IJERLAS
International Journal of Educational Review, Law And Social Sciences

THE PROPHETIC LAW, PANCASILA, AND INDONESIA'S SIGNIFICANT ROLE TOWARD INTERNATIONAL LAW IN ASIA-AFRICA, ASEAN, AND GLOBAL CONTEXT

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Abstract

There is an interesting relation between Prophetic Law and Pancasila as well as Indonesian government significant role towards international law, both in theoretical and conceptual perspective. In Indonesian politic nowadays, the government have played significant role not only in observing international treaty but played a big role to the establishment of cooperation between non-block nations in Asia and Africa. On one hand, the perspective of theory and concept of Prophetic law is relevant. Prophetic law can be explained particularly through Prophetic leadership that is based on the holy book of various religion such as Judaism, Christianity, and Islam. On the other hand, however there is a significant relation between Prophetic Law and Pancasila when the founding fathers designed to formulate Pancasila as the state ideology of Indonesia. The founding fathers are nationalists and ulama. They are involved to discus and formulate to agree which ideology would be adopted in Indonesia once gaining its independence. Prophetic Law can be defined as rule of law are based on revelation by God through the Prophet. Fundamental principles of Prophetic Law are (1) God made Law; (2) liberty and humanity; (3) actual values. Prophetic Law doesn't believe rule of law is just human rule of law, but rather to consider prophetic values. So, truth, justice, and values are not separated from the substantive of law. Prophetic Law is national identity.

Keywords **: *Prophetic law, Pancasila, International law, Global context.***

1. INTRODUCTION

The decaying of public confidence on the institution of law and its enforcement is inevitable. Some influencing factors such as the substance and structure of the law and culture had worsened the distrust. However, the problems with philosophy of law seems to be a larger influence. Moral and ethical values in every culture of society determine the way of how people think and act as well as on the operation of the law has been removed from positivistic legal thinking. The point of departure and the point of destination cannot be set aside in understanding function and purpose of law. However, by putting the mind and logic at the top of everything, despite its ability to facilitate the search for truth, do not entirely bring grace. Human sense and intellect adored by positivists had brought sorrow and unspeakable humanitarian catastrophe. In the context of materialistic needs, positivistic approach has led modern society to excessive satisfaction or hedonistic attitude and greed. Positivistic approach has also exploited the human nature that fertile with values of spirituality to become materialistic and pragmatic. Therefore, the development of jurisprudence based on religious science may be brought into surface as an interesting breakthrough from the philosophical study, doctrines, and legal theories. It is intended to bridge legal science development gap which sometimes faces out of context issues.

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There are important aspects to be dealt when trying to search philosophical basis, doctrines and theories of positivistic law that tend not to provide balanced enlightenment in human life today. Among of the things that needs to be clarified is the positivistic way of thinking on dilemmas, the central position of religious teachings in jurisprudence or legal science and rethinking epistemological basis of legal science for the development of the subjectin the future. By building a model of integrative legal thinking so that the functions and objectives of law must be oriented to the pursuit of justice. It is impossible to achieve that only by the legal thought of positivism. Jeremy Bentham's positivism and utilitarianism, John Austin's though about the teaching of the law of positivism, and Hans Kelsen on the theory of pure law are just not adequate and are not capable to answer the problem. Positivism has separated law from moral, making it difficult to deliver justice. Even worse, this closed logical approach has recognized only written law as the actual law. Positivism legal theory then appear to be something repetitive and, therefore, cannot overcome complex problems.

This article aims to offer new approach to law, using mimetic theory and prophetic approach to balance the exaggerate use of rational so that it will be more grounded to the more natural human values, such as religious valuesand moral

2. IMPLEMENTATION METHOD

This socio-legal research is descriptive analytical research, a type of legal research where theory becomes the guidance to answer and analyze the research objectives.

3. RESULTS AND DISCUSSION

3.1 Mimetic and Prophetic Theory

Mimetic theory was developed by French philosopher, anthropologist, and religious scholar René Girard (1923- 2015). He began with his first book *Deceit, Desire, and the Novel* to develop specific theory of desire which he based on the category of mimesis, meant the basic imitative predisposition. The theory basically explains human behavior and their way of thinking especially in relation with their desire, where Girard postulated as collective, not individual. This human desire, in his theory, is what led to conflict and violence throughout history.

There are four-stage process of mimetic theory: mimetic desire, conflict, scapegoating, and cover-up. Mimetic desire is when human's desire was guided by other people. In short, one would want what other people want. Later, when people want what other people want, then inevitably conflict would occur due to people competing for the same things. Therefore, mimetic desire will lead to mimetic rivalry among humans. Third is scapegoating, that is when the mimetic desire and rivalry has spread in community, it will create chaos. Scapegoating mechanism is how the typical way human in community dealt with chaos. Scapegoating mechanism itself is when groups singling out a single individual or problem as the source of problem through a mimetic process. This individual or problem will then be expelled violently or even eliminated from the community. Lastly, after the scapegoating mechanism is conducted, human culture will spring around it as a cover-up. This will be done by enacting taboos, prohibition, and laws to prevent the spread of violence. This will be done repeatedly to a degree and elaborate as cultural cover-up. (Strączek, 2014) It can be argued, then, that the emergence of mimetic theory can be used a way to answer some philosophical problems, especially that it gives a new framework to understand human sciences. Mimetic theory criticized all existing social theories especially the positivistic approach in legal science because theories then, tend to copy certain model resulting in lack of creativity and innovation.

Prophetic approach can be described as an entity seeking to prepare and provide itself so that they can read and understand the messages of God and take lessons from them. They then will try to implement the messages in everyday life, to provide good for themself, society, and nature throughout the universe. In several opinions and writings containing ethics, morals, and divinity

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(revelation), the notion prophetic sometimes used alternatively with the word transcendental. Roger Garaudy gives meaning to Transcendental in three forms of views, namely: a) recognition of human dependence on the creator, b) acknowledgment of the continuity and togetherness between God and man, c) recognizing the superiority of absolute norms that transcend human reason. (Saputra, 2021)

3.2 Prophetic Theory in Pancasila

Waves of religious thought, as manifestation of intellectual concern is a creative effort, which gives enlightenmentfor the development of science knowledge, especially in the field of law. What are the dilemmas faced by the flow positivistic thinking is impossible prevent in the absence of breakthrough attempt. In the tradition of Eastern thought, faith based on religious values not only has faith been taught the creator and the truth absolute, but also a source of knowledge the birth of history and civilization human beings are arranged in asystem natural law. Revelation as sources of truth, and guidelines as source and at the same time causa-prima birth modern science and technology. K. N. Jayatil like, a comparative expert the law identifies that the characteristics of the system eastern law still prioritizes attitudes harmony rather than strictness of this law right or this is wrong. Instead, the statement of an act is considered valid or not legally valid, or partially correct one is very dependent on the partieswho disputes. Therefore, efforts to prevent the disputing parties fight longer, then the concept of balance or harmony or should be in harmony prioritized. It is recognized in various religion, Hinduism, Islamic law, Chinese law, and Japanese law.

Unfortunately, the secularization movement in development of science by Hugo de Groot or Grotius has a negativeimpact on the position of religious teachings. Contextuality of teachings and religious dogma (Christianity), which at that time had not achieved harmony with dialectics thinking rationally and objectively pros and cons of the position of religion in science. Instead, religion has become a tool to restrain scientists to get rid of religion out of the realm of science. Recognition of the theory of natural law putting religion as the basis the law begins to fall apart. Inevitably, the atheists and the agnostic views belief against religion as poison or opium for the betterment of mankind.

The shift of Western glory seems undeniable when countries with Eastern traditions of thinking became a Western rivalry. Dambisa Moyo, in How the West Was Lost (2011) has pointed to indicators it is not easy to deny that the glory Western civilization has begun to slide. The question is no longer how the West gaining glory. Of course, writingDambisa cannot be interpreted in black and white, that Western civilization has suffered defeat. But rather describe ina way where the Eastern civilization threatens Western civilization. This is very simple in global economic analysis, that since 2008 Financial Times reports about 500 companies the world is moving. From ten the world's companies, five companies the world's big top precisely come from non-Western countries. Among them, two from China (PetroChina and the Industrial and Commercial Bank of China), and Hong Kong, Russia, and even India. The rest of the world's top ten is America. However, Dambisa also sharply questioned, how long will the Western powers survive, while the Golden parameters of the modern century this time represented by America.

Placing the theological (divine) base in the epistemological setting of legal science, is not irrational ideas without argument. The chain of growth of legal science that can be traced from classical Greece, Ancient Egypt, China, and other countries shows this historical connection. If there is an opinion that religion as the father of science (the fatherof science), then philosophy is seen as the mother of knowledge (the mother of science). From Adam to Abraham as recognized by the heavenly religions, then the first search they do is the existence of the Creator, which has the characteristics of monotheism (one God), which in the process of achieving nothing else through the search betweenreason and belief (faith).

This recognition of the existence of God, is indeed the initial idea of spiritualist ideas. It was Plato who was facedwith the material that his student, Aristotle, carried and later became the source of the birth of positivistic thought andlogic. As a system values or views of life, religion becomes a

source of truth, by God commanded not only to do with honesty (honest), but also the mandate and responsibility in carrying out obligations, both for the benefit of himself with God, and with nature. As a value system, then in the teachings of religion contains a variety of universally applicable principles, such as the value of good and evil, truth and error, justice and righteousness, usefulness and omnipresence, Virtue and disobedience, piety, and wrath. These universal values are believed to be true and in the context of application, mankind is encouraged to do logical work by making religious teachings as a value system as well as a source of initial inspiration for humans in the process of learning and developing. The existence of religion as the basis of legal science was seen by Cicero as a meeting point that unifies the minds of the Greeks with the Romans. The principle of the right to freedom, or liberty, the right to opinion and work, the right to mutual tolerance, the principle of equality in law, the principle of honesty and openness, the principle of justice, peace and prosperity comes from religious teachings through revelation. As the law of Hammurabi and The Ten Commandment forbids adultery, killing, molesting, the penalty of fines, appropriate punishment. Cicero believed that there was no difference between Greek law and Roman law, as there is no difference between today's law and the future, is due to the existence of an eternal and unchanging law, that is, a law made by God.

As the continuity of the Greek and Roman traditions, and Jewish Christian teachings and also Islam is clear that belief in God has been perfected with revelation as the material source of the birth of legal norms. The formulation of canonical law is the authority made by the church, the Pope, is proof, that matters of faith worship and family are governed by religious law whose authority is in the realm of the church or the Vatican. The nature of Canon Law for Catholic Christians, Islamic law for Muslims and Hindus for Hinduism adherents in various parts of the world, is a form of internationalization of law transplanted by mankind in various parts of the world. Various conventions, international trade regulations, and the role of interfaith existence of a country create a pesonal law of citizens with their country of birth is increasingly open. William Twinning, with systematic how the role of religion in cross-country as a global phenomenon or international, stating that *"Muncipal law can no longer be treated in isolation from outside influences, legal or otherwise. To take a familiar example, consider the daily impact of European Law, the European Convention on Human Rights, GATT, and transnational religious law on ur internal legal tradition between local citizens, the state and other legal persons."*

Although the internationalization of religious law has no broader jurisdiction in public affairs, the modern state recognizes that the principle of personality in marriage law in the family can be implemented without territorial boundaries. Internationalization of law religion can also be proven through the fact that there are religious centers in some countries. The Vatican, the Holy See in Italy, is a subject of international law whose function is to unify religious views and facts for all Christians in the world. Makkah, the holy place of the Islamic community of the world that attracts Muslims to Hajj every year. India, as a country that houses the Hindus of the world. Palestine, also the Holy Land is still disputed between Jews and Muslims. But it was in this land that the prophets of monotheism were born and flourished.

The concept of peace and war, which has been an International Covenant in The Hague, is none other than the presence of religious teachings, especially Islam which sees that war as an act that is not justified if there is no right reason or cause. For example, War is permissible as an effort to defend oneself (self-defence rights), whether related to the bodies of family or relatives, property, and life. Although any religion strictly forbids the practice of warfare, religious wars may arise because members of the followers of their respective religions are moved to give their solidarity.

If observed the development of the system laws in the West, their main claims are religion and state are separate. As also, the legal system is not related to religion. However, culturally religious claims and separate laws are not entirely correct. Non-state institutions, such as the Vatican proven to have proximity to the process canon law in force in the whole world. Therefore, although the

Constitution Western countries did not mention religion as a state ideology or ideal law (*rechtidee*), religion as a system value cannot be denied affect patterns of thought, behavior, and deeds.

Grosfeld acknowledged this fact by saying the following: "if we look at our laws openly, then the interrelationship of religions can be traced". The Bible in the West greatly played a major influence on the legal tradition, including Christian thought. Western law strengthened in the church and Canon Law play's role in the acceptance process. Therefore, it is very easy for Christians which ones should be adhered to and which laws do not need to be adopted. That's why, observers from the East say that the interpretation of Western law to be unable to comprehensively understood unless his Christian teachings are taken into consideration.

The same situation is also in the traditions of the Eastern countries. For Example, Indonesia, Turkey, and Egypt belong to countries that adopt Western legal systems, both Civil and Common Law. These countries do not list religion (Islam) as a state religion or as a state ideology in their constitutions. However, the practice of community and state Life is very thickly imbued by the religious spirit. Indonesia, only mention the protection for citizens to profess one religion (Article 29 of the 1945 Constitution). In addition, the state is involved in religious affairs because the presence of religious departments in the government also confirms the claim of secularization. Although Islam does not have an institution like the Vatican for Christianity, Islam through revelation in the Qur'an provides the philosophical foundations for the legal regulation of the state, society, economy, and the environment. In the teachings of Islam believed, in addition to recognizing the existence of the law because of ij'tihad, also the law of God is a holy and good source of law to be applied in human life. Based on this verse, the teachings of Islam distinguish between revelation, as one of the sources of good and true law, is ideal and operational. According to the Quran a Muslim is one who has absolutely surrendered to Allah and his commands and believes in pure Tawhid (the oneness of God) that isn't tainted with any shirk and therefore the Almighty has introduced Prophet Abraham as a true *fiqh* and Islamic law are positivized by a decision of the state. Meanwhile, the law Islam is a method and tradition made into written law Ijtihad on scholars *fiqh* of the past. Therefore, it is not surprising that in modern muslim countries, religion (Islam) is used as a state ideology that is included in the Constitution. Indonesia is one of the world's largest Muslim countries but did not include Islam as the state religion in the 1945 Constitution. However, it recognizes the presence of Pancasila as a common consensus politically, that Indonesia is not a secular country. So that the Constitution, the 1945 Constitution requires the state tomaintain and protect the lives of citizens to embrace their respective religions and beliefs.

The Jewish religious community implicitly recognizes the importance of religious law as sacred law. They believed that the Jewish people would only obey the law if it was related to sacred law and morality. So that if the legal regulations, the Constitution and other laws and regulations, as man-made contrary to moral, citizens must comply with the laws of the country which is in accordance with morals. "The Hebrew view when then insists that human lawis the Greek view, on the other hand, is that human law may conflict with moral law but the citizen must still obey thelaw of his state even though he may and indeed should Labor to persuade the state to change its law to conform withmorality."

Tracing back from primitive societies, or societies without a state, it is no wonder that even then they had rules oflaws that are respected and obeyed. Of course, their legal regulations are not the same the legal definition of a modernpositivistic society. However, when we admit Ehrlich was an Austrian who claimed that there was a living law in society. They believe that unwritten law consists of custom or customary law or customary law, also the law comes from a particular religion or power. Thus, the position of religion is very central in building a religious legal Science considering not only religion is believed to be a value system that supports the value of truth and Justice, dynamizing humans to recognize and comply with international law, but also a spirit and spirit that dynamizes national law.

Indeed, it cannot be denied that the existence of humans is analyzed starting from the origins, as *zoon politicon, homo economicus*, or *homo luden* is due to the adoption of Charles Darwin's

theory of evolution which places humans as part of the natural evolutionary process of early misleading thinking. The universal principle of natural selection is firmly and finally established as the sale agency of major evolutionary change. In terms of anthropo-centric Darwin's theory has inspired the nations of the world involved in ongoing disputes. World War II was won by developed countries, is an implication of Darwin's theory. Because of the limitations of reason, the five senses and the human ratio in understanding the object that is material and immaterial are limited. Consequently, the existence of science as a product of the method of understanding through investigation, research and observation is not will never be perfect.Therefore, the limitations of the potential sense of the five human senses to uncover truth and justice is impossible without surrendering some of the weaknesses of reason to the power of revelation from God.

To prevent the positivistic legal thinking and secular, need to strengthen the tradition of Eastern thinking in building thought integrative to legal Science. A way of thinking about law that not only comes from the power of reason and logic alone, but it is important to accommodate various sources of truth, both from religion and from otherrelevant disciplinary aspects and useful to strengthen the orderly and harmonious function, but also the creation lawlessness. First, man as a creature is not entirely born of natural processes, but as a creature of God. Humans are endowed in addition to reason, instinct, and faith in non-material things. In Islam, the position of man as a Caliph on Earth endowed with a noble position that is different from nature is very different from the perception of *Homo Economicus*(QS:Albaqarah: 30). Only man as a creature of God who every word, deed and other behavior ask for answers, both socially and transnationally. The position and function of law is a substantive instrument due to the weakness of reason in interpreting increasingly complex natural phenomena, the complexity of nature and the process of creation is impossible to fully understand only relying on reason alone. Werner Menski: "man is a part of nature in two-fold sense, on the one hand he is a part of matter (being) and part of creation of God, as such he partakes of experience, but man is also endowed with active reason which distinguishes him from all other parts of nature."

Second, the science of law as the domain of science is very dominant function it is impossible to simply surrender to human reason. Therefore, the position of faith is the first knowledge of mankind. Without faith is difficult to measure the presence or absence of legal truth or justice as a *recht idea* of morality and ethics that become the foundation of the source of scientific truth or science, the truth of the five senses and the truth based on faith (obsolete truth). Third, the science of humanist law is a legal substance whose approach not linear, the law is not with only the rules manifest in the law are written made by state institutions, but in an integrated recognize regulations non-state law withmany involving moral, ethical, aesthetic, and the value of goodness, the value of usefulness, and values that not only regulate problems of material life. At least, legal Science discusses the norms related to the relationship between humans and God (God's relationship), relationships between human beings and human relations with nature and natural relations). Von Scholten's expression is true in beginning of his journey to pay attention to the law in the countries of its colonies not only the product of reason, but also involves various aspects of spirituality that are not found in the way of thinking of Western society. Fourth, law and justice are a cohesive entity because law without justice is not law. In relation to legal justice as the task of achieving the goals of law, then law and justice must be discussed simultaneously.

Prophetic law approach brings what are enshrined in the five basic principles of Pancasila. Religion as a guide to life, state ideology and /or culture has a strong justification as an alternative source in the development of legal Sciencein the future. The universal values of religion are so close to the substantive justice that so far has not gained many proportions in the practice of law based on the positivistic tradition. In that tradition, mechanical Justice, which is reflected in the decisions of judges with reference to the sound of legislation, in many cases has harmed the sense of Justice of society. Therefore, the approach of religion that not only considers the dimensions of human reason that are limited, also relies on revelation as a reference that is revelation. In this context, Pancasila,

which has recorded various traces of these thoughts, is very important to be strengthened as a compromise Foundation in legal development.

3.3. Pancasila in Indonesia's Foreign Affair Policy of "Bebas Aktif"

The Indonesian principle of free and active politics known as *bebas-aktif* firstly introduced by the first Prime Minister Mohammad Hatta back in September 1948. It was stated before the Central Indonesian National Committee (KNIP) as there were compelling situation to respond the ongoing political tension between the US and the Soviet Union, and it has led to national debate between domestic political rivalry regarding the stands of Indonesia. (Sukma, 1997) Hatta expressed the government reference on the ongoing tension, that Indonesia must be an active agent of the international politics entitled to the freedom of determining its standing respecting the national goal of a sovereign independent country (Leifer, 2014). This policy is aiming to sustain two main objectives of the State. It is important for the newly independent Indonesia to maintain its sovereignty and independence, and to ensure such goal it must avoid any form of direct involvement in form of taking side on the ongoing international tension between the two superpowers Washington and Moscow. On top of that, it is important for Indonesia to safeguard the neutrality at intervals of the international relations while actively establishing world peace. The second objective would be of builds a strong camaraderie among nations as enshrined in Pancasila. The domestic rivalry among domestic elites were profound and this may lead to provoke the national sovereignty. Therefore, by proclaims the *bebas-aktif* policy it answers both national rivalry and international concern on the Indonesian government stands. In principle the free and active foreign affair policy meaning that Indonesia has the freedom to adopt any form of approach and side including legal and political policy apriori from any global power and actively participate in conflict resolution, disputes, and other world's issues to establish the world order based on independence, peace, and social justice. Indonesia's foreign policy rule its attitude to international issues without any form of influence and ally of other sovereign power to be able contribute actively (Rafikasari, 2020).

The practice of *bebas-aktif* policy during the 1950s defined as a win -win solution to preclude the government from getting involved directly to any form of international agreement that would contribute Indonesia to take sides either of the two opposing blocs. However, this position did not withhold the state to remain actively achieving the world peace. Further during this era, the implementation of the policy was extended to establish a balance relation with the rivals' superpowers (Weinstein, 2007). In the early 1960s when democracy is now part of the government policy, the former President Sukarno extended the policy to achieve a balance economic relation with the West and East block to prevent the state being said of incline to either one of them. By the mid-1960s, Sukarno sought to lead an international movement in the developing global society to oppose neo-imperialism. During the New Order era, the manifesto of New Order foreign policy consist of an affirmation to avoid dependence on foreign powers, reclaiming the non- bock policy, to continuing the notion of anti-colonialism, and the need to considers pragmatist resilience on adopting foreign affair policy as to gain a leading role in the Southeast Asia politics (McMichael, 1987).

As a synthesis ideology, Pancasila pursuits to accommodate all involved parties as well as world ideologies. Pancasila reflects pluralistic approach and sees as able to solve differences without summing another conflict. Law No.37 of 1999 regarding Foreign Relation specifically highlight the Indonesian foreign relation shall respect equality principle and non-intervention principles as reflected in Pancasila. Article 2 of the Law pinpoint Pancasila as the basis of foreign affairs policy of the state. Meaning the state ideology must be considered and reflected through every adopted foreign affair policy. Further implementation must consider the 1945 constitution as it based the basic elements and goals of the *bebas-aktif* policy. All this is to achieve the main goal of maintaining national security in support of achieving national prosperity and social justice in accordance to Pancasila.

Carl Schmitt argued liberalism as depending on systematic neutralizations—fictions meaning that all points of view are seen as to be equal, and therefore any form of confrontations of political seem to be transformed into peace•ful, rule-governed debates with open-ended, undetermined outcomes. Schmitt's understanding of politics works as the decisions were to be adopted by political leader who acts on behalf of the people against its internal andexternal political interest. Some scholars would call his view as beyond realistic as it recognizes the insuperable conflicts at the heart of politics. He views a neutral legal order as pretended to respect all points of view and disguised the violent, terrifying nature of politics. In his appeal, politics should offer just the value-neutral legal orderand neutralizing fictions (Smith, 2021).

3.4 Indonesian's Role in International Law and Politics: Bandung Conference and ASEAN

3.4.1 Bandung Conference and the Emergence of Non-Aligned Movement

After World War II, two superpowers emerged in world politics, dubbed as the West and the East which were led by the United States and USSR respectively. With the bipolar world, both superpowers were trying to expand their influence, resulting in a period better known as Cold War era (1947-1991) between the two blocks. Consequently, developing countries were trapped in this power struggle, which when combined with many other factors may resulted in proxy wars in territories like China, Korea, Nicaragua, and Vietnam. At the same time, there was movement for de-colonialism, mainly in Asia and Africa continent. Political tension occurred because of imperialism and its remnants in many territories and newly independent states. It also didn't help that even the United Nations, the organization which supposed to have certain authority to deal with the problem, could not function as intended because of the power struggle between both US and USSR within the organization.

This situation also affected Indonesia was still a young nation, which gained its independent in 1945. However even after the declaration, there was struggled to get recognized by other states and globally. In 1954, Indonesia's PM Ali Sastroamidjojo delivered his idea in Colombo Conference held by Ceylon's PM Sir John Kotelawala. He expressed his concern on the influence of the Cold War towards Asian countries and territories as well as the threat of colonization and its new form. Based on this idea, a more extensive conference was being put on the agenda. With the spirit to make the world to be a better place, five countries (India, Pakistan, Ceylon, Burma, and Indonesia) sponsored a Conference held in Bandung in 1955 which hosted by Indonesia. (Miholjcic, 2020) The Bandung Conference or known in Indonesia as Konferensi Asia-Afrika (KAA) was attended by representation from 29 independent states. Bandung Conference is where the idea of NAM movement emerged before it was officially founded during the First Summit Conference of Belgrade 1961. (Guide, 2014)

Indonesia's role in the Conference should be seen as a significant contribution towards the development of international law and international order. In time where there were frustration and tensions, Indonesia was able to gather significant numbers of participation from developing nations. It was not an easy task, especially if we reflect Indonesia's position in global level at the time. The decision to form an alternative axis was bold considering the two blocks already had significant influence in the international politics. The movement could as well be unpopular and deemed to be a competitor to the superpowers, risking the potential cooperation with either of the two, or even both. However, with sheer dedication towards peace among likeminded nations, the conference had successfully held and established an idea of bigger movement that was the Non-Aligned Movement (NAM). The milestone of Bandung Conference 1955 was the Ten Principles or known in Indonesia as Dasasila Bandung: 1) respect for fundamental human rights and for the purposes and principles of the charter of the United Nations; 2) respect for the sovereignty and territorial integrity of all nations; 3) recognition of the equality of all races and of the equality of all nations large and small; 4) abstention from intervention or interference in the internal affairs of another country; 5) respect for the right of each nation to defend itself, singly or collectively, in

conformity with the charter of the United Nations; 6) (a)abstention from the use of arrangements of collective defense to serve any particular interests of the big powers, and (b) abstention by any country from exerting pressures on other countries; 7) refraining from acts or threats of aggression or the use of force against the territorial integrity or political independence of any country; 8) settlement of all international disputes by peaceful means, such as negotiation, conciliation, arbitration or judicial settlement as well as other peaceful means of the parties own choice, in conformity with the charter of the United Nations; 9) promotion of mutual interests and cooperation; and 10) respect for justice and international obligations (11).

Bandung Conference was by no means the first non-Western conference held in post-war era. It also ignored in mainstream study of international relation (especially of the two major camps, liberalism, and realism). However, it was the first time where intercontinental event was being held to gather 'colored people' in their own home, instead of how similar conference usually held (in Western cities). Besides, there were also legacies of the conference that were worth to study and understand. Acharya analyzed the importance of Bandung Conference, highlighting six legacies in international relations. (Acharya, 2016).

First is on how the Conference had caused significant concern among the Western powers, especially the UK and US. The political tension between Western and Eastern blocks had caused US to be anxious to what the Conference would mean to its political influence, and whether the Conference could pose a threat to the isolation strategy towards USSR and China. Meanwhile the UK with its huge 'possession' in some parts of the world, was fearful that the movement would trigger and further the anti-colonial struggle in these territories. Second, Bandung Conference had influenced the Cold War dynamics. For instance, China attended the Conference independently without the presence of USSR. This could be considered as a platform where China could show its diplomatic independence from USSR and its identity as Asian nation. This action was bold and may contribute to the China moving away from USSR's influence under the Eastern bloc. Third, Bandung Conference may act as catalyst for intra-Asian relations and regionalism. Acharya argued that Bandung Conference paved the way for Asian regionalism of smaller power nations without influence of the big power. Fourth, Bandung Conference had not only challenged the dominance of the superpower but also contributed to the emerging post-war global normative framework to better reflect the concern of newly independent states. Fifth, Bandung Conference had also promoted respect and diversity. Despite being held by majority Muslim country, the Bandung Conference was attended by various nations with various societies, religions, and culture. Sixth, Bandung Conference also have negative legacies that should be recognized. The most prominent one was how the Conference had accentuated the polarization of Asian and African countries (between the pro-Western, pro-Eastern, and the non-aligned). Another negative legacy was how the Conference mightcontribute to the authoritarianism in the regions.

It could be argued that Bandung Conference was the catalyst of NAM even though primarily the Conference wasnot about nonalignment. As enshrined in the ten Bandung Principles, the main concern of the Conference were the issues relating to newly independence states and decolonization. However, Principle 6(a) can be considered as an intention to stay out of the two blocs rivalry by emphasizing on the non-use of collective defense pact in a way that benefiting specific interests of any of the blocs or superpowers.

3.4.2 Indonesia's Role in ASEAN as Regional Power of Southeast Asia Contributing to World Peace.

The Cold War affected world politics which paved the way not only to national liberation or decolonization and non-aligned movement like NAM, but also to regionalism in some territories. One of the results of such regionalism was the establishment of Association of Southeast Asian Nation (ASEAN). The region experienced power struggle even before colonization, however Western colonial powers had divided the region even further, turning them into subjects of the Dutch, French, and British empires. During World War II, the region then occupied by Japan.

When the World War II came to an end, it left various problems such as territorial disputes, political instability, ethnic conflict, and unity problem in Southeast Asia (Kelingatall, 2011). Cold War also contribute to the instability in the region, as communist insurgencies had posed serious threat in some Southeast Asian countries. This situation made an uneasy environment within the region causing the government focusing on strengthening their national security rather than to build regional cooperation. It did not mean that efforts were not made, for instance the establishment of Association of Southeast Asia (ASA) in 1961 (Federation of Malaya, the Philippines, and Thailand) or Maphilindo (Federation of Malaya, the Philippines, and Indonesia). However, those attempts were failed due to tension between the members out of territorial disputes. The peak was border dispute in what known as confrontation in 1963-1966 between Indonesia and Malaysia. It was not until the end of the confrontation that the Southeast Asian countries saw the opportunity of establishment of regional cooperation based on common interest and peace.

ASEAN's birth could be dated back on 8 August 1967 by the signing of Bangkok Declaration. The Declaration was signed in Bangkok Conference attended by representatives of five SEA countries, among others: Tun Abdul Razak of Malaysia; Adam Malik of Indonesia; Thanat Khoman of Thailand; Narciso Ramos of the Philippines; and S. Rajaratnam of Singapore. By the time ASEAN developed, the membership was also getting bigger with the addition of other SEA states, those were: Brunei Darussalam in 1984 after its independence from British; Cambodia in 1999, Laos in 1997, Vietnam in 1995, and Myanmar in 1999, after overcoming the internal power competition and civil warin their territories respectively during the Cold War era.

One of the key policies adopted by ASEAN was of non-interference, agreed upon on the foundation document of Bangkok Declaration. The establishment of ASEAN had contributed to the political projection of Indonesia in the SEA. As the biggest and most rapid growing state in the region, it was no wonder that other state would have certain level of uneasiness towards Indonesia, especially with Soekarno's slogan of '*ganyang* Malaysia' (crush Malaysia) during the Konfrontasiperiod. In contrary to that policy, in Soeharto's New Order approach, Indonesia adopt a more cooperative stance in ASEAN, making Indonesia to be de facto leader in the region. It can be argued that Indonesia's dominant role in ASEAN had succeed to push key principles which support Indonesia's interest in maintaining peace and security in SEA as well as in counter threat from foreign power. However, after Indonesia's reformation and financial crisis of 1997/1998, Indonesia's influence was tarnished with the resignation of Soeharto. After several years of passive role in international politics including in ASEAN, Indonesia took its chance to gain its strategic role in ASEAN with Susilo Bambang Yudhoyono's presidency. SBY and Marty Natalegawa, Indonesia's Foreign Affairs Minister had adopted policy which disapprove assertive attitude towards international community. It then emphasized later with 'dynamic equilibrium' doctrine to build series of regional mechanism supported by middle power states without any dominant or excluded actors. With this development, Indonesia had gain many leadership role by initiated reforms of ASEAN institution as well as actively push major contemporary issues faced by member states (Putra, 2015).

4. CONCLUSION

The positivistic position of science-based thought has begun to be doubted, especially when the claim that science- for science, has become a common concern. It is not naive if we begin to reconstitute the mindset by tracing the history of the growth of legal science by placing the significant role of religion in Greek, Roman, Islamic, and modern civilizations, the dialectic of the development of legal Science. Philosophical orientation, the doctrine of the theory of law in the future should offer more integrative approach. An approach to development legal science, not only accommodate the potential of reason as applied in legal thinking positivistic, but there must be a new construction, namely by laying the foundation that humans as creatures are always responsible

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in two dimensions. Faith in the one God, the one truth, which serves to revitalize the value of justice as the goal of law with truth and legal certainty that comes from other than the power of reason, also from the source of Revelation (divine law). Restoring Pancasila as the basis of the state into the hierarchy of legislation in Indonesia should be the basis for the epistemology of the development of legal Science in Indonesia. The Indonesia's foreign affair policy of '*bebas aktif'* andits contribution to Indonesia's approach international politics is influenced by Pancasila values.

REFERENCES

Strączek, B. (2014). René Girard's concept of mimetic desire, scapegoat mechanism and biblical demystification. *35, 4, Semin Poszuk Nauk*, 47-56.

Saputra, R. (2021). Forming a Paradigm of Prophetic Law from the Perspective of Arkanul Bai'ah. *3, 1, Journal of Trancendent Law*, 63-81.

Sukma, R. (1997). Indonesia's bebas-aktif foreign policy and the 'security agreement' with Australia. *51, 2, Australian Journal of International Affair*, 231-241.

Leifer, M. (2014). *Indonesia's foreign policy.* London: Rouledge.

Rafikasari, A. (2020). Redefining Indonesia's Foreign Policy "Free&Active":Challenges & Opportunities of Indonesia's - China'sAlliance in the Development of Space Technology . *Advances Social Science Humanities Research*, 37-45.

Weinstein, F. (2007). *Indonesian foreign policy and the dilemma of dependence: from Sukarno to Soeharto.* Jakarta: Equinox Publication.

McMichael, H. (1987). *Indonesian foreign policy: towards a more assertive style.* Australia: Centre for the Study of Australian-Asian Relations, School of Modern Asian Studies, Griffith University.

Smith, B. (2021). Liberalism for Losers: Carl Schmitt's "The Tyranny of Values. *5, 1, American Affair*, 1.

Miholjcic, N. (2020). The Non-Aligned Movement: In Pursuit of Validity and Relevance in the Contemporary Global Order. *1,1, Cauc Strateg Perspect*, 45-58.

Guide, I. (2014). *Asian-African Conference Archives.* Jakarta: National Archives of the Republic of Indonesia.

Acharya, A. (2016). Studying the Bandung Conference from a Global IR Perspective. *70, 4, Australian Journal of International Affair*, 342-350.

Kelingatall. (2011). The Development of ASEAN from Historical Apporach. *7, 7, Asian Social Sciences*, 230.

Putra, B. (2015). Indonesia's Leadership Role in ASEAN: History and Future Prospects. *International E-journal Advance Social Sciences*, 68-79.