

The Implementation of Economic Systems in International Trade and Free Trade in Indonesia from a Justice Perspective

Eddie Bachtiar Siagian ¹⁾, Cendy Wenas ²⁾, Diana R. W. Napitupulu ³⁾

Program Studi Hukum, Universitas Kristen Indonesia, Indonesia

Email : bondolpatriot@gmail.com, wenassamrhay@gmail.com, diana.napitupulu@uki.ac.id

Correspondance Authors: bondolpatriot@gmail.com

DOI: <https://doi.org/10.55299/jsh.v4i1.1398>

Article history: Received June 12, 2025: Revised July 05, 2025: Accepted July 15, 2025

Abstract

This paper discusses the application of the economic system in the Republic of Indonesia within the context of international trade and free trade from the perspective of legal justice, which is, of course, based on Pancasila and the 1945 Constitution (UUD 1945). Considering the abundance of legislative products up to their organic regulations, there has been, normatively, no visible equitable distribution of outcomes, especially in the provinces, cities, and regencies in Indonesia that serve as sources of natural resources. Therefore, this paper becomes significant to present. International trade and free trade, which have been widely recognized for many years, carry a rather proud and somewhat exclusive impression. However, when compared to the implementation of the existing and prevailing laws and regulations, they still appear to be mere spectacles. This study employs a normative juridical method, which emphasizes the analysis of various laws and regulations, as well as academic writings such as theses, dissertations, and journals related to the topic.

Keywords: *Indonesia's economic system, international trade, free trade, justice*

INTRODUCTION

We often hear and generally understand that the term "classical" tends to imply something old-fashioned and/or from the past, while "modern" refers more to the present or current era. This also relates to certain products and policies that either follow past trends or align with contemporary developments. The term "system," on the other hand, refers to a method and/or mechanism.

Various problems often arise in the attempt to "anticipate" the development of classical economic systems versus modern economic systems. This is especially evident in developing countries like Indonesia, where fluctuations in the prices of essential consumer goods such as fuel (BBM) and, more recently, cooking gas frequently occur. In one province in particular, Papua, which is rich in natural resources, the "economic map" still remains unclear at the provincial, municipal, and regency levels, especially regarding the overall economic condition of the region.

Capitalist, socialist, and mixed economic systems differ fundamentally in terms of ownership of the means of production, market mechanisms, the role of government, economic goals, and individual freedom. Each system offers its own advantages and challenges. Capitalism promotes innovation and growth but is prone to inequality. Socialism prioritizes equity and social justice but tends to be less efficient. A mixed economy seeks a balance between efficiency and equity, although its implementation can be complex.

Indonesia is fortunate to have a global outlook rooted in the fundamental philosophy of Pancasila, which encourages a people-centered economy. Although this has not been fully implemented particularly concerning justice, as outlined in the fourth principle of Pancasila: “Democracy guided by the inner wisdom of deliberation among representatives” it still provides a foundational framework.

Trade does not always proceed fairly. This may be due to factors such as national interest protection like safeguarding domestic businesses and the economy or anti-competitive behavior, such as dumping. Dumping refers to the practice of selling goods in foreign markets at prices lower than those in domestic markets (normal prices). This has occurred since the rise of international trade and represents a form of price discrimination aimed at maximizing profit.

International trade and free trade are always associated with agreements. For Indonesia, such agreements are based on the provisions of the Civil Code (KUH Perdata), which regulates contracts and obligations as emphasized in Book III of the *Burgerlijk Wetboek* (BW) and extends into the realm of commercial law. The legal basis for trade agreements is primarily derived from the Civil Code, especially the sections regulating general agreements. Although the term “trade agreement” is not explicitly defined in the Civil Code, its concept is covered under various articles concerning the validity of agreements, legal consequences of breach of contract, and so forth. Trade agreements are mainly characterized by their commercial or economic objectives, as opposed to personal or social purposes.

International trade involves activities conducted by governments or individuals through mutually beneficial exchanges of goods and services. In practice, it is often carried out by individuals or businesspersons who seek profits while observing the trade policies of the countries involved. Meanwhile, according to the Indonesian Wikipedia, free trade is defined as a policy in which governments do not discriminate between imports and exports. Citizens of every nation need their governments to address their basic daily needs that are increasingly influenced by advancing technology. The ease brought by such technological progress inevitably impacts both international and free trade.

Article 33 of the 1945 Constitution of the Republic of Indonesia outlines the characteristics of the nation’s economy. These include: kinship as the fundamental principle of Indonesia’s economic democracy; the vital role of the state in managing key economic resources; the prioritization of people’s welfare over individual or group prosperity; a prohibition on individual or exclusive control of natural resources thus rejecting monopolies, oligopolies, and cartels; and the support of the economy through cooperatives, state-owned enterprises (BUMN), regionally-owned enterprises (BUMD), and privately-owned businesses (BUMS), which together aim to realize economic democracy based on market mechanisms, government intervention, and individual property rights. The spirit of Article 33, grounded in social ideals, places the control of key resources such as natural resources under state authority. Principles such as inclusiveness, equitable efficiency, sustainability, environmental awareness, independence, and a balance between progress and national unity must be upheld by all economic actors in Indonesia.

A concrete example of this is revenue sharing from natural resources (such as coal, gold, nickel, etc.) in certain provinces. This can be analyzed based on per capita income generated and returned from these resources, as well as the geographic location of these natural resources.

Indonesia adopts a mixed economic system known as the Pancasila economy. This is a hybrid of market economy and command economy. Since the reform era, Indonesia has undergone significant transformation in economic liberalization and increased private sector participation in various economic sectors. Communities outside of state-owned and private enterprises still have opportunities through cooperatives economic organizations built on kinship principles. Groups in society can form cooperatives as business entities to participate in the economy.

Even within the global market economy, it remains possible for each country to apply an economic system suited to its development needs. Whether it be classical, modern, capitalist, or socialist, the implementation of any economic system is always based on the specific needs, capabilities, and resources of the country in question.

International and free trade today are not always seen as priorities, as some governments prefer to focus on diplomatic relations tailored to inter-state needs especially those of proactive nations.

RESEARCH METHOD

The writing of this journal adopts a normative juridical research approach. The study is based on the analysis of several fundamental laws and related organic regulations relevant to the topic. This type of legal research, conducted through the examination of secondary data from literature sources, is commonly referred to as normative legal research or library research. The term "juridical research" refers to the examination of legal aspects grounded in statutory regulations, while "normative research" involves legal inquiry aimed at identifying legal norms and doctrines in order to address specific legal issues. This study also incorporates established legal theories to reinforce the arguments presented throughout the paper.

The research methodology includes two main techniques. First, the analysis of various laws and regulations, academic theses, journal articles, and a range of online sources such as the Kamus Besar Bahasa Indonesia, Wikipedia, encyclopedias, and observable social phenomena related to legal events available on the internet. Second, document analysis is carried out by collecting research data that is not directly obtained from the research subjects.

RESULT & DISCUSSION

In the era of globalization in the international world, several countries implement various economic systems, such as classical, modern, capitalist, and socialist systems, which have been or are currently practiced globally. However, generally speaking, Indonesia adopts a people-centered economic system guided by the national philosophy of Pancasila, with the hope of achieving justice for the Indonesian people.

In the Indonesian language, "adil" (just) means equal, impartial, and unbiased; while "keadilan" (justice) means the quality (act or behavior) of being fair, impartial, appropriate, and non-arbitrary. The definition of the concept of justice has evolved alongside human development. This evolution includes the paradigms and values embraced, so that justice may be interpreted differently depending on who defines it, when, where, and in what context.

Beginning from ancient times with the barter system, Indonesia has adjusted its economic practices in accordance with international economic developments, tailoring changes to the nation's own needs.

In academic studies, economics has been recognized as a discipline since the 18th century, precisely after Adam Smith published his book *An Inquiry into the Nature and Causes of the Wealth of Nations* in 1776. Adam Smith's fundamental economic thoughts were influenced by classical philosophers such as Socrates, Plato, and Aristotle. The concept of a people's economy is stated in Article 33 of the 1945 Constitution of the Republic of Indonesia:

- (1) The economy shall be organized as a common endeavor based upon the principle of family system;
- (2) Branches of production which are important for the country and affect the livelihood of the people shall be controlled by the state;
- (3) The land, waters, and natural resources within shall be controlled by the state and used for the greatest prosperity of the people;
- (4) The national economy shall be organized based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental awareness, independence, and by maintaining a balance of progress and national economic unity;
- (5) Further provisions regarding the implementation of this article shall be regulated by law.

Since the enactment of the 1945 Constitution, Indonesia has essentially entered a "transitional period" in its economic development. This transition toward restructuring and reform is inherent in the Constitution. The transitional mission of the 1945 Constitution is to shift from the old system, replace it, and create a new one in line with the ideals of the Constitution. During this period, cultural reform is required an intellectual revolution to move away from integralistic views and diminish capitalist values often justified by pragmatic arguments. Some argue for accelerating the transition period, while others believe it should be maintained temporarily to minimize conflict and enhance balance and harmony. The transitional period is deemed necessary to prevent Indonesia's commercial legal framework from drifting toward liberalism and capitalism before the realization of an economy based on economic democracy. However, others believe such arguments are inconsistent with the constitutional mandate, viewing them as pragmatic, non-ideological, and permissive. These critics call for the immediate realization of a principal Economic Law or a decree of the People's Consultative Assembly (MPR) that would articulate and address the crucial elements of Indonesia's Economic Democracy.

A critical study of such views remains difficult and may develop into a pattern of neglect that harms the Indonesian nation and state. Several key economic theories have shaped global economic evolution. Neoclassical theory, derived from classical economics, emphasizes the importance of free markets and private ownership in managing the economy. Neoclassical economics laid the foundation for capitalism, positioning free markets and private property as the main drivers of economic progress. While this enables significant growth, it also results in inequality. In contrast, socialist ideologies stress collective ownership of resources and more

equitable distribution. This system seeks to reduce the disparities produced by capitalism, though its practice varies greatly and often includes both market planning and market elements.

The Theory of Dignified Justice, as a legal theory, is a philosophical legal system directing all norms and principles within substantive legal disciplines. These disciplines involve a network of interrelated values found in various norms and principles that inherently contain virtues interconnected and mutually reinforcing. In practice, however, existing and historical economic systems often tend toward benefiting certain capital holders, thus neglecting legal regulations. As a result, economic systems are frequently implemented based on narrow interests. In Indonesia, several court decisions (including those of the Constitutional Court) have repeatedly disregarded existing legal statutes in practice. Even legislation itself often does not align with the economic interests of the Indonesian nation.

Lawmakers, enforcers, and overseers namely the Legislature, Executive, and Judiciary (Trias Politica) do not always perform thorough field analyses in executing their duties. This may be due to a centralized system of governance, where reports from provinces or regions are taken at face value. Therefore, classical, modern, capitalist, and socialist economic systems are no longer deemed essential.

As stated in Article 1 Paragraphs (5) and (6) of Law No. 22 of 2001 concerning Oil and Gas:

Paragraph (5): Mining authority is the power granted by the State to the Government to carry out exploration and exploitation activities.

Paragraph (6): General Survey refers to field activities including the collection, analysis, and presentation of geological data to estimate the location and potential of Oil and Gas resources outside the Working Area.

Normatively, international trade especially when combined with free trade can be mutually beneficial to countries involved, yielding significantly positive outcomes.

The ASEAN Free Trade Agreement (AFTA), established in 1992, aimed to eliminate tariffs and other trade barriers among ASEAN member countries. This initiative is expected to foster regional economic integration and increase trade among members.

Government regulations on free trade are outlined in Regulation of the Minister of Trade of the Republic of Indonesia No. 20/M-DAG/PER/7/2011, which amends Ministerial Regulation No. 45/M-DAG/PER/9/2009 concerning Importer Identification Numbers (API). Historically and ideologically, the Republic of Indonesia inherited the idea of economic democracy primarily from the thoughts of Muhammad Hatta. According to Hatta, political democracy must be accompanied by economic democracy. Without freedom, equality, and brotherhood, democracy is incomplete. Therefore, Indonesia's democratic ideal is social democracy that encompasses all life domains influencing human destiny.

Law No. 20 of 2008 concerning Micro, Small, and Medium Enterprises (MSMEs) also defines net wealth limits as follows:

- 1) Having net assets over IDR 500,000,000 (five hundred million rupiah) up to a maximum of IDR 10,000,000,000 (ten billion rupiah), excluding land and buildings used for business; or
- 2) Having annual sales revenue exceeding IDR 2,500,000,000 (two billion five hundred million rupiah) up to a maximum of IDR 50,000,000,000 (fifty billion rupiah).

This raises the question of whether the provisions of Article 1 Paragraphs (5) and (6) of Law No. 22 of 2001 and Law No. 20 of 2008 regarding MSME wealth limits have truly undergone thorough assessment and formulation consistent with classical, modern, capitalist, or socialist systems currently or formerly in use. This concerns the implementation efforts expected by the public (especially in the operational areas) and the joint evaluations conducted by the central and regional governments. Bilateral and multilateral relations also serve as catalysts for “testing” various economic systems in different countries, particularly when linked to political interests.

In its ruling on Case No. 002/PUU-I/2003 regarding the judicial review of Law No. 20 of 2002 on Electricity, the Constitutional Court annulled the entire law one of the rare instances in which the court invalidated an entire statute. The Court granted the petitioners' request and declared the law contrary to the 1945 Constitution and thus null and void.

Because electricity production must be controlled by the state, the Constitutional Court had to consider two key issues: first, that competitive electricity business operations treating all enterprises equally, and second, operations carried out by unbundled entities, contradict the 1945 Constitution.

It is clearly evident that there are still certain interests among lawmakers that are tied to the economic system in Indonesia. Electricity has now become a basic necessity in running economic systems within the international arena. The positive impact of electricity demand in a country significantly contributes to the annual increase in per capita income.

Regardless of the economic system being used be it classical, modern, capitalist, or socialist, which have been or are currently being practiced globally the essential element that needs to be analyzed is solely the welfare of the nation and the state in the future.

Many countries in the international community still adopt certain doctrines and/or ideologies in international trade and free trade, such as religious doctrines and/or ideologies, communism, or specific cultural values. As a result, implementation often encounters obstacles. Initially, there may be a genuine desire to improve a country's economy, but such efforts often end up being marred by bribery to facilitate business and/or trade in the context of international and free markets.

As an ideological instrument, free markets rely on the marginalization of the state's role as a welfare function, leading to a series of threats to human security. The absence of state protection results in a lack of control over vulnerable groups, giving rise to l'exploitation de l'homme par l'homme (the exploitation of man by man), with social structures used as driving tools. Poverty and famine in Ethiopia serve as a compelling example of this issue. Climate, weather, and land are often scapegoated for these chronic problems. Fundamentally, the false promises of prosperity from free markets are the root cause.

The Republic of Indonesia has enacted Law Number 7 of 2014 on Trade, established on March 11, 2014. This law outlines key trade-related matters within the regulatory scope, including domestic trade, foreign trade, border trade, standardization, electronic trade systems, trade protection and safeguards, empowerment of cooperatives and Micro, Small, and Medium Enterprises (MSMEs), export development, international trade cooperation, trade information systems, governmental authority in the trade sector, national trade committees, supervision, and investigation.

One of the free ports referred to in Law Number 7 of 2014 is Batam and the surrounding islands that are still part of the Batam area. Batam has been designated as a Free Trade Zone (FTZ) and is located on the frontlines of national borders, competing head-to-head with FTZs in other countries. Therefore, Batam's FTZ must have high flexibility and rapid production processes. This can only be achieved if Batam's FTZ has autonomy in its governance while still accommodating domestic interests, such as involving MSMEs in its production chain.

According to Article 1 of the Government Regulation of the Republic of Indonesia Number 46 of 2007 concerning the Batam Free Trade Zone and Free Port:

- (1) Through this Government Regulation, the Batam area is designated as a Free Trade Zone and Free Port for a period of 70 (seventy) years from the date this regulation takes effect.
- (2) The Batam Free Trade Zone and Free Port as referred to in paragraph (1) includes Batam Island, Tonton Island, Setokok Island, Nipah Island, Rempang Island, Galang Island, and New Galang Island.

The fixed boundaries and coordinate points of the area mentioned in paragraph (2) are detailed in the attached map, which forms an integral part of this Government Regulation. This also becomes one of the benchmarks for policymakers (in this case, the government) in any country: that classical, modern, capitalist, or socialist economic systems that have been or are currently in effect should aim for the welfare of the people within that country.

The reality shows that this ideal society has not yet been achieved, and the law has not been able to provide a proportional contribution. Law, as a reflection of values, can only function when there is a shared perception of measurement standards that apply equally to and are accepted by all. Economic welfare and justice can be achieved if all stakeholders in this nation have the same benchmarks and value standards, namely Pancasila, which also serves as an ethical and moral compass for the nation.

Thus, the state must take an active role in directing the economy to achieve: (1) economic growth while maintaining (2) currency stability (avoiding inflation), and ensuring (3) low unemployment rates and (4) a balanced foreign trade balance. By adopting policies that equitably support these four national economic goals, Indonesia has thus far succeeded in avoiding severe modern market economy crises.

The enactment of Government Regulation of the Republic of Indonesia Number 46 of 2007 on the Batam Free Trade Zone and Free Port is something we should be proud of as Indonesian citizens, as it shows that international trade and free trade development have been well accommodated by the Indonesian government. Moving forward, monitoring the implementation in the field must also be the responsibility of the Indonesian government,

because in reality, Batam City remains merely a port city. There is a perception that Batam is only being used as a Free Port area, without contributing to per capita income and physical development in the region.

The Government Regulation of the Republic of Indonesia Number 46 of 2007 has also been reinforced by its organic regulation, namely the Regulation of the Head of the Batam Free Trade Zone Management Agency Number 10 of 2011, which came into effect on September 21, 2011.

According to Adolf, an international contract is one that involves foreign elements. These foreign elements may include parties with different nationalities. The concept of free market competition underpins the mechanism of the free market. According to Adam Smith, the free market mechanism acts as the invisible hand, a mysterious force that indirectly creates societal welfare. This welfare is achieved when individuals are free to develop their potential. Hence, the individual becomes the center of economic activity. Individuals are seen as autonomous social beings separate from society, whose existence serves to maximize profit by utilizing technology, human resources, natural resources, and the environment.

It is also necessary that international trade, which spans across countries and involves free trade, be linked to internationally minded customs authorities, particularly to ensure product quality standards and internationally recognized safety.

CONCLUSION

Indonesia, known as a developing country, remains composed of various sizeable groups united under the umbrella of "political interests." These groups exert control over several elements of the economic system across different regions (provinces, cities, and regencies), and deviations from both regional and national policies continue to occur especially in the context of international trade and the global free market system. This situation remains difficult to comprehend, particularly regarding the active role of the government (both central and regional) in implementing true justice as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia, along with the prevailing statutory regulations.

The shift from a centralized system of governance to one of decentralization, in practice, appears to be more theoretical than operational. This is evident in the real-world conditions of economic system implementation, as well as in Indonesia's participation in international trade and the global free market. One of the most pressing issues lies in the weak control mechanisms, despite the fact that existing regional regulations could serve as a normative legal framework or "legal umbrella."

The distribution of profits from international trade and free market activities is normatively governed by two general legal principles in international business contracts:

(1) The principle of freedom of contract

This principle allows parties to freely determine the contents and obligations set forth in an international business contract. While parties are granted freedom to determine these obligations, they must still consider applicable sources of international contract law.

(2) The principle of national legal supremacy/sovereignty

Within the context of private law, parties are also given the freedom to choose the applicable law (choice of law). Unlike domestic business contracts, international business contracts usually require both parties to first agree on a choice of law, thereby submitting themselves to the national law of one of the parties involved.

Before drawing conclusions, it is necessary to underscore a critical aspect of the legal and economic mechanisms in place. This contract mechanism also signifies a shift in profit-sharing arrangements from a profit and loss sharing system to a revenue sharing system implying a transformation from risk-bearing to risk-free participation. Even though the exact amount of profit cannot be determined in such mechanisms (unlike interest, which is a clearly defined percentage of return based on the capital invested), the system still functions within legal boundaries.

Therefore, the Indonesian government's intervention particularly in its role as a regulatory and supervisory body should be conducted in an educative and constructive manner. This would ensure that the future of the Indonesian nation operates in synergy, aligning domestic and international economic actors (whether individuals or groups) with Indonesia's national vision, especially in upholding genuine justice in economic practice.

REFERENCES

- Acemoglu, D., Johnson, S., & Robinson, J. A. (2005). Institutions as the fundamental cause of long-run growth. In *Handbook of Economic Growth* (Vol. 1A, pp. 385–472). Elsevier.
- Alston, L. J., & Mueller, B. (2016). *Institutions and Development*. World Scientific Publishing.
- Arrow, K. J., & Debreu, G. (1954). Existence of an equilibrium for a competitive economy. *Econometrica*, 22(3), 265–290. <https://doi.org/10.2307/1907353>
- Barro, R. J., & Sala-i-Martin, X. (2003). *Economic Growth* (2nd ed.). MIT Press.
- Basu, K. (2018). *The Republic of Beliefs: A New Approach to Law and Economics*. Princeton University Press.
- Becker, G. S. (1976). *The Economic Approach to Human Behavior*. University of Chicago Press.
- Chang, H. J. (2002). *Kicking Away the Ladder: Development Strategy in Historical Perspective*. Anthem Press.
- De Soto, H. (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. Basic Books.
- Dixit, A. (2004). *Lawlessness and Economics: Alternative Modes of Governance*. Princeton University Press.
- Easterly, W. (2006). *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good*. Penguin Press.
- Estlund, D. (2008). *Democratic Authority: A Philosophical Framework*. Princeton University Press.
- Greif, A. (2006). *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. Cambridge University Press.
- Hayek, F. A. (1944). *The Road to Serfdom*. University of Chicago Press.
- Hirschman, A. O. (1977). *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph*. Princeton University Press.
- Krugman, P., Obstfeld, M., & Melitz, M. (2018). *International Economics: Theory and Policy* (11th ed.). Pearson.
- Landes, D. S. (1998). *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor*. W. W. Norton & Company.

- Lin, J. Y. (2012). *New Structural Economics: A Framework for Rethinking Development and Policy*. World Bank.
- Mazzucato, M. (2018). *The Value of Everything: Making and Taking in the Global Economy*. PublicAffairs.
- Piketty, T. (2014). *Capital in the Twenty-First Century*. Harvard University Press.
- Sachs, J. D. (2005). *The End of Poverty: Economic Possibilities for Our Time*. Penguin Books.