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REVIEW OF LAW ENFORCEMENT IN INDONESIA

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Abstract

Law enforcement is the process of making efforts to enforce or function legal norms in a real way as a guide for behavior in traffic or legal relations in social and state life. The problem of law enforcement in society is very urgent. Considering the existence of the law itself cannot be separated from social and state life. The purpose of this study is to find out what law enforcement is, the importance of law enforcement, the low level of law enforcement in Indonesia and the various factors that surround it. The method that the author uses is a type of normative legal research (Normative Legal Research), which is "a type of research carried out by examining library materials or secondary data. The results showed that law enforcement in Indonesia still cannot be carried out properly. This is evidenced by the many problems faced in enforcing the law. These problems, for example, there has been no unification of laws and regulations and legal certainty, the decline in the authority of law enforcement officials, judicial systems that have not been implemented effectively and efficiently and the low legal awareness culture of the Indonesian people. The efforts that need to be made to elevate the authority of the law and uphold the rule of law include it must be carried out or formulated for legal unification or its exact mapping, improving the moral and professional quality of law enforcement officers and improving systems.

Keywords: *Law enforcement, Indonesia, Factors*

INTRODUCTION

Law enforcement is aimed at order and legal certainty in society. This is done, among others, by disciplining the functions, duties and authorities of institutions in charge of enforcing the law according to the proportion of their respective scopes, and is based on a good cooperation system and supports the goals to be achieved. The level of development of the society in which the law is enforced affects the pattern of law enforcement, because in modern society which is rational and has a high level of specialization and differentiation

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the enforcement of law enforcement is also increasingly complex and very bureaucratic (Solomon, n.d.) .

Talking about the law is now an interesting issue because in addition to being a fundamental classic issue, it also poses a problem that remains actual. It is called klassik, because legal problems since the times of ancient Greece have arisen in the discourse of philosophy, in line with the level of development of its civilization that already demanded the existence of a regulation to organize various aspects of life in society. It is said to be fundamental because the problem of law ultimately concerns the aspect of axiology, in the form of imperative values that will be imposed where man himself will be the subject as well as the object in life in the field of law. Legal problems become actual, because Indonesian society today is experiencing decadence and disinintegration in various aspects of life, which demands reorientation in legal development and development. This effort was made so that the rule of law could be upheld in the truest sense. As well as an effort to minimize the national problem that is currently hitting the Indonesian nation (Kenedi, 2016).

But it must be admitted, law enforcement efforts in Indonesia are not an easy and simple job. This is because low law enforcement in Indonesia is actually not a new problem. It is a problem that has been going on for a long time, but because it is not immediately addressed completely and comprehensively, it has resulted in legal issues becoming developed and protracted. As a result, the problem has continued to grow until now, while the solution has not made much progress. In other words, there are increasing irregularities in law enforcement in society, while solutions towards improvements in the enforcement of the rule of law are still very far from expectations (Tri wahyudi, 1945).

From the description above, the problem of law enforcement in society is very urgent. Considering the existence of the law itself cannot be separated from social and state life. In reality, people's lives are always followed by the development of laws that apply in society, and vice versa. Through this journal, it will be discussed about law enforcement, the importance of law enforcement, low law enforcement in Indonesia and the various factors that surround it.

METHODS

In this case, researchers use a type of normative *legal research (Normative Legal Research*), which is "a type of research carried out by examining library materials or secondary data". The legal materials used in this study include primary, secondary, and tertiary legal materials. The collection of secondary legal materials is carried out by literature studies. The analytical method used is a theoretical instrument and / or legal concept that is the main legal issue with a concept approach (consep *approach*) whose results are presented in a qualitative descriptive form.

RESULTS AND DISCUSSION

A. Definition of Law Enforcement

At the end of lawmaking as we already know, the legal process has just completed one stage of a long journey to govern society. The stage of legal action must still be followed by its implementation concretely in people's daily lives. This is what law enforcement is all about. In Indonesian it is known as some terms outside of law enforcement, such as the application of the law, but it seems that the term law enforcement is the most frequently used and thus in the future the term will become more established or is a term that is used (*conited*). In foreign languages we also know various details, such as: *rechtstoeapassing, rechtshandhhaving* (Dutch); *law enfocement, application* (America) (Judge, 2020).

Meanwhile, according to Jimly Asshiddiqie, law enforcement is the process of making efforts to enforce or function legal norms in real terms as a guide for behavior in traffic or legal relations in social and state life. Viewed from the point of view of the subject, law enforcement can be carried out by a broad subject and can also be interpreted as an attempt at law enforcement by the subject in a limited or narrow sense. In a broad sense, that law enforcement process involves all legal subjects in every legal relationship. Anyone who carries out normative rules or does something or does not do something by basing themselves on the norms of the applicable rule of law. In a narrow sense, in terms of its subject, law enforcement is only defined as the efforts of a certain law enforcement apparatus to guarantee and ensure that a rule of law runs as it should. In ensuring that the law is enforced, if carried out, the law enforcement apparatus is allowed to use coercive force (Moho, 2019).

The definition of law enforcement can also be viewed from the point of view of its object, namely in terms of the law. In this case, the definition also includes broad and narrow meanings. In a broad sense, law enforcement also includes the values of justice contained therein, the sound of formal rules and the values of justice that live in society. But in a narrow sense, law enforcement is only concerned with formal and written enforcement of regulations.

From the description above, it is clear that what is meant by law enforcement is more or less an effort made to make the law, both in a narrow formal sense and in a broad material sense, both by the subjects of the law concerned and by law enforcement officials who are officially given the duty and authority by law to ensure the functioning of legal norms that apply in social and state life.

Conceptionally, the core of the meaning of law enforcement according to Soerjono Soekanto is the activity of harmonizing the relationship of values described in steady and interpretive methods and attitudes of action as a series of elaboration of late-stage values to create, maintain and maintain the peace of life associations. The conception, which has a philosophical basis, requires further explanation, so it will appear more compassionate.

Law enforcement itself is inseparable from the participation of law enforcement, because it is law enforcement that later enforces the rule of law. If law enforcement has a dilapidated mentality, it will create dilapidated law enforcement as well, and vice versa if law enforcement has a good mentality in embalming/enforcing the rule of law, it will create good and responsive law enforcement (Main, 2019).

B. Factors affecting Law Enforcement

Soerjono Soekanto explained that law enforcement as a process, in essence, is the application of discretion that involves making decisions that are not strictly regulated by legal methods, but have a neutral meaning, so that the positive or negative impact lies in these factors. According to Soejono Soekanto, there are five of these factors, namely:

1. The law itself, limited to the statute only
2. Law enforcement, namely parties who form or apply the law;
3. Facilities or facilities that support law enforcement;
4. Society, that is, the environment in which the law applies or is applied;
5. Culture, which is the result of work, creation, and taste based on human nature in the association of life.

These five factors are very closely related, because it is the essence of law enforcement and it is also a benchmark of the effectiveness of law enforcement that occurs in people's lives. These factors will be explained briefly below (Agiyanto, 2013):

1. Undnag-Act Factor

In Indonesia's positive law, it is related to the principles of the formation of laws and regulations contained in article 5 of Law Number 12 of 2011 concerning the establishment of laws and regulations which include the principle of clarity of objectives, institutions or appropriate formation organs. Conformity between types and materials of content, enforceability, usability, and usefulness as well as clarity of formulation and openness. The principle of openness requires that in the process of forming laws and regulations, including in the determination of regional regulations starting from the planning, preparation, preparation and discussion stages, they must be transparent and open. Thus, the community has the widest opportunity to participate in the process of forming local regulations.

In legal science, there is a legal product that has a responsive character, the process of making it is participatory, namely inviting as much community participation as possible through social groups and individuals in society. The law of responsive character is aspirational in that it contains materials that are generally in accordance with the will of the people it serves. So that the law can be viewed as the crystallization of the will of the people. Then the law is not only a method but also a symptom of society, the law is not separate from society. Laws grow and change following and together grow, develop and change society.

The practice that has occurred so far in the process of forming laws and regulations, the role of society is still partial and symbolic. Some of the communication that is carried out is only as a complement to the procedures for basic research that underlies the planning of the formation of local regulations. Even then, it is carried out only at the planning stage. It can even be argued that it is no secret that many local regulations are issued without prior research process, although they end up suddenly having academic manuscripts. Meanwhile, in the planning stage, discussions are carried out by official work units from the government or by the committee by the DPR. Although at this stage it is likely to involve academics or experts who are competent in their fields. But in reality, the general public who are interested do not have an entrance to participate in it.

2. Law enforcement factors

The main problem of law enforcement in developing countries, especially Indonesia, is not in the legal system itself, but in the quality of human beings who carry out the law (law enforcement). Thus the role of humans who carry out the law (law enforcement) occupies a strategic position. The issue of law enforcement transparency is closely related to the accountability of the performance of law enforcement agencies. Law enforcement is a group of role models in society, who should have certain abilities, in accordance with the aspirations of the community. They must be able to communicate and gain understanding from the target group (society), in addition to being able to perform or carry out roles that are acceptable to them. However, as we already know that one of the causes of weak law enforcement in Indonesia is the low morality of law enforcement officers (investigators, prosecutors, advocates and prisons) as well as judicial corruption which has been ingrained so that until now it is very difficult to eradicate.

3. Facility or Facility Factor

In simple terms facilities can be formulated as a means to achieve the goal. Its scope is primarily the physical means that serve as a supporting factor. If facilities and infrastructure already exist, the maintenance factors also play a very important role. Indeed, it often happens that a law is enacted even though the supporting facilities are not yet fully available. If there are certain facilities or facilities, it is unlikely that law enforcement will proceed smoothly. These facilities include, among others, educated and selected human labor, good organization, adequate equipment, sufficient finances and so on, if this is not fulfilled, then it is impossible for law enforcement to achieve its goals.

The certainty and speed of settlement of cases depends on the supporting facilities in the areas of crime prevention and eradication. Improving crime detection technology, has a very important role for the certainty and handling of criminal cases, so that without these facilities or facilities it will not be possible for law enforcement to align the role that should be with the actual role, so for these facilities or facilities should be done in the following way;

1. The non-existent is then held a new one;
2. Those that are damaged or wrong are then corrected or corrected;
3. The less should be supplemented;
4. The stuck must be launched;

5. Those that retreat or degenerate must be advanced or improved.

The factor of supporting means or facilities includes software or hardware, one of the software is education.

4. Community Factors

Citizens must know and understand the laws that apply or are applied and obey the laws that are in full awareness of the importance and necessity of the law for people's lives. In a democratic country, the people are the givers of a mandate to the government to organize government including providing services to the community. Therefore, the community has the right as well as the obligation to supervise state organizers. Because law enforcement aims to achieve peace in the community, the community can influence the enforcement of the law. Law enforcement is not a stand-alone activity, but rather has a close reciprocal relationship with the community. Therefore, in talking about masalanya, we should not ignore the discussion about the structure of society that is behind it.

To reduce the failure of government administrators and the law to involve the public in supervision is important. There are three important things in community supervision, namely as follows:

a. Availability of access to supervision for the community;
b. Public awareness and ability to conduct surveillance;
c. The organizer's willingness/willingness to be supervised.

In addition to the above, according to the author, there is a need for equality regarding the regulations of the entire community, so far constrained by communication and distance factors, many remote areas do not know the positive laws of this country. So that socialization and counseling in remote areas are needed, in contrast to the conditions of urban areas that are able to always *update* related to strategic issues that are still warm.

5. Cultural Factors

Culture is a central line of behavior that sets out rules about what to do and what to do. Culture is essentially the fruit of cultivation, creation, taste and human nature where a community is located. Thus a culture includes values that underlie applicable laws, which are akbstrak conceptions of what is considered good and what is considered bad. These values that play a role in law include, among others:

1. The value of order and the value of tranquility
2. Physical/material values and spiritual/spiritual values
3. The value of perpetuity and the value of novelty.

Culture is inseparable from the customs of a country. Undeniably, not a single country in the world does not have its own legal system. However simple as a sovereign state has its own legal order that comes from the thinking of the nation itself. In Indonesia long before independence even long before the arrival of Europeans to the archipelago, indigenous peoples already had their own legal system, as a guide in the social life of the people called customary law.

C. Miscellaneous Law Enforcement

a. Law Enforcement By Investigators
b. Law Enforcement By Prosecutor's Office
c. Law Enforcement by the Judiciary
d. Law Enforcement By Advocad
e. Law Enforcement By Community Agencies

D. Law Enforcement System

According to some opinions, hukun enforcement is defined as the activity of harmonizing / harmonizing the relationship of ideal values / rules (laws) and realizing behavioral attitudes and various activities to create social *engeenering*, maintaining and maintaining (as a social controI) peace in social life. From this understanding, it can be understood that the (ideal) system of law enforcement is Lerkait with the existence of harmony between the values and rules of law with real human behavior. Dalani the relationship between the rules of law and human behavior entrusts the enactment of legal rules in various aspects of life and attitudes of nianusia behavior, which in theory legal science is generally distinguished in 3 (Leagues) of the application of these rules. First, the application of the law juridically; secondly, The application of the law susiologically and thirdly, the philosophical enactment of the law (Sanyoto, 2007).

In order for the law to function properly, it must meet all three enforcements. This is because, if the law only applies juridically, then there is a possibility that the law is only a dead and formalistic rule. If the rule of law were only sociological in the sense of power theory then the law would be a coercive rule only. That's it. If the law is only philosophical,

then the law should only be called the expected and aspired rule of law. In connection with the basis and objectives of the enactment of the law as described above, in order for the law tofunction properly, it is necessary to have harmony in the relationship between the four factors as mentioned above regarding law enforcement factors.

Low Law Enforcement in Indonesia

As described above, the low law enforcement in lndonesia has been going on for quite a while. If traced, since the time of the Old Order efforts to manipulate the law for economic and poitic interests have begun to be seen and widely practiced Similarly, with the New Order period, the law was manipulated to develop development in which the law became repressive, violating the human rights of the people which in the end gave the public legitimacy to what is now called corruption, collusion and nepotism (KKN) of his chronicism. Indeed, it must be admitted and it is common assumption that the new order period actually seemed to have a kind of enforcement of the rule of law, despite its pseudo-nature. That being said, because through veiled hands that are hard, cruel and sometimes inhumane, the people still feel a pseudo-tranquility in nation and state. This condition certainly changed, especially in the fall of the new order regime and the establishment of the reform order (Sukadi, 2011).

Now in the Reformation Era, after economic development has stagnated which began with monetary crisis and political crisis, as well as weak all economic development that was originally said to have strong fundamentals, has become collapsed followed by all political buildings that are surrounded by uncertain conditions. As a result, the people no longer have optimism and lose various orientations in living their lives.

Economic crises and political crises whose roots are embedded in moral crises and cultural kris, make people lose value orientations, not infrequently even rnenget psychological problems. His life became bland, cruel, and abusive, arid in cultural poverty and spiritual dryness. Now the public is no longer concerned with law enforcement agencies that have lost their integrity and credibilityas a place to obtain truth and justice. It is not uncommon for society to enmosionally and seritimentil judge for themselves cases that are perceived as disruptors of a sense of 'truth and truthfulness'. Murder, vandalism, looting and arson constitute an abuse of the rule of law and replace it with mob surmation. This is partly as a result of the law enforcement system which is still very low with various factors surrounding it.

In line with the preliminary description of the factors that can support the proper functioning of the law, it can be mentioned the factors that hinder law enforcement in Indonesia. Malik Ibrahim, among others;

1. Weak laws and regulations
2. Lack of expertise, skills and morality of law enforcement officers
3. A judicial system that generally does not meet the principles of justice, namely fast, simple and low cost
4. Lack of community participation in developing and popularizing legal culture.

Meanwhile, according to romli Atmasaasminta, the ineffectiveness of law enforcement in Indonesia is due to the following factors:

1. The substance of the legislation is incomplete and there are still weaknesses.
2. The existence of the substance of laws and regulations that still overlap with each other.
3. The existence of the substance of legislation that still puts the interests of the government far greater than for the benefit of the wider community.
4. There is still no firmness regarding the difference between executive, judicial, and legislative functions.
5. The awareness and responsibility of the nation and state in producing products of legislation and law enforcement is still weak. This weakness emerges as its implications and weak links in various other areas such as social, cultural economic and political.

Of the factors that hinder law enforcement in Indonesia, there are at least 4 (four) factors that are quite dominant and need attention from various parties including;

1. Weak substance (material) of legislation;
2. Unprofessional and unscrupulous law enforcement officers
3. Judicial systems and principles that have not been properly implemented and
4. There is still low participation and legal awareness of the community.

The Importance of Law Enforcement

As mentioned above, the existence of law in the midst of society is very important, especially in heterogeneous societies such as Indonesia. This is because among the functions of law in society is to be a guide and controller of individual / group behavior in the life of the community, so that the law can play a role in upholding justice, order, peace and order.

From this it can be mentioned that legal certainty in the midst of society is one that cannot be bargained anymore.

With legal certainty, each member of society will naturally organize his personal structure so as not to violate the law. This is because if there is a violation, a person must face and be subject to applicable legal penalties, in order to create a safe, orderly and responsible society. Laws are important to be enforced, because behind these efforts there are very urgent goals and functions that are fought for the benefit of society. The purposes in question include; creating order and tranquility and upholding justice (Rahman, 2020).

First, it creates order and tranquility. Order is a central goal in law enforcement. This need for order is a fundamental condition for the creation of an orderly human society. Order as the main purpose of law is an objective fact that applies to society in all aspects of life. To achieve order in society, it is necessary to strive for certainty in the relationship between people in society. Last but not least is that order is needed not only for the benefit of an orderly community life, but is an absolute requirement for an organization/institution that still plays a role today. That's why there are legal institutions such as; 1) Marriage, which allows for a life that is not confused by the relationship between a male and a female; 2) Property rights; and 3) Contracts that must be kept by the parties to them. Without the certainty of the law and order of society, man is unlikely to develop the talents and abilities that God has given him optimally in the midst of society.

Second, uphold justice. Law enforcement that reflects a sense of justice is an arduous task that demands sacrifice and must be fought continuously to know the dimensions of justice in law enforcement, one of which can be seen from the idiogy parameters, namely the values and beliefs that develop in society. Constitutionally, justice is found in the preamble, torso and explanation of the 19445 Law, in this case it is necessary to underline the explanation of article 28 of the 1945 Constitution, which states that articles, both applicable to citizens and to the entire population must contain the desire of the Indonesian nation to build a democratic, human, and socially just society. This constitutional guarantee of justice is sufficient to serve as evidence that the charge of justice in law enforcement is absolutely necessary. This is increasingly felt especially with the increasing demands for justice that are developing today. Therefore, it is necessary to have a guideline for law enforcement and justice that is expected to be felt by all parties.

CONCLUSION

Based on the description above, it can be concluded that the rule of law in Indonesia still cannot be implemented properly. This is due to the many problems faced in enforcing the law. These problems, for example, there has been no unification of laws and regulations and legal certainty, the decline in the authority of law enforcement officials, judicial systems that have not been implemented effectively and efficiently and the low legal awareness culture of the Indonesian people. Some of the efforts that need to be made to elevate the authority of the law and uphold the rule of law include it must be carried out or formulated for legal unification or its exact mapping, improving the moral and professional quality of law enforcement officers and improving systems.

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