

## Salt Pricing Policy According to the Theory of Justice in Islam: Faridz Essack's Perspective

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### Abstract:

Legal issues regarding the unfairness of state policies in regulating salt prices need to be resolved, especially regarding the preparation of salt price regulations that favour the people's interests. The salt price policy should bring benefits to the people and not merely benefit the salt middlemen. This research contributes to reforming equitable regulations where the benchmarks are based on the theory of justice according to Farid Escak's theory. This research uses normative legal research methods by basing the argumentation on salt regulations and the concept of justice in Farid Escak's theory. The research produces essential findings in the form of a national salt price policy that does not bring benefits to farmers, but the policy favours the interests of middlemen and parties in the industrial sector (companies). In addition, the framework of policy regulation on equitable salt prices in Farid Escak's perspective produces ideas in the form of determining the price of salt must be in accordance with the needs of salt farmers and more oriented towards the welfare of farmers. This research recommends the need for the renewal of salt regulations to create justice in the determination of national salt prices.

### Keywords:

Salt price policy, Farmers, Justice in Islam, Faridz Escak



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## **Introduction**

Such local government obligations have even been regulated in 2 (two) legal products,<sup>1</sup> namely through Regulation of the Minister of Industry Number 88 of 2014 concerning Amendments to Regulation of the Minister of Industry Number 134 of 2009 concerning Road Map for the Development of the Salt Industry Cluster, and can also be found in Article 8 Paragraph (1) of East Java Governor Regulation Number 78 of 2011 concerning Control of Imported Salt and Empowerment of People's Salt Business.

As an archipelago,<sup>2</sup> Indonesia has a large variety of seafood commodities, one of which is the salt commodity.<sup>3</sup> Salt is a food commodity that is the primary need of all Indonesian people, both as a consumption and consumption need.<sup>4</sup> This is based on data released by the Ministry of Industry which states that the estimated national demand for salt in 2024-2025 reached 2.04 million tons.<sup>5</sup>

Discussing the issue of salt, of course, reminds us of Madura, which is popularly known as the salt island. In 2025, with a land area stretching from Bangkalan to Sumenep which reached 15,347 hectares. Madura's salt yield contributed 60% of the total national salt demand,

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<sup>1</sup> Ginanjar Adi Setiawan dan Uswatun Hasanah, "Cigarette Company's Responsibility for Consumer Health Losses After Health Warning Inclusion," *Trunojoyo Law Review* 2, no. 1 (1 Februari 2020): 44-62, <https://doi.org/10.21107/tlr.v2i1.9495>.

<sup>2</sup> Muwaffiq Jufri dkk., "State Power Limitations on Religion for The Fulfillment of The Constitutional Rights of Indigenous Religion Believers in Indonesia," *Journal of Indonesian Constitutional Law* 1, no. 3 (16 Desember 2024): 194-220, <https://doi.org/10.71239/jicl.v1i3.23>.

<sup>3</sup> M. Fuad, E. M. S. Rochman, dan A. Rachmad, "Salt Commodity Data Clustering Using Fuzzy C-Means," *Journal of Physics: Conference Series* 2406, no. 1 (1 Desember 2022): 012025, <https://doi.org/10.1088/1742-6596/2406/1/012025>.

<sup>4</sup> Salsabila Cherish Okcavia dkk., "Indonesia's Blue Economy Potential: Salt Pond in Nagekeo, East Nusa Tenggara," *QISTINA: Jurnal Multidisiplin Indonesia* 1, no. 2 (25 Desember 2022): 173-84, <https://doi.org/10.57235/qistina.v1i2.193>.

<sup>5</sup> HUMAS DITJEN PENGELOLAAN KELAUTAN DAN RUANG LAUT, "KKP Siapkan Strategi Capai Swasembada Garam 2027," 4 Januari 2025, <https://www.kkp.go.id/news/news-detail/kkp-siapkan-strategi-capai-swasembada-garam-2027-gpnY.html>.

around 129,419.27 tons.<sup>6</sup> This fact further emphasizes that the existence of the salt industry in Madura is the spearhead of the availability of national salt needs. But unfortunately, the presence of land has not been able to boost the regional economy, both in Sampang and Pamekasan to be advanced and bring prosperity to its citizens.

Supposedly, with the ownership of so many salt fields, Sampang and Pamekasan districts have not been able to develop as one of the economically advanced regions. Of course, behind the downturn in salt management, there are various problems that are very difficult to solve. So far, there has been no policy from the government (either central or regional) that specifically provides protection and plans for the self-sufficiency of salt farming in Sampang, nor has there been any serious step taken by the local government to unravel the legal problems that hinder the development of the salt industry.

This study focuses on the urgency of the existence of regional regulations in order to support salt self-sufficiency and also boost the level of community welfare. The choice of improving and structuring regional regulations is due to the fact that in the tradition of the Indonesian state of law, the existence of adequate regulations in supporting the economic sector is absolutely necessary as a basis for carrying out all economic policies and transactions carried out by the community.<sup>7</sup> Whether or not the regulatory arrangement is good, it will greatly impact the success of the state and society in building and developing the economy.<sup>8</sup>

In this research, the regulation to be arranged is the existence of regional regulations in order to improve the direction of the salt policy, where the salt program or policy in the region is not based on the will of the ruler, but to meet the needs of salt farmers in increasing production. The choice of this method is actually an implementation of the regional autonomy system where the central government provides

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<sup>6</sup> dprd jatim, "DPRD Jatim Dukung Penghentian Impor dan Dorong Peningkatan Kualitas Garam Lokal," 13 Februari 2025, <https://kominfo.jatimprov.go.id/berita/dprd-jatim-dukung-penghentian-impor-dan-dorong-peningkatan-kualitas-garam-lokal>.

<sup>7</sup> Abdul Mukhtie Fadjar, *Tipe Negara Hukum* (Malang: Bayumedia Publishing, 2004).

<sup>8</sup> Raden Bagus Mochammad Ramadhan Razief Hafid, Sahrudin Sahrudin, dan Ahmad Farid, "Countermeasures for Environmental Damage Caused by Drilling Water Sources for The Mineral Water Industry," *Journal of Indonesian Constitutional Law* 1, no. 2 (16 November 2024): 140–50, <https://doi.org/10.71239/jicl.v1i2.36>.

the widest possible access and authority to the regions to manage and regulate their own regions whose purpose is none other than to realize regional prosperity and progress. Regional prosperity and progress will be directly proportional to the level of community welfare in the area.

State policy in the context of the rule of law and democracy that has given the widest possible access to the region feels very unfortunate if the regional attitude is not responsive in addressing this. In the context of salt industry, for example, the existence of this regional autonomy system should be maximized by the region in providing autonomous policies in developing the salt industry climate in Madura, especially in Pamekasan and Sampang. That is why the existence of this research is considered very important as an effort to provide guarantees and protection for the community in carrying out all their activities in the field of salt.

This research also aims to fill the gap that has not been discussed by previous researchers in the field of salt law settlement. Some previous studies only focused on three things, among others: First, discussing salt that focuses on resolving salt pond ownership disputes conducted by Muwaffiq Jufri and Mukhlis (2023).<sup>9</sup> This study explores the village government's strategy in resolving salt pond land disputes by utilizing the existence of local village leaders such as village heads, religious leaders, and community leaders.

Research on the settlement of salt land disputes has also been conducted by Desy Fajariyah (2016),<sup>10</sup> where the focus of her research discusses the causes of salt pond land disputes between farmers and PT Garam in Sampang Regency caused by the division of inappropriate cultivation rights. Fajariyah also revealed findings that the roots of the conflict between PT Garam and Farmers have actually been going on for a long time, even since the early days of independence. The resolution of this case is very difficult and continues because each party is adamant about its demands for rights related to salt land.

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<sup>9</sup> Mukhlis Mukhlis, A. Yahya Surya Winata, dan Ach Zahid, "Regional Regulation Problems in the Field of Salt Industry Development Perspective of Farmers in Sampang Regency," *Trunojoyo Law Review* 6, no. 1 (29 Februari 2024): 78–95, <https://doi.org/10.21107/tlr.v6i1.23321>.

<sup>10</sup> Desy Fajariyah, "Sengketa Tanah Tambak Garam di Sampang Tahun 2005-2012," *Avatara: Jurnal Pendidikan Sejarah* 4, no. 3 (2016): 1095.

Second, research on salt that focuses on salt import policies such as those conducted by Putri Permatasari and Indah Cahyani (2022) which discusses the accountability of salt import policies in Indonesia.<sup>11</sup> In her research, Permatasari revealed that import activities are considered to have weakened the economy of local salt farmers. The loss of stipulation in the approval of salt imports has also opened the gap for salt imports to occur because it is only in the form of a recommendation letter so that based on the perspective of state administrative law it cannot be challenged. So here the government's accountability to local salt farmers in the welfare state needs to be questioned.

So far, there has been no research that specifically discusses the pricing policy of salt, even though this policy is vulnerable to harming salt farmers due to the issuance of regulations on salt prices which turn out to be very small and unable to boost the income of salt farmers. Therefore, the novelty in this research is to engineer regulations on salt pricing policies that are adjusted to the values of justice, especially the value of justice initiated by Faridz Escak. It is hoped that the idea of fair salt pricing engineering will be able to boost the income and improve the welfare of salt farmers in Indonesia.

## Methods

The type of research used in this research is normative legal research, or popularly known as doctrinal research. Normative legal research is research based on analysis of library materials as a data source, some legal principles and laws and regulations that are in accordance with the problems in this study. Legal research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand.<sup>12</sup>

This research uses a statutory approach. The statute approach, is an approach taken by examining the laws and regulations relating to the content of the law or the problem being studied, whether there is conformity and consistency between the law and other laws, or

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<sup>11</sup> Putri Permata Sari dan Indah Cahyani, "Akuntabilitas Kebijakan Impor Garam di Indonesia," *INICIO LEGIS* 3, no. 2 (6 November 2022): 127–41, <https://doi.org/10.21107/il.v3i2.14883>.

<sup>12</sup> Naufal Rizqiyanto, M Rizqi, dan Fahmil Alfian Rizkia Afsa, "TAX REGULATION CHALLENGES IN THE DIGITAL ECONOMY ERA: LEGAL ANALYSIS AND IMPLICATIONS IN INDONESIA," *Trunojoyo Law Review* 7 (2025), <https://doi.org/10.21107/tlr.v7i1.28540>.

between the law and the 1945 constitution, or between regulations and the law.<sup>13</sup> This approach is carried out to examine the laws and regulations on salt processing, laws on investment, and other laws and regulations that have a relationship with the problem of developing the salt industry in Pamekasan Regency.

## **Result and Discussion**

### **Urgency of the Application of Justice Theory in Resolving Legal Issues of Salt Pricing**

It must be agreed that the essential essence of law is justice because without justice, the applicable law is just a pile of paper that has no benefit in solving legal problems in society. although the nature of justice is so subjective, there are several theories that describe justice as well as a foothold in measuring justice. In this study, the theory of justice used is the theory of economic justice presented by Adam Smith.<sup>14</sup> According to him, justice really only has one meaning, namely commutative justice which concerns equality, balance, harmony of relations between one person or party and another person or party. He also believes that legal justice is actually already contained in commutative justice, because legal justice is basically just a further consequence of the principle of commutative justice, namely that in order to uphold commutative justice, the state must be neutral and treat all parties equally without exception.

Furthermore, Adam Smith pointed out that there are 3 (three) main principles in commutative justice that aim to achieve economic justice, namely; First, the principle of no harm, in the sense that the basis of this principle is to give respect to human dignity and its inherent rights. Secondly, the principle of no intervention, in the sense that this principle demands that for the sake of guaranteeing and respecting the rights and interests of everyone it is not allowed to interfere in the lives and activities of others; and the last is the principle

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<sup>13</sup> Moh. Soleh dkk., "Handling and Recovery of Religious Conflict Victims by Local Governments in Indonesia; A Study of Sunni-Shi'a Conflict in Sampang and Pasuruan," *Trunojoyo Law Review* 6, no. 2 (24 Agustus 2024): 159–88, <https://doi.org/10.21107/tlr.v6i2.26254>.

<sup>14</sup> Alberto Burgio, ed., *Adam Smith and Modernity: 1723-2023*, Routledge Studies in Eighteenth-Century Philosophy (New York London: Routledge, Taylor & Francis Group, 2023), <https://doi.org/10.4324/9781003301448>.

of fair exchange. The principle of fair exchange is primarily realized and revealed in the price mechanism in the market. This is actually a further application of the principle of no harm specifically in trade exchanges between one party and another in the market.

Furthermore, it is also necessary to analyze the applicability of laws and regulations to the reality that occurs in the field. So as to find factors that hinder the growth rate of the salt industry in Sampang Regency. According to Satjipto Rahardjo, that the operation of law in society does not immediately and just happen, because the law is not a factory work, which once out can immediately work, but requires several steps that allow the provisions (law) to be carried out or work.<sup>15</sup> This theory is then known as the theory of effectiveness. Furthermore, according to Satjipto Rahardjo, there are several steps that must be fulfilled to make the law or rules or provisions work and function properly and optimally, namely: a) The existence of law enforcement officials / officials as specified in the legal regulations; b) The existence of people (individuals / society) who carry out legal acts, either obeying or violating the law; c) These people are aware of the existence of regulations; d) The people as the subject and object of the law are willing to comply with the law. These people as subjects and objects of law are willing to act according to the law.<sup>16</sup>

Related to the theory of legal effectiveness, Soerjono Soekanto provides a view that the level of effectiveness of a law is determined, among others, by the level of community compliance with the law, including by law enforcers.<sup>17</sup> So there is an assumption that a high level of legal compliance is an indicator of the functioning of a legal system. The functioning of the law is a sign that the law has achieved the purpose of the law, which is to strive to maintain and protect society in living relationships.<sup>18</sup> Furthermore, Soerjono Soekanto also stated that what is meant by legal effectiveness is all efforts made so that the existing laws in society actually live in society, and so that legal rules

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<sup>15</sup> Sactipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2000).

<sup>16</sup> Burgio, *Adam Smith and Modernity*.

<sup>17</sup> Indri Hapsari dan Agus Saron, "Penerapan Sistem Resi Gudang Atas Komoditas Hasil Pertanian Di Kabupaten Cilacap," *Notarius* 16, no. 3 (29 Desember 2023): 1221-33, <https://doi.org/10.14710/nts.v16i3.42367>.

<sup>18</sup> Elan Nora, "Upaya Kesadaran Hukum dan Kepatuhan Hukum dalam Masyarakat," *Nomos: Jurnal Penelitian Ilmu Hukum* 3, no. 2 (30 April 2023): 62-70, <https://doi.org/10.56393/nomos.v3i2.1488>.

or a regulation functions and even lives in the order of community life.<sup>19</sup> This theory is used to determine the level of enforceability of a statutory regulation on salt in Pamekasan district.

The integration of the theory of effectiveness, the theory of economic justice and the theory of legal objectives that are conceptualized as a tool for engineering people's lives towards a civilized life, makes it possible to facilitate the main objective of this research, namely to boost economic development in Pamekasan Regency by finding legal problems that have been shackling the effective growth of the salt industry and trying to reorganize the existing regulations in this district. With the arrangement of salt regulations based on the problems that exist in the community, the direction of the regulations that will be arranged will make the rules a rule needed by the community in maximizing the salt business.

#### **Legal Issues of Unfair Salt Pricing**

In accordance with the provisions of Article 7 Paragraph (1) and Article 7 Paragraph (2), East Java Governor Regulation Number 78 of 2011 concerning Control of Imported Salt and Empowerment of People's Salt (Pergub Salt 2011), mandates that the price of salt for KP 1 (main) is Rp. 750,000,- /ton and for KP 2 is Rp. 550,000,-/ton. At least the existence of Pergub Salt 2011 provides a reference to salt farmers in Sampang Regency to set the price of salt sold in accordance with the salt regulation.

The existence of the 2011 Governor's Regulation on Salt that regulates the empowerment of the people's salt is a breath of fresh air in an effort to suppress the existence of imported salt that is very detrimental and causes suffering to salt farmers, especially to salt farmers in Sampang Regency. The advantage of this regulation is the determination of the price of salt which is expected to be a reference for farmers in determining the price to be sold. Thus, farmers will not be easily tricked by middlemen or salt entrepreneurs who buy salt at low prices and are not worth the heavy workload of salt farmers in the processing process.

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<sup>19</sup> Soerjono Soekanto, *Sosiologi: Suatu Pengantar* (Jakarta: Rajawali Press, 1996).



However, this policy must be tested for effectiveness in the field. Because sometimes the rule of law is only sweet in writing and bitter in the field in accordance with the principle of “das sollen das sein”.<sup>20</sup> Das sollen here is defined as rules and/or norms and normative reality as what should be done. Meanwhile, das sein is something that is the implementation of all things whose occurrence is regulated by das sollen. It can be understood that das sein is a concrete event that occurs. More easily, the meaning of das sollen das sein is interpreted as “law and reality”.<sup>21</sup>

Related to this effectiveness, Soerjono Soekanto provides an explanation that legal effectiveness is at least determined by; a) the rule of law itself; b) law enforcement factors, namely those who form and enforce the law; c) facilities and facilities that support law enforcement; d) legal society, namely the community environment where the rule of law is applied and enforced; and e) cultural factors, namely the work, creation, and creation of the community that affects the association of people living in the rule of law.<sup>22</sup>

Apparently, the rules regarding the price of salt that have been determined in the 2012 Salt Governor Regulation have not been able to help much to improve the welfare of salt farmers in Sampang Regency. The reason is, the price that applies to farmers is far below the provisions in Article 7 Paragraph (1) and Article 7 Paragraph (2) of the 2011 Salt Governor Regulation. In the Sampang area, the price of salt with the best quality (KP 1) is in the range of Rp. 650,000, - / ton, a difference of Rp. 100,000, - from the normal price. While the quality below it (KP 2) is valued at Rp. 350,000, - / ton with a difference of Rp. 200,000, - from the price determined by the legislation.

Nany Nuryanti acknowledged that the conditions conveyed by the salt farmers are true. Nani added that the price of salt in the field changes according to the level of salt availability. In the harvest season, the price of KP 1 salt can be in the range of Rp. 550,000, - / ton while the price of KP 2 salt is valued at Rp. 300,000, - / ton. Furthermore,

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<sup>20</sup> Nurul Qamar dan Farah Syah Rezah, “The Dichotomy of Approach in the Study of Legal Science: A Critical Review,” *SIGn Jurnal Hukum* 4, no. 2 (28 Oktober 2022): 191–201, <https://doi.org/10.37276/sjh.v4i2.162>.

<sup>21</sup> Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum* (Jakarta: Rajawali Press, 2007).

<sup>22</sup> Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Press, 2008).

according to Nany, the discrepancy in salt prices is caused by the attitude of entrepreneurs who deduct the cost of coolies and transportation costs into the official price determined in the legislation.<sup>23</sup> Whereas the price determined in the legislation should be the full price received by salt farmers in Sampang Regency without any deductions for any reason.

In line with Nany Nuryanti, Muh. Hisyam, a salt farmer in Ragung Village, Pangarengan Subdistrict, Sampang Regency as well as the leader of the Sampang Salt Farmers Association, argued that there is a difference in salt prices between those determined by the 2011 Salt Governor Regulation and the prices received by salt farmers in Sampang Regency. According to Hisyam, this year's salt harvest season is the worst season felt by salt farmers in Sampang. This is because the price is very low, even lower than in previous seasons.<sup>24</sup>

In fact, according to Hisham, in recent years the price of basic commodities has continued to increase significantly and is not balanced with the income earned by salt farmers. The increase in the price of basic commodities should be accompanied by an increase in the price of salt, which will be very beneficial for fulfilling the needs of salt farmers in Sampang Regency to maintain their lives and livelihoods. Hisyam admitted that the existence of abundant salt fields in Sampang Regency does not bring benefits to the people in his region. Instead, those who enjoy the salt fields are salt entrepreneurs who mostly come from outside the Sampang area.

Some explanations about the discrepancy between salt prices in Sampang district indicate that the legal regulations on salting have not been successful or effective. This indicates that the rule of law still has weaknesses in its implementation efforts in community life. Here, the function of law as a means of controlling people's lives so that there is no harm to interests has not been successfully implemented.<sup>25</sup>

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<sup>23</sup> Nany Nuryanti, Peningkatan Produksi Garam dan Pemasarannya, Hibah Penelitian (LPPM UTM), 28 Oktober 2024.

<sup>24</sup> H. Muh. Hisyam, Peningkatan Produksi Garam dan Pemasarannya, Hibah Penelitian (LPPM UTM), 29 Oktober 2024.

<sup>25</sup> Rossita Trijaya Novia dkk., "Law as a Social Controlling Agent in Society from a Sociological View of Law," *Jurnal Sosial, Politik dan Budaya (SOSPOLBUD)* 2, no. 1 (31 Januari 2023): 137–44, <https://doi.org/10.55927/sospolbud.v2i1.2695>.

### **Engineering Model of Regional Policy Formulation in the Field of Aquaculture Based on Farmers' Legal Needs**

Written laws and regulations occupy an important position in today's modern legal scene.<sup>26</sup> As one of the sources of law, laws and regulations are expected to be able to present and uphold the principles of justice, democracy, benefit the people, and accommodate the interests of many people. This is because law is not an autonomous and neutral subsystem, but is always influenced by various factors and interests.<sup>27</sup> With such conditions, it is natural that the process of forming laws and regulations often runs tough and often leads to disputes.

The existence of laws and regulations, regardless of their type, must always reflect the purpose of law. In this case, the purpose of law boils down to order, benefit, and justice.<sup>28</sup> These three legal objectives must be used as the spirit in every legislation so that it can accommodate all the interests of the community without certain parties feeling disadvantaged by the existence of the rule of law. If not, then the legislation will cause turmoil in the community which will lead to the 'barrenness' of the regulation.

The three objectives of law that lead to justice, benefit, and order as mentioned above, must be the spirit of all laws and regulations, including the laws that regulate the problem of fishing which is the source of livelihood of most coastal communities in Sampang Regency.<sup>29</sup> In addition to these three legal objectives, Soedikno Mertokusumo added that the legal objective that must be contained in

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<sup>26</sup> Philip Sales, "THE CONTRIBUTION OF LEGISLATIVE DRAFTING TO THE RULE OF LAW," *The Cambridge Law Journal* 77, no. 3 (November 2018): 630–35, <https://doi.org/10.1017/S0008197318000624>.

<sup>27</sup> Sirajuddin, *Legislative Drafting; Pelembagaan Metode Partisipatif Dalam Pembentukan Peraturan Perundang-undangan* (Malang: Setara Press, 2015).

<sup>28</sup> Tetyana Byrkovych dan Oleksandr Kabanets, "Effective legislation as a prerequisite for the democratic development of society," *Law Review of Kyiv University of Law*, no. 4 (30 Desember 2020): 35–39, <https://doi.org/10.36695/2219-5521.4.2020.04>.

<sup>29</sup> Piotr Bystranowski dan Ivar Rodríguez Hannikainen, "Justice before Expediency: Robust Intuitive Concern for Rights Protection in Criminalization Decisions," *Review of Philosophy and Psychology* 15, no. 1 (Maret 2024): 253–75, <https://doi.org/10.1007/s13164-023-00674-0>.

every legislation is the principle of legal certainty. This legal certainty is needed by the community for the sake of order and justice.<sup>30</sup>

In line with what is stated above, the salt farmers in Sampang Regency want the existence of special legal rules regarding salting to contain values such as justice, usefulness, order, and legal certainty. This is as stated by Muh. Hisham. According to Hisham, the current legal regulation of salt farming has not been able to accommodate the existence of these values. As a result, it creates turmoil in people's lives that leads to oppression by salt farmers.<sup>31</sup>

### **1. The Rule of Law on Aquaculture in Accordance with the Objectives of Law (Justice, Benefit, Order and Legal Certainty)**

As stated about the legislation that must contain the values of justice, expediency, order and legal certainty. These three legal objectives will be very useful for the development and empowerment of salt farmers throughout Indonesia. Because it is only with these values that the degree of salt farmers will be lifted and their welfare will be guaranteed.

The justice intended in this case is that between salt farmers and collectors, entrepreneurs and other parties must be treated equally, equally and equally, and none of them should be privileged.<sup>32</sup> That way the principle of freedom of contract will run in a balanced manner with no one party feeling disadvantaged. In line with this, the conception of justice conveyed by Adam Smith also emphasizes the relationship of balance and equality in every relationship established by each party. According to Smith, relationships that are established on the basis of balance and equality will produce harmonious relationship patterns without presenting actions that have the potential to cause harm and misery to each party.<sup>33</sup>

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<sup>30</sup> M. Yahya Harahap, *Pembahasan, Permasalahan dan Penerapan KUHAP* (Jakarta: Sinar Grafika, 2006).

<sup>31</sup> H. Muh. Hisham, *Peningkatan Produksi Garam dan Pemasarannya*.

<sup>32</sup> Alireza Mahdavian dan Mohammad Aghaei, "Justice's Position in the Political Thought of Islam Case Study: Ayatollah Mahdavi Kani Thoughts)," *Islamic Political Thought* 9, no. 2 (Oktober 2022), <https://doi.org/10.30497/ipt.2022.75681>.

<sup>33</sup> M.Yasir Said dan Yati Nurhayati, "A REVIEW ON RAWLS THEORY OF JUSTICE," *International Journal of Law, Environment, and Natural Resources* 1, no. 1 (28 April 2021): 29–36, <https://doi.org/10.51749/injurlens.v1i1.7>.

In line with what Adam Smith said, Jhon Rawls argued that the principle of justice will be achieved when there is balance and equality between each party involved. This balance and equality will be able to place each human being in a 'default position' where no one feels superior and feels humiliated. This condition will make the relationship established by each party run well, balanced, and does not cause harm to the other parties.<sup>34</sup>

Furthermore, Rawls views freedom and equality as elements that are at the core of the theory of justice.<sup>35</sup> Rawls asserts that freedom and equality should not be sacrificed for social or economic benefits. No matter how great the benefits and advantages are, the factor of justice should not be overridden for this reason.

Based on the explanation of justice above, experts argue that the essence of justice is the achievement of balance and equality between each party in a relationship. This balance and harmony will later create a pattern of relationships that are commensurate and do not cause harm to each party. That way, prosperity and peace become real due to the existence of laws that regulate a matter.<sup>36</sup>

In the context of rice farming, the hope conveyed by farmers is the presence of legal products that reflect justice. Justice that makes each party, between farmers and entrepreneurs, as well as other parties intertwined in a balanced manner without any attitude that feels the highest and feels humiliated. This condition will present a pattern of mutual need between sellers and buyers so that they will try as much as possible the relationship between the two is well established and mutually beneficial.

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<sup>34</sup> Andika Dwi Amrianto, "PEMULIHAN HAK KORBAN SALAH TANGKAP BERDASARKAN PERSPEKTIF TEORI KEADILAN," *Jurnal Hukum Samudra Keadilan* 18, no. 1 (8 Maret 2023): 33–52, <https://doi.org/10.33059/jhsk.v18i1.6419>.

<sup>35</sup> Viktoriya V. Solovyeva, "On John Rawls' theory of justice," *Current Issues of the State and Law*, no. 2 (2022): 167–77, <https://doi.org/10.20310/2587-9340-2022-6-2-167-177>.

<sup>36</sup> Georgio Famarion Rodrigues Lacerda dan Clesio Oliveira Lira, "CONSTITUIÇÃO DA DEMOCRACIA SEGUNDO A TEORIA DA JUSTIÇA DE JOHN RAWLS," *PÓLEMOS – Revista de Estudantes de Filosofia da Universidade de Brasília* 11, no. 24 (26 Juni 2023): 288–99, <https://doi.org/10.26512/pl.v11i24.46245>.

In addition to justice, a rule of law must also contain the principle of legal expediency.<sup>37</sup> This principle emphasizes that the existence of law must bring benefits to society. Benefit can be interpreted as happiness (happines), the good and bad of the law depends on whether the law provides happiness or not to humans. A good law is a law that can bring benefits to humans as legal subjects. The law is categorized as good if it is able to provide happiness for the whole community. The community expects benefits in every law implementation and enforcement. If the law has brought benefits to mankind as the subject of law, then certainly the community will obey the law without coercion. That way, riots that occur in society can be prevented when the rule of law is able to provide benefits to the entire community.<sup>38</sup>

In line with this, Jeremy Bentham argued that the nature of law is to ensure the greatest happiness for human life as a whole (the greatest good of the greatest number).<sup>39</sup> Bentham emphasized that the main essence of the existence of law is to provide the greatest benefit for the life of society in order to ensure its survival. However, the law is for humans, not humans for the law.

In the context of salting, the nuances of expediency must be present in the midst of the salt farming community to ensure their welfare. Salt farmers must feel that they are benefiting from the applicable salt law. Thus, without being told, people will obey everything regulated by the salt law. If not, then there will be problems with salt law enforcement and it has the potential to harm the people who depend on salt for their livelihoods.

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<sup>37</sup> Khozin Alfani, "The Application of The Principles of Legal Assurance, Justice, And Expediency in State Civil Apparatus Dishonorable Discharge a Study of Civil Court Judgment Number 164/G/2019/Ptun-Jkt," *Musamus Law Review* 5, no. 1 (31 Oktober 2022): 37-49, <https://doi.org/10.35724/mularev.v5i1.4782>.

<sup>38</sup> Tata Wijayanta, "ASAS KEPASTIAN HUKUM, Keadilan dan KEMANFAATAN DALAM Kaitannya dengan Putusan Kepailitan Pengadilan Niaga," *Jurnal Dinamika Hukum* 14, no. 2 (25 Mei 2014), <https://doi.org/10.20884/1.jdh.2014.14.2.291>.

<sup>39</sup> Lawrence Poperwi dkk., "The efficacy of utilitarianism philosophy in addressing the problem of corruption in developing economies," *Global Journal of Engineering and Technology Advances* 19, no. 1 (30 April 2024): 123-28, <https://doi.org/10.30574/gjeta.2024.19.1.0059>.

Furthermore, an important thing that must also be considered in making regulations is the accommodation of the principle of legal order in society.<sup>40</sup> In relation to legal order, Mochtar Kusumaatmadja argues that the main objective as well as the main one of the existence of laws and regulations is order in the life and society. The order intended here is that the existence of law is able to reduce all actions that threaten order and security in society caused by the intersection between communities. By ensuring order, the existence of law will be able to create a harmonious life for the community.

The existence of the principle of legal order is very important, especially for the legal regulation of seafood. With order in the process of production and distribution, things that have the potential to create intersections between each party can be minimized.<sup>41</sup> Such things are not found in the current salt legislation. The current salt law seems to only accommodate the interests of entrepreneurs without providing the concept of empowering salt farmers. As a result, there is a disorganized relationship between entrepreneurs and salt farmers.

In addition to the principles of justice, benefit, and order, it is also important to include in the substance of legislation the principle of legal certainty. The importance of legal certainty is that society expects legal certainty, with legal certainty, society is more orderly. Sudikno further emphasized that the law is tasked with creating legal certainty because it aims for public order. Without legal certainty, people will not know what to do so that it will cause unrest in social life. This is like what happened in Sampang Regency where salt farmers felt tremendous unrest due to the absence of legal certainty related to salt, especially to the very minimal marketing access. As a result, farmers are forced to sell salt at low prices with the risk of not fulfilling the living needs of salt farmers in Sampang district.

All principles that become the purpose of the law must always be included in every rule of law. So that the existence of the rule of law can bring benefits, avoid intersections, and ensure legal protection for all Indonesian citizens without exception. Especially for laws and regulations on salt, the existence of legal rules that contain these

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<sup>40</sup> V. A. Glazyrin, "Social dilemma of legal order (sociological reflections)," *Sociology and Law* 15, no. 4 (7 Januari 2024): 458-65, <https://doi.org/10.35854/2219-6242-2023-4-458-465>.

<sup>41</sup> Alexander I. Demidov, "Genealogy Of Social Order: Law - Regularity - Law (Institute)," 2022, 163-68, <https://doi.org/10.15405/epsbs.2022.01.27>.

principles is intended so that the existence of the salt law can be felt by actively providing benefits and ensuring the sustainability of the salt industry, especially those in Sampang Regency.

## **2. Conformity of the Rule of Law with its Social Character**

Every law and regulation, regardless of its type, should be in accordance with the culture of the society it regulates. Because the law is made for the purpose of establishing order in people's lives. If the rule of law contradicts the values or social conditions of society, it is certain that there will be a lot of resistance to its presence. This is because the social culture that determines the existence of the rule of law is obeyed or even abandoned by the community. By considering the social culture of the community, legal norms are present by reflecting the reality of life in society.

In line with the above statement, Von Savigny argues that law is the formulation of rules that originate in the people's soul which is essentially the similarity of an understanding in the unity of an organic soul.<sup>42</sup> Law grows like the growth of language. So that it can be born develop, then die like the birth and development of a language. Savigny further emphasized that the law is not made, but grows together with the soul of society.

In line with Savigny, D' Anjaou argues that there is a close relationship between the law and its social habitat. Therefore, in every legislation making, a sociological study should be carried out in order to ensure social values and conditions in society. It is wrong when a legislator just sits in a chair in a room without reviewing and studying the social habitat in which the rule of law applies. With a sociological basis, laws and regulations made and enacted will be accepted by the wider community with full obedience.

As stated by D' Anjaou who argued that the rule of law has a very close relationship with the social conditions in which the law is enforced. So in order for the rule of law to apply optimally and provide benefits and order in people's lives, what must be contained by the rule

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<sup>42</sup> Mortimer Sellers dan Stephan Kirste, ed., *Encyclopedia of the Philosophy of Law and Social Philosophy* (Dordrecht: Springer Netherlands, 2020), <https://doi.org/10.1007/978-94-007-6730-0>.



of law is the values and social conditions in which the law is enforced.<sup>43</sup> In this condition, stakeholders are expected to accommodate all problems faced by salt farmers to be resolved through law. Also considered are the social values that live and are believed in the community so that the existence of the law can be obeyed by the community. That way, all the problems of salt farming will be easily resolved.

### **Equitable Salt Pricing Model in Farid Escak's Perspective**

The existence of a salt price policy that is not in accordance with the needs of salt farmers or even detrimental to salt farmers is something that needs to be addressed by the government, especially by the local government as the government unit closest to the salt farmers. The seriousness of the government in resolving legal issues related to salt pricing is certainly highly expected by salt farmers on the south coast of Madura. The government's position is urgent in the rule of law system, because in this system the government is given the authority to apply the rule of law to engineer the lives of its people. This means that legal issues arising in society should be the basis for the government to immediately resolve them through existing legal instruments.

The lack of response from the government is certainly a form of state neglect in trying to provide legal protection for its people.<sup>44</sup> As a result of this omission, there is the potential for injustice in the lives of the people. So far, the justice expected by salt farmers has not been felt.<sup>45</sup> In this case, salt farmers are treated unequally by salt entrepreneurs. The imbalance between these relationships according to Adam Smith is an indication of unfair behavior or policies applied. Furthermore, according to Smith, justice really only has one meaning, namely commutative justice which concerns equality, balance, and harmony of relations between one person or party and another. In this

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<sup>43</sup> R. M. Dudnyk, "The principle of the rule of law in the conditions of globalization," *Uzhhorod National University Herald. Series: Law* 1, no. 85 (14 November 2024): 66–70, <https://doi.org/10.24144/2307-3322.2024.85.1.8>.

<sup>44</sup> Samuel Dharma Putra Nainggolan dan Dharma Setiawan Negara, "Criminal Law Approach to Absentee Land Ownership as A Form of Legal Protection by The State," *Veteran Law Review* 6, no. 2 (27 November 2023): 149–63, <https://doi.org/10.35586/velrev.v6i2.6351>.

<sup>45</sup> Auliya Rochman, "Legal Aid Institutions as a State Solution for the Poor in Getting Legal Protection," *Indonesian Journal of Advocacy and Legal Services* 2, no. 2 (16 Mei 2020), <https://doi.org/10.15294/ijals.v2i2.38147>.

case, Smith considers that justice will be achieved when there is a balance of obligations and rights from the relationship established by each person.

In line with Adam Smith, Jhon Rawls argues that justice according to him is a situation where no one feels disadvantaged in an activity or in certain social relationships. According to Rawls, justice can be achieved when the relationship between each human being, especially in contracting activities, returns to the 'original principle'. This principle emphasizes that each party to a contract or other relationship must be positioned as equal, equal, and no one should feel superior to one another such as position, social status, level of intelligence, ability, strength, and so on. With this principle, each person can make a balanced agreement without anyone having to give in and be disadvantaged.

In this context, the phenomenon of salt farmers in Sampang district who feel powerless over the arbitrary treatment by salt entrepreneurs signals that justice as conceptualized by Jhon Rawls is not yet present in their midst. In their transactions, salt farmers are clearly treated as inferior people who have no power to fight and defend their rights so that their salt products can easily be bought at low prices without considering the heavy burden that must be borne by the farmers. Here, the balance between the salt farmers and the middlemen and salt entrepreneurs is not achieved. This means that there is an imbalance between the two that makes the relationship and transaction between the two can cause losses experienced by one of the parties.

According to Farid Escak, the essence of justice will be achieved when it is supplied with visionary ideas in interpreting a text. That is by not interpreting the text textually but with the context that is being faced by looking at social reality and oppression. so that the existence of the text is not limited to meaningless words but becomes a rule that brings favor, benefits and keeps humanity away from all harm. Articles of legislation should not be seen textually but must be positioned with the social reality they face. In this condition, a policy maker and/or legislation must have humanitarian commitment and solidarity by re-reading social reality. This principle will bring up and become the starting point of the search for the hermeneutics of scriptural pluralism for liberation. Thus, true justice will be easily felt by each human being.

If the concept of justice according to Faridz Escak is applied to the problems currently experienced by salt farmers in Sampang Regency, then the justice does not touch the lives of salt farmers, especially in terms of determining the price of salt. The phenomenon in Sampang is worse than just understanding the text textually. It has even violated the text as a whole which is completely contrary to the text. In such conditions, the substantial justice expected by Faridz Escak has not yet found a place in the midst of the salt farming community.<sup>46</sup>

### Conclusion

The unjust salt price policy is a policy that is contrary to justice, so it should be said that this is a bad precedent in an effort to provide legal protection to salt farmers in improving their welfare. In Faridz Escak's view, state policies that are not in favor of the factual conditions and basic needs of the people will not be able to solve legal problems in society. The state with its legal instruments should be able to see the context of the problems faced by people who need legal instruments in solving their problems. The ideal response to solve this problem is to issue regulations that are in accordance with the context of the problem that requires resolution. In the case of the salt pricing policy, salt pricing should adjust to the level of community needs for salt production and ensure that salt farmers must benefit the most in the salt trade cycle in Indonesia.

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<sup>46</sup> Rochman.

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