

The Existence of Hinduism in the Legal System State Administration in Indonesia

Jimmy H. Sinaulan, I Putu Gelgel

Abstract:- One of the demands for reform is the establishment of an Indonesian constitutional system based purely and consistently on the notions of "popular sovereignty" and "rule of law". Therefore, in the context of strengthening the legal system that is expected to be able to bring the people of Indonesia to achieve the goals of the aspired state, the amendment or amendment to the 1945 Constitution is a strategic step that must be done carefully by the Indonesian people. Talking about the legal system certainly cannot be separated from the issue of legal politics or *rechtspolitiek*, because the law of politics determines what legal system is desired. Legal politics is a basic policy that determines the direction, form, and content of the law to be formed. These basic policies are the 1945 Constitution of the Republic of Indonesia (UUD1945) and the National Medium Term Development Plan. Thus the 1945 Constitution or the constitution of the Republic of Indonesia determines the direction of the legal politics of the Unitary Republic of Indonesia which functions as the highest written basic law to be operationalized for the achievement of the State's objectives. Here I will discuss the State Administration System of the Republic of Indonesia, which encapsulates the 1945 Constitution Amendment, the Form of a Unitary State, the Form of Republican Government, the Presidential Administration System, the Democratic Political System. Here's the explanation. In the view of Hinduism, the state according to the Vedas (Vedas) of Smrti or Manava dharmasastra is in the form of a state of law (state dharma). The existence of this legal state form can clearly be seen in the Smrti Vedas. The Smrti Veda upholds the upholding of the law, which is why the state government system adopted by the Vedas is based on Dharma (Law) or State Dharma and is not based on mere power.

Keywords:- law, dharma, and power.

I. INTRODUCTION

State administration is everything about governance. According to the law, the state administration is a central power that regulates state life which involves the nature, form, duties of the state and government and the rights and obligations of citizens to the government or vice versa. And in the constitutional system of the Republic of Indonesia, requires an Amendment to the 1945 Constitution for the sake of the ongoing constitutional system in Indonesia. And the creation of the goals of the Republic of Indonesia. Before discussing an Amendment to the 1945 Constitution, I will explain the meaning of an Amendment to the 1945 Constitution.

Constitutional Law is a branch of law that directly discusses the problems of constitutional law that apply today in Indonesia. This means that the rules of Constitutional Law that have prevailed in the past are not Positive Law, if the regulation is at present is no longer valid. However, the regulations are also still needed as an important material in order to study the history of the Indonesian constitution. As a state of law, "The government is obliged to carry out the law as a binding source must be obeyed ..." (Pudja, 2002: 22) and always be used as a guideline or consideration in order to regulate the community, state, or in the process of proceedings outside or in court. According to the power of law, the Hindu law can be divided into two, *Dharma* and *Rta*.

Dharma is a law that applies to regulate human life in order to improve the life of satya and ahimsa in this world, so that life in the world becomes moksartham jagathita that is safe, peaceful, peaceful and prosperous. *Dharma* comes from Vedas, Smrti, Sila, Events, and Atmanastuti, which are worldly laws. *Rta* is a form of God's law whose legal sanctions cannot be determined by humans but can be in the form of legal sanctions for suffering or happiness. This happens spontaneously in the universe and its contents and is believed to be the law of fate which can be called the Suniawi law. This *Rta* and *dharma* are the foundation of the Law of Karma. Rahmatdan Widayati (2016).

In the practice of resolving legal cases that occur for the Hindu community in Bali and generally in Indonesia, it turns out that from the time of the Emergency Law Number 1 of 1951, Hindu legal norms do not appear to be applied, while the Hindu legal institutions as a forum for implementing norms Hindu law norms and sanctions have existed since the domination of the Mulawarman Kingdom until the overthrow of the Krtha Court's seat in eight regencies in Bali by the District Court. The takeover of the territory of the Krtha Court is based on the Decree of the Minister of Justice Number JB.4/4/7 dated 30 November 1953, as the implementing regulation of Emergency Law No. 1 of 1951. If observed in Article 1 of the Act, it turns out that only the Swapraja Court and the Customary Court, does not remove the Krtha Court. The Krtha Court is tasked with implementing the norms of Hindu law and Balinese customary law. The norms of Balinese customary law are not the norms of customary law in the sense of pure adat, because philosophically Balinese customary law is the norm of habit in which it is full of Dharma values (Hindu religion/law). Whereas the pure customary law is the norms of habit originating from religious norms that do not recognize the truth of the religious values they contain. Thus it is clear that the Law above does not abolish the existence of the Krtha Court. Because of the lack of understanding of the Hindu community in Bali against their religious norms,

they finally let the Krtha Court power be taken over by the District Court. Rahmat, A. (2017).

With the issuance and enactment of Law Number 14 of 1970 concerning Judicial Power, which was subsequently replaced with Law Number 4 of 2004, then based on Article 10 of the two Laws, there appears to be a legal institution as the executor of judicial authority that can be used as a forum in enforcing Hindu legal norms. The intended container has not been given use even though there have been proposals through the Ministry of Religion. From the time the two laws came into force, only the Islamic community can apply the article above, so that based on Law Number 7 of 1989, as if Article 10 of Law Number 14 of 1970 relates to the Religious Courts, only as a forum Islamic law enforcement agencies. With regard to Article 10 of Law 14 of 1970 juncto article 10 of Law 4 of 2004 relating to the Religious Courts, until now Hindus have not been permitted to apply, the process of institutionalizing Hindu legal norms has become unclear and less stable, this is due to In the implementation of the law in everyday life Hindus rely on religious law, but in termination of a case District Court Judges ... relying only on jurisprudence in practice can lead to or give birth to new jurisprudence that may not be coherent with ... the Hindu law he adopted. This is easy to understand because in dealing with various legal issues, the Judge no longer feels obliged to use existing sources of written law (Hindu Law) ... except what is obtained in the education period and the books of reference that are available and understood (Pudja et al, 2002: 11).

II. DISCUSSION

A. Republican Government Form

In State Science, the notion of the form of the State since time immemorial is divided into two, namely: monarchie and republic. To determine a country in the form of monarchies and republics, in the State of Science there are many different sizes used. Among other things, Jellinek uses as a criterion of how the state's will is stated. If the will of the State is determined by just one person, then the form of the State is monarchie and if the will of the State is determined by a crowd which is an assembly, then the form of the country is a republic. (Jellinek, 1914: 665). Jellinek's opinions are not many adherents because they contain many weaknesses. Understanding Duguit is more commonly used, which uses as a criterion of how the head of state is appointed. If a head of state is appointed based on inheritance or inheritance rights, the form of the state is called monarchie and the head of state is called king or queen. If the head of state is elected through a general election for a specified term of office, then the form of the country is called a republic and the Head of State is a President. (Duguit, 1923: 607) So according to the provisions described above, the Indonesian state has the form of a state as a republic. This is based on the way of the presidential election, not even by the assembly but directly elected by the people.

The form of a republican government aims to regulate relations between each state institution. So, the government system of the Republic of Indonesia was formed:

- Indonesia is a law-based country
- Government based on the constitutional system
- The highest state power is in the hands of the MPR
- The President is the highest government organizer
- State ministers are assistants to the president and are not responsible to the DPR
- Limited head of state power
- The President cannot dissolve the Parliament
- Parliament oversees the administration of the government
- The DPR has the right to call the president if the president's policy violates legal provisions.

Within the institution, there is the highest and highest state institution. Sovereignty is in the hands of the people which is carried out entirely by the DPR.

B. Hindu Legal Norms Are Said To Be Social Institutions

Every norm in community life cannot necessarily be part of a social institution. A norm can be a part of a social institution if the norm is intended to fulfill basic human needs in the field of peace. "Peace is a peaceful life" (Poerwadarminta, 1976: 224). The issue of peace includes at least two things, namely order concerning the external field of man, and the calm that carries the internal field of man. In order to create a stable peace, the harmony between order and the calm of the people should be maintained. Then each norm can be said to fulfill basic human needs if the norm in question has undergone an institutionalization process or institutionalization. "Institutionalization is a process that must be experienced by certain social norms to become part of one of the social institutions" (Soerjono, 1980: 112).

Vedas as a source of Hindu law (Dharma and Rta), can be part of social institutions if Hindu law contains norms, values, or principles that have undergone a process of institutionalization in the conscience of the people. The Vedas as a source of Hindu law fulfill the above elements, which are referred to in Article 6 of Dvityo'dhyayah (Book II) Veda Smrti, as follows:

Vedo'khillodharmamulamsmrticilecatadvidamacaraccaivasa dhunamatmanastutirewaca "Vedas are the first source of dharma, then customs and ... the commendable behavior of wise people who study the teachings ... the Vedic sacred, as well as the procedures for the lives of saints and ultimately personal satisfaction" (Pudja, 1995: 62) So Çruti, Smrti, Çila and Events and Atmanastuti are the source of Hindu law. Of all the sources the main one is Çruti (Veda). Vedas contain ways to get the legal truth, to find out whether or not a person's behavior is good and to determine what to do and what should not be done. If this truth is not found in Çruti, it can be found on Smrti. If neither of the above sources is found, then it is seen in the Event (old habits). The last one can be seen in Çila which is good behavior. If this behavior gives satisfaction to oneself (atmanastuti), then this is used as a norm or guideline for acting. Thus, the Vedas can be said to be a set of Hindu legal norms that can be used as

guidelines for acting, so that the atmosphere of a prosperous, orderly, safe and peaceful life is created. In addition, Article 10 Dvityo'dhyayah (Book II) Veda Smrti, mentions:

Çrutistivedovijneyodharmacastramtuvaismrtih,tesarvarthesvamimamsyetaabhyamdharmaohinirbabhau "What is meant by Çruti is Vedic and what is meant by Smrti is literature, these two holy books are not the truth can be doubted about anything because the two are legal "(Pudja, 2002: 63).

Furthermore, Article 40 Sarasamuccaya states that: *Çrutiyuktahparamodharmastathasmrtigato'parah, çistacarah severely proktastrayodharmahsanatanah.* "As for what is worth remembering, all that is taught by Çruti is called Dharma, all that is taught by Smrti is also called, as well as the behavior of Çista people is also called dharma. What is called Çista is the right words, the person who can be trusted, the person who is the place of purification, the person who is the place to receive spiritual teachings, in short, the three, dharma name "(Pudja, 1981: 29).Based on the description above it is clear that the Vedas are a source of Hindu law which contains norms or standards to act properly and correctly in order to achieve spiritual life and physical life. Thus the Hindu Law (Dharma) fulfills the requirements and can be said as a social institution, because the Hindu Law aims to fulfill the basic needs of the Hindu community in the field of justice, peace, tranquility, orderliness,and welfare of physical and spiritual life called *MokarthamJagaditayaCaiti Dharma.*

C. The Process of Institutionalizing Hindu Legal Norms

The institutionalization process is "... a process that must be experienced by a particular social norm to become part of one of the social institutions. More concretely, the social norms ... must be known (or known), recognized, valued and obeyed or practiced a norm in the daily life of the largest part of the community. (Soerjono, 1980: 113). When observed by the Hindu community in Indonesia and especially in Bali, since the presence of Hinduism has recognized the existence of Hinduism, but most of the people do not know the legal norms contained therein. Even so, the community is not aware of the way in which their lives are acting in a way that is close to or even in accordance with the norms of Hindu law. The attitude of the community's actions is generally imitation or imitating the behavior of others, and does not know where the legal basis for the act of action is. This act of imitation is not necessarily always good and right and not necessarily in accordance with the norms of Hindu law which are regulated in the Vedas, because sometimes acts of action that is imitated deviate from the intended norms. If the process of imitating this attitude continues from generation to generation (gugontuwon), it can lead to a misinterpretation of Hindu legal norms. This has been experienced by the Hindu community, so: "The fall of the Hindu community is due to this change of interpretation so that in its growth history it has experienced continuous divisions, is opposed and discredited" (Pudja, 2002: 17). To avoid these mistakes, it is necessary to attempt to institutionalize Hindu legal norms with the aim that the

norms contained therein can be recognized, recognized and respected and obeyed by the community. The process of institutionalizing Hindu legal norms can be done through several stages, namely:

D. Stage of Introduction to Hindu Legal Norms

In this stage, the Hindu community in particular and the Indonesian people in general, are demanded or expected to recognize the norms of Hindu law as a whole. This is intended to prevent a mistaken interpretation of Hindu legal norms. This introduction phase can be done through several human senses, for example: by seeing, hearing the norms in question. Someone who has just arrived at the stage of recognizing Hindu legal norms, not necessarily that person recognizes the truth of the norm. Just an introduction to Hindu legal norms, it is not certain that someone can be said to uphold the said legal norm. The most effective in the introduction of Hindu legal norms (Vedas) can be done through the teaching and counseling of Hindu legal norms, as mentioned in Article 246 Navamo'dhyayah (Ninth Book) Vrti Veda,as follows:

"Wedabhyaso'hwahamcakyamahayajnakriyaksama, nacayantyacuPapanimahapatakajanyapi " By studying the Vedas, doing Mahayad according to one's ability and being patient with all the quick suffering will destroy all mistakes even when they come to great sin "(Pudja, 2002: 710).

In an effort to recognize the norms, rules, and principles of Hindu law, Hindu scriptures must be studied. The method of study is described by G. Pudja in the introduction of the Rgweda Mandala I, as follows: Essentially Vedic learning begins at a young age, for example at four years. To start learning the Vedas is required to do the introying ... the first thing to be taught is the Gayatri and Trisandya mantras, people who have received spells, have the right to study and recite the mantra and then learn other spells ... when chanting mantras to begin by saying OM and ending with the OM mantra too ... starting with the word OM means starting to mention God and then ending with the name of God ... in the writing of spells taught to start with OM Awighnamastu and end with Om Shanti shantishanti Om to start reading Vedas in the morning and at dusk (sandhyakala) ... the Vedic reader or mantra to end when natural disasters occur, such as gampa, hurricanes, lightning ... This abstinence must also be considered for someone who studies Vedas. Learning Vedically verbally so that it is guided by a teacher who understands and knows to recite the mantra properly and appropriately "(Pudja, 1980: 28).

Learning process with learning is expected to be able to receive various kinds of theoretical and practical knowledge. Efforts to introduce theoretical Hindu legal norms can be done through reading the norms and theories of Hindu law. *Kautilya makes a clear distinction between civil law Dharmasthiya and reasoning KantakaSodhana* (Krishna, 1979: 112). Dharmasthiya is included in Hindu Civil Law, containing theoretical norms, including *Dharma Vivaha* (Hindu Marriage Law), *Dharma Bandhu* (Hindu Family Law) and *Vibhaga Dharma* (Hindu Inheritance

Law). *KantakaSodhana* (Hindu Criminal Law) contains theoretical norms of law. Practical norms. *Dharma Acara* (Hindu Events Law), each of which consists of *KantakaSodhana* Events (Hindu Criminal Procedure Law) and *DharmasthiyaAcara* (Hindu Civil Procedure Law). The effort to introduce practical Hindu legal norms was through the introduction of litigation practices, the investigation process, the process of making the minutes of the investigation, the process of drafting the lawsuit, the process of drafting the claim letter and the practice of drafting the decision letter ... and others.

E. Formation of Institutionalization of Hindu Legal Norms

Institutionalization of Hindu legal norms can be realized through Bhaktiyoga, Jnanayoga, Rajayoga,. First,

Institutionalization of Hindu Legal Norms through Bhaktiyoga, how to apply Hindu legal norms by obeying or obeying all the prohibitions and suggestions contained in the norms referred to in humility (sujudd) and sraddha to God. Second, Institutionalization of Hindu Legal Norms Through Jnanayoga, Institutionalization of Hindu legal norms is carried out by upholding or implementing Hindu legal norms through the process of learning, counseling and informing the intended norms of the community. This practice can be done by every Hindu in the form of wise and virtuous behavior. Third, Institutionalization of Hindu Legal Norms Through Rajayoga, Institutionalization of legal norms is carried out by enforcing or applying Hindu legal norms, through the application of tapa and brata legal sanctions. Legal sanctions do not aim to melt the sins of violators of Hindu legal norms for crimes committed, intentionally or unintentionally. The existence of legal sanctions until now is still maintained and legal sanctions are still alive or applied by every country in the world to the violators of the norms that live in society. It should not be assumed to be an attempt to concentrate the mind on Ida Sang Hyang Widhi by sitting in isolation in the Forest, but regarding the term tapa can be identified with the term imprisonment, because imprisonment is a means of self-control to foster awareness, so that it can avoid sins or violating Hindu legal norms. The term tapa must be interpreted as imprisonment because in a state someone is imprisoned as suffering as an imprisoned person (Pudja, 2002: 691). Legal sanctions It does not have to alienate the violators of the Hindu legal norms to go to imprisonment in the forest as mentioned in Article 106 of the *Ekadaco'dhyayah Veda Smrti*, but this sanction can be carried out in the State Detention Center. Imprisonment in the ROUTING that is carried out today is included in the criteria for implementing legal sanctions for exile and exile because this imprisonment is also a means of controlling a person so that the awareness that behavior that has been done so far is wrong. Imprisonment is an activity of mental spiritual formation for violators of Hindu legal norms, with the aim of being concerned about mistakes and crimes that harm others. Vrata (brata) legal sanctions or fasting in detail can be seen in the *Smrti Veda* and the *Purana Dates*. A person who is aware of violations or crimes that have been committed will carry out his own brata, while someone who is unaware of his mistakes or crimes is caught violating Hindu legal norms, controlled by his appetite by an

institution (in RUTAN). There are several types of vrata sanctions, namely: 1) SantapanaVrata; 2) MahasantapanaVrata; 3) PrajapatyaVrata; 4) AtikrcchraVrata; 5) ParakaVrata; 6) TaptakrcchraVrata; 7) KrcchraVrata; 8) PadakrcchraVrata and 9) CandrayanaVrata (Bibek, 2002: 86).

III. CONCLUSION

State administrative law is a law that contains rules - regulations (from the public law) concerning administration in a general government, namely the law that regulates the actions of the government and the government or relations between government organs in a country. As we have explained, the state administrative law has a position, relationship with other branches of law, Platform, functions that run according to usability and have a process of each in the continuity of law in the country of Indonesia specifically in government. Hindu legal norms have not been fully institutionalized in the conscience of every Hindu, so there are likely to be violations. For the norms of Hindu law to be enforced, the norms should be institutionalized in the conscience of the Hindu community. The institutionalization process occurs when the norm is referred to, recognized, recognized, valued and adhered to in the practice of life and life in this world. In order for the institutionalization process to take place effectively, the regional government and the Hindu community in Bali in particular, are advised to form a Hindu justice institution from the first level, appeal to the appeal level, to be tasked with enforcing Hindu legal norms from a judicial angle. From a legislative point of view, Parisadha has the authority to perfect the wrong Hindu legal norms.

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