

THE FUNCTION OF LAW IN ECONOMIC DEVELOPMENT AND COMMUNITY EMPOWERMENT IN INDONESIA

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Abstract

The purpose of this study is to analyze the function of law in the stages of economic development and to analyze community empowerment through the role of law. The research is normative-legal research, using the statute approach, conceptual approach, and case approach. Secondary Legal Materials are all publications on a law that are not official documents which include textbooks, legal dictionaries, legal journals, and research reports. The collected legal materials are then analyzed qualitatively. The results of the research show that development in the economic field cannot work alone, but requires support from various parties, especially in the field of law. Law has a very central role in the success of a country's economic development, particularly in providing business and investment certainty, both at the central and regional levels. This will provide a huge opportunity for the central government in accelerating policies related to the economy in the regions because the regions are already stable in terms of the functioning of the legal function in the field of economic development. In relation to community empowerment, the function of law is as a driving force for development. In this case, the law as a tool to bring society in a more advanced direction will work dynamically following economic developments. Improvements in all sectors, starting from education, accessibility, action, institutions, business, income, environment, and life, and improving social relations in society will have a very big impact on economic growth in Indonesia.

Keywords: law function; economic development; community empowerment.

INTRODUCTION

The main enemies faced by development are underdevelopment, powerlessness, dependency, ignorance, and low health, all of which led to poverty. All countries have experienced or are even struggling with many of these problems, apart from the many hereditary problems that exist in certain regions of the country.¹ The countries in each region are the main subjects of international law² has the responsibility to provide welfare for its people as citizens which causes the state to exist and still exist today.

On the one hand, the formation of law is strongly influenced by various factors outside the law such as social, political, economic, cultural, and others. One of the scholars recognizes the existence of factors outside the law that influence the formation of law.³ But on the other hand, the law in its existence in society has a role and influence on economic activity in accordance with the function of the law itself. The law in its function contains instructions for human behavior, tools for resolving conflicts, and tools for socio-economic engineering.⁴ The awareness that law is an instrument to realize certain goals, makes law a conscious and active tool used to regulate society. Therefore, one can see here that law is increasingly showing its important role as a means

¹ Muhammad Hasan and Muhammad Azis, *Pembangunan Ekonomi & Pemberdayaan Masyarakat: Strategi Pembangunan Manusia dalam Perspektif Ekonomi Lokal*, (Makassar: CV Nur Lina in collaboration with Pustaka Taman Ilmu, 2018), p. 5

² Kadarudin, *Antologi Hukum Internasional Kontemporer*, (Yogyakarta: Deepublish, 2020), p. 511

³ Siti Azizah, *Analisis Ekonomi Dalam Pembentukan Hukum*, *Fiat Justitia Jurnal Ilmu Hukum*, Vol. 6, No. 2, 2012, p. 1

⁴ Gunarto Suhardi, *Peranan Hukum Dalam Pembangunan Ekonomi*, (Yogyakarta: Universitas Atmajaya, 2002), p. 27

of realizing state policies. Empirical facts show that law is the most effective means of realizing the country's political goals,⁵ because so far legal institutions have been able to prove that their role is to regulate human behavior in social and state life.

The presence of economic law⁶ is part of the essence of things that are guarantees or mandates from the constitution. According to Jimly Asshiddiqie, constitutional rights are rights that are guaranteed in and by the 1945 Constitution of the Republic of Indonesia. Guarantees for these rights are expressed either explicitly or implicitly.⁷ The background to the development of economic law is the rapid growth and development of economic activity in all parts of the world. The presence of economic law is mainly aimed at regulating and limiting all economic activities so that the implementation of economic activities and economic development is always appropriate and does not ignore the rights and interests of the wider community. economic matters and equity towards making pro-people economic policies. The economic field must be dealt with conceptually, systemically and professionally, but the field of economic law must be in line with and in line with policies and decision-making in the economic sector.⁸ Based on this explanation, the problem discussed in this paper is how does law function in the stages of economic development? and how is community empowerment through the role of law?

METHOD

The research is normative-legal research,⁹ by using the statute approach, conceptual approach, and case approach.¹⁰ Secondary Legal Materials are all publications on a law that are not official documents which include textbooks, legal dictionaries, legal journals, and research reports. The collected legal materials are then analyzed qualitatively.¹¹

RESULTS AND DISCUSSION

THE FUNCTION OF LAW IN THE STAGES OF ECONOMIC DEVELOPMENT

In general, there are three stages or levels of development experienced by a country starting from a developing country to a developed country, namely the first stage of unification with an emphasis on how to achieve political integration to create national unity and unity, the second stage of industrialization with the focus of the struggle for economic development and political modernization, and the third stage of the welfare state (social welfare) in which the main task of the state is to protect the people from the negative side of industrialization, correcting mistakes in the previous stage, with the main focus on people's welfare. Organsky¹² explains the stages of political development, namely, the stages of primitive unification politics, industrialization politics, national welfare politics and the Politics of Abundance. Nations that grew up earlier in European and North American countries generally experienced this stage of growth step by step. So, it can be

⁵ M. Lohot Hasibuan, Peranan Hukum dalam Pembangunan Ekonomi Negara Menurut Pandangan Ibnu Khaldun, Al-Risalah: Jurnal Kajian Hukum Islam dan Sosial Kemasyarakatan, Vol. 11, No. 2, 2011, p. 76

⁶ Economic Law is a translation of Economisch Recht (Dutch) or Economic Law (American), see Todung Mulya Lubis, Hukum dan Ekonomi: Beberapa Pilihan Masalah, (Jakarta: Pustaka Sinar Harapan, 1991), p. 2

⁷ Jimly Asshiddiqie, Konstitusi & Konstitusionalisme Indonesia, (Jakarta: Konstitusi Press, 2005), p. 343

⁸ Hartanto, Karakteristik Penerapan Hukum Ekonomi dalam Pembangunan di Indonesia, Jurnal Widya Pranata Hukum, Vol. 1, No. 2, 2019, p. 137

⁹ Irwansyah, Penelitian Hukum, Pilihan Metode dan Praktik Penulisan Artikel, (Yogyakarta: Mirra Buana Media, 2020), p. 158

¹⁰ Kadarudin, Mengenal Riset dalam Bidang Ilmu Hukum, Tipologi, Metodologi, dan Kerangka, (Ponorogo: Uwais Inspirasi Indonesia, 2020), p. 151

¹¹ Kadarudin, Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal), (Semarang: Formaci Press, 2021), p. 171

¹² Rita Yani Iyan, Peran Hukum dalam Pembangunan Ekonomi, Jurnal Sosial Ekonomi Pembangunan, Year II, No. 5, 2012, p. 169-170

said that Organsky's theory of the stages of political development occurs in almost all countries. In Western Europe and North America, it is very clear that the stages of state development started from the primitive unification stage. Organsky said that developments that occurred in Western Europe began to occur in the 16th century, also in other parts of the world, the origins of countries were marked by the emergence of European colonies. Of course, with a variety of uniqueness that differs from a country.

Organsky¹³ also mentions the next stage after the Primitive Unification stage, namely the country entering the Industrialization Politics stage, where the country begins to build and seeks to strengthen the economy by industrialization, the pattern of development through industrialization is an ideal choice that must be taken, especially by developed countries such as countries in Western Europe. This development was marked by the process of industrialization in England. The 18th century was a point of progress in the industrialization process in England where various innovations were found, especially technological innovations that encouraged the discovery of factory industrial machines. The choice of industrialization is the best because the comparative advantage of western countries lies in industrial and technological products. Industrialization politics implicitly still occurs in Indonesia, where the process of industrialization and the development of industrial supporting infrastructure continues to be carried out, moreover, the Crisis that hit Indonesia in 1998 made Indonesia last longer in this phase. The next stage according to Organsky is national welfare politics, national welfare politics is the politics of fully industrialized nations, this stage according to Organsky is the stage where there has been interdependence between the people and the government which then becomes complete.

Law is seen as an autonomous force in social development, so law influences economic development while the law is influenced by economic forces, but Weber still realizes that the existence of law is always intended to serve economic interests.¹⁴ The power of the state depends on the ability of the common people to work and struggle, and the people, together with the industrial powers, depending on the national government to protect them from the poverty caused by the depression and devastation of war. The government's primary function in the industrialization stage is to protect entrepreneurs who have the capital to accelerate the pace of the industry, while in the third stage, it is the government's duty to protect the people against the difficulties of industrial life, to keep the economy running smoothly, to provide a higher standard of living that they have long lived. crave. Some developed and developing countries are currently undergoing a phase like this, where the focus of the government is on the welfare of its people with various kinds of public facilities, education, and welfare.¹⁵ With this phase in place, the country will be safe from the nature of anarchy that has the potential to be carried out by the community, this is because public facilities, education, and welfare have been realized, and the main factors for its realization are because various things have become the focus of the government.

The last stage according to Organsky¹⁶ is the Stage of Politics of Abundance (politics of abundance) or Automation, Organsky said that no country in the world has entered this stage but the United States and some of the most developed European countries have entered the gate of the Stage of Politics of Abundance. This stage is marked by advances in technology, computers, and fully automated life, so industrial machines run automatically which has an impact on unemployment because workers are marginalized by the capabilities of machines. Society at this stage has the characteristics of the concentration of economic power, the use of very expensive machines, and the efficiency of factory production, these characteristics have already occurred in several developed countries, where large companies have grown that monopolize the economy

¹³ Ibid., p. 170

¹⁴ Hari Chand, *Modern Jurisprudence*, (Kuala Lumpur: International Law Book Service, 1994), p. 177; dalam Siti Azizah (2012), Loc.Cit.

¹⁵ Rita Yani Iyan (2012), Loc.Cit., p. 171

¹⁶ Ibid.

which is a global economic power or known as the Company. Multi-National operating in many countries in the world.

In a country, the effectiveness of law enforcement requires power, and for the sake of enforcement, power is an absolute necessity. In this regard, it is correct to say that law without power is a mere delusion, and conversely, power without the law will lead to oppression and tyranny and will foster the practice of oppression and violence. So that the implementation of state life is based on oppression and violence alone. Dignity and human dignity, self-esteem, and freedom of individuals and community groups will be taken away, not respected, so that what is left is the destruction of the foundations of community and state life.¹⁷ This is of course experienced by many countries that are economically lagging behind because the freedom of individuals and groups of people is seized by the state for arbitrariness, then anarchy and chaos will occur almost every day that is carried out by the community.

Economic growth means the fiscal development of the production of goods and services that apply in a country, such as the increase and total production of industrial goods, infrastructure development, increase in the number of schools, increase in service sector production and increase in production of capital goods. To provide a rough picture of the economic growth achieved by a country, the measure that is always used is the growth rate of real national income achieved.¹⁸ In the Indonesian context, the existence of the field of economic law in the Indonesian legal system is no longer in doubt.¹⁹ The international agreement between the IBR and the recipient country is set forth in the policies and legal regulations of the recipient country to be implemented, as has been the case in Indonesia since the New Order era. All legal policies and regulations that are not limited to State Administrative Law, but also regulate matters that include the substance of Criminal Law, Civil Law, Commercial Law, Private International Law, even Civil and Criminal Procedure Law, are covered under the name *Droit de l'Économique* or economic law in a broad sense.²⁰ Thus, the position of economic law has become an important part of legal institutions in Indonesia.

According to Christianto Wibisono,²¹ There are two models of economic law in Indonesia, development economic law and social economic law. Development economic law is a regulation regarding law which includes regulation and legal thinking regarding ways to improve and develop economic life in Indonesia nationally or as a whole, while social economic law is a regulation on how the results of national economic development can be divided fairly and evenly according to the values humanity. Ai Siti Farida²² stated that there were various studies of economic law cases, including the following: if the price of basic necessities rises, the prices of other goods usually creep up too; if in a certain location there is a large hypermarket shopping center with very low prices, then it is certain that the small retailers or shops in the vicinity will lose their turnover or go out of business; if the US Dollar exchange rate rises sharply then many companies whose capital comes from foreign loans will go bankrupt; the decline in the price of LPG will increase the sales of gas stoves both domestically and abroad; the higher the savings bank interest, the money supply will decrease and there will be a decrease in the amount of demand for goods and services in general; and others.

Law has a major role to play in providing opportunities for economic development. Implementation of a democratic government, and using law as an instrument to plan and implement a comprehensive development program, will bring this country towards a society with

¹⁷ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, (Surabaya: Tiara Wacana, 1987), p. 161

¹⁸ Sadono Sukirno, *Mikro Ekonomi*, (Jakarta: Rajawali Pers, 2011), p. 423

¹⁹ Adi Sulistiyono, *Reformasi Hukum Ekonomi dalam Era Globalisasi Ekonomi*, (Surakarta: UNS Press, 2005), p. 2

²⁰ Hikmahanto Juwana, *Bunga Rampai Hukum Ekonomi dan Hukum Internasional*, (Jakarta: Lentera Hati, 2002), p. 3

²¹ Christianto Wibisono, *Menelusuri Akar Krisis Indonesia*, (Jakarta: PT. Gramedia Pustaka Utama, 1998), p. 18

²² Ai Siti Farida, *Sistem Ekonomi Indonesia*, (Jakarta: Pustaka Setia, 2011), p. 24

the desired level of prosperity. In order for the law to continue to play its role in supporting the economy of a region, the law must also adapt to various changes that occur in the business sector. The role of law is very important in regional economic development. Advances in various fields, especially in the fields of biotechnology and information technology have resulted in changes in the way business is managed, and have even resulted in globalization in various fields including law. In order for the law to continue to play its role in supporting the economy of a region, the law must also adapt to various changes that occur in the business sector.²³ These changes then have a significant impact on the central government, because the stability of economic growth in the regions is supported by laws that carry out their functions, including in terms of community empowerment.

According to Abdul Karim,²⁴ in the context of integrating Regional development planning into the National development system, all Regional Governments whether Provincial, Regency, or City are required to prepare Regional development planning documents, in the form of Regional Long Term Development Plans (Rencana Pembangunan Jangka Panjang/RPJP) and Regional Medium Term Development Plans (Rencana Pembangunan Jangka Menengah/RPJM), taking into account state finances and the National Development Planning System. In reality, there are still many laws and regulations that overlap or are inconsistent and contradictory between regulations that are equal to one another, between central and regional level regulations, and between lower regulations and regulations above them. The biggest problems in the various problematic regional regulations are related to procedures, time standards, costs. To create various sets of laws and regulations, which will become the legal basis for orderly behavior in the context of carrying out social, national, and state life. The formation of legislation or other regulations is carried out through the correct process by taking into account orderly legislation and the general principles of good laws and regulations. The demands of the reform movement were then colored by acts of dissatisfaction with the people in the regions, especially demands the pattern of relations between the center and the regions which so far were felt to be unfair.

Development in the economic field cannot work alone, but requires support from various parties, especially in the field of law. Law has a very central role in the success of a country's economic development, especially in providing business and investment certainty. The case described in the illustration provides evidence that when laws and regulations are inconsistent and overlap, a business (port) will not achieve the expected level of performance, and in turn, it even hinders the development of other sectors, because the port sector is closely related to various sectors. other. In other words, it is a necessity that economic development in a region has a large legal role to contribute to providing opportunities for economic development. Implementing the wheels of government in a democratic manner, using law as an instrument to plan and implement a comprehensive development program, will bring the region towards a community with the desired level of welfare. Economics and business practices are experiencing very dynamic development. Advances in various fields, especially in the fields of biotechnology and information technology have resulted in changes in the way business is managed, and have even resulted in globalization in various fields including law. In order for the law to continue to play its role in supporting the economy of a region, the law must also adapt to various changes that occur in the business sector.²⁵ This of course provides a very large opportunity for the central government in accelerating policies related to the economy in the regions, because the regions are already stable in terms of the functioning of the legal function in the field of economic development.

²³ Abdul Karim, *Peran Hukum dan Fungsi Hukum dalam Pembangunan Ekonomi Daerah di Kota Tangerang*, Hospitality, Vol. 11, No. 1, 2022, p. 645

²⁴ *Ibid.*, p. 651

²⁵ *Ibid.*, p. 652

COMMUNITY EMPOWERMENT THROUGH THE ROLE OF LAW

Theo Huijbers²⁶ holds the view that law must be closely intertwined with justice, laws can only become law if they fulfill the principles of justice. Justice is a constitutional element of all understanding of law. Empowerment is an effort to build community capacity, by encouraging, motivating, raising awareness of the potential they have and trying to develop that potential into concrete actions.²⁷ Empowerment is an effort to build that power, by encouraging, motivating and raising awareness of the potential it has and trying to develop it.²⁸ At least, there are four legal functions in direct relation to society, viz:²⁹

- First, the law functions as a regulatory tool for public relations. In this case, the law is a guide for life that regulates what must be done and what is not allowed, so that everything can run in an orderly manner. Here, the law has the nature and character to regulate human behavior and has the characteristics of governing and forbidding.
- Second, the function of law as a means to realize social justice physically and spiritually. In this case, the law besides having the characteristics of ordering and prohibiting also has the nature of coercion and has physical and psychologically binding power. Here, the law is expected to provide justice to society, the law can punish someone.
- Third, the function of law as a driver of development. In this case, the law is a tool to bring society in a more advanced direction.
- Fourth, critical legal function. In this case, the working power of law is not solely to carry out supervision of oversight apparatus or government apparatus but also includes law enforcement apparatus.

In relation to community empowerment, the third function of law is more appropriate to use, namely the function of law as a driver of development. In this case, the law is a tool to bring society in a more advanced direction. In this regard, Payne argues that an empowerment process is essentially aimed at helping clients gain the power to make decisions and determine the actions they will take related to themselves, including reducing the effects of personal and social barriers to taking action. This is done by increasing the ability and confidence to use the power that he has, among others through the transfer of power from his environment.³⁰ Thus, community empowerment is a process within the framework of efforts to strengthen what is commonly called community self-reliance.³¹ Empowerment is basically to help clients gain the power of decision and action over their own lives by reducing the effect of social or personal blocks to exercising existing power, by increasing capacity and self-confidence to use power and by transferring power from environment to clients.³² Independence is an absolute thing and is the main goal in every community empowerment program.

As a process activity, community empowerment programs/activities should be expected to be able to elevate people's lives as target groups to become more prosperous, empowered or have strength in meeting the main needs of life, and in the end will create self-sufficiency in society. Of course, the independence referred to is not only from the economic aspect, but also socially,

²⁶ Theo Huijbers, *Filsafat Hukum Dalam Lintas Sejarah*, (Yogyakarta: Kanisius, 1990), p. 70

²⁷ Zubaedi, *Wacana Pembangun Alternatif: Ragam Prespektif Pembangunan dan Pemberdayaan Masyarakat*, (Jakarta: Ar Ruzz Media, 2007), p. 42

²⁸ Ginandjar Kartasasmitha, *Pembangunan Untuk Rakyat: Memadukan Pertumbuhan dan Pemerataan*, (Jakarta: PT Pusaka Cisendo, 1996), p. 145

²⁹ Soeroso, *Pengantar Ilmu Hukum*, (Jakarta: Sinar Grafika, 2004), p. 54-55; see also Mella Ismelina Farma Rahayu, et.al., *Pemberdayaan Hukum dan Konstruksi Model Pemberdayaan Komunikatif Responsif*, *Mimbar*, Vol. XXVI, No. 1, 2010, p. 33

³⁰ Adi, *Pemberdayaan, Pengembangan Masyarakat, dan Intervensi Komunitas: Pengantar Pada Pemikiran dan Pendekatan Praktis*, (Jakarta: Lembaga Penerbit Fakultas Ekonomi UI, 2003), p. 54

³¹ O. Jamasy, *Keadilan, Pemberdayaan dan Penanggulangan Kemiskinan*, (Jakarta: Blantika, 2004), p. xiii

³² Isbandi Rukminto Adi, *Intervensi Komunitas Pengembangan Masyarakat Sebagai Upaya Pemberdayaan Masyarakat*, (Jakarta: PT Grafindo Persada, 2008), p. 77-78

culturally, the right to voice/opinion, even to the independence of the people in determining their political rights. The community has been able to understand and determine their own political rights in choosing the best candidate for leaders (regional and national levels), as well as in electing candidates for legislative members as representatives of the people. People no longer feel afraid because of pressure from certain parties in making choices, or because of promises/promises that are only lip service or rhetorical in nature, or make choices because of bribes in any form (groceries, money, clothing etc). In the end, the ultimate goal expected of an empowerment program/activity is to create community independence in making the best choice for them. The main objective of empowerment is to strengthen the power of society, especially weak groups who have powerlessness, both because of internal conditions (their own perceptions), and because of external conditions (oppressed by social structures that are not fair). To complete the understanding of empowerment, it is necessary to know about the concept of weak groups and the causes of the powerlessness they experience.³³ Some groups that can be categorized as weak or helpless groups, such as groups:³⁴

1. Structurally weak, namely classally weak (people with low socioeconomic classes), gender and ethnicity (minority groups), who get unfair/unfair treatment and discrimination.
2. Weak in particular, such as the elderly, children, youth, persons with disabilities, gay-lesbian, isolated communities.
3. Weak personally, namely people who experience personal or family problems.

According to Mardikanto and Poerwoko,³⁵ The purpose of empowerment includes various improvement efforts, namely:

1. Better education means that empowerment must be designed as a form of better education. Educational improvements carried out through empowerment are not only limited to material improvements, method improvements, time and place improvements, as well as the relationship between the facilitator and beneficiaries, but what is equally important is how improvements in non-formal education in the empowerment process can foster enthusiasm and a desire to keep learning without time limit and age.
2. Improvement of accessibility (better accessibility) means that as the enthusiasm for lifelong learning grows and develops, it is expected to improve accessibility, especially access to sources of information/innovations, sources of financing/finance, product providers, equipment, and marketing institutions.
3. Improved action (better action) means, through the provision of better education and accessibility with a variety of better resources (HR, Natural Resources, and other/artificial resources), it is hoped that it will give birth to better actions.
4. Improvement of institutions (better institutions) means, by improving the activities/actions taken, it is expected to improve community institutions, especially the development of business-partnership networks, so as to create a strong bargaining position in the community
5. Business improvement (better business) means, education improvement (learning spirit), accessibility improvements, activities, and institutional improvements, are expected to be able to improve the business/business being run.
6. Improvement in income (better income) means, improvement in the business being run, is expected to be able to improve the income he earns, including the income of his family and community.

³³ Hendrawati Hamid, *Manajemen Pemberdayaan Masyarakat*, (Makassar: De La Macca, 2018), p. 11-12

³⁴ Suharto E, *Membangun Masyarakat Memberdayakan Rakyat*, (Bandung: Refika Aditama, 2010), p. 60; See also Hendrawati Hamid (2010), *Ibid*.

³⁵ Mardikanto T. and Poerwoko S., *Pemberdayaan Masyarakat Dalam Perspektif Kebijakan Publik* (Bandung: Alfabeta, 2012), p. 111-112; See also Hendrawati Hamid (2010), *Ibid*.

7. Improvement of the environment (better environment) means that income improvements can improve the environment (physical and social) because environmental damage is often caused by poverty or limited income.
8. Improved life (better living) means, an adequate level of income and a healthy environment, which is expected to improve the living situation of every family and community.
9. An improved community (better community) means, a better life situation, and supported by a better (physical and social) environment, is expected to create a better community life.


Improvements in all of these sectors, starting from education, accessibility, actions, institutions, business, income, environment, life, and improving social relations in society will have a very big impact on economic growth in Indonesia, moreover this economic development is supported by the legal function. as a driver of development. In this case, the law is a tool to bring society in a more advanced direction. Thus, the weaknesses that exist in society such as being structurally weak, specifically weak, and personally weak can be overcome by advances in various fields, especially in the fields of biotechnology and information technology resulting in changes in the way business is managed, and even result in globalization. in various fields including law. In order for the law to continue to play its role in supporting the economy of a region, the law must also adapt to various changes that occur in the business sector.

CONCLUSION

Development in the economic field cannot work alone, but requires support from various parties, especially in the field of law. Law has a very central role in the success of a country's economic development, particularly in providing business and investment certainty, both at the central and regional levels. This will provide a huge opportunity for the central government in accelerating policies related to the economy in the regions because the regions are already stable in terms of the functioning of the legal function in the field of economic development. In relation to community empowerment, the function of law is as a driving force for development. In this case, the law as a tool to bring society in a more advanced direction will work dynamically following economic developments. Improvements in all sectors, starting from education, accessibility, action, institutions, business, income, environment, and life, and improving social relations in society will have a very big impact on economic growth in Indonesia.

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