

Land and Citizen:

A Study in the Perspective of Theory and Actualization

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Abstract—This study aims to (1) examine the land law in relation to citizens; (2) explore various citizen participation in maintaining land sustainability; and (3) overview the actualization of education in sustaining and properly exploiting the land. This study applied the qualitative approach. The approach is intentionally directed towards establishing understanding on the relationship and interrelationship between legal aspects, with the occurring reality in society. In analyzing the problems in this study, the normative legal research method was used. Data sources in this study are divided into primary data sources obtained directly from research subjects through note taking and recording techniques for research persons. Primary data sources in the form of books, literature materials, legislation in accordance with the applicable principles and theories of law. The study concludes that the law serves to ensure the fulfillment of legal interests over the land. The functioning of the law has always been related to the role and participation of citizens in applying the rule of law in force, it is necessary to establishing people's consciousness complying with the law of land as a manifestation of their exercising rights and obligations. Thus, citizens shall have the ability in exploring issues concerning rights, justice and sustainability related to the land.

Keywords—actualization; citizenship; land; legal and social research; rights

I. INTRODUCTION

Globalization raises problems of relationship between individuals and macro societal structures, the second set of forces leading to a revival of the nation of citizenship concerns the relationship between human beings and nature [1]. One of the most important natural resources in today's global era is on land, it is a living space for all citizens. The existence of land is regulated in Law No. 5 of 1960 on Agrarian Regulations [2]. Article 1 Paragraph (1) of the UUPA which emphasizes that "all the land within the territory of the Indonesian State is the common ground of all the people of Indonesia". However, in its development, land as agrarian resource has not been guaranteed and maintained its usefulness for the people's prosperity. Having quoted from the AKATIGA Foundation, noted that "In agrarian countries like Indonesia, the main cause of poverty and lack of food is the low access of rural population to the land." Soil problems were also caused by agrarian conflicts. The observation results of the Agrarian Reform Consortium explainable on reported data, among others;

during the year 2009 to 2013, there has been an increase in the number of conflicts by 314% or 3 (three) more times.

The key to understanding agrarian conflicts is the consciousness, namely the extent to which the land is considered a vital natural resource, which underlies almost all aspects of life [3]. There is the need for efforts to form a legal awareness of citizens with the goal of creating the good of living together. According to Plato, "Good Citizens are those who are different to the social and political system, are law-abiding, and who exercise self control. Education in virtue, a training which produces a keen desire to become a perfect citizen who knows how to rule and be ruled as justice demands".

Numerous studies have been studied with different method, variables and certainly the underlying perspectives. Huu Luc et al, studies legal aspect of ecosystem services in agricultural land pricing, land rights and land grabbing and the address to legislative protection [4, 5], and land reform and land fragmentation for consolidation [6]. This study aims to foster an understanding regarding the existence of land in the context of citizenship, efforts in inculcating the citizen's awareness, and the development of global perspective education which can establish the citizens' awareness over the land issues. Additionally, this study greatly contributes to the academic literatures on problems regarding with land reform in developing countries, especially Indonesia. This study is also expected to be used as a viewpoint for local and state governments in formulating policies and programs related to citizenship rights and prosperity on land reform issues.

II. THEORETICAL UNDERPINNING

A. Land Law System

Land law is the entire legal provisions, all of which share the same regulatory objects, namely the rights of control over public and civil rights lands, which can be arranged and studied systematically, until the whole becomes a unity which is the so called a system.

The functioning of the law relates to the protection of interests, which, according to Roscou Pound, is the individual and social interests, in addition to public interest [7]. Land rights become one of the substances guaranteed in the land law, as an embodiment of the recognition on the importance of land

as part of the nation's wealth shared with all the people of Indonesia. The conceptual foundation of the right to rule the State as elaborated in UUPA, among others, the right of the Indonesian nation, the right being controlled by the State, customary law community rights, and individual rights. The right to land in the review of legal theory interest implies the existence of an obligation to maintain a balance between the interests of individuals, social and public interests on land as well.

On such description, the legal system of land guarantees in fulfilling the legal interests, through the exercise of rights and obligations on land, either committed by the state, society or citizens.

B. Civic Theory in the Indonesian Context

At the scientific level, civic theory of life becomes a reference in various study in establishing the foundation of a good citizen. Citizenship according to Heater: "is a form of socio-political identity". This defines the relationship of an individual but not to another individual (similar cases to feudalism, monarchical and tyrannical systems) or a group (as with nationhood), however, it essentially to the idea of the state".

Citizenship theory in the Indonesian context may be referred to Mohammad Hatta's statement, that the Indonesian people are prone to collectivism. This opinion is interpretable that the Indonesian people are originally communitarian who are similarly nuanced with neo-republican.

The communitarian perspective emphasizes ethnic groups or cultural groups, solidarity among people of the same history or tradition, having capacity of the to appreciate the identity of those who are allowed to be isolated by the deep-rooted trends of liberal society [8].

The bonds of collectiveness characterized the Indonesian people and generated a lot of good things in realizing a better Indonesian society, this is centrally internalized within the ideological values of Pancasila. According to Latif, Indonesia or Indonesian term refers to the fertile nature of the land, with agricultural ethos, religious and mutual assistance, in the framework of collectiveness in land cultivation.

Thus, the concept of citizenship in the context of Indonesian people manifested through the functioning role of the state and citizen participation in carrying out each obligation to be a good citizen, to strengthen the socio-cultural identity of the community bestowed with potential agricultural yields for the welfare of a shared living in society.

III. METHODOLOGY

This study applied the qualitative approach by combining between legal and social researches. The approach is intentionally directed towards establishing understanding on the relationship and interrelationship between legal aspects, with the occurring reality in society. Data sources in this study are divided into primary data sources obtained directly from research subjects through note taking and recording techniques for research persons. Primary data sources in the form of books, literature materials, legislation in accordance with the

applicable principles and theories of law. In addition, the secondary data were obtained using the technique of interviewing to related key informants, who are are characteristically considered the people who have a deep engagements in the issues, among others the education experts and agrarian activists. Data analysis in this study technically applied content analysis technique, which analyzes the data comprehensively in accordance with the contents.

IV. RESULT AND DISCUSSION

A. Land in Citizenship Review

A number of countries have been promoting the rise of citizenship, as was argued by Turner "[...] the first major issues in the revival of citizenship as a concept and as a political platform is the process which we may call globalization. While globalization raises problems about the relationship between the individual and macro societal structures, the second set of forces leading to a revival of the nation of citizenship concerns the relationship between human beings and nature" [1].

Currently natural resources particularly the land is highly influential in today's modern age. Land as part of agrarian source becomes an important part in fulfilling the citizen requirement, hence effort is needed to adjust the sources, usefulness and allotment ensuring people's livelihoods.

This reflects a consequence for the citizens' rights and obligations, in addition to securing individual land rights, inexceptionally in the regulation of its use they should pay attention to land-related rules.

Theoretically the rights of the citizens on the land they occupy are guaranteed in the *Undang-Undang Pokok Agraria* (UUPA) or National Basic Agrarian Law, among others rights to agrarian resources, equal opportunity rights to land, rights of citizens arising from other types of land rights, among others, the right to land ownership, namely property rights, trade rights, the rights of land exploitation, the rights of using, lease rights to land, and the right to clear land and collect forest products.

The obligations of citizens on land, among others: 1) all rights on land reflect social function, 2) to avoid harming the public interests, the ownership and control over land shall not be permitted. 3) Any person or legal entity that has a right to agricultural land is obliged to do or actively work on it, by preventing extortion. 4) Every person, legal entity or institution having a legal relationship with the land is obliged to maintain the land, including increasing its fertility and preventing damage by paying attention to the weak economies. 5) Prevented mastery of the life and work of others beyond the limits. 6) Differences in the state of society and the legal requirements of the people of the society where necessary and not contrary to national interests are noted, with the protection of the interests of the economically weak.

The rights and obligations towards land as mentioned above concern the realization of a recognition for the land tenure's authority. System, land law over land rights has been the basic substance of its existence to guarantee the interests of the state

and the people or citizens over the land. Land in relation to a citizen shall have rights and obligations in its operation, guaranteed by the land law system.

B. Civic Education to Establish Citizens Awareness of Land

The effectiveness or absence of a law in society determined by five factors, among others: *first*: the legal factor itself (the law); *second*, law enforcement factors, namely those who establish and apply the law; *third*, the factor of facilities to sustaining the law enforcement; *fourth*, the factor of society, the environment by which the law is observed or applied, and *fifth*, cultural factors, as a result of the collectively agreed creation and sense based on human initiative in the social life [9].

The existence of law does not just guarantee the enforcement of justice, which thus proved it still depends on the human factor in obeying the rule of law [10]. Langemeijer pointed out that "no law binds the people, except on the basis of their legal consciousness" [11].

An ideal legal system should be an important tool in establishing good governance and good citizens. So as to bring about a good legal system in the society it is necessary to harmonize it with the objectives of a community-oriented welfare, embodied in values, in order to realize awareness to obey the law. The citizens' awareness to obey the law is realized through education so as to motivate the presence of feelings of being responsible over them as good citizens.

Legal consciousness includes elements of legal knowledge, legal understanding, legal attitudes and legal behavior [12]. According to Winataputra, the concept of law is very relevant to Citizenship Education (Civics). The concept under certain motivated reasons: *first*, the law is one of the social institutions that deliberately created by the community to establish order, peace, and efforts to resolving the occurring conflicts. Thus, the law is a means which both consciously and deliberately established by a society/community.

Legal function is closely related to efforts in establishing the citizens' legal consciousness. Law as a ruling system is a reference source to Civics subject in part of a means in inculcating the citizens' rights and obligations. Secondly, the law is a moral source, that in fact it is the dimension of one's insight in relation to the mental attachment to the rule. Thus, in case a person has a mental association with the rules, then one knows there is a rule and is subject to the rule. If a person shared similar consciousness and then he/she is deemed to observe a high morality. Morality is part of the attitudes and character education within Civic Education. Actually, law enforcement consciousness is part of the efforts which shall be further developed in Civic subject (PKn/ Pendidikan Kewarganegaraan). (Data reduction 1, 01/12/2012).

The functioning of law has always been integrated with the role and participation of citizens in applying the rule of law in force, it is necessary to establish an awareness of complying with the law of the land as a manifestation of exercising the rights and obligations. Civic education contributes to the establishment of citizens participation motivating the consciousness in compliance with land rights and obligations.

C. The Concept of Education in the Global Era in Establishing Citizens' Consciousness over the Land

In today's global world influence, the existence of land is much affected by the change of people's mindset, shifted values, and the need for land rights in fulfilling the existence of citizens and the sovereignty of a nation.

The development of global citizenship education related to land issues, as an embodiment of a movement focuses on the protection over land rights can be found and developed in Scotland "A new educational resource for global citizenship, focuses on the subject of land ownership and usage in rural communities. It uses this theme to get young people to explore issues on power, rights, fairness and sustainability. 'On the Land We Stand' looks at key areas: the importance of land in the perspective of local people; rights; forced migration; and actions for positive change.....The activities reflected from 'On the Land we Stand' aim at engaging students with land oriented issues in Scotland and continue to face rural communities in today's developing world, and to equip teachers facilitating their learning and engagement with these issues" [13].

This learning consists of 4 units of discussion, among others; 1) The First Unit, under the theme 'Land is Life', begins by encouraging students to consider the importance of land from students and other people's perspective; 2) The Second Unit, by the theme 'It's Our Right', it discusses the issue of human rights and land rights and why people with rights to land are entitled; 3) The Third Unit, by the theme of 'Loosing Ground', begins by looking at the people's movement and introducing the concept of land grabbing and then a case with in-depth study of land grabbing; 4) The Fourth Unit, by the theme 'Action for Change', considers ways through which people can take action for positive change; 5) The Fifth Unit, by the theme 'Share Teaching', shows examples of good teaching practice by teachers and as a space for teachers to share ideas primarily to develop the curriculum.

The aforementioned 'On the Land We Stand' education is an embodiment of the civic education with regard to citizenship education in helping teachers in a way to motivate and develop global consciousness among students of the global issues faced in this modern contribute to the new young talented citizens who have the ability in exploring issues related to land rights, justice and its sustainability.

V. CONCLUSION

Understanding the rights and obligations on land is essential to realize the prosperity of collective living with all citizens. The law serves to ensure the fulfillment of legal interests over the land. The functioning of the law has always been related to the role and participation of citizens in applying the rule of law in force, it is necessary to establishing people's consciousness complying with the law of land as a manifestation of their exercising rights and obligations. Thus, citizens shall have the ability in exploring issues concerning rights, justice and sustainability related to the land.

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