THE ROLE OF ESTABLISHING LEGISLATION IN HANDLING SOCIAL CONFLICT

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Abstract

Society is a group of individuals or groups, each of whom has an interest. These various interests have the potential to cause clashes which result in the emergence of conflict in society. Law in the form of statutory regulations can bring together these various interests in a forum to formulate collective agreements which ultimately take the form of norms. The meeting took place in the process of forming legislative regulations which was carried out in an open and participatory manner. This effort can play a role in handling conflict in society. This article examines the process by which legislative regulations can play a role in preventing and resolving conflicts in society. The results of research conducted through research and analysis of literature found that the process of forming good laws and regulations by implementing openness and comprehensive participation can play a role in controlling conflict in society.

*Keywords: **Society; Constitution; Law; Social Conflict***

Introduction

Humans as individuals have their own interests and desires according to the conditions or circumstances of the individual. These interests and desires must instinctively be fulfilled. However, humans as individuals in community life are social beings who require interaction between individuals (Sari, 2023). This interaction brings a situation where one person's interests or desires will meet the interests or desires of another individual. This meeting can result in interests that are in line or, conversely, clash. In a situation of conflicting interests, it can cause conflict between these individuals.

The nature of differences in interests between individuals that can cause conflict also occurs in a community or group of individuals in a broader construction, which can be a tribe, region, nation, or even a group of nations. Each tribe has interests and has the potential to clash with the interests of other tribes. The same thing also happens to nations and countries, a country has its own interests that can potentially cause conflict. These differences in interests can be based on various aspects including ideological, political, economic, social, cultural, and defense and security aspects.

In a society with a high level of differences or heterogeneity, the potential for differences in interests that can cause conflict is greater than in a society that is more homogeneous. The risk of conflict of interest will be greater so that in a society with a high level of plurality or diversity, institutions are needed that can control or mitigate the risk of conflict. Indonesia as a country with a high level of diversity is also faced with the risk of conflicts of interest with various backgrounds based on the plurality that exists in the midst of society (Djayanti, et al., 2022). This social reality works in society in a social system with a set of values and norms that exist in society that aim to regulate or control interactions so that conflict does not occur. Law is one of the devices that works in this social system.

Various roles of law make important contributions in the social system, including the role of law in the form of dispute resolution forums, law enforcement, and related legal regulations. This legal role that positions law in the social system can accompany a developing society

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(Dirjosisworo, 2001). Specifically, this paper will examine the role of law in the form of legislation from a formal aspect or the process of its formation as an effort to control conflict with the research question of how the process of forming regulations can become a means of controlling conflict in society. Law is an aspect that influences human daily life. It regulates actions that are permitted and prohibited for individuals. In addition, law functions to resolve conflicts, impose sanctions, and regulate behavior. In social, political, and economic contexts, law plays a very important role. Law reflects the interaction between individuals and society or groups. In social interactions, various problems can arise.

To deal with these problems, law enforcers and authorized institutions have acrucial role in enforcing the law that must be obeyed. Von Savigny stated that everything is assessed based on views, principles, norms, or moral rules in laws and regulations. Good law is law that is accepted and internalized by society. Utility value is a common goal between law and ethics, namely to create order in social life. According to Winner, law functions as a center for controlling communication between individuals with the aim of achieving justice. Laws are made by the authorities as a manifestation of the purpose of control which is carried out through the application of legal sanctions to certain disputes or cases (Sinaga, 2020). In general, the function of law can be described into three things.

First, the function of law is as a tool of order and regularity in society, this is the nature and character of law that provides guidelines and instructions on how to behave in society. Each member of society has been aware of what should be done or not done in such a way that everything can be orderly and regular. Second, the function of law as a means to realize social justice physically and mentally means that law has binding power both physically and psychologically. It can be a real punishment and punish the wrong, decide that those in debt must pay and so on, so that it relatively realizes a sense of justice. Third, the function of law is as a driver of development, one of which is the binding and coercive power of law, also utilized or utilized to drive development. Law as a means of development is a tool for authorities to bring society in a more advanced direction. Therefore, for law enforcers to implement or apply the law (Dirjosisworo, 2001).

Method

This paper uses a descriptive qualitative approach. The qualitative approach was chosen with the aim of providing a broad description of the topic being raised, namely the role of the formation of laws and regulations in handling social conflicts. While the descriptive method is used with the aimof being able to explain descriptively the findings of the data obtained in order to make it easier for readers to understand the social phenomena being studied. The data collection technique used is a literature study, namely collecting various credible sources related to the research study. Data sources are obtained from scientific articles and books that are in line with this research.

Results and Discussions

1. Community Interaction and Potential for Social Conflict

Humans are social beings who interact with each other in their lives. These interactions are carried out to fulfill various needs and desires and to ensure the continuity of their lives (Tabi'in, 2017). However, on the other hand, humans also have desires or interests that are individual in nature. These individual interests will affect the character of egoism in humans so that this character becomes a factor that will determine the pattern of interaction between humans.

Interaction between humans or between individuals can result in two impacts, namely associative, namely an increasingly close interaction relationship and dissociative, namely an increasingly loose interaction relationship. Associative interaction will produce a form of cooperation between humans or between individuals. While the form of dissociative interaction willresult in conflict and conflict (Siregar, 2021). This dissociative interaction occurs when in an interaction there are interests of each that cannot be met or reconciled to achieve common goals. Each party forces their

respective interests so that it causes conflicting interests and can trigger conflict. This pattern can also occur in interactions between groups or between members of society.

Social conflicts that occur in society can be divided into several forms based on certain categories, namely (Ali & Haryani, 2014):

a. Based on nature, in this type of conflict can be divided into destructive conflict and constructive conflict. Destructive conflict arises because of hostility or revenge that can cause physical clashes. While constructive conflict arises in the interaction of individuals or groups over a particular problem. This conflict will produce a consensus that has a positiveimpact on the interaction of individuals or groups.

b. Based on the position of the perpetrator, in this type it can be divided into vertical, horizontal and diagonal conflicts. Vertical conflict is a conflict between elements of society in a hierarchical structure. While horizontal conflict is a conflict between individuals or groups that have relatively the same position. Diagonal conflict is a conflict that occurs because of the unfair allocation of resources to the entire organization, resulting in extreme conflict.

c. Based on the nature of the perpetrators in conflict, in this type it can be divided into open conflict and closed conflict. Open conflict is a conflict that is known to all parties. Closed conflict is a conflict that is only known to the people or groups involved in the conflict.

d. Based on the concentration of human activity in society, in this type of conflict can be divided into social, political, economic, and cultural conflicts. Social conflict is a conflict thatoccurs due to differences in social interests of the conflicting parties. This social conflictcan be divided into vertical social conflict and horizontal social conflict. Vertical social conflict is a conflict that occurs between society and the state. While horizontal conflict is a conflict that occurs between ethnicities, tribes, groups, or between community groups.

Subsequently, political conflict arises from divergences in interests pertaining to the distribution and exercise of power. Economic conflict arises from the competition for economic resources among the involved parties. Cultural conflict arises from disparities in cultural interests between the parties involved in the dispute. Based on the characteristics of its management, in this type of conflict is divided into conflict between individuals and conflict between groups. Inter-individual conflict is a conflict that occurs between one person and one or more people, sometimes substantive in nature, concerning differences in ideas, opinions, interests, or emotional in nature, concerning differences in taste,and feelings of like/dislike. Inter-group conflict is a conflict that is often found in the reality of human life as social beings, because they live in groups. Soerjono Soekanto (2015) states that there are five special forms of conflict that occur in society, namely personal conflict, political conflict, social conflict, conflict between social classes, and international conflict.

a. Personal conflict, namely conflict that occurs between individuals due to personal problems or differences in interpersonal views in responding to something. For example, individuals who are in debt, or problems with the division of inheritance in the family.

b. Political conflict, namely conflict that occurs due to different political interests or goals between individuals or groups. Such as differences in views between political parties due to differences in ideology, principles of struggle, and political ideals of each. For example, clashes between political parties during the campaign.

c. Racial conflict, namely conflict that occurs between different racial groups due to clashing interests and cultures. For example, the conflict between black and white people due to racial discrimination (racism) in the United States and South Africa.

d. Conflict between social classes, namely conflict that arises due to differences in interests between classes in society. For example, the conflict between workers and leaders in a company demanding a wage increase.

e. International conflict, namely conflict involving several groups of countries (blocs) due to

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differences in their respective interests. For example, the conflict between Iraq and the United States involving several large countries.

The characteristics of conflict are increasingly diverse in line with the development of society, especially with the rapid development of technology. Various social processes that occur in society today have widely used internet support. The development of internet use has also changed many patterns of interaction in society, both in the private sphere such as communicationbetween family members, groups or organizations to public interaction patterns. The increasing use of technology in society also has an impact on changes in people's life patterns (Jie, et al., 2023). There is a very close relationship between technology and the creation of values or culture in society. This relationship is called technoculture.

Technoculture is increasingly visible today with the development of internet use in society. Society's dependence on internet-based technology is also increasing. The development of information and communication technology means that information in any country can be distributed in real time with very rapid distribution. This condition also makes information spaces in society more open. The increasingly open space for the distribution of information and communication creates conditions that are prone to the emergence of social conflict in society. In the communication and information space in cyberspace alone, interactions between users can cause conflicts that are often referred to as cyber conflicts. The development of technoculture in society also increases the potential for the spread of bad behavior other than the spread of fake news/hoaxes, such as tweet wars, bullying, and hate speech (Utama, 2023). With the increasing openness of communication and information spaces in society, this situation is very easily ignited to the point ofgiving rise to social conflict. This condition certainly has an impact on the emergence of threats to national disintegration which can disrupt national security stability.

2. The Nature of the Formation of Legislation

Law in the form of statutory regulations is a written norm formed by authorized officials, appliesgenerally and binds society. In more detail, Law No. 12 of 2011 concerning the Formation of Legislation as last amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation defines Legislation as stated in Article 1 number 2, is a written regulation containing legal norms that are generally binding and formed or stipulated by state institutions or authorized officials through procedures stipulated in the Legislation. Legislation is an instrument that has the legitimacy to regulate society in a democratic country. Its position as a regulatory instrument has coercive power because it is formed by legislative power (Utama, 2018). Legislation is also a support for Indonesia which is committed to becoming a country of law. Jimly Asshidiqqie argues that in the concept of a state of law, it is idealized that what must be made the commander in the dynamics of state life is law, not politics or economics (Asshiddiqqie, n.d.). As a consequence of the choice of a state of law, all aspects of life in the fields of society and government in Indonesia must always be based on law, one of which is manifested in various state regulations (Anggono, 2018). A state of law requires that every action of the state must aim to uphold legal certainty, be carried out equally, be an element that legitimizes democracy, and fulfills the demands of reason (Martoredjo, n.d.).

The authority to form laws and regulations lies with state institutions or officials. The regulation of authority held by state institutions or officials does not limit the formation of laws and regulationsto being held absolutely by state institutions or officials and does not mean that other parties cannot be involved in the formation of these laws and regulations. If examined further, the formation of laws and regulations is one manifestation of representative democracy. The people elect their representatives to work as members of parliament who represent them to form public policies. People's representatives have a legislative function to form regulations, namely laws for the national level and regional regulations for the regional level. On the other hand, the president as the holder of executive power who also has the authorityto form laws or regional heads who have the authority to form regional regulations together with the DPR/DPRD are also elected by the people through general elections. This construction shows that both the DPR/DPRD and the

President who have the authority to form laws and regional regulations receive a mandate from the people which is carried out in the implementation of general elections. Therefore, the people as the mandate givers should get a wide space to be involved in the formation of laws and regulations.

In this construction, the formation of laws and regional regulations can be seen as a manifestation of the meeting of the interests or aspirations of each person through their representatives. The discussion of laws and regional regulations carried out by people's representatives together with the holder of executive power essentially voices the interests of the people, especially their respective constituents. This is the implementation of indirect democracy. The formulation of norms that become the substance of laws and regulations through a series of discussions by the legislature and executive discusses various interests. Ideally, what is discussed is the interest of the constituents or the people represented, but not infrequently what also colors the discussion are other interests on the basis of politics, economics and so on. The implementation of the discussion of laws and regulations in the context of representative orindirect democracy must absolutely open up space for public involvement. This is based on considerations including:

a. Legislative members and executive officials (president and regional heads) are representatives of the people's choice through general elections. The mandate they hold comes from the people.
b. Discussion of laws and regulations is a political arena controlled by the holders of legislative and executive power, each of which represents political power and groups. There is a risk that people's aspirations will be marginalized on the basis of certain political interests that ignore the interests of the people.

These two things are considered that in the formation of legislation, the people have the right to be involved or participate. In the legal system, the right of the community to participate has been guaranteed through the regulation of the Law on the Formation of Legislation. Participation or involvement of the community in the formation of legislation as an effort to ensure that the aspirations of the community/constituents and groups affected by a legislation are not set aside by officials or state institutions that form it. There are formal efforts guaranteed by law for the community to fight for their interests so that they can be formulated into norms in legislation.

The existence of this participation space or forum allows discourse in the formation of legislation both in formal and non-formal meeting rooms or meetings as well as in the news media and social media to bring together the different interests of the community in responding to the discussion of a legislation. The formal political process by the legislature and executive will formulate norms by considering the various interests or aspirations of the community.

Prof. Dr. Mahfud MD expressed his opinion that law when conceptualized as a law is a political product. In fact, if law is conceptualized as a law made by a legislative institution, then no one can deny that law is a political product because it is a crystallization, formalization or legislation of competing political wills either through political compromise or through domination by the greatest political power. In this concept lies the truth of the statement that "law is a political product" (Mahfud MD, 2014). The political process of discussing legislation carried out by authorized officials or institutions must agree on the substance that will be ratified as a norm. The legislative process is also a complex process. Not only formulating norms into legal texts, but also the struggle and interaction of socio-political forces that surround it (Putuhena, 2012). The agreement agreed upon in the process is expected to be accepted by each party after being ratified, even though there are interests of a group that cannot be accommodated to achieve a common goal.

3. The Process of Forming Legislation and Efforts to Handle Conflicts

Legislation contains norms that are the result of a discussion process according to certain rules in accordance with the provisions of legislation. The discussion process is an effort to formulate various aspirations to regulate one particular thing to achieve the agreed goals. This

political process also brings together various interests that want to be included as provisions or norms in the legislation being discussed. There is a process of interaction and negotiation of various interests between factions in society and the state, the result of which is born in the form of law. That is why they say that law is not neutral and objective, but instead can be said to be subjective and full of political considerations (Unger, 1999).

The formulation of aspirations that brings together these various interests can act as a means of identifying the interests or desires of groups or elements of society that have different interests that have the potential to cause conflict or have caused conflict in society. This process can make the potential for conflict or ongoing conflict controlled or can be a motivator for various parties to control themselves. This phase becomes a space for dialogue to discuss or even negotiate various desires between groups or related parties. The positive role of the process of forming these laws and regulations must be viewed in the context of efforts to handle community conflicts. Not merely viewed as a formal process of forming a norm.

Therefore, the process of forming laws and regulations, especially those related to handling a conflict, both as an effort to prevent and resolve it, must be carried out with full and broad community participation or involvement. In the practice of legislation, conflict resolution in Aceh can be an example that the formationof laws and regulations plays a role in resolving conflicts. Law Number 11 of 2006 concerning the Government of Aceh has so far been able to control and even stop various forms of social conflict caused by separatist movements. Peace in a society that is free from conflict is still maintained to this day. Of course, the process of forming these regulations up to the agreement on norms must open up space for wider participation from the community. Especially the affected community, which in this example is the Aceh community.

Through the implementation of this participation, it is possible for the legislature and executive to obtain various aspirations from the community with diverse backgrounds related to the regulatory material being discussed. The formulation of norms is more assisted by the existence of various inputs from the community so that the formulated norms can accommodate and align the interests of the related communities. Norms that can align these interests will be able to help control conflicts or potential conflicts that are being faced. In addition, ratification carried out by state institutions will provide legitimacy for agreements formulated in norms so that even though there are interests that cannot be accommodated, the norms remain valid and bind all parties including parties whose interests are not accommodated. The implementation of this participation must be serious or meaningful participation and not pseudo participation which is only held to pursue the formality of the requirements for the formation of legislation. The makers of legislation are also required to comply with the principles of the formation of legislation as regulated in Law Number 12 of 2011 concerning the Formation of Legislation. There are three principles related to efforts to form these regulations with conflict management, namely:

a. The principle of implementation, namely that every Establishment of Legislation must take into account the effectiveness of the Legislation in society, both philosophically, sociologically, and legally.
b. The principle of usefulness and effectiveness, namely that every Legislation is made because it is truly needed and useful in regulating the life of society, nation, and state;
c. The principle of openness, namely that in the Establishment of Legislation starting from planning, drafting, discussion, ratification or determination, and promulgation are transparent and open. Thus, all levels of society have the widest possible opportunity to provide input in the Establishment of Legislation.

The three principles of the process of forming laws and regulations are closely related to efforts to handle conflicts. Compliance and application of these principles can optimize the role ofthe process of forming laws and regulations in a series of efforts to prevent and resolve conflicts.

Concusions

Conflict is not easily separated from a society. The process of interaction between individuals allows for clashes of interests between each which can lead to conflict. Moreover, in a

community/society with diverse or plural backgrounds. The potential for conflict needs to be managed so that it does not lead to negative impacts on society. Therefore, a set of values and norms are needed to control it. Law in the form of legislation and its processes can be a medium that is able to manage the conflict by creating norms or values that can accommodate various interests. The formation of legislation is a formulation of norms that will bind society. The formulation of these norms is carried out through a series of formal processes in accordance with the provisions of legislation. In essence, the formulation of norms in the formation of these legislation is a dialogue space that brings together various interests from society related to the material regulated in the regulations. The existence of a dialogue space that brings together and discusses the interests of society in forming this legislation can play a role in efforts to handle conflicts, both prevention and resolution of potential and conflicts faced. To make this role effective, it is necessary to apply serious participation in the formation of legislation.

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