

Law as a Tool of Social Engineering

Harpani Matnuh

Civics Education Department

Faculty of Teacher Training and Education

Universitas Lambung Mangkurat

Banjarmasin, Indonesia

harpani.matnuh@yahoo.com

Abstract—Social change is shifting or changing that occurs as a variation of the accepted way of life because of changes in geographical conditions, material culture, demographic composition, ideology, and defuse or new discoveries in society [1]. The changes that occur in society will bring changes to the other social institutions and create new life in developing society that is from the traditional society to modern society. Indonesian society as a developing society will undergo changes both evolutionarily and revolutionarily. Evolutionary changes will change slowly because it is deeply bound to cultural values. Meanwhile, revolutionary changes often lead to pros, cons, and disorganization that can cause turmoil in people's lives or create distorted and contradictory new values to the basic values which must be maintained. Therefore, to overcome the negative impacts of the social engineering, in which the law in Indonesia adheres to the civil law system made by the ruler is binding, enforcing, and sanctioning, the law can serve as an effective tool to control the life of the community or in a broad sense "law as a tool of social engineering". In principle, the function of law as a tool of social engineering has an important role, especially in the intended or planned changes. In a complex and transitional society toward change, bureaucracy plays an important role in social action, and the most appropriate tool is to apply law enforcement.

Keywords—*law; tool; social engineering*

I. INTRODUCTION

Every society will move and experience changes either slowly or quickly. The social engineering or social change occurs along with the advancement of cultures in society, where humans as creatures who have a potential of lust and reason always seek and strive to meet their life needs to remain exist and survive. Social engineering that occurs in society is driven by dissatisfaction with the existing conditions and the desire to get something better than what was before.

Reference [2] views these social engineering leads to social institutions changes within a society. The changes in social institutions affect the social system including the values, attitudes, and behavior patterns among groups in society. The notion of social engineering is not different from Davis in [2] definition that a social engineering is changes that occur in the structure and function of society.

Each group in society will continue to evolve from simple to complex forms. At the same time, there is a law in society because the society requires a regularity of peace, security,

and justice. Therefore, the pattern of public life will always be followed by a prevailed law in the community. In its development, the law and society will influence each other. The role of law in the process of social engineering, eventually divided into two characteristics. First, the law serves as a tool of social engineering (which is active) as a law as a tool of social engineering. Second, the law serves as a place of change (which is passive) which is firstly a change of society, then, the law comes to legalize the change. In *pameo ubi Societas ibi ius*, it means "Where there is society, there is the law". The relationship between the social engineering and legal discovery can be distinguished; a society exists and creates law, the society changes and the law also changes. A legal change is passed through two forms: the society changes comes first, then, the law comes to legalize the change (passive change) and the other one is a law is as a tool to a better change or law as a tool of social engineering.

II. METHOD

This theoretical paper is an innovative thinking in legal research through analysis and argumentation study on social engineering and the role of law as a tool of social engineering.

III. DISCUSSION

The modern social science views social engineering happened due to society's actions in groups as a dynamic process. In fact, social life is seen as a state of equilibrium that grows in a dynamic society so that one's actions are impossible to be solely driven by an individual consideration. The actions of a person in society are always linked to what others expect from him. The action of a person does not stand alone, but it is arranged in a series of expected role systems or role expectation.

In the current era of globalization, the engineering that occurs in society cannot be limited; however, it must be directed to where the change is to be achieved. If the occurred changes are left to happen naturally, there will be many possible irregularities and contradictions with the basic values that are supposed to be maintained. Ali in reference [3] mentioned that social engineering basically include changes in the following areas: (1) changes in social values, (2) changes in social norms, (3) changes in behavioral patterns, (4) changes in social organization, (5) changes in the structure of social institutions, (6) changes in society, (7) changes in power and authority, and (8) changes in social interaction.

A. Theory of Evolution

Reference [2] explains that social engineering happens slowly for a long time in society. According to the theory of revolution, social engineering occurs because of the changes in the way of organizing society, work systems, patterns of thinking, and social development. Slow social engineering naturally occur in the absence of outside pressures and influences received by local people slowly, and they tend to be traditional or tied to the old values which become the basis of everyday life (traditional society). Social engineering in the theory of evolution rarely causes conflict because the changes are slow and tend to be unconscious.

B. Theory of Revolution

Revolutionary changes are rapid social shifts which can be planned or without prior planning. Sociologically, revolutionary changes are usually related to changes in the elements of life or social institutions within a society's environment. The trigger of revolutionary change is commonly the conflict or dissatisfaction within the community. Negative effect of evolutionarily social engineering often evokes disorganization and conflicts within a community group even though it is temporarily.

C. Negative Impacts of Social Engineering

Every social change will definitely have positive and negative impacts. The negative impacts that potentially lead to disunity due to the social engineering are as follows:

- Bigger social gaps and individual differences of interest (individualistic);
- High tension and social upheaval in the concerned community;
- The shift of noble values which are individualistic and materialistic;
- New social problems arise due to changes in values, norms, and conditions of new culture;
- Triggers to environmental damage;
- Diminished of customs as the old culture tends to be abandoned;
- Changes in behavior toward negative so as to trigger social conflict;
- Social institutions cannot function optimally;
- The existence of social inequality;
- An increase of consumer culture because the consumption level depicts one's status.

D. Law as a Tool of Social Engineering

Pound in Reference [4] argues that the function of law is as social engineering. In his thinking, he states that the law which has the nature of binding, forcing, and giving sanction is able to change the behavior of society.

The theory proposed by Pound was then developed by [5] with the concept of law which views the law as a tool of community renewal in addition to suggestions to ensure the order and legal certainty. The conception and definition of law put forward by [5] on a practical level requires the initiation of the legislators to conduct legal discovery in order to direct and anticipate the negative impacts of social engineering that occurred in Indonesia.

The application of law as a tool of social engineering in Indonesia is in accordance with the modern law that the law is not merely to look for the faults of others (law as night watchman) and then give legal sanction, but modern law is now created to educate people to change desired and for the welfare of society. The current legal function is already shifting, that is more actively making the desired changes. Fuller saw the law as an attempt to achieve certain goals. Development that occupies a prime position in Indonesia requires that law be a reference and a frame of reference. That means, the law must be able to support the efforts that are being made to build society, both physically and spiritually [3].

Austin states that the law is to be obedient. He, further, explains that a law is obeyed by society because it is the command of those who hold supreme authority or from the holder of sovereignty so that the law has four elements namely: command, sanction, obligation, and sovereignty" [3].

Reference [5] in the theory of development law asserts that the functions of law as a tool of social engineering is necessary based on the following points:

- **The theory of Development Law**
This theory is a law theory that exists in Indonesia. It was created by the law makers by looking at the dimensions and culture of Indonesian society. Therefore, by the benchmark of the law theory dimension, the law was born, grows and develops in accordance with the conditions of Indonesia; then, the essence if it is applied, it will be in accordance with the conditions and situations of pluralistic Indonesian society.
- Dimensionally, the Theory of Development Law uses the framework of the way of life of the society and the nation of Indonesia based on the principle of Pancasila that is familial. The norms, principles, institutions, and rules contained in the Theory of Development Law are relatively dimensions that include the structure, culture, and substance as stated by Reference [6].
- Basically, the Theory of Development Law provides the function of law as a tool of social reform (law as a tool of social engineering) and the law as an indispensable system to the Indonesia as a developing country.

One of the examples of the law role in changing the culture of rural communities is on early-age marriage as the Act of Marriage Law No. 1 of 1974 is enacted. It is clearly stated that the age to marry is 21 years. Those who are under the age of 21 may only marry with a proxy's permission, and a woman under the age of 16 must be granted a court of law.

The role of law as a tool of social engineering is determined by three components, namely:

1. Law enforcement agencies which are lawyers, police, prosecutors, and judiciary for the realization of legal certainty.
2. Society as subjects of law enactment which has different characteristic.

3. The substance of the law itself must meet the principles of law such as pervading people's aspirations, fulfilling the sense of justice, and being able to solve the conflicts that occur in society.

IV. CONCLUSION

Social engineering is a change or changes that occur in social institutions within a society either sooner or later that affect the social system, including values, attitudes, cultures, and behavior patterns among groups in society.

The advancement of science has led to the advancement of information, communication, and transportation that accelerate the occurrence of social engineering. The social engineering in Indonesian society occurred in two forms: groups of people who can quickly accept and be able to succeed with the changes that are happening and the other groups slowly accept and civilize ties with change because it is tied to old values. The changing of old values to new values will have negative and foist impacts on people's lives such as social inequalities, deviations from basic values, social turmoil, and disorganization.

The civil law system in Indonesia is in accordance with the principle and the nature of the law itself which is very appropriate to serve as a law as a tool of social engineering so that social changes can be controlled in accordance with the basic values that must be preserved and social engineering that can grow based on the values of the instrument (constitution) which has been established by the state and government. In order for the law to function properly, the law must be enforceable, and it must be in accordance with the people needs.

REFERENCES

- [1] Durkheim, Journal of Law, "Policy and Globalization, International Institute for Science, Technology & Education Accelerating Global Knowledge Creation and Sharing, New York, 2016.
- [2] F. Fokky, Hukum Sebagai Rekayasa Sosial, Kesalahan Pemahaman atas Pemikiran Roscoe Pound, 2011
- [3] <https://vuokysurinda.wordpress.com>
- [4] S. Soekanto, Pokok-Pokok Sosiologi Hukum, Raja Grafindo Persada, Jakarta, 1990.
- [5] Kusumaatmadja, Konsep-Konsep Hukum dalam Pembangunan, Bandung, PT.Alumni, 2006
- [6] L. M. Friedman, American Law: An Introduction, New York, W. W. Norton and Co, 1998.