

Regulation and Social Change within Public Bureaucracy

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Abstract: The socio-legal theory stated that a law is an instrument for social engineering (Pound, 1985). Social engineering is a process of a directed and planned social change. Organization of the public bureaucracy describes the process of achieving goals in which statuses and roles of persons organized under the regulation of law. The regulations have functions to guide, control, supervise, and protect the social change process. There are many problems identified with the practice of public bureaucracy as one of an agent that directs social changes. The principles of practicing public bureaucracy provide many guidance such as rational and objective, impersonal, formal, procedures. Ineffective function of the regulation will affect the goal achievement. Deviation of political behavior shown if the regulation of law is practiced as a tool of power, it causes the processes of public bureaucracy organization could not deliver services optimally to the community. Satjipto Rahardjo (2007) introduces the idea of progressive law. The concept of law is an alternative idea to strengthen the rule of law. The progressive law concerned to accommodate interests and provide alternative problems solution of the community. The more effective the progressive law practice, the more social change goals to be achieved.

1 INTRODUCTION

Bureaucracy is a rational organization. It has concepts of power which relate to the sociological and public administration apparatus in order to achieve their goals. It is also a medium for social interactions between the people and the government. Public bureaucracy is an instrument to help the government in realizing a goal, for example in improving people's welfare. According to Albrow (1989) the process of bureaucracy begun from the planning stage that continues to the implementation stage and the evaluation stage. The process have to be executed based on the legal principles of bureaucracy such as objective, rational, impersonal, and formal. The procedure is done to ensure the efficiency and effectiveness. Bureaucratic mechanisms of public organization can influence and encourage the democratic development in society.

Social institutions consist of several dimensions such as political, economic, educational, health, legal, defense and security, families and religious groups has its own function that aligned with the development and the change of interests of the community. The mechanism of the social institution describes various functions of the public bureaucracy

organization. This organization itself is a form of a governmental institution which involves sub-institutions that works within the public administration. The sub-institutions provide public services according to the interests and needs of the community.

Various problems related to the public bureaucracy services delivery arise in both quantitative and qualitative aspects. Administratively and sociologically, there is inefficiency and ineffectiveness of public bureaucracy performance in the process of realizing the goal. Regulations for the public bureaucracy apparatus role is often disturbed by both the internal and external factors of the organization.

The development of the modern public bureaucracy and capitalism have changed the old social, economic and cultural systems of the community. The sociocultural values that encourage the organization are starting to fade.

The development of modern bureaucracy has pathological practices. The wrong perception of the public actors about the main tasks and functions to implement activities leads to bureaucratic behavior diverging, due to inefficient managerial work. The position and role of the apparatus in the

organizational structure does not meet to the meritocratic requirements. The unfair professionalism and competence of the apparatus act violates the rule of law, thus undermining the internal potential of the public bureaucracy (Siagian, 1994).

The phenomenon of "shortcuts" or to skip the standard procedure in order to accelerate the achievement is relating to losing opportunities to take advantage of the improvement of the public service deliveries. It can loosen the social solidarity and group selfishness that indicates the occurrence of social disorientation within the society. The social phenomenon that arises is practiced in the public bureaucracy. This is due to the planned social change or development that often loses and even counter-productive with their goal.

The function of regulations within the public bureaucracy organizations tends to be ineffective in protecting the public interests and encouraging the law enforcement in the achieving their goals. This situation is triggered by the centralistic and repressive practice of public organization bureaucracy, thus less accommodating to the needs of the community. The positive law is an instrument that encourages and supports social change. Pound (1996) mentioned that the law is a tool of social engineering. Bureaucratic practices of public organizations based on legislation are a part of the social change plan management. Development can be interpreted as to improve, to empower, enriching integrity, refinement for individuals, organizations, and the society.

The challenge of the function of public bureaucracy in Indonesia is the strengthening of public services for social justice. The institutions that bear such functions are: politics, economics, education, health, law, police, defense and security, and so on whose roles and functions are laid out in a solid and lively coordination for the strengthening of community services. The legal function of public bureaucratic organizations regulates the roles, oversees the process of organizational activities, and protects the common interests of all the elements involved in realizing the objectives. Therefore the question of this research is how the role and function of the public bureaucracy represents themselves in the development or the directed social change.

2. METHODS

This research used descriptive qualitative methods to analyze this paper and to deliver the progress of bureaucracy clearly and completely with the fact inside. In the introduction, Albrow (1989) said that

the process of bureaucracy begun from the planning stage that continues to the implementation stage and the evaluation stage. So by using this methods, the researcher can analyse the detail of how public bureaucracy affect Regulation and Social Change in the society through times.

3. RESULT AND DISCUSSION

3.1 Public bureaucracy function

There are several views related to the efforts of strengthening the functions and roles of institutions as a public bureaucratic apparatus

3.1.1 Strengthening of public bureaucracy organization

The strengthening effort can be executed using several approaches, for example by determining the service institutions' number and type, delivering closer service to the community, and establishing the structural service institutions. The organizational bureaucracy of the District and Municipality should be established in order to improve the performance of the public bureaucracy apparatus to be more effective and efficient in achieving their objectives.

Several numbers of service agencies were able to work and meet with the needs of the community. Their performance becomes more effective as stipulated in the Government Regulation No. 40 of 2007. Many agents of development in the regency and municipal level tend not to optimally run the service delivery principal to the community. They were more concerned about their position rather than to focus their public service delivery. In this case, it can be seen that the individual interest and interest groups are considered as influential factors in maintaining organizational position. Moreover, they are worried about losing the opportunity to get more benefits from the organization. These can cause inefficient and ineffective service result delivery (RB. Soemanto et.al. 2009, 2011).

3.1.2 Professionalism and the competency of human resources to improve public bureaucracy performances

Professionals are a qualified person with skilled and competence within their fields of work which integrated with service tasks and community needs. Competent human resources are capable

government apparatus accompanied with the skills, attitudes, and behaviors that can help in performing task, function, and responsibility with effectiveness and efficiency. The improvement within the professionalism and competence sector of human resources of the public apparatus could be achieved through education, training, and utilizing experiences.

The training and municipality level of the governments can strengthen the professionalism and competence of their human resources through education and training. However, the human resources program is not yet executed based on good planning. This resulted in the inability to measure their professionalism and competence by certain standards. Structural positions of apparatus bureaucracy are not yet based on the principled meritocracy. Due to these conditions, the competence and professionalism of human resources tend to be weaker. If the human resources of governmental apparatus do not systemically help to strengthen their professionalism, they will not support the achievement of organizational goals efficiently.

3.1.3 The service management system of organizations: mechanisms, procedures, methods and regulations

The financial resources and equipment have primarily support to facilitate the implementation of its policies and programs. The financial and equipment resources are the factors that drive the efficient and effective bureaucratic management in order for the organization's to achieve its goals.

In general, the potential of district and municipality government level in Indonesia are varied. For example, the local revenue varies among the local governments. It depends on local assets' potential and the management. The annual budget recorded an average of 60-70% of the total budget was absorbed by employees' salary. The rest is allocated to the financial development. The disbursement of the development budget tends to be delayed from the implementation of the fiscal year which often creates obstacles to the implementation of development programs and financial administration in particular accountable for its use. So that the results of regional development achieved less than optimal; because it is ensured the principle of "money follows function", the activities of governance roles and functions of the district and municipality level of government are not optimal

and often inconsistent with the principles and operational guidelines.

3.1.4 Management and good governance principles: transparency, democracy, accountability, participation, effectiveness

The results of the implementation of the program are not optimally realized. Regional leaders often formulate new policies and programs which does not accommodate the previous programs. Relationships and communications among government organizations tend to be insulated and indiscriminate. Moreover, primordialism and nepotism ties as well as the sense of sectionalism. This situation illustrates that the actualization of the public bureaucracy function is rather unsteady.

The public bureaucracy apparatus indicates that the practices have not been optimally assigned and it required roles in accordance to its position in the organization. Social interaction in carrying out these tasks and roles do not guarantee the realization of the determined goals. The individuals and communities do not yet get the benefits altogether. Governance executed by the public bureaucracy apparatus has not been going optimally to achieve goals. It measured from the practicing regulations, roles, processes, and results of public services delivery performance.

3.2 Social change and public bureaucracy organization

Social change can take place at a rapid rate at both the individual and social level, as well as in the social organization processes. The aspects of social change are difficult to detect and cannot be used to predict the future of the public and community welfare appropriately. However, it eventually occurred in surprising changes (Virilio, 1977). Such changes are difficult to predict, even allegedly cause social disorientation against the socio-cultural background of society (Stompka, 2003).

Institutional change include individuals and groups interests or other social segregation. The diversity of new interests and needs arising in the community fosters and altering the existence, type, and intensity of agency service functions. Changes in the position and role of individuals, the velocity and flow of social mobility across geographic and administrative areas, followed by the development of socio-economic services as well as education, health, employment and so on. The demands of society's

needs become the obligation and responsibility of public bureaucracy service which must be realized based on the planning. Bureaucratic organizational authority as a source, activator, and facilitator of directed social change should be based on programs planning and executed with the principles and regulations.

According to Huntington (2000), human knowledge and abilities that continue to develop in the field of knowledge and technology do not spread to all levels in society can cause the clash of civilization and raising paradoxical behavior in society such as in the village, suburb, and city.

Political, economic, and social interests on small, medium and large-scale grow up in urban, suburban and partly in rural areas. The situation is the impact of multi-and transnational goods and services industries development, the wide-scale and place of trade, the construction of medium-sized housing, large and luxurious, the development of objects and tourist attraction and others, which affect macroeconomic growth, and tends to negatively impact agrarian rural areas; for example, shrinking productive land, stretching social solidarity, marginalizing the economic role of local communities (Tamanaha, 2009).

Social change in Indonesian society have positive and negative social impacts; both of which should be the main tasks and responsibilities of local and central government bureaucracy to overcome. Because the negative impact is not entirely inevitable, it must be able to be eliminated. The role of government apparatus that organizes, serves, protects, facilitates, and supports stakeholders and the community has an increasingly wider space so that the edges must be able to realize the social welfare and social justice.

Kuntowijoyo (1995) states that social conflict in Indonesia occurs due to the lack of ability of the political parties in understanding the purpose, meaning, and reality of the law. But on the other hand arises anomie that is symptoms as a situation of absence of norms and the condition of alienation, i.e. the marginalization of individual social roles. This condition greatly affects the government's efforts in realizing the social welfare and social justice in Indonesia.

The dynamics of social change need to be supported by legislation to guard the services of interests or the new needs of individuals and communities. Implementation of the service delivery must be coupled with the solid and reliable law enforcement to public bureaucracy functions, so that the benefits can be felt by individuals and communities.

According to Kranenburg in Huijbers (1995), the natural law gives a man the rights to live, to possess something, and to earn freedom. Had the natural law is violated, it will contradict the value in society.

The governmental bureaucracy organization that is supported by the rules of law pro rendering the role and protection of the needs of the parties. Currently, Indonesia is classified as a country that has hyperregulation which in practice often occurs collision and overlap. This condition becomes one of the factors that hinder the performance of governmental bureaucracy.

3.3 Progressive law, social change and public bureaucracy

Giddens (2003) states that the bureaucratic order should establish governance, namely the structuring and implementation of public bureaucracy based on principles such as openness, transparency, democracy, participation, responsibility, meritocracy in structural positions and functions and so on. It further states that the system imposed on society practice will benefit a group of people; the bureaucracy must cultivate transparency for political participation. So the bureaucracy as an intermediary of the functions of law and society should not be dominated by power; not used like "law as a tool of power".

The progressive law is thought of and developed by Satjipto Rahardjo who was born of a negative situation in Indonesia. The idea of progressive law and the study of the laws of criticism (Unger, 1986) responds and reacts to the practice of social systems and liberal law based on anthropocentric interests (human, freedom, and rationality) in favor of the power elite. Progressive legal ideas are also similar to the socio-legal studies approach developed in America in the 1970s. In conclusion, the progressive law is a form to respond to the practice of the normative punitive way in realizing for social justice in Indonesia.

Development of progressive legal thinking and concepts bases some of the following assumptions:

- 2.3.1. The law for human happiness,
- 2.3.2. Humans play a major role in the process of punishment,
- 2.3.3. Punishment must base their conscience,
- 2.3.4. Law is a process institution, not a final text,
- 2.3.5. It requires creativity to adapt to a dynamic social context and leave normative legal texts
- 2.3.6. The ability of reason and conscience to interpret the law based on the moral values of community justice (Satjipto Rahardjo, 2007).

The progressive law is proclaimed more pro-people, in fact, the law is built from the people, by the people and for the people to realize the welfare of social justice and human happiness. This progressive law is also supporting a conscientious state of law and is carried on with a spiritual intelligence that frees the people. But the use of these assumptions is also reminded to consider moral ground in carrying out the legal idea. Hence the question arises as well as a challenge to the progressive legal thinking in the development of law in Indonesia with the question of what and how if the value of the idea is confined within the legal system of the regime of power that is less concerned and absent from the moral values of social justice?

The characteristic of progressive law should be able to animate the legislation as an instrument that supports planned social change, so that social change, with the goal set out to be effective will be achieved. Because the practice of positive law and its regulations should be made and constructed with pro interests and needs of community development. This situation corresponds to public and community expectations, and in line with the function of public bureaucracy organizations and their apparatus role in performing their duties and delivery services. Where the service is desired and needed the community for realizing and to improve the people welfare with social justice.

Laws that are imbued with values and enthusiasm change push closer and streamline the role of the bureaucratic apparatus and realize what are the formulation of public goals, society, and individuals. Laws in the form of legislation made and implemented into tools, guidelines to do, protection of common interests; individuals, communities and the public apparatus.

Thus the practice of punishment in the implementation of the governance of public bureaucracy organizations should also take place efficiently and effectively. If the practice of punishment in the public bureaucracy organizations tends to run not ideal, not as expected by the public, the whole purposes of organizing public bureaucracy will not be achieved optimally.

In the circumstances described above where the function of the positive law is disrupted, the application of positive law as a means of planned social change undertaken by public bureaucracy organizations will need the practice of regulation of law with the spirit and way of punishment based on the ideas and concept of progressive law.

The social interaction in the public service process of individuals and community facilitated by the

practices of rule of law and the functioning of a progressive public bureaucracy ensures a better life based on the values of common interest, the moral and conscience of individuals, the public and the public bureaucracy apparatus. If the intensity of social interaction takes place and is packaged by a public service system with effective control and supervision jointly by the parties served and the parties serving; the progressive functioning of law and the changing public bureaucracy conditions as the dynamics of individuals and societies with common goals. And undoubtedly the welfare of the people with social justice gradually and sustainably be realized.

4 CONCLUSIONS

Public bureaucracy agency with progressive law regulations as its base has a potential in realizing the fulfillment of its objective where improvement, enrichment, integrity, improvement of the previous condition as a result of planned change will effectively oversee the role and function of public bureaucracy organization in realizing gradual and positive prosperity of social justice for the people of Indonesia. Legitimate laws are the instruments that can support the public bureaucracy agency in reforming its duty and its function regarding the implementation of public services. Progressive law regulations are one of an instrument in order to achieve the plan of community-based social changes. Moreover, if added by the optimism of progressive penalty practice that benefits both the society and public bureaucracy, undoubtedly progressive legal ideas and concept will answer the challenge to community interests and problems in proportionally to realize social justice for all parties; public, community, individuals and organizations of the public bureaucracy.

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