

LEGAL ESSENCE OF PANCASILA AS THE BASIS OF THE REALITY OF INDONESIAN LIFE: TO IMPROVE THE WELFARE OF THE FISHING COMMUNITY

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Abstract: *Pancasila contains noble values, not only understood normatively, but must also be interpreted with consistent implementation by all components of the nation, without exception. The philosophical basis in a series of basic state arrangements, as a continuum of integrated-comprehensive-holistic meaning of each implied-explicit content of the precepts as the ideological basis of the state and nation. The purpose of the research is to build social welfare during society, which includes fishing communities. The most basic reason is that Indonesia is recognized as an archipelago, with abundant marine resources. The basis of policy through regulations formulated is based on the order of Pancasila values, the current basic problems faced in the era of economic globalization are still found in social inequality that creates poverty. These challenges must be able to be answered by Pancasila as the philosophy of social life. The method used is a qualitative approach. The results of the research that development in coastal areas and the potential of marine resources is carried out to improve the standard of living of community welfare. The implementation of which continues to pay attention to the order of environmental sustainability of coastal and marine areas. There are efforts to increase the role and participation of coastal communities including fishermen in the process of sustainable regional development. Need to be supported by adequate guidance-training and research policies on the development of the potential of coastal areas and marine resources.*

Keywords: *Legal essence, Reality of Indonesia life, Fishing community, Pancasila*

INTRODUCTION

As an ideology, no less, also as a constitutional juridical norm, Pancasila is often treated as something given and pre-established, which is not only teleologically intended to create a national order, but also often displayed and treated as a coercive order (Wignjosoebroto, 2006). Globalization characterized by integration, interdependence and networking has changed the order of people's lives, it requires a new order or norms that are able to respond to these social changes, legal development is an absolute prerequisite for achieving goals towards legal justice, legal certainty and legal expediency, for this reason the values that are the source of legal order, namely Pancasila, are used as a basic philosophy (philosophy grondslag) in community life in the context of facing the challenges of globalization. The character of Pancasila can ultimately be used as a legal and ideological foundation with a positive character (Sutrisno, 2007).

The values of the Pancasila ideology, intertwined with social facts are still found problems of poverty in society, including at the level of the community of coastal areas, considering that Indonesia is an archipelago, the fishing community should be prosperous, this is due to the abundance of marine and coastal resources, and all regulatory provisions built on the Pancasila state foundation have mandated social justice, and the greatest prosperity of the people. The basis of the State has explicitly outlined this, the implementation of the values of Pancasila content which has been ultimate- definite becomes a necessity without doubt. This description becomes a dilemma, considering that some factual findings have created a continuum that is impossible to accept in the logic of rational thinking, this is due to the social-setting conditions of fishing communities that are plunged into poverty, there are many studies that reinforce this evidence (Social Welfare Research & Development Agency of the Ministry of Social Affairs - Inter-University Center for Social Studies UGM, 1997-1998). Optimal policy support is one side that must be done, and on the other side, community participation through



genuine involvement is the benchmark for building this welfare. The condition of fishing communities, fishermen and salt farmers in Indonesia is at a level that is far from being prosperous. Economic problems are the most crucial issue; this is very contradictory to Indonesia's geographical position as an archipelago, with a very potential coastal length through its marine resources (Sutrisno, 2019). Poverty has caused many problems in the lives of fishermen, the economic factor is the most crucial reason; this dimension is contrary to the geographical conditions as a strategic area as an archipelagic country, which is surrounded by a very wide sea, with abundant potential marine resources. But along the coastline the poverty of coastal communities can be easily found.

National policies through various legal products, all legal norms that are built must be balanced with the political will of local governments that are responsive, and futuristic must be able to be translated through the order of technical norms that have to be formulated and elaborated at the locality level regarding the issue of improving the welfare of fishing communities and sustainable management of potential marine resources.

The existence of local authority in this case at the regional level, cannot fully be used as an alternative for the development of community welfare, because community participation is needed. In this case, the existence of the state (local government) with the interests of the community must be able to achieve development goals (Sutrisno, 2015). National policies through norms that are built must be able to be elaborated by policies at the local level through local governments, technical implementing regulations in the regions should be elaborated by taking into account the interests of public welfare to be the determining factor for the formulation of these legal rules, which are based on the content of Pancasila values as a margin of appreciation boundary line that determines which ones are allowed and which ones are prohibited, This emphasizes that the ultimate goal of the legal provisions is built towards one goal, namely social justice to make the community prosperous (Welfare State), as well as legal norms outlined in the scope of building the potential of coastal areas and coastal environments with qualified marine resources, it is not possible then the condition of fishermen becomes poor.

The legal political commitment of the Central Government has been outlined in the legal product, at the level of realizing the Welfare State, as mandated by the 1945 Constitution of the Republic of Indonesia, the facts show that the legal order must be able to achieve the goal of public welfare. Policy (policy) through written legal norms in the form of legislation offered by the State, has become proof that the State is "a giant machine" for social control, but social control is realized in the form of law (Gunther Teubner, 1986). The issue is about legal empowerment in the social life of the community and policy support in the realm of locality in each region, which is a separate issue that must be examined. The focal point that must be considered concerns the process of working law, namely the role of local government and community participation, legal norms that have been formulated must be able to be enforced so that the regulatory balance between community participation and local government interests must be realized (Sutrisno-Artadi, 2018). This problem must be handled seriously by the local government so that clear regulations on the law become a solution to solve the problem (Sutrisno-Jazilah, 2019). This is the main problem of legal politics that has been determined through national policies, in national regulatory products, the level of implementation at the technical level in the regions has not been fully explained in law enforcement.

RESEARCH METHODS

This research uses a qualitative method. The research subjects were fishing communities in Eastern Indonesia. The sampling technique with snowballs technique, in accordance with the research objectives. Data analysis techniques using the Triangulation method. Data obtained from the field is matched with literature and validation by experts.



RESULTS AND DISCUSSION

Legal Empowerment for Legal Justice and Community Welfare in Coastal Areas

The problem of law enforcement in this country is a big problem that must be examined in depth, considering that law enforcement involves many components involved (Sutrisno, 2019). Indonesia today is faced with a very "unique" problem of law performance regarding the formal truth treated as the most dominant consideration of legal decisions embracing Kelsenian's *reine Rechtslehre* way of thinking. An approach that is still in further discussion through a more holistic alternative paradigm (Sutrisno, 2018). This condition must be rethought regarding the understanding of the process of working law, in the realm of text alone the law is not fully able to achieve legal justice based on a happy conscience. A partial paradigm approach, focused on the purely normative Kelsenian concept, the law becomes dry and achieving the direction of legal goals as in the concept of Gustav Radbruch is difficult to achieve. Justice is only limited to the realm of formal justice without being able to provide direction to realize the greatest welfare and happiness for the people. This goal is emphasized in Satjipto Rahardjo's thinking, legal order is not limited only to efforts for the purpose of social order and security (Rahardjo, 2006). The approach to law becomes integral-comprehensive-holistic with a participatory public policy model based on local wisdom values, given the ultimate goal of the Indonesian rule of law, which is welfare and social justice as stated in the state constitution. The noble achievement of the commitment of the nation and state, holding fast to the values of Pancasila the philosophy of the nation and guided by the constitutional order of the 1945 Constitution of the Republic of Indonesia, the achievement of welfare in the studies of legal philosophy leads to the values of physical and mental happiness.

On the other hand, in terms of social facts, the existing conditions of society must also be supported by genuine legal empowerment values because it is fully realized that legal development issues must also be examined by the human factor (read the community). For legal development has a complex dimension because it does not only build written legal norms and legal structures, but also the legal culture component in the form of community or human behavior as the most substantial component. This analysis has positioned the legal aspect in conjunction with the non-legal aspect as a supporting force that strengthens the process of working law. Legal development must synergize with economic, social, cultural, political development so that the approach becomes heteronomous, not an autonomous process. Synergy with non-law fields is an absolute prerequisite that must be met.

Legal development must be able to be carried out seriously because the continuity of development to achieve goals must be accompanied by a legal order that is able to provide the best possible arrangements so that the development goal of improving the welfare of society can be realized (Sutrisno, 2019). From this perspective, the starting point of empowerment thinking becomes the focal point of the most basic argument that must be considered by all elements of policy holder stakeholders, at the central or regional level. because empowerment is an effort to provide some power to powerless groups, power includes economic resources, policy resources and legal resources to a group of powerless people, namely those who are marginalized, poverty, social-lag, physical weakness, vulnerability and disempowerment so that people have the ability to be developed and grow towards a better and prosperous direction. This assumption is based on the idea that there is no community that does not have the ability, every community must have the potential and ability it has. This is without being realized by the community concerned, this reason is the main substance of the idea that the potential of the community must be explored and then developed. The potential that is explored to be developed through the empowerment process in the context of achieving welfare goals, including exploring and developing the potential of fishing communities, which without realizing the potential of marine resources is very abundant. But one thing that must be considered is that efforts to develop these natural resources must remain in the corridor of a sustainable development approach.

Even though the fishing community is in a position of poverty, it must still pay attention to the development process for sustainable interests for future generations, the ethics of the biocentrism approach in managing marine resources is the key word, so that aspects of economic development



still pay attention to alignments on environmental issues in coastal and marine areas. And the content of Pancasila has accommodated the concept of thought through the values of the first principle, the second principle and the fifth principle, these basic values must be implemented genuinely in the daily lives of the community and used as guidelines by all stakeholders as policy holders without exception, in the policy-making process. In the realm of the concept of empowerment, it contains values of alignment for the benefit of the community in a marginalized and poor position, for this reason, what must be of concern is the effort to find alternatives to community empowerment, concerning issues: 1) empowerment must aim to improve the welfare of the community; 2) empowerment must be rooted in the community and increase community participation in every environmental management process; 3) integration of empowerment implementation between the government, the private sector, research institutions and community-based organizations.

Legal empowerment thus leads to the context of building community independence, strengthening the values of community participation, to build social networks and legal justice. Laws that must be built in national policy products through Law No.1 of 2014 concerning Amendments to Law No.27 of 2007 concerning Management of Coastal Areas and Small Islands; Law No.7 of 2016 concerning Protection and Empowerment of Fishermen, Fish Cultivators and Salt Farmers; Law No.11 of 2013 concerning Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Use of Genetic Resources. Year 2013 on the Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity; Law No.32 Year 2009 on Environmental Protection and Management; Law No.26 Year 2007 on Spatial Planning; Law No.20 Year 2008 on Micro, Small and Medium Enterprises; Law No.19 Year 2013 on the Protection and Empowerment of Farmers; Law No.41 Year 2009 on the Protection of Sustainable Food Agricultural Land; Government Regulation No.60 Year 2007 on the Conservation of Fish Resources, must be able to embody the welfare of the people in the Coastal Zone.

The description of the Coastal Zone community which is poverty, social lag, vulnerability, disempowerment and physical weakness must be able to be overcome through the legal norms that have been built, legal empowerment that will be built in the corridor of placing the law in the socio-community frame because the basis for the operation of the law is the socio-economic life of the community, for this reason the laws that are built and policies formulated in the realm of locality (read Local Government) must meet the needs and interests of the community (responsive), the legal order must be aspirational, accommodating and ensure the continuity of legal progressivity values that are pro to the goal of socio-economic welfare. The community, from another perspective, must have the power and strength to gain access to legal-economic resources and policies to increase legal awareness and legal compliance. It is also important to note that policy programs formulated and built at the national level and regional level must also be able to guarantee the accommodation of the social needs of the community, taking into account the validity of the existence of local wisdom values (Sonny Keraf, 2005), in this community it indicates that the issue of local wisdom includes values as a form of belief and knowledge that can be used as a guide to behavior in daily life, for the cosmology that is built remains based on environmental interests, especially the coastal area with its marine potential, not only limited to human relations. This local wisdom is lived, practiced, taught and inherited so that it shapes their behavior patterns. The premise of local wisdom is used as the basis for building prosperity, the concept has also been accommodated in the content of Pancasila values.

Construction of Plural Society in the Framework of the State of Law

Social and cultural issues must be built in order to realize an increase in the feasibility of life so as to give meaning to the goal of welfare because basically community development (Soetomo, 2006) is intended to realize the ideal state, one of which leads to changes in the degree of life, namely prosperity and justice, as a country that prioritizes the flow of legal order in the foremost position is the embodiment of the concept of the State of Law, This reason is one of the considerations of the rationale through the process of legal development based on the state ideology of Pancasila is able to build a society that is socially just, humane, through the process of democracy in Pancasila in the



construction of harmonizing the values of national unity in the midst of differences as social capital towards a unitary state based on the value of God Almighty to be the main value of virtue with the noble goal of a prosperous society.

The condition of society that continues to change dynamically has required the law to follow the changes that occur, especially considering that in a pluralistic society like Indonesia this is important to understand. For this reason, the basis of community development including coastal communities including fishing communities must be understood in an effort to maximize the potential of marine resources and coastal areas, while still being based on issues of environmental sustainability interests so that the ability to understand the community must continue to be developed through a process of participation, genuine involvement as a condition that must be met. Legal empowerment must be carried out in synergy with socio-economic empowerment and policies in the form of legal norm regulations must be able to support this, but this concept must also be supported by the process of developing the ability to increase the development of the legal culture of fishing communities to reconstruct the level of legal awareness and legal compliance of the community against the rules of law that have been mutually agreed upon in the form of regulatory legislation products.

The consequences of being an archipelagic country for Indonesia must be confirmed through an understanding of the concepts contained in the main values of archipelagic insight through the realization of an integral-comprehensive-holistic understanding in the political, economic, social and cultural order of Diversity in Diversity through the content of values contained in Pancasila, the Preamble of the Indonesian State Constitution, namely the 1945 Constitution, the values of the 1928 Youth Pledge and the heroic values in the Proclamation of Independence on August 17, 1945 (Prayitno-Rudiyanto-Sutrisno, 2022).

The Indonesian state with the Pancasila ideology contains the content of noble values formulated by the founding fathers of the nation's founders through the excavation process obtained in the meaning of the nation-state in depth within the framework of the values of the diversity of plural forms of society seen as the basic capital for national excellence, all of this is united by the Pancasila ideology. The content of the values therein is interrelated, interconnected and complementary. Fully having a noble purpose and intention for the welfare and prosperity of society, an understanding of the values of Pancasila must be able to be implemented through an understanding of the rules of law that have been formulated because the purpose and direction of legal politics through legal products are in line with the content of Pancasila values as the source of all sources of legal order. The values of diversity in Diversity in Diversity become the basic capital of development for the purpose of social justice in the frame of a unitary state that is humane and divine as the basis for behavior.

The plurality of society, if we want to borrow Clifford Geertz's term (Geertz, 1963), is a society that is divided into more or less independent sub-systems, in which each subsystem is bound inward by primordial ties. The condition of plurality in society makes the Unitary State of the Republic of Indonesia the superstructure successfully built, but the social and cultural infrastructure has not been addressed, and even tends to be neglected, to really be developed as a unit of a strongly integrated national community (Wignjosoebroto, 2002).

Development in coastal communities, especially fishing communities, is faced with special problems, with the most urgent consideration in the sociological approach, the characteristics of fishing communities have different aspects when compared to farming communities, this condition is due to differences in the characteristics of the resources faced. Farming communities (Wahono, 2005) face controlled resources, namely land management for the production of a commodity with a relatively predictable output. With the nature of production, it allows the fixed location of production so that it causes relatively low business mobility and the risk element is not large, while the fishing community (Satria-Umbari-Fauzi-Purbayanto, 2002) faces the opposite situation. The resources faced by fishermen are open access. This characteristic of resources causes fishermen to move around to obtain maximum results. Thus, facing the risk element becomes very high. This risky resource condition causes fishermen to have a hard, firm and open character (Satria, 2002). Basically, the objectives to be achieved for development in coastal areas and the potential of marine resources are carried out to improve the standard of living of community welfare, which still pays attention to the



order of environmental sustainability of coastal and marine areas, efforts to increase the participation of coastal communities including fishermen in the process of sustainable regional development and on the other hand must be supported by adequate guidance-training and research policies on the potential development of coastal areas and marine resources.

The condition of cultural-tribal pluralism in viewing coastal communities - fishermen who are faced with socio-economic problems must be understood to be a very extraordinary potential for developing the area, understanding the order of local wisdom, the applicability of progressive national legal norms is a priority supporting factor in developing coastal communities, conflict escalation must be prevented by carrying out the values of commitment to the concept of the rule of law. Legal instruments become a priority in maintaining order and security to realize happiness, the legal order touches on struggles not only at the physical level but also at the inner level (the value of legal spiritualism) is a fundamental basis for seeing the cultural plurality of Indonesian society. At the end point of looking at the issue, with the hope of building legal justice, in this society, the construction of justice that not only moves in the normative stroke of legal justice in the realm of text, but also dives deep into the stroke of legal justice, based on moral-conscience.

CONCLUSION

The starting point for building the socio-economic welfare of coastal communities must be built through the realization of legal empowerment, given the objectives to be achieved in the empowerment process, including issues of independence, strengthening community participation values, establishing social networking and achieving legal objectives for legal justice. National policies contained in written regulations concerning the development of coastal communities including fishing communities through the sustainable utilization of the potential of marine resources by taking into account the needs of future generations so that the concept of coastal area development continues to pay attention to the interests of coastal and marine conservation, with legal empowerment efforts, socio-economic empowerment of fishing communities based on the philosophical values of the Pancasila nation with the aim of social justice in the context towards community welfare including fishing communities.

Political will in the locality through policies at the local government level must be able to accommodate the legal order, in accordance with the needs and interests of the community so that the goal of building community welfare in the Coastal Zone can be achieved. Responsive locality policies and participatory policies involving community participation are absolute prerequisites for overcoming poverty in the Coastal Zone, and supported by deepening the values of legal empowerment in the regional community can be a supporting energy that facilitates the alleviation of socio-economic problems in the region. The development of legal construction through all of the aforementioned legislation products has also led to an understanding of the values of legal progressivity, and the plurality of cultures, customs and local wisdom in the Coastal Zone must be an extraordinary basic capital to achieve community welfare.

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