
STRENGTHENING LAW ON CULTURAL AND RELIGIOUS RIGHTS IN THE NEW NORMAL ERA

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Abstract

This study aims to examine diversity in Indonesia with the existence of legal products such as laws using the perspective of F. Budi Hardiman, namely the concept of transformational justice. Diversity in Indonesia indicates that Indonesia has a pre-political view that is not only a matter of fingers, so the related dilemma is also about the trap of the concept of justice between the calendar of cultural identity or the loss of the political concept of the state due to the domination of a group so that the system of action has an important role in it. This research uses interviews and documentation studies to collect legal products and explores the nature of diversity in Indonesia. The results show that in Indonesia, legal products are indeed a system of action that transforms diversity into a systemic realm. it's just that there needs to be further socialization so that there is no bias in the concept of multiethnic justice by freezing on liberalism, communitarianism and multiculturalism. Finally, this research can be useful for the field of law, especially the sociology of law. Sustainable development is very dependent on human resources so how the concept of Human Rights is interpreted in the new normal era is the key to the answer that determines the continuity of sustainable development in Indonesia. The principle of proportionality should be the basis for logical thinking in guaranteeing and enforcing human rights in the new normal era in order to maintain the sustainability of sustainable development. The author is of the opinion that for this reason, human rights, both civil and political rights, and economic and social rights,

Keywords: Hardiman, Human rights, Justice, Development, New Normal Era

PRELIMINARY

Indonesia is a country with a high level of heterogeneity so that every corner has a variety of backgrounds. Known religions such as Islam, Hindu Buddhism, Christianity, Catholicism and Confucianism are scattered in the provinces in Indonesia. Not only that, there are also local beliefs or religions that exist in Indonesia. This makes Indonesia a country full of ethnic diversity.

Apart from that, Indonesia itself in the course of its diversity has experienced the dynamics of a nation that is so fluctuating when talking about harmony. Indonesia is framed by the motto Bhineka Tunggal Ika as the nation's motto for unity. It's just that history shows social facts such as conflicts that come with ethnic and religious backgrounds.

These customary and religious conflicts do not actually originate from religion itself. But through a misunderstanding of religion. Which is nothing but understanding religion exclusively and even fatalistically. Indeed, religion has a meaning that is in harmony with peace. Religious

inclusiveness should bring harmony between religious communities themselves. Because every religion confirms that there are differences.

Apart from inter-religious conflicts, conflicts in the name of one's own religion often occur with secularism. Secularism in question is an understanding of the separation of religion and politics which is often interpreted as an atheistic understanding, or the absence of religious aspects in political practice. Among the conflicts above with the involvement of religious faith backgrounds always bring tragedy in the form of violence. But on the other hand, the moral compass should be taken from pre-political views, considering that Indonesia is a pluralistic nation and has noble values. So it is necessary to re-examine the concept of justice that is implemented and actual in Indonesian society.

Some of the conflicts that have occurred have been exacerbated since the emergence of the Covid-19 pandemic. Religious activities and rituals such as worship and funerals which could initially be held in accordance with their nature began to be limited. This creates a new multi-dimensional conflict between religious groups. Opinions scattered in the media regarding this issue became one of the triggers for the emergence of the conflict.

This research is a sociology of law research which initially raised the issue of Indonesia's diversity. The diversity of Indonesia above discusses how the values of solidarity (religion) on the other hand in the form of dogma create social disintegration so that an action system is needed that can regulate actions in the name of religion. However, this research tries to be careful not to fall into contradictory justice.

The concept of justice which was initiated by F. Budi Hardiman, namely the concept of Transformational justice will be used as a lens in seeing socio-cultural reality as well as from a normative perspective of law in Indonesia. Therefore, this study first looks at the products of legislation in Indonesia which then examines the concept of transformational justice by F. Budi Hardiman. Finally, this research is also supported by social phenomena related to diversity as well as related norms and laws.

METHODS/IDEAS

This study uses an interpretive qualitative research method. This study examines legal products such as legislation as a system of action on diversity in Indonesia. Finally, these results are added to the socio-cultural reality in Indonesia. Data collection uses interviews and documentation studies which are then analyzed using the Miles & Huberman model. And also, related to the current government culture in facing the new normal era both in terms of politics, economy, and development.

RESULTS AND DISCUSSION

1. System of Action and Human Rights in Indonesia (forms of diversity in Indonesia)

Indonesia is a rich country, both in terms of natural resources and diversity. There are several forms of diversity in Indonesia, ranging from ethnic diversity, religious diversity, racial diversity, and also the diversity of group members.

Indonesia is an archipelagic country. From these different geographies, Indonesia has many tribes. Ethnicity or what is also called ethnicity can be interpreted as a grouping or classification of people who have one descendant. In addition, ethnic groups are characterized by their common culture, language, religion, behavior or biological characteristics. Each ethnic group has its own characteristics or characters, both in social and cultural aspects. Indonesia has more than 300 ethnic groups, to be precise, 1,340 ethnic groups.

Indonesia is a religious country. This is evidenced in the first principle of Pancasila, namely Belief in One Supreme God. Freedom of religion is guaranteed in Article 29 of the 1945 Constitution which states that the state is based on the One Godhead and the state guarantees the independence of each resident to embrace their own religion and to worship according to their religion and beliefs.

In Indonesia alone, there are six religions recognized by the state. The religions recognized by the state are Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. The six religions must coexist in society with the principle of tolerance among religious believers. But is

Indonesia's diversity is just a legacy? What is all this heritage of diversity for? Indonesia's diversity leads to harmony and meaningful wealth as a nation in the modern era. In sociological studies, it plays an important role in the aspect of social integration in the midst of today's globalism.

Country is a sub-system of the system, including in addition to the state, there is a market in terms of its economy. The state and the market are two elements of this modern system. Studies raised by Weber such as Disenchantment of the World are the impact of the life-world which is colonized by bureaucratization, capitalism and administration and therefore triggers social disintegration. Because people no longer prioritize genuine mutual understanding in their daily practice. So this is the root of the emergence of the post-modern movement in various parts of the world.

However, in viewing the socio-cultural society which has been increasingly eroded by instrumentalization, Habermas, a well-known German philosopher, offers a non-selective model that complements the selective model used by Weber. Habermas' non-selective model contains practical-moral aspects in it that work using communicative rationality. In this dimension one can clearly see the dynamics of the relationship between the system and the colonized life-world. Then came the so-called rationalization of *lebenswelt*, of course rational subjects in the life-world who act communicatively who can realize this kind of rationalization. However, today's social dynamics are faced with the reality of a modern legal state as a sub-system of the system.

Finally, Habermas arrived at the point of law as a system of action or as a axis to transform ideas based on mass solidarity so that they can be connected with power as a system that legalizes the results of public deliberation. In Indonesia itself, social facts related to diversity

have been explained in the first paragraph which shows the diversity of social communities in the life-world. Of course, it is a challenge for Indonesia to be able to continue multiethnic public aspirations into the systemic realm.

Indonesian Law has guaranteed the freedom of expression as an individual as well as part of a group. This can be seen in Law no. 39 of 1999 which is as in Section 2 The Republic of Indonesia recognizes and upholds human rights and basic human freedoms as rights that are inherently inherent in and inseparable from humans, which must be protected, respected, and enforced for the sake of increasing human dignity, welfare, happiness, and intelligence and justice.

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3. Transformational Justice and Law in Indonesia

Transformational Justice is the thesis of F. Budi Hardiman which is based on the theory of Derrida deconstruction and Habermas' discourse theory. From the perspective of discourse theory, the pre-political view with the assumption of justice is transformed towards social symmetry, but from the deconstructivism perspective, the pre-political view with the assumption of justice leads to social asymmetry. This is where the dialectic comes from. Pre-political with its assumption of justice leads to social dimension (discourse theory) which means equality of citizens in the process of public communication to make public decisions (justice as social equality). Then justice also Hardiman using a deconstructivist view said that: "Justice is a concern and an unlimited responsibility to listen to others in their differences."

That is justice as absolute inequality. So transformational justice is an attempt to meet the demands of equality as well as an appropriate attitude to pluralism for ways of life in contemporary society. This model does not block ethno-religious pre-political views but instead takes this view as the starting point for public communication. This model also views that each or every ethnic or religion in its different (deconstructivism) has an equal status regarding communication rights in democracy (discourse theory), by prioritizing communication rights over the rights of absolutist collectivist identities, it will create conditions where the difference is in the equality of rights in communication to debate,

Comparis on Points	Communitari an Justice	Liberal Justice	Multicultur al Justice	Transformational Justice
state	Ethical totality	Political totality (manageme nt of self	Cultural mosaic (manageme nt of cultural	Public communication auditorium

		interests)	identities)	
Individual	Ethical subject (cultural identity)	Legal subject (political identity)	Ethical subject (cultural identity)	Transformation from cultural identity to political/cosmopolitan identity
Political Justice	The politicization of pre-political justice of the dominant group	Neutralization of the legal system from pre-political concepts of justice	Tolerance of pre-political concepts of justice	The result of the discursive transformation of various pre-political concepts of justice

4. New Normal Era and Continuing Development in Indonesia

When the health emergency policy did not appear to have resulted in lowering the statistics on the spread of COVID-19, the Indonesian government through the Task Force for Handling COVID-19 decided to prepare to enter a new normal era which was announced by WHO. According to WHO, in the end, the world can no longer stop being in a period of health emergency. Every country must prepare to enter a new normal period. This WHO statement is based on the fact that until now there is no effective drug to cure COVID-19 sufferers, but only a vaccine has been found to temporarily stop the spread of this virus. This fact places people from all countries, including the Indonesian people in particular, to get used to COVID-19,

It is uncertain when the pandemic will end. However, if the health emergency situation lasts for a long time, it will have a very serious impact on the economy of each country. The downturn in the economic sector will raise new problems or emergency situations that occur today or in the future. It is certain that every country must move to build its economy, which has plummeted as a result of this pandemic. National development must continue. The Indonesian government has just ratified the National Medium-Term Development Plan (RPJMN) 2020-2024 through Presidential Regulation No. 18 of 2020 (PERPRES No. 18/2020). This RPJMN

was originally intended to be the main focus of the Indonesian government in the next five years to realize all the prioritized agendas, especially those that have become their political promises to the people. This development is a manifestation of the fulfillment of human rights so it is proper that development must refer to human rights. This development is not allowed to conflict with human rights. Development is basically part of the concept of human rights.

So far, the Indonesian government has only been limited to providing guidelines or socializing a new normal life that must be implemented by the community in the form of normative provisions, namely related to the importance of health protocols during the COVID-19 pandemic, such as:

- (1) hand washing;
- (2) prevent hands from touching the face;
- (3) good manners when coughing and/or sneezing;
- (4) always use a mask when outside the house;
- (5) maintain social distance;
- (6) and for those who have been infected even though they have not shown symptoms, they are still required to self-isolate;
- (7) maintain health/immunity by doing activities for physical health;
- (8) following mass vaccination.

However, what needs to be considered more concretely is whether the concept of the new normal era as stated above is sufficient as a preparation for the community to be able to survive and survive when living side by side with COVID-19. This is because the health protocol, which seems very easy to implement, is in fact not easy to implement both for ordinary people in daily life, as well as for the government in implementing its policies. As has been stated, changing health protocols as a new life habit is certainly not as easy as turning the palm of the hand. The new normal era health protocol will also change the way people live. Of course, for this the government needs to guarantee the rights of the people so that nothing is reduced.

When the state is in an emergency situation, the public interest is the main goal, while in the new normal era, apart from the public interest, the government also has a policy to guarantee the rights of every individual in the community. This new normal is a normal situation, not an emergency situation. So that in this new normal situation, the government is not allowed to use the excuse of boosting the economy and health as the right thing and makes sense for the government to neglect the other rights of every citizen.

5. Religion and Legal Certainty Problems in the New Normal Era

In commemoration of holy days, every religious adherent in Indonesia has their own collective tradition. In the collective religious tradition, it is no secret that its implementation and celebration always deals with the crowd. Muslims in Indonesia carry out fasting worship which is filled with taraweh prayers in congregation, iftar together, and mutual friendship with the surrounding community. Hindus take to the streets and hold large gatherings of symbols of victory over evil when commemorating the festival of colors. Christians gather together at Christmas and the last supper.

When the pandemic of the collective tradition had to be limited. Geertz wrote in his anthropological literature that the human symbolic system in interpreting the world and carrying out life is in a cultural system, namely religion. This makes religion one of the human foundations in living the new normal days of the pandemic. Anxieties that haunt humans when times of uncertainty become daily become a collective problem for people in the pandemic era. An American anthropologist who graduated from Columbia University said that something supernatural that is believed to be more powerful and visible can overcome anxiety.

Neurologist VS Ramachandran through his scientific research proves that there is a divine point or God Spot located between neural connections in the temporal lobe of the brain. The observations were carried out using a positron emission topography. When research subjects are directed to discuss spiritual topics these areas will shine.

By Therefore, the state in accordance with the promise to realize the general welfare stated in the preamble of the 1945 Constitution should provide ideal facilities and legal certainty in the theological dimension when a pandemic as an emergency occurs. Loevy revealed that the state can implement the aspect of justice through various forms of extraordinary and temporary measures when an emergency occurs. According to Wirataman, the suspension of democracy and effective social control, the centralization of decision-making, the combination of policies between administrative and government coverage, as well as the exclusion of civil liberties are some of the characteristics of establishing a national emergency status by the government.

Thus, in the new normal order, the government should synergize between policies and the interests of the community in religion. The policies implemented should be in favor of the benefit of the community.

CLOSING

3. Conclusion

Indonesia as a multiethnic nation has communicative actions with various motives, but has one form of the same orientation (in the sense of mutual understanding) namely living in harmony in diversity. Legal products in Indonesia should be a cultural frame filled with diversity in Indonesia. Especially in this study the legal products that were raised such as laws related to human rights. Human rights issues should be addressed wisely without eliminating the role of cultural elements as well. Hardiman's view on transformational justice has become an ideal conception for a socially dual identity society in Indonesia. Cultural identity that always needs to be transformed into a national identity. And also, Economic issues and health issues are two important things that must receive great attention from the government. Development is identical with the fulfillment of human rights, so that the fulfillment of human rights is a determinant of the sustainability of development. In the new normal era, the fulfillment of human rights should be applied proportionally. Economic rights and health rights during the pandemic are two things that seem to be competing to bring the Government into a dilemma

situation. The proportionality of human rights in the new normal era in order to ensure the sustainability of sustainable development is carried out by determining the priority scale.

4. Suggestion

It is known about the purpose of legal products and coupled with Hardiman's view, what needs to be done are communicative actions in the form of socialization to the wider community regarding the need to prioritize communication praxis. The establishment of institutions that can facilitate actions towards mutual understanding by religious communities is urgently needed. So that it is not only a conflict prevention but also acts as a medium that always revives diversity based on the inclusiveness of religious faith. And The Indonesian government should conduct a deeper study of national development policies by prioritizing the fulfillment of human rights related to the quality of human resources in the context of the new normal era, of course, the main thing is to ensure the health of every individual from the COVID-19 pandemic. And for the sustainability of sustainable development for the next generation, the fulfillment of the right to quality education should also be studied more deeply how it will be implemented in the new normal era.

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