

LEGAL PHILOSOPHY AS AN ENFORCEMENT OF MORAL AND ETHICAL CHARACTER

Iswarni Nasution¹⁾, Adi Mansar²⁾

Email :

adimansar@umsu.ac.id

Universitas Muhammadiyah Sumatera Utara

ABSTRACT

A good law is one that can provide justice to the people it regulates. Because there is a close relationship between law and the social and cultural values of society, it is clear that good law is one that reflects the values that exist in society. aspects of legal life must always ensure that social morality, institutional morality and civil morality of citizens remain in harmony, balance and harmony. It is based on real societal values. Therefore, collaboration is very important for the formation and implementation of national social standards. Legal philosophy focuses on the goals of law, especially justice. But today, legal philosophy must study every fundamental problem of society that requires a solution. Legal experts, both theoretical and practical, who face social justice problems in everyday life, have produced a lot of legal philosophy. All of these advances show that legal philosophy plays a major role in building the paradigm of legal science, including the authority of the judiciary.

Keywords: Legal Philosophy, Moral Enforcement, Ethics, Character.

INTRODUCTION

During the long history of the Indonesian state, its laws, and its state have often failed to stop and end the interests of some people. Sacrificing the rights of many people, which ultimately sacrifices the sacred goals of the law.

In many cases, punishment often turns into “institutional punishment” of uncertainty and “institutional punishment” of justice hunters. Because of these legal "fallacies", the national legal system is unstable. To create harmony in society, law enforcement is a process of combining strong principles into rules, strong perspectives, and embodying them in attitudes.¹

For law enforcement to be successful, various aspects of legal life must always ensure that social morality, institutional morality, and civil morality of citizens remain in harmony, balance, and harmony. It is based on real societal values. Therefore, collaboration is very important for the formation and implementation of national social standards. In this context, its existence is considered a necessity that produces rules of behavior. If a professional performs actions that are not in accordance with professional standards and harms other people as a result

¹Laurensius Arliman S, *Antropologi Hukum*, Deepublish, Yogyakarta, 2023.hlm, 3.

of his actions, it is considered professional malpractice. As a consequence, enforcing the law in a way that is no longer in line with current progress is an unethical act.

According to Article 24 paragraph (1) of the 1945 Constitution, justice must always be held to uphold law and justice. The spirit of law enforcement, or the spirit of the law, is different from the spirit of the law, which is visible and expressed in the general considerations and explanations of statutory regulations. Article 1 of the Code of Conduct for Law Enforcement Officials states that "law enforcement officials shall at all times fulfill the duties imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession."

Along with the high level of accountability required by their profession, law enforcement officers must always fulfill the obligations imposed on them by law by serving the public and protecting everyone from illegal acts. This study aims to gain a theoretical-academic understanding of the concepts of good law enforcement and how they can be applied in the context of law enforcement. Theoretically, this study will study the concept of "good law enforcement", which is a direct derivation from the concept of "good law enforcement".²

RESEARCH METHODS

A research cannot be said to be research if it does not have a research method.³ Research methods are one of the factors of a problem that will be discussed.⁴ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method.⁵ The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific writing.

RESULT AND DISCUSSION

Law as Social Control in Society

Many experts agree that law is very important for human life, especially in state life. In everyday conversations, in print and electronic media, as well as on various occasions, various kinds of expressions are often uttered in the name of the law, both for those who take refuge in the name of the law and for those who violate the law.

² Asshiddiqie, Jimly et.al. *Teori Hans Kelsen Tentang Hukum*. Jakarta: Kons Press. 2006.

³ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁴ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

⁵ Simatupang, R. S. A., & Hanifah, I. (2024, March). Penegakan Hukum Tindak Pidana Pencucian Uang Dalam Mewujudkan Nilai Keadilan. In *Seminar Nasional Hukum, Sosial dan Ekonomi* (Vol. 3, No. 1, pp. 104-109).

Even though the concept of law is very broad, many writings and formulations have quoted and referred to the opinions of scholars and philosophers who attempted to provide a definition or understanding of law. In practice, it is not uncommon for misunderstandings and misinterpretations to occur, and have even resulted in new interpretations of the law itself. Basically, a good law is one that can provide justice to the people it regulates. Because there is a close relationship between law and the social and cultural values of society, it is clear that good law is one that reflects the values that exist in society. However, man-made laws have raised doubts for a long time. Six hundred years before Christ, Anarchasis wrote that law often acts as a spider's web, catching "the weak and poor, but easily broken by the strong and rich." Five hundred years before Christ, Trasymachus told Socrates that "the law, is nothing but the interests of the powerful" when he spoke of justice, and Machiavelli criticized the law in a different way, saying that "the law becomes a vehicle for the interests of those who have power, while for people without power, the law becomes powerless to defend them.

Not only society, but also government officials in legislative, executive, administrative and judicial institutions use law as the basis for their behavior. Therefore, the law in question is a law that is made in the right way and for the benefit of society and social justice. As stated by Kusumohamidjojo, it is difficult to expect that laws made by legislative, executive and judicial bodies will be accepted and used as role models. State institutions that determine, implement and prosecute violations of law, as well as officials who hold positions in these institutions, play a significant role in this relationship between legal components and the factors that move society, especially in terms of respect for the principles of justice in application of the law. From the brief description of law in social life above, in the end we will talk about how humans try to apply the law, and what legal officials in the legislative, executive, administrative and judicial bodies think, as well as the consequences this causes.

The various functions of law in society vary greatly, depending on various factors and circumstances. The legal function of undeveloped societies is also different from that of developed societies. The law functions better to ensure that the desired social structure is achieved and keeps society safe. However, in more advanced societies, law becomes more general, more abstract, and less relevant to the context.

One of the main studies in the sociology of law is about law as a tool for social transformation in relation to the legal sector. The legal and social change sectors interact with each other; Legal changes change social changes, and social changes also change legal changes.

The function of law as a means of social change or social engineering is influenced by changes in power.⁶

Depending on various factors and societal circumstances, the function of law varies greatly. The legal function of developed societies is also different from less developed societies. Law has a greater role in maintaining societal security and ensuring the achievement of the social structure expected in every society. However, law becomes more general, abstract, and removed from its context in advanced legal societies. In general, there are several functions of law in society, such as:

a. Ideological Function

Guaranteeing legitimacy, hegemony, domination, freedom, independence and justice is the function of Ideology;

b. Facilitating Function

In this case, that means helping certain parties work together to achieve order;

c. Reflective Function

In cases like this, the law must be neutral because it is a reflection of the collective will of society;

d. Repressive Function

In this case, the law is used as a tool for elite leaders to achieve their goals.

In a system where the relationship between law, power and politics is very close, the study of the relationship between the elements of law, power and politics also becomes part of legal sociology.

According to society, the function of law is to change society. In this case, the law only functions as ratification and legitimation, so it is not the law that changes society but the development of society that changes the law. The following are several stimuli that influence people's views and lives:

- a. A sudden need of society as a result of special circumstances or emergencies, especially in relation to the distribution of resources or standards recently about justice.
- b. Societal norms change evolutionarily.
- c. For the efforts of small groups of people who have great potential to gradually influence the landscape and lifestyle of society.
- d. To prove a fact, there is progress in knowledge and technology.
- e. Additionally, inconsistencies in the legal structure require changes to the law.

⁶ Soeseno, Franz Magnis. *Etika Dasar*. Yogyakarta: Kanisius. 1989

f. The law must be changed because there is technical injustice.

Then there are the benefits and disadvantages of superactive government in society. The negative is the tendency for the emergence of authoritarian and cruel governments. On the other hand, the good thing is that a superactive government style usually results in many changes in laws and regulations that can accelerate change and development in society. This kind of societal development can have positive or negative effects.

Apart from that, the function of law in society shows that if the legal function does not function well, arbitrary government will occur, which in the end will no longer be limited by law. The government will create its own laws. like an authoritarian government.

So, people believed that rulers had power, and laws represented the rulers. For example, active officials rarely go to prison, usually after leaving office they are arrested. Hatta argued that anyone found guilty should be removed from office and replaced by someone else.

The distortion must be replaced again if there is a replacement. because many generations of the nation have great potential but were not given the opportunity by older leaders. This threatens social inequality. Therefore, real action must be taken to prevent damage to society, nation and state.

Legal Philosophy as the Enforcement of Characteristic Morals and Ethics

Legal philosophy is a branch of philosophy that studies what the law means, its purpose, and why people should submit to it. Legal philosophy distinguishes itself from other sciences by three characteristics, namely:

1. Philosophy has comprehensive characteristics;
2. Philosophy has fundamental characteristics;
3. In a positive sense, philosophy is speculative.

Apart from that, the relationship between law and morals (ethics) as well as the validity of various legal institutions are topics discussed in legal philosophy. It is hoped that legal philosophy helps legislative and executive leaders think critically and rationally when making decisions.⁷

Compared to legal science and legal theory, legal philosophy is the result of the thoughts of philosophers, who are usually influenced by certain philosophical schools; Legal theory and legal science are the work of legal experts without reference to a particular philosophy, because legal philosophy is very abstract.

⁷ Meuwissen dan Penerjemah B. Arief Sidharta, *Tentang Pengembangan Hukum*, (Bandung: Refika Aditama, 2013)

Initially, legal philosophy focused on the goals of law, especially justice. But today, legal philosophy must study every fundamental problem of society that requires a solution. Legal experts, both theoretical and practical, who face social justice problems in everyday life, have produced a lot of legal philosophy. All these advances show that legal philosophy plays a major role in building the paradigm of legal science. including the authorities of the judiciary.

To make a country have law, legal philosophy creates order and rules so that society is orderly and fulfills a sense of justice. Legal philosophy will find out what law really is, what is the nature of law, what is the purpose of law, what is justice, what is the relationship between law and justice, whether the applicable law is fair, and how the law is just.

To demonstrate the differences between legal theory and everyday practice, contemporary legal philosophy is needed. Due to wrong interpretations, deliberate misinterpretations, and misinterpretations, humans make the reality of good law irrelevant. Many legal cases are delayed due to political issues. The judiciary cannot discover the true situation because legal truth and justice are systematically manipulated.

Therefore, what role does legal philosophy actually play in the application of legal justice in society, especially in positioning the term "justice" as its true meaning and not just a slogan? The phenomenon of disobedience to the law seems to have become increasingly widespread in the last few decades. Often, both court actions and decisions are considered unwise because they do not meet the needs of people who are experiencing legal problems.

In several cases, the judge was deemed no longer giving a fair decision regarding the initial process until the trial ended because court procedures were not in accordance with legal provisions. Bismar Siregar stated that currently many cases are decided based on certain "orders" resulting from collaboration between individuals and perpetrators of law violations, which with common sense can deviate from the meaning of legal regulations from the judge's opinion.

The term "judicial mafia" originates from this phenomenon. Not a few legal products have been violated or violated by the violators, so that the authority of the law seems to no longer exist. Even worse, some people have become apathetic towards the law, to the point of believing that "the law can be bought".

Legal philosophy really helps develop a judge's sense of justice when applying and interpreting the law to certain legal issues so that judges can fulfill and understand the sense of social justice in society before deciding cases submitted to them. As quoted by Sudikno Mertokusumo, Friedmann said that legal practitioners' confrontation with social justice issues was the source of a new era of legal philosophy.

CONCLUTION

Law enforcement requires a moral-legal aspect in its implementation. The term "the art or moral style of good law enforcement" refers more to the method. The legal and institutional aspects of effective law enforcement include the implementation of a target achievement process which includes the actualization of values which serve as a reference for the behavior of the law enforcement process which aims to achieve legal objectives. The legal and institutional aspects of effective law enforcement are realized in the harmonization of law enforcement interactions between institutions. Legal philosophy originates from philosophers' thoughts about law which emerged without being preceded by social conflict. Thinkers or philosophers created legal philosophy to prevent the law from being used for personal gain. In creating actual legal conditions, legal philosophy is very important. This shows that legal philosophy seeks to explain the basic value of law.

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