RESOLVING INTERCULTURAL AND ETHNIC CONFLICTS IN INDONESIA IN THE PERSPECTIVE OF LEGAL ANTHROPOLOGY

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Abstract

Various cultures can give rise to conflicts that can criticize the Indonesian nation, cultural conflicts can also give rise to clashes between ethnicities, religions, tribes or races. This is a matter that is quite sensitive and fragile regarding conditions that lead to national disintegration. If this conflict cannot be controlled and resolved wisely, it could give rise to problems of division and fragility of the Indonesian nation. The research proposes a problem formulation, initially, how useful is the law as a system of social supervision in society? Second, what are the alternative resolutions for inter-cultural and inter-ethnic conflicts in Indonesia? The results of the study are formulated as follows. Early on, the use of law, not only as a tool for protecting social order, social control also functions as a tool for designing social life in society. Second, one alternative for resolving conflicts between cultures and inter-ethnic conflicts in Indonesia requires a more in-depth explanation regarding the use and role of law in the life of a multi-cultural and multi-ethnic society. Thus, the issue of the national legal development paradigm implemented by the government needs to be a part that must be studied comprehensively.

Keywords: conflict resolution, ethnic culture, legal anthropology.

INTRODUCTION

Cultural diversity is a necessity that exists in Indonesia. Cultural diversity in Indonesia is something that cannot be denied. In the context of the description of a pluralistic society, not only the culture of ethnic groups, Indonesian citizens also consist of various regional cultures, which are a meeting of the cultures of various ethnic groups found in that area. With a population of 200 million people, they live spread across the islands of Indonesia. They also live in areas with diverse geographical conditions. This matter is also related to the level of civilization of different ethnic groups and citizens in Indonesia. Meetings with foreign cultures also influence the process of cultural assimilation in Indonesia, thus increasing the types of culture in Indonesia(Hermansyah, 2010).

The development and expansion of the major religions in Indonesia also supports the development of Indonesian culture, thereby denigrating certain cultures. It could be said that Indonesia is one of the countries with the highest level of cultural diversity or heterogeneity. Not only is there cultural diversity in ethnic groups but also cultural diversity in the context of civilization, traditional to modern. However, from the other side, multi-culture also has the potential to cause conflict that can divide this nation. Because intercultural conflict can give

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rise to clashes between ethnicities, between religions, races and between groups which are very sensitive and can weaken the nation. From an anthropological perspective, this is something that cannot be separated from humans(Dipa, 2013). Therefore, conflicts that occur can be controlled and resolved wisely and judiciously, so that disintegration does not arise in life in society. From the perspective of legal anthropology, conflict can arise due to conflicting values, norms, interests of race, ethnicity or religion. Conflict occurs as a result of discriminatory regulations and the central government's treatment of communities in the region by ignoring, eliminating and weakening the values and norms of customary law, including religious norms and traditions of the people in the region through domination and enforcement of state law. law).5 Even though the MPR-RI through the second amendment to the 1945 Constitution, has mandated in Article 18B paragraph (2) that(Unesco, 2016): "The State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law." Conventionally, the aim of law is to maintain social regulations and order in society, so that the function of law is emphasized as an instrument of social supervision. The purpose of the law has been expanded as a tool for building social life."

METHODOLOGY

The type of research used in this research is a normative juridical research method that is descriptive analysis, namely research carried out by examining library materials (secondary data) or library legal research (Harsojo, 1971). The approach method used in this research is case approach by analyzing the development of society in Indonesia and the statutory approach is carried out by examining the statutory provisions that apply in the case. The legal basis in question is related to customary law communities. Focused on the main problem at hand, so that in the research there are no deviations and ambiguities in the discussion (Huzaini, 2022).

RESULT AND DISCUSSION

1.   Law amidst differences in culture, race, ethnicity and religion

Law cannot be seen linearly, because if law cannot work alone it is not even powerful. The formation of law is influenced by many subsystems, where law is one subsystem or law

enforcement also requires facilities and systems of evidence outside of legal science. Another function of law is as a suggestion for community reform. Legal rules as a means of carrying out social engineering have a very important role in the changes that are desired or planned.

The function of law in social life always sees a person's behavior placed within the framework of a larger social system in which there are subsystems which constitute a hierarchical unity. As a social sub-system, law functions to carry out integrity in regulating individual activities in meeting their needs and preventing the emergence of conflicts and other things that disrupt society and society. In law there is the principle of "everyone is equal before the law" (everyone has the same status before the law). This means that everyone has the right to get justice guaranteed by the law itself, because justice is the essence and essence of the law(Kuswahyono, n.d.). The interests of citizens, especially in obtaining justice, are guaranteed by law, which is implemented by law enforcement officials. In a legal state that aspires to justice, it has become a legal state that emphasizes order alone.

Another function of law is law as a tool of social control (the function of law as a tool of social control). The function of law as a tool of social control means that the law is tasked with ensuring that society remains within the patterns of behavior that have been accepted by it. In this role, the law only maintains the status quo, but beyond that the law can still carry out other functions, namely with the aim of bringing about changes in society. Furthermore, the function of law as a symbol, by L.B. Curzon (in Achmad Ali, suggests that what is meant by symbolic is "involves the process whereby persons consider in simple terms the social relationships and other phenomena arising from their interactions..." (symbolic includes the processes in which a person translates or describes or interprets in simple terms social relations and other phenomena that arise from interactions with other people). For example, in law, a person who takes another person's property with the intention of possessing it, by breaking the law, is symbolized by criminal law as an act theft which should be punished. Next, the function of law as a political tool, Achmad Ali stated that law (written law) as a political tool is a universal thing. Moreover, related to the function of law as a tool of social engineering, the role of political authorities in law is very large. Likewise, in our legal system in Indonesia, laws are a joint product between the people's representative council and the government. It is impossible to deny this fact that it is politicians who produce laws (written laws).

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According to the view of the realist school of philosophy, law is a political product. Law is not born from a social vacuum, law is the result of political compromise. Therefore, law becomes a tool for political interests. If law and politics collide, then law will certainly be eliminated. A political fact that intervenes in law becomes a determinant view, that law is a political product. Apart from the four functions of law mentioned above, law also functions as a mechanism for integration. Talcott Parson places law as a sub-system in a larger social system. Apart from law, there are other sub-systems that have different logic and functions. The sub-systems in question are culture, politics and economics. Culture is related to values that are considered noble and noble, and therefore must be maintained. This sub-system functions to maintain ideal patterns in society(Warjiyati, 2018). Law refers to rules as rules of the game. The main function of this sub system is to coordinate and control all deviations so that they comply with the rules of the game. Politics is related to power and authority. Its task is to utilize power and authority to achieve goals. Meanwhile, economics refers to the material resources needed to support the life of the system. The task of the economic subsystem is to carry out the adaptation function in the form of the ability to master the means and facilities for system needs(Najwan, 2009).

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2.   What efforts can resolve intercultural and ethnic conflicts in Indonesia

Law from an anthropological perspective is studied as a social control system that maintains regulations in society(Kadir, 2017). Donald Black says: *"Anthropologist have similarly concentrated on what they regards as law-typically the most formal and dramatic aspects of social control in tribal and other simple societies although this often includes non-governmental as well as governmental process".*

Legal rules basically have two main characteristics, namely: regulatory and coercive. What is regulated by legal rules is community behavior to create an orderly, orderly, safe and peaceful atmosphere in life together. When the coercive nature of a legal rule is reflected through the application of punishment by law enforcers to anyone who violates it. The problem that arises is whether legal rules can be used as an instrument to maintain and strengthen social integration in a multi-cultural society.

Indonesia is a multi-cultural country, including multiple legal systems that apply in society. This is due to the existence of a system of customary law, religious law and also

strong control mechanisms other than state law in people's lives(Ilham & Taufiq, 2021). However, if examined fairly, the legal development paradigm adopted by the government in the last three decades has a tendency towards legal centralism through the implementation of political unification and legal codification for all people within the territory of the Unitary State of the Republic of Indonesia. The implication is that state law has a tendency to eliminate, ignore and dominate the existence of other legal systems, because whether we realize it or not, the law functions as governmental social control or as the servant of repressive power or as the command of a sovereign backed by sanction. To achieve this goal, the action that needs to be taken is to build a government system that provides solid recognition and protection for the legal system, apart from state law, such as customary law and religious law, including local regulatory mechanisms that exist in society (living law). The implication is that values, institutional legal principles and community habits should be adapted and integrated into the national legal system which is then incorporated concretely into legislation that touches various aspects of individual and community life.

Thus, in order to understand the position and function of law in the structure of society, the social and cultural life of the society must first be understood firmly as Hoebel said: *"We must have a look at society and culture at large in order to find the place of law within the total structure. We have some idea of how society works before we can have a full conception of what law is and how it works"*

3.   The benefits that occur when conflicts between cultures and ethnicities can be addressed

With the conflict between cultures and ethnicities, we as humans who are defending Indonesia have learned a lot about the conflicts that occur(Sahetapi, 2011). It's not just that the conflict that occurs only causes negative things, although it is very likely that the negative things that create conflict between cultures and ethnicities can still be seen from a different lens so that we can see the positive things that happen. The existence of conflict between cultures and ethnicities can increase the level of public awareness of tolerance and upholding the principles of national defense. This creates closer relationships with each other.

Cases of conflict between culture and ethnicity are cases that often occur in Indonesia, with cultural, racial and religious diversity often creating heated issues within it. Some cases that we can study are the lack of legal regulations in Indonesia regarding some of our minority brothers. Apart from that, it is still weak and there are many interlocutory coffers

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that can weaken laws relating to inter-cultural and ethnic conflicts. Sometimes the law is still in the interests of political alignments or certain powers. With this we can learn what things we need to improve in state law.

CONCLUSION AND SUGGESTION

As an alternative for resolving conflicts between cultures and inter-ethnic conflicts in Indonesia, a deeper understanding of the function and role of law in the life of a multi-cultural and multi-ethnic society is needed. Thus, the issue of the national legal development paradigm implemented by the government needs to be a part that must be studied comprehensively. Because, over the last three decades, the government has had a tendency to adhere to the paradigm of legal centralism. As a consequence, national legal products also tend to ignore, eliminate and even weaken the legal system that has lived empirically and developed in society. Law is studied as an integral part of culture as a whole, not as a social institution that is autonomous or separate from other aspects of culture such as politics, economics, religious systems, kinship and social structure.

Every citizen has the same responsibility in preventing and overcoming intercultural conflicts and inter-ethnic conflicts in Indonesia. The role of law in a multi-cultural and multi-ethnic society as well as to maintain and strengthen national integration, should begin by reforming the legal centralism paradigm into a legal pluralism paradigm which is expected to have an impact on existing values, principles, social institutions and legal traditions. live in a multi-cultural society.

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