

Anticipating Kalimantan as the New Capital City of the Unitary State of the Republic of Indonesia in the Perspective of Legal Politics

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Abstarct

Since the announcement of the official transfer of the national capital, many reactions have been shown by various groups of people. One aspect that is urgent to study is the change and readiness of people's lives which are an important part of this transfer process and the development of national law in the future. The development of national law in the future must mark the implementation of laws that are in accordance with the wishes of the community and fulfill the values of change in society so that members of the community can be happy. This study looks at how the community is prepared to welcome the relocation of the state capital to Kalimantan and the development of its national law. The results of this study conclude that the development of national law that wants to prosper and make people happy must prioritize sociological insights into legal politics to be able to explain, organize, predict, and solve problems of social change and their influence on the development of a national legal system in Indonesia based on Pancasila and the 1945 Constitution

Keywords: Legal Polecy, Community readiness, development of national law, IKN

Introduction

In 2019, the President of the Republic of Indonesia officially announced the relocation of the national capital from Jakarta to East Kalimantan, specifically in the districts of Kutai Kartanegara and Penajam Paser Utara in the province of East Kalimantan, as the new national capital city. The selection of this location was based on considerations of minimal risk from natural disasters, such as volcanoes, earthquakes, floods, tsunamis, forest fires, and landslides. Additionally, the chosen area is strategically located in the center of Indonesia, near the cities of Balikpapan and Samarinda, which are already developed with relatively complete infrastructure, and there is available land covering an area of 180,000 hectares under government ownership.

Since the official announcement of the relocation of the national capital, various reactions have been shown by different segments of society. Numerous studies and seminars have been conducted in various forums to discuss the potential, legal, economic, social, cultural, political, land, spatial, and security implications of this policy. The substantial impact that accompanies the decision to relocate the national capital makes it a topic of constant interest for exploration.

One critical aspect to be examined is the transformation of people's lives, which is an integral part of this relocation process. Recognizing that the community is the primary component, encompassing various groups, such as the making of laws, policy targets, and those in the surrounding areas who will be affected by the implementation of a policy.

Theoretically, changes in community life, nationhood, and statehood can occur in revolutionary, dynamic, and technological ways. The transformation of community life, where individuals are part of it, is an inevitability since humans, as social, economic, and religious creatures (zoon politicon, ekonomikus, and religius), can evolve and even undergo revolutionary changes through social interactions and legal-political activities with sociological insight.

In this context, the community and its transformations are deeply correlated with law. Law, as the object (ontology) of legal science with its methods (epistemology) and utility (axiology), cannot be separated from

the essence of human beings and their interactions in communal life, which gives rise to social wisdom values, including all that is deemed valuable according to human feelings, hearts, and thoughts, expressed through words like politeness, appropriateness, propriety, goodness, badness, rightness, wrongness, reward, sin, heaven, hell (moral-ethical-religious); order, regularity, tranquility, and peace (social norms); justice, certainty, rights, obligations, authority, duties, functions, responsibilities, status, requirements, prohibitions, sanctions (legal norms).

The future development of national law must mark the enactment of laws that align with the desires of the community; that resonate with the changing values in society and can bring happiness to the members of society; this is one of the characteristics of progressive legal development..

Methods

This research is a study conducted using the literature review method. It involves reviewing and analyzing the findings of previous research that has been conducted. The data search and collection were done by exploring e-journals using Google Scholar.

Findings dan Discussion

1. Changes in Society as a result of the Relocation of the National Capital

Community change is a natural thing in a dynamic life. Human society is a dynamic creature that is always changing at any time. Which changes can be related to social values, patterns of behavior, the structure of social institutions, power and authority, social interactions and others.

The change in society from primitive conditions to intermediate conditions and to modern ones, as stated by Ankie M. M Hoogvelt, is a basic identification of the movement of social change. Likewise, the classification of Selo Sumardjan differentiates the characteristics of society with social and cultural structures simple , intermediate, pre-modern, and modern . Even so, this identification gives us an understanding that society is indeed full of dynamics of change. Regarding why and how the process of change occurs in society, each expert from the disciplines of social science and law can describe it from a different point of view according to the contextuality of the problem.

Changes in society occur because they are driven by their needs, it is quite reasonable. Living in a family, community, nation and state is one of the social needs of every individual or group. From there, each individual and group can try to meet the needs of life that he wants according to his situation, condition, ability, and empirical experience, such as: physiological needs, safety and security needs, social needs, esteem needs, and self-actualization needs . This aims to change the status of personal life, social structure and culture of society in a revolutionary way. Revolutionary change is a change that occurs because it is planned on the basis of a common desire. The relocation of the national capital of course occurs based on the existence of policies planned on the basis of the government's thinking. Theoretically required conditions of a major change:

1. There must be a common will to make a revolution;
2. There must be a feeling of dissatisfaction with circumstances;
3. The existence of a leader or a group of people who are considered capable of leading the change.
4. has to be the right moment.

Considering that the relocation of the national capital is a change that has a very large impact on people's lives, especially for policy recipient communities, namely people who will receive direct influence from changes in values, norms, economics, social systems due to state legal politics, it is important to question whether the legal politics of policy makers have involved the community fully and reached the targets of the people who are directly affected by the policy.

Satjipto Rahardjo provides a clear view in observing social changes and their correlation with changes in law in Indonesia. Where at this time Indonesian society is undergoing a social transformation whose process is very revolutionary (universal revolution), namely from an agricultural economic basis to an

industrial economic basis. The acceleration is so fast because it is supported by the use of technology, government structures, political life, and the rationalization of the production system, in the implementation of national development. Even to solve other social problems all forms of power intervention are played transparently. So that a middle class and conglomerate are formed which are exclusively protected by the role of state power, while on the other hand there is a lower class class of society which in the social structure of Indonesian society is actually marginalized by state power.

In the context of understanding law as a social institution, policy recipient communities have their existence to be heard and involved, even better is to empower people's lives through their legal life. Empowering human life means: striving for the ability of legal subjects both people and legal entity to be able to live protected in a personal, social, national and state system of life that is oriented towards meeting the needs of his life as social beings and creatures of God Almighty . **Empowering the law** means: seeking the functioning of law as a means of controlling personal, social, national and state life to humanize human beings to reason humanity that needs a sense of security, peace, tranquility, order, certainty, truth, justice, and civility .

Such a legal function leads our thinking towards efforts to empower law to become an instrument:

1. Guiding the formation of thoughts, perceptions, attitudes, psychology, awareness, character, behavior and actions of civilized humans;
2. Integrating the diversity of individual interests into public interests;
3. Refinement of the disorderly order of social life (chaos – disorder) to a normative societal order;
4. Stabilization of the order of people's lives from criminal/anti-social acts to law-abiding behavior;
5. Correction of the old legal paradigm into a new legal paradigm into a legal norm system that fits the needs of the times.

The main issue is: who are the legal subjects whose legal behavior needs to be cultivated in the development of national law and how to empower the law so that it is able to form thoughts, feelings, wills, attitudes, behaviors and legal actions in order to build a Pancasila national law. It is not easy to answer this problem, because it requires a comprehensive study through philosophical, theoretical, juridical, sociological, and political approaches.

Before the reform era; there are quite a number of government efforts to empower the law with the aim of increasing awareness and compliance of citizens with the law in order to crystallize the development of legal cultural values that are of standard value (**par excellence**). Various legal counseling activities targeting certain strata of society have been carried out, among others through the development of Legal Education Strengthening Pattern activities; Formation and Development of a Legal Aware Family; and Legal Awareness Gathering. Even though the results have not been felt optimally (not to be called a failure), but as an element of the effort these activities still provide positive values.

The development of national law based on legal awareness will become entrenched if the changing values of society and community members form the basis for national legal values which are reflected in knowledge, understanding and appreciation as well as the benefits and objectives of law, on which basis, thoughts, feelings, attitudes, character, behavior and actions are expressed which are a tradition to formulate legal regulations, both written and unwritten that apply nationally, are understood by the community and obeyed by the community.

Efforts to develop national law based on the values of change in society towards law are closely related to the principles of social, national and state life.

- a. That the development of national law creates various values **of social wisdom** : Ideology, Politics, Economy, Social, Culture, Defense and Security, must be based on changes in society.
- b. **Social wisdom** contains insights about human nature in the social interactions of life among humans, the universe and God Almighty;

- c. **The social order** is not a building that is purely rational but also irrational (**meta-rational**), both of which synergize with each other to form a humane " **community order** "; dynamic and continuously developing all the time (**pantarei**), not **anthropic** (static);
- d. Social wisdom always creates a description (**mensbeeld**) of humans in **the Vertical Ordinate** (God's creatures) and **Horizontal Ordinate** (social beings) on the basis of which a modern legal structure and legal society can be formed that binds individual behavior, groups and their social interactions into the legal culture of a society that is a state.

Based on the understanding of the normative community above, it radiates functional dimensions of legal values to direct, unify, stabilize, refine, and correct antagonistic legal behaviors to the behavior of legal cultural values. Which in turn will become national law

The obligation to improve legal culture in developing national law must be touched by the values of all levels of society so that a systemic approach is needed to develop it. The systemic approach includes two main points: **First**, viewing the system as a structured unit of sub-sections in society; **Second**, viewing the system as a plan, method, or procedure for doing something. Both can be synergized to understand the existence of law and legal culture as a system .

2. Political Law and Movement of the State Capital.

Legal theorists define legal politics differently from various points of view; According to Moh. Mahfud MD: "The definition or understanding of legal politics also varies. However, by believing that there are substantive similarities between the various existing meanings, this study takes the notion that Legal Politics is a legal policy that will be or has been implemented nationally by the Government of Indonesia. Next Moh. Mahfud MD quotes from Abdul Hakim Garuda Nusantara in a paper on Legal Aid training at LBH Surabaya in 1985; legal politics which includes: " first , legal development with the core of making and updating legal materials so that they are in accordance with needs; second, the implementation of existing legal provisions including the affirmation of the functions of the institution and the development of law enforcers". From this understanding, according to Moh. Mahfud MD: "Legal politics includes the process of making and implementing laws that can show the nature and direction in which the law will be built and enforced".

Legal Politics according to Bintan Regen Saragi his : "Policies" taken (taken) by the state (through its institutions or officials) to determine which laws need to be replaced, or which need to be changed, or which laws need to be maintained, or which laws need to be regulated or issued so that with this policy the state administrators and government can proceed in a good and orderly manner so that the goals of the state (such as the welfare of the people) can be realized gradually and in a planned manner . And according to LJ Van Apeldorn: that legal politics as statutory politics.

Besides the definition of Legal Politics above which has been described above; there are still many theoretical opinions; other scientists who provide definitions; the meaning and scope of the National Law Politics based on their observations and their respective perspectives, but as stated by Moh. Mahfud MD quoted above; although there are differences; there will be substantive similarities between the various existing meanings

Indonesian National Political Law, has existed since the Proclamation of independence of the Indonesian Nation, not since the enactment of the 1945 Constitution on August 18, 1945; as constitution; the basic legal rules of the Republic of Indonesia, but the direction of the legal rules in the 1945 Constitution is the legal system as the basis for the National Legal Politics. This is because the 1945 Constitution contains the basic values of the establishment of the State of Indonesia and the Goals of the State of Indonesia.

According to Utrecht that: "Political law is determined by the nature and form of the state, namely the power relationship between those who rule and those who are governed". Based on this opinion, the determination of Indonesian National Law Politics is based on the nature and form of the state, which has been determined by the 1945 Constitution of the Republic of Indonesia which is the constitution; rule of law and the legal system.

The stipulation of the 1945 Constitution of the Republic of Indonesia as the State Constitution which

is the Rule of Law and the Legal System since August 18, 1945 provides direction; bow; change of direction from the National Legal Politics. In the past, legal politics was directed by the colonialists, so that the applicable laws and regulations were structured; having a legal substance and culture with colonial leanings; which must be changed. Even though currently the 1945 Constitution of the Republic of Indonesia has made changes, according to Moh. Mahfud MD; changes to the Constitution after the reform only once but ratified in four stages

Moh. Mahfud MD stated:

"The proclamation of independence has changed the tradition of society from being colonized to being a free (independence) society. The purpose of law must also change in reverse from the aim of maintaining and preserving colonialism to filling independence with an ethos that also changes from colonialism to nationhood. Thus the contents of the legal will demand the consequence of a change in the positive law that was in effect before. Such as Indische Staatsregeling (IS), Algemene Bepalingen van Wetgeving voor Indonesie (AB), Burgerlijke Wetboek (BW), Wetboek van Koophandel (WvK), Wetboek van Strafrecht (WvS) and all statutory provisions issued during the colonial era."

Further stated by. Moh. Mahfud MD by quoting the opinion of Padmo Wahjono in the National Law Magazine No. 1 of 1985: "Change is necessary and becomes an important part of the National Legal Politics, because the laws that existed at the time of the proclamation of independence have been influenced and mixed up with a legal system or ideology that is inconsistent with Pancasila."

Pancasila is the basic state value, ideology, legal ideals, and moral ideals of the Indonesian nation. The basic values of the founding of the State of Indonesia which have the Goals of the State of Indonesia, namely; "protecting the whole nation and Indonesia's bloodshed, promoting public welfare, educating the nation's life, participating in carrying out a peaceful and eternal world order, and realizing social justice for all Indonesian people." contained in the opening paragraphs of the 1945 Constitution of the Republic of Indonesia.

Pancasila as the basis of the state functions as the ideal foundation for the establishment of the Indonesian state, on which it is hoped that the unity of the Indonesian nation will be created which is complete, free, independent, united, sovereign, just, prosperous, believes in the one and only God, has a sense of humanity that is just and civilized, democratic, wise, and realizes social justice; **Pancasila as the nation's ideology** , it becomes the philosophy of life for all Indonesian people as well as the administration of government and national development; **Pancasila as a legal ideal** , Pancasila values are used as a basic reference or fundamental principle and a source of legal order for the formation of the substance of Indonesian laws and regulations from the highest to the lowest levels vertically and horizontally; and **Pancasila as a moral ideal** , underlies the personality of every individual and the Indonesian nation in the order of personal, social, governmental, national and state life.

Pancasila is **the "ideal of law"** for the current and future Indonesian legal system which functions as a regulative and constitutive rule. The aforementioned rules are described and normative in the 1945 Constitution of the Republic of Indonesia; as the constitutive basis of the Indonesian legal system.

3. Development of National Law and Legal Politics of Moving the State Capital

The development of national law must be carried out systematically and comprehensively, not only updating legal norms which are the substance of the legal system but also updating the structure and culture. As the paradigm theory of the legal system (legal system) .

The main problem of law development is that many of the legal products of the State that are used today, both formal and material as the basis for the legal basis of society and apparatus, are colonial products that are based, have substance and are western cultured. Therefore, until now Indonesia is still in the process of building a national law that has Indonesian roots, faces and characteristics. In this context, it is necessary to build a legal paradigm that provides the basis for legal development that provides complete recognition and protection for legal systems other than state law.

The concept of the development of National Law in Indonesia has a close relationship or contains general characteristics that are similar to the concept of Rechtsstaat and the Rule of Law . However, it

differs quite principally in terms of its philosophical foundation, because based on Pancasila the divine value is not solely based on the Islamic religion, but also other religions whose existence is recognized in Indonesia, while the recognition and protection of human rights must be balanced with social obligations to achieve balance, harmony and harmony in personal, family, religious, social, national and state life, which in turn (should) form the legal characteristics of Pancasila, as a product of Indonesian human behavior with a sociological and philosophical core.

The current implementation of the development of national law is only the renewal of the law (Legal reform) . Legal reform has not included law reform so that the legal system paradigm from Lawrence M. Friedman above can become the basis for the development of the Indonesian national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The development of the national legal system in terms of substance can be explained by **Lon Fuller's Theory** which emphasizes the content of positive law, must meet certain requirements, including: 1. There must be rules as guidelines in making decisions; 2. The rules that serve as guidelines for the authorities must not be kept secret but must be made public; 3. Rules should be made to serve as a guide for future activities; 4. The law must be made in such a way that it can be understood by the people; 5. The rules may not conflict with each other; 6. The rules must not require behavior that is beyond the control of the affected parties; 7. The law may not be changed at any time; 8. There must be consistency between the rules as announced and their actual implementation.

Indonesia as a country that prioritizes legal norms, must review the implementation of reform of the normative legal system that has been carried out so far, whether it is in accordance with the principles of establishing a legal system that upholds human rights and dignity, respects the values of truth, achieves the goals of true substantive justice. The model for reforming the normative legal system which is based on the spirit and fundamental values of the philosophy of Pancasila and the 1945 Constitution of the Republic of Indonesia is a model for the variety and benchmark for the configuration of reform of the different normative systems in Indonesia so that they become a fundamental unit for the formation of a normative legal system which includes the structure, substance and culture of Indonesia.

Conclusion

The changes that occurred in Indonesian society during the reform era are part of a chain that cannot be separated from the process of social change in the Renaissance era, the absolutism system, and the emergence of constitutional states. These influences are still felt today and will continue to impact societal development, especially in responding to the anti-climax of legal development.

The factors driving social change are complex and empirical. Therefore, the role of positive law, formed, enacted, and enforced based on dogmatic legal thinking or legal positivism, is no longer suitable for the current societal changes that require progressive law to ensure prosperity and happiness in the nation and state. Thus, in the national law development, welcoming Kalimantan as the capital of the Unitary State of the Republic of Indonesia, it is necessary to prioritize a sociological legal-political perspective to explain, organize, predict, and solve issues of societal change and their impact on the development of the national legal system in Indonesia based on Pancasila and the 1945 Constitution.

In other words, every change and renewal of laws in the National Legal System needs to be deeply studied in terms of societal values and social norms, so as not to be trapped again in the dominance of dogmatic legal positivist thinking that is laden with the interest of maintaining the status quo rather than seeking to improve and bring happiness to society. With this hope, the society can be categorized as ready to welcome the relocation of the capital to Kalimantan.

The supportive factors of societal readiness can be seen from the development and progress of the social structure by introducing better legal products with an archipelagic perspective, emphasizing the application of values contained in Pancasila and the 1945 Constitution, as well as appropriate national legal development targeting. This way, the anticipation of Kalimantan becoming the capital of the nation can be achieved with the presence of a society ready in all aspects, both in the well-informed societal structure, the substance area with the presence of a responsive pattern of national legal product development, and the cultural area with a high level of understanding and application of law in the community environment.

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References

- Basah, Sjachran, 1992. Ilmu Negara, Bandung: PT. Citra Aditya Bakti.
- Hoogvelt, Ankie M.,M., 1985. Sosiologi Masyarakat Sedang Berkembang, Penyadur: Alimandan, Jakarta: CV. Rajawali.
- Marzuki, Suparman, 1997. Hukum Modern Dan Institusi Sosial, Jurnal Hukum, UII, Yogyakarta, No. 7 Vol 4.
- Maslow, Abraham, 1983. Motivation and Personality, Harper & Row, New York, 1954. Lihat pula Leon C, Megginson, Donald C. Masley & Paul H. Pietri, Jr., Manegement: Concepts and Application, Harper & Row, Publishers, New York, 1983.
- Rahardjo, Satjipto, 1998. Paradigma Ilmu Hukum Indonesia Dalam Perspektif Sejarah, Disampaikan dalam Simposium Nasional Ilmu Hukum “Paradigma dalam Ilmu Hukum Indonesia”, diselenggarakan dalam rangka Dies Natalis Fakultas Hukum UNDIP ke-41 bekerjasama dengan Pusat Kajian Hukum Indonesia Bagian Tengah dan Program Doktor Ilmu Hukum UNDIP, Semarang.
- _____,1997. Pendayagunaan Sosiologi Hukum Untuk Memahami Proses-Proses Sosial Dalam Konteks Pembangunan Dan Globalisasi, dimuat dalam Jurnal Hukum, UII, Yogyakarta, No. 7 Vol 4.
- _____,2006; Membedah Hukum Progresif; PT Kompas Media Nusantara, Jakarta;
- Soekanto, Soerjono, 1991. Pokok-Pokok Sosiologi Hukum, Jakarta: Rajawali Pers.
- Soekanto, Soerjono Solekan B. Teneko, 1981. Hukum Adat Indonesia, Jakarta: CV. Rajawali.
- Marzuki, Suparman, 1997. Hukum Modern Dan Institusi Sosial, Jurnal Hukum, UII, Yogyakarta, No. 7 Vol 4.
- Widnyana, I. Made dkk., (Editor), 1995. Bunga Rampai pembangunan Hukum Indonesia, Kumpulan Karya Ilmiah Para Pakar Hukum, Bandung: PT. Eresco Bandung.