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A Critical Analysis of Law Enforcement Implementation in Indonesia

Firmansyah[1]*, Hadyan Hashfi MS[2], Kurnia Ali Syarif[3]
[1,2,3] Universitas Negeri Makassar
Email: firmansyah@unm.ac.id

ABSTRACT

Law enforcement in Indonesia continues to face serious challenges, including inequality in justice, weak integrity among law enforcement officials, judicial mafia practices, criminalization, and political interference in legal processes. These conditions indicate that law enforcement has not fully reflected the principles of due process of law and equality before the law. This study aims to analyze the current condition of law enforcement in Indonesia and formulate an ideal concept of just law enforcement based on progressive legal theory and legal system theory. The research employs a normative juridical method with a qualitative approach. Data were collected through library research involving primary and secondary legal materials and relevant scientific literature. Data analysis was conducted descriptively and analytically using statutory, conceptual, and legal interpretation approaches. The findings show that the major problems of law enforcement lie not only in legal substance but also in weak legal structures and legal culture among law enforcement institutions. The cases of Amsal Steps and Andrie Yunus illustrate tendencies toward criminalization, legal discrimination, and weak human rights protection. Therefore, law enforcement reform requires stronger institutional integrity, judicial revitalization, and a justice-oriented progressive legal approach.

Keywords: law enforcement; legal justice; progressive law; legal system; human rights protection

INTRODUCTION

The primary purpose of law is essentially to create peace and order within society. This objective is realized through three fundamental elements: legal certainty (legal certainty), utility or expediency (practicality), and justice (justice). In addition, law is also regarded as an instrument of social engineering that functions to cultivate legal awareness within society. Through such awareness, individuals are expected to comply with legal rules based on understanding and personal consciousness, rather than merely out of fear of sanctions that may be imposed for legal violations. Therefore, law enforcement officials are required to act carefully and professionally in carrying out legal acts to ensure the proper application of legal norms within society. According to Lawrence Friedman, legal action refers to all forms of conduct performed by parties possessing authority and acting within a legal system (Lawrence M.Friedman, 2011).

In discussions concerning the legal system in Indonesia, a recurring question is whether Indonesia has fully established a national legal system. This question arises because a number of colonial-era laws and regulations remain in force and continue to be applied within the national legal framework. One perspective argues that Indonesia has not yet fully developed a national legal system, considering that many regulations still originate from the colonial period. According to this view, a legal system can be regarded as genuinely national only when

all applicable laws and regulations are formulated and enacted by national legislative institutions without reliance on colonial legal products.

A second perspective maintains that Indonesia, in fact, already possesses a national legal system, despite the continued application of certain laws inherited from the Dutch East Indies period. These regulations are considered passive in nature because their application depends upon the occurrence of specific legal events that activate them. In practice, the implementation of law in Indonesia is grounded in Pancasila as the worldview or philosophical outlook of the nation. Therefore, every applicable regulation must conform to the values of Pancasila, which serves as both the foundation of the state and the philosophy of the Republic of Indonesia. Based on this perspective, Indonesia has possessed its own national legal system since the proclamation of independence (Abdul Ghafur Anshori, 2008).

One of the sources of law in Indonesia may be distinguished based on its form, namely written law and unwritten law. Written law consists of statutory regulations formulated by authorized officials or institutions and subsequently promulgated in the state gazette in order to acquire binding legal force and be observed by society. In this context, the legal principle the new constitution must shape the future, not the past is recognized, meaning that a new law applies only from the time of its promulgation and does not operate retroactively. Accordingly, the provisions contained in statutory regulations apply and bind all members of society without exception. In addition, there is the principle No one is considered ignorant of the right, commonly referred to as legal fiction, which presumes that every person is deemed to know the applicable law (Kansil, 1989). Based on this principle, individuals cannot avoid legal sanctions on the grounds of ignorance of existing legal rules.

In addition to written law, there is also unwritten law that emerges from values, norms, and customs that live and develop within society. Although such law is not formally codified in statutory regulations, it continues to be observed because it is regarded as capable of creating order, peace, and a sense of justice in social life. Customs that are consistently practiced and passed down through generations may eventually be recognized as rules possessing binding force within society.

In addition to providing legal certainty, written law currently in force, or positive law, is also expected to realize justice and deliver benefits to society. Jeremy Bentham argued that a law may be considered beneficial when its existence is capable of producing the greatest happiness for the greatest number of people. This concept demonstrates that the purpose of law is not merely to regulate human behavior but also to create a peaceful, orderly, and harmonious social life. Therefore, the process of law enforcement requires a sound moral foundation and appropriate ethical considerations so that the law may be applied fairly while also providing tangible benefits to society (Sudikno Mertokusumo, 2019).

Hans Kelsen argued that the evaluation of a positive legal order from a moral perspective, such as whether it is good or bad, just or unjust, is fundamentally relative. According to him, such standards of evaluation largely depend on the moral system used as the basis for judgment. Therefore, a legal order considered unjust under one particular moral system may not necessarily be regarded as unjust under another. Conversely, a law deemed fair by one group may be viewed as less fair by another group holding different moral perspectives. Thus, moral judgments concerning law are not absolute but are influenced by the values and viewpoints that develop within society (Hans Kelsen, 2008). Basically, the fairness or unfairness of law enforcement is inherently relative, meaning that it may be regarded as fair by society while being perceived as unfair by those who violate the law. Nevertheless, it is important to emphasize that the principle of equality before the law is highly expected and should be upheld in the enforcement of law.

METHODS

This study adopts a qualitative normative juridical approach, with its primary focus directed toward examining legal issues through the lens of legal norms, fundamental principles, theoretical frameworks, and statutory regulations considered relevant to the subject matter. The data sources comprise both primary legal materials, which are authoritative in nature, and secondary legal materials that support legal argumentation. These materials were collected through library research, involving the examination of legislation, reference books, academic journals, and other legal documents substantively related to the research topic. Data collection was carried out through a systematic and structured process of literature identification and review. Furthermore, the data were processed and analyzed using a descriptive-analytical approach supported by various methods of legal interpretation. Through this approach, the study seeks to produce arguments that are not only formally logical but also systematic and sufficiently comprehensive in addressing the legal issues identified.

RESULT AND DISCUSSION

The Reality of Law Enforcement

Discussing law enforcement essentially means discussing how the law is implemented when violations occur. When an individual or a particular party breaches applicable legal provisions, the machinery of law enforcement begins to operate. Through this process, the law transforms from something merely written on paper into a living reality that can be experienced and felt within society.

In the criminal law sphere, law enforcement involves several actors whose roles are interconnected. The police operate at the forefront through investigation and inquiry, while prosecutors take over the process by initiating prosecution and proving charges before the court. On the other hand, advocates serve as a protective safeguard for defendants, ensuring that their rights are not undermined by legal proceedings that may at times be harsh. Judges, as the final link in this chain, ultimately determine whether a person is guilty or not through judicial decisions.

Interestingly, there is a classical legal principle that strongly binds the position of judges, namely, the court of law knows, which essentially means that judges cannot claim ignorance of the law. They are not permitted to suspend or refuse to decide a case on the grounds that the law does not yet exist or that a legal vacuum is present. A decision must still be rendered. Therefore, judges are required to actively engage in legal establishment, or legal finding, by exploring, interpreting, and, when necessary, even developing new legal norms. Accordingly, law enforcement is not merely a mechanical activity of applying statutory provisions, but rather a creative and interpretative process far more complex and dynamic than is commonly assumed (Sudikno Mertokusumo, 2005).

The reality of law enforcement today continues to struggle under the weight of serious and persistent problems. Inequality in justice remains deeply entrenched, the integrity of certain law enforcement officials is increasingly questioned, and the application of law, which should be consistent and impartial, often appears uneven depending on who occupies the defendant's seat. Several major cases that should have served as tests of the credibility of the judicial system have instead revealed irregularities that are difficult to ignore. Allegations of bribery tarnishing the image of the courts, striking disparities in sentencing between similar cases,

structured manipulation of legal processes, and the lingering shadow of political interference all continue to haunt judicial proceedings.

Such circumstances send a strong signal that the legal ideals founded upon due process of law and equality before the law remain far from realization. Law has not yet fully functioned as a neutral instrument of justice committed to truth; too often, it appears flexible in the hands of those possessing power or economic influence. The following cases may serve as reflections of the complex and multilayered challenges currently confronting law enforcement in Indonesia.

The case of Amsal Sitepu emerged as one of the clearest illustrations of how Indonesia's law enforcement system still suffers from unresolved deficiencies, particularly in 2026. Amsal, a videographer residing in North Sumatra, was suddenly drawn into a corruption case related to a village profile video production project in the Karo Regency area. The prosecution's allegation centered on suspected budget mark-ups, arguing that a videography service fee of IDR 30 million per village was excessively high compared with pricing standards applied by government auditors. This is precisely where the controversy that sparked widespread criticism began. Law enforcement officials were accused of imposing conventional procurement logic upon creative work, despite the fundamentally different nature of such services. Even more striking, processes such as editing, concept brainstorming, dubbing, and various other creative stages were at one point treated as though they possessed no economic value whatsoever. Yet anyone familiar with the creative industry understands that these very processes constitute the core value of the service itself.

Academics and legal practitioners widely regarded such an approach as nothing more than the criminalization of actors within the creative economy. In their view, disputes concerning the reasonableness of professional service fees are more appropriately resolved through civil or administrative mechanisms rather than being immediately framed as corruption cases carrying severe social and legal stigma. The Medan District Court ultimately delivered an acquittal, sending a clear signal that the prosecution had failed to prove the elements of corruption beyond reasonable doubt and in accordance with the law. Ironically, however, the case sparked a broader discussion concerning the phenomenon of "no viral, no justice," a troubling condition in which the wheels of justice seem to move only after intense public scrutiny and mounting pressure from social media. Such a reality raises serious concerns, as justice should not depend upon public outrage or digital visibility in order to function properly (https://rmol.id/hukum/read/2026/04/06/702887/kasus-amsal-sitepu-harus-jadi-refleksi-penegakan-hukum?utm, 2026).

In contrast, the acid attack case involving Andrie Yunus, a human rights activist from KontraS, reopened longstanding concerns regarding the protection of human rights defenders and the fragility of the principle of equality before the law in Indonesia. Andrie became the victim of a brutal attack allegedly involving military personnel shortly after he publicly voiced criticism concerning remilitarization and various human rights violations. Irregularities immediately emerged when the case was directed toward the military court system rather than the general courts, where it arguably should have been adjudicated. Andrie himself openly expressed his distrust of this mechanism, arguing that military tribunals often end in impunity for officials who ought to be held accountable for their actions. Within the framework of a democratic rule-of-law state, criminal cases involving civilian victims and allegations of human rights violations should be processed transparently before ordinary courts in order to uphold the principle of equality before the law.

This case starkly illustrates how the dualism of the judicial system remains deeply entrenched, while state protection for civil activists critical of those in power appears alarmingly fragile. The concerns that have emerged among the public are therefore

understandable, namely that the law may still be applied in a discriminatory manner depending on the institutional power supporting the alleged perpetrator. Such conditions, gradually yet persistently, erode public confidence in the independence of law enforcement in Indonesia (https://news.detik.com/berita/d-8434916/andrie-yunus-tulis-surat-tak-percaya-kasus-air-keras-lewat-peradilan-militer?utm, 2026).

Lawrence M. Friedman's legal system theory offers an important framework for understanding this reality. Friedman argues that the effectiveness of law enforcement is determined by three principal elements: legal structure, legal substance, and legal culture. Legal structure refers to law enforcement institutions and officials, legal substance concerns legal norms and statutory regulations, while legal culture relates to the legal awareness and behavior of both society and law enforcement authorities (Lawrence M.Friedman, 1984). In contemporary cases such as that of Amsal Sitepu, the central problem lies not merely in legal rules but also in the weak integrity of law enforcement officials and a legal culture still vulnerable to corruption, political interference, and disparities in justice. Friedman's theory is particularly relevant because it explains that the failure of law enforcement arises when these three elements of the legal system fail to function harmoniously. When law enforcement officials lack independence and legal culture becomes permissive toward abuses of power, the law gradually loses its social legitimacy.

Another legal concept highly relevant to analyzing the current reality of law enforcement is The Concept of Law developed by H. L. A. Hart. Hart explains that law should not be understood merely as commands backed by sanctions, but rather as a system of rules consisting of primary rules and secondary rules. Primary rules regulate the conduct of society, while secondary rules govern how laws are created, applied, and enforced. Within Hart's framework, the success of a legal system depends greatly upon the legitimacy and consistency of authorities in implementing those rules (H.L.A Hart, 2009).

Hart's concept is highly relevant to the condition of law enforcement in Indonesia because many legal problems arise precisely at the level of secondary rules, particularly in the processes of law enforcement and legal application by state authorities. Cases involving judicial mafia practices, judicial bribery, criminalization, and disparities in court decisions demonstrate that legal problems do not always stem from the absence of legal norms, but rather from the manner in which the law is operated by law enforcement institutions. Hart also introduced the concept of the rule of recognition, namely the standard used to determine the validity of a legal rule. In Indonesian practice, public distrust toward law enforcement officials frequently emerges because the law is perceived as being applied selectively and inconsistently. Such conditions contribute to the decline of legal legitimacy in the eyes of society. Therefore, Hart's theory is essential in explaining that the crisis of law enforcement is not merely a matter of written legal norms, but also a question of legitimacy, institutional integrity, and the compliance of law enforcement officials with lawful legal procedures.

Formulating the Ideal Architecture of Law Enforcement

The implementation of law enforcement must be carried out based on legal principles encompassing both substantive and procedural law. Substantive legal principles relate to the content or substance of the law that governs and binds society, whether through mandatory provisions (mandatory law) or supplementary provisions (supplementary law). Procedural legal principles, on the other hand, concern procedural law, namely the body of rules regulating the mechanisms for protecting and enforcing substantive law. These two principles are complementary and interrelated, enabling law enforcement officials to conduct legal

enforcement and legal development effectively, systematically, and in accordance with the objectives of the law.

When discussing effective law enforcement and legal development, Romli Atmasasmita, through the BSE (Bureaucratic and Social Engineering) approach, argues that both state bureaucrats and citizens must understand the function, role, and position of law as follows:

a. Law should not merely be viewed as a body of norms to be obeyed by society but also as a legal instrument that limits the authority and conduct of law enforcement officials and public authorities.
b. Law should be recognized not only as a means of social reform but also as a mechanism for bureaucratic reform.
c. The utility and benefits of law should not be assessed solely from the perspective of those holding power or the state, but also from the standpoint of stakeholders and victims.
d. In vulnerable and transitional societies, whether socially, economically, or politically, the function of law cannot be optimally implemented solely through preventive and repressive approaches but also requires restorative and rehabilitative approaches.

To ensure that the function and role of law can be implemented optimally in national development, law should not be regarded merely as an expression of political commitment but also as an instrument for transforming the mindset and behavior of both bureaucratic institutions and society as a whole (Romli Atmasasmita, 2008).

However, for law enforcement and legal development to become truly grounded and produce tangible impacts, reliance on the BSE framework alone is insufficient. It also requires the presence of progressive legal actors capable of giving life to and implementing the law itself.

Law enforcement officials may be categorized as progressive legal actors because, in carrying out their duties, they are not confined to the status quo, whether derived from regulations or longstanding legal traditions. Even within the same legal framework and institutional environment, law enforcement officials still possess opportunities to create breakthroughs in legal practice. Through personal initiative and concrete action, they may improve the quality and effectiveness of their work beyond formal expectations and institutional obligations (beyond the call of duty). Therefore, what is required is not merely a profound understanding of law but also the courage and strong commitment necessary to realize more progressive and just law enforcement (Satjipto Rahardjo, 2009).

Law enforcement officials, including the police, advocates, prosecutors, and judges, are required to possess strong commitment in carrying out their duties and responsibilities so that the process of law enforcement may function effectively and reflect the values of justice that exist within society. In practice, legal certainty (legal certainty) remains an important element of the legal system. Nevertheless, considerations of utility (expediency) and justice (justice) must also serve as central considerations in every application of law. Consequently, law enforcement cannot rely solely upon a positivistic approach that views law merely as written statutory rules. Rather, what is required are law enforcement officials capable of understanding the social purpose of law, considering its benefits for society, and appreciating the values of justice that live and develop within social life (Achmad Ali, 2009).

Article 5 of Law Number 48 of 2009 concerning Judicial Power stipulates that judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice living within society. Furthermore, Article 54 paragraph (3) of the same law provides that judicial decisions shall be implemented with due regard to humanitarian values and

justice. Therefore, in examining and deciding cases, judges must not rely solely upon statutory provisions but must also seek to understand and apply the legal values and social sense of justice that exist within the community. Consequently, judges are not merely the bouche de la loi or "mouthpiece of the law."

In this regard, discussing judges necessarily entails discussing the judiciary itself. Judicial institutions revolve around two central issues that have long been subjects of debate, namely the issue of personnel and the issue of institutional systems. Criticism directed at the judiciary consistently centers upon these two dimensions. At times, the focus lies upon the individuals occupying judicial institutions, while at other times attention is directed toward the institutional system, or both simultaneously. It is wiser to regard these two matters as inseparable and mutually connected. In other words, questioning judicial institutions inevitably means questioning both the individuals within them and the systems under which they operate. Accordingly, the revitalization of judicial institutions is fundamentally the revitalization of these two principal dimensions (Rusli Muhammad, 2013).

CONCLUSION

Legal certainty is undeniably important, yet law that pursues certainty alone without addressing the sense of justice is like a magnificent structure built upon a fragile foundation. The purpose of law must extend beyond mere procedural consistency; it must respond to and respect the values that genuinely live and resonate within society. To realize law enforcement that is not merely effective on paper, the commitment of law enforcement officials alone is insufficient. Integrity and morality are equally significant variables and, at times, may even prove more decisive than technical competence itself. A law enforcement official who is intelligent but corrupt poses a far greater danger than one of ordinary ability who remains honest.

This is precisely why the revitalization of judicial institutions has become an agenda that can no longer be postponed. Such reform must proceed through multiple avenues simultaneously, ranging from strengthening the theoretical capacity of judges, enhancing awareness of professional responsibility, and reinforcing institutional independence from various forms of interference, to the most crucial aspect, namely the moral reform of the actors within the system. Ultimately, even the most well-constructed legal framework will collapse if those responsible for implementing it lack honesty as their foundation. Only through comprehensive reform across all dimensions can society's aspiration for genuine justice be fulfilled, and the principle of equality before the law cease to be merely an empty slogan engraved upon courtroom walls without real meaning.

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