

# Socio-Political and Economic Aspects in Legal Context

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## Socio-Political and Economic Aspects in Legal Context

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**Abstract:**

*Behavior and human action must be understood as an expression of the needs and desires of man that apply in social, economic. Law, as an instrument of human life, cannot be separated from various aspects around it, both economic, political, social and cultural beings.*

*This study attempts to analyse socio-political and economic aspects of law making and change. The results of this study reveal that there are various realities in legal change, such as social reality at macro-objective level, social reality at macro-subjective level, social reality at micro-objective level, and social reality at micro-subjective level.*

*These four levels of reality will be the focus of observation on various shifting issues in the legal policy aspect.*

**Keywords:** *legislation, socio-political, economic reality of values, changes in laws.*

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## **1. Introduction**

Behavior and human action must be understood as a form of manifestation of human needs and wants prevailing in social life, economy, and so forth. Thus, structural theories will be used to explain the problem. Structural theory presupposes the determination of structure to one's behavior. Regarding the issue of economic determination, Marx is the first person with a very clear and detailed explain how great the influence of economic power on human life is. He said that whoever controls the economy, it will control people. The entire human behavior is controlled by economic motives (Marx, 1961; Suseno, 2000; Podgorecki and Welan, 1987).

This view of Marx suggests that the economy is the lower structure that gives form and style to all those in the upper structure. Therefore, the law, the teaching of religion, the political system, the cultural style, and evenmore the structure of the society, is nothing but a reflection of the economic system behind it. There is no historical event in the world that cannot be explained by any category of economic interest. Even wars, revolution, rebellion and colonialism always have certain economic motives.

The law cannot be separated from the economy. According to Marx, the law and all the 'upper structures' are more of a legitimating tool of a certain economic class (Marx, 1961; Suseno, 2000; Podgorecki and Welan, 1987). When responding to the question of why a legal system was initially revolutionary but then changed its style to anti-change, Marx explicitly said that it happened because the law had been dominated by the ruling class or the elite. The elite tend to be conservative and afraid of change, because change for them means endangering the privileges that benefit their economic interests. Hence, this study attempts to analyse socio-political and economic aspects of law making and change.

## **2. Law in Sociological Perspective**

Nigro and Nigro as quoted by Islamy (2003) argue that one of the factors that influence the policy of an old habit of organizations such as the habit of capital investment, resources and time once they are used to finance specific programs, tend to and always follow the habits of administrators, even if decisions related to it have been criticized as wrong and need to be changed. The old habits will continue to be followed, especially if an existing policy is seen as satisfactory.

The explanation of the determination of existing structures in society against human behavior can be observed from Durkheim's thought. Durkheim thought this to be the basis of structural theory in sociology with focus on social facts consists of two forms, social structures and social institutions (Durkheim, 1964; Ritzer, 1985). Social structures include social relations networks in which social interaction proceeds and becomes organized through which individual social and group social

positions are determined, whereas norms and common values can be referred to as social norms or institutions.

According to Maue and Fanconnet (in Ritzer, 1985), social institutions include ways of behavior and conducts. They have been formed and have been found by individuals in social life where later these individuals became part of the institution, a force to behave, to obey and to defend it. With regard to social life, for example, the legislation of law must be tailored to social and economic needs and in harmony with the public interest. The thing that determines the value of spatial planning socially can be explained by the ecological processes related to the physical nature of the land, and to the organization-related processes which all have to do with the behavior and the actions of the community.

The value component or culture, is a social reality at the micro-objective level, and for that reason social action theory can be used to better explain this issue. According to Weber, social action can be an act that is internal and meaningful, or is a deliberate act of repetition as a result of the influence of a situation which the person considers beneficial. According to Margareth Mead, act of a person is an active response to something in a particular environment based on the interpretation of object by a process of imitation and adaptation.

The basic scheme theory of action also emphasized that the action is accompanied by behavioral aspects of a subjective way with the objective 'effort' of bringing or attaching conditions or situational reality to the ideal state or a status that is defined normative. Every action always involves four basic dimensions, namely: cultural, social, psychological, and biological dimensions. The cultural dimension is concerned with the values that become the orientation of one's behavior because it is considered good and noble. The social dimension of behavior relates to the norms of agreement that lead to the behavior of a person in a group. Based on the basic concepts of social action theory it can be assumed that the problem of shifting spatial law policies that are normatively formalized in various legislation products, is always in a state between balance and change, and always oriented to a certain value. The value intended here is part of an institutionalized social system.

In a micro-subjective framework, the psychological dimension is concerned with certain objectives that are rationally chosen by the perpetrator, including the means, tools, and techniques to achieve his goal. Meanwhile, the biological dimension relates to situational conditions within the performer restricting his actions in achieving the goal. Various forms of interaction, meaning, and social exchange belonging to social reality at the micro-subjective level can be explained and analyzed using inter-actional theory.

These interaction and explanatory aspects are explicitly found in the minds of symbolic interactionists such as Mead and Cooley (2006) as well as modern interactionists like Goffman and Blumer (Glaser and Strauss, 1964). According to

Mead and Cooley, people do not react directly. Human responses, all over the world, are always through the mediation of meanings and are associated with certain objects or events. Similarly, Goffman and Blumer emphasize that people respond to things according to "how they imagine" something.

### **3. Socio-Cultural Aspects of Legal Changes**

The adherents of the sociological school of thought hold that the law has a reciprocal relationship with its people, because the law itself is a mean of regulating the society, and working within the society. That is why the law is inseparable from ideas and opinions that live in society. The structure of society can be an obstacle, and at the same time can provide social means to enable the law to be applied as well as possible (Friedman, 1972; Chambliss and Seidman, 1971; Warassih, 2005). If the legal institution really wants to function as a mean of an integrating society, then it must be accepted by the society to carry out its function. This means that community members must recognize that the institution is the place where integration is done, and therefore people should be willing to use it or not to use it (Rahardjo, 1991).

Social change that takes place continuously from time to time, whether planned or unplanned, makes everything in this world unstable and subject to change. The change includes a social system in the form of a social organization existing in the society (Salim, 2002). Law as a mean of integrating and regulating social life will also continue to undergo changes and adjustments to the changed social order.

Apart from being a social institution, law is also viewed as a cultural work, because it is a concrete form of the social and cultural values of the society. It comes from a society in which the law is in force or is intentionally introduced from another society for one reason or several reasons. That is why Friedman always views 'legal culture' as one component that cannot be separated from a legal system, and is even placed as a very essential element as the 'prime mover' of the law. Friedman calls that the legal culture provides fuel to the motor of justice. The legal culture laid out here is the overall factor that determines how a legal system obtains its logical place within the culture of the society in which the legal system prevails (Friedman, 1969; 1975).

When discussing the structure and substance of a legal system in such a context, the cultural component should not be separated away. The legal culture remains the determinant of whether the substance or structure of the applied law is aligned with the social and cultural context of the society in which it is enforced. If the legal arrangement is not in line with the legal culture of the local community, then the law will actually cause community irregularities becoming a 'cultural burden' for the community concerned.

### **4. Political Aspects of Legal Changes**



Law is basically made as a mean of regulating and integrating society (social), but to carry out its functions like that, law must require a (political) driving force. The power (politics) gives the law the power to carry out its function in the society. Though the law requires power, it can not allow the power to ride it. But the sociological reality shows that the law is always powerless in the face of power, and even tends to serve as a mean to legitimize the wishes and interests of the authorities. Such a reality is reinforced by Satjipto Rahardjo (1985) by stating that "the concentration of law enforcement is always less powerful than the concentration of political energy".

This opinion is very appropriate when it is associated with the real reality that occurs in the process of formation of the law, in which various political systems are encompassed, including the political system of big political parties. Thus, the legal system established in the true law is the manifestation of the political system, especially the political system of big political parties.

According to Trasymashus, law is nothing but a portrait of the interests of those who are strong (Haryatmok, 2001). The condition in which the defeat of the law when is dealing with politics in the perspective of a conflict is possible (Berg, 1991). It is no exaggeration to say that the phenomenon of the prominence of the instrumental function of law as a mean of political power is dominant when compared with its main functions as regulator and integration of the society (Kusuma, 1986).

## **5. Economic Aspects of Legal Changes**

Past discussions have shown that social, cultural, and political subsystems have contributed to the formation and alteration of a legal order, including of course the legal order relating to spatial planning. Following the flow of thought that underlies the system theory as initiated by Parson, the following discussion will show that the economic aspect as one of the subsystems that has "high energy flow" will be able to control the direction of formation and change of a legal order (Rahardjo, 1985). With its high energy power, the economic subsystem can actually overcome the influence of other subsystems, especially social and cultural subsystems that systemically have an advantage because it has a high "information flow", but on the other hand has a weakness because it has a low energy flow.

Because the economic subsystem is a poor subsystem of information as a steering stream, it is not surprising that the high energy flow it has, can be used to deflect the direction of law making and change to support certain interests that are sometimes inconsistent with larger interests. This should be varied, because in today's increasingly globalized life, it has placed the economic component at the highest level. The life in a capitalistic economy has penetrated everywhere and has controlled all the joints of human life.

In fact, it must be recognized that there is a tendency for the development of the capitalistic economy which leads to the weakening of national economic institutions, especially in the face of global forces such as multi-national corporations and international money markets (Thoha, 2002). Now it seems difficult to stem the effects caused by the development of capitalistic economy. In the field of investment and international trade, for instance, we can reliazed real influences in all aspects of life on a continuous basis.

Similarly, in international trade there are already so many "multinational corporations" (MNC), companies operating across the country's territorial borders. According to Held *et.al.* (Wibowo, "Globalization, Global Capitalism and Death of Democracy"), in 1998 there were about 53,000 (MNCs) with 450,000 subsidiaries scattered around the world with a trade value of about 9.5 trillion US dollars. In fact, some of the largest MNCs are able to employ around six million workers worldwide. This is a sign that globalization in production is a real phenomenon that cannot be rejected again. Most of these companies, about 36,380, have headquarters in the United States, Europe, and Japan. While a small portion of MNC is headquartered in developing countries, only 7,932 companies.

The question now is how to make the economic transformation happen safely. According to Thoha (2002), in a global era like this there is no single country that can afford and consider as a necessity to isolate from the influence of the world economy. Globalization may not be desired by many countries or citizens. However, its presence cannot be denied as it is impossible to stem the flow of modernization. That means, how much benefit can be enjoyed and will be borne by every country that netted in this global system, will be repeated to the readiness of the country concerned in anticipation of all possibilities that occur.

Indonesia's experience proves that in the face of this economic globalization requires a strong and solid economic structure. The World Bank 1999/2000 report, as cited by Thoha (2002), suggests that Indonesia's minimal preparations for entering the globalization era are apparent. This is evident from Indonesia's per capita income in 1998, which is only able to rank 154 out of 210 countries. From this side it can already be seen how weak the physical and mental readiness of the Indonesian nation is in the face of free competition.

Preparation of such a nation as Indonesia will obviously cause difficulties in competing in the era of the global economy that also has so many dark sides as identified by Thoha (2002). First, the life of the world economy is largely determined by money market and capital market speculators. Second, the role of the state or government as the creator and distributor of prosperity will be increasingly meaningful. Third, the occurrence of mutually destructive competition between countries, where only the most efficient and capable companies offer quality products and excellent after-sales service, will win the competition. Fourth, the role of human labor in the company's production activities is diminishing, being replaced

by technologically advanced machines. Thus there will be unemployment everywhere. Fifth, over-debt countries and developing countries will bear the burden and the suffering as a result of globalization. While the beneficiaries are multinational corporations, capital owners, managers and professional groups workers will pay for this. Sixth, the incidence of excessive individualism, which leads to "anti-social", "indifferent" and "ignorant" attitudes and behaviors to the problems around them and within society. Seventh, the occurrence of western cultural colonization of other cultures. Western culture (the United States) that tends to be liberal, arrogant, and freedom "at will" tending to harass traditional cultural values. Lastly, the emergence of "neo-nationalist" and "fundamentalist" movements.

There are so many steps offered by experts to be able to face the challenges of the global economy, including trying to strengthen the national economic base. One of the main keys offered by Sri Redjeki Hartono (2007) is trying to improve the quality of human resources. With such a rapid economic progress by itself it is very necessary for human resources who have creativity, work ethic and innovative nature is high to remain as they are. Today's visible symptom in Indonesia is the existence of a gap between the need for qualified personnel with right skills for industrial and economic needs and the availability of such personnel.

In addition, according to Thoha (2002), there are other factors that need to be anticipated, among others by trying to win the competition to market products between countries, creating a conducive and equitable business climate throughout the territory of the country, especially the equity in infrastructure development and the eradication of corruption, creating economic and political democratization, especially in terms of freedom of speech and expression of opinion, strengthening the domestic market through the empowerment of small and medium enterprises, continuing the reform agenda in the field of decentralization, especially regional autonomy, preparing the necessary institutional tools to maximize benefits and minimize the smallest risks of globalization and much more.

In addition to the non-juridical strategy offered by Thoha (2002) above, it is also necessary to have a legal system capable of anticipating the global economic challenge. Therefore, it is necessary to create accuracy and accuracy in arranging the national legal instruments so that Indonesia will be able to anticipate the impact of economic globalization. That is why Sri Redjeki Hartono (2007) always reminded that the legal conditions in Indonesia must be able to meet legal needs in the global stage.

Therefore, according to Sri Redjeki Hartono (2007), serious consideration is required of domestic or local legal conditions with global demands such as changes in international economic order which radically eliminate national borders, especially for trade and investment, national economic changes that affect the growth and stable development of national business activities. The growth of the national economy causes the various legal needs in the economic field to become



more realistic for national needs, for each country concerned, as well as the politics which refers to the establishment of the national law. Therefore, it is expected that the national law to be built can reach every activity and every legal act with its correct and reliable capacity in realizing justice, legal certainty, and in accordance with the sense of community justice.

By taking these two-way considerations, it will make it easier for Indonesia to assess the advantages and disadvantages of each component in stepping up the legal transformation in the economic field better. In the legal arrangement means that Indonesia not only attach importance to global demands, but also need to pay attention to domestic components. Thus, the transformation that occurs, including the harmonization of the law in the face of global economic development must take place effectively and peacefully.

## **6. Conclusion**

The essence of the integrated paradigm lies in the interrelation between the four levels of social reality, i.e macro-objective, macro-subjective, micro-objective, and micro-subjective. As a logical consequence of using the integrated paradigm in this study, the pattern of shifting spatial policies in regional regulations will be examined in four levels of social reality. First, is social reality at a macro-objective level, including the institutions of society in which the spatial policy is applied (social, economic, and political institutions), the legal order governing the spatial, bureaucratic spatial arrangements, etc. Second is social reality at macro-subjective level, encompassing culture, norms, and values adopted by the community as well as the implementers of spatial planning policies (government, developers, employers, etc). Third is social reality at the micro-objective level, including patterns of behavior or actions displayed by the community as well as the implementers of spatial planning policies, including interactions between the community and the makers and implementers of spatial planning policies. Lastly, is social reality at the micro-subjective level, encompassing the various social constructions created by the society in the face of various spatial policies as a social reality, and the constructs created by the implementers of spatial planning policy in interpreting and interpreting spatial policy in the field.

These four levels of reality will be the focus of observation on the shifting problem in the spatial law policy aspect of the regulation. The focus of this observation is also used to observe the various impacts caused by the shift in the spatial law policy to the quality of urban environment and the comfort of community life in the social space.

First, assumptions can be constructed to explain social reality at the macro-objective level, that both structurally systemic issues of shifting spatial law policy in various regional regulations are inseparable from the intake of various external factors such as economic, social, political, and so on. In other words, the inclusion of external

components into the process of making and implementing the city spatial policy in a structural and systemic framework is a social reality at a macro-objective level.

The shift in spatial law policy reveals how humans or societies act in relation to their values and ideals. Values and ideals - both revealed and undisclosed - are the result of human experience in a particular economy and culture, and in certain situations are complementary to the basic instincts of human life. Realized or not the purpose of human behavior and action is basically influenced by the values it has.

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