BUILDING THE SOCIETY LEGAL CULTURE THROUGH LEGAL COUNSELING MODEL AS A SOCIAL MARKETING

Rini Setiawati
Kalimantan Barat Regional Office of Justice and Human Rights Ministry
e-mail: rini090366@gmail.com

Abstract
Fostering the legal awareness is a current social change demand as part of government attention and promotion in various development efforts. Therefore, the establishment of a new legal product will become a reality if supported by the society members legal awareness. Legal awareness is the basis of the implementation of the law and it related to legal culture closely. Building the society legal culture should be oriented for the efforts to instill, promote and institutionalize the values underlying the law that require legal communication. The current legal counseling are required not just to do with the formal legal approach, but it can be done through a social marketing approach that more responsive in dynamics of change and the need for legal information in each segment of society.

Keyword: Society Legal Culture, Legal Counseling, Social Marketing

INTRODUCTION

_Ubi societas, ibi ius_ means that "where there is people, there is a law."(1) The phrase should be explained that there are always rules in every human relationships to fullfill the life necessities in society. Society and order are the two things related closely, and even can be said to be two sides of the same coin. It's hard to tell how could a society be without an order, however its quality. Society order is create jointly together by various agencies, such as law and tradition.

Therefore, the various types of norms also found in society in creating that order. These days, public’s view is very alarming on law. A very high society skeptical attitude towards law, so most of people prefer to avoid the law when addressing the actual problems. There is a negative society stigma on law implementation, it often lead to dissatisfaction and further more select a shortcut by breaking the law. This condition is caused of no good of the operation of law either in society, the irregularity, authority abuse or conflc of interest in law developing.

Laws are supposed to work for justice, has shifted into a legitimate tool for power interests. The impact is, the society representation and understanding about law that law is not a prestigious law, but rather the reality of a poor law, which not able to do much, uphold justice and defend the society interests. Response for this reality, some efforts should be developed in order to improve society legal awareness through build up society legal culture.

This writing issues will be peeled through this paper "How society legal culture can be built and developed to realize the law enforcement process?"

RESULT AND DISCUSSION

Law as a System

Essentially, law contains ideas or abstract concepts. Even though so, but law was established to be implemented in every social life. Consequently, the
need for an activity to realize these ideas into society. The series of activities in order to realize those ideas into reality is a law enforcement process.

Thereupon, law enforcement should not be seen as “be on one’s own”, but always be among in various factors. In that context, the starting point of law understanding is not only as a "black and white formula" set out in various law forms. Law should be regarded as a phenomenon that can be observed in society through the behavior of citizens.

That is, the point of concern should be addressed to the relationship between the law and other non-legal factors, especially value and attitude factor as well as the public view then called legal culture. Non-legal factor, including legal culture makes the differences of the society law enforcement one another.

To understand more about the better issues related law, the law should be seen as a system. The understanding of law as a system, hinting that the legal issues facing are very complex. On one side, law is seen as a value system housed within a basic norm (grundnorm) overall. While on the other hand, law as part of the social environment.

Thus, law is one of the subsystem among other social subsystems, such as social, culture, politic and economic. It means, the law can not be pulled apart with society as its base. Here, it appears that law is among of the world of value or the world of idea with the world of reality everyday.

Legal moves between two different worlds, both world of value and social reality. As a result, tensions are often occur when law is applied. When the law is loaded with those values will be realized, then it must deal with a wide range of factors influence the social environment.

Discussing about legal issues as a system, according to Lawrence M. Friedman, for the sake of analysis, the operating legal system can be considered as something that contains three components. The first component is a structural component, namely the moving parts in a mechanism. The second component is the substance, the real result issued by the legal system. The structure and substance actually is generally called the legal system.

The third component is legal culture as human attitude toward law and the legal system of trust, the value of thinking and expectations. In other words, the legal culture is an atmosphere of social thoughts and social forces that determine how the law is used, avoided or abused. Without the legal culture, the legal system is powerless, like a dead fish is lying in the basket, and not like a live fish is swimming in the ocean. Thus, legal culture is the totality factors determine how the legal system get an appropriate place and acceptable within the society culture framework.

Lawrence M. Friedman describes, that according to the anthropologist, culture does not just mean a collection of behavior and thinking forms are mutually separated but culture is defined as a value category so include social values related to law overall, including attitudes affect law labour but that is not a result of substance and structure. With the result that respect or disrespect for the law are include in it, people's willingness to use the court or not to use the courts because they prefer to choose an informal way to resolve a dispute. It also includes the the attitudes and the law demands raised by the ethnic groups, race, religion, jobs and
different social classes. Therefore, legal culture is a human attitude of legal and trust-law system, value, thought and hope.

Legal culture is a society value and attitude may affect the labour of law.\(^3\) The discussion on attitudes and people values of the people is the most difficult issues. Abstract nature is its characteristic to distinguish the structure and substance. Efforts to understand the law of a nation fully is not only done through the observation of the formal system, but until legal culture. According to Satjipto Rahardjo, legal culture is a kind of force drives the operation of law.\(^4\)

Legal culture is a human attitude towards law and trust-law system, value, thought and hope. In other words, part of the common culture is concerning the legal system. Thought and opinion are taking their each part as determinant of the course of legal proceedings. We are talking about legal culture at any time unconsciously. In other words, legal culture is the atmosphere of social thinking and social forces that determine how the law is used, avoided, or abused. Legal system will be powerless without legal culture.\(^5\)

T.O.Ihromi stated that; "The culture of law is the same general response from certain people for symptoms of law. The response was a unified view of the values and legal behavior. So, a legal culture shows about a pattern of behavior of individuals as members of society who describe the same responses (orientation) against the live law of life people concerned.\(^6\)

In effect the legal culture is not a personal culture, but culture overall view of the particular society as a whole attitudes and behavior. Therefore, in discussing the legal culture can not be separated from the state of society, system and society structure contain legal culture, for example, how about the attitude and the behavior of certain public response to the behavior and attitudes of other community views. Thus, the same response can be either accept or reject other legal culture, as well as the legal norms desired effect or for other legal norms.

Rusdi Kantaprawira said that: "Because understanding (perception) of legal culture often seems related with civilization and technology, so it is no harm in the legal culture called law civilization, as well as the political culture can be defined as political civilization".\(^7\)

As for the problems that will arise, because the legal culture includes background of personal orientation and someone experience who causes the assessment, so he approve or reject, or suppress legal case. Thus, legal culture is a response that is accepting or rejecting the legal events. He showed his human behavior towards legal issues and legal events which carry over into the community.

Therefore, the legal system is a crochet hooks relationship between man, society, authority and rules, it needs attention, human behavior involved in legal event. The relation between human behavior and legal culture lies on response to the legal ideological and legal practical. Relates it, E.B. Tylor formulated, that "culture" as a whole complex contains elements of knowledge, belief, art, moral, law, custom (and other capability) and habits acquired by man as a member of society.\(^8\)

Elements of culture does not “be on one’s own”, but interrelated and even interplayed. However, if we concentrate on law as one of the elements of culture, the law is conditioned as a system, it would have a structure which
conceptual consist of integrative portions, among other things, the legal structure know the legislator elements and its implementation, the material legal instrument, law enforcement procedure and law enforcement infrastructure and so on. If a part of it is absence or malfunctioning will affect the whole structure of law.

**Culture and Society Legal Awareness in Law Enforcement**

Theoretically, law enforcement process strongly influenced by forces arised from the society environment. The society law enforcement is not only depend on the rules complecticity govern human interests or the modern of exist legal institutions, but must be realized by human beings who administer the law.

Law enforcement is a process to realize the desires of law becomes a reality, the thoughts of the legislator body defined in law. Formulation of legislator mind set forth in the rule of law will also determine how to run the law enforcement.

Speaking of law enforcement, then there are two elements would not be separated, both human element and the social environment.

According to Peter Berger opinioned, to determine the living human presence in society, society is a result of human effort, continue and continue to have the reaction for its production. It can be said also that man is the public result, both clearly demonstrated the dialectic characteristics contained in the community as a social phenomenon.

Community as the process can be viewed from two aspects which in reality are not separated from each other. *First*, the society can be reviewed from members forming, supporting, sustaining and continuing a pattern of certain common life we call community, or are trying to change it. *Second*, the society can be reviewed from its structure influences on their members. It is so important, can be said that human will not be able to survive, moreover thrive without the influences.

Thus, "the community as a process" contains two meanings at once, individual uphold community and responsible for the situation, and the community role within the individual until the existences as human beings are dependent on him.

Reality show that almost of every life aspect is governed by the rule of law these days. Through human behavior norming, law browse almost of all human life area. The legal intervention is more expanding into the field of social life caused the increasing problems of law enforcement effectiveness. It means that law should be able become an institution that works effectively in society.

For a society which building the law has always been associated with effort in improving a better people's live. Faced such circumstance, the role of law is increasingly becoming important. The function of law as social control is not enough, but more than that. The function of law is hoped to do the efforts in mobilizing people behave according to new ways in order to achieve the purpose of law.

To act or behave according to law provisions needs a society legal awareness, because of this factor is a bridge connecting the regulations with society member behavior.

Lawrence M. Friedman talked that society legal awareness closely linked with legal culture problem, such a category of value, view and attitude which effect the operation of law.
Development of Cultural and Legal Awareness Society

Fostering legal awareness is a demand for current social change become the government attention and promotion in a variety of development effort. A new regulation establishment will become a reality if supported by all society legal awareness. Awareness of the rule of law is the basis for law implementation.

Legal awareness is the awareness to act in accordance with the law provisions laid down. Society legal awareness likely a sort of bridge connecting the regulations of law with the community members law behavior. Lawrence M. Friedman is more inclined to call "legal culture”, ie value and behavior affect the operation of law.

In the law process of each society member is seen as law adresat. Chamblis and Seidman, said law adresat as "stakeholders" (role occupant), was expected to meet certain expectations as set out in the legislation. Thus, society members are expected to fulfill the written roles as described in the regulations. (For example, society member who will be married is expected to meet certain actions, such register his marriage legally).

Indeed, the growth of society awareness is strongly influenced by the operation of various factors and forces. In this case, the action to be performed by citizen as a response to the legal regulation depend on the content of the rule of law itself, the sanction, the activity of law enforcement and all juridical extra factors working against him.

Therefore, the efforts towards the development of public awareness are needed. It should be oriented to instill, promote and institutionalize the values underlying the rule of law. Then need to be considered legal communication problems, dissemination of legislation so that it can be seen by society member as law-making target. Legal communication might be committed by legal counseling.

Legal Counseling as Social Marketing as a Means of Increasing Legal Awareness Society

Resources, Methods and Legal Counseling Media

Legal counseling is essentially a policy to develop legal culture at all levels of society to create awareness and legal compliance in the context of the rule of law and the establishment of the state of law.

Activity of legal counseling is implemented in various forms, including lecture, discussion; meet up “law awareness”; exhibition; simulation; family legal awareness competition; legal counseling; interactive dialogue; radio interview; stage performances; soap operas; fragment; film; banner; poster; brochure; leaflets; booklet; billboard; newspaper; magazines and other forms.

Socialization or legal counseling (either by the state agency, government or society) can be a good and effective effort in order to respond the legal culture among community. Public participation mostly driven by legal awareness to do legal or illegal, comply with the law or do not comply with the law. The first gate into the joint public participation depend on information acquisition, one of them is legal counseling. Law view told that law ignorance (fictie law) is not a justification can not be applied just like that in the context of legal counseling in society knowledge.
Sanctions in urgent situations must be accompanied by aspects of legal counseling. Recognized or not, punishment through imprisonment is not guarantee people to be aware of the law. Some people are convicted again the day after they free from law in a better quality crime.

Socialization of law with an emphasis on the value contained in a rule of law is more effective in shaping the legal culture and society legal adherence. For example, government policy in traffic aspect is done by giving the description that seat belt provides security for the user, instead of merely exposes the fine will be imposed on violators. Personal approach would be hit than material approach.

Prioritization of sanctions often used in a legal counseling activity as well as colonial way through was not effective scaring people aspect. Fear of sanctions allows people to obey the law, but not means that people will obey the law as a form of legal awareness. (People will obey all traffic lights if police was in across the road and if not, the traffic lights has never been considered).

Thus, legal counseling should be done by carrying both the purpose and character at the same time, the law provides benefits to individuals more than legal central issue, namely justice. If the dimensions of justice was about to be appointed as a central issue then propriety as a value in society must take precedence.

**Understanding the Society Behavior which will be Received the Legal Counseling**

Legal communications is one of the important factors in addition to other factors in shaping the understanding, acceptance and observance of the public on the content of the legislation (law).

Therefore, what is desired in the legislation tends to conflict with the society internalized values.

In fact, the element of values and behavior is actually a "gasoline" would move motor from the exist legal order. As an illustration is the implementation of IPR (Intellectual Property Rights) provisions, especially in the implementation of brand provisions. As an illustration can be revealed that society culture tend to be interested in famous branded goods, despite know that the item is not genuine or counterfeit goods using famous brand names, as well as shown by the attitude and outlook that does not respect the brand’s owner rights. It show that society legal culture is a factor that does not support the implementation of the Trademark Act, especially in terms of brand protection. In addition, their attitude do not consider the economic value of the brand, and affect business competition of trade and business reputation greatly.

Therefore, the development of various strategies to instill concepts and new perceptions needs to be done to facilitate and help people adapt new realities. So, we are dealing with efforts in overhaul the worldviews and values had been functioning properly.

It must be realized that culture has place and took a very important role in human life. The individual since childhood has been impregnated by the cultural values live in community. Conceptions owned for long time have been rooted in their souls, in short time the culture values replaced with other culture values difficultly.

**Legal Counseling as a Social Marketing**

Legal counseling is currently facing the challenge of globalization which technology information develop
rapidly. This development pushes economic towards open market mechanism increasingly. People are free to choose whatever they like. In this globalization era, no single firm can survive without a real marketing company/organization, i.e., the company/organization that always gives satisfaction (sustainable satisfaction) in the three stakeholders: customers, shareholders, and people who live in the company itself.

These days, information technology advances has risen a new communication form. Currently, multimedia: text, sound, image or graphic can be accessed at a time into a tool. As a result, the public can access information quickly and complete home phone, mobile phone, television, computer, and various other electronic media that has been equipped with internet network.

This is convergence, the merger of traditional telecommunications media with internet at once. The key is digitalization, means all informations or datas are converted from analog format to digital format and sent into binary digit. Because it is a digital format, convergence leads to the creation of applicative product can perform computing functions at the same audiovisual. Currently mobile phones can receive voice, text, data, and three-dimensional images (3G). The interactive of convergent media usage has exceeded the ability of potential feedback, for direct access of converging media provides direct feedback on the information submitted. As a result, characteristics of mass communication traditionally where the feedback is delayed disappear as an interactive capability convergent media.

Information is already overloaded, but on the other hand is required to socialize the law in society towards society legal awareness. Because of that, the opinion of Constatinus Kristomo “In addition to legal-formal, in developing legal counseling methods required a different approach”. The approaches are expected to make a responsive legal counseling in facing changes rapidly. One of the approaches is marketing. Marketing approach is needed for the practical legal counseling is an activity of "market and communicate" law product on society. Thus, legal counseling should be done with the media-planning that refers to a specific marketing strategy. With this approach, legal counseling will be very responsive in the dynamics of change and the need for legal information on each segment of society. Obviously, this approach will change the paradigm of legal counseling.

**CONCLUSION**

Fostering legal awareness is a current social change demand, it take government attention and promotion in varietious development effort. Thus, the establishment of a new law product will become a reality if supported by legal awareness of all society members. Legal awareness is the basis of the law implementation. These days, develop society legal awareness and legal culture must use the legal counseling methods as social marketing. Abandonment marketing paradigm in legal counseling management often makes legal counseling is stutter on society development. Legal counseling become sharpless (or even not) in terms of strategic perspective, analysis of potential, and the "target market". The notion of stakeholders, brand image,
core competence, less (or even no) becomes an important concern in managing legal counseling.

REFERENCES

6. Ihromi, TO, Legal Anthropology, Jakarta: Otor Indonesia, 1980