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# THE REVITALIZATION OF THE INDONESIAN LEGAL SYSTEM IN THE ORDER OF REALIZING THE IDEAL STATE LAW

**Ana Fauzia, Fathul Hamdani, Deva Gama Rizky Octavia**

*fauzia629@gmail.com, fhmdnny@gmail.com, devaghama@gmail.com*

Faculty of Law Universitas Muhammadiyah Malang, Universitas Mataram,  
Universitas Mataram, Indonesia

## ***Abstract***

*It can be called that the dynamics of national and state life in Indonesia are increasingly being tested by the same problem. For example, an outbreak of judicial corruption from the time to time, which was never ending. Law enforcers who are echoed as honorable professions, but on the other hand, these are exacerbated by the corrupt behavior of those professions. The sale and purchase of a case is no longer viewed as taboo, indeed it just looks like proper. Which means, it is a kind of a sign that the various legal regulations that normatively regulate the entire judicial process are ultimately unable to overcome the judicial corruption. The main objective of this research focuses on analysis related to efforts to revitalize the legal system in order to create an ideal rule of law as stated by Lawrance Friedman in his book namely "The Legal System: A Social Science Perspective". In this research, the method used is normative juridical using statutory, conceptual and historical approaches. The results of the research present an idea which is divided into three according to the three elements in the formation of a rule of law according to Lawrance Friedman, namely legal substance, legal structure, and legal culture. With regard to legal substance, the author provides the idea of a judicial preview as a method of validating the constitutionality of laws. Then related to the legal structure, the author provides ideas related to efforts to build morality and professionalism of law enforcement officials. Meanwhile, in terms of legal culture, the author provides ideas related to efforts to build a legal culture in society that is aware of the law and the constitution.*

***Keywords: Judicial Corruption; Legal System; Law Enforcement.***

## **I. INTRODUCTION**

In building an ideal rule of law, the law should be understood and developed as a unified system. Moreover, the state is to be understood as a legal concept, called as a "rule of law". Therefore, it is precisely what is told by Lawrence Friedman from his book namely as a "The Legal System: A Social Science Perspective", that to build a legal system, it must be based on three main elements. The three main elements are the substance of the law, the legal structure (the organization of the

procurement and its enforcement), and the third, called as the the legal culture which is also a determinant of whether or not the law is meaningful in national life from time to time. It will be the biggest mistake if our efforts to optimize the functioning of the law or "enforce the law" only focus on working to improve or amend the law at the level of substance without fixing the organizational structure that exists in the national legal system.

Also the problem, if in law enforcement works, it is only focused on the intention of structural strength and ignores the cultural interpretations of cultural justice seekers, *vis versa*. In building a harmonious and mutually supporting legal system, it is very important to revitalize the existing legal system as initiated by Friedman. Revitalizing the legal system in order to create an ideal rule of law can't be separated from these three elements which are called as the "Three Elements of Legal System".<sup>1</sup> The Friedman's description of the 3 (three) law elements is likened to the following: the legal structure likes a machine, the legal substance likes what is done and what is produced by the machine, while the legal culture or culture likes anything or anyone who decide to turn the machine on and off and decide how it was used. In Indonesia, the consistency of law enforcement still sounds like a discourse. The three objectives of law, are justice, certainty, and expediency haven't been fully realized. The rule of law in Indonesia is only a slogan because citizens still feel that they are not well protected, even though law enforcement is one of the reform agendas that has been running for more than 10 (ten) years. As it is known that law enforcement must be followed by the professionalism of law enforcers. However, it will not happen if the legal system in Indonesia is still chaotic and there are no changes in the legal structure, legal substance and legal culture as mentioned by Lawrence M. Friedman.

Substantially, we find many legislation rules that are inconsistent and overlapping one another, and aren't in accordance with the spirit of the nation or the values contained in the constitution. It proves by the number of judicial review cases brought to the Constitutional Court as a form of citizens dissatisfaction with legislation products issued by legislative institutions in Indonesia. Since the establishment of the Constitutional Court in 2003 to 2020, 1388 cases of judicial review have been registered. From those cases, 1,333 cases have been decided, with details of 265 cases being granted; 480 was rejected; 428 cases not accepted; 23 cases failed; 128 cases were withdrawn; and 9 cases outside the authority of the Constitutional Court.<sup>2</sup> The number of cases above, of course, doesn't include

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<sup>1</sup> Komisi Yudisial Republik Indonesia. 2012. *Dialektika Pembaruan Sistem Hukum Indonesia*, Sekretariat Jenderal Komisi Yudisial Republik Indonesia, Jakarta, p. 78.

<sup>2</sup> Mahkamah Konstitusi, "*Rekapitulasi Perkara Pengujian Undang-Undang*", <https://mkri.id/index.php?page=web.RekapPUU&menu=4>.

the number of judicial review of legislation rules under the laws those are the authority of the Supreme Court.

Although in terms of quantity, the number of cases granted by the Constitutional Court is less, it still shows that there are still many people who are dissatisfied with the legal products produced by legislative institutions in Indonesia. Phenomenon like this of course must be studied in depth, in order to reduce the workload of the Constitutional Court in handling cases that are not only unconstitutional, but also cases that shouldn't be brought to the Constitutional Court. In addition, so many various problems from time to time, still haven't found the way out, increasingly show that the law enforcement in our country isn't optimal yet. For example, an outbreak of judicial corruption has made this issue more actual and relevant. Law enforcers who are echoed as honorable professions, on the other hand, are exacerbated by the corrupt behavior of those professions. The sale and purchase of a case is no longer viewed as taboo, something that must be looked as the worst case, but unfortunately it's just considered as something normal. This is a sign that the various legal regulations that normatively regulate the entire judicial process are ultimately unable to overcome judicial corruption. Justice as a legal core value, in reality, is not really fought for. By most law enforcers, it seems that the law enforcement profession is reduced to just likes job to earn material.

Not without reason, as we know that the chaos of law enforcement against perpetrators of corruption in this republic has been shown again to the people. This time, Djoko Tjandra, who did again and kept the police authorities moving under his control. Djoko Tjandra is a big fugitive for his Rp 904 billion corruption case, the corruption of Bank Bali's collection rights.<sup>3</sup> Meanwhile, Djoko has recently returned to show off his power. Just as he was free to flee to Papua New Guinea and became a citizen there, Djoko Tjandra was free to enter and exit Indonesia with his status as a convict and even a fugitive. But this second scandal seems bigger and also drags on more institutions. Some of the irregularities that occurred were Djoko's entry into Indonesia without being detected by the Immigration of the Ministry of Law and Human Rights, then Djoko easily obtained an electronic identity card as one of the conditions for applying for judicial review (PK). In addition, he obtained this identity very quickly, which was about half an hour, in Grogol Selatan Village, South Jakarta, with the name Joko without the letter D in front. From this, it also revealed the oddity that Djoko's population data before becoming a Papua New Guinea citizen could still be opened and accessed in the Department of Population and Civil Registration system. Of course, it is an odd

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<sup>3</sup> Media Indonesia, "Skandal Jilid II Djoko Tjandra", [https://m.mediaindonesia.com/editorials/detail\\_editorials/2054-skandal-jilid-ii-djoko-tjandra](https://m.mediaindonesia.com/editorials/detail_editorials/2054-skandal-jilid-ii-djoko-tjandra).

thing that people who have changed citizenship, even who are involved in corruption, still have population data, like other citizens.<sup>4</sup>In this research, the method used is normative juridical using statutory, conceptual and historical approaches.

From the cases above, of course, it has slapped the authority of law and public justice and has increasingly opened our eyes that reforming the legal system in our country is not only enough only to the substance of legislation rules, but also how to improve the existing legal structure and culture. In the process of law enforcement, it is actually aimed at making legal into reality, which means manifestation of legal norms formulated in each statutory regulation.<sup>5</sup> The manifestation of these legal norms must be in accordance with the spirit of the nation and the national interest, which to create welfare for the citizens. It can be achieved if the legal substance, legal structure and legal culture have a match or harmony each other. Therefore, it is necessary to revitalize the existing legal system in order to create conformity and harmony between one element and another in order to create a unified ideal legal system.

## II. DISCUSSION

### **Initiating Judicial Preview as a Mechanism for Validating the Constitutionality of Laws**

Basically, law is made into normative prescriptions, with the aim of being able to function properly as a reference for human behavior in social life, and if the law can fulfill its expectations, it will create the integrated social order. Based on that, it will strengthen the sociological belief that in fact, law is society. As long as there is belief in everything that is described in the law, it will always substantively parallel to what is applicable in society, as long as there is no problem with the validity of a law in society. It likes what *ignoratio iuris* principle said that, no one can deny the enactment of the law imposed on them that they never aware of the law's existence.<sup>6</sup>

Starting from these arguments, it is hoped that harmony will be created between the government and the citizens towards each legislation bill which is formed as the main basis for the government and society to work together in achieving

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<sup>4</sup> *Ibid.*

<sup>5</sup> Satjipto Raharjo. 2005. *Masalah Penegakan Hukum Suatu Tinjauan Sosiologis*, Sinar Baru, Bandung, p. 24.

<sup>6</sup> Soetandyo Wignjosoebroto. 2012. *Negara Hukum dan Permasalahan Akses Keadilan di Negeri-Negeri Berkembang Pasca-Kolonial*, Jakarta, p. 9-10.

common goals. So that the spirit of the nation (volksgeist)<sup>7</sup> as referred by Von Savigny is really well accommodated in the law, thus the legal products become functional in the order of national and state life (positive law). A new law can be called that the law has accommodated the soul of the nation, if the law is in accordance with and in line with the values contained in the Constitution.

The state of Indonesia is a constitutional state based on constitutional democracy, as stipulated in article 1 paragraph (1), (2) and (3) of the 1945 Constitution of the Republic of Indonesia. The essence of the content of the constitution is the protection of human rights and other constitutional rights.<sup>8</sup> However, along with efforts to improve the constitutional system to be built and in line with the basic ideas and goals of (change) 1945 Constitution of the Republic of Indonesia, on its way, as what we know that we still find so many problems when the practice of making regulations was not followed by a process of forming good laws, as the substance expected by the Constitution. So that, the constitution also facilitates guarantees of these rights in an effort to defend them if they are violated, one of which is through the judicial review mechanism.

In the concept of judicial review, particularly in relation to testing by judicial powers, we call it as judicial review in Indonesia. However, apart from the judicial review mechanism, there are also other terms in the model of constitutional review in various countries, one of which is the judicial preview. These two terms certainly have different definitions, review has meaning, evaluates, or re-tests, which comes from the words re and view, while pre and view or preview is an activity of looking at something before the perfect state of the object being viewed.<sup>9</sup>

In relation to judicial review, it can be called that when the law is not yet legally binding law for the public, and when the law has become law, there are two different circumstances. If the law is already valid as law, then a review of it is called a judicial review. However, if the status is still a draft and has not been legally promulgated as a law,<sup>10</sup> then the examination is called a judicial preview. In

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<sup>7</sup> Volksgeist or the soul of the nation is a crystallization of values that are built naturally through historical development. These values are influenced by space and time so this is what makes them unique and different in each nation. For further, see Shidarta. 2006. *Karakter Penalaran hukum dalam Konteks ke Indonesian*, Utomo, Bandung, p. 257-265.

<sup>8</sup> Regulations and guarantees for the recognition of human rights are stated in Article 28A-28J of the 1945 Constitution of the Republic of Indonesia. In terms of quantity, human rights in the 1945 Constitution have been very accommodating in recognizing and guaranteeing the constitutional rights of citizens.

<sup>9</sup> A. W. Bradley and K. D. Ewing. 2003. *Constitutional and Administrative Law*, Pearson Longman, London, p. 4-5.

<sup>10</sup> Alec Stone Sweet. 2000. *Governing With Judges: Constitutional Politics in Europe*, Oxford University Press, New York, p. 24.



the French system, they apply the judicial preview, because what is being tested is a bill that has been passed by the parliament, but has not been yet ratified and promulgated by the President. If the parliament has decided and ratified a legislation bill into law, but minority consider that the legislation bill that has been fixed is actually contrary to the constitution, they can submit the legislation bill and will be tested in the la Conseil Constitutionnel or Constitutional Council.<sup>11</sup>

In the event that the legislation bill is declared valid and constitutional by the la Conseil Constitutionnel,<sup>12</sup> so that the legislation bill can be ratified and promulgated by the President. if the legislation bill is declared to be contrary to the constitution, the legislation bill cannot be ratified, so that it does not have binding legal force as a law.<sup>13</sup> This judicial preview can actually be used as an *ius constituendum* for the future model of judicial review in the framework to reduce legal products that are contrary to the constitution, so that the goals and ideals to be achieved in each product of the law can be realized quickly. But of course, to be able to carry out the idea related to the judicial preview by the Constitutional Court, an amendment must be made related to Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Then in Article 10 Paragraph (1) of Constitutional Court Act Number 24 of 2003 in conjunction with Law Number 8 of 2011 concerning amendments to Constitutional Court Act Number 24 of 2003, which initially contained four letters, then it became five letters, namely the letter (e) which reads, "decides the application for judicial preview."

By seeing so many applicator for judicial review to the Constitutional Court, this certainly shows that there is a guarantee of citizens' constitutional rights in defending their rights which are violated in every law product made, but besides that, when there are many submissions for judicial reviews, it will show too that there are still so many laws that are not in accordance with the spirit of the nation or the values contained in the constitution. Testing the constitutionality of this law is basically a test of the constitutionality value in the law itself, both from a formal or material perspective.

### **Building Morality And Professionalism Of Law Enforcement Officers**

In a broad sense, law enforcement officers are law enforcement institutions. Meanwhile, in a narrower sense, law enforcement officers are the police, prosecutors and judges. In the implementation of the criminal justice system, law enforcement officials who have professionalism, skills, honesty and wisdom are

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<sup>11</sup>*Ibid.*, p. 4

<sup>12</sup> Mauro Cappalletti. 1998. *The Judicial Process in Comparative Perspective*, Clarendon Pers, Oxford, p. 156.

<sup>13</sup>*Loc.cit*

needed. Law enforcers have the responsibility to uphold the authority of the law and uphold justice. The professionalism of law enforcers can be observed from the level of mastery of law science, capability and behavior of law enforcers in carrying out their duties and authorities. Law enforcers are said to be professional if their capabilities in thinking and acting can pass the written law without injuring the value of justice. In upholding justice, law enforcers are required to have the ability to criticize law and legal practice to find out what should be done as a professional.

It should be remembered that the quality of commitment depends on the ability to build a positive self-image and reflect the importance of self-esteem as a value. Awareness of the importance of positive self-image and self-esteem as values will help legal professionals not easily trade their positions. This means that competence alone is not enough, but it takes priority to be professional and dare to uphold justice. Consistency in doing justice will create a habit of behaving fairly. Furthermore, the virtue of realizing fair behavior is not enough through fair treatment of the interests of the community, but also through the courage to become a whistleblower when something goes wrong in running the profession. Therefore, when a professional sees the unethical actions of his fellow workers, he should not just be silent. These actions are part of the responsibility in carrying out tasks that are not easy, but must be carried out because the ability to behave fairly demands the courage to practice, not just knowing justice.<sup>14</sup>

In the rule of law concept (*rechtsstaat*), there are at least two functions of law enforcement, namely the lawmaking process and the law applying process. The law making process must be intended to create a strong rule of law. Laws that are formed but not enforced will mean nothing. Likewise, there is no law that can be implemented if the law does not exist. when law and justice have been achieved, the rule of law can be felt by all people. In connection with building the professionalism of law enforcement officers, members of the police for example in undertaking to maintain national security and public order, each member of the Police must do with regard to the provision of law enforcement officers behaved (*code of conduct*) and respect for human rights. The standards in the code of conduct can be used as a reference in determining whether professional malpractice has occurred or not. It can be said that malpractice has occurred if a professional in carrying out his duties and obligations has committed unprofessional actions below the standard or sub-standard of his profession, resulting in damage to others as a result of his behavior.<sup>15</sup>

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<sup>14</sup> Andre Ata Ujan. 2005. *Filsafat Hukum: Membangun Hukum Membela Keadilan*, Kanisius, Yogyakarta, p. 28.

<sup>15</sup> Mardjono Reksodiputro. 2007. *Hak Asasi Manusia dalam Sistem Peradilan Pidana*, Pusat Pelayanan Keadilan dan Pengadilan Hukum Kriminologi Universitas Indonesia, Jakarta, p. 73-87.

In the section of General Elucidation of Law No. 28 of 1997 on the Indonesian National Police explained that: "In accordance with the nature of the duties of the State Police of the Republic of Indonesia, it requires awareness and high technical skills and demands the development of police professional abilities that are different from other Indonesian Armed Forces Soldiers. The task of law enforcement never stops and officials of the State Police of the Republic of Indonesia must carry out their duties and authorities at all times and places by using the law as their main tool and always be based on the meaning contained in Article 27 of the 1945 Constitution, namely that every citizen has the same position in the law."<sup>16</sup>

Then in the provisions of Article 8 paragraph (4) of Law no. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia states that: "In carrying out their duties and authorities, prosecutors always act based on the law by taking into account religious norms, politeness, morality, and are obliged to explore and uphold human values that live in society, and always maintain the honor and dignity of their profession. "<sup>17</sup>

In the general explanation, it is also explained that in forming professional prosecutors, they must undergo various levels of education and experience in carrying out their functions, duties and powers. The mandate that the prosecutor carries is very clearly contained in this law and the regulations related to the profession of prosecutors in law enforcement in Indonesia, so that in carrying out their duties, prosecutors should always be guided by the norms contained in every statutory regulation. Regarding judicial power, Article 32 of Law no. 4 of 2004 concerning Judicial Power states that: "Judges must have integrity and personality beyond reproach, be honest, fair, professional, and have experience in the field of law."<sup>18</sup>

All of these regulations emphasize that each law enforcement apparatus must carry out their duties and authorities with full responsibility and high integrity. Law enforcement is the activity of harmonizing the relationship of values as stated in principles, solid views and embodying them in attitude, acting as a series of

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<sup>16</sup> General Elucidation of Law Number 28 of 1997 concerning the Indonesian National Police (State Gazette of the Republic of Indonesia of 1997 Number 81, Supplement to the State Gazette of the Republic of Indonesia Number 3710)

<sup>17</sup> Article 8 paragraph (4) of Law Number 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office (State Gazette of the Republic of Indonesia of 2004 Number 67, Supplement to the State Gazette of the Republic of Indonesia Number 4401)

<sup>18</sup> Article 32 of Law OF No. 4 of 2004 on Judicial Power (State Gazette of the Republic of Indonesia Year 2004 Number 8, Supplement to State Gazette of the Republic of Indonesia Number 4358)

definitions of the final stage of values to create justice, peace in social life.<sup>19</sup> So that the existence of law is basically to be obeyed, implemented and enforced. Law enforcement should be carried out firmly and consistently, full of dedication and responsibility. This will have an impact on increasing the legal awareness of the community. Because if the law enforcement is weak, it will cause indifference from the community and provide opportunities and triggers for violations of the law and taking justice into one's own hands, so that justice cannot be achieved.

For the sake of realizing justice (*law enforcement*), a law enforcement officer is not only guided by the law as the main basis, but morality must also be considered, because seeing the conditions that occur in the current reform era is not because law enforcement officers are not smart, will but rather a moral crisis. Morality is one thing that law enforcement officials cannot forget, because when the concept of the law is good, but the law enforcement apparatus is not good enough then what will happen is fraud.

However, it is different if the law enforcement apparatus in our country has high morality and professionalism, while the concept of laws and regulations is not good, then the law enforcement apparatus will be able to explore the values that are not only contained in the text of the law, but are able to explore and apply the values that live and are contained in society to achieve the expected value of justice.

### **Building A Legal Culture Of A Community That Is Conscious Of Law And The Constitution**

Departing from the thought of Satjipto Raharjo, who stated that in the framework of legal reform in Indonesia, special attention is needed to the problem of national behavior, legal life does not only concern technical legal matters, such as legal education but also concerns the development of broader individual and social behavior development.<sup>20</sup> Therefore, it is very important in making improvements to aspects of behavior (*legal culture*). This is in line with Esmi Warassih's thinking which states that someone uses or does not use the law, obeying or not obeying the law is very dependent on their culture.<sup>21</sup> Legal culture, procedural legal values and substantive legal values, emphasize legal culture on values related to law and the legal process.<sup>22</sup>

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<sup>19</sup> Soerjono Soekanto. 1983. *Beberapa Permasalahan Hukum dalam Kerangka Pembangunan di Indonesia*, UI-Press, Jakarta, p.3.

<sup>20</sup> Satjipto Rahardjo. 2008. *Membedah Hukum Progresif*, Kompas, Jakarta, p.9.

<sup>21</sup> Esmi Warassih, 2005, *Pranata Hukum Sebuah Telaah Sosiologis*, Suryandaru Utama, Semarang, p.82.

<sup>22</sup> Daniel S Lev, 1990, *Hukum dan Politik di Indonesia*, LP3ES, Jakarta, p. 192.

According to Satjipto Rahardjo, legal culture is a force in society that comes from the tradition, the value system adopted, which will determine how the law is accepted and how the law is implemented. Furthermore, an analysis of how the legal culture actually applies in Indonesian society in general. The basis is based on the assumption that in the operation of law, what cannot be ignored is the role of people or members of society who are the targets of legal regulation but who also carry out positive law, whether in the end it becomes law that is carried out in society is largely determined by attitudes, views as well as the values shared by community members. Meanwhile, according to Esmi Warassih's opinion, awareness to act in accordance with the law, someone using the law or not using the law, obeying or not being obedient to the law is very dependent on the legal culture. According to Soetanyo, legal awareness will motivate community members to voluntarily adjust their behavior.

We certainly want the 1945 Constitution of the Republic of Indonesia to be a constitution that can truly be implemented in the practice of the life of the nation and state in order to achieve common goals. The constitution binds all state institutions and all citizens. Therefore, the executor of the constitution that all state institutions and all citizens in accordance with the rights and obligations of each as stipulated in the Constitution NRI 1945. In legal perspective, the word "implementation" (*implementation*) consists of two functional concepts, namely; **first**, *identifying constitutional norms and specifying their meaning*; and **second**, *crafting doctrine or developing standards of review*.<sup>23</sup>

If the public has understood the basic norms in the constitution and applied them in the life of the nation and state, then they will surely know and be able to defend their constitutional rights guaranteed in the 1945 NRI Constitution. In addition, the community can fully participate in the implementation of the 1945 NRI Constitution. either through the exercise of their rights and obligations as citizens, participating in state and government administration, as well as exercising control over state administration and the running of government. This condition by itself will prevent any deviation or abuse of the constitution.

One of the important aspects in the framework of law enforcement is the process of civilization, correctionalization, and law education (*law socialization and law education*). Without being supported by awareness, knowledge and understanding by legal subjects in society, *non-sensation of a legal norm* can be expected to be upright and obeyed. Therefore, establish agenda by contracting out tasks, correctional and law education should be developed separately in the framework of realizing

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<sup>23</sup> Richard H. Fallon, Jr.. 2001. *Implementing the Constitution*, Cambridge, Massachusetts, and Harvard University Press, London, p. 37-38.

the idea of *negaralaw* in the future. Some of the factors relating to this matter are (a) development and management system and infrastructure-based legal information *technology*; (b) *dizziness* and publicity efforts, communication and socialization of Law; (c) development of legal education and training; and (d) socializing images and examples in the field of law.<sup>24</sup>

Thus, in order to improve the legal culture of people who are aware of the law and the constitution, one of the efforts that needs to be done is through the optimization of legal counseling by state institutions, be it the legislative, executive, or judicial institutions. Legal counseling is one of the activities of disseminating information and understanding the legal norms and applicable laws and regulations in order to create and develop public legal awareness so as to create a legal culture in an orderly form and obey or comply with legal norms and laws and regulations in force for the sake of upholding the rule of law.<sup>25</sup>

Besides that, in order to support efforts to civilize and legal intelligence society, it is necessary to make the following efforts:

1. Efforts to civilize the law must be carried out with appropriate and effective methods, by utilizing various media and infrastructure as well as institutional institutions that live and grow in society.
2. The socialization of various legal materials, it is necessary to continue efforts so that every latest development regarding legislation is known and understood by the public. Thus, the availability and easy access to legal material information is an important part of the effort to civilize the law of society.
3. The legal culture of society must be built in parallel with the increase in the professionalism of law enforcers and bureaucracy. Because this professionalism will greatly affect public confidence in the law itself.
4. It is necessary to carry out a pattern and program of legal civilization in an integrated, planned and based on the facts of legal problems that occur. Thus, the existence of legal extension functional staff needs to be realized immediately.

### III. CONCLUSION

Indonesia is idealized and aspired by *the founding fathers* as a State of Law (*Rechtsstaat/The Rule of Law*). This is in line with the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3) which states that "Indonesia is a state based on law". The state of Indonesia is a state based on constitutional

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<sup>24</sup> Jimly Asshiddiqie. 2006. *Pembangunan Hukum dan Penegakan Hukum di Indonesia*, Universitas Gadjah Mada, Yogyakarta, p. 15.

<sup>25</sup> Jawardi. 2016. *Strategi Pengembangan Budaya Hukum*, Jurnal Penelitian Hukum, De Jure, Vol. 16, No. 1, p. 77-93.

democracy. In building an ideal rule of law, the law should be understood and developed as a unified system. Starting from the thought of Lawrence Friedman in his book *The Legal System: A Social Science Perspective* that to build a legal system, it must be based on three main elements. The three main elements are the substance of the law, the legal structure (the organization of the procurement and its enforcement), and the third is the legal culture which is also a determinant of whether or not the law is meaningful in national life from time to time.

However, along with the times, both substantially, structurally and culturally, various problems continue to emerge. Starting from the overlap of one regulation with another, conflicts between lower and higher laws and regulations, inconsistencies between *law in the book* and *law in action*, outbreaks of *judicial corruption*, and the weak legal culture of society. participate as an obstacle in realizing an ideal rule of law. Therefore, in realizing an ideal rule of law, the effort that must be done is to revitalize the legal system, namely by making improvements in terms of legal substance, legal structure and legal culture. These three elements constitute an inseparable unity in realizing the state of law that you aspire to.

At the substance level, the authors provide the idea of *ajudicial preview* as a mechanism for validating the constitutionality of legislation. This is in response to the many *judicial review* cases that have been submitted to the Constitutional Court. Through this *judicial preview* mechanism, it is hoped that every draft law before being ratified and approved by the President can be tested on its validity as a law so that it is in accordance with the spirit of the nation and the values embedded in the constitution. Furthermore, at the structural level, it is very important to build morality and professionalism of law enforcers. This is because law enforcers have a responsibility to uphold the authority of the law and uphold justice which has begun to fade. As for the cultural level (legal culture), building a community legal culture that is aware of the law and the constitution is the main concentration. This is because someone in using or not using the law, obeying or not obeying the law is very dependent on his culture.

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