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The revolution of the freedom of opinion from the renaissance age to the reform era in Indonesia related to the enforcement of human rights

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Abstract

Every human being has a natural right that is inherent in him called Human Rights (HAM), which gives freedom of thought, opinion, and action to everyone. The idea of human rights was born from events in the past when a physicist coined the Heliocentric Theory. Departing from the thought of Nicholaus Copernicus, finally, a revolution for freedom of speech emerged. This study examines the problem of how the history of the development of the revolution in the idea of human rights in the world and how to enforce human rights in Indonesia? This study uses a normative method with a descriptive-analytical approach, while the legal materials used are secondary legal materials, namely library research. The result of this research is that the idea of human rights stems from the thought of the Heliocentric Theory, although initially, Nicholaus Copernicus had problems because he was considered to be against the teachings of the Roman Church, in the end, the theory that was echoed was accepted, and since then freedom of opinion has been considered. Meanwhile in Indonesia, human rights already have an important position contained in the legislation, but its enforcement has not been fully successful, until now there are still cases of past human rights violations that have not been resolved.

Keywords: Heliocentric Theory; Civilization Revolution; Human Rights; Justice; Freedom of Opinion

1. Introduction

Revolution is a fundamental change in a field. According to Harold Rosenberg, revolution is a new tradition that refers to urbanization or to what extent and how the erosion of public places of rural property. [1] The theory of the scientific revolution introduced by Thomas Khun, namely the great revolution in the field of science, is the result of a crisis that occurs periodically when a phenomenon can no longer be explained in the basic terminology of established science, thus is considered an oddity, thus forcing the birth of a new basic postulate [2]. There have been many revolutions that occurred in the century BC to the present which has had an impact on progress in various fields.

One theory that is famous for providing enlightenment for scientific knowledge, namely the Heliocentric Theory, developed by Nicolaus Copernicus which states that the crust of celestial bodies will be simpler if the sun is considered as the center of the universe, not moving around the earth but on the contrary. The sun is the center of the circulation of the nine planets namely; Mercury, Venus, Earth, Mars, Jupiter, Saturn, Uranus, Neptune, and Pluto. However, the existence of Pluto began to be questioned, whether it is still considered a planet in the solar system or not. The moon revolves around the earth, while the earth revolves around the sun, and the sun only revolves around its axis.

Nicolaus Copernicus was a Polish astronomer, mathematician, and economist. He was also a canon of the church, judge, doctor, scientist, Catholic monk, governor, state official, military commander, astrologer, and diplomat [3]. Copernicus was born in the city of Torun, on the banks of the Vistula river, Poland on February 19, 1473 AD, and died on May 24,

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1543 AD. Copernicus, in his twenties, came to Italy to study medicine and law at the Universities of Bologna and Padua, then received a doctorate in ecclesiastical law at the University of Ferrara and worked as a staff clerk at the Cathedral in Frauenburg, as a professional ecclesiastical lawyer. He was never a professional astronomer, but thanks to a part-time job he made his name soar [5].

Copernicus was not the first to coin the Heliocentric Theory, because in the 13th century BC (BC) the Greek philosopher Aristarchus said that the earth and the planets revolved around the sun, but his opinion was only a hypothesis and had not been put into book form. Another factor, this theory is still underestimated, because at that time Aristarchus' opinion was not in line with Aristotle's opinion, so the Heliocentric Theory was ruled out by the Geocentric Theory which considered the earth to be the center of rotation of the stars, planets including the sun and the moon, supported by the emergence of Ptolemy. (Year 140 AD) is known as the pioneer of the Geocentric Theory, which produced a book entitled "Almagest" and was used as a reference for astronomers for centuries.

Copernicus observed the stars closely for many years, after which he wrote a book entitled; "De Revolutionibus Orbium Coelestium" (about the revolution of the spheres of celestial bodies) by explaining the theory in detail and equipped with proof [4]. At that time Copernicus was opposed by many circles, one of which was Martin Luther who said, "Copernicus has gone mad and his theory is considered against the Bible and cannot be accepted [3]." Initially, the Catholic Church did not criticize, but they decided that the book De Revolutionibus Orbium Coelestium was against the official doctrines and religious teachings, then in 1616 AD included Copernicus' works into forbidden books, and only removed from the forbidden list in 1828 AD.

The heliocentric theory began to receive attention from philosophers who had observed and researched in depth, until they finally acknowledged, confirmed, supported, and perfected the theory. A process of observation, research, and mathematics, Copernicus was able to reverse rooted but erroneous scientific and religious concepts. The philosophers who supported the Heliocentric Theory were Johannes Kepler (1571-1630 AD), Galileo Galilei (1564-1642 AD), and Isaac Newton (1642-1727 AD) [4]. Therefore, Copernicus is dubbed as the Father of Modern Astronomy, even an astrophysicist, Owen Gingerich, stated "Copernicus with his work shows us how fragile scientific concepts that have been accepted for a long time are."

Galileo Galilei who agrees with the Heliocentric Theory, states that the sun is the center of the solar system, and the earth and the planets move around it. The Catholic Church opposed and brought Galileo to Rome to undergo the process of the Inquisition (trial of heretics by the Roman Catholic Church) which lasted from September 1632 to July 1633. He was treated with respect and was never imprisoned, but was asked to reconsider what he believed about the Theory of Heliocentric. It stays maintains the truth of the theory based on the evidence obtained through a process of in-depth analysis and observation. At that time, Galileo was confined and prohibited from printing his work outside Italy. However, he ignored it and published the results of his studies in French translation in 1634. A year later, a copy of 'Dialogue' was published in Holland. He also wrote, "Two New Sciences" which was published in the Netherlands, in 1638.

Over time, the church could not deny the scientific truth that was expressed by Galileo, because it was based on scientific evidence, so in the 20th century, several Popes recognized his great work, and in 1992, Pope John Paul II expressed regret about the dealings of Galileo in the past. Pope Benedict XVI also stated that the Roman Catholic Church rehabilitated Galileo's name as a scientist, in 2008 [5]. Departing from the case of Copernicus and Galileo, it can be concluded that at that time freedom of thought and opinion about an understanding or theory that was contrary to church principles was considered very difficult. This is one of several examples of similar cases regarding the limitation of freedom of expression, therefore there was a revolution that had a major impact on the sustainability of human life to be able to freely express their thoughts and opinions. This is based on several factors, one of which is the existence of rights known as human rights, namely basic rights that humans have from birth to death, and are inherent in human nature. Recognition of the existence of human rights aims as self-protection and dignity as well as a moral foundation in dealing with fellow human beings so that no one should arbitrarily treat someone unfairly or take away his freedom and rights as a human being because human rights are inherent and cannot be abolished.

The emergence of the idea of human rights is very influential for the development of the world on an international scale, including Indonesia. At the beginning of the reform, one of the government's efforts to uphold and protect human rights was to enact Law No. 39 on Human Rights (hereinafter referred to as the Human Rights Law) on September 23, 1999, and Law No. 26 of 2000 concerning the Human Rights Court (hereinafter referred to as the Human Rights Court). Law on Human Rights Courts) on November 23, 2000 [6]. Given that in historical records, Indonesia has also experienced periods of bloodshed to buy human rights and conflict with one another, so the existence of the Human Rights Law and the Law on the Human Rights Court is expected to heal the bitter wounds of the past and uphold justice and legal

protection. However, the fact is that there are still human rights violations, and even in these cases until now there is no clear spot on who the perpetrators are.

Based on the explanation above, this research will examine the formulation of the problem, namely how is the history of the development of the revolution in the idea of human rights in the world and how is the enforcement of human rights in Indonesia?

2. Material and methods

The method used in this research is the normative method and literature study; the study of research objects based on sources of legal materials that are still relevant, both primary such as related laws and regulations, secondary such as literature and other reading materials, as well as tertiary namely legal dictionaries. Furthermore, all of these materials are inventoried and researched using positive law in force in Indonesia [7]. This research is based on the statute approach and descriptive qualitative approach. The qualitative approach creates descriptive data such as written or oral from the informant as well as attitudes that are considered and are not stated in the form of variables or hypotheses [8].

3. Results and discussion

3.1. The History of the Revolution of Human Rights Ideas in the World

Human rights are not given by society or the laws of a country but are given by God from the time humans are born until they die, and are based on their dignity as human beings [9]. The origin of the idea of human rights originates from the theory of natural rights (natural rights theory) which stems from the theory of natural law (natural law theory). Over time, from century to century, a renewal movement emerged or known as the Renaissance era which craved Greek and Roman culture to respect individual rights. The Renaissance period was followed by the flow of natural law pioneered by Thomas Aquinas and Grotius who asserted that every person in life is determined by God, and any status is subject to God's authority. That is, not only the power of the King is limited by God's rules, but all humans are endowed with a unique identity, namely having natural rights which state that each individual is an autonomous being [10].

The western states (Europe) are the first in terms of voicing the idea of human rights, and based on the history of human rights, the UK is the foremost in calling for the idea. A philosopher who expressed the idea of natural rights that humans have is John Locke in the 17th century. John Locke as a proponent of natural law holds the view that all individuals are endowed with nature regarding the inherent rights to life, liberty, and property that cannot be revoked by the state. There is a social contract regarding the use of that right to be handed over to the ruler, if the ruler breaks the contract by violating the natural rights of the individual, then the people can replace it with a new ruler who can respect these rights. The history of the development of human rights in the western world is marked by 3 (three) things, namely;

- Maghna Charta Liberium (1215); England gave guarantees to the nobles and their descendants not to imprison them before going through the court process. This guarantee is a form of retribution to the nobles who have contributed to financing the kingdom, later called Maghna Charta Liberium, during the reign of King John in 1215. The nobles asked for guarantees because the kings of ancient times acted as they pleased and made laws that almost all laws benefited the king, while the king is immune to the law. Although the Maghna Charta does not apply to everyone or only the nobles, the Maghna Charta is an early milestone in the development of human rights ideas in the world.
- American Revolution (1776); There was a war between the Americans and the British colonialists, which ended in American independence in 1776. America incorporated human rights rules into state legislation, and its development was far more complex than human rights in England. Until now, the American nation continues to voice the enforcement of human rights.
- French Revolution (1789); More popular than the American revolution, because in the French revolution, the people fought their king, King Louis XVI. The reason is that the king acts arbitrarily against the people and absolutes them. The French Revolution produced rules regarding the rights to liberty, equality, and fraternity.

The idea of human rights based on natural law received serious attention in the 19th century from Jeremy Bentham, a utilitarian philosopher from England. Bentham criticized that the basic point of the theory of natural rights is that these rights cannot be confirmed and verified, because according to him it is the law that gives birth to rights. Bentham's criticism is supported by positivists, one of whom is John Austin who argues that the existence and content of rights can

only be derived from state law, and the only true law is an order from the sovereign, not derived from nature or morals, but the state.

Although utilitarians and positivists reject the idea of human rights, this does not necessarily make the theory of natural rights forgotten. The theory of natural rights re-emerged after the extraordinary barbaric acts that occurred during World War II, [12] the idea of human rights was drafted in the eyes of the international community [13]. It also departs from the events of the Nazi Holocaust, so that the world returns to John Locke's idea of natural rights.

In 1945, an international organization called the United Nations (UN) was formed, with the hope that the Holocaust would not happen again in the future. The international community also puts its trust in the idea of human rights for human dignity and dignity, equal rights of men and women, and equality of small and large countries. They agreed to make human rights a benchmark for common achievement for all nations (a common standard of achievement for all peoples and all nations), marked by the acceptance of the human rights legal regime known as the International Bill of Human Rights, consisting of three core documents, namely; Universal Declaration of Human Rights, Covenant on Civil and Political Rights and Covenant on Economic, Social and Cultural Rights.

3.2. Development and Enforcement of Human Rights in Indonesia

The Universal Declaration of Human Rights states that human rights are natural rights that are obtained by every human being through God's gift and cannot be separated from human nature. Therefore, every human being has the right to a decent life, freedom, safety, and personal happiness [14]. Human rights in Indonesia, in its development, have experienced ups and downs which are contained in the periodization table of Indonesian history. Human rights are not merely a concept of individual human rights, but also the human obligations that follow. Human rights that exist in humans do not discriminate against nation, race, religion, class, or gender, because they are basic and universal so everyone must have the opportunity to develop according to their talents and ideals [15]. The following is the period of development of human rights in Indonesia: [16]

- Period 1908-1945; The concept of human rights thought began to be known in 1908 since the birth of the Budi Utomo organization, based on the emergence of an awareness of the importance of forming a nation-state through writings in Goeroe Desa Magazine. The well-known concept of the right to independence, which means the right to an independent nation that is free to determine its destiny (the right of self-determination); the right to be free from discrimination and the right to express opinions; and the right to participate in government. There was a debate on the 1945 Constitution Draft by BPUPKI regarding the concept of human rights, namely Supomo's opinion that human rights came from a liberal and individualistic way of thinking so that the concept of human rights was not following the "integralists idea of the Indonesian nation". According to Supomo, the Indonesian people are one with the state and it makes no sense to protect individuals from the state. Meanwhile, Sukarno stated that the justice he was fighting for was not individual, but social justice, therefore human rights and basic rights of citizens had no place in the Constitution. On the other hand, Muhammad Hatta and Muhammad Yamin warned that the state could become a state of power so that the basic rights of citizens need to be guaranteed. Departing from that debate, finally, Article 28 of the 1945 Constitution was formed which regulates basic democratic rights; the right to associate, assemble and express opinions.
- Period 1950-1959; The multi-party system and the parliamentary government system developed a liberal or parliamentary democratic political system after Indonesia returned to being a unitary state with the enactment of the 1950 Constitution. The freedom of the spirit of liberal democracy is highly tolerated, because; 1) many political parties with various ideologies; 2) freedom of the press is one of the pillars of democracy; 3) General Election is a free, fair, and democratic democracy; 4) Parliament or the people's representative council as a representation of the people's sovereignty as people's representatives who control or supervise; 5) Human rights ideas get a conducive response. All parties agree that human rights must be contained in a special chapter that has a central position in the body of the 1945 Constitution.
- Period 1959-1966; Presidential Decree 5 July 1959, human rights in civil and political rights, a guided democratic political system does not provide discretion regarding freedom of association, assembly, and expression in writing. Human rights are faced with strict restrictions by power, so they have set back, and are inversely proportional to the situation in the Parliamentary Democracy period.
- Period 1966-1998; The G30S/PKI rebellion on September 30, 1966, made Indonesia experience another dark period. The Indonesian people are faced with an unprotected human rights situation, which is caused by the thoughts of the power elite regarding human rights. At that time Indonesia was in economic development, so all efforts to protect human rights were considered obstacles to development. This can be seen from the various legal products issued which are generally restrictive of human rights.

From the explanation above, human rights in Indonesia seem to have ups and downs influenced by many factors until finally, the idea of human rights has an important position in the 1945 Constitution.

- The concept of human rights thinking:
 - The proclamation is considered a symbol of the independence of the Indonesian nation, which then the value of independence and freedom is included in the basic elements of human rights.
 - Preamble to the 1945 Constitution; a) the first paragraph states that independence is the right of all nations; b) the fourth paragraph of Pancasila is the moral foundation of the state; c) The precepts of just and civilized humanity contain the meaning of humanity and justice. All of these are elements of human rights, if they are not fulfilled and some people do not have freedom, then it is against human nature.
 - Pancasila in terms of human rights thinking, the existence of a free balance between human rights and obligations as individuals and socially, humans as independent creatures and God's creatures, as well as a balance of body and soul.
- The idea of human rights is further regulated in several articles in the 1945 Constitution; [17]
 - The right to equal status in law and government (Article 2 paragraph 1).
 - The right to a decent living (Article 27 paragraph 2).
 - The right to freedom of association and assembly (Article 28).
 - The right to freedom of expression (Article 28).
 - The right to freedom of religion (Article 29 paragraph 2).
 - The right to receive instruction (Article 31).

Article 104 of the Human Rights Law states that serious human rights are genocide, arbitrary or extrajudicial killings, torture, enforced disappearances, enslavement, or discrimination committed systematically (systematic discrimination), relating to the competent courts covering four court circles; General Courts, Military Courts, Religious Courts and Commercial Courts [18]. The Indonesian government through the Law on the Human Rights Court has the will and ability to prosecute perpetrators of gross human rights violations, as mandated by the Declaration of Human Rights and various international instruments and the International Criminal Court. The Indonesian Human Rights Court adheres to the "retroactive" principle called the Ad Hoc Human Rights Court [19]. The idea of establishing the judiciary was based on allegations of gross human rights violations that were limited by a certain locus and tempus delicti that occurred before the enactment of the Law on Human Rights Courts. The Indonesian government established an institution, namely the National Human Rights Commission, whose position is at the same level as other state institutions. KomNas HAM functions to carry out assessments, research, counseling, monitoring, and mediation related to gross human rights violations and can form an Ad Hoc team consisting of KomNas HAM and community elements.

Although human rights already have a legal umbrella, there are many incidents of human rights violations that are not legally resolved and are always a polemic at every change of government. Several human rights cases that have not been completely resolved are the Tanjung Priok Tragedy (gross human rights violations experienced by demonstrators who rejected the application of Pancasila as the sole principle proposed by President Soeharto, which occurred in 1984), the case of Marsinah (a labor activist at PT. CPS Sidoarjo who was kidnapped and died in 1993), the Trisakti Tragedy, and others. The case was brought to the attention and handled by Munir Said Thalib an activist who investigates and fights for the disclosure of these human rights violations. Unfortunately, on September 7, 2004, Munir was killed by being poisoned while on his way to Amsterdam, the Netherlands. Until now, the perpetrators of the case of gross human rights violations as well as the killer of Munir have not been found.

4. Conclusion

The Heliocentric theory put forward by Nicholaus Copernicus was the beginning of the formation of the idea of human rights, namely freedom of opinion, over time several major events emerged which were also the initial milestones for the existence of human rights being recognized internationally. The development of human rights in Indonesia is full of twists and turns, but in the end, human rights are recognized and included in the 1945 Constitution as a guide for people's lives so that they can feel freedom and respect each other's human rights. Although the Indonesian Human Rights Court adheres to the retroactive principle, serious human rights cases that have occurred in the past have yet to be resolved, as if the perpetrators were swallowed up by the earth, so it can be concluded that the Human Rights Court and the National Human Rights Commission in Indonesia have not carried out their duties and functions to the maximum extent possible. Highlight human rights events.

Compliance with ethical standards

Disclosure of conflict of interest.

The authors declare no conflict of interest.

References

- [1] <http://www.guru Pendidikan.co.id/pengertian-revolution/> accessed on Wednesday, March 10, 2021
- [2] Thomas S. Khun, 2002, *The Structure of Scientific Revolution, The Role of Paradigms in the Science Revolution*, Bandung: Rosda Karya Youth, pp. 67. Harold J. Berman, 1983, *Law and Revolution, The Formation of Western Law Tradition*, Cambridge-Massachusetts: Harvard Law School
- [3] Nicolaus Copernicus, 2003, *Father Of Modern Astronomy*, Blackbirch Inc
- [4] Michael H. Hart, 1986, *One Hundred Most Influential Figures in History*, Trans., H. Mahbub Djunaidi, Cet. VII, Jakarta: Midas Surya Grafindo
- [5] Yulia Zahra, 2020, *Between Religious Authority and Freedom of Thought Galileo Galilei*, 'Are: Law and Justice Bulletin, Vol. 4, No. 4
- [6] Arief Rianto Kurniawan, "The Position of the House of Representatives (Dpr) in Resolving Serious Human Rights Violations", *Journal of Human Rights*, Vol. 4, No. 2, December 2013
- [7] Bambang Waluyo, 1991, *Legal Research in Practice*, Jakarta: Sinar Grafika
- [8] Lexy J. Moleong, *Qualitative Research Methodology*, Cet. 13th, Bandung: Youth Rosdakarya, 2000
- [9] Jack Donnelly, 2003, *Universal Human Rights In Theory And Practice*, Ithaca And London: Cornell University Press
- [10] Rhona K Smith Et Al, 2009, *Human Rights Law*, Yogyakarta: Pusham UII
- [11] John Austin, 1995, *The Province Of Jurisprudence Determined*, W. Rumble (Ed), Cambrige: Cambridge University Press
- [12] Scott Davidson, 1994, *Human Rights: History, Theory and Practice in International Association*, Jakarta: Graffiti Press
- [13] David Weissbrodt, 1994, *Human Rights: An Overview From a Historical Perspective*, In Peter Davies, *Human Rights: An Anthology*, Jakarta: The Indonesian Torch Foundation
- [14] Magazine, 1991, *What Is Democracy*, United State Information Agency
- [15] Mariam Budiharjo. 1985. *Political Science Fundamentals*, Jakarta: Gramedia
- [16] Bagir Manan, 2001, *The Development of Human Rights Thoughts and Regulations in Indonesia*, Bandung: Alumni
- [17] Sri Rahayu Wilujeng, *Human Rights: An Overview of Historical and Juridical Aspects*, Faculty of Cultural Sciences, Diponegoro University
- [18] Bambang Heri Supriyanto, *Law Enforcement Regarding Human Rights According to Positive Law in Indonesia*, Al-Azhar Indonesian Journal of Social Institutions Series, Vol. 2, No. 3, March 2014
- [19] Seodjono Dirjdjosisworo, 2002, *Human Rights Court*, Bandung: Citra Aditya Bakti, Cet.I.