

Legal Humanism Based on Local Wisdom: Progressive Legal Development Study in Magelang

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Abstract

Legal development aims to realize justice, certainty, and legal benefits, so legal development is explored in the social interaction of society itself. This research is concerned with the development of progressive and humanist law based on local wisdom. The concept looks at the relationship between 1) local wisdom and legal development, 2) local community participation and legal development, and 3) progressive legal development based on local wisdom. The purpose of this research, namely analyzing the existence of local wisdom values in influencing the development of law in society, analyzing community participation in the development of law in society, analyzing local wisdom values and community participation having potential in the development of progressive-humanist law. The type of juridical sociological research, data collection techniques with documentation, observation, and interviews, then the data analysis technique used is the interaction analysis model. The results of the study are the existence of local wisdom values in influencing the development of law in the community, namely the value of mutual cooperation and the value of deliberation. Community participation in the development of law in society has space for community participation in legal developments since planning, implementation, monitoring and evaluation. The values of local wisdom and community participation have potential in the development of progressive-humanist law, namely in the development of progressive and humanist law influenced by the values of local wisdom and the role of community participation so as to be able to build a law of conscience, respect human dignity and be able to provide a sense of justice according to the noble values that live in society. The suggestion from this research is that the community always maintains and preserves local wisdom that lives and grows in people's lives. The community and local government always maintain a synergistic relationship in the implementation of democratic community participation. In policy planning, it always explores the values of local wisdom in society and always involves community participation in creating progressive and humanist laws.

A. Introduction

Universities are obliged to develop knowledge through the Tri Dharma of Higher Education. Dharma research is one of the important tools in research activities as well as a form of moral responsibility of the intelligent-

sia¹ in developing science for the Indonesian people. In terms of legal development, this moral responsibility is realized through legal research. Realizing that the development of law must be related to the welfare of the

1 Mohammad Hatta, *Tanggung Jawab Moral Kaum Inteligencia* (Bandung: Angkasa, 1966).



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community, the main ingredient in this development is social interaction within the community itself.

There is a relationship between humans, society, and law. The main elements forming society are humans who are brought together by their needs or interests, this is in accordance with what was conveyed by Logeman that living together in society is not a coincidence, but a process based on a common goal.² The position of law in this context is as a means to maintain and restore balance (*restitutio in integrum*) for the interests that exist in society.³ As one of the social rules, law cannot be separated from the dynamics and development of society.

The relationship between law and society leads to human/ society interests. The idea of progressive law put forward by Satjipto Rahardjo explains that humanity and justice are the goals of everything in our legal life. So the sentence "Law for Humans" also means "Law for Justice." This means, that humanity and justice are above the law.⁴ Therefore, legal humanism is an ethical and moral standard to place the law so that it does not conflict with human dignity.

The process of forming a legal product that protects and guarantees human dignity requires community participation in its formation. Community participation in the formation of legal products is carried out by actualizing the noble values that are believed and live in society through a variety of local wisdom.

Based on the things above, it is important to conduct studies, research and development of progressive and humanist laws based on local wisdom. The focus of research on progressive and humanist legal development based on local communities with the selected location in Magelang. The concept looks at the relationship between 1) local wisdom and legal development, 2) local community participation and legal development, and 3) progressive legal development

based on local wisdom. Contribution to the results of this study will further elaborate on the development of local wisdom based law as a means of fulfilling justice and welfare

Sociological juridical legal research is research that consists of research on legal identification and research on legal effectiveness.⁵ This type of research is sociological juridical law research related to legal identification and legal effectiveness which is more focused on legal humanism based on local wisdom: progressive legal development study in Magelang.

Sources of data used in this study consisting of primary data and secondary data. Primary data is data obtained from conducting interviews and observations. While secondary data are primary legal materials and secondary legal material. Primary legal materials are binding legal materials consisting of laws and regulations related to legal humanism based on local wisdom: progressive legal development study in Magelang, namely the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2011 on the Establishment of Legislation, Law Number 6 of 2014 on Villages. Secondary legal materials, namely legal books, legal journal articles related to legal humanism based on local wisdom: progressive legal development study in Magelang. Technique of data collection used in research related legal humanism based on local wisdom: progressive legal development study in Magelang, namely documentation, observation, and interview.

The data analysis technique of the interaction model is the data collection, data reduction, data presentation and conclusion drawing.⁶ Based on this, the data analysis technique used is an interrelated interaction model in data collection, data reduction, data presentation and drawing conclusions.

B. The Existence of Local Wisdom Values in Influencing the Development of Law in Society

2 Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar* (Yogyakarta: Liberty, 2005), 1.

3 *Ibid.*, 3–4.

4 Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban* (Jakarta: UKI Press, 2006), 57.

5 Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia, 2012), 51.

6 Matthew B. Miles and A. Michael Huberman, *Analisis Data Kualitatif* (Jakarta: UI Pres, 2007), 16.

Local wisdom is the hereditary values from the ancestors that the values are still growing and developing in society. From the results of research through observations and interviews in 4 different areas, namely 2 urban villages in the Magelang city area and 2 villages in the Magelang Regency area, it can be found that the values of local wisdom are still growing and developing. The values are as follows:

1. Mutual Cooperation

The practice of mutual cooperation is still carried out throughout the research area. Interviews were conducted in Magelang Regency in 2 villages. Sidorejo Village, Bandongan District, Magelang Regency, was found that community activities carried out were still based on mutual cooperation. Community practices that still carry out mutual cooperation include road repairs, community service work to clean the environment and the neighbour houses building using the *Sambatan* system. Including in Bandongan Village, Bandongan District, Magelang Regency, there are values of mutual cooperation that are still growing and developing in society, which in this case is reflected in community service activities in cleaning the environment and building neighbour houses.

The existence of mutual cooperation value does not only occur in rural communities but also in urban communities. Research that was also conducted in the Magelang City area by conducting interviews in 2 urban villages found the values of gotong royong that are still growing and developing. Kramat Selatan Village, North Magelang District, Magelang City, has a living value in the social life of the community, namely mutual cooperation in society, in this case the community works together in repairing public facilities. Included in the Potrobangsang Village, North Magelang District, Magelang City, mutual cooperation is reflected in social institutions programs and activities. The social system works in various sectors, both in the field of empowering women, dealing with waste problems and the pattern of community life that has been institutionalized in every RT and RW.

Sartono Kartodijjo explained that mutu-

al cooperation is a culture that has grown and developed in the social life of the Indonesian people as a cultural heritage that has existed for generations.⁷ Implementation of mutual cooperation will be social capital for public.⁸

Based on this, mutual cooperation is the soul of the Indonesian people, which from the past until now is still growing and developing. Mutual cooperation itself is a local wisdom that penetrates the soul of the Indonesian people. This is reflected in the research conducted that mutual cooperation is still growing and developing in various social relations and social interactions in society. Mutual cooperation is the foundation of social life that penetrates the joints of life, both in private and public relations.

The principle of mutual cooperation is the existence of social capital where there is individual willingness in social interaction by prioritizing common interests rather than individual interests. Social capital itself is the involvement of people who have good intentions in providing social benefits, internally and externally, for community social.⁹ Community involvement in several research areas illustrates that social capital that works in a social relationship is still growing and developing in social life in the Magelang Raya area.

2. Deliberation Culture

Deliberation cannot be separated from social interactions that occur in society. Deliberation is used to formulate or provide a solution to problems in everyday life. In practice, deliberation is a method of making a decision. So, the point of the deliberation is the existence of justice and humanity.¹⁰ Deliberation can produce a decision that reflects

7 Tadjudin Noer Effendi, "Budaya Gotong Royong Masyarakat dalam Perubahan Sosial Saat Ini," *Jurnal Pemikiran Sosiologi* 2, no. 1 (2016): 5, <https://doi.org/10.22146/jps.v2i1.23403>.

8 Kuku Lukiyanto and Maranatha Wijayaningtyas, "Gotong Royong as Social Capital to Overcome Micro and Small Enterprises' Capital Difficulties," *Heliyon* 6, no. 9 (2020): 2.

9 Effendi, "Budaya Gotong Royong Masyarakat Dalam Perubahan Sosial Saat Ini," 5–6.

10 Hariyanto, "Prinsip Keadilan dan Musyawarah dalam Hukum Islam serta Implementasinya dalam Negara Hukum Indonesia," *Justicia Islamica* 11, no. 1 (2014): 44, <https://doi.org/10.21154/justicia.v11i1.92>.

objective and wise considerations for the common good.¹¹ So, the essence of deliberation is the existence of solutions and problem solving because there is a way out and the desired truth.

Deliberations in Sidorejo Village, Bandongan District, Magelang Regency, are institutionalized in social life and in village governance. This can be seen in the process of drafting village regulations that involve all elements in the village. For example, in some cases involving the community at the hamlet level where it is institutionalized in a hamlet meeting, then followed up in a village meeting. Deliberation is certainly one method in preventing conflict from every element in people's lives. Deliberations occur in every social institution, where every month there are regular meetings to discuss various things. Each meeting shows that deliberation becomes an inseparable part of every social interaction that occurs. Deliberation is attached to every activity, meeting and meetings that are carried out both at the RT level to the village level.

The deliberation in Bandongan Village, Bandongan District, Magelang Regency, as in the process of drafting village regulations, the community was also involved in the deliberation. Deliberations on the resolution of legal issues. This practice is resolved by a familiarity system by prioritizing a win-win solution, that is, if it can still be forgiven then the parties to the dispute or litigation forgive each other. However, if there is compensation for a certain event, the party causing the loss is obliged to compensate for the loss.

Kramat Selatan Village, North Magelang District, Magelang City, deliberation is based on familiarity values in the community related to the formulation of a local government policy. In Potrobangs Village, North Magelang District, Magelang City, deliberation is reflected in agreements in terms of relations between one resident and another. These agreements are reflected in the aspect of waste management where discussions are

11 Teuku Ahmad Yani, "Musyawarah Sebagai Karakter Bangsa Indonesia," *Community: Pengawas Dinamika Sosial* 2, no. 2 (2016): 168, <http://jurnal.utu.ac.id/jcommunity/article/view/135/125>.

held every month through RW deliberations.

Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law. This certainly gives legitimacy to legal pluralism in Indonesia.

The development of law is a necessity in society. There are institutions that make regulations, implement and supervise. The involvement of these various elements shows that there is a legal substance, legal structure and legal culture in social interactions in society.

C. Community Participation in Legal Development in Society

Communities can participate together or individually. Community organizations can be a place for people to gather and channel their aspirations together in the future. On the other hand, the expression of aspirations individually is often done through social media and links that allow the public to freely express their thoughts.¹²

Participation is taking part in something. When participating, people apply freedom of assembly and expression. Participation can be done by providing input or feedback through people's representatives or other available channels. Participation cannot be separated from the concept of democracy and the principles of good general governance.

There are various forms of participation, people can participate in the form of energy, money, thoughts, skills, and other things.¹³ Participation in the form of person-

12 Arwanto and Wike Anggraini, "Public Participation, Transparency-The Utilisation of Social Media: Bandung City," *Jurnal Studi Pemerintahan* 9, no. 1 (2018): 1–26.

13 Gently Teesen, "Partisipasi Masyarakat dalam Pelaksanaan Pembangunan Fisik di Kelurahan Kawangkoan Bawah Kecamatan Amurang Barat Kabupaten Minahasa Selatan," *Jurnal Politico* 3, no. 1 (2016), <http://portalgaruda.fti.unissula.ac.id/index.php?ref=browse&mod=viewarticle&artic>

Tabel 1. Community Participation In Magelang

No.	Unit/Area	Ways to participate	Types of participation	Patterns of participation
1.	Sidorejo Village	Done together. More emphasis on bottom-up approach	Participation in the form of thoughts	Direct participation
2.	Bandongan Village	Done together. More emphasis on bottom-up approach	Participation in the form of thoughts	Direct participation
3.	South Kramat Village	Done together. More emphasis on top down and bottom-up approach	Participation in the form of thoughts	Direct participation
4.	Potrobangsan Village	Done together. More emphasis on top down and bottom-up approach	Participation in the form of money and thoughts	Direct participation

nel and skills, namely in the implementation of village or sub-district development programs. We can see the contribution of money in several programs for the public interest that open up opportunities for the public to donate and others, while participation in the form of preparation of academic texts for laws and regulations and the work of a team of experts can be used as concrete examples of forms of thought participation.

Next is the pattern of participation. In general, there are two patterns, namely direct participation and indirect participation.¹⁴ Public participation is a two-way interaction. The parties involved in it support each other's interests.

The description of community participation in Magelang will be described in the form of a Table 1.

Based on the summary of the table above, we can see the variation of the approach used. The combination of bottom-up and top-down approaches is still the right approach in public and government relations. The similarities can be seen in the way of participation, the pattern which is generally done together, and the pattern of direct participation. There is a slight variation in the form of participation which is not only in the form of thought contributions but also in the form of money.

Law develops according to human needs. The meaning is more of a legal ne-

cessity to develop because humans develop in all aspects: thoughts, needs, and culture.¹⁵ Law has a role in promoting participatory capacity.¹⁶

Law is a product of government work, so space for public participation must be provided from planning, implementation, monitoring and evaluation. The needs of the community must be properly translated into all the work products. The ability to translate will be more qualified when people who know their needs and at the same time as holders of sovereignty participate in the identification and translation process.

D. The Values of Local Wisdom and Community Participation Have Potential in the Development of Humanistic-Progressive Law

Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with community development and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law. Furthermore, Article 4 letter c of Law Number 6 of 2014 on Villages states that village arrangements aim to preserve and advance the customs, traditions, and culture of the village community. Based on this, the

le=432384.

14 Tina Nabatchi and Matt Leighninger, *Public Participation for 21st Century Democracy* (Jossey-Bass, 2015).

15 M. Solly Lubis, *Opini Kebijakan Melalui Pendekatan Politik Hukum & Kebijakan Publik* (Bandung: CV Mandar Maju, 2020).

16 Barbara A. Cosens et al., "The Role of Law in Adaptive Governance," *Ecology and Society* 22, no. 1 (2017): 6.

state guarantees and protects the rights of the community related to the values of local wisdom which are noble values in the order of people's lives.

Progressive law and progressive interpretation rely on the "Law for Man" paradigm, while analytical jurisprudence follows the "Man for Law" paradigm. The law guides and serves the community.¹⁷ Furthermore, Muliadi stated the key words in progressivism, namely:¹⁸

1. The law follows the development of people's aspirations.
2. The law must be in the interests of the people and in the interests of justice.
3. The law aims to deliver humans to prosperity and happiness.
4. Law is always moving in the process of change (law as a process, law in the making).
5. The law emphasizes a better life as the basis of a good law.
6. The law has a responsive type.
7. The law encourages the role of the public.
8. The law builds a conscientious legal state.

Community participation in the formation of laws and regulations is a form of good governance in accordance with the principles of good governance; in this case there is community involvement, accountability and transparency.¹⁹ As in Article 96 paragraph (1) of Law Number 12 of 2011 on the Establishment of Legislations which states that the public has the right to provide input orally and/or in writing in the formation of laws and regulations. Based on this, in every formation of legislation, the role of community participation is very necessary, in this case by exploring the values of local wisdom that exist in the community in developing progressive laws.

Progressive legal development is influenced by the role of community participation which in this case requires community

17 Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban*, 77.

18 Muliadi, *Makalah Politik Hukum* (Jakarta: SAP S-2 Universitas Jayabaya, 2012), 16.

19 Mas Achmad Santoso, *Good Government dan Lingkungan Hidup* (Jakarta: ICEL, 2001), 87.

involvement in it. In community participation there are also aspirations from the community in developing progressive laws that are able to build laws of conscience and are able to provide a sense of justice according to the noble values that live in society.

Humanism is a philosophy that upholds human values and positions.²⁰ Hardiman stated humanist values, namely:²¹

1. The value of freedom.
2. The value of cooperation.
3. The value of self-sacrifice.
4. The value of caring.
5. The value of mutual assistance.
6. The value of solidarity.

Based on this, the humanist values that exist in the community, both in Sidorejo Village, Bandongan District, Magelang Regency, Bandongan Village, Bandongan District, Magelang Regency, South Kramat Village, North Magelang District, Magelang City, and Potrobangsari Village, North Magelang District, Magelang City, namely:

1. *The value of freedom*

Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to freedom of association, assembly and expression. Based on this, it is reflected in the participation of the community in conveying their aspirations in deliberation activities based on familiarity values.

2. *The value of cooperation*

The value of this collaboration is related to the mutual cooperation that exists in the social life of the community.

3. *The value of self-sacrifice*

The value of being willing to sacrifice in this case is reflected by the community participating by donating in the form of energy, time, and thoughts as well as for the common good in society based on sincerity.

4. *The Value of caring*

20 Haryanto Al-Fandi, *Desain Pembelajaran yang Demokratis dan Humanis* (Yogyakarta: Arruzz Media, 2017), 72.

21 F. Budi Hardiman, *Humanisme dan Sesudahnya "Meninjau Ulang Gagasan Besar tentang Manusia"* (Jakarta: Prima Grafika, 2012), 7-36.

The value of this concern is reflected in the community's concern for others, concern for the community's environment.

5. *The value of mutual assistance*

The value of mutual assistance is reflected in the attitude of helping neighbors who are experiencing difficulties. And in this case it can be seen that the community is working together in building people's houses.

6. *The value of solidarity*

The value of solidarity is that the community prioritizes familiarity values, respects and respects fellow citizens, always maintains unity and integrity, and always preserves noble values in society,

The implementation of order in a society is largely determined by several factors, namely the first structure, the second substance (the substance is composed of substantive rules and rules about how institutions should be have) and the third is legal culture.²² Legal culture is the whole system of values and attitudes that influence it.²³

Based on this, the values of local wisdom and participation in society are humanist values that live in society. They are able to develop humanist laws that are able to respect human dignity and value in realizing justice.

E. Conclusion

Based on the results of research and discussion, it can be concluded, as follows:

1. The existence of local wisdom values in influencing the development of law in society, namely the value of mutual cooperation and the value of deliberation which in this case affects the growth and development of law in social life.
2. Community participation in legal developments in society, namely the existence of space for community

participation in legal developments since planning, implementation, monitoring and evaluation

3. The values of local wisdom and community participation have potential in the development of progressive-humanist law. It can be seen that the development of progressive law is influenced by the values of local wisdom and the role of community participation, which in this case requires community involvement in it who is able to build a law of conscience and to provide a sense of justice according to the noble values that live in society. As well as in the development of humanistic law, the values of local wisdom and participation in society are humanist values that live in society. So that they are able to develop humanist laws that are able to respect human dignity and value in realizing justice.

Based on the conclusions above, the suggestions put forward are as follows:

1. It is recommended that the community always maintains and preserves local wisdom that lives and grows in people's lives.
2. It is recommended that the community and local government always maintain a synergistic relationship in the implementation of democratic community participation.
3. It is recommended that when policies planning always explore the values of local wisdom in the community and always involve community participation in creating progressive and humanist laws.

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