
Citizenship Education Model For The Establishment Of Legal Awareness To Implement The Social Functions Of Land Rights

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Abstract: This study aims to explore: (1) The importance of citizenship education to shape of legal awareness of citizens'; (2) the essence of the implementation of the principle of the social function of land rights; and (3) Competence citizens' awareness applying the principle of the social function of land rights. This study used a qualitative approach, the method of socio legal research, by looking at the effectiveness of the law in society. Data analysis techniques in this study conducted with interactive analysis of data items, namely the data collection, data reduction, the data presentation and conclusion. Conclusions The results were obtained: (1) Civics is very important to establish the legal awareness of citizens', who can participate and be responsible for applying the law, to achieve the greatest prosperity of the people; (2) The essence of the application of the principle of the social function of land rights be realized through the use of land that does not harm the public interest, land tenure the which does not exceed the maximum limit of land ownership, working on their own land with the characteristics of the soil, preventing the ways extortion and maintain the land, including adding and prevent damage fertility; and (3) Competence citizens' awareness applying the principle of the social function of land rights consist of legal knowledge of citizens' against the principal of social function of land rights, the attitude of citizens to comply with the rights and obligations of land, and establish skills of citizens in harnessing and using the land, as living resources together to achieve the greatest prosperity of the people

Keywords: citizenship, education, land.

1. INTRODUCTION

1.1 Background Research

Agrarian resources become an important means to meet the needs of citizens', composed of earth, water, space and natural resources contained therein become the common needs of humans and living beings on earth. Land as part of the Earth's surface is very meaningful for the life of each human being, because every human life is always in touch with the ground.

Protection of agricultural land as a resource become a necessity for all citizens. As a state law that aims to achieve welfare (welfare state), Indonesia has guaranteed the existence of agrarian resources mentioned in the nation's 1945 Constitution. The Constitution says in Article 33 (3) that, "the earth, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people."

In the modern era in different countries are implicated revival of citizenship as the opinion of Bryan S. Turner which states, "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" (1993, pp. 1-2).

Furthermore, according to Kalidjernih, modernity has brought great impact to the human individual and the great social changes in many of the world community which is closely related to the occurrence of ecological problems, especially because of environmental damage (2010, p. 155). These conditions gave rise to a movement that is often called

environmentalism that raise awareness on human dependence with nature that could affect the pattern of life and human behavior. This condition requires awareness on environmental sustainability, preventing the exploitation of the environment, and promote accountability for natural resources. Human responsibility not only for humans, but also natural (2010, pp. 160-161).

The existence of the ground is very important for Indonesia as a natural resource that meets the needs of all citizens. To ensure the control, ownership, use and utilization of the Indonesian Agrarian Law Number 5 of 1960 on the Basic Regulation of Agrarian Principles (UUPA). In Article 1, paragraph (1) determines that, "all the land within the territory of Indonesia is ground together of all the people of Indonesia". Furthermore, Article 6 determines that, "All the land rights with social functions". The article further stated as one of the legal principle of land is termed the principle of the social function of land rights. Every citizen has a duty to abide by the principle of the social function of land rights as a form of realization of the fulfillment of rights and obligations towards the ground.

But the principle of the social function of land rights to this day still cannot be applied properly, this is indicated by the various agrarian issues that have caused the conflict between the people by the people, people with employers, and the people in the country, the conflict arises as a result of behavior contrary to the law.

Salim cases here in Lumajang be one example of agrarian conflicts resulting from the unlawful conduct giving rise to unfairness in the mastery of agrarian. In the opinion of the Agrarian Consortium (KPA) stating that, conflicts occur between employers and citizens related to the exploration of natural resources. Then next mode employers make efforts create horizontal conflicts in society. As a result, the production space of the people in the form of agricultural land will be disturbed, it exacerbated the expropriation of land without clear procedures (<http://www.antaraneews.com/berita/520620/salim-kancil-tewas-kpa-modus-konflik-agrarian-always-together>)

Based on data from the Agrarian Reform Consortium, the number of agrarian conflict in 2014 reached 472 cases, involving almost three million hectares of land disputes. Throughout the year 2013 there were 369 agrarian conflicts

with an area reaching 1.281.660.09 hectares (Ha) and involves 139 874 families. (Triana. 2014, pp. 299-300).

The key to understanding the agrarian conflict is consciousness, namely the extent to which realize that soil is a vital natural resource, which underlies almost all aspects of life (Wiradi, Gunawan, 2009, p. 43).

Agrarian land resource as a guarantee of prosperity in a state of law, then the control, maintenance, use and utilization becomes a rule to be enforced in countries such as Indonesia law. The decision of the International Commission of Jurists, in Bangkok in 1965, states that one of the principles of a constitutional state is the education of citizens (Effendi, A. Masyhur. 1994, p. 33). Education for citizens or Citizenship Education (Civics) became one of the requirements for the establishment of a state of law.

Education for citizens is very important for a country of law is broadly includes not only the law enforcement activities of the juridical form of prosecution (repression) of the apparatus, but also non-judicial activities in the form of education (pre-emptive) and prevention (preventive). (Triyanto. 2011, p. 228)

From the background of the above can be seen that for the achievement of prosperity in a country legally required for Civics. Civics role in state law to form a law-abiding citizen and as a form of preventive measures to prevent the occurrence of conflict of laws. Civics have relevance to the movement of citizenship perspective on nature preservation and environmental or ecological termed citizenship. The land became one of the Civics as part of agrarian resources that dominate the life of the entire people of Indonesia. For resolving agrarian conflicts, especially with regard to land needed awareness to comply with the principle of the social function of land rights. Important efforts to create awareness of the role of civic education of citizens to apply the principle of the social function of land rights.

1.2 Problem Formulation

Referring to the background, as mentioned above, can be formulated research problem as follows:

1. How does the importance of civic education for the Establishment of Legal Awareness?
2. How does the essence of the implementation of the principle of the social function of land rights?

3. How is the Competence citizens' awareness applying the principle of the social function of land rights?

2. RESEARCH METHODS

This study used a qualitative approach is sociological or empirical to see the effectiveness of the law in society. This study termed socio legal research, namely the combination of legal research and social research (Soemitro. 1998, p. 34).

Data analysis techniques in this study conducted in an interactive and takes place continuously, so the data is saturated, ie the data reduction, data display and data conclusion drawing/verification (Miles, Matthew B, and Huberman, 1984, pp. 10-12).

3. DISCUSSION

3.1 The importance of civic education for the Establishment of Legal Awareness

Legal awareness realized with the transfer of legal information through education and communication. Legal information transfer process through the educational process includes teaching, training or guidance through the kind of formal and non-formal (Riyanto, Astim. 2010, pp. 47-49). Here is a chart of legal consciousness:

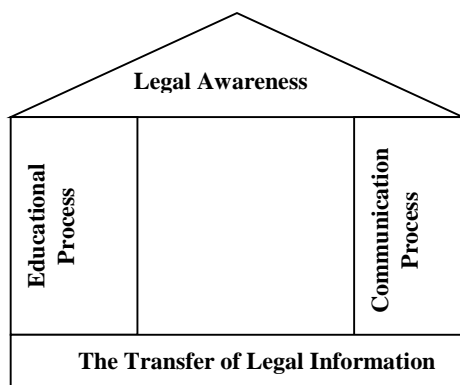


Figure 1.
 Legal Consciousness

Legal awareness (legal awareness/legal consciousness) includes elements of legal knowledge, understanding of the law, legal attitudes and behavior of law. Legal knowledge realized if someone knows, memorize, remember, and know the law and the rule of law. Understanding of the law when someone has to understand, explore, pursue, able to analyze, explain the law or regulations. Legal

attitude shown when someone has to live, respect, love, trust law or regulation, so that it becomes a mindset, decision, determination / perseverance, introspection, ekstropeksi, sympathy, empathy, caring, aware, understand, respond. Behavior or the behavior of law, which is manifested when a person has been able to make any law or regulation as a legal act, the real action law (law in action), habits of daily life, without any coercion from others. A legal awareness will be realized if the knowledge, understanding, and legal stance boils down to the behavior in the form of concrete actions comply / comply with laws or regulations (Riyanto, Astim. 2010, pp. 53-54)

Soerjono Soekanto (2011, p. 8) declared effective or not a law in society is determined by five (5) factors, among others: the factors own law (the law), law enforcement apparatus, factors means or facilities to support law enforcement, community factors, and cultural factors.

Community or citizen is one factor that determines the rule of law. Likewise in the agrarian law uphold one important factor is the role of the citizen in obeying the law of the land, especially land law.

The proper functioning of the law is always related to the role and participation of citizens in applying the applicable law. According in the nation's 1945 Constitution, article 27 paragraph (1), "All citizens are equal before the law and government and shall abide by the law and government administration, without exception". This article gives meaning to the obligation of every citizen to obey the law, shown by the attitude or behavior of citizens in the legal conscious life activity.

According to Plato, a philosopher of education and political philosophers from the Greeks who have contributed in making education for citizens, stating that "Good Citizens are Reviews those who are different to the social and political system, are law-abiding, and who exercise self-control" (Heater, Derek. 2004, p. 15). Plato has thought that "Education in virtue, a training roommates produces a keen desire to become a perfect citizen who knows how to rule and be ruled as justice demands." The article implies that a good citizen is formed through education in virtue, namely a training that produces a desire hard to become a citizen of the perfect who know how to organize and set up as demanded by justice Plato (the Heater, Derek, 2004, p. 15). This opinion was further developed by Aristotle pupil of Plato,

which states that "The good citizen must fit his behavior to the requirements of the state" (Heater, Derek, 2004, p. 19). Good citizens must adapt his behavior to the requirements of the state.

Referring to the opinion of Branson (1999, p. 7), that education aimed at increasing the participation of qualified citizens and responsible in political and public life of local, state, and national levels is civic education.

Civics is now evolving into a scientific structure known as citizenship education, which have a systemic paradigm in which there are three domains namely: academic domains, domain curricular cultural and social domains (Winataputra. 2001). The third domain that relates bound by the conception of virtue and culture of citizenship (civic virtue and civic culture), which include the knowledge of citizenship (civic knowledge), attitude / character citizenship (civic disposition), the skills of citizenship (civic skills), the confidence of citizenship (civic confidence), committed citizenship (civic commitment), and the ability citizenship (civic competences). (CCE. 1998, in Wahab, and Sapriya. 2011, pp. 96-97, in Sapriya, 2012, pp. 30-31).

Civic education (Civics) can be understood as a form of legal education both in formal educational institutions and society which aims to establish a good state, which realizes its obligation to participate and is responsible for applying the law in the conduct of his life. Civics become an education for citizens to have the awareness to comply with the law, through the establishment of civic competence that comply with the law. A good citizen in the state of law become an important means to prevent behaviors that deviate from the law. Legal awareness has relevance with legal knowledge, understanding of the law, legal attitudes and behavior of law, which is relevant to Civics concept to form civic competence.

Through Civics will form citizens who participate and are responsible for implementing the rule of law as a guide to everyday life without any element of coercion. Citizens who have legal awareness will have a good behavior as a form of an obligation to comply with applicable legal rules. In the absence of compliance with the law and in the public life of the country will not achieve the harmony of life, even going to bring conflicts in society. Civics education into a form of law that aims to harmonize the rules into the behavior of

citizens, so that would be achieved prosperity live together.

3.2. The Essence of the Application of the Principle of the Social Function of Land Rights

The principle of the social function of land rights is based on a theory that was first developed by Léon Duguit in 1922. The owner has obligations with respect to his things. He cannot do what he wants with his property. He is obliged to make it productive. The wealth controlled by owners should be put at the service of the community by means of economic transactions. The idea of the social function of property is based on a description of social reality that recognizes solidarity as one of its primary foundations. Consequently, the state should protect property only when it fulfills its social function. When the owner is not acting in a manner consistent with his obligations, the state should intervene to encourage or to punish him." ... "For Duguit, this conception of the subject and society loses sight of the fact that the interdependence between people (which is nothing other than solidarity) is the central element of social reality. Duguit's precise description of society makes clear that its members have needs and capacities that are sometimes similar and other times different. Solidarity is not a political principle but a social fact." (Foster & Bonila. 2011, p. 103).

The concept of interest can be referenced from the theory of interest according to Roscoe Pound, which classifies an interest in three types, as follows: Having classified interests into three classes, Pound defines them as follows: Individual interests are claims or demands or desires involved in and looked at from the standpoint of the individual life immediately as such-asserted in title of the individual life. Public interests are the claims or demands or desires asserted by individuals involved in or looked at from the stand-point of political life-life in politically organized society. Social interests are claims or demands or desires. Thought of in terms of social life and generalized as claims of the social group. This is followed by an exhaustive examination of individual interests from the standpoint of personality, domestic relations, and substance, which includes property, freedom of industry and contract, promised advantages, advantageous relations with others, freedom of association and continuity of employment. Public interests are examined with special

reference to the interests of the state as a juristic person and as a guardian of social interests. (Nobleman, Eli, E. 1961, pp. 195-196, <http://www.wcl.american.edu/journal/lawrev/10/nobleman.pdf>)

Pound Roscou view of the above guarantee the proper functioning of the right of individual interests, social interests and the public interest. Function right authorizes the holder the right to use its ownership within the limits prescribed by law with due regard to the rights of other parties, especially the interests of the state authority.

The Indonesian Agrarian Law Number 5 of 1960 on the Basic Regulation of Agrarian, article 6 that "All of the land rights with social functions". The rules of a legal basis for the fulfillment of the land all the people of Indonesia in the welfare state. Furthermore, according to the explanation UUPA letters A General Explanation, the Roman numeral II on Fundamentals of the National Agrarian Law, in particular the number (4) states, the fourth is placed in Article 6, namely that "All of the land rights with social functions". This means that the land rights existing in man, cannot be justified, that the land will be used (or not used) solely for their own interests, especially when it causes damage to the community. Land use must be adapted to the circumstances and nature rather than their rights, to beneficial both for the welfare and happiness which have one or beneficial to society and the State. But in the meantime that provision does not mean that individual interests will be driven entirely by the public interest (the public). Basic Agrarian Law also consider the interests of the individual. Public interest and private interest must be offset each other, and eventually will be the principal goal was reached: prosperity, justice and happiness for the people of the whole (Article 2, paragraph 3). Due to its social function, it is a matter of course that it must be cared well, in order to increase fertility and prevented the damage.

Application of the principle of the social function of land rights contains the principle of land use does not harm the public interest and control of land which does not exceed the maximum limit of land ownership. Every person and legal entities that have rights over the land required to farm their own work or actively seek, by preventing means of extortion. Besides maintaining the land, including adding fertility and prevent the damage is the duty of every person, corporation or agency which has

a legal relationship with the land, with due regard to the economically weak. Through the recognition of individual rights within the limits agreed or bond collectivism as a collective consciousness, solidarity, social integration in the community, and mutual respect.

The essence of the application of the principle of the social function of land rights be realized through the use of land that does not harm the public interest, land tenure the which does not exceed the maximum limit of land ownership, working on their own land with the characteristics of the soil, preventing the ways extortion and maintain the land, including adding and prevent damage fertility.

3. 3 Competence of Citizens Who Have Applying the Principle of Legal Awareness in Social Function of Land Rights

Legal awareness of land formed by elements of legal knowledge, understanding of the law, legal attitudes and behavior of law. The concept of legal consciousness in tune with the Citizenship Education (PKN) that contribute to the formation of a good citizen competence in meeting the applicable legal rules.

Application of the principle of the social function of land rights requires strategies that contribute to the formation of citizens who have the competence of legal awareness to comply with applicable law. Civics became a model of education that contribute to the formation of citizenship competencies which include civic knowledge consists of knowledge and understanding of the law, civic disposition or attitudes of citizens; and civic citizenship skills or skills.

Knowledge of citizens against the law of the land realized if someone knows, knows, and is able to mention the law of the land, includes: (1) understand the concept of ecological citizenship (ecological citizenship); (2) the ability to name the meaning and value of land for life; (3) ability to determine the nature of the land in state law. Legal understanding of the laws of the land citizens realized if someone has to understand, understand, explain, construct, analyze, decipher land law, include: (1) the ability to explain the principles of the social function of land rights; (2) the ability to understand the rights and obligations of citizens on the ground; (3) the ability to identify behaviors that deviate from the principle of the social function of land rights.

The attitude of citizens towards the law of the land is shown when someone has to live and believe in the law of the land as a mindset, which is based on careful consideration of morals and beliefs, so it has the feeling of sympathy, empathy, caring, solidarity and responsibility, include:

1. Affirming the importance of the rule of law relating to land;
2. Empathy in land use that is not solely for personal interest, and do not cause any harm to the public;
3. Responsible for the use of land that is tailored to the circumstances, characteristics of the soil, and nature rather than their rights;
4. Solidarity towards the maintenance of the land that gives benefits to welfare and happiness of society and the State;
5. Responsible for maintaining soil naturally and well, in order to increase fertility and prevent the damage;
6. Care for the people who are not able to use the land;

Behavior or the behavior of citizens against the law of the land realized if someone has made the law of the land as deeds and concrete action law (law in action), become habits of everyday life, without coercion from others. Behavior or the behavior of citizens who have consciousness obey the law of land, among others:

1. Being able to harmonize laws into the habit of daily living;
2. Ability to socialize rule of law in the society;
3. Ability to behave in accordance with the rules of ethics in using the land for the happiness of all people.
4. Ability to interact with the community in the use and exploit the land.
5. Ability to work together in exploiting the land.
6. Ability consulted in resolving land conflicts.

Formation of the legal awareness of citizens against the law of the land to be a solution in enforcing the law of the land as a means to achieve the prosperity of all people. Consciousness movement of citizens into a form of empowerment that aims to transform the role of citizens to the preservation of land as a source of power that dominate the agrarian life of all people, as the provisions of the principle of the social function of land rights.

4 CONCLUSIONS

Civics is very important to establish the legal awareness of citizens, who can participate and be responsible for applying the law, to achieve the greatest prosperity of the people. Civics to form the legal awareness of citizens who participate and are responsible for implementing the rule of law as a guide to everyday life without any element of coercion. Citizens who have legal awareness will have a good behavior which is the obligation to comply with applicable legal rules. Civics education into a form of law that aims to harmonize the rules into the behavior of citizens, so that would be achieved prosperity live together.

The essence of the application of the principle of the social function of land rights be realized through the use of land that does not harm the public interest, land tenure which does not exceed the maximum limit land ownership, work or cultivate their own land actively in accordance with the characteristics of the soil, preventing the ways extortion and maintain land, including add fertility and prevent damage. To prevent violations of the collective agreement in the social function of education efforts, manifested to strengthen the roles of the people in the bonds of solidarity to achieve social integration.

Competence citizens' awareness applying the principle of the social function of land rights consist of legal knowledge of citizens' against the principal of social function of land rights, the attitude of citizens to comply with the rights and obligations of land, and establish skills of citizens in harnessing and using the land, as living resources together to achieve the greatest prosperity of the people.

5 REFERENCES

- Branson, Margaret, S (1999). *Belajar Civic Education dari Amerika (Learning Civic Education of America)*. Yogyakarta, LKIS and Asia Foundation, p. 7.
- Effendi, A. Mansyur. (1994). *Dimensi/Dinamika Hak Asasi Manusia dalam Hukum Nasional dan Internasional (Dimensions / Dynamics of Human Rights in National and International Law)*. Jakarta: Ghalia Indonesia, p.33.
- Foster, Sheila and Bonilla, Daniel, *the Social Function of Property: A Comparative Law Perspective* (November 15, 2011). *Fordham Law Review*, Vol. 80, p. 101-103, 2011; *Fordham Law Legal Studies Research Paper No. 1960022*. Available at SSRN: <http://ssrn.com/abstract=1960022>

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- Heater, Derek. (2004). *A. Brief History of Citizenship*. Cambridge: Polity Press, p. 15, 19.
- Kalidjernih, F.K. (2010). *Puspa Ragam, Konsep Dan Isu Kewarganegaraan* (Puspa Variety, Concepts and Issues Citizenship). Bandung: Widya Aksara Press, p. 155, pp. 160-166.
- Miles, Matthew B. and Huberman, A Micheal. (1984). *Qualitative Data Analysis, A Sourcebook of New Methods*. Beverly Hills CA: Sage Publications, Inc, pp.10-12
- Nobleman, Eli, E., 1961: 195-196, <http://www.wcl.american.edu/journal/lawrev/10/nobleman.pdf>, pp. 195 – 196.
- Republik Indonesia. Undang-Undang Dasar Tahun 1945 (The nation's 1945 Constitution)
- Republik Indonesia. Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (the Indonesian Agrarian Law Number 5 of 1960 on the Basic Regulation of Agrarian Principles)
- Riyanto. Astim. (2010). *Kapita Selecta Hukum Dalam Dinamika* (Capita Selecta Law in Dynamics). Bandung: YAPEMDO, pp. 47-49, 53-54.
- Soemitro, RH. (1998). *Metode Penelitian Hukum dan Yurimetri (Legal Research Methods and Jurimetri)*. Jakarta: Ghalia, p. 34.
- Soekanto, Soekanto. (2011). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum (Factors Affecting Law Enforcement)*. Cetakan ke-10, Jakarta: PT Raja Grafindo Persada, p. 8.
- Triana, Rejekiingsih (2014). *Penegakan Hukum Tanah Dalam Implementasi Asas Fungsi Sosial Hak Atas Tanah: Studi Peran Pendidikan Kewarganegaraan Untuk Pembentukan Kesadaran Hukum Warga Negara (In the Land Law Enforcement Function Implementation Principles of Social Rights to Land: Study Role of Civic Education For Formation of Legal Awareness Citizen)*. Disertasi SPs UPI. Bandung, pp. 299 – 300.
- Triyanto. (2011). *Penguatan Penegakan Hukum HKI: Studi Kritis terhadap Peran PKn (Strengthening Law Enforcement of IPRs: Critical Study on the Role of Civic)*. Disertasi, Sekolah Pascasarjana Universitas Pendidikan Indonesia, Bandung, p. 228.
- Turner, B.S. (eds). (1993). *Citizenship and Social Theory*. London: SAGE Publication. pp. 1-2.
- Wahab. AA, Sapriya. (2011). *Teori dan Landasan Pendidikan Kewarganegaraan (Theory and Platform for Civic Education)*. Bandung: Alfabeta.Winataputra, pp. 30-33
- Wiradi, Gunawan. (2009). *Reforma Agraria: Perjalanan yang Belum Berakhir (Agrarian Reform: An Unfinished Journey)*. Jakarta: Diterbitkan bersama KPA, Sajogyo Institute (Bogor) dan AKATIGA (Bandung), p. 43.
- <http://www.antaraneews.com/berita/520620/salim-kancil-tewas-kpa-modus-konflik-agraria-selalu-sama>