

## APPLICATION OF LEGAL CULTURE TO NATIONAL DEVELOPMENT

**Fransisca Dewi Zion**

*Universitas Borobudur  
[franzzisca@gmail.com](mailto:franzzisca@gmail.com)*

### ABSTRACT

The evolution of Indonesia's cultural identity has undergone a profound transformation, impacting the nation's nature, personality, and overall identity. However, this transformation hasn't been fully paralleled in the development of the country's legal culture, which lags behind in comparison. This shift in legal culture can be attributed to a blend of internal and external factors. Internally, the moral fabric of the nation plays a pivotal role in shaping the legal culture. Externally, technological advancements and the influx of foreign ideas and cultures contribute significantly. These external influences are often rooted in globalization, which exposes the nation to diverse legal frameworks and ideologies. The state of the legal culture holds substantial sway over the nation's development, and its deficiency can lead to legal chaos. Legal culture isn't just a passive component; it actively participates in the formulation of laws and their subsequent enforcement. In essence, the collapse or inadequacy of the legal culture can exert detrimental effects on the progress of the legal system and, by extension, national development. Thus, fostering a robust and adaptable legal culture is imperative to navigate the complexities of modern society and ensure coherent legal development.

**Keywords:** *legal culture, national development, culture*

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### INTRODUCTION

The whole “society has a course of social control that is given legal qualifications. But this society does not attach the same importance to these customs. Some societies immediately demanded laws to guarantee basic values. Not every society sees the world in the same way, priority values are often different. This also applies to the legal content of each company. Anthropology cannot be limited to studying the contents of legal provisions and forms of sanctions, but must have a thorough understanding of the legislative process (St Laksanto Utomo, 2020).

Social norms partially depend on other norms and become social institutions or institutions that enable people to engage in behavior that is consistent with societal demands or their ideal way of life (Indonesia, 2007). included in the group. This ideal image or plan or life plan is the culture of society which must be preserved through the way of life of the members of the community, and one way to encourage members of the community to preserve this culture is through law. "Legal anthropology views the existence of law as a very important matter, such as maintaining the survival of society, regulating the production and distribution of wealth, as well as ways to protect society from disturbances both from within and from outside. This anthropological approach brings a new, broader perspective to law in general, i.e. if you want to achieve a high degree of accuracy in your study of law you need a holistic view of society” (Liliweri, 2021).

The legal system paradigm introduced by Lawrence M. Friedman consists of three components, namely the structural component, the substance component and the legal culture component. Structural component, is part of the legal system that operates in a mechanism,

included in this component include legislatures, courts and institutions that are authorized to apply the law as well as institutions that are authorized to take action against parties who violate the provisions of the law (Liliweri, 2021). The substance component is the tangible results issued by the legal system. These results can be in the form of in-concreto law or special legal rules and in-abstracto law rules or general law rules (Firmando, 2022).

Legal culture is “a system of values and attitudes that influence the law as a whole. The division of the legal system into these three areas serves to analyze the functioning of the legal system or the legal system currently in force in the legal and social sciences (Jainah, 2021). Discussion about the reciprocal relationship between law and society is very important and necessary to get clarity about the way of thinking of the Indonesian people today. "This is very urgent because the vision or perception of law is a tool for community renewal and development (Darlis et al., n.d.).

Development in a broad sense covers all aspects of people's lives. A developing society needs to know the interaction between law and other factors that influence the development of society, especially economic and social factors. This approach to the administration of justice requires a functional analysis of the legal system as a whole and the social norms and specific institutions.”

## **METHOD**

Legal research is conducted to produce arguments, theories or new concepts in solving the problems at hand. Legal research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand. Research methods include types of research, nature of research, research approaches, types and sources of legal research materials, techniques for collecting legal materials and techniques for analyzing legal materials. The research method that will be used by the author in writing this law is as follows:

### **Type of Research**

In this study, the authors use a type of doctrinal legal research. Doctrinal legal research is carried out by reading, studying, and researching library materials or secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. This legal research is prescriptive and applied. It is prescriptive, meaning that the object of legal science is coherence between legal rules and legal principles.

### **Research Approach**

Peter Mahmud Marzuki explained that there are several kinds of approaches that can be used in legal research to obtain information from various aspects regarding the issues being researched by researchers.

### **Types and Sources of Legal Research Materials**

Basically, qualitative research data sources are approaches that emphasize more on aspects of understanding in depth on a problem rather than looking at problems for generalization research. This research method prefers to use in-depth analysis techniques, namely examining problems on a case-by-case basis because qualitative methodologies believe that the nature of one problem will be different from the nature of other problems. The aim of this qualitative

research approach is not a generalization but a deep understanding of a problem. Qualitative research functions to provide substantive categories and qualitative research hypotheses.

According to Creswell in Sugiyono qualitative research approach is divided into five types. There are 5 kinds of qualitative research approaches, namely phenomenological research, grounded theory, ethnography, case study, and narrative research. Here's the explanation:

### ***Phenomenological Research***

Phenomenological research is a type of qualitative research, in which the researcher collects data using participant observation to find out the essential phenomena of the participants in their life experiences.

### ***Grounded theory***

Grounded theory is a type of qualitative research, in which researchers can draw generalizations of what is observed/analyzed inductively, abstract theories about processes, actions or interactions based on the views of the participants being studied.

### ***Ethnography***

Ethnography is a type of qualitative research in which the researcher conducts a study of group culture under natural conditions through observation and interviews.

### ***Case studies***

Case studies are qualitative research in which researchers carry out in-depth exploration of programs, events, processes, activities, to one or more people. A case is bound by time and activity and researchers collect data in detail using various data collection procedures and in continuous time.

### ***Narrative research***

Narrative research is a qualitative research in which the researcher conducts a study of one or more individuals to obtain data about the history of their journey in life. The data is then compiled by the researcher into a chronological narrative report (Soekanto, 2019).

## **RESULTS AND DISCUSSION**

### **Legal Culture**

Knowledge of the local community's legal culture is important information, namely learning about the structure of the local community, the legal system, legal concepts, legal norms and community behavior. Legal culture is not a personal culture, but the general culture of a particular society as a whole attitude and behavior (Siombo & Wiludjeng, 2019).

Therefore, in discussing legal culture, it cannot be separated from the condition of society, the system and structure of society that contains this legal culture. Legal culture is a response that is acceptance or rejection of a legal event. It shows the attitude of human behavior towards legal issues and legal events that are carried into society (Syamsudin & SH, 2011).

Types of legal culture can be grouped into three forms of human behavior in "society" life, namely: 1) Parochial culture, 2) Subject culture, 3) Participant culture. In a provincial (insular) society, the way of thinking of parishioners is still limited, their response to law is limited to their own community. Such a society still follows its own legal traditions, the legal principles laid down by the ancestors are immutable talismans. If someone behaves abnormally, he is doomed. This type of society is very dependent" on the leader.

When a leader is self-centered, they care more about themselves. Conversely, when the leader's character is altruistic, members of the community get attention because he positions

himself as *primus inter pares*, the most important among equals. As a generally simple society, its legal culture is ethnocentric, prioritizing and proud of its own legal culture and prioritizing its own laws over the laws of other people (Firmando, 2022). In the subjects of cultural society, the way of thinking of members of society has been affected, there is a general awareness of law resulting from higher authorities. Community input is still very small. This is because the knowledge, experience and cohesion of community members is still limited and there is fear of hidden threats from the authorities.

In an “inclusive (participatory) culture” society, the ways of thinking and behavior of community members are different. There are those who still maintain a culture of surrender, but many feel they have the right and obligation to participate because they feel they are part of the wider legal community (St Laksanto Utomo, 2020). Here the community already feels that they have the same position, rights and obligations in law and in government.” the interests of his family and himself. In general, such societies have extensive knowledge and experience from their members, have organizational associations, and independent assemblies and which have links with other departments and from top to bottom.”

The legal culture “described is only a portion of the attitudes and behaviors that influence the legal system and local community perceptions. There are other factors that greatly influence legal culture, such as social, kinship, religious, economic and political systems and arrangements, environment and lifestyle, as well as one's personal character, all of which are interrelated.

### **Development of National Law**

Legal development is an effort "to change the legal order through conscious and directed planning based on observed trends for the future (Hamzani, 2022). Legal development is a political action, just like political action, legal development more or less depends on the seriousness of political actors in determining the direction, style and materials. The direction of legal development is not something that stands alone, but is integrated with the direction of development in other fields that require harmonization. "After all, the direction of legal development is based on the outlines of ideas in the 1945 Constitution, it is necessary to harmonize with the level of community development that is envisioned to be created. in the future.

With regard to "legal development, Prof. Dr. Bagir Manan, argues that legal development is basically legal renewal. This happens because legal renewal does not start from an empty space. Legal development implies that there is a drastic change to carry out renovations in the field of law in a society or country. Regulatory reform means making changes or improvements to all laws in the regulatory field. According to Soetandyo Wigjosoebroto, legal reform or legal reform is interpreted as legal reform and law reform (Anwar, 2008). Legal reform occurs when the law is designed as a system, then the law will lead to a process for the sake of the verticality of the law. Legal reform is then included in a progressive and reformative political process. Legal reform has a tendency to limit reform to laws or articles and paragraphs that have been in force, for this reason the ideological paradigm is not given too much attention (Priambudi & Oktavia, 2021).

The role of law in development “is to ensure that change occurs regularly. Orderly changes through legal processes, whether in the form of legislation or court decisions, are better than

irregular changes that only use violence (Sulistiyawan, 2019). Since both change (and renewal) and order (or regularity) are twin goals of a developing society, law becomes a tool that cannot be ignored in the development process (Hariyanto, 2018).

The main goal of "development of the rule of law is First, the continuation of the reform of the colonial legal system. Second, post-independence reforms have given birth to laws and regulations that are lagging behind or do not reflect the legal policy foundation and orientation of democratic life in society, nation and state based on law, social justice and clean government. "Third, the birth of new laws and regulations" necessary both in relation to setting the basis and direction of legal policy and to closing legal gaps created by new developments. Fourth, maintaining or introducing various international agreements and strengthening the international order as well as protecting national interests.

### **Legal Culture and Development of National Law**

In the practice of "state, nation and community life, the cultural dimension in principle (justified dogmatically) must precede other dimensions, because within these cultural dimensions a series of values (value system) is maintained. In addition, this value system forms the basis for compiling guidelines (policies) and then statutory regulations as legal signs and guidelines for behavior in people's daily lives, which are expected to reflect the noble values of the nation concerned."

Referring to "Indonesian people who have various differences in national views of life, there will also be local views of life or groups that are local in nature. This local legal system is the mechanism of a set of functions and roles that are interrelated in a legal process that is sustainable from the past, present and future by following human behavior in community life. So this local legal system is tied to the ideal pattern in question is the pattern of legal culture that is desired to apply by certain communities, this ideal pattern is the basic pattern that is reflected in various forms of conception, as a way of life, ideals of life, legal ideals, legal norms and behavior, where one and the other are functionally linked to each other as a legal system." Political policies regarding the development of law with a cultural approach are finally included in the GBHN. The "cultural" dimension was included by the MPR as a sub-system of legal development with the following details:

First; "Development and improvement of the legal culture aims to shape the attitudes and behavior of citizens, including state administrators, in accordance with the values and standards of Pancasila, so that the legal culture is more internalized in people's lives and awareness will increase obedience and law enforcement will increase and human rights will be more respected and valued. Second; Awareness of increasing respect for and promotion of human rights, as practiced by Pancasila and the 1945 Constitution, aims "to educate human dignity and dignity, promote general welfare, and educate people's lives (Marzuki, 2023).

Third; The development and development of a legal culture is aimed at creating peace and order and upholding the law with the core of honesty, truth and justice to create legal certainty in the context of fostering national discipline. Fourth, the legal awareness of the government and society must continue to be improved and developed through education, leadership, information, exemplary and law enforcement to respect, obey and comply with the law and create a nation with a culture of law."

In the "national" dimension, Pancasila is a model of the ideals of the Indonesian nation, therefore the vision of life, legal ideals, legal standards, behavior and goals of national life are the embodiment of the Pancasila Society and the legal system because it is the Pancasila Legal Order. The idealistic concept of the "legal culture" of the 1998 GBHN on paper is sufficient to make political promises and messages, but the follow-up must be in the form of drafting laws and regulations (legislation) and the implementation of law enforcement has not shown consistency in law enforcement in the "essential" sense. , and this is reflected in legal products, in particular "recent police actions, far from the ideals of a cultural approach that encompasses legal channels."

The root of this problem is actually the cultural attitude of the perpetrators of the law in our country. On the one hand, we always place law as part of the ideal values of our society. Far from the reality of everyday people's lives. Whereas law, as a social phenomenon actually has to be realistic, grounded, solve the social problems it faces (Idayanti et al., 2019).

The lack of "involvement of legal practitioners in the development process and the resulting public disillusionment with law and legal practitioners is due to the fact that traditionally trained legal practitioners are not prepared to take on the much more difficult task in developing countries. than in positions of legal experts in developed countries. This task becomes even more difficult in countries with pluralistic legal systems."

Communities in "developing countries with pluralistic systems, where customary law systems and institutions coexist with Western legal systems and institutions and possibly other foreign legal systems and institutions, face special problems." The problem is that law cannot be separated from value systems. socially accepted. For example, monogamy cannot be simply imposed on Muslim societies (Wibowo, 2021).

In practice, when "developing legislation, it is first necessary to consider which areas of the law can be reformed and which should not be considered. In general it can be said that branches of law that are closely related to the cultural and spiritual life of the people must be put aside for a while, or can only be handled after all aspects of change "and the consequences have been carefully calculated and weighed. The areas of family law, marriage and divorce and inheritance are included (Krisnayudha, 2017).

On the other hand, other areas of law such as contract law, corporate law and commercial law are generally more appropriate areas of law for reform efforts. There are other areas of law that are even more culturally neutral, so using a foreign model doesn't pose a problem. Technical legal principles related to transportation, such as land, sea, air, postal and telecommunications regulations, can be included in this category (Rachmad et al., 2022).

It is quite clear that "legal development is not a temporary process, but requires a long time, deep reflection and a continuous process in accordance with the dynamics experienced by the nation itself. In building national law, it is very important to define the soul or legal paradigm, in this case the national legal paradigm, namely the Pancasila paradigm (Pitriyantini et al., 2018).

## **CONCLUSION**

Culture "law is a response that is acceptance or rejection of a legal event, it shows the attitude of human behavior towards legal issues and legal events that are carried into society. The legal system is an interrelated relationship between humans, society, power and rules,

hence the point of concern of legal anthropology on human behavior involved in legal events. Legal development is “an effort to change the legal order through conscious and directed planning based on observed trends for the future. Legal development is a political action, just like political action, legal development more or less depends on the seriousness of political actors in determining "direction, style and materials.

In fact, the concept of "law that is national in nature is easily accepted by the community, especially those related to socio-economic needs, but those related to socio-culture and religion, especially in the field of family law and religious behavior are sensitive issues in society. The upholding of the law supports social order, is also a measure of value to measure the level of culture and civilization of a society or nation. distribution of welfare, prevention of arbitrariness. According to Joseph Kohler, law cannot be neglected, law has a very big role in cultural growth. The law maintains cultural values that must be protected and generates new ones. Laws that don't play a role, not only hinder cultural growth but will damage culture which will eventually eliminate a civilization.

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