

Importance of the role of the three pillars in overcoming social conflicts between villages in terms of rights law

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Article Info

Article history:

Received : Nov 16, 2024

Revised : Des 28, 2024

Accepted : Jan 27, 2025

Keywords:

Role of the Three Pillars;

Social Conflict;

Human Rights.

ABSTRACT

Inter-village conflict is a long-standing issue in Indonesia in general and the Tanimbar Islands district of Maluku province in particular. This is due to the issue of communal rights of customary law communities, which until now has not been well regulated and opens up opportunities for territorial disputes because the area has abundant natural resource potential. The role of the three pillars, namely the government, religious institutions and customary institutions in protecting their citizens from the threat of conflict has not been well implemented, although this is a responsibility that needs to be carried out. This research aims to find out the role of the three pillars in organising social conflicts as a fulfilment of citizens' human rights, while also knowing how the necessary supervision mechanism in tackling social conflicts. The method used is normative legal research by examining laws and regulations as a benchmark for human behaviour. The results of this study show that the role of the three pillars as regulated in statutory provisions needs serious attention as a form of responsibility to fulfil the right to a safe life, as well as the need for a supervisory mechanism with good coordination to encourage the village government, in this case the village consultative body, to form relevant regulations, and ensure that the communal rights of indigenous peoples do not cause problems, so that groups that are vulnerable to violations of their human rights due to social conflict can be resolved.

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1. INTRODUCTION

Human beings are essentially endowed by God with human rights as stipulated in the constitution and various national legal instruments on human rights. These basic rights must be protected, valued and respected by all humans against one another. In line with that, the state, which includes the government and citizens, is also obliged to protect the rights of each of its citizens in accordance with the mandate contained in the Preamble and articles of the 1945 Constitution of the Republic of Indonesia.

In the life of society and the church, the role of the government and religious institutions to protect its citizens is reflected in various regulations as a legal umbrella such as Article 28G Paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to protection of self, family, honour, dignity, and property under their control, and has the right to security

and protection from threats of fear to do or not do something that is a human right. In line with that, in the gospel (John Chapter 10: 1- 20) about the Good Shepherd, it is affirmed that the church is present as an image of Christ in the world to call and gather its people in the fellowship of love and brotherhood, not conflict.

In fact, violent physical clashes known as conflicts between one village and another are a long-standing issue, triggered by various causes, especially issues of communal rights of indigenous peoples, boundaries between villages, competition for natural resources between villages and business actors and personal problems that are resolved jointly. Indigenous peoples who live in villages in the Amboina diocese know that there are three important pillars, namely the government, religious institutions and customary institutions that work together in an effort to protect citizens from various threats of social conflict, among them have their own very important roles, for example, for the church of the Amboina diocese, its role is to embody the spirit of Christ in its pastoral work by participating in creating peace, as far as possible the presence of the church can make people avoid conflict and division as stated in the Encyclical *Populorum Progressio*, 1967, Art.15.

On the other hand, the role of customary institutions in every traditional ceremony is considered to exist, but efforts to obtain legal recognition through the existence of customary law communities need serious attention, for this reason it is necessary to coordinate with the village government in forming village regulations related to the existence of customary law communities, as well as led by the heads of neighbouring villages jointly holding deliberations with other village customary institutions to determine village boundaries. Likewise, the role of the village government consists of the executive and legislative branches, which according to the provisions of Article 71 of Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights, are obliged and responsible for protecting, respecting, promoting and fulfilling the human rights of village community members, so that their personal dignity as human beings can be guaranteed and their dignity can be accepted.

The potential causes of social conflict in the Amboina Diocese in general and the Tanimbar Islands Regency in particular, is one of the most prominent if you consider its escalation in recent years. This is because the situation of the Tanimbar Islands Regency community, which consists of diverse aspects of family economic level, religion, education, and others, allows social conflict to occur. Social conflicts, which in practice are called social crimes, such as attacks between one village and another over land borders, struggles for natural resources such as sand mining, stone mining that ignite social conflicts, attacks by a group of indigenous people against forest rights holders (HPH) recently occurred, and there are still many social crimes that deserve attention, have caused victims both human and property. It is suspected that the perpetrators are the authorities against the civilian population because they are considered to have committed rights violations (*by commission*) or seem to have allowed the problems experienced by Tanimbar residents for years (*by omission*), as well as between groups of civilians and other groups of civilians.

This fact has made the people of the Diocese of Amboina, more specifically the people in the Tanimbar Islands Regency, realise the importance of guaranteeing the protection of these human rights when the community experiences social conflict. Behaviour that is contrary to the values and norms that apply and have been approved by law is usually called crime, which can cause serious problems because it disrupts security stability in society and results in loss of life, injuries and property losses. In addition, social conflict is also called a social disaster because it is a series of events that threaten and disrupt people's lives.

Social disasters are disasters caused by events or a series of events caused by humans which include social conflicts between groups or between communities, and terror. Indonesia at the end of the 20th century experienced many internal conflicts such as riots in various regions and one of them occurred in Maluku.

According to Leirissa, as cited by (Pieris, 2004: vii) conflict is an inherent part of the development of society, but the conflict that has occurred in Maluku keuskupan Amboina, especially in the Southeast, since early 1999 is a phenomenon that has never happened before in Maluku.

Judging from Maluku's history this kind of social conflict has occurred for centuries, albeit on a small scale, such as fights between villages (*negeri-negeri adat*). The massive scale of the conflict has puzzled historians and social scientists, until today there has been no satisfactory explanation of its causes, it seems as if all social science theories are unable to reach it because its severity is very rarely encountered either in the present or in history.

This context requires the protection of human rights as a guarantee of the fulfilment of human rights, in the context of respect for human dignity and it is an obligation for the government or other institutions within the government structure of a country to promote human rights through an effective process. Therefore, the Republic of Indonesia as a member of the United Nations which has recognised the enactment of the Universal Declaration of Human Rights 1948 through TAP MPR RI No. XVII/MPR/1998, is obliged to prosecute all forms of violations of human rights that have occurred in Indonesia, as explained in the Explanation of Law No. 39/1999 on Human Rights.

In addition to the factors and conditions that allow conflict to occur, human rights violation factors also need to be understood, so that incidental and targeted treatment can be carried out immediately after an open conflict occurs.

Efforts to investigate the factors that underpinned and perpetuated the conflict in Maluku cannot be "mapped" around the period of the conflict. As a phenomenon, the conflict must be seen as a process over a long period of time.

The location of the Indonesian territory allows disasters to occur, it needs to be taken seriously by all parties and the government based on its responsibility to reduce disaster risk and protect the community from the impact of disasters, fulfilment of basic rights according to minimum standards, recovery from the impact of disasters also needs to provide sufficient funds (central / regional), as well as authorities such as forming disaster management policies in line with development policies, formulating technological policies and natural resources that have the potential to threaten and manage disaster-related assistance. This is all done to protect the community from the impact of disasters, as well as the people to fulfil their basic needs in disaster situations.

The implementation of disaster management can be carried out in a planned, coordinated and integrated manner through the implementation of disaster management such as; emergency response, rehabilitation, reconstruction, in the event of natural, non-natural and social disasters to provide legal certainty and justice for disaster victims.

Disaster management efforts are often used by certain parties to take advantage of the situation for their own benefit. Assistance that should be channelled to disaster victims is often not channelled as expected but used for their own interests. Starting from this, it is necessary to have rules that can be used as a legal basis to take action against parties who abuse public trust to help victims of natural, non-natural and social disasters.

Another problem that arises in the management of social disasters in the form of this conflict is that there is no effective coordination between government agencies, social institutions and related customary institutions, causing problems in the field regarding the authority of each institution, whereas readiness in the face of disasters requires good planning so that implementation runs smoothly, in the implementation of disaster management, of course, the readiness of laws and regulations, institutional capabilities, adequate facilities and infrastructure is needed, so that problems that can occur in the field can be anticipated as soon as possible so as not to cause interference and obstacles in handling victims due to social conflict.

2. METHOD

2.1 Type of Research

Research is a means that aims to improve science and technology. Research essentially aims to find the truth through consistent, methodological, and systematic ways based on data collection that has been constructed through analysis (Soerjono Soekanto, Sri Mamudji, 2022: 1).

The research that the author uses in this study, is focused on normative legal research, where as explained by Amiruddin that this type of research is conceptualised as what is written in laws and regulations (*law in books*) or law is conceptualised as a norm that is used as a benchmark for human behaviour (Amiruddin and Zainal Asikin, 2006: 118).

2.2 Data collection method

The author uses normative juridical data collection which requires data collection through legal references. Data collection in normative juridical legal research consists of three, namely literature study, document study, and archive study (H. Ishaq, 2017: 69). Literature study is carried out by reading references from related books and other references allowed by academics to be studied and researched in writing this scientific work.

2.3 Data analysis method

The author uses qualitative data analysis, namely interpreting or *interpreting* legal data related to the issues discussed, presented, systematised, then analysed in accordance with applicable law. After completing the data collection stage, it is classified into several categories and then connected with the theory to draw conclusions.

3. RESULTS AND DISCUSSION

3.1 The Role of the Church as a Social Institution in Overcoming Social Conflict as a Fulfilment of the Right to Live in Security in Society.

The Code of Canon Law, hereinafter abbreviated as KHK 204 Paragraph 1, states that the Christian faithful are those who through baptism are incorporated into Christ, formed into the people of God and therefore in their own way participate in the priestly, prophetic and kingly office of Christ, and in accordance with their respective positions, are called to carry out the mission entrusted by God to the church to be carried out in the world. The church as the people of God in this case aspires to the realisation of a communion of Catholics who, in the light of the Word of God, develop their identity and dignity to shine a light on life together.

This provision clearly illustrates the role of the church as a social institution to realise the fellowship of all Catholics in the light of the Word of God, through dialogue and coordination with the government and customary institutions to build awareness with the people of God. Furthermore, KHK 209 Paragraph 2 states that they should conscientiously carry out the obligations that bind them, both towards the universal and particular churches, of which they are members according to the provisions of the law

More broadly, it can be said that the Christian faithful, in their consciousness, taste, attitude and behaviour, should reflect the unity of the local church, at all levels and categories. Among the various groups, special attention and assistance is given to the basic fellowship of life. This provision affirms that all people who have been sealed in the church through baptism have the awareness to maintain unity and integrity.

In addition, the role of the clergy as the leading pillar always makes every effort to seek various ways to prevent potential conflicts through the establishment of policies, through the Diocesan Statute, Pastoral Guidelines and Diocesan Strategy Plan needs to be considered as a legal contribution that will provide justice, certainty and expediency in church life. While ensuring regular supervision of the implementation of policies that have been made so that the ideals of maintaining the integrity of fellow believers are truly implemented.

If this is the case, the mandate of the 1945 Constitution of the Republic of Indonesia Article 28G Paragraph (1) concerning everyone has the right to protection of self, family, honour, dignity, and property under their control, as well as the right to security and protection from threats of fear to do or not do something that is a human right, then the church and the government are obliged to organise social conflict prevention including the establishment of development policies that are at risk of social conflict or social crime including prevention and rehabilitation.

On the other hand, international legal instruments, such as the International Convention on Civil and Political Rights Article 2 Paragraphs (1 and 3), affirm that human rights obligations are basically the duty of the government. So it can be said that both international and national instruments jointly mandate the government to strive to implement its obligations towards the people who are the subjects of its jurisdiction. This is confirmed in the 1945 Constitution of the Republic of Indonesia Article 28I Paragraph (4) which explains that the protection, promotion, enforcement and fulfilment of human rights is the responsibility of the government. The obligation to respect the rights of others as well as the obligation to assist the general welfare allows the government to assist and provide ways that allow everyone to enjoy a sense of security in their lives (Eide 2001:33).

According to Miall and Woodhouse (2000: 56), who explain the term *conflict* in the original language means a "fight, war or struggle", which is in the form of physical coincidence between several parties, but the meaning of the word has later expanded to include "sharp disagreement or opposition to various interests, ideas and others". In other words, the term now also touches on the psychological aspects behind the confrontation, in addition to the confrontation itself.

Conflicts that occur between residents, disputes between community members or conflicts between villages in general can result in human rights violations. These conflicts cause a lot of

suffering, misery or social inequality that can reduce human dignity. Thus it can be formulated that internal conflict is a dispute, dispute, conflict between members or between groups of society as a whole that occurs within the country and can lead to civil war.

The form of social conflict management for the benefit of humanity mainly aims at In addition, the government is obliged to ensure the implementation of social conflict management in a planned, integrated, coordinated and comprehensive manner, taking into account the importance of respect for local wisdom values in resolving problems that arise and ultimately creating peace in the life of the community, nation and state.

In addition, the role of the government is to ensure the protection of lives, property, public facilities and infrastructure that are targeted for destruction, fulfil the rights of victims after the conflict, and restore the physical and mental conditions of citizens who feel the impact of the conflict

3.2 Government Authorities and Responsibilities in Social Conflict Management

3.2.1 Efforts to Implement Government Responsibilities and Authorities

The government's responsibilities in the implementation of social conflict and/or social crime prevention include: Prevention to reduce the risk of social conflict and/or social crime through the creation of guidelines for reducing the risk of social conflict with an integrated programme ensuring the fair fulfilment of the rights of affected communities.

3.2.2 Establishment and Strengthening of Institutional Capacity in Social Conflict Management and/or social crimes

The government, through the police, has the task of providing guidance and direction for efforts to overcome social conflict and / or social crime, including preventive, repressive and rehabilitative efforts in a fair manner. Able to determine the standardisation and needs of the implementation of social conflict and/or social crime prevention based on existing laws and regulations while informing the public. Report the implementation of social conflict and/or social crime prevention to the government in charge of the region on a regular basis.

3.2.3 Government Handling Mechanism in Overcoming Social Conflict and/or Social Crime .

According to Koentjaraningrat as cited by Nawari Ismail, suggests five models of handling social conflict in relation to the social norms of society itself, namely; 1) Strengthening the belief of community members in the importance of maintaining potential conflicts; 2) Giving rewards to community members who obey customs; 3) Developing a sense of shame when deviating from customs; 4) Developing fear when deviating from shared norms; and 5) Creating a legal system with strict sanctions for violators (Ismail, 2011: 112). When viewed from Koentjaraningrat's opinion, each pillar has a role in resolving conflicts, both religion by increasing the knowledge and faith of each religious adherent so that they are able to understand and implement their respective religious teachings.

Likewise, customary institutions by providing *rewards and punishments* to indigenous community members who carry out all the norms of the customary law community as well as applicable legal norms, as stipulated in the applicable provisions within the framework of the Unitary State of the Republic of Indonesia.

Settlement mechanisms should be based on deliberation for consensus. Settlement in this way is also part of the characteristics of democracy in the life of indigenous peoples consisting of various social layers. Adopting this path as the main and first effort in handling social conflicts is a step forward for the government in respecting the civil and communal rights of local indigenous peoples (Nulhaqim et al., 2020: 134).

The Law on Conflict Management mandates the government to negotiate with conflicting groups peacefully, as a form of reconciliation. This can be done by compensating for losses incurred and inviting the community to make efforts to foster peace (Pido, 2017: 163).

Also explained in Article 41 of UURI No.7 of 2012 concerning Conflict Handling Paragraph (1) states that conflict resolution is carried out by the government and local governments by prioritising customary institutions and / or social institutions that exist and are recognised for their existence, in Paragraph (3) states that the results of the conflict resolution agreement through the mechanism of customary institutions and / or social institutions have binding force for the community groups involved in the conflict.

Concept of human rights generally views victims of social conflict and/or social crime under the term *Internally Displaced Persons (IDPs)*, meaning persons or groups of persons who are forced or compelled to flee or leave their homes or places of permanent residence, primarily to avoid the effects

of social conflict or social crime by the use of violence, resulting in internationally recognised human rights violations.

Social conflict management becomes very complex when viewed from various aspects, but because the potential for social conflict and / or social crime always exists all the time, it requires concrete actions from the government to minimise and even eliminate it. The government through relevant institutions must protect and provide a sense of security for all Indonesian people, more specifically the people in the pastoral area of the Diocese of Amboina so that in their lives there needs to be a guarantee from the government, so that people can fill their lives unencumbered by the fear that always looms.

The government does not seem to have seriously realised the handling of social conflicts and / or social crimes so that it is increasing day by day and seems uncontrollable, which is even more heartbreaking that the government often does not monitor basic human rights such as the right to be free from fear, the right to personal and family security whether it has been fulfilled or not, even though that right is given directly by God

Therefore, any action that damages and threatens the safety of others due to social conflict is a violation of human rights so that the government must not be *unwilling* but immediately take important efforts to overcome it. As we know that Indonesia as a state of law (*rechstaat*) has main characteristics such as, recognition and protection of human rights which implies the right to live safely and develop their lives. The central and local governments are obliged to protect their citizens from social crime behaviours from community groups that can threaten their survival.

3.2.4 Supervision of Social Conflict and/or Social Crime Management

The rule of law is a dimension of a democratic state and contains the substance of human rights, if not respected, fulfilled, protected, it is feared that it will lose its essence and tend to be a tool of the authorities to justify against the people, as well as an instrument to justify government policies that actually violate human rights (Sunggono and Harianto, 1994: 130). In terms of supervision, both local and village governments are obliged to carry out supervision of all stages of overcoming social conflict, the intended supervision is to map the villages in their territory that are a source of social conflict threats, and immediately coordinate with relevant agencies to prevent social groups that have the potential to commit social crimes. Periodically, a social conflict prevention task force with elements of the three pillars must provide reports to the central and regional governments so that concrete steps can be taken immediately to overcome them.

3.3 The Role of Customary Institutions in Creating Unity Among Village Communities

According to Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that the state recognises and respects the unity of customary law communities along with their traditional rights as long as they are still alive, in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law. This provision confirms that the Indonesian constitution recognises and respects the unity of customary law communities and their rights as long as they are still alive.

De facto, to be able to say that a customary law community is still alive, it needs to have several important elements such as: the community has a group feeling, has customary government institutions; there is property and / or customary objects, there is a set of customary legal norms.

Another affirmation related to customary law communities consists of human communities who feel united because they are bound by common ancestors and have a value system as a guide to life, among them there is no desire to separate themselves. According to the Law of the Republic of Indonesia No. 39 of 1999 on Human Rights, it is stated that the protection of the cultural identity of indigenous peoples including the right to customary land is protected, in line with the times.

The factual context is that most villages claim to be indigenous villages because they are still bound by a common ancestor and/or territory, they also have values as a guide to life, and have no desire to separate themselves.

Here, customary institutions from each soa / matarumah, whether they inhabit the same village or inhabit different areas, for example Soa Aryesam who inhabits the Sangliat Dol area, has a role to ensure that ownership of rights over customary land has been regulated through family deliberations and clan Yanubi Soa Aryesam who inhabits the Sangliat Krawain area is obliged to dialogue to clarify common rights to customary land or clan forests or the like, which has its own characteristics as a consequence of the existence of PERMEN ATR Number 9 of 2015 concerning

procedures for determining communal rights to land of indigenous peoples even though it is hierarchically under the Basic Agrarian Law Article 16 Paragraph (1) concerning property rights to land which is considered to be out of sync, while encouraging the Village Consultative Body to make village regulations on the existence of indigenous peoples and all their authorities, because most villages do not yet have legal legitimacy related to their existence as indigenous peoples.

Customary institutions together with village governments and religious institutions hold deliberations to resolve social conflicts as a follow-up to the implementation of Article 41 of UURI No. 7/2012, if they occur due to land or boundary disputes or are triggered by other individual interests. The results of the three-pillar agreement regarding conflict resolution through dialogue mechanisms are considered to have binding force for the community groups involved in the conflict.

4. CONCLUSION

The role of the three pillars of religious institutions as people of God, the government, and customary institutions in the implementation of overcoming social conflicts and / or social crimes in terms of human rights needs to be implemented through the establishment of policies to prevent the emergence of social conflicts, strengthening institutional capacity to deal with social conflicts and rehabilitation, which can threaten and disrupt human life as the fulfilment of the right to live safely, free from fear and worry to carry out their activities due to the threat of social conflicts that can result in casualties, property losses and psychological impacts. Supervisory mechanisms that need to be implemented in tackling social conflict and/or social crimes against vulnerable community groups include efforts to map areas or regions with high potential for conflict, as well as the importance of a three-pillar dialogue to encourage village governments, in this case the Village Consultative Body, to form village regulations related to the legal certainty of communal rights of indigenous peoples. The implementation of social conflict and / or social crime prevention needs to be carried out cross-sectorally with the three pillars as the main actors in coordination with the local government as the regional authority as well as the support of the police and the community as a supporting force that cares about protecting public security, in order to monitor, evaluate and report situations and conditions prone to social conflict in the region. The supervision mechanism that needs to be implemented in tackling social conflict and / or social crimes against community groups needs to be supported by the three most important pillars because so far it seems that it has not been maximised so that social conflicts between villages still occur, supervision efforts on community reports to law enforcement officials regarding potential threats of social conflict to be immediately handled by the local government. For the legal certainty of the rights of indigenous peoples to customary/ulayat land, it is necessary to have a village regulation made by the BPD together with the village head by asking for the opinions of the other two pillars.

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