

## THE PRINCIPLES OF INDONESIAN POLITICAL PARTIES IN THEORY OF HIERARCHICAL STRUCTURE OF LEGAL NORMS

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### ABSTRACT

*Regulation of political parties in Indonesia initially was not a particular concern in Constitution of the Republic Indonesia because before the amendment of the 1945 Constitution there is no article governing political party in Indonesia's Constitution. Since the third amendment of constitution in 2001, political parties became one of important as pecton the development of Indonesia and also recognized in the Constitution 1945. Unfortunately recognition upon political party unequal with understanding and implementation of political laws especially related to the principle of political parties. Principle is basic in politics of political party that must in line with Indonesia vision. The development of provisions on principle of political party always follows the political configuration on current time. Based on article 9 paragraph (1) Law of Number 2 Year 2011 on the Amendment of Law Number 2 Year 2008 on Political Parties stated that the principle of political parties should not be contradictory to Pancasila and the Constitution 1945, this provision leads to problems on Indonesia legal structure one of it is inconsistency of norms in the Political Party Law.*

**Keywords:** Principles, Political Parties, Norm Hierarchy

### INTRODUCTION

One of reflection of democracy in a modern political system is by conduct elections. Constitution 1945 which enacted on 18 August 1945 and had four amendments by year 1999, 2000, 2001 and 2002 has known electoral system to elect the President, Vice President, Members of High Council (DPD), Members of the House of Representatives (DPR), Members of Regional House of Representatives (DPRD), as well as elections of Regional Heads which are regulated subsequently by law. From several elections stated only election of Member of DPD that not involving political party, since election of Member of DPD must from the respective representatives of each region in Indonesia. The other election shall involve a representative or a coalition of political party, while election of regional heads regulates allow individual, political party or a combination of political parties.

Related to political parties, the law governs all political parties have to have principles and specific features as long as in line with Pancasila and Constitution 1945. Article 9 paragraph (1) Law Number 2 of 2011 on the Amendment of Law Number 2 of 2008 on Political Parties stated; The principles of political parties shall not be contradictory to the Pancasila and the Constitution 1945, and further in paragraph (2) stated; Political parties may include certain characteristics which reflect vision of political parties that are not contradictory to Pancasila and Constitution 1945. Scholar Jimly Asshiddiqie said that the existence of Pancasila as a state philosophy or *staatsidee* that applied as *philosofische grondslag* and *common platforms* or *kalimatun sawa* among citizens in the context of living state in the agreement to support constitutionalism shows the essence of Pancasila as an open ideology.<sup>1</sup>

Pancasila as *staatfilosofie* or *weltanschauung* and *lebenanschauung*; then as ideology that is as a set of ideas (series of ideals and ideas) of Indonesia. After becoming an ideology, the Pancasila was again established as the basis of the State as the implementation of its ideals and ideas, and implemented by the politics of the State as the legal basis. In practice, redefinition, reinterpretation and revitalization of Pancasila values are inevitable. The position of Pancasila as *staatfilosofie* or *weltanschauung*, and *lebenanschauung*, ideology and legal basis continue to change through the practice of state politics or behavior of the community. The different position of Pancasila is proof that Pancasila has an important role in the socio-historical practices of the Indonesian nation.<sup>2</sup>

Pancasila as proposed by Soekarno is reflection of Indonesia's culture. From his speech on June 1, 1945, Soekarno explained vision that he presented is from the Indonesian nation;<sup>3</sup>

"What I am working on is just mefermuleer the feelings that are in the people's circles with a few words, which I call Pantja Sila.... I just dig in the earth of Indonesia and get five diamonds... I dig in the Indonesian people, and I see in the

<sup>1</sup>Jimly Asshiddiqie, "Ideologi, Pancasila dan Konstitusi", [Http://Www.Jimly.Com/Makalah/Namafile/3/Ideologi\\_Pancasila\\_Dan\\_Konstit\\_Usi.Doc](http://Www.Jimly.Com/Makalah/Namafile/3/Ideologi_Pancasila_Dan_Konstit_Usi.Doc), accessed on Maret 2017

<sup>2</sup>Bello Petrus C.K.L., 2013, *Ideologi Hukum Refleksi Filsafat Atas Ideologi Dibalik Hukum*, Bogor, Insan Merdeka, page 99

<sup>3</sup>Ibid

heart of the Indonesian nation lives five feelings... The customs of the ethnic groups that are reflected in the customary institutions, the people of Indonesia since the ancient times ... In indigenous society, the rights of possessions are limited by the help of mutual help, sacrifice and tribe of yours. There is a spirit of social justice which is the basis for the arrangement of the division of land which the democratic stance deals with by permusjawaratan. Peaceful life..."

From all the above definitions, it has been agreed that all kinds of religious, ethnic, and cultural differences have been put together by a common ideology called Pancasila since 1945 until now, without necessarily making a difference as a certain status or even ideology, except in the five principles of Pancasila. The five principles of the Pancasila are:

1. Belief In The One And Only God
2. A Just And Civilized Humanity
3. A Unified Indonesia
4. Democracy, led by the Wisdom Of The Representative Of The People
5. Social Justice For All Indonesian

The five principles above are the foundation of the entire life of Indonesia. Pancasila as ideology of Indonesian has differences with the system of capitalism, liberal and socio-communism. Pancasila recognizes and protects the rights of individuals and the rights of the people both in the economic and political.<sup>4</sup>

The five principles of Pancasila are then outlined in the preamble of 1945 Constitution, in the fourth paragraph as follows:

"Indonesia's National Independence shall be laid down in a Constitution of the State of Indonesia, which is to be established as the State of the Republic of Indonesia with sovereignty of the people and based on the belief in the One and Only God, on just and civilized humanity, on the unity of Indonesia and on democratic rule that is guided by the strength of wisdom resulting from deliberation / representation, so as to realize social justice for all the people of Indonesia."

In case of the obligation of a political party to have the principle of a political party as long as it is not contradictory to

Pancasila and the 1945 Constitution, the authors shall examine by elections in 2014, with the number of political parties being as many as 15 political parties. The provisions of political party law to permit the principle of political parties as long as they are not contradictory to Pancasila and the 1945 Constitution, are ultimately interpreted by various political parties, and are subject to multi-principle and multi-interpretive norms. The problematic which then arises is how the stand of principle of political parties in the hierarchy of Indonesia norms legislation.

## DISCUSSION

From the terminological side, the term "Party" brings the idea of part. The term "part" entry into the French *partager* language, which means to divide and enter the English language "Partaking", means hold partnerships and participate.<sup>5</sup>

Political parties are a means for citizens to participate or participate in the process of managing the State. In general it can be said that a political party is something organized group whose members have the same orientation, values, and ideals. The purpose of this group is to gain political power and seize the political position (usually) in a constitutional way to carry out its program.<sup>6</sup>

### 1. Political Parties in the 1945 Constitution

As has been pointed out, the Indonesian state from the outset did not question the political parties in the Constitution of the Republic of Indonesia. In the 1945 Constitution before the amendment was not found any article that regulates the political party. Whereas before the independence of Indonesia, the political party had become one of the containers of the Indonesian people at that time to fight and defend the Republic of Indonesia.

The establishment of Islamic Union (SI) and Boedi Utomo, which was originally non-political oriented, became an important thing that later fostered political parties, according to Dhakidae, SI can be regarded as the embryo of modern parties in Indonesia, mainly because of the wide range that is out of the ethnic line and races made possible by religion. In the meantime *Indische Partij* / IP (1912) opened a new horizon wider than SI, because IP opened itself to all people who consider the land of Hindia Dutch as their homeland, regardless of race and color and including religion.<sup>7</sup>

Political Party was originally born during the Dutch colonial era as a trigger of national awakening nation awareness of Indonesia. In the colonial period all organizations of its form however, such as the form of organization with the aim of:<sup>8</sup>

- 1) Education and Social  
- Budi Utomo (1908) and Muhammadiyah (1912)
- 2) Principles of Politics and Religion

<sup>4</sup>Jimly Asshiddiqie, 2008, *Menuju Negara Hukum Yang Demokratis*, Jakarta, Sekretariat Jendal and Kepanitraan Mahkamah Konstitusi, page 10

<sup>5</sup>Sigit Pamungkas dalam buku Sirajudin & Winardi, 2015, *Dasar-Dasar Hukum Tata Negara Indonesia*, Malang, Setara Press, page 283.

<sup>6</sup>Miriam Budiardjo, 2012, *Dasar Dasar Ilmu Politik Cetakan Kedua*, Jakarta, PT. Gramedia Pustaka Utama, page 397

<sup>7</sup>Daniel Dhakidae dalam Buku: Sirajudin & Winardi, *Op.Cit.*, page 288

<sup>8</sup>Soelistiyati Ismail, 1987 *Pengantar Ilmu Politik*, Jakarta, Ghalia Indonesia, page 119

- Sarikat Islam (1911) and the Catholic Party
- PNI (1927)

In 1918 the Dutch established the *Volksraad* which functioned as a representative body. There are several parties and organizations that take advantage of the opportunity to move through this body (called *ko*, but others refuse to enter in it called *non ko*). From 38 members, except one from Dutch as chief, there are only 15 Indonesians which 6 members of Budi Utomo and Serekat Islam. Composition changed in 1931 when accepted the principle of "indigenous majority", so that from 60 members there are 30 indigenous people. The most important Indigenous factions in the *Volksraad* include the Indonesian National Fraction (FRANI) which is a combination of several factions, among them Parinda and *Bestuur* Bumi putra Employees Association (PPBB). The chairman of the *Volksraad* remains a Dutchman.<sup>9</sup>

While the political parties in the early post-independence period has a base of the period mobilized through the establishment of support organizations covering all sectors: age, profession or employment.<sup>10</sup> Islam manifests it self in Masyumi which is also influenced by socialism-democratic and Nahdlatul Ulama (NU). Democratic socialism manifested itself in the Indonesian Socialist Party (PSI), while Communism embodied in the Indonesian Communist Party (PKI). Javanese traditionalism is the only one that does not manifest itself concretely in the form of a party despite participating in some PNI followers.<sup>11</sup>

Prior to Indonesian independence, there had been considerable movement of organizations and/ or political parties as a platform for the struggle of the Indonesian people, but it did not mean that political parties were important in the life of Indonesian governance, as evidenced by the exclusion of the word "political party" the establishment of the constitution / 1945 Constitution.

Until the end of Soeharto's regime, with several rounds of amendment at the Reformation, then the political parties to put in some of the 1945 Constitution. The article amendment to include the words of political parties are:

- 1) Article 6A Paragraph (2) of the 1945 Constitution, which reads: "The couple of candidates for President and Vice President are proposed by a political party or a coalition of political parties participating in general elections prior to the election".
- 2) Article 22E Paragraph (3) of the 1945 Constitution, which reads: "Participants of the general election to elect members of the People's Legislative Assembly and members of the Regional People's Legislative Assembly shall be political parties".
- 3) Article 24C Paragraph (1) of the 1945 Constitution that one of the authorities of the Constitutional Court is to decide the dissolution of political parties

The third article above which contains the political parties are both done at the time of the third amendment in 2001. The desire to include articles on political parties is not directly acceptable to all parties. On the results of Muchamad Ali Safa'at's dissertation, entitled, "The Dissolution of Political Parties in Indonesia (Analysis of Legal Arrangements and Practices of Political Parties Dissolution 1959-2004) found that.<sup>12</sup> First; provision Article 6A paragraph (2) in the meeting formulation is not the only option, but there is a second alternative, and selection is done by the Assembly, and the changes will be approved in the changes in 2001, became as in Article 6A paragraph (2). The second related article 22E paragraph (3), is the result of the debate that whether the related political party will be made a separate *headings* or *subheading* of the provisions of the general election, from various opinions that exist, even from one member of Soedijarto proposed a verse (3) : "The political parties participating in the general election must really be a manifestation of the political will of the people and represent the aspirations of the interests of the people from all walks of life". While the provision is derived from the Constitution of Germany, in the meeting later reached an agreement that the political party associated with the provisions in the chapter of elections is limited to political parties as participants of the general election, with the not official provisions of political parties to be specifically regulated so that the result with the inclusion of political parties to in article 22E paragraph (3) as it is today. The three articles 24C paragraph (1), the authority is proposed by the *Ad Hoc* Committee Expert Team 1 BP MPR at the 19th Plenary Meeting of the *Ad Hoc Committee of BP MPR*, which has always been a part of the discussion on the Constitutional Court as one of the judicial authorities.

## 2. Principles of Political Parties Based on the 2014 General Election

In the last elections of 2014, political parties participating in the democracy party were 15 political parties, consisting of 12 National Parties and 3 local parties in Aceh. The 2014 election results were won by 10 political parties including: PDIP, Golkar, Gerindra, Demokrat, Amanat Nasional party, Kebangkitan Bangsa party, Keadilan Sejahtera party, Nasdem, and Hanura. While Bulan Bintang Party, Keadilan and Persatuan Party, as well as three local Aceh parties such as Damai Aceh Party, Nasional Aceh Party and Aceh Party did not meet the threshold of vote acquisition as stated in Article 208 of Law Number 8 Year 2012 on General Election, that political parties must fulfill 3.5 percent of the national legitimate votes, and then through the decision of the Constitutional Court the article only applies to elections to the House of Representatives only.

<sup>9</sup>Miriam Budiardjo, Op, Cit, page 423

<sup>10</sup>Affan, 2002, *Politik Indonesia Transisi Menuju Demokrasi*, Yogyakarta, Pustaka Pelajar, page 127

<sup>11</sup>Arif Budiman, dkk, 1999, *Memilih Partai Mendambakan Presiden Belajar Berdemokrasi Di Ufuk Milinium*, Bandung, PT Remaja Roddakarya, page 95

<sup>12</sup>Muchamad ali safa'at, 2009, *Pembubaran Partai Politik di Indoensia; Analisis Pengaturan Hukum dan Praktik Pembubaran Partai Politik 1959-2004* (Disertasi), Universitas Indonesia, page. 242

While the ranking of votes of political parties based on vote acquisition Legislative elections in 2014, namely:<sup>13</sup>

1. PDI Perjuangan : 23.681.471 (18.95 percent)
2. Golkar party : 18,432,312 (14.75 percent)
3. Gerindra : 14,760,371 (11.81 percent)
4. Demokrat : 12,728,913 (10.19 percent)
5. PKB : 11,299,957 (9.04 percent)
6. PAN : 9.481.621 (7.59 percent)
7. PKS : 8,480,204 (6.79 percent)
8. Nasdem : 8,402,812 (6.72 percent)
9. PPP : 8,157,488 (6.53 percent)
10. Hanura : 6,579,098 (5.26 percent)

The political parties that do not meet the threshold of votes in the legislative elections of Parliament (*parliamentary threshold*) are:

1. PBB : 1.825.750 (1.46 percent)
2. PKPI : 1.430.894 (0.91 percent)

The following are symbols, names of political parties and political party principles based on statutes of political parties participating in election democracy parties in 2014.

No	Symbol of Political Parties	The Name of Political Party	Principle of Political Party
1.		Nasional Demokrat Party/ NasDem	Article 2 of Party Articles Association NasDem Party is based on Pancasila.
2.		Kebangkitan Bangsa Party/ PKB	Article 3 of Party Articles Association based on the One Godhead, a just and civilized humanity, Indonesian unity, Democracy led by policy wisdom in deliberation / representation and social justice for all Indonesian people.
3.		Keadilan Sejahtera Party / PKS	Statutes of Party Article 2 (1) a party based on Islam and (2) a party characterized by a clean, caring, and professional.
4.		Demokrasi Indonesia Perjuangan Party/ PDIP	Article 5 of Party Articles of Association, The Party based on Pancasila as set forth in the Preamble of the 1945 Constitution of the Republic of Indonesia in accordance with its spirit and spirit on June 1, 1945.
5.		Golkar Party	Article 5 of Party Articles of Association, GOLKAR Party is based on Pancasila.
6.		Gerindra Party	Article 5 of Party Articles of Association, Gerindra Party is based on the principles of Pancasila and the 1945 Constitution.
7.		Demokrat Party	Article 2 of Party Articles of Association, Principles of the Demokrat party based on Pancasila.
8.		Amanat Nasional Party/ PAN	Article 3 of Party Articles of Association, the principle of PAN is based on Pancasila.
9.		Persatuan Pembangunan Party/ PPP	Article 2 of Party Articles of Association, PPP is based on Islam.
10.		Hati Nurani Rakyat Party / HANURA	Article 11 of Party Articles of Association, the principle of the Party is based on Pancasila.

<sup>13</sup>[Http://Www.Tribunnews.Com/Pemilu-2014/2014/05/10/Hasil-Pemilu-Legislatif-2014-Pdip-Menang](http://Www.Tribunnews.Com/Pemilu-2014/2014/05/10/Hasil-Pemilu-Legislatif-2014-Pdip-Menang), accessed on 14.00 pm 29 Mei 2017

11.		Bulan Bintang Party / PBB	Article 3 of Party Articles of Association, this Political Party Principle is based on Islam.
12.		Keadilan and Persatuan Indonesia Party / PKPI	Article 4 of Party Articles of Association, the principle of PKPI is based on Pancasila as set forth in the Preamble 1945 Constitution
13.		Damai Aceh Party	The principle of PDA is based on Islam, Ahlus Sunnah wal Jama'ah 'Itiqadan, Syafi'i' Amalan School
14.		Aceh Party	Article 3 of Party Articles of Association that the principle of party is based on Pancasila, 1945 Constitution, and Qanun Meukuta Alam Al-Arsyi
15		Nasional Aceh Party	-

To know principle of a political party, the provisions are contained in Articles of Association each political party. Articles 1 paragraph (2) Law No. 2 year 2011 on the Amendment of Law No. 2 year 2008 on Political Parties, said that the Articles of Association of Political Parties, here in after referred to as AD, is the Basic Regulation of Political Parties.<sup>14</sup>Therefore, the Articles of Association in political parties serve as the basis for the rules of political parties to run the movements in political parties, meaning that political parties in carrying out any policies and travel should not be contrary to the political party's articles of association.

Based on the articles of association of 15 political parties above it is found that each political party has differences in the use of principles as the basis of political parties, including;

- 1) Gerindra is the only political party that makes the Pancasila and the UUD 1945 Constitution as the principle of political parties.
- 2) Nasdem Party, PKB, PDIP, Golkar, Demokrat, PAN, Hanura and PKPI only make Pancasila as the only principle of political party, without entering the 1945 Constitution as its principle. The Aceh party, in addition to making the Pancasila and the 1945 Constitution and incorporating the Qanun Meukuta Alam Al-Arsyi as the Aceh party principle known as the basic rule used in the former kingdom.
- 3) The rest of the party, PKS, PPP, PBB and Damai Aceh Party make Islam the principle of political party. The National Party of Aceh based on the unknown search of the basis of the principle of political parties.

### 3. The position of the Principle of Political Party in Nature Norm's Hierarchical Theory

In terms of the hierarchical theory of norms or the position of the structure of the rule of law, there are two opinions, namely (*stufentheorie*) of Hans Kelsen and the theory of legal norm level (*die theorie vom stufenordnung der rechtsnormen*) of Hans Nawiasky. Both theories have similarities and differences, The equation is; Both states that the norm is tiered and multilevel, in the sense that a norm is valid, sourced and based on the norms that exist on it, the norms on which it applies, are sourced and based on the above-mentioned norm again, and so on up to a supreme norm and cannot be traced back to source and origin, but are "pre-supposed" and "axiomatic". While the difference is:<sup>15</sup>

- 1) Hans Kelsen did not classify these norms, while Hans Nawiasky divides these norms into four distinct group.
- 2) Hans Kelsen's theory discusses the general level of norms in the sense that it applies to all levels of norm (including the legal norms of the state), while Hans Nawiasky discusses the theory of the level of norms more specifically, that is connected to a state.
- 3) In theory Hans Nawiasky mentions the basic norms of the country not with the title *staatsgrundnorm* but with the term *staatsfundamentalnorm*. Hans Nawiasky argues that the term *staatsgrundnorm* is not appropriate when used in calling the basic norms of the state, because the notion of *grundnorm* has a tendency to remain unchanged or fixed, where as in a country the basic norm may change at any time because of an insurrection, coup and etc.

Based on the theory of Nawiasky, A. Hamid S. Attamimi, compare it with Hans Kelsen's theory and apply it to the structure of Indonesian law. So Attamimi shows the hierarchical structure of Indonesian legal system using Nawiasky theory as follows:<sup>16</sup>

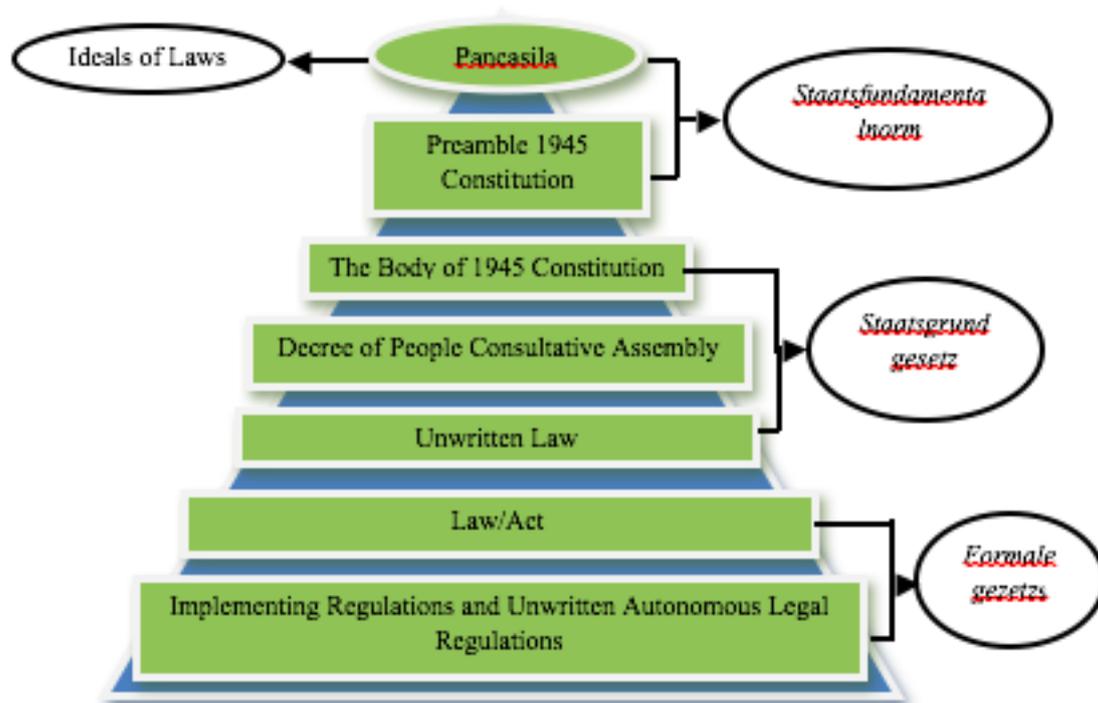
<sup>14</sup>Article 1 Paragraph 2 Law of the Republic of Indonesia Number 2 of 2011 on the Amendment of Act No. 2 of 2008 on the Political Parties

<sup>15</sup>Maria Farida Indrati, 2007, Ilmu Perundang Undangan Jenis, Fungsi dan Materi Muatan, Yogyakarta, Penerbit PT Kanisius, page 47-48

<sup>16</sup>Ria Casmi Arras, 2011, *Deideologi Pancasila*, Malang, Penerbit Universitas Brawijaya Press, page 116-117

- 1) *Staatsfundamentalnorm*: Pancasila (Preamble to the 1945 Constitution)
- 2) *Staatsgrundgesetz*: The body of the 1945 Constitution, the MPR Decree, and the constitutional convention
- 3) *Formell gesetz*: Act
- 4) *Verordnung en autonome satzung*: Hierarchically ranging from Government Regulation to Governor or Mayor's decision .

While the picture below explain Pancasila as the ideals of law and fundamental norms of the State, as described above.<sup>17</sup>



The picture above is a form of implementation of a tiered theory, implemented in the hierarchy of laws and regulations applicable in Indonesia, as set forth in Law No. 12 of 2011 on Reforming the Laws and Regulations of Invitation by placing Pancasila as the highest basis and ideals of the Indonesian state.

In the original article 9 of the Law of the Republic of Indonesia Number 2 Year 2011 on the Amendment of Law Number 2 Year 2008 on Political Parties, on the principles and characteristics, it is mentioned that:<sup>18</sup>

- 1) The Principles of Political Parties shall not be in conflict with Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.
- 2) Political Parties may include certain characteristics which reflect the will and ideals of Political Parties that are not contradictory to Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.
- 3) The principles and characteristics of Political Parties as referred to in paragraphs (1) and (2) shall constitute the elaboration of Pancasila and the 1945 Constitution of the State of the Republic of Indonesia

As the provisions of the aforementioned article, the principle of a political party shall not be contradictory to Pancasila and the 1945 Constitution , and if it is translated in hierarchy norm theory, the principle of Indonesian political party shall not be contradictory to *Staatsfundamentalnorm* as the legal aspect of Indonesia and *Staatsgrundgesetz* namely the body of the 1945 Constitution or the Constitution Republic of Indonesia. The question is whether the principle of the Indonesian political party has aligned the pyramid theory of the norm structure above.

In the author's research, it ends at a point of conclusion, namely by making changes to the provisions of article 9 of the political party law, in order to avoid multi-principle as in the previous sub-chapter and in order to avoid multiple interpretations on the norm, "The Principle of Political Parties may be in contravention of Pancasila and the 1945 Constitution of the State of the Republic of Indonesia ", which the authors shall discuss later.

<sup>17</sup>Ria Casmi Arras, *Loc.Cit.*

<sup>18</sup>Article 9 Law of the Republic of Indonesia Number 2 of 2011 on the Amendment of Act No. 2 of 2008 on the Political Parties

#### 4. Reconstruction Principles of Political Parties d i Indonesia

Legislation on political parties changed many times, as well as on political party principles. Furthermore, principle of political parties changes many times depending on the regime in rule at the time. Even when New Order led by Soeharto obligate a single principle policy, all political parties made Pancasila as the only political party principle.

Law of Political Parties states that principle of political party should not contradict with Pancasila and Constitution 1945. This is considered as norm inconsistencies between definitions, principles, objectives and obligations under the Law of Political Party. Norm inconsistencies between one with another articles have consequences in vertical inconsistency; incompatibility norm between the rule of laws, namely Pancasila and Constitution 1945 as described previously. So the inconsistencies are:

- 1) Inconsistency between *staatsfundamentalnorm* i.e. Pancasila with its rules of law namely the law, in this case is the law of political party. It is clear that the only vision of Indonesia as a state is stated in Pancasila, which is explicitly stated in fourth paragraph preamble of Constitution 1945. Consequences of state ideology as goal and legal basis of state are any rules govern about basis or foundation should be based on state ideology.
- 2) In case of objectives of political parties, as Article 10 paragraph (1) of the Political Party Law is<sup>19</sup> "To realize national ideals of Indonesia as referred to in the Preamble of Constitution 1945". Besides, mentioned about obligations of political parties in the law of political party that political parties are obliged to:<sup>20</sup> "Implementing Pancasila, implementing the Constitution 1945 and legislation".
- 3) In term of norms inconsistencies between articles in law of political as stated previously, tables below explain and compare the regulations, i.e.:

About	The Law Number 31 Year 2002 on Political Parties	The Law Number 2 Year 2008 About Political Parties
<b>Definition of Political Parties</b>	A political party is a political organization formed by a group of citizens of the Republic of Indonesia voluntarily on the basis of equality of will and ideals to fight for the interests of members, society, nation and state through general elections	A political party is a national organization and is formed by a group of Indonesian citizens voluntarily on the basis of equality of will and ideals to fight for and defend the political interests of members, society, nation and State, and to maintain the unity of the Unitary State of the Republic of Indonesia based on Pancasila and the Law Basis of the Republic of Indonesia Year 1945
<b>Principles of Political Parties</b>	The principle of a political party should not conflict with Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.	Principles of Political Parties shall not be contradictory to Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.

From the comparison table above, it is known that the definition of political party in Law Number 31 Year 2002 and Law Number 2 Year 2008 About Political Parties experienced significant changes, namely related to the basis or principle of political parties. In Law Number 31 Year 2002 it is said that political parties are political organizations formed by a group of citizens of the Republic of Indonesia voluntarily on the basis of equality of will and ideals to fight for the interests of members, society, nation and state through general elections.

Whereas in Law number 2 Year 2008 About Political Parties, a political party is a national organization and is formed by a group of Indonesian citizens voluntarily on the basis of equality of will and aspiration to fight for and defend the political interests of members, society, nation and State, and maintain the integrity of the State Unity of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.

It is clear that in Law Number 31 Year 2002 in defining political parties without the basis of political parties, in the sense that the law only gives meaning to the meaning of political parties alone. While Law Number 2 Year 2008 in addition to gramatically experienced a significant change is the inclusion of the base or foundation of political parties that prevail in Indonesia is based on Pancasila and the 1945 Constitution.

The definition of political party in Law Number 2 Year 2008 has provided clarity on the basis or principle of political parties, namely "political parties are based on Pancasila and the 1945 Constitution" so indirectly the law has ordered all political parties to be based only on Pancasila and the 1945 Constitution.

However, this is not in line with the norm in article 9 paragraph (1) of Law Number 2 Year 2008 on Political Parties, which states that:<sup>21</sup> "The Principles of Political Parties shall not conflict with Pancasila and the 1945 Constitution of the State of the

<sup>19</sup> Article 10 Paragraph 1 Law of the Republic of Indonesia Number 2 of 2011 on the Amendment of Act No. 2 of 2008 on the Political Parties

<sup>20</sup> Article 13 Law of the Republic of Indonesia Number 2 of 2011 on the Amendment of Act No. 2 of 2008 on the Political Parties

<sup>21</sup> Article 9 Law of the Republic of Indonesia Number 2 of 2011 on the Amendment of Act No. 2 of 2008 on the Political Parties

Republic of Indonesia", meaning that Article 9 paragraph (1) gives space to political parties to be able to provide principles other than Pancasila and the 1945 Constitution. While there is no one-rule that discusses the authority of the examining body when there is a conflict with Pancasila. In the case of inconsistencies norm, significant impact is related with hierarchy of legislation in the legal pyramid theory, it is considered not in line with the theory of hierarchy of norms to make Pancasila as *staatsfundamentalnorm*, ideology, ideals countries, as well as believed to be the supreme law of the position of Pancasila.

Norm inconsistencies in law of political party lead to inconsistencies of political parties principles to hierarchy legislation. In term provisions of Pancasila as the legal over all of plurality, the Pancasila considered to have completed all the difference, without having to make space for political parties to have the principle of political parties of different ideology or ideals of state. Provides basic principle or political party other than *staatsfundamentalnorm* Pancasila then open up the difference and keep the parties from orientation ideals state, but it only becomes right political parties as orientation of principle of party politics.

Therefore, the authors propose in the future reconstruction of the Article 9, paragraph (1) of the parties becomes, the principle of a political party Indonesia is Pancasila and the 1945 Constitution namely by eliminating the words "do not conflict with...", this is done for avoid multiple interpretations by each political party in principle to include political parties in the statutes of political parties, other than that it is a form of consistency to the ideology of the state's objective Indonesia it is Pancasila as stated in the fourth paragraph is Constitution Republic of Indonesia.

## CONCLUSION

Indonesia has conducted general election eleven times, according to regulations related to political parties, since the first elections in 1955 to 2014 known that the principle of political parties in Indonesia change continuously follow ruling regime at the time. While based on the general election 2014, related to the principle of political parties of fifteen political parties participant only Gerindra Party make Pancasila and Constitution 1945 as foundation of political parties. On the other hand Nasdem, PKB, PDIP, Golkar, Demokrat, PAN, Hanura and PKPI only make Pancasila as foundation of political parties without put Constitution 1945. Different with Party of Aceh, in addition to make Pancasila and Constitution 1945 as foundation of party, Party of Aceh also includes a *Qanun Alam Al-Arsyi Meukuta* that known the legal foundation on royal era. The rest parties i.e. PKS, PPP, PBB and Damai Aceh make Islam as the principle of political party. Provision of article 9, paragraph (1) on Law of Political Party is legal norm with multi interpretations of which lead to multi principles on each political parties. Therefore, reconstruction norm in law of political party law, namely the principle of political party is Pancasila and Constitution 1945.

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