid foundation for inclusive and sustainable economic growth, which not only benefits a few, but also benefits the entire community.

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²⁵ Aladin Sirait. "Peranan Politik Hukum Investasi Dalam Pembangunan Ekonomi Indonesia: Politik Hukum, Investasi, Pembangunan Ekonomi." *Politea: Jurnal Politik Islam* 2, no. 1 (2019): 62.

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