

Problematizing Law Enforcement in Indonesia: A Study from the Perspective of the Sociology of Law

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Abstract: Law enforcement in Indonesia faces various complex and multidimensional issues. From the perspective sociology of law, law is not merely seen as a set of formal rules but as part of a social system that reflects the dynamics of society. The main challenges in law enforcement in Indonesia include the gap between normative law and social practices, public distrust in law enforcement officials, and the strong influence of social, political, and economic factors. In this context, the law is often perceived as favoring the powerful while being harsh on the weak, reflecting injustices in its application. This study highlights the importance of judicial system reform, enhancing the integrity of law enforcement officials, and harmonizing state law with prevailing social values in society. The sociological approach to law enforcement in Indonesia emphasizes the need to understand how society perceives, interprets, and complies with the law, as well as how social structures, influence its effectiveness. The gap between formal law and cultural values often results in law legal comoliance. Legal cases highlighted in the media reveal disparities in treatment based on social status. Therefore, the proposed solutions in this study include legal system reform, strengthening legal culture, and active community involvement in legal oversight to achieve a rairer and more effective legal system.

Keywords: Law enforcement; Sociology of Law; Society

A. Introduction

Indonesia is a state of law, every state apparatus in acting must be based on the law and every citizen must obey the applicable law. The Indonesian state is currently being hit by a legal crisis, meaning that the applicable law has not shown effectiveness. The law is blunt upwards and sharp downwards, there are different legal handling strategies. Law enforcement is considered unfair and far from the expectations of the community. Law enforcement problems certainly have an impact on society. The law that runs is not in accordance with the legal objectives to be achieved, namely creating order and peace in society. In the perspective sociology of law, what is seen from the problem of law enforcement in Indonesia is not from the substance or material of the law but rather what is caused by the impact of the enactment of a law.¹

¹ Hadi, N.A.K. *Penegakan Hukum di Indonesia Dilihat dari Perspektif Sosiologi*. (Yogyakarta: Pustaka Pelajar, 2022), hlm. 112.



Social relations in a group or society are very influential with the application of the law being carried out. Sociology of law focuses on social relations that occur in the process of law enforcement and the results of legal decisions so that it will have a social impact. The impact that occurs from the legal process is from the individuals concerned in the law, family, groups or organizations, society, and the mass media also play a role in the news on existing laws. Although normatively, there are sufficient legal instruments, ranging from the constitution to technical regulations, their implementation in the field often meets various obstacles. One of the factors that influence this problem is the social dynamics of society, which is the main object of study in the sociology of law.

Sociology of law is a study that studies the impact of the enactment of a law in society, so that social symptoms can emerge and develop in society. Social symptoms that appear are events for an individual or social group when they deal with the law. Such as cases that have surfaced in various media both television, radio, newspapers or newspapers, online media or the internet, and others. Like the case a few years ago of Artalyta Suryani and Anggodo, who are important people and have a high social status, the legal treatment is more privileged by law enforcement officials.²

Unlike the cases of Prita Mulyasari and Grandma Minah who came from ordinary people, they easily dealt with the legal process. The sociology of law looks at the order of empirical reality in society related to the application of law. Is there justice or not in revealing an existing legal fact. The community can also assess how well functioning or not the law enforcement officials in carrying out their duties, so that sometimes social stratification in society is quite influential in the law enforcement system. This means that people who have positions or positions in government will easily influence the running of legal mechanisms, while people who have nothing can only surrender and submit to the existing laws.

The response from the community is quite high towards law enforcement which is considered still unfair and the law has not been implemented in accordance with the expectations of the community. The impact caused by the existence of unfair laws is that people can have less confidence in law enforcement, so that the image of the law in the eyes of the community fades. Instead, the purpose of applying the law is to create order and peace in society. Sociology of law does not talk about the substance or material of law, but rather refers to the impact of the application of legal sources.³

From the perspective sociology of law, law cannot be seen only as a set of rules that stand alone, but must be seen as part of a social system that reflects and is influenced by the dynamics of society. The study sociology of law puts forward the importance of understanding how society accepts, interprets, and obeys the law, as well as how social behavior and cultural values influence law enforcement practices. In this context, the main challenge faced in law enforcement in Indonesia is inseparable from the gap between formal law and community values.⁴

The gap between normative law and social practice is one of the main factors hindering the effectiveness of law enforcement. Many legal rules are formulated with reference to formal

² Fauzan, R., & Indra, P. "Penguatan Integritas Penegak Hukum dalam Upaya Pemberantasan Korupsi di Indonesia." *Jurnal Ilmu Hukum* 15, no. 2 (2019): 252.

³ Kenedi, R. *Problematika Penegakan Hukum di Indonesia: Perspektif Sosiologis*. (Padang: Universitas Andalas, 2016), hlm. 102.

⁴ Hadi, N.A.K. *Penegakan Hukum di Indonesia Dilihat dari Perspektif Sosiologi*. (Yogyakarta: Pustaka Pelajar, 2022), hlm. 112.

standards without considering local social and cultural conditions. This often causes people to not feel bound or have direct involvement with these rules, resulting in low compliance with the law. In some cases, people prefer customary law or social norms to state law, especially in areas with strong value systems. Public distrust of law enforcement officials is also a significant issue in the study of legal sociology. Cases of corruption, abuse of authority, and unprofessionalism of officials often become prominent news and affect the negative perception of the public towards law enforcement institutions, such as the police, prosecutors, and courts. This distrust results in low levels of legal compliance and a tendency for people to seek alternative ways of resolving conflicts, such as through peaceful means or out-of-court mediation.⁵

The influence of social, economic and political structures on law enforcement is also enormous. In this context, the law is often considered as a tool to protect the interests of certain groups, especially those with economic and political power. This can be seen in major cases involving large companies or powerful political actors, where law enforcement is often felt to be unbalanced or even discriminatory. The study of legal sociology sees that the law tends not to be neutral, but rather vulnerable to the influence of existing social and political forces.

Problems in the legal culture of Indonesian society are also an important factor. A weak legal culture includes low awareness and respect for the law, both among the general public and among law enforcement officials. The sociology of law highlights the importance of a strong legal culture to create a comprehensive legal awareness in society. This low legal culture reflects a lack of legal education as well as weak enforcement of perceived minor offenses. This hinders the formation of higher legal awareness.

One of the relevant approaches in understanding the complexity of law enforcement in Indonesia is through the perspective of legal sociology. The sociology of law views law not only as a written rule, but also as a social phenomenon that is influenced and interacts with various aspects of community life. With this approach, we can examine more deeply how legal norms are accepted, interpreted, and practiced by society. Furthermore, we can see the social factors that contribute to the gap between the ideal normative law and the reality that occurs in the field.

The fundamental problem in law enforcement in Indonesia lies in the gap between the written law and social practices that occur in society. Many regulations and laws in Indonesia are drafted based on formal standards without considering the social and cultural values of the local community. This results in a lack of ownership and attachment of the community to these regulations, resulting in low compliance with the law. For example, in some parts of Indonesia, people still value customary law or local norms more than state law, especially when it comes to conflict resolution or civil cases. The sociology of law argues that effective law should be rooted in the values of society, rather than simply imposing rules from outside. This gap between written law and social practice has implications for the weakness of resolving problems outside formal legal channels because it is considered more effective and fair according to their social context.⁶

Law enforcement if it only relies on formal procedures, without connecting it directly with

⁵ Sadikin, S. "Reformasi Penegakan Hukum di Indonesia: Mengurai Permasalahan Birokrasi dan Sistem Hukum." *Jurnal Hukum dan Kebijakan Publik* 20, no. 4 (2018): 320.

⁶ Kenedi, R. *Problematika Penegakan Hukum di Indonesia: Perspektif Sosiologis*. (Padang: Universitas Andalas, 2016), hlm. 78.

the background of the birth of legal rules, will cause the law enforcement process to run in a very mechanistic way. Whereas the demands of the law are not only on the institutionalization of procedures and mechanisms, but also on the application of substantive values. Hikmahanto Juwono stated that traditionally in Indonesia, legal institutions that carry out Law Enforcement are the police, prosecutors, judicial bodies and advocates. Outside of these institutions there are still some of them, namely, the Directorate General of Customs and Excise, the Directorate General of Taxes, the Directorate General of Immigration. Some of the problems in law enforcement include problems in making laws and regulations, people seeking victory not justice, money coloring law enforcement, law enforcement as a political commodity, discriminatory law enforcement and ewuh pekewuh, weak human resources, budget limitations, and law enforcement triggered by the mass media.⁷

B. Methodology

In writing this article, the approach used is generally qualitative. With the literature review method or literature study. Data collected from various literatures such as academic journals, books, scientific articles, and other sources relevant to legal sociology and law enforcement in Indonesia, this data is then used to understand the basic concepts of legal sociology and to understand the basic concepts of legal sociology and identify the main issues in law enforcement.

C. Results and Discussion

Resolving Problems of Law Enforcement in Indonesia

The resolution of law enforcement problems in Indonesia requires a comprehensive and sustainable approach, considering that the problems are often complex and rooted in various institutional, social and structural aspects. In resolving law enforcement problems in Indonesia, strategic steps need to be taken that include structural reforms, improving the professionalism of legal apparatus, and aligning the law with local socio-cultural conditions. The following is a broader discussion of some of the main strategies:⁸

a. Justice System Reform and Transparency

Reform and transparency in the justice system is an urgent need in an effort to increase public trust and realize accountable justice. The following is a broader discussion of the importance, challenges and strategies in justice system reform and transparency.

The first step is to undertake a comprehensive reform of the justice system, including improvements in court procedures and transparency at all stages of the law. The role of independent institutions such as the Judicial Commission (KY) and the Corruption Eradication Commission (KPK) is crucial in monitoring the integrity of law enforcement officials. This transparency should include recruitment and promotion processes to avoid conflicts of interest and corrupt practices.⁹

The importance of reform in the justice system aims to improve existing structures and processes to make them more effective, fair and responsive to the needs of society. There are several reasons why reform is important:

⁷ Juwono, Hikmahanto. *Penegakan Hukum dalam Kajian Law and Development: Problem dan Fundament bagi Solusi di Indonesia*. (Jakarta: Varia Peradilan No.244, 2006), hlm. 13-14

⁸ Sadikin, S. "Reformasi Penegakan Hukum di Indonesia: Mengurai Permasalahan Birokrasi dan Sistem Hukum." *Jurnal Hukum dan Kebijakan Publik* 20, no. 4 (2018): 340.

⁹ Prasetyo, A. "Peran Teknologi Informasi dalam Mewujudkan Transparansi di Sistem Peradilan." *Jurnal Teknologi Hukum* 7, no. 3 (2015): 130.

- Fair Law Enforcement. Reforms are needed to ensure that the legal process operates in accordance with the principles of justice, such as equality before the law, impartiality of judges, and protection of human rights.
- Prevention of Abuse of Power. Changes to the judicial system are needed to prevent corruption, collusion and nepotism (KKN) in the legal process. Abuse of power is often a barrier to justice, especially in cases involving big interests.
- Application of Restorative Justice. To address minor offenses and reduce the burden on the courts, restorative justice can be applied as an alternative. This concept prioritizes conflict resolution through mediation and reconciliation between offenders and victims. This approach is suggested in various sociology of law studies that consider that a just law does not always mean that it must be resolved through formal justice.
- Efficiency and legal certainty. An efficient justice system can handle cases quickly, thereby reducing the burden on the courts and reducing waiting times for cases to be resolved. A backlog of cases not only slows down the judicial process but also increases uncertainty for litigants. In addition, there is legal certainty in a legal system where the applicable law is predictable, accessible and understandable to the public so that people know the consequences of their actions in the eyes of the law. Legal certainty is very important because it can prevent abuse of authority, law enforcement cannot use their authority arbitrarily. Strict rules will reduce opportunities for corruption and abuse of power.¹⁰

b. Revision Regulations of law

- Improvement of Overlapping or Obsolete Regulations of law. Overlapping regulations often cause legal uncertainty and uncertainty. The government needs to harmonize regulations and revise obsolete laws to make them more relevant to current conditions.
- Simplification of Legal Processes. Cumbersome and bureaucratic legal processes slow down law enforcement. Simplification of procedures, digitization, and the use of information technology can simplify legal processes and make them more transparent.
- Updating the Sanctions and Penalties System. In some areas the sentencing system needs to be adjusted to address modern issues such as cybercrime or environmental crime. These adjustments may include more proportionate sentencing systems, non-prison sentences or alternatives that focus more on rehabilitation and recovery.

c. Strengthening Law Enforcement Human Resources (HR)

- Education and Training. improving the quality of education and training for law enforcement officers, both in terms of legal knowledge and skills.
- Transparent Recruitment. Conduct more transparent and competency-based recruitment to obtain qualified law enforcement candidates.

¹⁰ Lubis, T. M., & Santoso, H. S. *Hak Asasi Manusia dan Penegakan Hukum di Indonesia*. (Jakarta: Ghalia Indonesia, 2015), hlm. 100.

- Welfare Improvement. Improve the welfare of law enforcement officers to avoid the temptation of corruption and other unlawful acts.
- d. Increased Community Participation
- Legal Education. Increase public legal awareness through intensive legal education.
 - Strengthening Community Institutions. Empowering community institutions to play an active role in monitoring and controlling law enforcement.
 - Excellent Public Services. Provide excellent public services that are easily accessible to the community.¹¹
- e. Corruption Prevention
- Increased Transparency. Increase transparency in budget management and government project implementation.
 - Firm Law Enforcement. Impose strict sanctions on perpetrators of corruption indiscriminately.
 - Strengthening anti-corruption institutions. Strengthen anti-corruption institutions such as the Corruption Eradication Commission (KPK) to be more effective in combating corruption.
- f. Information Technology
- E-court. Implement an electronic court system (e-court) to speed up the trial process and increase transparency.
 - Online Complaint System. Enables the public to report illegal cases or actions directly through an app or website-based complaint system.
 - Digital Monitoring System. Using technology to monitor the performance of officials and ensure their accountability.
 - Building a unified database that integrates data from various law enforcement agencies to facilitate coordination and supervision.

Although various solutions have been proposed, there are still many challenges that must be faced in an effort to improve law enforcement in Indonesia, such as a deep-rooted culture of corruption that is difficult to change in a short time, political intervention in the law enforcement process often hinders reform efforts, and limited human resources and budgets are an obstacle in the implementation of legal information.¹²

Law enforcement in Indonesia is a complex and multidimensional problem, to overcome this problem requires a strong commitment from all parties, as well as continuous efforts to make improvements and improvements. By consistently implementing these solutions, law enforcement in Indonesia is expected to be stronger, more transparent and fairer for all levels of society.

Factors that Influence the Problems of Law Enforcement in Indonesia

Factors that influence the problematic of law enforcement in Indonesia are quite complex and involve various aspects, both from the internal legal system and the social and cultural

¹¹ ibid

¹² ibid

conditions of society. Here are some of the main factors that often cause weak law enforcement in Indonesia, namely:

Corruption among law enforcement officials. Corruption among law enforcement officers is one of the biggest challenges in realizing effective, transparent and fair law enforcement in Indonesia. One of the causes of corruption among law enforcement officials is economic factors. Low salaries and allowances are often considered insufficient to meet the living needs of law enforcement officials, especially at lower levels. This encourages some officials to seek additional income through unauthorized means. In addition, a culture of permissiveness and weak systems in many law enforcement agencies, there is a primitive culture towards corruption. This culture is supported by a weak system of supervision and control, so that corrupt behavior is often tolerated or even considered normal.

Social pressure and a lifestyle to show high social status or a luxurious lifestyle among law enforcement officers are drivers of corruption. Consumptive and extravagant lifestyles can also lead officers to take shortcuts through bribery and gratuities and the lack of training on professional ethics, morals and integrity for law enforcement officers means that many of them do not have a strong foundation to resist corrupt acts. A non-selective recruitment system also allows individuals without integrity to enter the system. External influences and pressure from powerful political elites, big businessmen, or other interested parties can influence officials to make decisions that are not based on the law. This often happens when legal cases involve influential figures or large companies. Forms of corruption among law enforcement officials:

- **Bribery in Case Handling.** Bribery is the most common form of corruption, where a litigant gives money or items of value to law enforcement officials to influence the outcome of a case, such as changing the charges, speeding up or slowing down the process, or even dropping the case entirely.
- **Gratification in the Performance of Duties.** Gratuities are gifts or rewards received by officials as thanks or appreciation for certain services. Although seen indirectly, gratuities can affect the objectivity of the apparatus in carrying out their duties.
- **Extortion and Abuse of Authority.** Some officials use their position to blackmail or pressure certain parties, especially in cases involving licenses, inspections, or investigators. This abuse of power is usually done with threats or intimidation to get something in return.
- **Manipulation of Evidence and Case Documents.** Some law enforcement officers manipulate evidence or case documents to benefit or protect certain parties. Examples of this manipulation include removing incriminating evidence or adding mitigating evidence.
- **Corruption in the Hiring and Promotion Process.** Corrupt practices do not only occur in case handling, but also in the recruitment and promotion process. Some strategic positions in institutions with political connections.

The impact of corruption among law enforcement officials is the loss of public trust, the existence of legal gaps, the obstruction of the development process, and the snowball effect. Corruption causes people to lose trust in law enforcement agencies. When people do not believe in the justice upheld by these institutions, they tend to look for alternatives, such as

resolving problems informally, which in turn disrupts the rule of law.¹³

Corruption creates injustice because cases involving those who can afford to pay bribes often end favorably compared to those of the general public. This leads to unequal access to justice between those with financial power and those without. In addition, corruption in law enforcement agencies also has a direct impact on national development. With a corrupt legal system, investors and private parties become hesitant to invest, ultimately hampering economic development. So when corruption in law enforcement is left unchecked, acts of corruption will spread and become more entrenched. An already poor law enforcement system will encourage other officials to do the same, creating a cycle of corruption that is difficult to stop.

Political Influence in the Legal Process. Politics often influences law enforcement, especially in cases involving important figures or political elites. Political intervention can result in legal decisions that are biased and not in favor of the truth. This non-neutrality of law enforcement often makes people lose faith in the legal system. In addition, the use of law is often used as a political tool to suppress or corner political opponents, not for the purpose of justice. This dependence on political power has led to a lack of independence in Indonesia's legal system, which has caused the public to doubt the integrity of law enforcers.

Weaknesses in the Legal System and Bureaucracy. Lengthy processes and bureaucratic red tape often slow down the handling of legal cases, leading to inefficient and long-winded legal processes. Structural weaknesses in the legal system, including dualism between national law and customary law, often lead to confusion or conflict in the application of the law, with many communities in the regions preferring to recognize customary law, resulting in conflict or confusion in the application of formal law. The weakness of Indonesia's legal system and bureaucracy is a major challenge that impacts on the effectiveness, efficiency and fairness of law enforcement. Many aspects of these weaknesses result in delays in the resolution of legal cases, decreased public confidence, and inequalities in justice.¹⁴

The lengthy and convoluted administrative process in Indonesia tends to be long and complicated. From investigation, to prosecution, to trial. Each stage requires many administrative requirements that extend the time it takes to complete the case. This leads to the "justice delayed is justice denied" principle, which delays justice and adversely affects victims and society. Inefficient procedures such as repetitive document collection, verification, and witness examination, cause the legal bureaucracy to become sluggish. Lack of coordination between departments and bureaucratic red tape also slow down the legal process and cause inefficiencies, this bureaucratic red tape results in delays in justice in many cases resulting in the loss of victims' rights.

Inconsistent and overlapping laws and regulations. Many overlapping or conflicting laws and local regulations cause legal uncertainty. Misaligned regulations often cause confusion for law enforcers and the public. In addition, policies are often produced without regard to existing laws, without continuous regulatory evaluation. Some regulations that are still in force are no longer relevant to the times, social, economic and technological changes require up to date regulations. However, many laws in Indonesia have not been updated so that they are unable to cope with modern cases.¹⁵

¹³ *Laporan Tahunan KPK: Strategi Pemberantasan Korupsi di Kalangan Aparat Penegak Hukum*. Jakarta: KPK

¹⁴ *ibid*

¹⁵ Bivitri Susanti, "Problematika Harmonisasi Regulasi di Indonesia," *Jurnal Legislasi Indonesia*, Vol. 15, No. 1, 2018, hlm. 22.

Lack of Transparency in the Legal System. The large number of overlapping or contractual regulations often leads to legal confusion. Poor harmonization of laws leads to legal uncertainty, especially in cases involving conflicting regulations. Lack of public access to information about the legal process leads to low transparency. The public does not have sufficient access to monitor and know the progress of cases, especially in cases involving officials or influential figures. The legal system in Indonesia lacks external oversight, especially by the public or independent institutions. The absence of strong external oversight means that abuse of power or unprofessionalism often goes uncovered. In addition to the lack of a good accountability mechanism, the actions or decisions of law enforcement officials are difficult to correct or monitor. This leads to some unjust legal decisions remaining uncorrected, which in turn negatively impacts public trust.¹⁶

Low Protection of Whistleblowers and Witnesses. In Indonesia, there is still a stigma that being a whistleblower is an act of betrayal or dishonorable. This view often leads to whistleblowers being shunned or ostracized by their social environment or community. This stigma is a major obstacle because people tend to hesitate to report violations of the law if they feel they will be ridiculed or ostracized by the community. Low protection of whistleblowers and witnesses is one of the major problems in law enforcement in Indonesia, low protection discourages people from reporting crimes or acting as witnesses. This leads to less evidence and information needed in investigating major cases, such as corruption and human rights violations. This lack of protection hampers efforts to eradicate corruption, major crimes, and other violations as many witnesses or whistleblowers fear retaliation or intimidation. The lack of legal protection for whistleblowers and witnesses discourages many people from reporting violations of the law. This hinders the collection of important evidence and testimonies needed for law enforcement. Without security and protection, many witnesses or whistleblowers choose not to testify or report for fear of threats or retaliation.

Weak Legal Culture in Society. The factors causing this are the strong culture of kinship and custom in settlement which causes people to prefer informal settlements rather than legal channels, distrust of legal officials making people rely more on personal relationships or connections in problem solving, the view that the law only favors certain parties which makes people hesitate to seek justice through the formal legal system.¹⁷

Lack of Supporting Facilities and Infrastructure. The lack of supporting facilities and infrastructure in Indonesia's law enforcement system is a major obstacle affecting the quality, efficiency and accessibility of legal services. These limitations impact the performance of law enforcement officers, public confidence in justice, and the overall effectiveness of the legal process. The following is a more extensive explanation of the causal factors, impacts, and solutions to address the lack of supporting facilities and infrastructure in Indonesia's legal system. Inadequate facilities are a major obstacle in supporting the performance of law enforcers, including unsophisticated technology such as e-court or e-litigation systems that are not yet comprehensive, hampering transparency, efficiency, and public access to legal processes and budget limitations causing many court offices and legal institutions to not have adequate facilities to support optimal law enforcement processes and lack of access in remote

¹⁶ Bivitri Susanti, "Problematisa Transparansi dalam Penegakan Hukum di Indonesia," *Jurnal Hukum & Pembangunan*, Vol. 50, No. 3, 2020, hlm. 145.

¹⁷ M. Ali Safa'at, "Budaya Hukum Masyarakat dalam Penegakan Hukum di Indonesia," *Jurnal Hukum dan Masyarakat*, Vol. 5, No. 1, 2020, hlm. 12.

areas causing many cases to be unreachable by the justice system, so that people in these areas do not get their full rights.¹⁸

D. Conclusion

The sociology of law approach to law enforcement in Indonesia emphasizes the need to understand how people receive, interpret and comply with the law, as well as how social structures affect the effectiveness of the law. The gap between formal law and cultural values often leads to low levels of legal compliance. Legal cases that have surfaced in the media show that there is inequality of treatment based on social status. Therefore, the solutions proposed in this research include reforming the legal system, strengthening the legal culture, and active involvement of the community in legal supervision in order to realize a more just and effective legal system.

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¹⁸ Mulyadi, B., & Prasetyo, S. (2019). *Korupsi dalam Sistem Peradilan Indonesia: Tantangan dan Solusi*.

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