INDONESIAN FINANCIAL LAW: HISTORY AND RECENT DEVELOPMENT

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ABSTRACT : *The economic system and political regimes in most cases affect major changes in the financial laws of the state. Indonesia, the big country that gained its independence in 1945, had a long journey of financial struggles and challenges, particularly in the political regimes that divided into the Old Regime, the New Regime, and the Reformation Era. The objectives of this paper try to examine how Indonesia's economic system affects the state's financial policies described in legislation. Other objectives are the development of financial law in Indonesia based on the period divisions with historical perspectives. With normative legal research, this study will analyze several sources of laws and regulations on financial policies throughout the historical periods of Indonesia. In conclusion, Pancasila, and Article 33 of the Indonesian Constitution 1945 become economic constitutions that form the basis of financial policies of Indonesia. Moreover, the politics of the ruling regime strongly influenced financial law policies in Indonesia. The characteristics of monetary law changed based on the transfer of legal politics during the Old Order, New Order, and Reformation era.*

KEYWORDS: Financial Law; Indonesian Economic Policy; Political Regimes, Indonesian Constitutional law
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1. INTRODUCTION AND HISTORICAL THOUGHTS. WHAT DOES IT MEAN FINANCIAL LAW?

The study of financial law in Indonesia with a historical approach cannot be separated from the division of the political configuration that occurs in three parts. First, the Old Order period from the declaration of Indonesia's independence in 1945 to 1966. Within 21 years, Soekarno became a national leader to build a new country that was born from the

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very long Dutch colonial period. Second, from 1966 to 1998, the New Order era was led by Suharto, a military general who opened the door to foreign investment widely, especially to the United States and its allies. The style of financial law policy in the New Order era was economic stability, politics, and national security. Third, the Reformation period from 1998 to the present is the third part when Indonesia emerged from the severe economic crisis that hit most of Southeast Asia.

Financial law reform, in essence, is in the areas of fair business competition, anti-monopoly, bankruptcy, and the balance of central and regional finance.

However, the political configuration of the Old Order, New Order, and Reform regimes always refers to the Pancasila economic system which is based on the 1945 Constitution. The Pancasila economy, as an economic system, has the characteristics of a struggling economy from colonialism. This system seeks to be moderate and not inclined toward a capitalistic economic system, but it also does not fall into a communist economic system. The principles of people's welfare, justice, kinship, and cooperation are the main characteristics of the Pancasila economy as interpreted by Indonesian economists and philosophies. The Pancasila economic system includes the following ethical agreements: *First*, belief in One God which directs the behavior of citizens is driven by economic, social, and moral stimuli. *Second*, just and civilized humanity. Those principles are the determination of all citizens to realize national equity. *Third*, national unity builds economic nationalism. *Fourth*, democracy is led by wisdom in deliberation/delegation to strengthen an economic democracy. *Fifth*, justice for all is applied in decentralization and regional autonomy. Besides, Article 33 of the Constitution of the Republic of Indonesia is the basis and concept of the Pancasila economic system whose values are the basis for the formulation of the law on national finance.

This paper explores and analyzes the products of financial law that were passed during the three periods of the Indonesian political regime. By collecting data on laws and regulations, the results of this study reveal that every political regime publishes legal products to support national leadership policies. For instance, the Old Order regime issued many tax laws that eliminated discrimination in tax payments between natives and foreigners, laws on the nationalization of Dutch company assets, and other laws supporting national finance. Furthermore, the New Order era issued laws on foreign investment for the sake of improving the economy and opening trade relations with the United States and Western countries. Several laws governing financial institutions and companies were amended to attract foreign investors. Next, the 1998 Reformation era was a period of economic recovery due to the monetary crisis and corruption. Indonesia has the support of the International Monetary Fund to ratify several new legal products such as fair business competition, antitrust, consumer protection, and decentralization of central and regional finance. The government also accommodates Islamic finance by passing laws on zakat, waqf, hajj, and sharia banking.

Moreover, this paper describes the research results that the political configuration of the law can affect the legal products related to financial policy. Every public policy, for instance, domestic and foreign investment, financial institutions, taxes, financial relations between the center and the regions, and other laws gets a significant influence from the power politics of leaders and policymakers.

Indonesia is one of the biggest democratic countries in the Southeast Asia in the form of a republic. The highest executive leader is a President who acts both a head of state and a head of government while legislative authority is under the parliament. The state administration and enactments must obey and respect to the ideology of Pancasila and the Indonesian Constitution 1945. All laws and regulations must comply with and be in line with Pancasila and the Indonesian Constitution 1945.

The Republic of Indonesia declared itself as a state which based on the rule of law. It has been explicitly mentioned in article 1 paragraph (3) of the Indonesian Constitution 1945. These provisions emphasize that Indonesian system of government adopted *Rechsstaat* (legal state) doctrine from continental European legal thinking contrary to *Machtsstaat* (state power) doctrine. Thus, in carrying out all matters relating to the life of the nation and state, it must be based on the applicable legal rules. (Prawira, 2018)[1] The rule of law stressed the authority of laws which releases the will of public officials to act against the justice and public prosperity. In addition, the rule of law thinking based on human nature since everyone looks for justice through law. (James R. Silkenat, James E. Hickey and Petr Barenboĭm, 2014)

As a country that is 77 years old since gaining independence from the Netherlands, Indonesia has experienced several leadership periods which are divided into three main regimes. The Soekarno's leadership called the Old Order began from 1945 and ended in 1966. Next regime was the New Order era under Soeharto's presidency in 1966 to 1998. After the huge crisis of economy and politics in 1998, the democratic reform began and continues today. (Diana Fawzia & others, 2018) Each period has its characteristics that influence the development of financial law in Indonesia.

Several previous studies have discussed the issues of Indonesian financial law differently. For instance, Hikmahanto Juwana criticize that the economic legal reform post crisis of 1998 under the International Monetary Fund's guidance was not seriously effective to solve critical problems of Indonesian economy. Some main rules were not successful in producing a desired result for economic reform, such as bankruptcy law. He emphasized that the judges frequently showed too defensive response when foreign creditors were in position to take over assets in a bankruptcy case. (Juwana, 2005) Another study has been published by the International Crisis Group that examined the financial reform in Indonesia to reduce the public debt after the fall of Soeharto regime in mid-1998. It concluded that the complexity of elite political battle, a failed legal system, and a political culture influenced by rent-seeking and corruption were the more complicated than the effort to reduce Indonesia's public prodigious debt to more controllable levels. (Group, 2001)

This paper would like to describe the development of financial law in Indonesia based on the period divisions with historical perspectives. However, this discussion will not be separately far removed from the discussion of the Pancasila economic system and the Indonesian Constitution 1945 as the basic or fundamental norm.

To limit and provide clarity of the study, this paper cites the definition of financial law from the Hungarian law, as follows:

"The financial law involves all the regulations, financial institutions, procedures, methods, and form of financial control that are created during the financial activity of the state." (Erdős, 2011)

So we mean the State's regulations of public finances, such financial social relationships, which are regulated by the States with the instruments and method of the Public Law. The characteristics of this legal relationship are: (1) the State or the institution of the State is always one part of the (financial) legal relationship; (2) the parties of the financial legal relationship are in always subordinate and hierarchical (superior) position to each other; (3) cogent norms are in the regulations instead of dispositive norms; (4) usually, that no direct and concrete consideration from the state for the services (payment taxes);(5) and financial law is the part of the Public Law system. (Éva Erdős, 2010)

In Hungary before the Economic Transition (1990) the Act II of 1979 on state financial affairs (referred to as Ápt.). The significance of Ápt. was that it defined the system of the state financial affairs[2], and this definition included the specific characteristics of the branch of law:

Article 1. (2) "The system of the state financial affairs include the financial relations which are established between state power, the public administration and state management institutions, councils (now it is: municipality, local governments) and their organs, banks and financial institutions, and between all the above mentioned, and companies, enterprises, other legal persons and individual persons, furthermore, it also includes the legal institutions, which are established for the management, organisation and operation of the above relations."

Based on this above mentioned definition, the study of this paper focuses on the policies contained in the laws and regulations related to state financial activities.

The central task of this study is to explain how Indonesia's economic system affect the state's financial policies described in legislation. Moreover, this study illustrates the development of Indonesian financial law as well throughout the leadership of the three major Indonesian political regimes (Old Order, the New Order, and the Reformation Era). This paper begins with an explanation of Pancasila and the Indonesian Constitution 1945 as the fundamental framework of legislation. Next, this explanation is followed by the growth of Indonesian financial law since 1945 until now in three periods of national leadership.

2. METHODOLOGY

The study used the normative legal research which takes the secondary data from many resources such as books, journals, and other doctrinal references. Moreover, this study collected several laws and legislations concerning financial law in Indonesia from 1945 to present. Data collection on laws and regulations is carried out by collecting data stored on the official site of the Ministry of Law and Human Rights. The data is processed and analysed to produce a list of laws and regulations related to financial law divided into three periods, such as the Old Order period (1945-1966), the New Order period (1966-1998), and the Reform period (1998-present).

[2] Act II of 1979. Article 1 Section 2, Hungary: The referred peambulum of the Act on state financial affairs and No. 23/1979. (VI.28.) Council of Ministers Decree issued for the enforcement of the Act was annulled by Article 127 Point a) of Act XXXVIII of 1992 on the order of the state finances.

The research explored the change and development of financial law as well based on the historical approach of Indonesia. In principle, changes in Indonesian legal politics from 1945 to the present have influenced the pattern of development of financial law.

3. RESULTS AND DISCUSSION

Indonesian Financial Legal System

Pancasila is the state constitution of the Republic of Indonesia, which was ratified on August 18, 1945, the day after the proclamation of Indonesian independence. In addition, Pancasila is also equipped with the Indonesian Constitution 1945 which was ratified as the highest law. Therefore, the basic principles of financial law issues are also regulated in both.

According to Frans Seda, a Pancasila economic system is an independent system between a capitalist economy and a socialist one, not a combination or merger between capitalism and socialism. It is the system and ideology that was born and grew in the unitary state of the Republic of Indonesia based on the ideas and thoughts of the nation's founders. Besides, it runs equal and reciprocal to and besides other primary economic systems. (McCawley, 1982)

However, Mubyarto mentioned the excellence and prominence of the Pancasila economic system compared to two of the most followed economic ideologies. The socialist system focuses on welfare distribution and does not recognize the state of individual ownership, but the liberal or capitalist system concentrates only on the sake of personal benefits without paying attention to other societies. Pancasila is in a moderate position that highly respects individual property and welfare and maintains a balance of wealth among its citizens by realizing economic justice. (Mubyarto, 1987)

Therefore, Abdul Madjid and Sri Edi Swasono emphasized that the Pancasila economy is an economy of struggle. It is the fighting concept to realize the ideals of independence to relieve poverty, stupidity, and decline of society. Besides, it promotes the struggle for political sovereignty and establishes the basis for national economic development through the battle for financial freedom. The end of its efforts is justice, prosperity, and national development for all Indonesian people. (Abdul Madjid and Sri Edi Swasono, 1988)

The Pancasila economic system includes the following ethical agreements:

1. Belief in One God: the behavior of citizens is driven by economic, social, and moral stimuli.
2. Just and civilized humanity: the determination of all citizens to realize national equity.
3. National unity: economic nationalism.
4. Democracy led by wisdom in deliberation/delegation: economic democracy.
5. Justice for all: decentralization and regional autonomy. (Sumodiningrat, 1999)

The constitutional basis for the Pancasila economic system is Article 33 of the Indonesian Constitution 1945.[3] After undergoing four amendments, the following are the contents of Article 33:

1. The economy shall be structured as a joint enterprise by virtue of principles of kinship.

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3 Madjid and Swasono 33.

2. Production sectors important for the state and vital for the livelihood of the people at large shall be controlled by the state.
3. The land and waters and the natural wealth contained in it shall be controlled by the state and utilized for the optimal welfare of the people.
4. The national economy shall be conducted by virtue of economic democracy under the principles of togetherness, efficiency with justice, sustainability, environment insight, autonomy, as well as by safeguarding the balance of progress and national economic unity.
5. Further provisions regarding the execution of this article shall be regulated by laws.[4]

Article 33 of the 1945 Constitution becomes the basis and guideline for other laws and regulations in regulating economic and financial issues in Indonesia. According to Bagir Manan, legislation with a higher position can be used as a legal basis for legislation that is lower or under it. On the other hand, lower statutory regulations must be sourced or have a legal basis from statutory regulations of a higher position. (Manan, 2004) This is because Indonesia adheres to the Hierarchy of Law Theory which originates from the teachings of Hans Kelsen. (Ni'matul Huda, 2016) His teaching explains that the rule of law is a tiered arrangement, and every lower legal rule originates from a higher legal rule. Therefore, the Constitution occupies the highest law in the national legal system because it is a fundamental law. (Kelsen, 1973)

Law Number 15 of 2019 (previously Law Number 12 of 2011) on the Establishment of Legislation states in Article 2 that Pancasila is the most prominent source of all basic laws and regulations in Indonesia. Next, Article 3 states that the Indonesian Constitution 1945 is the basic law in statutory regulations. Finally, Article 7 mentioned the types of laws and regulations in the hierarchical level that regulates the position of each regulation consist of: (1) the Indonesian Constitution 1945; (2) the Ordinance of the People's Consultative Assembly; (3) Government Regulations in Lieu of Laws; Government regulations; (4) Presidential decree; (5) Provincial Regulations; and (6) Regional Regulation. (Ahmad Mukri Aji, Muhammad Ishar Helmi and Nurohim Yunus, 2020)

If there is a conflict between the legislation and the Indonesian Constitution 1945, the legal system recognizes a judicial review mechanism. Judicial review is the effort of a person or group of people and even institutions to examine an article or several articles in a law that is a lower position against higher position laws in the hierarchical system of regulations. (Simon Butt and Nicholas Parsons, 2014) Individuals, groups, legal entities, or institutions that consider their constitutional rights and/or authorities to be impaired by the enactment of the law may file a judicial review. The Constitutional Court accepts judicial review of the Indonesian Constitution while the Supreme Court accepts judicial review of laws. The division of authority between the two courts is similar to the legal traditions of several other countries. (Siahaan, 2020) For example in Hungary, or in Romania (Moldovan, 2019).

Indonesian Financial Law and Its Development During the Three Political Regimes

4 The Constitution of the Republic of Indonesia 1945.

Hikmahanto Juwana explains five types of categorizations of economic law reform in Indonesia. First, changes to outdated economic laws, for instance, laws made during the Dutch colonial period and laws passed after Indonesia's independence. The second is the revision of international agreements, bilateral and multilateral, between Indonesia and other countries. Next, legal reform to increase domestic and foreign investment. Moreover, amendments to regulations related to international issues such as human rights, environmental conservation, and global warming. Finally, legal reform is related to Indonesia's aspiration to become a developed industrial country. (Juwana, 1999) Legal reform in the economic field requires political support from state actors, especially the legislators in a country. Therefore, the analysis of legal reform needs to refer to the political configuration that occurs in a country. (Florencio López-de-Silanes, 2002)

This section of the paper wants to describe the process of developing financial law in Indonesia after independence until now. The development of law cannot be separated from various aspects such as political, economic, and social. This discussion is divided into three important periods in the history of the development of Indonesian law, starting from the Old Order, New Order, and Reformation Periods.

The Old Order (1946-1966)

Indonesia as a new nation was one of the first colonized countries in Asia who declared independence in 1945 but achieved international recognition in December 1949. However, Indonesia's struggle for sovereignty was still very difficult. Immediately after declaring its independence, Indonesia as a sovereign nation was obliged, by necessity, to take over its $1.1 billion public debt. The debt is a negotiation result of debt inherited from the Dutch colonialists of 3 billion guilders plus 1.5 billion from 3.5 billion foreign debts. The Dutch government also required the Indonesian government to consult with it on monetary and financial matters related to its interests because some Dutch-owned companies continued to operate in Indonesia. Moreover, Dutch companies were still conducting business as usual, earning profits, and sending profits back to their home countries under the guarantees of the Financial-Economic Agreement. The policy of nationalizing Dutch companies operating in Indonesia required ransom and compensation based on court decisions. (Howard Dick and others,, 2002)

However, in the 1950s, the Indonesian government fought for economic sovereignty by nationalizing many Dutch-owned companies. The government took over the postal service company and the state railway company. In addition, the government established Bank Negara Indonesia (state bank company) in 1946 to compete with Dutch commercial banks. Then national companies such as Central Trading Company and Usindo (state-owned enterprises) competed with the Five Big Dutch trading houses in the investment field. In 1953, Bank Indonesia (central bank) was founded after taking over the Javanese Bank. Moreover, the Government Estates Center controlled all plantation and mining business activities owned by the Dutch during the colonial period. (Siahaan, 1996)

In the 1960s, Indonesia implemented the concept of Guided Democracy in its foreign policy by fighting against imperialism, colonialism, and neo-colonialism. The policy depended primarily on President Soekarno. In fact, the Indonesians and the Chinese were engaged in political collaboration, particularly in the anti-imperialist struggle. Moreover, Soekarno increased the advocacy of Indonesian Communist Party by introducing *Nasakom* ideology. He proposed the concept of unification of three main ideologies deeply rooted in Indonesian society, namely Nationalism, Religion or Islamism, and Communism. The three ideologies merged into *Nasakom* to have cooperated for the national interest and the homeland. However, the goal of Soekarno's idea was more an effort to reduce or even eliminate political conflicts between the three main factions, namely the army, Islamic groups, and communists. (Frederick P. Bunnel, 1966)

In the field of law, Indonesia consistently uses laws issued by the Dutch government. Based on 1945 Constitution Article I Transitional Provisions states: “All existing statutory rules and regulations shall remain in force to the extent no new ones are provided according to the Constitution.” For example, *Burgerlijk Wetboek* is Code of Civil Law, which was ratified through the *Besuit Koninklijk* dated April 10, 1838, with *Staatsblad* 1838 Number 12 which was declared effective as of October 1, 1838, by the Dutch Government. Not only the laws, but also the state institutions established by the previous Dutch government is constantly exist due to the Article II Transitional Provisions states: “All existing state institutions shall remain functioning to the extent of executing the provisions of the Constitution and no new ones are provided according to the Constitution.” (Hartono, 2015)[5]

However, the struggle to change the laws made by the Dutch Government continued. In the field of financial law, the Government of Indonesia started by changing the tax provisions to create justice for indigenous people. The provisions of the newly issued tax law include laws governing the collection of income, companies, land and buildings, the use of radio waves, and household goods.

Furthermore, Indonesia also publishes legal policies related to state administration finance. For example, the law on the financial balance between the state and the regions and the law on the duties of the central government in the field of general administration, assistance to civil servants, and the transfer of finances to local governments. Moreover, in matters of national finance, the government issued a law on the establishment of the Supreme Audit Agency, a law on the central bank, a law on the establishment of Postal Banks and Private Development Banks, and Cooperatives. Not to forget, the law on foreign investment was issued to invite foreign investors.

Table 1.
List of Laws and Regulations on Financial Law in the Old Order Era*

Law Number	**Year**	**Name of Laws and Regulations**
2	1946	The Regulation on the *Kohir* Tax Time Limit (Tax Assessment Letter) is No Longer Valid
4	1946	Domestic Loans on State Responsibility for State Development Business
5	1946	Regulation on Establishment of Income Tax Rates for 1946/1947 and Additional Taxes
9	1946	National Loan
15	1946	An Additional Land Tax Principle 1946-1947
17	1946	Money Spending of The Republic of Indonesia
10	1947	Revocation of Article 31 to II No. 8 From the Rules of State Duty 1921 (Stbl. 1921 No. 498)

[5] The Constitution of the Republic of Indonesia 1945. See also

11	1947	Amending the Without Tax Order 1936, Stbl. 1936, No. 671
12	1947	A "Radio Tax" on All Radio Receiving Aircraft
13	1947	Establishment of Income Tax Rate, Wage Tax and Additional Principal Taxes for the Tax Year 1947/1948
14	1947	Collection of Development Tax in Restaurants and Housing House
18	1947	Income Tax Special Regulation on Wages
19	1947	Money Carrying and Prohibitions on Money are No Longer Applicable
38	1947	State Money Lots
14	1948	Setting Additional Duties on Import Duty
15	1948	Determination of Goods Subject to Export Duty
16	1948	Making Changes in the 1921 Seal Duty Regulations
17	1948	Making Changes in the Income Tax Law 1932 (Stbl. 1932)
20	1948	Making Changes and Additions to Law Number 14 Year 1947 from Development Tax I
21	1948	Adding and Amending Law Number 12 Year 1947 on Radio Tax
22	1948	Establishment of Main Rules on Own Government in Regions that are Right to Regulate and Manage Its Own Household
25	1948	Establishment of Income Tax Rates for 1948/1949 and Collection of Additional Taxes on Company Taxes, Assets, and War Profit Taxes
26	1948	Making Changes in the Income Tax Law 1932. (*Ordonnantie op de Inkomstenbelasting* 1932)
28	1948	Article for Foreign Payment Tools
32	1948	Money Circulation with Banks
34	1948	Population Area for a Time Not into the Customs Area
35	1948	Lowering Import Duties
1	1949	Replacement of Land Tax with Income Tax
3	1949	Tax Cut Rates 1949
4	1949	Additional Steering Duty
5	1949	Establishment of Income Tax and Wage Tax Rates
8	1950	Loans of the Republic of Indonesia on Imported Bank of Washington
9	1950	Income Tax Rate Establishment for 1950
4	1951	Giving Approval to a Loan Agreement between the Government of the Kingdom of the Netherland and the Government of the Republic of Indonesia United States
5	1951	Establishing the NR Emergency Law. 26 of 1950 (State Gazette NR. 48 Year 1950), on Approval and Recognition of a Debt Against the Kingdom of the Netherlands as Law
14	1951	Replacement of Land Tax with Transitional Tax 1944
24	1951	Nationalization of De Javasche Bank N.V.

11	1951	Approval of the First Loan Agreement of the Republic of Indonesia with the Export-Import Bank of Washington
8	1952	*Verponding* Tax Collection in 1952
9	1952	Amendment to the Company Tax Order of 1925
20	1952	Civil Service Retirement
2	1953	Amending and Adding the Household Tax Order 1908
36	1953	Bank Tabungan Pos
5	1954	Membership of the Republic of Indonesia of the International Monetary Fund and the International Bank for Reconstruction and Development
19	1954	Regulations for Billing More Income to the State
26	1954	1946 National Loan Back Payment
36	1954	Setting of Company Tax Rates
26	1956	Membership of the Republic of Indonesia in the International Finance Corporation
32	1956	Financial Balance Between the Country and the Regions, Who Have the Right to Take Care of his Own Households
24	1957	State Budget Income
77	1958	Stipulation of "Emergency Law No. 18 Year 1957 on Farmers and Fisherman Bank (State-Gazine of 1957 No. 70)" as Law
78	1958	Foreign Investment
79	1958	Cooperative Association
86	1958	Nationalization of Dutch Owned Companies
87	1958	Amendment to the Foreign Nation Tax Law (act NO. 74 OF 1958)
6	1959	Delivery of Tasks of the Central Government in the Field of General Government, State Service Assistance and Financial Delivery, to Local Governments
12	1962	Bank Pembangunan Swasta
13	1962	Principal Provisions of Regional Development Bank
2	1964	Bank Tabungan Negara
27	1964	Provision of Company Tax Exemption/Income Tax
14	1965	Cooperative
17	1965	Stipulation of Government Regulation in Substitute of Law Number 6 Year 1964 on the Establishment of a Financial Audit Agency

* **Source**: Analysis from the primary source **https://peraturan.go.id/.**

The New Order (1966-1998)

The fall of the Old Order and the rise of the New Order began after the coup movement on September 30, 1965, led by the Indonesian Communist Party and the transition of power from Soekarno to Suharto who legally inaugurated as Indonesian's next president in 1968 by the People's Consultative Assembly. Before officially installed as the top leader of country, Soeharto received the March Eleventh Order (*Surat Perintah 11 Maret*) that gave him full powers to restore order, expedite the running of government, protect President Soekarno, and secure the Indonesian revolution in 1966. Then in March 1967, he got a position as acting president due to the loss of trust of the People's Consultative Assembly that revoked Soekarno's power as president. Under Soeharto's leadership, the fundamental mission of state was economic development. The government quickly abandoned the anti-Western policies, rejoined the United Nations and the International Monetary Fund, and more importantly banned the Indonesian Communist Party. (Wie, 2002)

In the history of investment law policy in Indonesia during the New Order era, Gandy Setiawan divided it into four periods. The first period of liberalization which opened the foreign investment widely in 1967 to 1973. The second term of protectionist economic policies in 1974 to 1986. Next, the third period was the return of second liberalization strategies in 1986 to 1997. Finally, the fourth time of second liberalization policies after 1997 crisis. (Setiawan, 2002)

In 1966, President Soeharto started the macroeconomic restorative stability and the transformation of economic orientation from state companies and direct government interference towards more dependence on the free market. The government issued a new law number 1 of 1967 on foreign investment to attract public and private investors from all around the world, particularly the rich countries in the West. To ensure public trust, Soeharto's regime also returned some nationalized companies to the previous owners. Moreover, the government appointed some prominent scholars as the Foreign Capital Investment Advisory Board which had task to advise President on foreign investment policies. Most importantly, the foreign investors were very pampered because the government allowed one hundred percent foreign ownership and no limitation anymore on trans-border equity and employment of expatriates. (Soesastro, 2000)

To support wider investment, the New Order government revived the Capital Market by activating the Jakarta Stock Exchange, which had stagnated since 1956 due to the nationalization of Dutch companies. With a Presidential Decree, on August 10, 1977, the Jakarta Stock Exchange was active again. Unfortunately, until 1988, the capital market had not fully recovered because there were only 24 companies that went public. The number of listed companies on the Jakarta Stock Exchange raised significantly from 1988 to 1990. It showed the notable changes in public investments and the trust of domestic and foreign investors. Then it increased again until 1994 amounting to 224 companies. Three main factors lead to increased investment in the capital market, such as foreign investor demand, reform of non-oil and gas exports, and generational change. (Otoritas Jasa Keuangan, Buku Seri Literasi Keuangan Tingkat Perguruan Tinggi, n.d.)

To support economic growth, several financial laws were issued by Indonesia. In 1966, the Law on Financial Agreements between the Governments of the Netherlands and Indonesia was issued as a measure to improve relations between the two countries. In 1967, the Foreign Investment Act and Banking Act were introduced. In 1968, Indonesia enacted the Domestic Investment Act, the Central Bank Act, the Indonesian Export-Import Bank Act, the Indonesian People's Bank Act, the State Savings Bank Act, the Bumi Daya Bank Act, the State Trade Bank Act, and the 1946 Bank Negara Indonesia Act.

Subsequently, in 1973, the Law on the Supreme Audit Agency was amended. In 1983, number of laws on taxation were amended such as general provisions on tax procedures, income tax, and the Value Added Tax for goods, services, and sales on luxury goods. It was then supplemented by an amendment to the Land and Building Tax Law in 1985. In

1992, several financial regulations were introduced such as insurance law, banking law, and cooperation law. Next, the Capital Market Law was introduced in 1995. Then, in 1997, the Law on Tax Dispute Settlement Agency, the Law on Collection of Taxes with Compulsory Letters, and the Law on Non-Tax State Revenues were amended.

Table 2.
List of Laws and Regulations on Financial Law in the New Order Era*

Law Number	Year	Name of Laws and Regulations
7	1966	Agreement between the Government of the Kingdom of the Netherlands and the Government of the Republic of Indonesia on Financial Affairs
8	1966	Membership of the Republic of Indonesia in the Asian Development Bank
9	1966	RI Membership in the International Monetary Fund and International Bank for Reconstruction and Development
1	1967	Foreign Investment
8	1967	Amendment and Improvement of Procedures for Collecting Income Tax 1944, Property Tax 1932 and Company Tax 1925
12	1967	Corporative Principles
14	1967	Banking Principles
2	1968	Amendment/Addition to the Sales Tax Law 1951
5	1968	Settlement of Disputes between Countries and Foreign Citizens Regarding Investment
6	1968	Domestic Investment
10	1968	Delivery of State Taxes: Motor Vehicle Transfer Duty, Foreign Nation Taxes and Radio Taxes to Regions
13	1968	Central Bank
17	1968	Bank Negara Indonesia 1946
18	1968	Bank Dagang Negara
19	1968	Bank Bumi Daya
20	1968	Bank Tabungan Negara
21	1968	Bank Rakyat Indonesia
22	1968	Bank Ekspor Impor Indonesia
9	1969	Stipulation of Perpu 1-1969 on Forms of State Business to Become Law
11	1969	Employee Retirement and Employee Widow/Widower Pension
8	1970	Changes and Additions to the Company Tax Order 1925
9	1970	Changes and Additions to Income Tax Order 1944
10	1970	Amendment and Addition to the 1959 Dividend Tax Order
11	1970	Amendments and Additions to Law 1-1967 on Foreign Investment
12	1970	Amendments and Additions to Law 6-1968 on Domestic Investment

8	1971	Country Oil and Gas Mining Company
5	1973	Audit Board of the Republic of Indonesia
3	1982	Company Registration Mandatory
6	1982	Copyright
6	1983	General Provisions and Taxation Procedures
7	1983	Income Tax
8	1983	Value Added Tax of Goods and Services and Sales Tax on Luxury Goods
5	1984	Industry
12	1985	Property Tax
13	1985	Stamp Duty
7	1987	Amendment to Law 6-1982 on Copyrights
6	1989	Patent
7	1991	Amendment of Law 7-1983 on Income Tax
2	1992	Insurance Business
7	1992	Banking
11	1992	Pension Fund
19	1992	Trademark
25	1992	Cooperative
9	1994	Amendment to Law Number 6 Year 1983 on General Provisions and Tax Procedures
10	1994	Amendment to Law Number 7 Year 1983 on Income Tax as Amended by Law Number 7 Year 1991
11	1994	Amendment to Law Number 8 Year 1983 on Value Added Tax of Goods and Services and Sales Tax on Luxury Goods
12	1994	Amendment to Law Number 12 Year 1985 on Land and Building Tax
1	1995	Limited Liability Company
8	1995	Capital Market
10	1995	Customs
11	1995	Excises
17	1997	Tax Dispute Settlement Agency
18	1997	Local Taxes and Regional Levies
19	1997	Tax Billing with Forced Letter
20	1997	Non-Tax Revenue
21	1997	Charges for Acquisition of Land and Building Rights
32	1997	Commodity Futures Trading
10	1998	Amendment of Law 7-1992 on Banking

* Source: Analysis from the primary source **https://peraturan.go.id/**.

The Reformation Era (1998-present)

Indonesia received the title of "East Asian Miracle" in the early 1990s because it has a quickly rapid industrialization development. Several developed countries called Indonesia the "Tiger of Asia" and the "High Performing Asian Economy" because of its economic progress in the Asian region, especially Southeast Asia. This world's praise strengthened the legitimacy of the New Order's authoritarian rule under the leadership of President Soeharto, the longest-serving leader in national history. (Wong, 2004) But ironically, the repressive policy of the New Order became a success story of reducing millions of poor people since the majority of citizens, intellectual and unschooled folks, could not demonstrate dissenting opinions in policymaking and policy implementation. The data mentioned that more than fifty percent of the population was poor in the mid-1960s. However, poverty had reduced to 13.5 percent in 1993. Soeharto's legitimacy vanished when the Asian Financial Crisis erupted in 1997-1998. Besides, Indonesians were frustrated at this high level of corruption, collusion, and nepotism in government circles. Much of its economic and social achievements were undone and the Indonesian people became determined to keep pushing for a new government. Soeharto was soon politically isolated and had no other option than to resign from the presidency. Finally, on 21 May 1998 vice president Bacharuddin Jusuf Habibie, a close ally of Soeharto, became Indonesia's third president. He had no other option than to comply with the Indonesian people's wishes and usher in the Reformation era. (Investments, 2021)

Indonesia's fundamental and radical change from an authoritarian state leadership during the New Order to democracy after the 1998 reforms occurred amid political instability due to poverty, unemployment, and social conflict. Worse yet, the enormous public debt of around US$ 154 billion, equivalent to gross domestic product, is a legacy of the New Order regime which became a financial burden for the government during the reform period. The International Monetary Fund and several other creditors have a critical role in intervening input to national financial and economic recovery policies. To reduce debts, Indonesian government carried out economic and financial reform measures, including negotiating debt payments to investors, cutting subsidies that burden the state treasury, increasing tax revenues, privatizing state-owned enterprises, improving bank supervision, and reforming the laws. (International Crisis Group, 2001)

After the economic crisis, the government repealed, amended, and introduced numerous economic legislations. For instance, the bankruptcy law and banking law were amended in 1998. Next, in 1999, the government introduced new laws to prohibit monopoly and unfair business competition, customer protection, and construction services. During the same year, the new regime amended several existing laws regarding central banks, arbitration, fiduciary security, and telecommunications.

In 2000, the Industrial Design Law, Integrated Circuit Law, and the Trade Secrets Law were introduced. During 2000, the Trademark Law and the Patent Law were amended. In 2001, the Foundation Law was introduced. Next in 2002, Indonesia introduced the Anti Money-Laundering Law, the State Debenture Law, and the Electricity Law. In the same year, the Copyright Law was amended.

Indonesia's efforts to reform economic law have not had a favorable impact on the national economy in the early post-New Order political reforms. The new rules and the results of the amendments had not been implemented properly even though the socialization and literacy of the new economic policies have been carried out extensively and massively. (Juwana, 2005) In contrast, one of the biggest legal reform challenges for

Indonesia after 1998, according to the International Crisis Group report, is that a culture of corruption, collusion, and nepotism led to inefficient law enforcement and systems. Despite the fact, that ignorance of the law among judges, prosecutors, and police hindered the effectiveness of law enforcement and justice for the community, corrupt behavior was more dangerous to national law reform efforts. (Group, 2001)

The Reformation period opened opportunities for regulations governing the financial activities of Muslim groups as most of the Indonesian population. For example, the Zakat Management Law in 1999 and its amendments in 2011, the Waqf Law in 2004, the Hajj Organizing Law in 1999 and its amendments in 2008 and 2019, and the Hajj Financial Management Act in 2014. Moreover, Indonesia has also opened dual regulatory policies in the financial sector that complement each other by issuing laws and regulations on Islamic finance. For instance, the Sharia Banking Law in 2008 and the State Sharia Securities Law in 2008.

According to Muchamad Ali Safa'at, laws on Islamic financial institutions have three objectives. First, the unification of economic laws for Muslims who applied their faith related to Islamic economics. Next, the efforts to maximize the enormous potency of Muslims. Finally, the protection and facilitation of religious life within public life. Since these objectives are defined by the state as a secular institution, they must be understood as secular themselves. (Safa'at, 20149) Moreover, the development of Islamic financial law is influenced by the social, political, and cultural values of most Indonesian people in the Reformation Period who expect the application of Islamic law in business and financial activities. Therefore, Islamic law has appeared, particularly in economic fields, as one of the sub-systems in the Indonesian national legal system. Various regulatory instruments in the form of policies and legislations are clear evidence that Indonesia accommodates the implementation of Islami law as long as it harmonizes with Pancasila and the Indonesian Constitution 1945. (Zain, 2021) (Anon., 2021)

The reform period not only accommodates Islamic law in the financial sector but also found several new institutions aimed at safeguarding just economic and social democracy and encouraging financial reform in Indonesia. For example, the Business Competition Supervisory Commission based on Law Number 9 of 1999, the National Amil Zakat Agency based on Law Number 38 of 1999, the Deposit Insurance Corporation based on Law Number 24 of 2004, the Financial Services Authority based on Law Number 21 of 1999. 2011, and the Hajj Financial Management Agency based on Law Number 34 of 2014.

Table 3. List of Laws and Regulations on Financial Law in the Reformation Era*

Law Number	**Year**	**Name of Laws and Regulations**
5	1999	Prohibition of Monopoly Practices and Unfair Business Competition
8	1999	Consumer Protection
23	1999	Bank Indonesia
24	1999	Foreign Exchange Traffic and Exchange Rate System
25	1999	Financial Balance Between Central and Local Governments

38	1999	Zakat Management
42	1999	Fiduciary Guarantee
16	2000	Second Amendment to Law 6-1983 on General Provisions and Taxation Procedures
17	2000	Third Amendment of Law 7-1983 on Income Tax
18	2000	Second Amendment of Law 8-1983 on Value Added Tax of Goods and Services and Sales Tax on Luxury Goods
19	2000	Amendment of Law 19-1997 on Tax Collection with Completion Letter
20	2000	Amendment to Law 21-1997 on Duty for Acquisition of Land and Building Rights
30	2000	Trade Secrets
34	2000	Amendment of Law 18-1997 on Regional Taxes and Regional Levies
14	2001	Patent
15	2001	Trademark
14	2002	Tax Court
19	2002	Copyright
24	2002	Government Securities
17	2003	State Finances
19	2003	State-Owned Enterprises
1	2004	State Treasury
3	2004	Amendment of Law 23-1999 on Bank Indonesia
15	2004	State Financial Management and Responsibility Examination
24	2004	Deposit Insurance Agency
33	2004	Financial Balance between the Central Government and Local Governments
37	2004	Bankruptcy and Suspension of Debt Payment Obligations
40	2004	National Social Security System
41	2004	Waqf
15	2006	Audit Board of the Republic of Indonesia
17	2006	Amendment of Law 10-1995 on Customs
25	2007	Capital Investment
28	2007	Third Amendment to Law 6-1983 on General Provisions and Taxation Procedures
39	2007	Amendment of Law 11-1995 on Excise
40	2007	Limited Liability Company
13	2008	Organization of Hajj Worship
19	2008	State Sharia Securities
20	2008	Micro Small and Medium Enterprises
21	2008	Sharia Banking
2	2009	Indonesian Export Financing Institutions
4	2009	Mineral and Coal Mining

28	2009	Local Taxes and Regional Levies
39	2009	Special Economic Area
42	2009	Third Amendment to Law Number 8 Year 1983 on Value Added Tax of Goods and Services and Sales Tax on Luxury Goods
3	2011	Transfer of Funds
7	2011	Currency
10	2011	Amendment to Law Number 32 of 1997 on Commodity Futures Trading
21	2011	Financial Services Authority
23	2011	Zakat Management
17	2012	Cooperative
1	2013	Micro Financial Institutions
3	2014	Industry
28	2014	Copyright
34	2014	Hajj Financial Management
40	2014	Insurance
1	2016	Guarantee
4	2016	Housing Savings
9	2016	Financial System Crisis Prevention and Handling
11	2016	Tax Amnesty
13	2016	Patent
20	2016	Brand and Geographic Indication
9	2018	Non-Tax Revenue
8	2019	Organization of Hajj and Umrah Services
24	2019	Creative Economy
3	2020	Amendment to Law Number 4 Year 2009 on Mineral and Coal Mining
10	2020	Stamp Duty
11	2020	Work Creation

* Source: Analysis from the primary source **https://peraturan.go.id/.**

4. CONCLUSION

Pancasila and Article 33 of the Indonesian Constitution 1945 are economic constitutions that form the basis of financial law regulation in Indonesia. All laws concerning business and finance must not conflict with the economic constitution according to the doctrine of hierarchical laws.

The period of the Indonesian political regime that had divided into the Old Order, New Order, and Reformation Period influenced the characteristics of financial law policies. During the Old Order period, the early years of independence from colonialism, the monetary policy supported the struggle to maintain freedom and change discriminatory colonial government rules such as tax laws, the Dutch company nationalization law, and other financial policies.

Several changes occurred during the New Order. At that time, the ruling government made improvements to the economy by opening investment opportunities on a large scale, including foreign investment. Therefore, the New Order regime made fundamental changes in financial policies such as the law on taxation, the law on domestic and foreign investment, the law on the establishment of a national bank, and the law on natural resources.

Furthermore, the government in the Reformation period aimed to recover the Indonesian economy after the 1997 monetary crisis and the end of the authoritarian New Order regime. Therefore, the characteristics of financial law policies are economic recovery and improvement of democracy, such as anti-monopoly laws, bankruptcy laws, laws on the financial balance between the central and local governments, and tax reform. In addition, the Reformation period paved the way for policies that supported the formalization of the Islamic economy and the Islamic finance industry, such as laws on Islamic banking, zakat and waqf management, and hajj finance.

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