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Immanuel Kant Application when army participates in Corona Virus Disease Prevention 2019

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Abstract. The type of research used in this study is a normative juridical legal research method. In answering the formulation of the problem, the answers obtained have a correlation with Immanuel Kant, especially the inclusion of the INA in Instruction No. 15-2021 is the opposite. This means that the existence of the INA will make the public as legal objects that are protected not because they have the right to get protection but rather lead to a reduction in rights. However, this correlation has contradictions about the duty of the army, which is actually protecting the country, not from enemies like the essence of the INA. This has also resulted in the task of the police being unclear due to the distribution of authority that isn't in accordance with the law. As a way out, Instruction No. 15-2021 becomes a lesson and the emergence of other instructions doesn't include INA.

Keywords. Immanuel Kant; Covid-19

Introduction

There are many understandings of the rule of law in the study of State Science and usually this understanding cannot make a state absolute which model of the rule of law is followed. Thus, a country must have an understanding and dissemination of the meaning of the rule of law in a character with the aim of not culting the teachings of certain figures but making them a basis for action. In this study, using the thinking of Immanuel Kant. It should be noted that Immanuel Kant is the spark for discussion on the existence of the state when referring to his thoughts in *Frieden: Ein Philosophischer Entwurf*, published in 1795. A book that discusses justice and tolerance, morals and politics, the regulation of social and state life according to the form of law and the state, public roles and the establishment of international relations based on a federation of independent countries as a condition for a just world order. (Miliopoulos, 2008) The book points comprehensively contain :

a. Preliminary Articles for Eternal Peace Between Countries. This is the first part referred to and each of its parts consists of No peace treaty shall be deemed valid if it contains an ulterior motive to prepare for future wars; There must be no sovereign state (small or large, it's the same) that can be obtained by another country through inheritance, exchange, purchase, or gift; The army had to be phased out gradually; No national debt may be contracted out in connection with disputes with other countries; No state should be allowed to forcibly interfere with the constitution and government of another country; No country that is at war with another country should allow the nature of hostility that will prevent the emergence of mutual trust in the future

peace period. This hostility includes the use of assassins, the use of poison to kill, the violation of capitulation, incitement to treason in the opposing country and others.

- b. The Definitive Articles for Eternal Peace Between Countries consisting of the First Definitive Article for Eternal Peace; Second Definitive Article for Eternal Peace; Third Definitive Article for Eternal Peace.
- c. First Addendum : On the Guarantee of Eternal Peace.
- d. Second Addendum: Secret Article Concerning Eternal Peace.
- e. Appendix 1 Concerning the Mismatch Between Morality and Politics in Relation to Eternal Peace.
- f. Appendix 2 Concerning Harmony Between Politics and Morality Based on the Concept of Transcendental Public Law.

It's straightforwardly said that the state tends to create peace in it because peace is actually the essence of the state. It becomes a separate understanding when the state is obliged to make peace because books offer juridical peace in the state. The emergence of this thought because he appeared in the era of war. Immanuel Kant said that when humans are able to think rationally, the state will achieve it's own peace. Efforts to defend the state must be carried out continuously.(Barker, 2017) On this basis, the researcher relates the existence of the Instruction of the Minister of Home Affairs Number 15 of 2021 concerning the Enforcement of Restrictions on Emergency Community Activities for Corona Virus Disease 2019 in the Java and Bali Region (Instruction No 15-2021).

Where in the Sixth Part it is stated "Governors, Regents and Mayors are fully supported by the Indonesian National Army (INA), the Indonesian National Police and the Attorney General's Office in coordinating and supervising the implementation of the Covid-19 Emergency Community Activity Restrictions (PPKM). In this study using 4 (four) originalities, namely the first from Tomy Michael who said that related to the third article of the Preliminary Articles for Eternal Peace Between Countries, the existence of the Law of the Republic of Indonesia Number 34 of 2004 concerning the Indonesian National Army (Law No. 34-2004) confirms that the army is active in regional and international peacekeeping tasks. The current paradigm for an independent country is that the existence of the army isn't an absolute power but in a forced state it is able to create leadership from the military. This can be seen in Article 7C of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) but this leadership is assistance in nature because of the division with the minister of foreign affairs and the minister of home affairs. In relation to the fifth article of the Preliminary Articles for Eternal Peace Between Countries, the existence of power sharing arrangements in the 1945 Constitution of the Republic of Indonesia is the will of the Indonesian people to become an independent nation so that peace can be fulfilled.(Michael, n.d.) The difference is that it uses a comparison of solutions related to the distribution of power. The second research is Immanuel Kant's explanation of involvement in the defense community as an obligation of beings who are able to carry out universal moral and legal orders related to the obligation to autonomously obey general rules.(Madung, 2014) The third research is that there is a distinction between obligations that are divided into the senses, reason and mind. In the senses, the impression and absorption of the senses appear as phenomena. While in reason and reason, Kant distinguishes that reason as a regulator of sensory data which then becomes a category. Thus the ratio in holding an argument, appears a combination of sensory data and decisions which are ultimately shown in three ideas; soul, world and God. Based on the epistemological basis developed by Kant, the position of this metaphysical concept of soul, world and God becomes a concept of transcendental ideas. These transcendental ideas are pure ideas with a regulatory function.(Budiwan, 2016) The fourth research is to maintain the normative primacy of human

rights and the need for institutionally autonomous forms of global governance, a country must accept the teachings of international law. This means that the state must understand whether the state concerned is in the form of a republic or a confederation. In the end it's said that if we get the right of state development, then state law will follow.(Capps & Rivers, 2010)

Comparison of important research is done to find out the novelty in this research. On that basis, the formulation of the problem in the form of Immanuel Kant and it's correlation with Instruction No 15-2021.

Research Method

The type of research used in this study is a normative juridical legal research method.(Likadja, 2015)

Research Results and Discussion

The Current Concept of the Unitary State

The first President of the Republic of Indonesia Ir. Soekarno asserted that the Unitary State is a National State. The purpose of the Indonesian nation to be born, independent, and to form a state has one goal, the will to elevate the dignity and life of the Indonesian people (Indonesian People's Sovereignty). Through an analysis of the reality of today's life, the Indonesian nation has lived in a condition of life order as if it were the same as a democratic state, namely the first state was formed and the nation was born later. So that the sovereignty of the Indonesian people based on the principles of deliberation and representation hasn't been able to be realized.(Hanafi, 2016)

The understanding of the meaning of a unitary state which has a close correlation with democracy is actually not absolute. Based on its development, the unitary state also has different ideologies such as communism or marxism. In Indonesia, based on the Decree of the Provisional People's Consultative Assembly of the Republic of Indonesia Number XXV/MPRS/1966 of 1966 concerning the Dissolution of the Indonesian Communist Party, the Declaration as a Prohibited Organization throughout the Territory of the Republic of Indonesia for the Indonesian Communist Party and the Prohibition of Any Activities to Spread or Develop Communist Understanding or Teachings / Marxism-Leninism.(Nibras Nada Nailufar, 2019) The philosophical basis states that Communism/Marxism-Leninism is contrary to Pancasila. The explanation of number 1 states that the understanding of Communism/Marxism-Leninism is contrary to the principles and joints of the life of the Indonesian people who believe in God and religion which is based on the understanding of gotong royong, deliberation, and consensus.(Lestari & Ruhadi, 2017) The prohibition against spreading or developing the teachings of Communism/Marxism-Leninism is stated in the Law of the Republic of Indonesia Number 27 of 1999 concerning Amendments to the Criminal Code Relating to Crimes Against State Security. Based on the provisions of Article 28E paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the right to adherents of the Ideology of Communism-Marxism-Leninism to freely believe in beliefs, express thoughts and attitudes according to their conscience. The right to freedom of belief is one of the fundamental human rights. Because, the freedom referred to in Article 28E paragraph (2) of the 1945 Constitution of the Republic of Indonesia is spiritual freedom. Because religious beliefs and beliefs come from the spiritual or human soul. Franz Magnis-Suseno argues that, "spiritual freedom is the ability of humans to determine for themselves what to think, to will something, to act in a planned manner". So, a person or group of people cannot impose a belief and belief where it is not believed.(Subhan, 2019) Such an understanding makes the meaning of a unitary state dependent on the interpretation of the leader in it. Immanuel Kant in another perspective said that the liberation

of a state is the main thing because then the state doesn't rely on its ideological concepts but what the ultimate goal is to achieve.

Kojin Karatani introduces a new dimension of Immanuel Kant where socialism in the state still relies on ethics and praxis. This means that the state's right to adhere to anything but initially remains on ethics which makes a country aware of things that are in accordance with norms or violate legal norms. (Noonan, 2006)

Unraveling the Meaning of a Peaceful State in Instruction No. 15-2021

In Instruction No. 15-2021, the state is present in everything, especially the Indonesian National Army (TNI). The existence of this delegation of authority actually practically gives a sense of discomfort to the community, meaning that concerns arise. But in theory of State Science, the state exists in order to protect its people. However, there is a tendency to issue laws and regulations in the form of instructions so that the state doesn't have a good handling pattern. This means that the separation of powers adopted in Indonesia is actually a separation of powers with the aim of showing the capabilities of each ministry. This means that the ability becomes ambiguous so that there is a mix of power.

This instruction mobilizes the INA and the police to prevent Covid-19. It is interesting whether the participation of the INA is progress for Indonesia. In this paper, the author doesn't discuss the involvement of the police because it's only to maintain domestic security that comes from within the country as well. (Mishael et al., 2016) When the INA participates, the definition of abolition as written in the Preliminary Articles for Eternal Peace Between Countries where the Army must still be abolished gradually raises crucial issues.

Referring to Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, everything is based on law, but not everything must be legally resolved. This explains that there is a preferred solution, namely the existence of sovereignty in the hands of the people and the existence of customary law. Immanuel Kant explained that the abolition of the army tends to avoid political conflict, meaning the ideas of dignity, autonomy, equality and freedom under the law are widely recognized. When the entry of an army regulates the internal needs of a country, conflict will arise. Here the role of the leader is to delegate to his subordinates to implement what is desired. (Ripstein, 2017) Does the meaning of the rule of law have to be based on the law made by the state even though the law doesn't reflect justice? Or a state of law that tends to side with the community.

The existence of orders to the Governor, Regent, and Mayor in accordance with the theory of power sharing. This is related to the authority of concurrent government affairs, namely government affairs which are divided between the Central Government and Regional Governments. (Thontowi, 2009) The concurrent government affairs are divided into mandatory government affairs and elective government affairs, and the health sector is included in the mandatory government affairs related to basic services. In accordance with the regulation of health quarantine, the determination of the mechanism is the authority of the central government and local governments, but the Regional Government only acts as a sub-ordinate in the implementation of handling the disease outbreak. The existence of the *political will of social distancing* at various levels has become an important step to reduce the transmission of Covid-19. The application of strict measures with delegation of authority is an implication in Indonesia as a democracy. (Landman & Splendore, 2020) Researchers take the example in the Kingdom of Saudi Arabia (KSA) due to the level of urbanization, social and religious norms, the confirmation is in the power of the kingdom. The kingdom of Saudi Arabia is using monopoly power as a state identity by closing the Umrah, temporarily closing educational venues and mosques and postponing all non-essential gatherings, imposing a curfew. These steps are taken

regardless of their socio-economic, political and religious challenges in the interest of public and global health.(Yezli & Khan, 2020)

Conclusion

In answering the formulation of the problem, the answers obtained have a correlation with Immanuel Kant, especially the inclusion of the INA in Instruction No. 15-2021 is the opposite. This means that the existence of the INA will make the public as legal objects that are protected not because they have the right to get protection but rather lead to a reduction in rights.

However, this correlation has contradictions about the duty of the army, which is actually protecting the country, not from enemies like the essence of the INA. This has also resulted in the task of the police being unclear due to the distribution of authority that isn't in accordance with the law. As a way out, Instruction No. 15-2021 becomes a lesson and the emergence of other instructions doesn't include INA.

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