

THE ROLE OF LAW ENFORCEMENT IN GOOD AND JUST LAW ENFORCEMENT AS SEEN FROM THE ASPECTS OF LEGAL SOCIOLOGY

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Abstract

Law is a set of rules containing norms and sanctions designed to regulate human behavior, create public order, and ensure justice. In this context, law can be used as a social engineering tool to regulate societal behavior. Law enforcement plays a crucial role in enforcing the law. Law enforcement is the most important factor in law enforcement efforts, as they are authorized by statutory regulations to undertake law enforcement efforts or a series of activities. This study addresses the impact of poor integrity among law enforcement officers and how to improve their integrity. The purpose of this study is to examine the impact of law enforcement officers lacking integrity in law enforcement and to provide solutions related to efforts that can be made to improve the integrity of law enforcement officers.

Keywords: *Law Enforcement, Integrity, Law as a tool of social engineering.*

Introduction

Law is a set of rules containing norms and sanctions created to regulate human behavior, create public order and justice. Utrecht defines law as a guide to life containing commands and prohibitions that must be obeyed by humans.¹ Because the law regulates human life, every individual must be guaranteed by law to obtain equal access to the law.² This is in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, Article 28D paragraph (1), which stipulates that:

"Everyone has the right to recognition, guarantees, protection, and certainty of fair law, as well as equal treatment before the law." By ensuring that every individual has equal access to the law, it is certain that justice will be created in the life of the nation."

Law enforcement is a crucial aspect to ensure the benefits of the law are felt by individuals and the wider community, according to Soejono Soekanto.³ Law enforcement is the activity of harmonizing the relationship between values outlined in established rules and attitudes as a series of final-stage value interpretations. Jimly Asshiddiqie also argues that law enforcement is the process of making efforts to uphold or function legal norms in real terms as guidelines for behavior in traffic or legal relations in social and state life.⁴ Jimly further explained that law enforcement can be viewed from both a broad and a narrow or limited perspective. Broad law enforcement involves all existing subjects, with every legal subject in the state complying with applicable legal rules and norms. Meanwhile, in the narrow sense, it is seen only as the efforts of law enforcement officials to ensure the law is enforced in accordance with applicable legal norms.⁵

Law enforcement is one of the important pillars in law enforcement, Soejorno Soekanto said there are 5 factors that influence law enforcement, namely⁶:

- a. The law itself;
- b. law enforcers, both those who create and implement them;

¹Azhari, A. F, The Indonesian Legal State: Decolonization and Reconstruction of Tradition. Ius Quia Iustum Law Journal, 2012, p. 1

²Rans Maramais, S, General and Written Criminal Law in Indonesia, (Jakarta: Rajawali Pers), 2016, pp. 15-17

³Latipulhayat, A., Roscoe Pound. Padjajaran Journal of Legal Studies Vol 4 No.2, 2016 413 - 14.

⁴Ali, Zainuddin Ali, Philosophy of Law, (Jakarta: Sinar Grafika), 2013. p. 74.

⁵Soerjono, Factors Influencing Law Enforcement, (Jakarta: PT. Raja Grafindo Persada), 2011, p. 12

⁶Satjipto, Rahardjo, Legal Science, (Bandung: Citra Aditya Bakti), 2006, p. 13

- c. means and facilities that support law enforcement;
- d. society; and
- e. culture.

Law enforcement is the most important factor in law enforcement efforts, because law enforcement is authorized by laws and regulations to carry out efforts or a series of law enforcement activities, for example, investigators are authorized by the Criminal Procedure Code to find the perpetrator or prosecutors are authorized to indict the defendant for the criminal act he committed. Law enforcement officers in carrying out their authority must be based on high integrity by making the law the highest commander.⁷ However, in reality this is not the case, often law enforcement officers act without being based on the law, for example in 2010 A was charged by the Public Prosecutor with a 5-year prison sentence for being caught stealing his neighbor's wrinkled clothes, while the four defendants in the Covid-19 fund corruption case which was suspected of causing harm to the public by the Public Prosecutor were only charged with a 4-year prison sentence. The above phenomenon was explained by Sajipto Raharjo which was caused by the tendency of law enforcers to use their own interpretations in enforcing the law which was based on various factors.⁸ If this continues to happen, of course society will no longer be able to feel the benefits of the law, besides this it will create a gap between *das sollen* and *das sein*, between the desired state and the actual reality. In this research, the author addresses the impact of poor integrity among law enforcement officers and how to improve it. The purpose of this research is to examine the impact of law enforcement officers lacking integrity in law enforcement and to provide solutions related to efforts to improve the integrity of law enforcement officers.

Discussion

Law Enforcement Factors

According to Satjipto Rahardjo, law enforcement is a process of realizing legal desires, namely the thoughts of the law-making body formulated in legal regulations, into reality.⁹ However, the law enforcement process does not always proceed as envisioned in legislation. In its implementation, several factors influence the law enforcement process. According to Lawrence M. Friedman, the effectiveness of law enforcement is influenced by legal structure, legal substance, and legal culture. The legal structure is the state apparatus that carries out the law enforcement process, such as the police, prosecutors, and judges. Legal substance is the content of applicable laws and regulations.¹⁰ Meanwhile, legal culture is the customs that exist in society and are adhered to by the community. In line with this, Soerjono Soekanto stated that there are five factors that influence law enforcement, namely:¹¹

1. The legal factor itself (law)
2. Law enforcement factors
3. Factors of facilities that support law enforcement
4. Community factors
5. Cultural factors.

According to Soerjono Soekanto¹² Existing laws can influence the law enforcement process. This is because laws are the product of political agreements tailored to the interests of the government and legislative institutions in power at the time. Consequently, many laws in force in Indonesia do not reflect a sense of justice. According to Soerjono Soekanto, the second factor influencing the law enforcement process is law enforcement officials. On the one hand, law enforcement officials are individuals entrusted with enforcing the law. On the other hand, law enforcement officials are also part of society with families and various material needs to meet.¹³ Furthermore, facilities that support law enforcement can influence the law enforcement process. These facilities include education and salaries for law enforcement officers, as well as the operational equipment used by law enforcement officers. The community can also influence the law enforcement process because laws are created to regulate various aspects of community life. According to Soerjono Soekanto, the final factor that can influence the law enforcement process is culture. The law enforcement process can run smoothly if the applicable laws do not conflict with existing customs

⁷Genta Publisher Wahyono, Indonesia: A State Based on Law, (Jakarta: Ghalia Indonesia), 1986, p. 19

⁸Soekanto, Introduction to Indonesian Law, (Jakarta: Intermasa), 1996, p. 21

⁹Satjipto Rahardjo, Ibid., Legal Science, (Bandung: Citra Aditya Bakti), 2006, p. 18

¹⁰Ibid., pp. 19-20.

¹¹Ibid., p. 22.

¹²Soerjono, Ibid., Factors Influencing Law Enforcement, (Jakarta: PT. Raja Grafindo Persada), 2011, p. 35.

¹³Ibid., p. 37.

in society. Furthermore, another factor that can influence law enforcement is political intervention.¹⁴

Law enforcement is the activity of harmonizing the relationships between values outlined in good principles, where embodiment and actions are a series of values embodied in order to maintain and preserve peaceful social interactions. Law enforcement will be fulfilled if the five pillars are implemented properly. These five pillars are:¹⁵

1. Good legal instruments
2. Tough law enforcement officers
3. Adequate equipment
4. A legally aware society
5. Supporting bureaucracy

Problems in Law Enforcement

To discuss the problems inherent in law enforcement, we must first understand legal instruments and law enforcement officials. Legal instruments are tools or means that serve as the legal basis for law protection and enforcement. Law enforcement officials, including judges, prosecutors, police, and even lawyers, are among those involved in law enforcement. Adequate equipment, a legally aware public, and a supportive bureaucracy are the five pillars that support effective law enforcement.

The general problems that occur in law enforcement consist of:¹⁶

1. The gap between normative law (*das sollen*) and sociological law (*das sein*). *Das sein* is the reality that has occurred (*Ius Constitutum*). Meanwhile, *das sollen* is the rules and norms, as well as the reality of what should be done (*Ius Constituendum*). Both mean the gap between reality and hope, as well as between reality and expectations. *Das sein* is the implementation of all events whose occurrences are regulated by *das sollen*.
2. The gap between the legal behavior of society that should be and what actually happens
3. The difference between law on the books and law in action. Law on the books refers to all interpreted rules, regulations, and legal customs as written down. Law in action is a legal theory that examines how the law is actually applied and enforced in society. These differences include several things, including:
 - a. Covering the question of whether the law in the form of regulations that have been promulgated reveals the patterns of social behavior that exist at that time means that when we create legal products, we must describe what exists in society.
 - b. Is what the court said the same as what was done?
 - c. Is the purpose expressly desired by a regulation the same as the effect of the regulation in reality?

Furthermore, the primary function of law is as a means of social control, while the purpose of law is to maintain order, social inequality, and the public interest. According to Soerjono Soekanto, in his book "Faktor-Faktor Yang Mempengaruhi Penejakan Hukum" (Factors Affecting Law Enforcement), published by Radja Grafindo in 2011, the factors influencing law enforcement are as follows:¹⁷

A. Legal Factors and Law Enforcement Factors

1. Legal Factors

Legal factors relate to legal regulations. These regulations are the starting point in the law enforcement process. They can be said to serve as guidelines for law enforcement officers and the public.

2. Law Enforcement Factors

Law enforcement factors encompass the role of law enforcement officers in enforcing applicable laws. These factors also encompass how officers enforce the law in accordance with their duties and appropriate use of authority. Factors influencing law enforcement in enforcing the law can be outlined as follows:

3. Quality of Law Enforcement

The quality of law enforcement is a crucial factor in law enforcement. Good quality involves morality, professionalism, and the proper use of authority. The quality of law enforcement can be summarized as follows:

- a) Weak insight into thinking
- b) Lack of work skills

¹⁴Ibid., p. 38.

¹⁵Ibid., pp. 48-49.

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¹⁷Soerjono, Factors Influencing Law Enforcement, (Jakarta: PT. Raja Grafindo Persada), 2011.

- c) Lack of physical facilities, equipment, operational and financial, for example, operational cars use their own money for petrol, so there are efforts by the police to find money which results in people being ticketed.
- d) Low work motivation
- e) The damage to the personal morality of officers, for example cases of bribery where money colors law enforcement, makes law enforcement discriminatory.
- f) Low education levels (Police), for example, low legal education for police, police cannot differentiate between criminal cases and civil cases, for example, embezzlement is considered a civil case, so that people who report criminal acts of embezzlement are rejected because they are considered civil matters. Police competence as the gateway to the law enforcement process is the mainstay for realizing a law enforcement process that upholds legal certainty, justice, and benefit. Inadequate work competence encourages corrupt actions by police personnel, so that in addition to focusing on improving welfare standards
- g) There are very few human resource development programs among

B. Facilities and Infrastructure Factors

Furthermore, factors influencing law enforcement, besides legal factors and law enforcement factors, include facilities and infrastructure. Facilities and infrastructure refer to the availability of supporting resources in the law enforcement process. These facilities and infrastructure must be further examined, particularly regarding their quality and quantity.

C. From outside the legal system

Then there are several factors which are factors outside the legal system which have an impact on law enforcement, namely as follows:

- a) **Legal Awareness:** Legal awareness is the understanding and awareness held by individuals or communities regarding the law and its role in social life. Legal awareness involves an understanding of the rule of law, its underlying values, and the expected consistency between the rule of law and the desired or expected sense of security in society. Legal awareness involves recognizing that law is a framework that regulates individual behavior and social interactions. It encompasses an understanding that law is a means to achieve justice, maintain order, protect human rights, and promote social welfare. Legal awareness also encompasses an understanding of the consequences of breaking the law, both personally and as members of society. Indicators of legal awareness provide clues to the level of legal awareness possessed by an individual or community. The indicators of legal awareness consist of:
 - i. **Legal Knowledge:** This indicator refers to an individual's or society's general understanding of the law. It encompasses knowledge of various types of law, applicable legal systems, legal processes, legal institutions, legal rights and obligations, and human rights. A good level of legal knowledge indicates a strong legal awareness.
 - ii. **Legal Understanding:** In addition to legal knowledge, legal understanding encompasses the ability of individuals or communities to describe and explain legal principles, legal norms, and their relationship to everyday life. Legal understanding enables individuals or communities to see the law as a relevant and important framework in their lives.
 - iii. **Legal Attitude:** Legal attitude refers to an individual's or society's views, beliefs, and values toward the law. Legal attitude encompasses whether an individual or society has positive trust in the law, respects legal authority, and believes in the importance of justice and compliance with the law. A positive legal attitude indicates a strong legal awareness.
 - iv. **Legal Behavior:** Legal behavior is the concrete actions of individuals or communities that comply with applicable laws and regulations. This includes compliance with the law, participation in legal processes, and the use of legal means to resolve conflicts or problems. Good legal behavior demonstrates legal awareness manifested in concrete actions.

Legal awareness is important in society because it plays a crucial role in maintaining order, justice, and stability in a society. Here are several reasons why legal awareness is essential for society:

1. Regulate behavior

Laws provide a clear framework for what is considered right and wrong in society. With legal awareness, people are more likely to follow the rules and avoid unlawful behavior. This helps prevent crime and social disorder.

2. Protection of rights and freedoms

The law protects individual human rights and provides every citizen with the freedoms they deserve.

Legal awareness ensures that people understand their rights and respect the rights of others. This helps maintain a balance between individual freedom and the public interest.

3. Resolving conflicts

The law provides a fair and objective dispute resolution mechanism. With legal awareness, people are more likely to seek resolution through the legal process rather than resorting to violence or unilateral action. This helps prevent retaliation and escalating conflict.

4. Building trust and stability

Legal awareness creates trust within society. When people perceive that the law is enforced fairly and consistently, they are more likely to rely on the legal system and refrain from unlawful behavior. This creates social stability and strengthens social bonds between individuals and groups.

5. Respect authority and government

Legal awareness helps build respect for authority and government. When people understand the importance of law and respect legal institutions, they are more likely to cooperate with authorities, comply with regulations, and support democratic processes. This strengthens good governance and political stability. Legal awareness is a strong foundation for a well-functioning society. By understanding and respecting the law, society can create a safer, fairer, and more harmonious environment.

- b) **Community Development:** Social development is one aspect that influences law enforcement.
- c) **Culture:** Culture or the culture that exists in society is one aspect that influences law enforcement.
- d) **Politics and Rulers**¹⁸ According to Moh. Mahfud MD, the political configuration of a regime significantly influences the legal products it produces. In countries with an authoritarian political configuration, the resulting legal products are orthodox in character, while in countries with a democratic political configuration, the resulting legal products are responsive in character. There are three types of relationships between law and politics: law as a political determinant, politics as a legal determinant, or law and politics being balanced. The various definitions above have the same substantive meaning: legal politics is a policy regarding laws that will be enforced or not enforced to achieve state goals. Therefore, law is positioned as a 'tool' to achieve state goals. The basis of this thinking lies in the fact that the state has goals that must be achieved and efforts to achieve these goals are carried out by using law as a tool through the enforcement or non-enforcement of law. The core problem in law enforcement actually lies in the factors that influence it. One factor that influences the law enforcement process is political influence. First, law is a product of the political process. The process of law formation is carried out by political 'actors', whether they have balanced power or the dominance of certain political forces. Furthermore, the relationship between politics and law is demonstrated in the formation of legal institutions, the appointment of law enforcement leaders, and the law enforcement process in Indonesia. Second, the intersection of politics and law presents two possibilities: politics that strengthens the law or politics that weakens the law. The political journey of the Indonesian nation has created a gap between the political elite (those in power) and the public, which then impacts the implementation of various laws and regulations in society. The political configuration of a regime significantly influences legal products and the law enforcement process.

Closing

Law enforcement is the most important factor in law enforcement efforts, as they are authorized by law to undertake a series of law enforcement activities. Law enforcement officers, in exercising their authority, must be guided by high integrity, making the law their supreme commander. One impact of poor law enforcement is a decline in public trust in them. Therefore, the quality of good law enforcement, involving morality, professionalism, and the appropriate use of authority, must be improved. The deterioration of personal morality of officers, for example, cases of bribery where money influences law enforcement, leads to discriminatory law enforcement and a loss of public trust in law enforcement. One effort to improve the integrity of law enforcement officers is through law enforcement that addresses law enforcement that lacks integrity. Furthermore, education or human resource development programs are needed for law enforcement, so that it is hoped that the integrity of law enforcement will improve.

¹⁸Rai, Journal of Criminology and Justice Volume 2, Number 1, October 2022, Pages 1-3

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