

State relations, human rights and welfare: Commercial standardization criticism of goods and services

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Abstract

Trade is the primary driver of development carried out to advance the general welfare as the goal of the country. The state as the executor of economic sovereignty is required to regulate the implementation of trade with due regard for human rights, including the right to obtain welfare. Law No. 7 of 2014 concerning Trade-in force currently contains immoral material, namely provisions regarding the standardization of goods and services, as well as provisions concerning criminal acts related to the standardization. For this reason, it is necessary for the politics of legal development to amend trade laws by not including norms of standardization obligations, and to eliminate criminal threats for trading activities.

Keywords: Trade; Standardization; Goods and Services; Welfare

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1. Introduction

Every citizen has the right to develop themselves and try to improve their standard of living by carrying out business activities or economic activities that are following their respective abilities. Naturally, humans are equipped by God with the intelligence of their minds to maintain and develop their lives under the goals of life that have been determined by each human being. Therefore, each citizen has different abilities or expertise, so that his development to meet the needs of his life results in various professions.

The history of human development gives rise to the different fields of life whose purpose is to make it easier for humans to meet their needs, both physical and mental. These fields of life develop in harmony with the development of human-owned science. Various kinds of knowledge have been found and created by humans to make it easier to manage the environment and its resources to meet the needs of human life. One area related to human efforts to meet basic needs for life is the economic field.

The term economy comes from Greek origin, which is said to be 'oikosnamos' or 'oikonomia,' which means management of household affairs, specifically the provision and administration of income (Satradipoera, 2001). From this understanding, it can be interpreted that the core of the economy is a matter of household affairs. Important household matters, namely, regarding the needs of the household to meet the necessities of life for household members. Household needs are grouped into three types of needs, namely: primary needs, secondary needs, and tertiary needs. To meet all these needs, humans carry out economic activities with various types of economic ventures.

Economic activities are carried out by economic actors, both people, and companies, continuously, openly, in order to obtain profits (Hartono, 2007). Every citizen has the right to benefit both materially and immaterially from every economic activity he undertakes. These benefits will be used to develop themselves and their lives in order to achieve their life goals for prosperity and happiness.

The right to improve the standard of living of human beings should be protected and guaranteed for implementation by the state as part of human rights. This is a consequence of the formation of the state, which is the result of the existence of a community agreement, which states the agreement to live together in order to achieve common goals. In general, the purpose of the state, which is the vision of the state, is to create prosperity, prosperity, and happiness for its citizens (*bonum publicum*, the common good, commonwealth) (Ismatullah & Gatara, 2006). Therefore, the state should provide legal protection and guarantees for its citizens to strive to create prosperity, prosperity, and happiness in their lives.

The state, to realize its intended purpose, has the authority to determine the applicable law in its territory. Therefore, a constitution is determined as the highest law in a country that regulates the principles of state life. In general, the material constitution or constitution includes three fundamental things, namely (Sri, 1987):

1. guarantees of human rights and citizens,
2. stipulation of state constitution of a fundamental nature,
3. there are division and limitation of constitutional tasks, which are also fundamental.

The guarantee of protection of human rights provided by the constitution must prevail indeed in the actions of the state. The state is taking action or policy, as well as in issuing laws and regulations, must pay attention to human rights. There must be no action by the state authorities or regulations issued by the state, which can reduce or violate human rights. If this happens, citizens have the right to file a lawsuit in court for acts of the state that violate human rights. Even so, if some laws and regulations are felt by citizens to reduce or violate human rights, then citizens have the right to submit a judicial review of legislation that violates these human rights.

The law is a product of the DPR as the holder of legislative powers, with the joint agreement of the President as the executive power holder. The material contained in the law contains rules to regulate the matters mandated by the constitution. Therefore, the material in the law must not conflict with the material regulated in the constitution. One of the primary materials in the constitution is the guarantee of protection of human rights. Therefore, the law cannot conflict with human rights. Laws that conflict with human rights can be said to be immoral. Regulations that are not good or are not true because they conflict with excellent and right values for humans. Immoral rules will undoubtedly harm human life. In order to avoid immoral laws, the law-making process must be carried out well. The law must have a strong philosophical foundation derived from the nation's ideology and noble values that live in society. The law must also be based on a strong sociological foundation so that its effectiveness will be sufficient.

The concept of Indonesian law in economic activities is in the context of achieving a just and prosperous society based on Pancasila, the Pancasila family economic concept, and the people's economic concept to defend the interests of the people (Hartono, 2007). , development in the economic field is compiled and implemented to advance public welfare through the implementation of economic democracy with the principles of togetherness, fair efficiency, sustainable, environmentally friendly, independent, and by maintaining a balance of progress and national economic unity as mandated by the 1945 Constitution of the Republic of Indonesia.

From the perspective of national development, trade is the primary driver of the national economy. Indonesia's national trade reflects a series of economic activities

carried out to realize public welfare and social justice for all Indonesian people. Trade activities are the primary driver of national economic development that provides support in increasing production, creating jobs, increasing exports and foreign exchange, leveling income, and strengthening the competitiveness of Domestic Products in the national interest. Indonesia's national trade as the prime mover of the economy is economic activity related to the transactions of goods and services carried out by business actors, both within the country and beyond national borders.

Considering the importance of trade for the national economy, it is necessary to legislate that it can realize the ideals of national development as stipulated in the 1945 Constitution of the Republic of Indonesia. One indicator of economic growth is the Gross Domestic Product (GDP). GDP is an indicator of economic welfare in a country and can be a reference to measure people's welfare as measured by the level of income (income). Then the more a country's exports increase, the people's income will also increase. However, in the current era of the open economy, at the same time, the flow of imports will also increase, which in measuring economic growth, increasing the value of imports will have an impact on GDP decline. Therefore, trade liberalization of a country, on the one hand, will encourage an increase in the value of trade, but on the other hand, it will affect the trade balance.

Increasingly open trade policies, as implemented by Indonesia today, have increased the risk of external shocks to the domestic economy, particularly to the welfare of the Indonesian people (Sabaruddin, 2015). The current trade policy is regulated in Law Number 7 of 2014 concerning Trade. The regulation in this Act aims to enhance national economic growth and is based on the principles of national interest, legal certainty, fair and healthy, business security, accountable and transparent, independence, partnership, benefits, simplicity, togetherness, and environmentally friendly.

Whether this law is following the mandate of the constitution, and whether the material content does not contain something immoral, is a question that needs to be known and analyzed from a legal perspective. That is the problem that will be discussed in this paper.

2. Methods

In order to analyze the above problem, an approach will be used by analyzing the relationship between state authorities and human rights in the economic field, specifically related to trade in goods and services. For this reason, a doctrinal approach to theories and concepts about the state and human rights will be used, as well as a content analysis approach, by analyzing the contents of Law No. 7 of 2014 concerning Trade. The results of the analysis are outlined in writing in the form of a paper adapted to the writing format in the Scientific Journal.

3. Result and Discussion

3.1 Relations between the State Authority and Human Rights in the Economic Field

If it is related to the role of the state in carrying out people's welfare, then the types of states can be divided into two types of countries, namely the classic welfare state and the modern welfare state. The classical welfare state, also known as the police state (polizei staat), is a typical state whose only duty is to maintain public order or what is known as the "night watch state." Countries with the type of country as a night watchman, then the existence of the state only serves to maintain order and public security and maintain the safety of the country from attacks by other countries. In this type of country, the state does not intervene in carrying out community welfare, such as providing health

services, education, and employment. Citizens determine their own needs for the welfare of the people themselves (Asnawa & Na'a, 2009).

The other type of welfare state is the modern welfare state or often referred to as the "prosperous state" (*wohlfaart staats, welvaar-staats, modern welfare state*). Type of modern welfare state or referred to as "modern state." According to Piet Thoenes (Asnawa & Na'a, 2009), a welfare state is a country marked by progress towards a democratic welfare system that must be carried out by the government. The modern welfare state is characterized by the active role of the state in organizing public welfare (*bestuurzorg*), which also has a role in maintaining the order and security of citizens. The active role of the state in carrying out public welfare, among others, is carried out by providing public services in order to realize the goals of the state namely the prosperity and welfare of the people (*bonum publicum*), not only for the welfare of individuals (*bonum privatum*) (Busroh, 2011).

The modern welfare state by E. Utrecht is referred to by using the term "modern rechtstaat" (modern law state). This type of country prioritizes the interests of all people, no longer refers to the teachings of Immanuel Kant regarding the prohibition for the state to interfere in public life and public welfare. The task of a country with a modern welfare state is comprehensive. The active involvement of the government in all aspects of social life brings a "enorme uitbouw van de sociale wetgevings" and a "enorme groei van het administratieve recht". The government as a public service is *bestuurzorg*, so that actions in carrying out activities to interfere in all lines or fields of social life are legal-legitimate (Utrecht, 1960).

More concretely, the main objectives of the Welfare State are (Panjaitan, 2010):

1. Controlling and utilizing socioeconomic resources for the public benefit;
2. Ensuring the distribution of wealth fairly and equally;
3. Reducing poverty;
4. Providing social insurance (education and health) for the poor;
5. Provide subsidies for essential social services for disadvantaged people;
6. Providing social protection for each citizen.

In the life of the state, the constitution is considered the highest level of the law, the purpose of the constitution is also to realize the highest goals, namely (Asshiddiqie, 2010): justice, order, and the realization of ideal values such as freedom or freedom, and shared prosperity (prosperity and welfare). The 1945 Constitution of the Republic of Indonesia post reforms contains more provisions on the economy and social welfare. Thus, it can be said that the 1945 Constitution of the Republic of Indonesia is not merely a political document, but also an economic document. The 1945 Constitution of the Republic of Indonesia is not only a political constitution but also an economic constitution (Asshiddiqie, 2010).

In Indonesia, the concept of welfare refers to the concept of social welfare development, which is a series of planned and institutional activities aimed at improving the standards and quality of human life (Panjaitan, 2010). Therefore, development cannot be ignored regarding human rights because the guarantee of human rights also determines the quality of human life. As a constitution that can be referred to as an economic constitution, the 1945 Constitution of the Republic of Indonesia also contains provisions concerning human rights in the economic field or economic rights. Provisions in Article

28H Paragraph (1) and Article 33 Paragraph (4) of the 1945 Constitution are key provisions concerning the stipulation of norms regarding welfare as human rights in the constitution. The articles read as follows:

- Article 28H Paragraph (1): "Everyone has the right to live in prosperity physically and mentally, to live, and to have a good and healthy environment and to have health services."
- Article 33 Paragraph (4): "The national economy shall be implemented based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity."

Government and state policies developed in the economic field must be based on the constitution. Two perspectives have developed in understanding the economic policies contained in the 1945 Constitution of the Republic of Indonesia, namely the idealist perspective and the pragmatic perspective (Asshiddiqie, 2010). The idealist perspective, which is anti-liberalism and anti-capitalism considers Indonesia's constitutional, economic system reflects the understanding of market socialism or social markets that cannot allow market mechanisms to run freely as possible without state control and intervention. On the other hand, the pragmatic perspective with the paradigm of liberalism or neoliberalism adheres to the free-market understanding as much as possible. This understanding tries to reduce as much as possible the burden of the state so that state intervention or interference in the economy of the community is very minimalist. The state is limited to its function as a regulator, and may not be directly involved in carrying out economic activities.

Both groups understand different economics in looking at the ideal policies that need to be applied in Indonesia's economic development. The idealist group starts from the founding fathers' ideas about the family principle that is anti-liberalism and capitalism, which is considered to benefit only individuals. While the pragmatic group because it sees the necessity to keep abreast of the times. Times have changed, no longer as imagined by the founding fathers. At the end, who is close to the policymaker, he will enjoy the consequences of a policy that is beneficial for his interests. Thus, the free market is ultimately just an illusion. Free market dynamics, however, need to be regulated, controlled and directed to the right path for the common good. Today, all economists hold the same view that the state must not sleep and allow the free market mechanism to move on its own without government intervention.

Welfare was born in a harmonious relationship between guaranteed freedom and the fulfillment of justice. In the relationship between freedom produced by democracy and justice produced by law, creativity will develop, and mutual respect for differences will develop. Democracy and law can be implemented well if state authority is used with due regard to the human rights of citizens. Values that are idealized in the collective life of humankind are the creation of freedom, justice, and prosperity. For this reason, a constitution as the fundamental law and the highest law must be able to connect three domains, namely: state power, civil society, and the market economy.

State, civil society, and the market economy (market) (Asshiddiqie, 2010) must have a balanced reciprocal relationship. The state in regulating, controlling and directing important matters in civil society must be aimed at progress and prosperity. Civil society must play a role in controlling and overseeing the running of the state government. The market also has a very vital position. Strong or weak market conditions will determine

the strength and weakness of civil society in its relationship with the state. If the relationship between the three is lame, surely development efforts in realizing prosperity and prosperity will be hampered. The imbalance in the relationship between the three can lead to blocked freedom, which is contrary to human rights. Alternatively, freedom can occur without rules, justice also can not be realized, and welfare that does not increase.

Considering the importance of the balance of relations between the state, civil society, and the market, in every statutory regulation especially regarding the economy, it must pay attention to the relations of the three. The regulation must not contain provisions that would reduce freedom and be unjust. The constitution, as the highest law which contains provisions concerning human rights, must be used as a guideline, a source of reference or the highest reference in carrying out state activities, including in realizing prosperity and welfare.

a. Standardization of Trade in Goods and Services in the Perspective of Human Rights

Each country's economy must have a specific system that is different from other countries. According to Suharsono Sagir, the Indonesian economic system which is adopted as the foundation of development from time to time, is the Popular Economic System (SEK) (Suharsono et al. 2009). In this system, state sovereignty in the economy is in the hands of the people; thus, this popular economic idea is related to economic democracy. The goal of this system is the liberation of people's lives from poverty, ignorance, dependence, unfair treatment, environmental damage, and anxiety in looking to the future. Therefore, the national development policy must be in accordance with the principles of people's economy, which according to Suharsono, is reflected in the implementation of the triple track development principle, namely pro-poor, pro-job, and pro-growth (Suharsono et al. 2009). In implementing these three principles, six benchmarks can be used to assess the success of the development process, namely:

1. People are free from poverty at a high rate of economic growth;
2. People are free from ignorance and are empowered to become productive human resources;
3. People are free from unemployment by working creatively and productively to increase their own and other people's incomes;
4. The state is free from dependence on foreign debt;
5. The country is free from foreign exchange shortages; and,
6. The country is free from damage to ecosystems so that development can be sustainable.

In general, all countries alike want to create conditions that are under the six benchmarks. Both countries that have a capitalist economic system and a socialist economic system both want to achieve the six benchmarks of the success of the development. In reality, today there are no countries that are purely capitalist or purely socialist, as illustrated in the extreme textbooks on the economic system.

Trade as the primary driver of development, will positively significantly affect the achievement of development success by the benchmarks above. Therefore, the state in regulating, controlling and directing trade activities should be under the implementation of the principles contained in the Popular Economy System. At this time, trade is regulated in Law Number 7 of 2014 concerning Trade. UU no. 7 of 2014 was born based

on the consideration that the implementation of economic democracy carried out through trade activities is the primary driver in the development of the national economy that can provide support in increasing production and leveling income and strengthening the competitiveness of Domestic Products.

The Trade Law explicitly mentions the role of trade in the implementation of a populist economic system. This can be read in the preamble section in letter c which states: that the role of trade is crucial in enhancing economic development, but in its development it has not met the need to face the challenges of national development so that economic-political alignments are needed that more provide opportunities, support, and economic development of the people which includes cooperatives and micro, small and medium enterprises as the main pillars of national economic development.

Since Indonesia's independence on August 17, 1945, there has been no law governing trade as a whole. An equivalent legal product in the field of Trade is the Dutch colonial law *Bedrijfsreglementerings Ordonnantie 1934*, which regulates more business licensing. Various efforts have been made to compile and replace *Ordonnanties Bedrijfsreglementerings 1934* in the form of partial legislation in the field of Trade, such as the Law on Goods, the Law on Warehousing, the Law on the Trading of Goods Under Supervision, the Law on Warehouse Receipt System, and Law on Commodity Futures Trading. Therefore, it is necessary to establish a law that synchronizes all legislation in the field of Trade to achieve the goal of a just and prosperous society and in responding to the development of the current and future era of globalization. Regulations in this Law aim at increasing national economic growth and based on the principles of national interest, legal certainty, fair and healthy, business security, accountable and transparent, independence, partnership, benefit, simplicity, togetherness, and environmentally sound.

In-Law No. 7 of 2014, Trade is defined as the order of activities related to transactions of Goods and / or Services within the country and beyond national borders for the purpose of transferring the rights to the Goods and / or Services to obtain compensation or compensation. Trade activities include not only domestic trade, but also foreign trade, namely trade that transcends national boundaries.

Foreign trade is one of the important variables of economic growth in an economy; it is not surprising that all countries strive to encourage trade cooperation with the aim of encouraging economic growth. The existence of international trade gave rise to various international trade organizations. The first multilateral organization or institution prepared to deal with the issue of international trade was the International Trade Organization (ITO). However, ITO was less successful in dealing with disputes in international trade, and instead the General Agreement on Tariffs and Trade (GATT) was formed in 1947. The main mission GATT is to eliminate trade barriers by issuing regulations that must be obeyed by all participating member countries. After going through several rounds, GATT was changed to WTO (World Trade Organization) which officially began operating on January 1, 1995.

The WTO is a multilateral organization that regulates the course of world free trade. Free trade means the free flow of goods and services across national borders without being hindered by government interference, both in the form of tariffs and non-tariffs. This concept is based on the Classical Liberal theory which states that trade can be done best, resources can be allocated most efficiently, and the welfare of the people achieved the highest if all producers are allowed to produce the best goods or services that they can produce to be sold in an open free competition climate (Deliarnov, 2006).

According to Deliarnov (2006), a figure from Classical Liberal theory, it was explained that each economic actor, both consumer and producer, must be given the freedom to pursue their interests. Consumers are given the freedom to choose a combination of various kinds of goods and services that provide maximum satisfaction (utility maximization) according to taste and money they have. Likewise, producers are given the freedom to choose various inputs and technologies to be used in the production process to produce various types of goods and services that most benefit their business (profit maximization). Although both parties, namely consumers and producers, have conflicting interests, if the economy is left free according to the strength of market mechanisms without interference from the government, then a balance or equilibrium will be created.

Trade economic activity is regulated by the market, which, according to Adam Smith, is driven by what is called an invisible hand. In the beginning, the Market was defined as a meeting place for consumers and producers. Nowadays, the market has developed to become far more complicated, integrating individuals and groups. The process of integration in the market is supported by what is called a price system (Deliarnov, 2006). Many advantages of this perfect competition market model, which is believed to bring the economy to a dynamic balance and provide optimal results.

According to Milton Friedman in *Capitalism and Freedom*, the market system can effectively reduce racial and ethnic discrimination, because consumers will buy from anyone who offers goods at lower prices and better quality, not because of racial, ethnic or racial backgrounds. Religion of the seller. From a moral standpoint, the free market economic system contains several positive things (Marinus, 2008), including:

1. A free-market economic system guarantees justice through ensuring the implementation of equal and fair treatment for all economic actors.
2. There are transparent and fair rules, and therefore they are fair.
3. The market provides optimal opportunities.
4. In terms of economic equality, at the first level, the market economy is far more able to guarantee economic growth.
5. The market also provides optimal opportunities for the realization of human freedom.

In the Market, each actor competes or competes with each other. With competition, everyone strives to find the best techniques for producing and delivering goods in the right amount, time, and quality to each consumer group. Thus, the market achieves three moral values (Marinus, 2008):

1. The market directs sellers and buyers to trade fairly, reasonably.
2. The market maximizes the benefits to sellers and buyers by directing them to allocate, use, and distribute their goods efficiently.
3. The market achieves all this while respecting the seller and buyer's rights to freedom.

In the standard trade model, a country will benefit from trade by specializing, producing, and exporting goods that have a comparative advantage (Berg, 2005). Conversely, the country is better at reducing production and importing goods that do not have a comparative advantage. Further development in international trade, standardization of traded goods and services is imposed by the state to protect its interests.

Indonesia applies the standardization of trade in goods and services as regulated in Law no. 7 of 2014 by setting Indonesian National Standards (SNI). Article 57-59 regulates the standardization of goods, whereas standardization of services is regulated in Articles 60-64. In essence, each of the goods and services must meet the standards set for trading. The standardization of goods and services is strengthened by the existence of criminal threats for businesses that carry out trades that are not established standards. Article 113¹ regulates criminal threats for business actors who trade goods without SNI with a criminal threat that is a maximum imprisonment of 5 (five) years and / or a fine of up to Rp 5,000,000,000.00 (five billion rupiahs). Whereas Article 114² regulates criminal threats for business actors, who trade services without SNI.

Provisions on criminal threats for business actors who trade goods and or services that do not have SNI show that the Law raises new norms regarding the existence of criminal acts of trade. Based on the formulation, it is not criminal in Article 113 and Article 114 including formal types of criminal acts. When viewed from the objective, the purpose of standardization is to protect the security, safety, health, and the environment. Therefore, it is better if you want to incorporate norms of criminal offenses by formulating nonmaterial crimes. Namely acts that result in the threat of security, safety, health, and the environment.

The existence of standardization provisions and criminal threats in this Trade Act, in the opinion of the author, is contrary to human rights as stipulated in the 1945 Constitution of the Republic of Indonesia. The obligation to standardize goods and services in Article 57³ and Article 60 Paragraph (1)⁴ is contrary to the right to work as human rights regulated in Article 28D Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. That is because, in the standardization of goods and services, it limits trade business actors in working or carrying out their work. This restriction is not under the principles in the market mechanism that should give producers (sellers) and consumers (buyers) freedom in trade transactions. Standardization will also allow discrimination because sellers or buyers choose to compete with racial, ethnic or religious backgrounds.

Also, the existence of criminal threats related to trading in goods and services that do not have SNI as regulated in Article 113 and Article 114, according to the author, is also contrary to human rights. More dominant trading transactions are private law. So it should not be something that is the scope of private law, will be subject to a crime who is public law. This article concerning criminal threats, according to the author, contradicts the 1945 Constitution of the Republic of Indonesia NRI Article 28G Paragraph (1) which guarantees citizens with the right to a sense of security and protection from the threat of

¹ UU no. 7 of 2014 Article 113: Business Actors who trade goods in the country that do not meet the SNI that has been compulsorily applied or the technical requirements that have been compulsorily applied as referred to in Article 57 paragraph (2) shall be sentenced to a maximum imprisonment of 5 (five) years and / or criminal denda at most Rp5,000,000,000.00 (five billion rupiah).

² UU no. 7 of 2014 Article 114: Service Providers who trade services within the country that do not meet the SNI, technical requirements, or qualifications that have been compulsorily applied as referred to in Article 60 paragraph (1) shall be convicted with a maximum imprisonment of 5 (five) years and / or a criminal fine of no more than Rp 5,000,000,000 (five billion rupiah).

³ UU no. 7 of 2014 Article 57: Goods traded domestically must meet: a. SNI that has been enforced compulsorily; or technical requirements that have been enforced compulsorily

⁴ UU no. 7 of 2014 Article 60 (1). Service Providers are prohibited from trading services in the country that do not meet SNI, technical requirements or qualifications that have been compulsorily applied

fear of acting or not doing something that is a human right. With the criminal threat in Articles 113 and 114, it results in a loss of security in doing work in the trade sector.

Based on what has been described previously, the authors conclude that Law No. 7 of 2014 concerning Trade contains immoral provisions because it is contrary to human rights that have been regulated in the constitution. Thus the Act also violates the principle of law because it contradicts the higher laws and regulations. Provisions which, according to the author, contain immoral contents, especially in Article 57, Article 60, Article 113 and Article 114. Concerning these articles, an application for material testing can be submitted with an application to be revoked or canceled.

3.2 Political Law of Trade in Creating People's Welfare

The development of standardization occurred due to a review in the industry, policy, and academics associated with the innovation system. Gradual studies in the development and dissemination of technology have led to broad analytical interests in inter-company relations, collaborative research and development activities, public and private sector research and development relationships, and as a determining factor in the innovation process. In this case, standards and making standards become an essential factor in technological development. In addition to the above, the development of standardization is also due to the standard being a problem that significantly affects the various public policies and public interests (Steven & Brenner, 2001).

Standard problems are always associated with product internationalization and trade relations. Standards are closely related to consumer interests, health, and safety, environmental protection and management for economists more concerned about how standardization affects the sellers and buyers of technology products in the market. Standards are a matter of "economic information," which is market dynamics related to the product information available to buyers. The essential thing in the standard economic literature deals with the issue of technological suitability (Steven & Brenner, 2001).

Based on the concept that trade is the primary driver of development, it is necessary to develop a political development of law in the field of trade which is based on the principle of democracy as a manifestation of a people's economy as stipulated in Article 33 of the 1945 Constitution of the Republic of Indonesia, which constitutes the philosophical normative basis of a people's economic system. Therefore in the economic activities of trade, regulations are needed that provide freedom for citizens to develop their potential in producing goods and services, which can provide maximum profits. What needs to be stressed is that in conducting trade activities must be carried out with the principles following the ideology of the nation.

The principles in the trade that can be regulated as a guideline for business actors are (Keraf, 1998):

1. The principle of autonomy;
2. The principle of honesty;
3. The principle of justice;
4. The principle of mutual benefit (mutual benefit principle);
5. The principle of moral integrity.

These principles need to be elaborated on in making every public policy in the trade sector. Related to standardization, mutual benefit principle needs to be considered, so that the interests of producers also need to be considered. There needs to be a balance

of protection both for producers and for consumers. Standardization can be applied to protect the interests of consumers, but not to limit the freedom of producers in producing goods and services to be traded for profit.

The government implements various decisions regarding public policy under existing economic and political institutions. A policy is called a public policy not because the policy has been enacted, or because the public implements the policy, but because the content of the policy itself concerns the *bonum commune* or public welfare (Arifin & Rachbini, 2001). Thus, the laws and regulations in the trade sector must also be directed to realize prosperity by democratic economic ideals as formulated in the country's constitution, the 1945 Constitution of the Republic of Indonesia. These licensed products must provide freedom for producers and consumers to choose products goods and services according to their wishes in meeting their needs for their welfare. There must be no prohibitions and criminal threats to economic activities between producers and consumers as long as the transaction does not result in losses that cause security or the safety of either party, and those activities also do not disturb the environment causing environmental damage.

The Trade Law must be able to guarantee the existence of justice for producers and consumers, without the threat of criminal acts in the form of formal criminal acts for either party. Nor should there be an element of discrimination, whether related to individual races, ethnicities, or religions. Changes in trade laws need to be made, primarily related to the obligation to standardize goods and services, and related to trade crime due to the standardization. Changes are made to encourage freedom, so that producers can innovate to create a variety of products that can be traded and can be enjoyed by consumers without causing things that harm security and safety.

4. Conclusion

The relationship between the state, human rights, and welfare is a relation of responsibility where the state is responsible for realizing the goals that have been determined together, namely the existence of public welfare. To achieve these goals, the state guarantees and protects the human rights of all its citizens. Welfare itself is a part of human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a form of economic sovereignty by implementing economic democracy through a populist economic system. Therefore, the state as the executor of sovereignty has the authority to create regulations in the laws and regulations that provide guarantees and legal protection for the implementation of the rights of citizens to achieve prosperity.

Concerning standardization in trade in goods and services regulated in Law no. 7 of 2014, changes need to be made because the standardization results in restrictions on producers' freedom to produce goods and services to be traded for profit. The law also raises norms of trade criminal offenses that are regulated as formal criminal acts that tend to violate human rights and contradict the higher laws, namely the 1945 Constitution of the Republic of Indonesia.

For this reason, changes to the law need to be made by not making standardization a limitation that is less productive in trading activities. Standardization can be applied solely to protect the security and safety of consumers, but it also needs to be considered in balance with the interests of producers. Also, need to be minimized the existence of norms of crime because in trading activities that need attention is the principle of mutual benefit (*mutual benefit principle*).

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