



Country regulations or policies: Problems of the situation of border communities in Temajuk

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ABSTRACT

The border between two countries is an area that often faces complex legal problems. This condition involves conflicts of interest between countries that share borders and emerging issues related to jurisdiction, security, migration, trade, environment, and human rights. This paper aims to analyze the role of state law and policy in dealing with legal problems at the border. First, the analysis focused on state law as a legal framework governing relation between countries on the border. Countries try to address issues that arise at borders through bilateral and multilateral agreements. The concept of state sovereignty, international law, and the principles of diplomacy are used as legal foundations for resolving disputes and promoting cooperation on borders. Second, the role of policy is also crucial in dealing with legal problems at the border. The research method used is a descriptive-analytical method with a qualitative approach. The data obtained will be analyzed with a normative sociological approach to understanding the social aspects and norms involved in cross-border deliberation. Data were collected through participatory observation, in-depth interviews, and document studies. The respondents involved in this study were community leaders, village leaders, and local government representatives who had knowledge and experience related to cross-border problems. Flexible and adaptive policies need to be developed considering local communities' specific needs. Through active dialogue and participation, suitable solutions can be found to ensure the effective implementation of laws and policies in Temajuk Village.

Keywords: State regulations or policies; problems; Temajuk border communities

1. INTRODUCTION

Indonesia is a country that adheres firmly to the laws of the land. The rule of law is a term that, although it seems simple, contains a relatively long history of thought. The history of the emergence of the thought or ideal of the legal state itself is ancient, much older than the age of state science or state science. Plato first put forward the idea of the rule of law, and then Plato's thought was clarified again by Aristotle.

At that time, what was meant by the state of the law was a state that stood on the law that guaranteed justice to its citizens. Justice is a condition for achieving happiness in life for its citizens. As the basis of justice, it is necessary to teach morality to every human being so that he becomes a good citizen. Indonesia is a country that has laws such as constitutions. Aristotle said that the constitution is the drafting of offices in a state and determines what the governing body means and what is the end of every society. In addition, the constitution is the rule, and the ruler must govern the country according to these rules.

Indonesia is a country that has the nickname of the Land of a Thousand Islands. This country is an archipelago of large and small islands united by the sea. More than 17 thousand islands are included in the territory of the Unitary State of the Republic of Indonesia, Indonesia. As many as 16,056 islands have been standardized in the United Nations. A large number of islands in Indonesia so that it has islands directly adjacent to Malaysia, such as the island of Kalimantan. Judging from geographical conditions, Kalimantan Island is the third largest island in the world, with an area of 743,330 km², with the division of Kalimantan Island into 73% Indonesia, 26% Malaysia, and 1% Brunei. In a broad sense, "Kalimantan" covers the entire island, also called Borneo, while in a narrow sense, Kalimantan only refers to the territory of Indonesia.

Administratively, Kalimantan is divided into five provinces, namely North Kalimantan with the capital Tanjung Selor, East Kalimantan with the capital Samarinda, South Kalimantan with the capital Banjarmasin, Central Kalimantan with the capital Palangkaraya, and West Kalimantan with the capital Pontianak. West Kalimantan is one of the regions directly adjacent to Malaysia in the form of land. Therefore, state regulations must be implemented accordingly.

2. METHODS

The type of research used is empirical qualitative research with a normative sociology approach referring to studies that use qualitative research methods to understand and analyze social phenomena by focusing on social norms that exist in

society. The normative sociology approach seeks to understand how social norms affect individuals' and groups' behaviour and social interactions.

The research method used is a descriptive-analytical method with a qualitative approach and a normative sociology approach that aims to provide a deeper understanding of social norms, how these norms are internalized and applied in everyday life, and how these social norms can change or be maintained in society. The results of such research can provide valuable insights for the development of better social policies or social change.

3. RESULTS AND DISCUSSION

Temajuk Village

Border communities are people who live in the boundary area between two countries, which is limited by boundaries, both on land and in the ocean. Each region bordering the two countries is inseparable from guard by State Servants, such as the Navy, Air, and Land, who serve by their respective roles and functions. Temajuk Village is located in the debate area of Indonesia and Malaysia, which is regencies in Sambas, West Kalimantan province. As Indonesian citizens, the Temajuk community is also a rule-abiding society.

Legal Regulation

According to Arief Sidharta, Scheltema, formulated his views on the elements and principles of the State of Law in a new way, as follows:

- 1) The recognition, respect, and protection of human rights rooted in respect for human dignity.
- 2) The enactment of the principle of legal certainty. State of Law aims to ensure that legal certainty is manifested in society. The law aims to realize legal certainty and high predictability so that the dynamics of ordinary life in society are 'predictable'.

The principles contained in or related to the principle of legal certainty are:

- 1) Principles of legality, constitutionality, and rule of law;
- 2) The principle of law establishes various sets of regulations on how the government and its officials conduct governmental actions;
- 3) The principle of non-retroactive legislation, before binding the law, must first be promulgated and promulgated properly;
- 4) The principle of a free, independent, impartial, objective, rational, just and humane judiciary;

- 5) On a non-liquet basis, a judge cannot dismiss a matter for reasons that the law is non-existent or unclear;
- 6) Human rights must be formulated and guaranteed protection in law or the Constitution.

Enactment of Equality (Similia Similius or Equality before the Law)

In the State of Law, the government may not privilege any particular person or group of people or discriminate against any particular person or group of people. This principle contains the guarantee of equality for all before the law and government and the availability of mechanisms to demand equal treatment for all citizens.

Basics of Democracy

Everyone has the same right and opportunity to participate in government or influence government actions. For this reason, the principle of democracy is realized through several principles, namely:

- 1) The existence of a mechanism for the election of certain public officials that are direct, public, free, secret, honest and fair, which is held regularly;
- 2) The government is responsible and can be held accountable by the people's representative body;
- 3) All citizens have equal possibilities and opportunities to participate in political decision-making processes and control government;
- 4) All acts of government are open to criticism and rational study by all parties;
- 5) Freedom of opinion/belief and expression;
- 6) Freedom of the press and traffic of information;
- 7) Draft laws should be published to enable effective popular participation.

Government and Officials

The government and officials carry out the mandate as public servants in order to realize public welfare by the objectives of the state concerned. This principle contains the following:

- 1) The general basics of a worthy government;
- 2) The fundamental conditions for the existence of human dignity are guaranteed and formulated in laws and regulations, especially in the constitution;
- 3) The government must rationally organize each of its actions, and have clear and successful objectives (doelmatig). That is, the government must be organized effectively and efficiently.

In every State of Law, the principle of legality in all its forms (due process of law) is required, namely that all government actions must be based on valid and written laws and regulations. Such written laws and regulations must exist and apply first or precede the administrative actions or deeds performed. Thus, every act or administrative action must be based on rules or 'rules and procedures' (regels). Such normative principles are very rigid and can cause bureaucracy to become sluggish. Therefore, to ensure space for state administration officials in carrying out their duties, as a counterweight, it is also recognized that there is a principle of 'frijs ermessen' which allows state administrative officials or state administration to develop and determine their own 'beleid-regels' ('policy rules') or regulations made for internal needs (internal regulation) freely and independently in order to carry out the duties of the position imposed by Valid regulations.

If bound by legal regulations that the government has determined, then the Temajuk community is a society that obeys the rules. However, from a social perspective, this border area, prioritizes the interests of both parties, both the Indonesian people at the border and the Malaysian people at the border. Therefore, this interest determines the enactment of legal actions at the border. Usually, government regulations that are outside the line with social conditions in border areas such as Temajuk tend to be ignored. However, the policies given by state servants must be obeyed for the sake of mutual interest.

The problem faced by Temajuk Village, which is on the border, is the gap between compliance with state law and the need for policies that the local community can effectively implement. Although Temajuk Village complies with state law, special situations require more flexible or adaptive policies to address problems specific to the region. By and large, state law is designed to regulate and regulate activities throughout the country. However, borders often have unique characteristics and particular challenges that cannot be addressed directly by generally accepted law. Temajuk Village's people may face problems such as cross-border trade, security issues, or insufficient infrastructure needs.

In this case, local policies or particular policies that suit the needs of the people of Temajuk Village can be a more effective solution. These policies can be based on a deep understanding of the challenges faced by local communities and involve the active participation of villagers. In this case, the local government can be essential in formulating appropriate and supportive policies for Temajuk Village. They can work closely with the central government, relevant agencies, and legal experts to find adequate solutions. In some cases, the development of special zones or programs that consider the unique needs of Temajuk Village may also be considered.

In addition, it is essential to promote dialogue between the government and the people of Temajuk Village. Citizens should be empowered to participate in decision-making processes and present their concerns openly to governments. This will enable the government to understand society's challenges better and act accordingly.

Conclusion

In conclusion, an inclusive and collaborative approach is needed to address the gap between compliance with state law and the need for effective policies in Temajuk Village. Flexible and adaptive policies need to be developed considering local communities' specific needs. Through active dialogue and participation, suitable solutions can be found to ensure the effective implementation of laws and policies in Temajuk Village.

REFERENCES

- Arief, B. Sidharta, "*Philosophical Studies on the State of Law*", in *Jentera Jurnal Hukum, "Rule of Law"*, Center for Law and Policy Studies (PSHK), Jakarta, 3rd edition of Year II, November 2004.125.
- Azhary, Tahir, (1995) *The State of Indonesian Law*, Jakarta: UI-Press.
- Daman, Rozikin, *Constitutional Law*, Jakarta: PT. King Grafindo Persada.
- East Kalimantan provincial government, *Kalimantan statistics book 2019*, p. 1 https://www.pngunungsitoli.go.id/assets/image/files/Konsep_Negara_Hukum_Indonesia.Pdf
- Huda, Ni'matul, (2005). *State of Law, Democracy and Judicial Review*, Yogyakarta: Ull Press.
- Majda El. Muhtaj, (2005) *Human Rights in the Indonesian Constitution*, Jakarta: Kencana,
- Prasetya, Eko, "Of the 17,504 islands in Indonesia, 16,056 have been verified by the UN"