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# The socio cultural correlation through legal higher education for civilized society

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**ABSTRACT:** The condition and geographic constellation of Indonesia show that Indonesian society is various and unique. It consists of hundreds of ethnic groups which have different traditions, languages, and religions. Explicitly, the existence of the culture, which is so various, has spirit to build social life in harmony. The prosperous society could not be founded without tolerant and pluralism. The acknowledgment and the acceptance must be continued positively based on the complexity or pluralism, so it could be accepted as a Genuine Engagement of Diversities Within The Bonds of Civility. According to delivery method, the ways to make a socialization are: a) positive behavior as an example; b) education; c) communication; d) integration. The socio cultural confess the diversities but appreciate and accommodate the difference through moral and ethic of education. The higher education as a strength of moral institutionally is owned by the organization in its spelling out, pluralism in socio cultural must exist in national curriculum.

**Keywords:** *Socio-cultural, legal culture, legal structure, law enforcement, legal education*

## 1 INTRODUCTION

The condition and geographic constellation of Indonesia show that Indonesian society is heterogeneity and unique. The nation consists of thousands of islands, hundreds of ethnic groups with different traditions, traditional languages, and religions. Natural factor forms different and specific culture in each region. It gives an impact to their different reaction and their life pattern either in vertical and horizontal relationship. The characteristic presents the different in nature in personal performance and relation between groups known in general as culture.

Culture is everything that comes from the strength of human intelligence, imagination, and desires which are expressed as intelligence, sense, and intention as life aspect of nation because the culture is legacy. Each generation that born in a society inherits culture norms from the previous generation that accepted with emotion, cohesively (tightly inside), and sensitive.

The picture of life in plural society that experience up and downs inside colored by cooperation, accommodation, and conflict needs guidance and direction to keep the

integration of nation. Explicitly, the existence of that various cultures have spirit to build a life in togetherness and in harmony. Accordance with the development of the world entering the global democratization reaching the ethic complexity as a guidance of social life. In this case state has to take the benefit from the pluralism of culture independently to improve the strength of nation by its prosperous society. Prosperous means goodness in everything that could be followed as a system that focuses on civil responsibility.

The confession and the acceptance of pluralism in culture have to be continued with positive thinking so that the pluralism could be accepted as a genuine engagement of diversities within the bonds of civility.

## 2 THE FRAME OF PLURALISM WITHIN CIVIL SOCIETY

Pluralism is cultural heterogeneity, with ethnic and other minority groups maintaining their identity within a society (Soekanto, 2001). In accordance with that, pluralism could be formulated in three meanings:

- a. in heterogeneous society, the relative absence of assimilation and its consequences
- b. the doctrine (often termed cultural pluralism) that a society benefits when its made up of number of interdependent ethnic groups each of which maintains a degree of autonomy.
- c. The idea that large socio cultural systems may be conceptualized as grouping of sub-systems that are independent, although often somewhat autonomous (Soekanto, 2001)

The natural factors that form specific culture of society in each region also form different life patterns either in vertical and horizontal relations.

The increasing of conflict between groups within society in any time is possible to build disintegration of nation. It could motivate the needs of social process that accommodate to treat equal the perception between each society about the existence of complexity cultures within live in togetherness and in harmony.

Socio culture as one of the life aspect of nations beside politic, economy, and security is a dynamic factor in society formed by all behavior in mentality that is possible to build social relation in its members. Socio culture life needs ethic as moral philosophy or knowledge that discuss and analyses in critical the problem of right or wrong in morally or what should people do in concrete situation.

Social process motivated by consciousness of all groups in society aims to develop new system of life that confess and accept the existence of different cultures in its feature and in its nature. Social process has to be colored with desire to grow positive factors to make unity and integrity of nation. According to delivery method, the ways to make socialization are: a) good example; b) education; c) communication; and d) integration. Good example, through transformation of good behavior in daily life to the society especially in thinking, attitude, and action that give priority to the interest of nation above the interest of individual or groups to develop the spirit of nation. Education is the most important method that could not be denied. In fact it should be confessed that most part of the world of education has forgot about how important the education and the implementation of pluralism that is consisted in socio cultural, confessing the difference but, appreciating and accommodating the difference through moral and ethic education universally. Higher education as a moral force institutionally possessed by institution should be mentioned in the curriculum (nationally) as the implementation. Communication, through the communication media the purpose is to

achieve the communicative relation that could make a climate where people could appreciate, respect, tolerate each other and also make self-correction as an implementation in affective and psychomotoric field. Integration, through this method the aims is entanglement of unity and integrity of nation to limit and overcome the source of conflict, and placing awareness in giving priority of national and international interests in accordance with Vienna Declaration. According to this declaration:

*All human rights are universal, indivisible and interdependent and interrelated while the significant of national and regional particularities and various historical, cultural and religious backgrounds must be born in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (Vienna Declaration, 1993).*

### 3 LEGAL DEVELOPMENT AS A NEVER-ENDING PROCESS

Law should be placed in honor position within life of society, nation, and state because it protects all aspect of nation development. The reality of law and legal development are two different things. While the reality of legal development is doing continuously as a process without interruption (never-ending process), included the effort to repair the mechanism, process, and procedure of legal development itself, the reality of law is very influenced by various factors includes politic, economy, socio culture, security, et cetera.

The purpose of national legal development as mentioned in Act No. 25 Year 2000 about National Development Program should notice socio cultural plans because the drafting of regulations that ignores that factor could disturbs the socio culture in educating Indonesian nation as unity to a constitutional state based on Undang Undang Dasar 1945, and makes disintegration within that nation.

Discussing about legal development and legal substance, it could not be exempt from three basic components: legal culture, legal structure, and legal substance that at the end they determine succeed or not succeed the law enforcement to achieve the legal development itself.

Legal culture should be interpreted as people's attitudes toward law and the legal system-their beliefs, values, ideas and expectations. Thus, legal culture is whatever or whoever decides to turn the machine (the legal structure) on and off, and determines how it will be used. Legal structure is interpreted as a kind of cross section of the legal system – a kind of still photograph, which freezes the action (Friedman, 1979). Legal substance (legal structure) has core meaning as a law that regulates every norms, values, and sanctions within various laws. In this case included living law that happened in legal practice that full of discretion (Muladi, 2002).

Other component within legal matter that is also important is the endeavor of law either in improving people access in government works and legal awareness of people. Those two things is interpreted as legal culture where improving of society awareness without improving legal awareness will make a forcing of desire/power emerging anarchism.

Law enforcement is interpreted within broad context. It is related to the work of all components of legal system that include legal substance, legal instrument, legal culture of society and legal upholder as a main and strategic instrument toward the effort to keep and supervise the government and society dynamic in effort to support sustainable national development.

The repressive patterns in law implementation are not considered anymore as a way to develop legal awareness of society, in fact this situation is happened in our society nowadays. The anxiousness and the obedient that are not based on the awareness that law is not applied just for the interests of certain party but applied for the interests of all society could be as a picture of Indonesian legal culture. To make the function and the role of law applied optimally, people should consider the law not just as a form and commitment of politic but also consider the law as an instrument to change the people's attitude and behavior.

#### 4 ETHIC AND MORAL EDUCATION IN LEGAL HIGHER EDUCATION

Education process in forming prosperous society could be achieved through institution of education, family, and society. Thus, in effort to build prosperous society, socio cultural, legal culture, legal structure, law enforcement, and the role of higher education of law are the important things that could not be ignored. The campus society is a transformation center of nation because higher education is an agent of change. The purpose of transformation is to develop an educated and intelligence, a prestige, a good character, and a productive society through national education that is a development process in long term.

It could not be denied and must be admitted that most of academic institution in high level has forgot the importance of education and the implementation of pluralism, that is consisted in socio culture which confess the diversities but appreciate and accommodate the difference through moral and ethic education.

Higher education is demanded to develop socio culture through the way that appropriate with its task and function as moral force and agent of change and also as a center to enlightenment and develop of the mind. The function of higher education according to Act No. 20 Year 2003 about National Education System:

*To develop the capability and to form character, and nation culture morality in effort to develop the mind of nation life; to develop the potential of participant to be a person who trust in and obeys to God, has a good/supreme/honorable character, healthy, scholarly, capable, creative, independent, and be a democratic and responsible citizen.*

Higher education is an institution that teaches students to be a civilized person and a good professional person. Higher education has a unique position because it has various functions:

- a. house of learning;
- b. house of culture;
- c. guardian of values;
- d. agent of change;
- e. producers of leaders (M.T. Zen *et al.*, 2005)

Higher education is an effective instrument for:

- a. developing all of the potential of people: cognitive, affective, and psychomotoric;
- b. socialization and inheritance of value;
- c. social interaction and acculturation of culture;
- d. vertical mobility and social transformation;
- e. acceleration toward the advance, modern, civilized living society. (Rachman, 2005)

Thus, university has the main task as moral force, agent of change, and center of mind enlightenment and development. It could be said like that because from a higher education could be expected a commitment to righteousness in intellectual meaning.

Higher education has a moral because it has two main points in human action/ behavior: honesty and bravery. To be honesty it needs bravery in sense that what is said is what is trusted as a truth and not what can make profit. Thus, intellectual people need to be brave (Suseno, 2004).

Trough higher education it is expected there clearly and explicitly the knowledge of the urgent values of national life: state democratic, human right, tolerant and pluralism, inclusivity and not exclusivity, capability to think and to feel not as a communalistic-primordialistic, sense of fairness, vertical solidarity.

Qualities of good character-honesty and courage, for example-are admired and recognized all over the world. They transcend culture, nationality, language, creed, and race. They are universally recognized as true, good and desirable. Hence, we call such qualities universal values, and consider the inculcation of such universal values as the key to educating youth for success and happiness in life (Corley, 1999).

The public schools slowly gave up "moral education". Philosophers became increasingly preoccupied with questions by rational means. The social sciences not only became increasingly "value neutral" they also lost interest in studying values. College education aimed at building character more than transmitting objective knowledge (Davis, 1999, p.14).

Moral and ethic education has as its basis values that can be universally agreed upon: ideals cherished by human being in every culture and throughout history. That are universally by its 4 components of universally as follow:

1. the education brings objective benefits to the individual and society over the long terms;
2. the education revert the values of nature of life that is proper and good and that should be respected and implemented in universal;
3. the values of the education sprays out the inner of each nation in this world;
4. the values of the education finally is implicitly and explicitly in the culture of each nation.

The interests of cultural transformation through higher education is the effort to form national building, social integrity, and understanding the difference between groups in making social culture transparently not vice versa.

The important of subject about ethic and moral in curriculum of higher education also mentioned by Jack Corley as follows:

*With this in mind, let us consider how moral and ethical education and the conventional components of education might relate in a balanced way. We will examine this question by considering education's fundamental purposes. Educational theory has two aspects. On the hand, what is known as the philosophy of education deals broadly with education's purposes, ideals, and goals. On the other hand, the science of education involves curriculum, methods and administration. Often in dealing with problems in education, the focus of concern has been with the practical side-improving the curriculum, developing new methodologies, and so on (Corley, 1999)*

Based on that consideration Law Faculty of University of Surabaya becomes pilot project for the implementation of moral and ethic education which begin from pluralism toward civil society through curriculum as an institution which is giving space to creativity and innovation of new ideas that could give benefit by forcing toward spiritual, emotional, intellectual, social and culture consideration that are known as a subject/material called as ETIKA MULTIKULTURAL.

As knowledge of morality, the ethic of pluralism determines how a person individually has to behave in pluralism society. The ethic is interpreted as our behavior as citizen that should act, give priority and respect to norms, values, tradition, and culture that live within society. The main point is the confessing to the difference. The ethic is the important fundament for building harmony and civilized pluralism society. Thus, it should be the task and responsibility of society in any level to develop pluralism ethic and it is an effort to form civilized society's life system.

Pluralism ethic in society (civil society) is always put forward its characteristic as a communication between cultures that is called as a respect attitude to the difference of culture, support the social norms, good behavior to others and obey the laws. Thus, for developing and forming the system of multicultural society, the ethic of pluralism needs to be treated as a guide for person's behavior in society. The individual and group attitudes need to be supplied with knowledge of ethic and moral so people could associate and socialized in harmony and respect to difference there.

The basis competencies of subject ETIKA MULTIKULTURAL (The Ethic of Multicultural) are:

- The capability and ability to master of multi culture concept;
- The capability and ability to master the strategy of strengthening and developing of multicultural;
- The capability and ability of multiculturalism attitude among others are: the confessing of equality, tolerant, togetherness, difference, sensitivity to the Indonesian problem;
- The capability and ability to articulate the skill as citizen based on multiculturalism;
- The capability and ability to master the general comprehension about ethic and ethic of profession.

On the other hand, the purposes of the lecturing are:

1. To produce students that have comprehensive, analytic, and critical thinking;
2. To form the participative capability with high quality and liable;
3. To produce a good and democratic citizen;
4. To form students to become good and responsible citizen.

Now, the main topics/discussion in the syllabi of subject ETIKA MULTIKULTURAL are:

- The importance of multiculturalism;
- The concept of multiculturalism;
- Indonesia in the perspective of multiculturalism;
- The strategy in strengthening of multiculturalism;
- The implementation of multiculturalism values;
- The multicultural ethic and professionalism;

The Ethic Code of University of Surabaya based on Rector Decree No. 494 Year 2004 about The Ethic Code of Academic Civil of University of Surabaya (lecturers and students).

## 5 CONCLUSION

The condition and geographic constellation of Indonesia form culture pluralism. It is potential to make conflict between groups that could form nation disintegration, anarchies, et cetera, as ever happened in Indonesia nowadays. In this case

accommodative social process, colored by willing to grow positive factors to form nation unity and integrity, has to be made soon.

Social process with visions that implement the accepting of pluralism culture and continue with positive thinking to pluralism within civilized frame (genuine engagement of diversities within the bonds of civility) has to be formed soon.

The reality of law give much influence to various factors includes politic, economy, socio culture, security, et cetera. On the other hand the reality of legal development is a continuing process (never ending process) that could not free from three basic components that are legal culture, legal structure, and legal substance that principally has access to change attitude and behavior toward civilized society.

Social process viewed from its delivery method is done by good example, education, communication and integration, and transforms through higher education. It could be said like that because higher education is an agent of change that is demanded to develop socio culture appropriate and in accordance with main tasks and functions as a moral force and center of enlightenment and developing people's mind within its curriculum.

Curriculum as a place gives space to be creative and innovated in founding new ideas that give benefit by put forward spiritual, emotional, intellectual, social and culture consideration by providing subject ETIKA MULTIKULTURAL. That subject as a knowledge that implement moral and ethic education, formulates how a person individually has to behave within pluralism society to form harmony and civilized pluralism society.

## REFERENCES

- Atiyah, P.S. (1983). *Law and modern society*. New York: Oxford University Press.
- Barker, D., & Colin, P. *Law*, 1992 (VIII). London: Made Simple.
- Corley, J. (1999). *The need to educate for character*. Presented in International Conference of University Women Educators, Towards a New Paradigm for Valued-centered Education, Seoul, 15-18 Oktober 1999.
- Davis, M. (1999). *Ethics and the university*. London: Routledge.
- Muladi (2002). *Demokratisasi, hak asasi manusia, dan reformasi hukum*. Jakarta: The Habibie Center.
- Laura, R. S., & Matthew, C. C. (1999). *Empathetic education: An ecological perspective on educational knowledge*. Philadelphia: Falmer Press.
- Phillips, T. (1999). *Foundation in values in education*. Presented in International Conference of University Women Educators, Towards a New Paradigm for Valued-centered Education, Seoul, 15-18 Oktober 1999.
- Prayitno, H.A., & Trubus (2004). (II), *Etika kemajemukan, solusi strategis merenda kebersamaan dalam bingkai masyarakat majemuk*. Jakarta: Universitas Trisakti.
- Rachman, A. (2005). *Perguruan tinggi dan pembentukan masyarakat madani*. Presented in Konvensi Masyarakat Kampus dan Forum Rektor, Surabaya, 17-19 Mei 2005.
- Soekanto, S. (2001). *Hukum adat Indonesia*. Jakarta: Raja Grafindo Persada.

- Suseno, F.M. (2004). *Perguruan tinggi dan moralitas bangsa*. Presented in Seminar dan Lokakarya Nasional Peran Perguruan Tinggi Sebagai Moral Force, Surabaya, 22 Juni 2004.
- Zen, M.T., et al. (2005). *Masyarakat kampus dan forum rektor se-Indonesia menggugat peran masyarakat kampus dalam transformasi bangsa*. Presented in Konvensi Masyarakat Kampus dan Forum Rektor, Surabaya, 17-19 Mei 2005.