

History of Conflict Between Interest and Law

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Abstract

What happened on May 1998 attracted many attentions since there was a conflict among any interests which could not be solved by the law in charge. Thus, jurisprudence of interest tried to see advantages which could be gained from interests looking because all existence interest needed certain law to protect them. Furthermore, law functioned as a tool of social engineering where it supposed to protect state's, society's, and individual's interest. That theory, in fact, had been applied by the government in Soeharto's era to rule the country. At a very first time, the government applied the law properly, but then the situation changed where law only functioned as a supplement to support government's acts, while the government functioned as a tool of social engineering. This explorative descriptive research is trying to captured those acts. The acts led to any protests and demonstrations conducted by some groups of society and any college students' communities because they are disagreed with the government. Even, any conflicts among some people with the policemen which happened at that time could not be avoided anymore. Literature studies showed that Surakarta, started from its beginning has already become a city in where many interests conflict happened, a city which always been issued as a public barometer, and one of the victims in the national tragedy happened on May 1998 with a great loss. This research conclude that law was considered fail to protect individual's, society's, nor state's interests since there were many provocateurs who tried to make the situation getting worse. Any conflicts related to law application should be ended in the court, but at that time, it was ended by a chaos.

Keywords: law, interest, conflict, history, society

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Introduction

The riot in Mei 1998 in Indonesia is a culmination point, from the reformation movement that caused the fall of the Orde Baru leader regime. The mass violence as a form of protest from a social group or university community to the leader, because the leader is considered to be unable to take care the problem of the nation, in fact that all of them has already written in the law products like regulations and another written laws lie under it. How the Orde Baru government used law as a means to manipulate the people to protect all of the interest (the interest of individual, society, and the nation) in the end caused the people to do reformation.

The Orde Baru regime was too show up the nation's necessities more than the interest of the other parties (like the needs of society and the needs of individual), the leader showed the arrogance, the refusal of changing, the lateness in taking proactive action, the tendency in underestimating reformation claim, and often do the repressive action (torturing and violating) to the action of protest. Those broadly were the violation of human rights which supported the growth of open opposition phase and the struggle in social politics

Surakarta since its early age, historically always related to the conflict of interest from the government elite (the Mataram Kingdom and the Dutch colony) that led into mass violence in the form of rebellion or war. While in Orde Baru and the pre reformation time, there were interest conflicts between the nation, the individual and the society that became stronger day by day and led to the mass violence. This city has always been issued as the short wick and the barometer of the national politics. This paper will discuss about how is the science of interest law, the law theory where law as a tool of social engineering, the violence theory, the radicalism theory and the conflict theory describe the law problems and the interest in the May 1998 tragedy in Indonesia, especially in Surakarta. (Wignjosoebroto, 1994: 224)

Methodology

The result of this research is hoped to give contribution for the development of law theory, the science of interest law and the ideas of law construction in Indonesia, and also view for the other researchers, gives information and input for the government and society about law and interest in the relation with the riot in May 1998.

The informant determining for the field study was done by snowball sampling technique, where the informants were obtained through the information from the other informants (reference) until a certain amount and criteria are fulfilled according to the researcher. Dividing the informants by certain criterion from an informant source that really understands the problem observed. Participant observation and indepth interview are used simultaneously to get the data. The things that are hard to be obtained through interview are context and situation, will be obtained through direct observation (Marzuki, 2005: 126). Through deep reference study, the law and interest problems are studied related to the riot in May 1998, because most of the data are already documented. The descriptions

of the problem are based in the interest law science, the law theory of law as a tool of social engineering, violence theory, radicalism theory, and conflict theory. All of the obtained data are analyzed qualitative using interactive model of analysis, where the process of analysis starts since from the beginning of the data collecting by three activity steps, they are: data reduction, data serving, and conclusion making (Marzuki, 2005: 202)

Law as A Tool of Social Engineering

In the early governance of Orde Baru, the law theory of law as a tool of social engineering (Roscoe Pound) was adopted. That means the law has the functions as a means to do social engineering and to protect all of the interest (the nation, the people, and individual interest). In its history, the government was begin to do deviations by having government as a tool of social engineering, while the law is merely a complement of the misery or the servant which should follow the interest and the needs of the government. By the reason of safety or national stability and the economics development for restructurization, the Orde Baru regime manipulated the people by using law as a means of its interest. The *social engineering by law* is replaced by *social engineering by government*. The people (social group and university community) who have different views were eliminated and kidnapped.

The action of the government in surpressing its people was included in the violation of human right, which produced the embryo of struggle from the people to conduct reformation movement. This movement was like a tsunami washing away everyone who stand in front of it, that the leader of the Orde Baru should put away its position. When the will of reformation comes into a reality, the world was shocked considering that the second president of Indonesia had ruled for a very long time.

The dynamics work of the law in Orde Baru was not taking side of the people, because the politics of the ruler was coloring the whole law (law is a product of politics) (Moh. Mahfud MD, 1999). The interest law since studies law and interest because both of them have close relation, the law exist to protects all interest in balance and the looking for interest should have a use or benefit. Furthermore, the law theory of law as a tool of social engineering is basically made to make the law protects all of the interests, but law in the hand of the ruler became a tool to protect his interest. The carpet of law was made for those needs, so all of what the government does is right and it is legal according to the law manipulated by them. There were many deviations that can be seen by the people as a suppress, and crime of the ruler. (Wignjosoebroto, 2002). The violence theory, the radicalism theory, and the conflict theory are the theories that describe the riot in May 1998, before and when the tragedy was happened.

The Violence Theory

The violence theory of Johan Galtung highlights the structural violence that was done by the ruler to the people that is known as vertical violence. The action of the Orde Baru government caused the reaction from the social group and students community, that the physical clash could not be avoided. The role of the provocateurs in the riot in May 1998

made the great tragedy come faster. (Santoso, 2002: 5-6). The radical or mobilization approach is focused in the structural changing in the society, and John Friedmann identifies this problem in four parts; the first, the existence of emancipation value; the second, base it on the conflict rather than harmony model in the society; the third, commitment to bring specific forms from the structural changing in the society; and the fourth, the society are integrated on the ruling of the domination by some people (Friedman, 1987: 256). People through social group and student community wanted a changing on the status quo kept by the ruler. The different interests of the government and the people become a conflict that turn into a riot in May 1998.

The riot that caused bad damage to the palace of Paku Buwono II is called as Geger Pecinan. The moving of the palace from Kartasura to Surakarta was done in 1746, thus the name of Sala village was changed into Surakarta Hadiningrat. In the colonial period in the XIX and XX century, the area of Surakarta and Yogyakarta were the places of four kingdoms that “stand alone” under the ruler of Dutch Hindia. The Kasunan and Mangkunegaran Kingdoms are located in Surakarta, while the Kesultanan and Pakualaman are located in Yogyakarta. Even the four kingdoms admit themselves as the heirs of the Mataram Kingdom, a Javanese dynasty that in the past time had massive power, but they are the products of the Dutch colonial, that laid the land of the governance under two rulers, they are Surakarta and Yogyakarta. All of that area was called as *Vorstenlanden* (the land of kings) to differentiate from the other areas of Java, that is ruled directly by the Dutch Hindia government.

In 1743, Paku Buwono II was stated by the Dutch as the king, after he was stated by his enemies through a rebellion. After that, he moved the kingdom from Kartasura to Surakarta, and gave all of the Java area to VOC. This was the history of the Kasunan kingdom in Surakarta, and in the same time marks the beginning of the Dutch colonial penetration to the core of the Mataram kingdom, because since that time the chief minister of the king had the responsibility in taking care the region and worked for the need of the VOC and the *sunan*. After that, another rival kingdom was built in Yogyakarta through Perjanjian Giyanti in 1755, they are the Kesultanan with Sultan Hamengkubuwono I as the half ruler of the great nation and Mataram. Two years later, Mangkunegara Kingdom as another rival kingdom was built in Surakarta through Perjanjian Salatiga with Mas Said as its founder. He kept his promise to be loyal to Sunan, VOC, and Sultan and got the title Pangeran Adipati Mangkunegara. Dutch that had known by its VOC governance did the violence to the nation to its colony, like what they did to Mataram Kingdom by exploiting wan in internal crash out (politics of *devide et impera*), wars and riots was done to get broader colony and bigger power in colony economy and politics. What the colonial government did to the people and the kings in the colony produce the empathy embryo, resentment, hatred, and in the end caused mass violence in the form of war to move away the colonial. Because of the *devide et impera* politics done by the Dutch to the Mataram Kingdom and the revenge done by the people and the kings, there was Diponegoro war. The effect for Surakarta is before, in early time and after the held of this city in the colonial age it experienced many mass violence (Mulyadi, 1989).

In the movement period from 1908 to 1945, there were many political parties appeared in Surakarta like Sarekat Islam (SI). The radicalism movement was happen not because of the local people's struggle with the ruler (the Kingdom or the government of Dutch colonial), but the struggle happened because of economics and political motive with the riot between the King Sing Jawa and Kong Sing Cina. Then the society was fed up with the attitude of the kingdom ruler, the Dutch Hindia governance, and the Dutch private farm companies, that produce radicalism in the society around 1918 to 1922 that we had H. Misbach and Tjipto Mangunkusuma. Around 1922 until 1927, there were Surakarta communist movements that caused the appear of the social revolution that caused the fall out of the traditional governance which the power lies in the hand of the kingdom bureaucrat to the national republic government. (Mulyadi, 1989)

The mass riot in Surakarta at the first time was marked by the "bloody action" in May 14th 1998 in Muhammadiyah University located in Kartasura region. The history observer relates this problem with the rebellion of RM Garendhi (Sunan Kuning) that is known as Geger Kartasura, that caused Pakubuwono II separated the center of the government from Kartasura Kingdom to Sala Village that later known as Surakarta Kingdom. Historically, they who like to observe the events in the past time state that "the history is repeating"

Since the early time of Surakarta until the riot in May 1998, there were seven "historical riots" in this city. The first was the moving of the capital of Mataram Kingdom in Kartasura Hadiningrat ("Bedah Keraton Surakarta") to Surakarta Hadiningrat in 1745, which was marked by the "Road Malaka" Batavia event, and then got broader to the Mataram Kingdom, where there was a riot known as *geger pecinan*. The second was the killing of the Chinese ethnic in Diponegoro period or known as *perang Jawa* (1825 – 1830). The third was the period of Serikat Islam Lama (1911 – 1912). The fourth was the Sarekat Islam in 1916. The fifth was pasca G-30 S/PKI in 1965. The sixth was the riot in November 1980. The seventh was the riot in May 1998 that destroyed this never sleep city. (Soeratman, 1989)

Radicalism Theory

Radicalism and violence are always made as means to take care conflict. Legally, the interest conflict happened can be resolved through court like what is done by the United States of America, where the theory of law as a tool of social engineering was born. Even Roscoe Pound, the protocol of this theory structured the catalog of interest that needs to be protected by the law. The riot in May 1998 occurred in Indonesia, actually was a conflict of interests among the nation, the people and individual that was taken care in violence way, radical, triggered by provocator, so the great tragedy occurred and ruined this nation.

The use of law by the Orde Baru regime as a tool to manipulate the people to protect all interests were misused just to protect the interest of the ruler, and this made the people do reformation. The soul or spirit of *law as a tool of social engineering* is not only to manipulate the society but also protect many interests, such as the interest of the nation, the interest of the people, and the interest of the individual. The function of the law was

changed because it is taken side by the government. As a result, the regulation of law in the history of the development of the Orde Baru government had become a control power in the hands of the legitimated government (in formal jurisdiction), and did not reflect the justice concept all the time, moral values, and the real ideas of wise, that in fact, life in law awareness of the civil society. In the kind of situation, the underground movements were trying to be heard better and louder than in the period of the glorious moment of the ideas of revolution law in early 1960's (Mody, 1987: 6)

The people in the society that had any different ideas with the Orde Baru regime were considered as the opposition, they always got pressure and oppression in the form of violence (tortured, kidnapped, and even they disappeared like they had never been exist before). The violence the country did to its people called as vertical violence (from the upside to downside), while the struggling of the rebellion done by the people of the society, from demonstration to the action of violence called as vertical violence (from downside to the upside). In the riot in May 1998, the violence happened in the tragedy were vertical violence, both what was did by the nation to the people or vise versa.

The radical planning has four parts. The first is the value of emancipation. The radical approach specifically gives attention to the worker society that have no influence to the direction of the people and the suppressed and exploit the capitalist. This social movement was directed to free them the minor position in the society. The second, history is a contradictive process where the direction of the social development is opened. Because of that, the radical approach is based on the conflict rather than the harmony model in the society. The third, commitment to take the specific forms of the structural changes in the society. The fourth, the unity between theory and practice. Knowledge is seen more as an ideology rather than as a stock of sources. The groups that are involved in the political struggle are learning from the practices and the reality of the changing (Friedman, 1987: 256). The riot in May 1998 seen from the perspective of radicalism contained the four criterions mentioned above that is giving attention to the people suppressed and exploited, the existence of the contradictive process in the direction of social development.

Law of Interest

Law of interest (jurisprudence of interest) is the science of law that study the interest. The problem of interest is having close relation to the use (the benefit related to human necessities). It is related to Roscoe Pound's theory, *law as a tool of social engineering*, where law is not merely a tool to manipulate the people but also protect the interests. If there are interest conflicts, the solution can be found through court. Differ from Indonesia, where solution was taking by doing mass violence.

The nation's crime without any responsibility is a nation's disgrace because the violence done by the nation through its apparatus to its citizen caused any reactions from the society by doing action in the form of demonstration and physical contact that changed into riot in May 1998. The violence of the nation was expressed in many ways like repression done directly by the apparatus, trained the paramilitary to did dirty jobs,

trained hoodlums to did a riot, created horizontal conflict between social group of different ethnic/religion. By those ways, the nation (the ruler and its apparatus) had transfer the violence to the society. The political criminalization and criminalization politics pushed the society to did violence like what the state had done to them.

The restructure planning like what had done by the Orde Baru by the name of national interest and neglecting the aspiration and the interest of the society was felt as a radicalism action from the government. The social groups and students community fought for it by having demonstration and physical contact with the apparatus. The Orde Baru regime was a powerful group that tried to keep its status quo, while the society was the group that wanted to do the changing. The different interest of the ruler and the people caused conflict that lead to changing. If the conflict is in great level, so the changing will be in radical form. While, if the conflict is along with the use of violence, the structural changing will be more effective.

The Conflict Theory

The conflict theory proposed by Ralf Dahrendorf stated that every society is always in the process of endless changing, conflict is a symptom that gives contribution for the disintegration and the social changing, and people is integrated by the use of domination by some people upon others. (Ritzer, 2002: 21-28). The fall of the Orde Baru was an interest conflict between the ruler who wanted to keep its status quo and the people who wanted to do changing. Sociologically, people are always in the changing process (dynamic) and inside it, there are conflict seeds that can blow anytime if their interests are abandoned or suppressed. (Dahrendorf, 1959: 162). The ruler did not aware of this or they were in purpose not to take any concern about this, too arrogant and mesmerized by the massive power they had, supported by the military force, the large budget from the outsiders that entered Indonesia, great economics development (in fact it was getting worse), so in turn this authoritative regime took the natural selection and was forced to get down from the politics stage.

At first, law science of interest studies the balance between the interest, in order to make the conflict does not happened. If the conflicts are still appear, it can be solved through court of law. Manipulating society by using law as its tool by the government, does not mean that the ruler can do anything, but it is about how to use the law protects all interests. The catalog of interest includes the interest of nation, the interest of the people, and the interest of the individual. Those interests are not same among one another or it is different, so they have potential to be conflicts among them. The second, the non-law theories like the theory of violence, the radicalism theory, and the theory of conflict are served to give contribution for the law theory and the science of interest law in describing the riot in May 1998. *Law as a tool of social engineering theory* from Roscoe Pound is having the focus on the balance of the interest between the interest of the nation, the people and the individual. If there is a conflict of interest, so the solution is through law court. In Indonesia, *law as a tool of social engineering* is changed with *government as a tool of social engineering*, then the *social engineering by law* was changed into *social engineering by government*, where the government did crime (government crime),

because they were butchering, suppressing, and even kidnapping they who were having different ideas or unsupported the government.

Conclusion

The conclusion of this research is that the happening of the mass violence that came into its culmination point in May 1998 is the form of protest or demonstration from the social group and the students community to the government, because they were considered as unable to solve the problem of the nation and the country that made the people in suffer. The life and the living of the running of the nation has been stated in the law products in the form of regulations and other ordinances that in hierarchy are lied under it. The Orde baru used law as a tool to manipulate people, which should be used to protect all of interests (the interest of the individual, the people, and the nation). In fact, the law only protected the interest of the government (nation), by the reason of development and economics growth and the need of security stability.

Surakarta since its early time, historically was always related with the conflict of interest form the government elite (The Mataram kingdom and the Dutch colonial) that changed into mass violence in the form of wars. In the governance of Orde Baru and before the reformation, the conflict among the interest of the nation, the people, and the individual were getting stronger and led to mass barbaric action. This city was always issued as a short wick (easy to make a riot) and the barometer of national politics since there was always a tight relation between Jakarta and Surakarta. This could be seen from the politics of the riot in May 1998 in Jakarta that accelerated the tragedy in Surakarta.

The jurisprudence of interest described the riot in May 1998 as an interest conflict between the nations, the people, and the individual. In order not to make a conflict to happen, there should be a balance protection for all interests. The law theory as a tool of social engineering actually has close relation with the theory of interest that is become the central point of Roescoe Pound's theory where law protects all of the interests. The tragedy in May 1998 happened because the government only protected all of the interests of the nation, while the interests of the people and the individual were oppressed, nor even obeyed. The history of Surakarta was full of interest conflicts started from the conflict between the Mataram kingdom and the Dutch colonial to the Chinese ethnic with the native people's conflict which cause this city easy to be triggered by the mass brutality. The social jealousy was appear in the Orde Baru era because the Chinese etnic who had got facilities, while the native people didn't get anything and abandoned by the government. The riot in May 1998 in Surakarta was seen from the science of interest, the law theory of *law as a tool of social engineering*, the violence theory, radicalism theory, and the conflict theory because there were the conflicts of interest among the ruler, the people, and the individual, where the problem of the native society and the non-native give a big contibution in it.

The riot in May 1998 was a national tragedy that could make the large nation like NKRI broke out into small nations, that maybe appeared based on the cultures, tribes, religions, or the feel of similarities. The learning that can be obtained from the riot in May 1998 is

the taking of this tragedy to the law laboratory, observe it, find the factors of the causes, testing and describe it with the existing theories to see objectively, what kind of law that run in the society. The method used should be holistic, comprehensive, and futuristic, so the solution produced by the law laboratory can be useful and successful

The shift of concept paradigm of the nation of law nation of regulation is need to be studied once more, put it back to the early paradigm. The regulations and the other products of law that in hierarchy are lied below it should be based on Pancasila as a source of all source of law in Indonesia and protect all interests. As a nation of law, everyone who do wrong things, even the nation apparatus, should be processed by the law, and the sanction put to them should reflect the sense of justice from the people. The authoritatian law should be changed into responsive law paradigm, and move as a progressive law, protecting all interests, in order that Indonesia can run well in taking its step to gain its purpose of life.

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It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. Conflicts of interest provide a useful study in this respect. Unlike some areas of practice, it is a generally accepted principle that lawyers should not act for two or more clients whose interests may potentially conflict.¹⁰ In. See generally CONFLICTS OF INTEREST: A GUIDE FOR BANKS, AUDITORS AND LAW FIRMS (Keith Clark ed., 2011) (discussing conflicts rules in Europe); JANINE GRIFFITHS-BAKER, SERVING TWO MASTERS: CONFLICTS OF INTEREST IN THE MODERN LAW FIRM (2002) (focusing on conflicts rules in the United Kingdom); SUSAN P. SHAPIRO, TANGLED. Differences between civil-law and common-law countries in the absence of a choice by the parties. Notification of parties. Choice of law. As noted above, cases of conflict of laws arise from differences between legal systems. Notable differences exist, for example, between countries with a common-law tradition and those employing civil law. Others (e.g., France and the Netherlands) attempt to strike a balance between the interests of the parties—for example, by allowing the original owner to recover the goods but requiring him to compensate the good-faith purchaser in some manner. Get a Britannica Premium subscription and gain access to exclusive content. [Subscribe Now](#). A conflict of interest arises from a connection between two or more individuals or organizations, or between an individual and an organization. It is a relationship, not an action. Definitions and pertinent assumptions. Black's Law Dictionary describes conflict of interest as being in connection with "public officials and fiduciaries and their relationship to matters of private interest or gain to them" in situations where regard for one duty tends to lead to disregard of another. The term "private interest" would mean any tangible benefit accruing directly to the one with a conflict of interest, or indirectly through associates, related organizations, friends, or family members. Thus, conflict of interest and bribery become intertwined. Conflicts of interest can arise from a range of issues and many of them are illustrated by our investigations into specific situations and into the systemic risk of conflicts of interest. As explained in our previous post, NAO investigates, our investigations set out the facts of a situation, rather than drawing a conclusion. After concerns were raised, we looked at whether there were potential conflicts of interest between the assessment centre and the operator providing support; whether the relationships had an impact on value for money for taxpayers; and whether a larger than expected proportion of students at Plymouth University received DSA.