

THE STUDY OF RIVER POLLUTION RELATED TO DOMESTIC WASTE IN THE PERSPECTIVE OF COMMUNITY LEGAL CULTURE

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Abstract

The city processed in growing and developing rapidly, this condition will affect to the change of its society. Behavioral changes indicate the formation of a negative legal culture, pessimistic and apathetic because the condition is caused by the urban poverty factor. The value built in understanding the problem of garbage disposal in any place, including the river becomes a very important issue. The legal culture of society must change in a more constructive, positive and creative, so that the understanding of urban society to the legal norm which regulates the problem of waste management should be understood in the context of realizing a comprehensive, integrated river management and having the experience in environment for sustainable use of river functions. This must be done by considering that the condition of rivers in urban areas is damage. The river is full of domestic waste, especially plastic and water pollution of river due to economic activity in the middle of the city. The process of law enforcement through legal behavior and legal culture is one of the way to maintain the cleanliness of the river.

Keywords: Legal Culture; Waste & River.

A. Introduction

The development and growth of a city gave a big impact to the capacity and endurance of the city from the effects of growth. Population settlement pressure, community activity, and social interaction of the population has given the problems to the city. In the end, the city whose dynamics of people's lives grew rapidly influenced supporting of the environment and the capacity of the environment. The legal order of Law Number 32 Year 2009 on the Protection and Management of the Environment, in particular Article 1 point 1 provides for the regulation of the environment is the unity of space with all objects, power, conditions and organism, including human beings and their behavior, which affect nature, the survival of life, and the welfare of human beings and others.

This is one of the important reasons of why environmental problems, such as pollution, resource depletion or overpopulation must be overcome. If the problems are not overcome, the environmental conditions faced by next generations will be difficult to sustain their lives. For the benefit of next generations, environmental ethics and environmental awareness need to be improved and disseminated. Referring to the legal norms and considering the importance of protection and environmental management, of the component of legal culture is the central point of discussion that must be considered.

The legal norms mention the environment include human beings and their behavior, affecting the nature itself, the survival of life, and the welfare of human beings and other organisms. The most important understanding of human beings and their behavior is centered to the "legal culture".

Dimensions of a city must be able to anticipate the development and changes of the supporting of environment and capacity of environment. Similarly, the river in the city will certainly be influenced by the development of the society of the city.

The rivers that flow in the middle of the city is greatly influenced by the dynamics of life of the society. Behavioral factors and legal culture of society in understanding the function of the river are very important role to the presence of the river.

The society is required to carry out river management through society empowerment in the activities such as society participation, as mandated by the norm of Article 69 of Government Regulation No. 38 of 2011 on the River.

River management is defined as a form of river conservation; river development and control of destructive of river water as regulated through Article 18 paragraph (1) Government Regulation No. 38 of 2011 on the River. Therefore, the condition of the river must be maintained from all activities of the society that can damage the function of the river. Disposing of domestic waste or any other wastes in the river should be understood as a commendable act, the activities around the river must obtain the permission as it is provided in Article 57 paragraph (1) of Government Regulation Number 38 Year 2011 and paragraph (2) that stated the activities referred to paragraph (1) include: a. implementation of construction on river; b. implementation of the construction that alters the flow of the river; c. utilization of riverbanks and river borders; d. utilization of the former river; e. utilization of river water in addition to daily basic needs and society agriculture in irrigation systems; f. utilization of the river as a provider of hydro power; g. utilization of the river as transportation; h. utilization of rivers in forest areas; i. disposal of wastewater into the river; j. retrieval of mining commodities in rivers; and k. utilization of the river for fisheries using floating net.

A lot of activities of society create an unavoidable waste problem: waste piles increasingly become an environmental burden for Indonesia. There are many kinds of dangerous waste, from electronic waste to plastic waste which is difficult to decompose and stuff land and sea. Without improvement of the treatment and behavioral changes, it will threaten human life. In Indonesia, the Ministry of Environment and Forestry estimates the volume of waste from various types, like households or area can reach 67.1 million tons in 2019. The description in "without improvement of behavioral change" reinforces our assumption that the other issues behind the workings of the law need to be considered and may affect the process of legal work. These factors consist of

ideas, attitudes, behaviors, beliefs, expectations and legal opinions . Interrelationship between the legal structure, the substance of the law and legal culture, including customs, laws and legal awareness that specifically part of the legal system, influenced by economic, political and social external factors .

The focus of the study is intended to the problem of domestic waste that has polluted the river in the middle of the city. This is caused by apathetic, pessimistic and negative public legal culture. Social reality is the cause of the river that cannot be kept clean. The river becomes dirty and shabby, and the function of the river is not able to run properly. In general, the river problem in the middle of the city creates complex problems if it is not well managed, it needs a commitment of the Central, Provincial or District Government to perform actions such as river conservation through river protection and river water pollution prevention as in Article 20 Paragraph (1) of Government Regulation No. 38 of 2011 on the River. Things that cause of the conservation is not able to be carried out are the problem of domestic waste and the buildings on the river border that serves for buffer space between river and land ecosystems, so that the function of river and human activities are not interrupted as regulated in the norm of Article 5 paragraph (5) Government Regulation Number 38 Year 2011. The domestic waste problem of reality describes that specifically for solid waste or household waste, the increase in the amount of waste in Indonesia is estimated to increase 5-fold by 2020 . This is caused not only by population growth but also the increasing of waste per capita which is caused by the improvement of economic and welfare levels . Therefore, the problem is how the role of legal culture of society in observing the river water pollution in relation to the domestic waste.

B. The Cultural Reality of Urban Communities towards Understanding Domestic Waste

Law enforcement refers to implementing the textual of legal norms in the social realities of society. The contents of the substance of the norm is hoped to be clarified through legal behavior so that questions about legal awareness, legal compliance, legal feelings, legal attitude will be more prominent. There is a correlation between the law and the behavior of people. That is called intermediate factors named as intervening variables. Those are law, knowledge of law, legal attitude and legal behavior . The condition of society in the law enforcement is influenced by the legal culture component that contains elements of values and attitudes in the demands derived from the interests of law actors dealing with legal institutions. These demands are based on the influence of orientation factors, views, feelings, attitudes and behavior of actors on legal institutions. These factors are based on the magnitude of influences of interests, values, ideas, attitudes, desires, expectations and opinions of actors about the law . The category of law, as an equivalent phenomenon in more complex societies.

Culture represents the collective use of natural and human resources to achieve the goals . Legal and cultural studies refer to statements of law sometimes appearing to be dependent on culture, sometimes dominating and controlling it; Sometimes ignoring it; Sometimes promoting or protecting it; Sometimes expressing it; Sometimes being expressed by it . Law and culture can not be separated, sometimes it depends on culture, sometimes it dominates and controls, sometimes it ignores, develops it, or protects the culture or even reflects and reinforces the culture in a whole so that relations of law and culture are now very important focus for legal inquiries. Culture is important for law . It reflects and expresses a whole cultural outlook . So this study of legal culture is inseparable from the condition of society, the system of the society that has the legal culture .

In the literature, according to Friedman¹⁸, legal culture can be defined as the element of social attitude and value, legal culture as well as one element of the legal system, and legal system consists of the legal structure, legal substance and legal culture. Satjipto Rahardjo¹⁹ has conducted an analysis of how the legal culture prevailed in Indonesian society in general. The foundation stems from the notion that in the role of the law, thing that cannot be denied is the role of people or members of the public who are object to law but also they run the positive law, whether in the end it becomes the law that is run by society. It can be determined by the attitude, views and values shared by community. Soerjono Soekanto states the concept of legal culture is broader than the teachings of "legal consciousness" as people often talk about, because the concept of legal culture is also legal awareness ²⁰.

Legal culture in relation to the condition of urban society changed rapidly due to the development process. It implies to the supporting and capacity of environment. This has an impact on society with the whole ideas, views, perceptions, behavior on understanding the legal norms. Legal attitudes will be affected by those conditions. Understanding of society squeezed by economic poverty factor in urban area on Law Number 18 Year 2008 about Waste Management, Government Regulation Number 38 Year 2011 about River and Government Regulation Number 81 Year 2012 about Waste Management of Household and similar waste of Household Garbage becomes low, it is caused by a legal culture built as apathetic, pessimistic and negative, and not creative. Social descriptions is illustrated clearly through the behavior of urban poverty society who dump garbage in any place, the attitude of people who do not sort and choose waste at the disposal, even throw garbage around the river or even in the rivers in the city. The established legal culture that is formed by the causes of perceptions and ideas, does not fully understand the objectives that are going to be achieved by the legal order. On the other hand, the non-legal factor that is a poverty economic condition becomes the dominant cause of the formation of a bad legal culture in overcoming the domestic waste problem.

The legal culture factor becomes a major component to understanding the validity of the legal system, and this legal culture is strongly influenced by many factors. Components of legal culture influenced by economic factors have a deeper meaning to understand the process of law enforcement in society. The condition of public poverty is not only in the big cities, but also in the village. It can make a negative legal culture against the existing norms, when poverty occurs in the community. For that reason, this study intends to emphasize on the legal culture of urban poverty communities due to the inability to follow the changes in the development, which is caused by the lack of access to economic resources, legal resources and impartiality of the policy to the community. The people who live in the city are often called urban community. Understanding the urban community is strongly emphasized on the characteristics of life and the characteristics of life of urban community is different from the rural community. Urban society has a heterogeneous order and the group is more dynamic²¹. The legal culture of society formed

within the community will obviously have a distinctive character. The understanding of the legal order is strongly influenced by socio-economic conditions as a sub-system. Law as a social institution involves the role of the people who are involved in, especially for the citizen who are subjected to administrative law. The participation of people is seen in the relationship between the cultural sub-system in society and its legal institutions²². The law is not only discussed in the structure and substance area, but also in the culture area²³.

In relation to efforts to realize an effective legal system, it is necessary to reorganize the institutional law supported by the increasing quality of human resources and culture and legal awareness of the community. In line with the renewal of structured legal material without conflict and overlap, the law is continuously updated with the demands of development needs²⁴. The understanding of heterogeneous urban communities with individualistic life caused by the difficulties of economic life had an impact on the unintegration of the value to the understanding of the meaning of Government Regulation No. 81 of 2012. The Management of Household Waste and Similar Trashes of Household Waste became unconstructive. It is important to know that the objective of waste management is to preserve the environmental and public health functions, and to make waste as a resource as it is regulated in Article 2 of Government Regulation No. 81 of 2012. This is as the consideration that Article 10 paragraph (2) of Government Regulation Number 81 Year 2012 regulates every person is obliged to do waste reduction and waste management.

Furthermore, Law Number 18 Year 2008 on Waste Management regulates in Article 11 paragraph (1) letter e stated that every person has the right to get coaching in order to carry out waste management better and having the experience in environment. The imposition of law should be done by the community to pay attention and care about the garbage problem, especially domestic waste or household waste. The provision of Article 1 paragraph (1) of Government Regulation No. 81 of 2012, provides the meaning that household waste is garbage derived from daily activities in households excluding stool and specific waste. The legal culture of urban communities who dispose of garbage in any place includes the garbage disposal in the river is as a mirror from the powerlessness of the legal process. This condition makes the river in the city cannot be functioned on a sustainable basis. The water that flows in the middle of the city has the right to flow in the proper direction, and the river becomes very important to prevent flooding. The river in the middle of the city that is not well maintained, because of pollution of waste including domestic waste, can cause the river management that is not handled thoroughly, integrated and having the experience in the environment.

The legal norms of Government Regulation Number 38 Year 2011 on River especially Article 3 paragraph (1) has stipulated that the river management is done thoroughly, integrated and having the experience in the environment with the aim to realize the sustainable function of the river. And Article 18 paragraph (1) river management includes a) river conservation; b) river development; and c) controlling destructive power of river water. The regulation on river conservation is regulated in Article 20 paragraph (1) that river conservation as referred to Article 18 paragraph (1) letter a is carried out through the activities of: a) protection of the river; and b) prevention of river water pollution. The understanding of the values contained in the text of Government Regulation No. 38 of 2011 on the River has given the understanding to the community to preserve and protect the function of the river so that it must be prevented to the occurrence of river water pollution as one part of river conservation. In macro level, the purpose refers to the scope of environmental protection and management which includes: a) planning; b) utilization; c) control; d) maintenance; e) supervision; and f) law enforcement. It is stated in Article 4 of Law Number 32 Year 2009 on Environmental Protection and Management. Laws in the form of legislation products contain the value required by the community. The law with its values will realize that its presence is intended to protect and promote the values that are upheld by the community. The value as a basis is to legalize the presence and operation of the law²⁵.

Law has influenced many aspects of people's lives. The dynamics of the change caused by the development has the meaning of constant change and it encompasses the areas of behavior, economy and institutions²⁶. It has placed the legal function of penetrating all dimensions of society. The law is used to realize certain social goals through its policies or through the establishment of certain rules. The increasingly legal interference in the public life has led to intensive attention to social issues. The penetration creates new problems such as the relationship between the development of society and the development of the law, how the role and function of law that can be executed²⁷. Moreover, in the globalization era, open society becomes a demand, besides a globalization as a period of social transformation that threatens habits, destabilizes established traditions²⁸. Law enforcement process through public policy that is law product of Law Number 32 Year 2009 on Environmental Protection and Management, Law Number 18 Year 2008 on Waste Management, Government Regulation Number 81 Year 2012 on Waste Management of Household and Similar Garbage to Household Waste, Government Regulation No. 38 of 2011 on Rivers as a substantial component must be supported by other components of the legal culture of the community. The process of legal work at this level indicates that the affirmation of the problem approach in environmental law must consider other aspects of the environment, such as aspects of biology, chemistry, physics, technology, economics, sociology, culture and others²⁹.

C. Construction of Ideal Legal Culture

Handling the problem of household garbage management and similar on it is charged to the Government, provincial and district governments by drafting and establishing policies and strategies as mandated by the provisions of Article 4 of Government Regulation No. 81 of 2012. This becomes relevant if it is associated with the spirit of regional autonomy. Regional autonomy provides the possibility of local governments to make alternatives policy with more authority. The complexity of autonomy is contributed by the circumstances that surround it. One of the circumstances is the law³⁰. The starting point of this is that state's legal commitment is based on the law³¹. Moreover, there are four models of law; first, the model of colonial law is very repressive; Second, the legal model of development; Third, the progressive legal model; and fourth, the integrative legal model³².

In the context of the government, the district may formulate policies in the formulation of a Regional Regulation such as Regional Regulation of District Cirebon Number 7 Year 2012 on Waste Management, which is expressly stipulated in Article 3 paragraph (1) that waste management is organized based on the principle of responsibility, the principle of benefit, the principle of justice, the principle of legal awareness, the principle of togetherness, the principle of safety, the principle of security and the principle of economic value. While in paragraph (2), waste management aims to improve public health and environmental quality and makes waste as a resource. The existence of legal norms, in the process of law enforcement, cannot be run well, this is caused by one of the factors of community participation in the knowledge of the law, legal attitudes and legal behavior that does not support the problem of the legal culture of society into its own constraints. This condition is the cause of the lack of legal awareness in waste management. The issue of public policy is ultimately not possible from legal issues. And the law as the regulation, the law in the form of the legislation, product policy should be understood in its realization in all jurisdictions-and in all steps is supposed to be an entity that is authentic³³.

It should be realized that to create legal justice required an active role from various parties, starting from the formation of legal products to law enforcement products³⁴. This is very fully realized that the development of law in this country tends to move in an artificial space and without direction³⁵. Indonesia today is faced with a very "unique" problem of law performance of the legal truth as the most dominant consideration of legal decision embracing *reine Rechtslehre* Kelsenian's way of thinking. An approach that is still in further discussion through a more holistic alternative paradigm³⁶. Realizing the positivism is monistic, which only recognizes one kind of justice that is justice born from positive law³⁷. To realize justice must be studied from a theoretical and philosophical point of view³⁸.

The social reality is still found the attitude of society who throw the garbage in any place, including throwing garbage in the river and there are still trash can found on the side of the road, the attitude of society who do not sort the waste between organic and unorganic waste. This condition requires a change of community behavior through the legal culture of urban communities who are aware of the importance of garbage disposal that aims to maintain the integrity of environmental function and maintain public health. The impacts that can be caused by indiscipline behavior of people in the handling and disposal of waste in any place can result in polluted environments including rivers.

One of the causes of the problem of water pollution in big cities is the amount of waste coming from households, industries or other activities that are discharged into water without passing the waste treatment system, 60% - 70% of the water used will be disposed as waste water. In general, it will enter the water without processing, so it contributes pollution in water³⁹.

The concept of development must prioritize human development, including development that leads to the change of mindset and action so that the knowledge of the legal norm order is built up positively. This will influence to the legal attitude and behavior to be more constructive and ideal to realize legal awareness and legal compliance. Development must lead to an understanding of the realization of legal awareness and legal compliance. So if development wants to have a good relation to human beings within a particular community, the development needs to recognize the social dimension and cultural dimension of the society. In that view, the development must be paradigm of human development⁴⁰.

Good law is drawn from the material of life itself⁴¹. In order to see human behavior as law, it is necessary to change our concept of law, not only as a rule but also behavior⁴². The changes of legal behavior in the community become an important factor in building an understanding of waste management norms. Based on Friedman's opinion, the influence of law with the attitude of people can be classified into compliance, disobedience or deviance and evasion⁴³. Legal products in the form of legislation will lead to this.

The whole value containing in the Law Number 32 Year 2009 on Environmental Protection and Management, Law Number 18 Year 2008 on Waste Management, Government Regulation Number 81 Year 2012 on Waste Management of Household and Similar Waste of Household Garbage, Government Regulation Number 38 Year 2011 on River and Regional Regulation of Cirebon Regency Number 7 Year 2012 on Waste Management must be supported by positive, creative legal culture as an ideal form of legal culture so that the law enforcement of the written law product can be implemented in the daily life of urban society. The law is full of values, ideas to build a new culture to be more contextual to the sense of community justice⁴⁴.

D. Challenges of Regulatory Construction

The enforcement of legal provisions in any form must be understood in the order to achieve social order. This is very reasonable because the existence of law is needed by society. The life of society who change rapidly will give a big influence on the legal norms, including the process of law enforcement. The activity of society has caused many problems including waste problems, which was originally regarded as a simple problem but its development became a crucial problem. The strategic problem of people's behavior dealing with the waste problem is caused by the legal culture of the community, especially in urban areas that don't have adequate legal awareness to understand the waste problem, legal culture that ignore the way to dispose the waste is often found, legal culture that ignore the norm of legal order in such place such as Local Regulation caused the process of law enforcement in waste problem to be ignored, for example Regional Regulation of District Cirebon No. 7 of 2012 on Waste Management. The law enforcement process has many obstacles in the higher realm of the regulation and it still refers to the national regulations such as Law No. 18 of 2008 on Waste Management, Government Regulation No. 81/2012 on Household Waste Management and Similar Household Garbage.

There are many problems that must be considered in relation to law enforcement related to garbage problem, such as the higher level of growth and development of the city resulted in the higher activity of the community so that it can produce a lot of waste.

Handling the waste problem must be handled with a comprehensive so it requires handling quality in waste management, the availability of Final Disposal Site (TPA) of waste that is sufficient to reduce the risk of river water pollution and the protection of rivers located in the middle of the city. There must be institutional strengthening in waste management, and community participation in handling and waste management, it also requires the involvement of the private sector in the handling and waste management. Adequate funding must be provided by all components of the stakeholders involved in waste management and the implementation of the law must be supported consistently by law enforcement process if it is found a violation regarding the law. The statistical condition of waste management still exists until now. The handling and waste management is still not optimal. 23.4% of garbage in urban areas are transported by officers, 52.1% of garbage is dumped/burned, 1.1% of compostable waste, 10.2% of garbage is thrown away to the river, 4.2% is buried in soil and 9% is thrown in any place⁴⁵. This condition becomes a big challenge in establishing law enforcement process related to the whole legal norms, that is Law Number 32 Year 2009 on Environmental Protection and Management, Law Number 18 Year 2008 on Waste Management, Government Regulation Number 81 Year 2012 on Waste Management of Household and Garbage of Household Garbage, Government Regulation Number 38 Year 2011 on River and Regional Regulation of District Cirebon Number 7 Year 2012 on Waste Management. The legal system in a substance component must be supported maximally by the legal culture of the community. The legal culture must be established through a process that goes along with time, it is impossible to establish a positive legal culture as easy as reversing the palm of the hand, therefore the existence of existing legal order must be understood in the concept of understanding the legal culture of society.

E. Conclusions and Recommendations

The legal culture of society has an important role in understanding the law enforcement process, including in the handling and management of household waste problems. Moreover, in understanding this context, the urban life is very dynamic. Activities of society have influenced to the environment very fast, including the presence of rivers in the middle of the city. Even though legal norms have been regulated through Government Regulation No. 38 of 2011 on Rivers in the case of river management to conserve rivers by preventing the occurrence of water pollution of rivers and river protection so that society should have a positive legal culture to increase legal awareness and legal compliance in relation to waste issues. The legal culture needed by the community is a constructive, creative, positive to understand the regulations on waste issues, those are Law Number 18 Year 2008 on Waste Management, Government Regulation No. 81/2012 on Waste Management of Household and Similar Waste of Household. It is better to avoid negative legal culture by not throwing garbage in any place including garbage disposal into the river;

The understanding of society to the Law Number 32 Year 2009 on Environmental Protection and Management, Law Number 18 Year 2008 on Waste Management, Government Regulation Number 81 Year 2012 on Waste Management of Household and Similar Waste of Household, Government Regulation Number 38 Year 2011 on River and Regional Regulation of District Cirebon Number 7 Year 2012 on Waste Management, is still very low so that building legal awareness and legal compliance of the community, especially in urban areas still experiencing barriers, is highly influenced by the legal community culture problem.

The components of the legal culture of the community must be built through the political will of the Regional Government to take an active role in taking concrete policies to assist the community in the establishing legal empowerment processes so that the objective of building legal awareness and compliance can be achieved;

Building a positive and constructive legal culture must be supported by sustainable cooperation between the Government and the community. Communities must participate actively in handling and managing waste through a culture of disposing of waste in the trash can, and on the other hand, the community must take an action to maintain the cleanliness of the river, with the river management through river conservation and river protection and prevention of river water pollution. This should be supported by the Government including the Regional Government, so that the policies formulated by the Regional Government are extremely concrete.

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