

EFFECTIVE TECHNIQUES FOR TEACHING ABOUT OTHER CULTURES AND LEGAL SYSTEM

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It is conventionally stated that basic purpose of law is to keep social order and protect legal order in maintaining law as a tool for social control and ordering of society (Patterson, 1950). In doing so, another function of law is remains improved to be an instrument of orderly change namely social engineering (Friedman, 1975). In the development of complexity society such goal of law then questioned whether the role of law could also be improved as an instrument for maintaining and strengthening social integration within multicultural Nation State of Indonesia? And what is the effective method and techniques can be utilized for transferring knowledge about other culture and legal system in the process teaching courses at universities?

Anthropological studies with regard to the function of law as system of social control within society have primary been conducted by anthropologist (Black, 1984). It is, therefore, recognized that anthropologists offered more significant contribution in relation to the development of concept of law as instrument of securing social control and legal order within the dynamic life of society. It is because anthropologist focused upon micro processes of legal action and interaction; they have made the universal fact of legal pluralism a central element in understanding the working of law in society, and they have self-consciously adopted a comparative and historical approach and drawn the necessary conceptual and theoretical conclusion from this choice (Griffiths, 1986).

In this sense, law has not been studied by anthropologist the only as a product of logic abstract of a group of people that mandated particular authority, but largely as a social behavior of society (Llewellyn & Hoebel, 1941; Black & Mileski, 1973; Moore, 1978; Cotterrel, 1995). Hence, law has been studied as product of social interaction which strongly influenced by other aspects of culture namely politic, economy, ideology, religion etc. In other words, law has been observed as part of culture as a whole integrally with other elements of culture (Pospisil, 1971), and studied as social process within society (Moore, 1978).

In the perspective of legal anthropology the form of law has not been the only legislation that shaped and enforced by the Government namely State law. In the life of society it could also be observed the existence of religious law, as well as folk law or indigenous law or customary law as legal fact within human interaction, include self-regulation/inner-order mechanism which play an urgent role mainly as tool for securing social and legal order or social control within society. Therefore, it is confirmed that law as a product of culture comprises those of folk law, religious law, State law, and self-regulation/inner-order mechanism as well. This is the so called legal pluralism situation within the dynamic life of society (Griffiths, 1986).

The anthropological study of law focuses its study to the interaction between the law and social and cultural phenomenon which take place in society, as well as the work and function of law as instrument of social order and control within communities. In particular words, legal anthropology refers to the study of cultural aspects which associate to the legal phenomenon of social and legal order within society (Pospisil, 1973). Hence, legal anthropology in the specific sense refers to the study of social and cultural processes in which regulation of rights and obligations of the people has been created, revised, interpreted, and implemented by the people (F. von Benda-Beckmann, 1979). In this respect, law as it is functioned for maintaining social control and order could be State law and other sort of social control mechanism which emerge and exist as living law within communities namely folk law or customary law, or indigenous law, and especially in the multicultural country of Indonesia the so called *bukum adat* or adat law.

What has been outlined above shows that basic of law is naturally lied down in society itself. Therefore, law and society including its culture has a mutual relationship, interact each other, and can not be separated if we do want to obtain better understanding about law comprehensively. In his words, Hoebel (1954) said that law should be studied as part of culture integrally with other aspects of culture such like politic, economy, social structure, clan system, system of religion, etc. In this sense, we must have a look at society and culture at large in order to find the place of law within the total structure. We must have some idea of how society works before we can have a full conception of what law is and how it works. In other words, Friedman (1975) stated that law as a system particularly in actual operation is basically a complex organism in which structure, substance, and legal culture interact each other. Legal culture refers to those parts of general culture namely customs, opinions, ways

of doing and thinking that bend social forces toward or way from the law and in particular ways. Hence, law expresses and defines the norms of the community.

In relation to the academic way of understanding about the life of law within society and its culture and legal system as well, the question then arise what is the effective method and techniques for teaching other culture and legal system for those of law students at universities, particularly at the Faculty of Law Brawijaya University of Indonesia?

Most customary adat law of communities in the region of Indonesia are in the form of unwritten law. Therefore, according to Ter Haar norms of law within adat communities could methodologically be identified through official decisions made by a person who delegated authority for making decision in the process of traditional adat courts (Hoebel, 1954). In legal anthropology technique, norms of the customary law could basically be investigated by using the three main ways as follows:

- (1) Ideological method namely abstract norms that could be recorded from heads of adat communities and other person that mandated to make authorized decisions;
- (2) Descriptive method that is by making direct observation concerning actual behavior and activities of community members of society when interact each others in the daily life; and
- (3) Trouble-case method namely study of legal cases that emerged or taking place within community. The trouble-cases sought out and examined with care, are thus the safest main road in the discovery of law (Llewellyn & Hoebel, 1941).

In the teaching law courses transferring process about culture and the legal system to the law students can be equipped by media technology such like video film and photos that visualizing real situation and culturally activities of the certain community we observe and discuss in the class room. Besides, technique of field observation by organizing a particular visit together with students could be an effective method in understanding about culture and legal system of communities in the region, as well as conduct an non-participant observation to the State legal institutions namely police departments, public prosecutor offices, State courts, and even prison and jail in the district level. The later technique provides direct observation in understanding on how system of the procedural criminal law operated and enforced by the law enforcement officials, and understanding real institutions culture established by Law Enforcement Agencies in the empirical level of State law.

In the sophisticated communication media world, it would be a modern presentation to utilize a teleconference technology during presentation in the teaching courses. I was personally under the impression when this sort of presentation practiced by Professor Nin Thomas from School of Law, Auckland University of New Zealand from the Kenneth Wang School of Law, Soochow University, China in the time of IALS Conference in the last October, 2007. A real teaching course about law of the indigenous people of Maori, New Zealand directly connected to Professor Lindsay Robertson at University of Oklahoma in the United States and his law students, to Professor Margaret Stephenson and her students at Faculty of Law University of Queensland, and to Professor Bradford Morse and his students at University of Ottawa, Canada.

It was a great and impressive presentation from my point of view. Indeed, in one hand, this sort of technology provides a lively and enriching way to teach comparatively, as students can watch and hear directly from the lecturer in the other country. But, on the other hand, it surely was very expensive one to use in conducting a teaching course for our law students at Brawijaya University. In case, that technology of teleconference and the cost needed to operate the conference can be arranged and handled by the faculty of law, the language, mainly English, of teaching staffs and the law students will be a specific problem and obstacle faced at the faculty particularly at Faculty of Law Brawijaya University of Indonesia.

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