



## The Influence of Legal Culture in Society to Increase the Effectiveness of the Law to Create Legal Benefits

Arsyad Aldyan

Faculty of Law, Universitas Sebelas Maret Surakarta, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v9i11.4208>

---

### **Abstract**

This article discusses the influence of legal culture in society on the legal system in a country. Legal culture in society certainly has a very large influence on the legal system, which in some theories shows that legal culture is an important thing in the legal system and creates good legal effectiveness; legal culture is also important, especially legal culture is very important in terms of creating law as a means of social control. The urgency of developing a good legal culture in this legal system is, of course, a very important thing for the effectiveness of the law in providing legal protection for the community from violations of the law, which, of course, can harm others. The development of legal culture in society is indeed not an easy matter, but this can be done by educating the community regarding the law from an early age; this can be done at school so that public understanding and awareness of the law becomes better. About the development of legal culture, of course, apart from educating the public through formal education, it is also necessary to conduct legal education in non-formal education, and of course, not only that but also public education related to the law which is carried out by socializing related to the law. This can be done for legal academics by way of community service related to the law, which should also be optimized to provide justice and benefits for the community.

**Keywords:** *Legal Culture; Legal Effectiveness; Law in Society*

### **Introduction**

Law has a very important role in a country; it can be said that a country's law is fundamental. Therefore, every country must have a law that consists of a legal system to carry out national and state activities. In a country, the existence of this law determines the various aspects that exist; if the law is good, then, of course, all aspects of a country will be good, for example, related to the economic system; if the economic law is good, then, of course, the economic system will also be good, but conversely, if the law is not good, then the economic system will also be less good, due to the increasing number of violations in the economy that will affect the country's economic system. Therefore, the law plays an important role in all existing aspects.

In every country in which there are people, there must be laws. Law plays an important role in realizing prosperity and peace in people's lives, as well as in the life of the nation and state. Various

aspects influence the legal system. According to Lawrence M Friedman, in the legal system, there are 3 sub-systems, including substance, structure, and culture.

Various aspects certainly influence law in a country, but various aspects that exist in a country are protected by law. One aspect that is very influential on the law in a country is the cultural aspect. Culture in this society certainly greatly influences the legal system in a country, and of course, this culture also affects the effectiveness of the law in a country.

Violation of the law is a very common thing in the community. This violation is, of course, also influenced by various things, including public awareness of the law, which is still weak. The more violations of the law, of course, it can be said that the law has not been effective as a tool of social control which should be with the law of public behavior can be controlled well so that there are no violations of the law which of course can harm other parties, and will certainly have an impact to the country's legal system.

To increase the effectiveness of the law to provide legal protection in society and create justice and benefit, the legal culture is a very important aspect of building a better law. Therefore, this article discusses the legal culture in society to make it better. Of course, it can increase the effectiveness of law in society so that justice and legal benefits can be created. Besides definitions and critiques, the theoretical articles advocate a specific approach to the legal culture that should disentangle the concept. Thus, macro-sociological, positivist studies of collective dimensions of legal actions are challenged by micro-sociological approaches focused on subjective interpretations of legal facts.<sup>i</sup>

### ***Research Method***

This article is a descriptive article using a conceptual approach, which relates to the writing of this article from the perspective of legal theory in its application to social society, especially about the approach of legal theories related to legal culture in society, where the theory is related. With legal culture, because this article discusses the importance of developing a legal culture in society.

### ***Literature Review***

Lawrence Friedman defined legal culture as a part of general culture consisting of attitudes and values about and towards law, which affects the constitution of relation with the law and consequently influences the position of the legal system in society<sup>ii</sup>. Legal culture can be defined as values, opinions, attitudes, and beliefs about the law<sup>iii</sup>. The government and public need to understand the legal culture as a form of law enforcement to facilitate the implementation of rights<sup>iv</sup>. The main approaches of legal culture in comparative studies have been the use of this concept as (i) background, (ii) interactions around the law, and (iii) a sum of attitudes toward law<sup>v</sup>.

The objectives of the law include: creating peace and justice. Thus, if what happens is the opposite, then, as previously asked, what is wrong, and where is the fault? As Satjipto Rahardjo pointed out, the law does affect socio-cultural life, but at the same time, the law is also shaped by socio-cultural conditions. Law is an independent variable in society, so its development will also be determined by what happens in other sectors of community life.<sup>vi</sup>

Legal culture in this society certainly has a goal that is none other than related to the law's main goal, namely the creation of justice. Through a good legal culture, starting from the culture of the community about law, and the culture of law enforcement in carrying out law enforcement, then of course everything must be based on the principle of justice. Society wants justice. Philosophers give different understandings of justice according to their views and goals.<sup>vii</sup>. Aristotle gives an understanding that justice is a virtue related to the relationship between humans: legalist, distributive, and commutative justice. Thomas Aquinas divides justice into 2 (two), namely general justice (*justicia generalis*) and

special justice (*justicia specialis*), while Roscoe Pound divides justice into 2 (two) parts, namely judicial justice, and administrative justice. While Paul Scholten that justice should not conflict with conscience, law without justice is like a body without a soul. The philosophical thought of justice related to the philosophy of law is also closely related to the thought of John Rawls, which reveals 3 (three) main factors, namely: (1) Balance of justice (*gerechtigheit*); (2) legal certainty (*rechtssicherheit*); and (3) legal benefits (*zweckmassigkeit*)<sup>viii</sup>.

## **Discussion**

The influence of community culture in law is certainly very strong, where people have their mindset towards the existing law. The community's mindset is certainly very influential regarding violating the law in society. Legal culture is very important in the legal system, and the existence of this culture is an indicator of whether the law is effective or not, where effective law must be balanced with legal awareness and understanding of good law by the community.

The culture of the law-aware community will certainly have more influence on the workings of the law in the community because, of course, with many people who are aware of the law or understand the prohibitions and do not do so, this can certainly minimize violations of legal provisions.

Influencing people's culture of law is not an easy thing. Still, it is indeed very necessary to take preventive measures to prevent violations of the law, and course with the development of a good legal culture, of course indirectly helps the development of law in a country, given that Legal culture certainly greatly affects the effectiveness of the law in its work in society.

Shaping the community's mindset through culture is important to create a law-conscious society. Not everyone understands the law, but the most important thing is that every community knows about the prohibitions that should not be done because there are sanctions for violators.

Legal culture will certainly affect the legal system regarding the operation of the law because, from this legal culture, the mindset of people who are legal subjects is formed. Prevention of an action that is a violation of the law.

About the formation of culture, of course, it is also related to society; the formation of this culture is certainly a form of making a mindset for the community because culture is certainly strongly influenced by the mindset of the community, where the mindset of the community is also influenced by the legal awareness of the community and also the knowledge of the community regarding a law.

The legal culture in this society has a very large influence related to the effectiveness of the law; because it is related to this legal culture, the community has a view and mindset related to legal awareness and also legal knowledge of the community, therefore, of course, legal culture has an influence. Very big on the law.

Culture is one aspect that is very influential on the effectiveness of the law; if a law is made without being balanced with a good culture in society related to legal awareness, then, of course, the law cannot be effective in the operation of the law. Still, if the culture in society is related to the law and public awareness of the law is good, then, of course, the effectiveness of the law in society will increase. Of course, it can also minimize law violations in society.

Public awareness of the law and legal culture in this society is very important to be optimized because most law violators are in the community. After all, the community is also a legal subject; therefore, the more people who do not understand the law, the more violations. The law occurs, so to minimize this, then of course this community needs to be given an education related to law in order to build a legal culture that lives in society, so of course, it is hoped that more people are aware of the law and understand the law, then lawlessness in society will be reduced.

Based on the Legal System Theory that Lawrence Friedman has put forward, Lawrence Friedman divides the legal system into three (3) components, namely:<sup>ix</sup>

- a. The substance of the law (the substance rule of law) includes all written and unwritten rules, both material and ceremonial.
- b. The legal structure (structure of the law) covers legal institutions, law apparatus, and law enforcement systems. The legal structure is closely related to the judicial system carried out by law enforcement officers; in the criminal justice system, law enforcement applications are carried out by investigators, prosecutors, judges, and advocates.
- c. The legal culture emphasizes culture in general, habits, opinions, ways of acting and thinking, which direct social forces in society.'

Based on the legal system theory proposed by Lawrence M Friedman, it can be seen that legal culture is one of the sub-systems in the legal system, which means that in the legal system, the social culture of society has a very large role and influence on the law in a country. Therefore, every law in a country certainly cannot be separated from the cultures in the social community.

In theory, put forward by Lawrence M Friedman, legal culture in society is a separate sub-system which, of course, has a very large role in law, also seeing how the law works in society which is strongly influenced by legal culture in society.

The legal culture in society certainly varies between individuals; this is, of course, influenced by the community's different social, educational, and scientific environments. The legal culture in society is strongly influenced by the community's mindset toward the law, which includes the public's understanding of the law, the public's view of the law, and the level of public awareness of the law.

The mindset of the community that forms a legal culture in society is one of the main points that are important to the effectiveness of law in society. Roscoe Pound said that law is a tool of social control. Therefore law as a tool of social control is strongly influenced by the legal culture in society, namely how people think about the law, and is also related to public awareness of the law. The most important thing is to what extent public knowledge of the law. The law cannot be separated from the actions taken by the community, which are influenced by the legal culture in society.

The influence of legal culture on the effectiveness of the law is certainly very large because people are legal subjects which, of course, can be said that those who violate the law are also people, where everyone's mindset towards the law certainly has its differences, which is also an influence. The culture of each person is different.

It is also important to recognize that Friedman's concept of legal culture is itself flexible and dynamic, which indeed developed originally to investigate the impact of modernity on the law as we move to a global legal culture based around individualism, equality, and rights. His is, therefore, a view of legal culture that 'is dynamic and responsive, not genetic.'<sup>x</sup>

Regarding legal effectiveness, several factors influence the effectiveness of the law.

According to Soerjono Soekanto, several factors affect the effectiveness of law enforcement, including the following:<sup>xi</sup>

### 1) Legal Factor

In the practice of administering law in the field, there are times when there is a conflict between legal certainty and justice; this is because the conception of justice is an abstract formulation, while legal certainty is a procedure that has been determined normatively.

### 2) Law Enforcement Factor

The legal function, mentality, or personality of law enforcement officers play an important role; if the regulations are good, but the quality of the officers is not good, there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of law enforcement.

### 3) Factors of facilities or supporting facilities

Factors supporting facilities or facilities include software and hardware; one example of software is education.

### 4) Community Factor

Law enforcement comes from the community and aims to achieve peace in society. Every community member or group has more or less legal awareness; the problem that arises is the level of legal compliance, namely high, moderate, or less. The degree of community legal compliance with the law is one indicator of the functioning of the law concerned.

### 5) Cultural Factor

Based on the concept of everyday culture, people often talk about culture. Culture has a very large function for humans and society, namely regulating so that humans can understand how they should act, act, and determine their attitudes when they relate to others. Thus, culture is a basic line of behavior that establishes rules about what to do and what not to do.

From the several factors that influence the effectiveness of the law as stated by Soerjono Soekanto above, it can be seen that one of the factors that affect the effectiveness of the law is related to legal culture. From several theories that experts have put forward, it can be seen that legal culture has a very important influence on the effectiveness of the law because legal culture is certainly also strongly influenced by the mindset of the community towards the law, as well as public knowledge of the law itself.

The role of legal culture in legal effectiveness is very important because this culture is very influential, considering that people or humans are also legal subjects, which greatly affects legal effectiveness, starting from the mindset of legal subjects to the law. The level of legal awareness and knowledge is certainly very influential on the effectiveness of the law.

The development of law in a country, of course, must also be balanced with the development of legal culture to increase the effectiveness of the law in realizing the benefits of the law in the life of the nation and state. Legal culture in a legal system is one of the indicators related to the success of the law in providing benefits to the community. The more people with a good legal culture, the fewer violations of the law that exist in society.

People breaking the law are certainly influenced by several things, including the existence of urgency, the opportunity and ignorance of people related to the law, and very little knowledge of people related to the law. People who violate the law are certainly influenced by the mindset, which is also influenced by culture in society, which culture is related to public awareness of the law; people who are affected by the culture in society in the social group do not have legal awareness good behavior, and also often violate the law, then, of course, it can also affect the mindset of the person. It can be said that the mindset of people towards the law, which of course can make a legal culture, can also be influenced by

their social environment, but back again to the person, whether the social environment easily influences the person or not.

The urgency of developing a good legal culture in this legal system is, of course, a very important thing for the effectiveness of the law in providing legal protection for the community from violations of the law, which, of course, can harm others. The development of legal culture in society is indeed not an easy matter, but this can be done by educating the community regarding the law from an early age; this can be done at school so that public understanding and awareness of the law becomes better.

About the development of legal culture, of course, apart from educating the public through formal education, it is also necessary to conduct legal education in non-formal education, and of course, not only that but also public education related to the law which is carried out by socializing related to the law. This can be done for legal academics by way of community service related to the law, which must also be optimized to provide justice and benefits for the community.

Legal culture in the legal system is certainly a very fundamental thing, considering that this legal culture is also built by legal subjects, which of course, greatly affects the effectiveness of the laws that apply in a country, and of course, can also affect the number of legal violations in a country.

The importance of legal culture in the legal system in a country must be able to be better due to violations of the law which are, of course, committed by legal subjects, so legal subjects certainly have different views about the law, therefore so than legal culture To be better, it is also necessary to improve legal education in the community so that the community avoids the bad consequences of law violations, and of course, this is a form of preventive measure to prevent legal violations in the community, which of course is also a form of legal protection for the community so as not to become a disadvantaged party as a result of violations of the law.

Optimizing the development of a good legal culture is certainly very influential in the law in a country where the development of this legal culture is also influenced by the mindset of the community, which is certainly different, and of course, to build a good legal culture for this community needs to start early so that society can be created. Who are aware of the law and have a good understanding of the law. This is only intended to create a good law in a society that reflects the values of justice and benefits the community.

The law must be able to provide benefits to the people of the nation and state, therefore for the law to provide benefits properly, the law must also be able to provide good legal protection, both preventive legal protection and repressive legal protection, but it is necessary to know that to achieve The benefits of this law must also be balanced with a good legal culture which of course also makes the public better understand, understand and also have good legal awareness.

## ***Conclusions***

Legal culture in society certainly has a very large influence on the legal system, which in some theories shows that legal culture is an important thing in the legal system and creates good legal effectiveness; legal culture is also important, especially legal culture is very important in terms of creating law as a means of social control. The urgency of developing a good legal culture in this legal system is, of course, a very important thing for the effectiveness of the law in providing legal protection for the community from violations of the law, which, of course, can harm others. The development of legal culture in society is indeed not an easy matter, but this can be done by educating the community regarding the law from an early age; this can be done at school so that public understanding and awareness of the law becomes better. About the development of legal culture, of course, apart from educating the public through formal education, it is also necessary to conduct legal education in non-formal education, and of course, not only that but also public education related to the law which is carried out by socializing

related to the law. This can be done for legal academics by way of community service related to the law, which must also be optimized to provide justice and benefits for the community.

### **Reference**

- Claire Hamilton. Interpreting change through legal culture: the case of the Irish exclusionary rule. *Legal Studies* (2021). 41. 355–372.
- Fekete B. Inconsistencies in the use of legal culture in comparative legal studies. *Maastricht Journal of European and Comparative Law* (2018) 25(5) 551-564.
- Friedman LM. *The Legal System. A Social Science Perspective*. New York: Russell Sage Foundation. (1975).
- Lawrence M. Friedman; *The Legal System; A Social Science Perspective*. Russel Sage Foundation. New York. (1975).
- Michael Salter. A Dialectic Despite Itself? Phenomenology of Legal Culture. *Social & Legal Studies*. 4 (4): 453-476. (1995).
- Notoprayitno M. Legal Culture Perspective in Implementation of Inclusive Education in Indonesia. *Journal Advances in Social Science. Education and Humanities Research* (2019) 388 122-127.
- Satjipto Rahardjo. *Permasalahan Hukum di Indonesia*. Alumni.Bandung. (1987). Hal. 26.
- Soerjono Soekanto. *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*. Cetakan Kelima. Raja Grafindo Persada. Jakarta. (2004).
- Soetandyo Wignjosoebroto. *Hukum: Paradigma, Metode, dan Dinamika Masalahnya. Lembaga Studi dan Advokasi Masyarakat*. Jakarta. (2002).
- T Ginsburg 'Lawrence M Friedman's comparative law. with notes on Japan' (2010) 5 *Journal of Comparative Law* 92 at 99.
- Tasrif. *Bunga Rampai Filsafat Hukum*. Jakarta. Abardin. (1987).

---

### **End Notes**

- <sup>i</sup> Michael Salter, (1995). A Dialectic Despite Itself? Phenomenology of Legal Culture. *Social & Legal Studies*. 4 (4): 453-476.
- <sup>ii</sup> Friedman LM. *The Legal System. A Social Science Perspective*. New York: Russell Sage Foundation. 1975.
- <sup>iii</sup> Claire Hamilton. Interpreting change through legal culture: the case of the Irish exclusionary rule. *Legal Studies* (2021). 41. 355–372.
- <sup>iv</sup> Notoprayitno M. Legal Culture Perspective in Implementation of Inclusive Education in Indonesia. *Journal Advances in Social Science. Education and Humanities Research* (2019) 388 122-127.

- 
- <sup>v</sup> Fekete B. Inconsistencies in the use of legal culture in comparative legal studies. *Maastricht Journal of European and Comparative Law* (2018) 25(5) 551-564.
- <sup>vi</sup> Satjipto Rahardjo. *Permasalahan Hukum di Indonesia*. Alumni.Bandung. 1987. p. 26.
- <sup>vii</sup> Tasrif. *Bunga Rampai Filsafat Hukum*. Jakarta. Abardin. 1987. p. 39.
- <sup>viii</sup> Soetandyo Wignjosoebroto. *Hukum: Paradigma. Metode. dan Dinamika Masalahnya. Lembaga Studi dan Advokasi Masyarakat*. Jakarta. 2002. p. 6.
- <sup>ix</sup> Lawrence M. Friedman; *The Legal System; A Social Science Perspective*. Russel Sage Foundation. New York. 1975; p. 12 – 16.
- <sup>x</sup> T Ginsburg ‘Lawrence M Friedman’s comparative law. with notes on Japan’ (2010) 5 *Journal of Comparative Law* 92 at 99.
- <sup>xi</sup> Soerjono Soekanto. *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*. Cetakan Kelima. Raja Grafindo Persada. Jakarta. 2004. p. 42.

## Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).