

# Effectiveness of Law Enforcement in Indonesia

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**Abstract:- This type of qualitative research through the phenomenological approach, the results of research shows that the law serves to justice, certainty and benefit. In the field of law enforcement practices there are times when conflicts between legal certainty and justice. Legal certainty is concrete tangible, while justice is abstract so that when a person judges decide on a matter of applying the law, then there are times when the value of justice is not achieved. So when you see a problem concerning the law at least fairness becomes a top priority. Because the law is not merely seen from the point of legal writing, there are still many rules that live in a society that is able to govern the lives of people.**

## I. INTRODUCTION

### A. Background

In social sciences, among other things in sociology of law, the problem of obedience or legal observance or the determination of the rules of the law in general has become a fundamental factor in the measure of the effective absence of something stipulated in this law ( SoerjonoSoekanto,. In another post SoerjonoSoekanto revealed that the meaning of the effectiveness of the law is all efforts made to the law that is in the community actually living in the Community meaning that the law is actually applied Juridical, socialist and philosophical.

The effectiveness of the law is a situation where the prevailing law can be implemented, obeyed and empowered as a social control device or according to the purpose of the law.

Law is a means to change the behaviour of citizens in accordance with the objectives that have been set before. Where certain laws have been established and carried out, it is ineffective. State will arise when there are certain factors that become obstacles. These factors can be derived from legal forming, law enforcement, the Justice seeker, as well as other groups in the community. These factors have to be effective because it is a weakness that occurs when only objectives are formulated, without taking into consideration the means to achieve those objectives. "

It is agreed that humans are social beings, are beings who always interact and need help with their neighbour. In the context of relationships with others, there needs to be regularity so that each individual in harmony relates to other individuals around him. For the creation of such regularity required a rule called by US law. The law in the community is a claim, given that we cannot describe the human life without or outside the community.

The law was created with different purposes, some say that the purpose of the law is justice, there are also those who declare usability, and there are legal certainty and others. However, in relation to society, the main purpose of law can be reduced to order. Said order is the principal and first purpose of all laws, the need for this order is a fundamental requirement for the existence of a regular society, order as the main objective of the law which is an objective fact that applies To All human society in all its forms. To achieve order in this society, there is a need for certainty in association between people in society.

### B. Formula Problems

1. How is law enforcement in Indonesia?

## II. LITERATURE REVIEW

### A. Definition of Law Enforcement

Law enforcement is the process of doing efforts to assert or proper functioning of legal norms as a guideline of conduct in the life of society and state. Reviewed from the angle of the subject, the law enforcement can be done by a broad subject and can also be interpreted as a law enforcement effort by the subject in a limited or narrow sense. In a broad sense, the law enforcement process involves all legal subjects in any legal relationship. Anyone who runs the normative rules or does something or does not do something by basing themselves on the norm of applicable laws, meaning he runs or establishes a rule of law. In a narrow sense, in terms of the subject, the law enforcement is only interpreted as a certain law enforcement apparatus to warrant and ensure that a rule of law runs as it should. In ensuring the law is asserted, if necessary, the law enforcement apparatus is allowed to use forced power.

The definition of law enforcement can also be reviewed from the point of object, in terms of its law. In this case, the understanding also includes a broad and narrow meaning. In a broad sense, the law enforcement includes the values of justice contained in it the sound of formal rules and values of justice that live in society. However, in a narrow sense, law enforcement is only concerned with formal and written rules of enforcement. Therefore, the translation of the word ' law enforcement ' into the Indonesian language uses the word ' law enforcement ' in a broad sense and can also be used the term ' enforcement ' in a narrow sense.

From the explanation above it is obvious that the meaning of law enforcement is more or less an effort made to make the law, both in a formal and material sense, as a code of conduct in every legal act, whether by the relevant legal subject as well as by law enforcement apparatus which is officially given the duties and authorities by law to ensure

the proper functioning of legal norms in the life of society and state.

### *B. Understanding the Effectiveness of Law*

According to Hans Kelsen, if talking about the effectiveness of law, also discussed about the validity of the law. The validity of the law means that the legal norms are binding, that people must do according to what is required by the legal norms., that people must obey and apply legal norms. The effectiveness of the law means that people actually do according to the legal norms as they should do, that the norms are actually applied and obeyed.

### *C. Applicable Law*

#### 1. Philosophical

Philosophical law enactment means that the law is in accordance with the ideals of the law, as the highest positive value.

#### 2. Juridical

In the validity of the law, the following assumptions are found:

A. Hans Kelsen, stating that the rule of law has a juridical behaviour, when the eddies is based on a higher level of rules. It relates to the "Stufenbau" theory of the Kelsen

B. W. Zevenbergen, states that a rule of law has a juridical behaviour, if the rule is "Op de verischeize is tot sand gekomen".

#### 3. Sociologically

The method of law applies sociological, when the method is effective, that is, the method can be imposed by the ruler even though it is not accepted by citizens (theory of power), or the method is valid because it is accepted and acknowledged By the Community (recognition theory). In the case of sociological rules of law, according to the theory of recognition, the rule of law is accepted and acknowledged. According to the theory of compulsion in the law rules when the rule of law is imposed by the ruler.

## **III. RESEARCH METHODS**

Types of qualitative research through the phenomenological approach

## **IV. DISCUSSION**

Indonesia is currently in messy conditions condition, crisis conditions in various fields including the legal field. The law that is expected to provide justice to the community turns otherwise. The effectiveness of law enforcement only applies to small communities who commit small crimes. While the perpetrators of major crimes such as corruption, collusion, and nepotism (KKN), commonly called white collar crime are very difficult to touch. In this case it takes courage for the community, especially the law enforcement officers to make breakthroughs in resolving the case (Arianto, 2010:115).

The laws that apply in society are like distinction in the social classes. For the community in the social stratification and above clearly get a different treatment than the community that has a social stratification down. People who in their families have higher positions or positions have special or distinguished honours from communities that originate from the background of a family of ordinary people or have no position or Position in the community. This means that there is an indication that the treatment for the lawbreakers of the law enforcement officers occurs injustice. The law is sharp down and the law blunt upwards, the phenomenon is almost happening in all corners of the homeland in Indonesia. Departing from the idea that not very few people, both educated society and society are not educated, even people who are daily involved in the legal world although especially in Indonesia, those who are still astonished when they understand the law is as a commander to answer, decide, or to settle a cause or case, it is not very few laws as the law becomes barren not give birth to what the community expects Itself (Uthman, 2013:241). Expectations of society against the law are far from circumstances or desires in law enforcement, will only add a concern in society.

The law is essentially made to create order and peace in the community. Therefore, the system of a law should go like a series of community organs must complement each other and have a high awareness in the law. The paradigm that looks at the law as a system has dominated the thinking of the greatest part of the law, both the theorems and the practical circles since the inception of modern countries in the 17th century to the present, the paradigm that considers Law as a order (Fadjar, 2013:1). The state of Indonesia which is Background a law country, then everything that pertains to violations of law or disobey the rule of law will get strict sanctions for the culprit. It is recommended for anyone who lives as a citizen who lives in this earth to be able to create social regularity, which is to uphold the prevailing laws. The law must be enforced without a select slash in the case of law.

In Weber's view, law is an order of force due to the firm's rule of law (distinct from other non-legal settings and social norms) supported entirely by the state's wearer force. Weber distinguishes various legal systems on the substantive and formal basis of rationality. Weber said that it has substantive rationality as the substance of the law is made up of a common rules in abstractor that are readily defied to show various concrete cases. In contrast, the law is said to have no substantive rationality if each matter is resolved on the basis of unique political or ethical wisdom in its order. It may even be resolved emotionally that could not in any way refer to the general rules that it objectively exists. In contrast, the law can be said to have a formal rationality (irrational) if the law is only obtained by inspiration or through the whisperings of the Inspired that is said to be received by the charismatic leaders so that the truth and his Can be tested objectively (Wignjosoebroto, 2008:36-37). Thus, people who live in society inevitably in the development stage of their lives will always be faced with a rule or law. The norm in society includes the norm of

politeness, morality, religion, and law. It is the reference in the objective reality of the community that is sourced by the rules or sanctions that apply from the state or government is at the legal level. The law is firm and pushy while aiming to be in order for the community to create order and peace. The law that is in the society is the law that is used to regulate the cases of rationality, i.e. empirical is not speculative. If the law is enforced with justice then the law will be held high in the community. The law does not look at social classes, public awareness in the lawlessness that will determine the course of law enforcement in Indonesia.

#### *A. Law Enforcement Problems in Indonesia*

Law is one of the areas whose existence is very essential to ensure the life of society and State, especially the state of Indonesia is a law country, meaning that every state apparatus deeds must be based on law, as well as Every citizen must obey the law. With the development of the increasingly complex world today, it is not uncommon to cause a variety of serious problems that need to get attention as early as possible. The problem arises, whether it is a violation of the norms that exist in the life of society or the rules that are tendencies to create a phenomenon that contradicts the moral rule and the Susila rule and Rule of law. The transgression is the reality of the existence of man who cannot accept the rules as a whole. If such a thing continues to be left protracted and less concerned, it will cause unrest in society so that it can interfere with public order (Iswanty, 2012:390). Nowadays, the perpetrators of criminals or violations of the norm are growing.

Either intentional or not whose name of action is contrary to the law it will get strict sanctions. Any behaviour in ignoring or resisting against norms in society will be faced with applicable law in accordance with the laws that have been made and agreed upon.

In the case of law enforcement officers, we can say that in Indonesia the relationship between state and law enforcement agencies occurs monopoly over the violence that is justified by the state. In general, law enforcement officers with all institutions are maintaining the order and sovereignty of the Indonesian State. This compounding is increasingly rolling when the country is highly dependent on the expertise and adherence of the law enforcement officers to the task at its own. And the fact that so is the control of society is powerless (to be in the position of fatalism "sub-Human") (Uthman, 2013:252). The public will only be obedient and subject to existing legal treatment, however the element of power will affect the dominance in the structure of the law.

In various handling of legal cases occurring in the homeland, often sticking to public discussion because the verdict is considered to ignore the values of justice that should be perceived by the public and seekers of justice. The legal process in the Indonesian judicial environment to date is deemed not to fully reflect the true values of justice. Justice seems to be an "expensive item" away from the reach of society. Some cases that have hurt the sense of public justice such as the placement of ArtalytaSuryani in a special

space that is quite luxurious at PondokBambu detention House some time ago and the inaction handling of Anggado is a bit of a face Law enforcement in Indonesia. Not to mention the case of PritaMulyasari which is considered insulting by Omni International Hospital, theft of watermelon fruit, randu, corn plants, or the theft of cocoa beans by Grandma Minah, increasingly add to the long list of blurry portraits in the practice of enforcement the law of the country (Sutiyoso, 2010:218). From a series of cases above clearly noticeable differences in legal treatment. The law should be enforced and executed as it should, making the community increasingly questioning in the process of law enforcement in Indonesia. Legal functions seem to be shifted, the law is faced with various arenas of interest. Law enforcement should be able to run according to the purpose of the law, so that the law will run as it is without any pressure from any party.

#### *B. The Application of Law in Society*

Basically, the human being is as an act that not only responds but also in action and with the action it is a creation of units of activities for which it eliminates concern, anxiety, and build confidence, as well as Passion in life. However, everything goes with violence, impurities, loneliness, short life principles, overcome with fear, while the absence of social systems (social rules) to set in order and organize the existence of legislation or legal law As the control apparatus (law as social control and social system) (Uthman, 2013:185). Laws that run in society as a manifestation of social control, who play with the violation of the law, will be confined in the circle of legal regulations. Law applies to all circles, not knowing the social stratification in law enforcement, but the reality that occurs inversely than the upside of the legal principle, the law is used as a tool for those who have an interest.

According to the legal structure in a country that the highest law in a country is the law of the country in which case the legislation or laws under which it is to be subject to and should not be contrary to the laws of the country. Plato, T. Hobbes and Hegel, that the law of the State is higher than any other law so that no other law is contrary to the laws of the state (Uthman, 2013:186). The law that develops in society, which is the law relating to the rise of current cases greatly affects the mind-set of citizens. As an example of the law applied by not upholding the principle of justice in the community, namely the blunt laws and upward and blunt law. Treatment is different from law enforcement, so there is a legal effect only applicable to the lower class community while the laws of the ruler can be traded. The fact is very ironic once, the law does not run as it should.

The laws applied in society will bring influence to society. In the process of law enforcement, the court decides on a case. Sociology of the law more look to the social relations that occur in the law enforcement process and the ruling so that it will cause social impact. The impact of the laws of the country will affect individuals or groups who are in trouble with the law, their respective families, groups or community organizations, communities in the broadest, and

mass media Contribute to a news feed on the prevailing laws of the community.

### C. Law Enforcement in Indonesia

Currently, it is not easy to expose the legal condition in Indonesia without the deep concern to hear the lamentation of communities injured by the law, and the community in those who utilize the law to achieve their goals without using the heart Conscience. The legal world in Indonesia is getting very sharp highlights from a number of people in both the state and foreign countries.

Of the many areas of the law it can be said that the criminal law ranks first which not only got the spotlight but also the tremendous ruination compared to the other legal bidding. Criminal law is the easiest field of law to be an indicator of whether the reforms of law conducted in Indonesia has been running well or not. Criminal law is not merely talking about a court ruling on handling criminal matters, but also covering all processes and criminal justice systems. The judicial process is based on the investigation conducted by the police and culminates in the criminal proceedings and subsequently concludes with the implementation of the sentence itself by the Community institution. All of these criminal processes have been highlighted by many people because of their performance, or their behaviour is far from good.

The pattern of law that is largely dilapidated by the perpetrators who have personal importance or group. Although there are kindness and legal passage in the flow, it is only a fraction of the current damage to the system.

The laws of this country can be easily diverted, with the inconsistencies of the law in Indonesia, such as giving penalties to state officials who violate legal rules, such as when exposed to traffic police, there are several police officers who want to Sometimes even ask to be treated so that the case is not extended police Person get the material advantage quickly but misplace. This is an example in our closest environment. There are still many cases that can be used as an example of legal fraud in Indonesia.

We can take a few examples of the harm of law enforcement in Indonesia. When someone steals sandals for example, as once preached, he was tried and fined just because it stole the sandals of a briptu which is not what price, while in Indonesia the Indonesian people can freely rampant, Enjoy without sin, because it is to look down on the laws that exist in Indonesia. Take the example of ArthalytaSuryani, he occupies a Detention House with the exclusive means by which the prison is available for Karaoke, this can also be judged as a legal purchase in Indonesia.

Corruption cases were assessed as a very chronic disease, although the government promised no view of fur in the enforcement of legal supremacy in Indonesia. In fact it is not in line with the hopes of all of us, many cases of corruption in the investigation is not able to uncover the fact let alone catch his intellectual mastermind. Many law

enforcement persons are seen in the vortex of corruption cases, so they cannot be arrested and judged according to the law.

### D. The Significance Of The Law For Citizens

The interaction of individuals among citizens is a human consequence as a social creature. To regulate the pattern of the relationship can be run in order, it takes a clear and decisive rule. The presence of clear and assertive regulations can guarantee the rights of individuals in social interactions. Therefore all things are based on law and every Indonesian citizen must obey and comply with the law. So, the law has a very important meaning as the citizens because of things as follow:

- to ensure a sense of justice for citizens.
- to prevent or avoid acts of self-judgmental by citizens.
- to get the same treatment in front of the law.
- to protect the rights of citizens.
- to ensure legal certainty for citizens.
- to protect the weak parties from Arbitrariness actions performed by the strong parties.

## V. CONCLUSION

With the development of the increasingly complex world today, it is not uncommon to cause a variety of serious problems that need to get attention as early as possible. The problem arises, whether it is a violation of the norms that exist in the life of society or the rules that are tendencies to create a phenomenon that contradicts the moral rule and the Susila rule and Rule of law. The transgression is the reality of the existence of man who cannot accept the rules as a whole. If such a thing continues to be left protracted and less concerned, it will cause unrest in society so that it can interfere with public order (Iswanty, 2012:390). Nowadays, the perpetrators of criminals or violations of the norm are growing.

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