

The Position of Legal Culture in the Legal System and Social Life

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ABSTRACT

Indonesia is affirmed as a state of law as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which contains the consequence that law must be the main foundation in the life of the nation and state. However, in practice, law enforcement still faces various problems, especially low public legal awareness and weak trust in law enforcement officials. This study aims to analyze the role of legal culture in realizing the effectiveness of the national legal system. The method used is normative legal research with a statutory and conceptual approach, descriptive-analytical in nature, and analyzed qualitatively. The results of the study indicate that the effectiveness of the law is not only determined by the substance and structure of the law, but is also greatly influenced by the legal culture of society which reflects values, attitudes, and views towards the law. Therefore, the development of legal culture and awareness through education, socialization, and legal counseling is a strategic step in realizing a democratic, just, and welfare-oriented state of law.

Keywords: Legal Culture, Social Life

INTRODUCTION

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state based on law. Conceptually, a state based on law is understood as a state whose life is organized based on law and justice, so that every attitude, action, and behavior, whether carried out by state officials or citizens, must be based on applicable legal provisions (Hakim, 2012). The affirmation of Indonesia as a state based on law has the consequence that every citizen should have and develop a legal culture in their daily lives. Indonesia's position as a nation governed by the rule of law serves as a primary foundation for efforts to develop national law. In this context, the role of citizens is crucial, as each individual carries a national identity that is inseparable from the identity of the Indonesian nation. National legal development cannot be separated from the legal system, which comprises various interrelated elements that contribute to achieving legal objectives. Given that Indonesia is a pluralistic nation with diverse ethnicities, languages, cultures, and religions, these conditions directly impact the ongoing and ongoing process of national legal development.

According to Friedman's (2009) legal system theory, there are three main elements in a legal system: legal substance, legal structure, and legal culture. The legal structure encompasses the institutions or organs that play a role in the formation and implementation of law. Legal substance is the result of the legal structure, whether in the form of formally established laws and regulations or norms that arise from societal customs. Meanwhile, legal culture relates to the values, ways of thinking, and expectations of society regarding legal norms in social life. These three elements are interconnected and must function in harmony to achieve the goals of the law.

Strengthening the national legal culture cannot be separated from the fundamental values that are mutually agreed upon as the basis of national and state life, namely Pancasila and the 1945 Constitution of the Republic of Indonesia. Within the framework of this legal system, every citizen has a strategic role, especially in the legal culture subsystem, because the attitudes and behavior of society greatly determine the effectiveness of the implementation of the law. However, the reality in society shows that the ideal legal culture is still far from ideal. This is evident in the low level of public legal awareness, reflected in the tendency to knowingly violate the law. Furthermore, people are often reluctant to resolve disputes through the courts because they are perceived to cause additional losses, such as unofficial levies or extortion. This reluctance is not due to an awareness of the need to resolve cases amicably, but rather to low public trust in the law enforcement process and law enforcement officials themselves (Mahfud, 2011).

Furthermore, this situation has led some people to fear and develop negative attitudes toward law enforcement officials, such as the police, prosecutors, advocates, and judges, even though they face issues that should be resolved through legal mechanisms. Dispute resolution outside the courts can indeed be a good alternative if based on legal awareness. However, in practice, avoidance of the courts is often motivated by distrust of the judiciary, which is often perceived as a place where the practice of "buying and selling justice" occurs (Mahfud, 2011). This situation clearly contradicts the essential purpose of law, which is to achieve justice, benefit, and legal certainty. Legal experts and philosophers have long emphasized the noble purpose of law. Aristotle stated that law aims to fulfill a sense of justice in society, while Van Apeldoorn argued that law functions to regulate human interaction to create peace (Waluyadi, 2001). This purpose of law is in fact in line with the ideals of the Indonesian nation as enshrined in the constitution.

For the law to be voluntarily obeyed by the public, legislation must have a strong basis for its validity, namely a legal, sociological, and philosophical basis. According to Bagir Manan, the legal basis plays a crucial role in the formation of legislation. First, regulations must be created by an authorized institution or official. If not, the regulation is null and void. Second, there must be a correspondence between the form or type of regulation and the content of the regulated substance. This discrepancy can be grounds for cancellation. Third, the formation of regulations must follow established procedures; violation of these procedures can result in the regulation not having binding legal force (Rumesten, 2009).

In a society, it can be observed that although individuals have diverse characteristics, collectively they tend to exhibit similar responses to certain phenomena. This similarity in response reflects a shared, common attitude. In cultural anthropology, this is referred to as culture. Based on this understanding, legal culture is part of the broader human culture. Legal culture can be defined as the collective attitudes and responses of society to legal phenomena, reflecting a unified view of legal values and behavior in social life (Hadikusuma, 1986). Therefore, efforts to improve public understanding of the law are crucial for realizing a sound legal culture or legal awareness. Based on this perspective, the author feels the need to conduct a more in-depth study and analysis of legal culture, particularly within the context of social life.

METHODS

The method used in this paper is normative legal research with a statutory and conceptual approach. This research is descriptive-analytical in nature, using primary and secondary legal materials analyzed qualitatively.

RESULTS AND DISCUSSION

RESULT

Indonesia is constitutionally affirmed as a state based on law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This provision implies that law is the primary foundation in all dimensions of national and state life. In this context, law occupies a very important and determining position in regulating social, political, and governmental relations (Effendy, 2005). One of the main characteristics of a state based on law—known in the Anglo-Saxon tradition as the rule of law and in the Continental European tradition as *rechtsstaat*—is the limitation of state power. Although originating from different historical backgrounds, the two concepts have substantial similarities, namely placing law as an instrument for limiting power. This principle then gave birth to the idea of modern constitutionalism, so that a state based on law is also understood as a state whose power is limited by a constitution or constitutional state. Within the same framework, democracy based on law is known as constitutional democracy (Asshiddiqie, 2013).

To realize the principles of a state based on the rule of law, not only legal norms and regulations are required, but also law enforcement officers who are professional, possess integrity, and are disciplined. Furthermore, support from legal infrastructure and the legal behavior of the community are equally important factors. Therefore, a state based on the rule of law ideally has law enforcement institutions and officers that meet these quality standards. In Indonesia, law enforcement institutions include the Attorney General's Office of the Republic of Indonesia, the Indonesian National Police, the Supreme Court, the Constitutional Court, and other law enforcement agencies that carry out universal law enforcement functions (Effendy, 2005).

Regarding the rule of law, the 1945 Constitution of the Republic of Indonesia provides a comprehensive normative foundation to guarantee equality before the law. However, the emerging problem lies in the weak commitment of state administrators to implementing these principles. This has resulted in a decline in public trust in the government's commitment to achieving clean and authoritative governance. Therefore, along with the reform process and the support of adequate legal instruments, the government and the public need to work to restore public trust in the enforcement of the rule of law (Fatwa, 2009).

As a consequence of the role of law in social life, the law is required to be responsive to the dynamics and changes in society. The law must be able to adapt to constantly evolving social conditions, so that there is no conflict between written legal norms and the values and aspirations that exist within society. The idea of law as a means of social renewal, as proposed by Roscoe Pound, needs to be understood comprehensively to avoid creating a gap between law and social reality. If this gap is allowed to persist, it will lead to social tensions that should be prevented through timely legal adjustments (Manan, 2006). The issue of legal culture concerns not only those who separate law from society, but also those who distinguish between

norms and reality. The primary issue revolves around how to internalize legal systems originating outside society or how to institutionalize legal systems introduced by those in power so that they are effectively accepted. These challenges must be addressed if the goal is to achieve legal effectiveness in social life.

For the law to function as a protector and guardian of society, supporting factors in the form of adequate facilities and infrastructure are required. Furthermore, the effectiveness of the law is largely determined by the harmonious relationship between legal norms, law enforcement officials, and the level of public legal awareness. The absence of any of these elements will result in the legal system not functioning optimally. The national legal system comprises several main subsystems: legal culture, legal materials, legal institutions and officials and their mechanisms, and legal facilities and infrastructure. In the context of legal change, the development of legal materials is a crucial aspect. This effort requires an integration of a juridical-dogmatic approach that emphasizes the nation's moral and cultural values with a sociological approach that adapts the law to the demands of development and modernization (Lubis, 2002).

Legal culture can be understood as the totality of factors that determine the position and function of the legal system within the cultural structure of society. Legal culture is not merely public opinion or a collection of isolated behaviors, but rather the totality of social values related to law (Soekanto, 1977). In the context of legal education, the concept of legal culture needs to be clearly defined to avoid diverse interpretations. As Asshiddiqie (2005) argues, without legal awareness, understanding, and knowledge from legal subjects, the effective implementation of legal norms will be difficult. Therefore, legal culture and education must be a crucial agenda in realizing a state based on the rule of law in the future.

Legal products are ultimately heavily influenced by a society's legal culture, which reflects its values, attitudes, and outlook on life. If the legal culture aspect is ignored, the modern legal system has the potential to fail, characterized by a gap between legal norms and social practices. People tend to continue to behave according to their own values. In the analogy of the legal system, the legal structure is likened to a machine, the legal substance as the product, and the legal culture as the party that determines the use of the machine (Makmur, 2015). Therefore, strengthening legal culture is an urgent need and must be implemented through targeted policies and strategies (Jawardi, 2016). One important strategy for improving public legal culture and awareness is through legal education and the dissemination of laws and regulations. These efforts aim to foster compliance with the law and support the enforcement of the rule of law. Legal counseling is considered an effective means of achieving this goal (Jawardi, 2016).

Efforts to foster legal culture need to be carried out using appropriate methods, utilizing various media, infrastructure, and existing social institutions. Furthermore, legal outreach must be conducted continuously to ensure the public understands developments in legislation. Improving legal culture must also go hand in hand with the professionalism of law enforcement officers, as this directly impacts public trust. Planned, integrated, and problem-based legal culture needs to be supported by the presence of legal counselors. In fact, legal culture ideally begins at an early age within the family environment as the foundation for a society with a legal culture in the future (Jawardi, 2016).

The application of these principles will create a society with legal literacy. A legally literate society is one that understands its rights and obligations, recognizes legal prohibitions and permits, and is aware of the consequences of every legal action it takes. Furthermore, a legally literate society is able to participate in the development of national law so that the laws it enacts reflect philosophical, sociological, and juridical values (Susilawati, 2008).

Legal awareness can be defined as an individual's understanding of the function and role of law in social life. Legal awareness differs from legal compliance, which is driven by fear of sanctions. Legal awareness arises from an internal awareness without coercion. According to Soekanto (1982), legal awareness is the values inherent within individuals regarding applicable and expected laws, with an emphasis on the function of law in society. Public legal awareness serves as a link between legal norms and social behavior. Friedman calls this aspect part of legal culture, namely the values and attitudes that influence the operation of the law (Warrasih, 2005). Soerjono Soekanto's study of legal awareness and compliance emphasizes the importance of society's role in consciously and sustainably supporting the effectiveness of the law (Saifullah, 2007).

According to Soerjono Soekanto, legal awareness is formed through four stages: legal knowledge, legal understanding, legal attitudes, and legal behavior patterns. Furthermore, legal effectiveness is influenced by five main factors: legal factors, law enforcement, facilities and infrastructure, public awareness, and legal culture (Soekanto, 2004). Creating a law-abiding and aware society is a fundamental goal of the legal system. However, achieving this is no easy feat, especially in Indonesia's diverse society. Therefore, legal development must be grounded in a deep philosophical understanding so that the resulting laws can achieve substantive justice for all levels of society.

DISCUSSION

Based on the discussion that has been outlined, it can be concluded that the affirmation of Indonesia as a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia contains the consequence that law must be the main foundation in all aspects of national and state life. A state of law not only demands the existence of legal norms and statutory regulations, but also requires the limitation of power, guarantee of the supremacy of law, and the implementation of government based on the constitution and democratic principles.

However, the implementation of the rule of law principle in Indonesia has not been fully optimal. Although a relatively comprehensive legal and institutional framework has been established, law enforcement practices still face various obstacles, particularly low public trust in law enforcement officials and the judiciary. This situation demonstrates a gap between normatively applicable law and the social reality within society. In this context, legal culture plays a crucial role in determining the effectiveness of the legal system. Legal culture reflects a society's values, attitudes, and perspectives on the law, which ultimately influence levels of legal awareness and compliance. Without a strong legal culture, law tends to be viewed simply as formal rules that lack binding force in everyday life.

The effectiveness of law enforcement is also determined by the integration of various factors, namely the quality of legal substance, the professionalism of law enforcement officers,

the availability of facilities and infrastructure, the level of public legal awareness, and a developing legal culture. These five factors are interrelated and cannot stand alone. Weaknesses in any one factor will impact overall law enforcement. Therefore, developing a legal culture and increasing public legal awareness are urgently needed to realize a democratic and just state based on the rule of law. These efforts must be carried out systematically and sustainably through legal education, dissemination of laws and regulations, legal counseling, and enhancing the professionalism and integrity of law enforcement officers. Legal culture development also needs to begin at an early age, from the family environment to the wider community.

Thus, it can be emphasized that the success of realizing a state based on the rule of law depends not only on the strength of regulations and law enforcement institutions, but also on the quality of legal culture and public legal awareness. Synergy between the law, law enforcement officials, and the public is key to creating a legal system that is effective, fair, and oriented toward the welfare and social justice of all Indonesians.

CONCLUSION

Based on the conclusions above, several suggestions are proposed that can be used as input, namely as follows:

1. To Strengthen Community Legal Culture and Awareness, ongoing efforts are needed to foster community legal culture and awareness through contextual legal education and socialization, so that the law is understood and obeyed voluntarily as part of social life.
2. For a Sociological Approach in the Formation and Enforcement of Law
The formation and application of laws should take into account social values, cultural conditions, and the realities of society, so that the law is not only normative, but also effective and just in practice.
3. To Improve the Integrity of Law Enforcement Officers
Law enforcement officers need to improve their professionalism and integrity in order to build public trust, because public trust is a key factor in the functioning of the law from a legal sociology perspective.

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