



## Law and Social Symptoms in Enforcement of Community

Muhammad Fikri Aufa

*Sekolah Tinggi Ilmu Hukum Sultan Adam, Indonesia*

\*Corresponding Email: [fikri@stihsa-bjm.ac.id](mailto:fikri@stihsa-bjm.ac.id)

### Abstract

Sociology cannot be directly used in distorting the scope of jurisprudence in terms of its independence, sociology of law is a middle way with various intersections. The complex reality in society gives many distortions whether the law can be independent or become a truly substantially open system, amidst the position of our legal development, which was previously the perspective of Dutch scientists and is currently required to accommodate “the laws that live in a society” So the role of legal sociology in law enforcement in society is very much needed. This research is qualitative descriptive research with the type of library research. The method used in this research is normative legal research methodology, which places law as a building block of ethical structures (namely regarding principles, ethics, regulations from statutory provisions, court decisions, agreements, and doctrine). In this research, the law is not an autonomous institution but is interdisciplinary in dealing with social phenomena to create social welfare. Law enforcement in society is an effort to realize respect for social norms. Through legal improvement, it must include preventive and repressive improvement stages, edit of morality, the behavior of law enforcement officials, and as an essential element is community involvement.

**Keywords:** Law enforcement, social and society, sociology, sociology of law.

### 1. Introduction

Law can be approached from various perspectives and in various ways, and jurists view the law as an official, autonomous system and a set of rules that require systematic interpretation. Experts in the social field see the law as part of the community system and view it as part of society. There are also many different approaches to law and society that are not always clear-cut. Sociology of law, legal anthropology, legal history, legal psychiatry as well as law and economics, among others, have been considered as different disciplines, and nowadays, many researchers use a multidisciplinary approach.

Sociology and law and an intelligent system and usable form have the same overlapping scope. However, they differ in the purposes and methods used. Law as a science/science focuses on the scientific study of events (symptoms) that the five senses can capture in social life in society/family (Park, 2019, pp. 120–121). The main concerns of legal science are prescriptive/evaluative and technical issues. At the same

time, sociology focuses on scientific studies of social phenomena/symptoms. Although there are similarities and differences, these two scientific systems focus on the entire range of effective forms of social relations. Furthermore, in practice, the criteria determining significant relationships are generally the same, stemming from the same cultural assumptions or conceptions of policy relevance (Gusti Ngurah Dharma Laksana, 2017, p. 5).

Sociology of law during its development has given rise to various characterizations and definitions, with variations according to the perception of science and theoretical disciplines and traditions. Society in viewing legal science at the local and global level translates it with various meanings/definitions, such as legal studies, sociology of law, and society, empirical studies of law, and socio-law. Chairul Basrun stated that Sociology of Law focuses more on the empirical or factual applicability of the law. This argument shows the sociology of law as a science that does not directly lead to the law as a concept system but is a social system in which law appears as the main object/study. The main object/study of the sociology of law is society, then the legal rules (M. Chairul Basrun Umanailo, 2016, p. 7).

The correlation between the sociology of law, humans, and society is very close. Law arises from the human desire to create safe, peaceful, and orderly social conditions so that the goals of each individual do not conflict with each other so that the achievement of goals becomes smooth. On the other hand, law, which is a picture of human desire, has essential elements in protecting humans from all harmful risks that may arise due to social interaction (*rust en orde*) (Roseffendi, 2018).

Sociology of law can be viewed as a subject taught in courses at various universities. Research and teaching in the sociology of law are organized in various ways in different countries. In some countries, the sociology of law is part of research and teaching in the social sciences, while in other countries, the sociology of law is part of research and teaching in the legal sciences (Baillie, 2019).

Sociology of law is a multidisciplinary research orientation located at the boundary line/intersection of legal science and general social science (sociology). There are various opinions about the sociology of law as a scientific research orientation and its studies. This, among other things, depends on whether the sociology of law approach is from a sociological perspective or a legal science perspective, from which theoretical tradition (in the social sciences) is used to approach it.

Society requires a firm decision on the science of law associated with the community to raise concrete questions, namely: related to violations of legal norms. The public wants to know if there is a violation of the law then with what and how the violation can be resolved. The answer to this question of dogmatic law (legal inquiry) will always be evaluated by the community. Because of the closeness to

social reality, dogmatic jurisprudence requires elaboration with other sciences, especially the empirical sciences of law (Shidarta, 2015, p. 8).

## 2. Method

The method employed in this research is a normative legal research methodology, which positions law as a foundational element of ethical structures, encompassing principles, ethics, statutory regulations, court decisions, agreements, and doctrinal interpretations (Nur Dewata & Achmad, 2017, p. 34). This approach emphasizes the analysis of legal norms and frameworks to provide a comprehensive understanding of the issues under study. Additionally, the research incorporates a conceptual approach, focusing on the theoretical underpinnings and ideas that form the basis of legal principles. The data for this study is primarily derived from secondary sources, including library-based legal materials, books, journal articles, and established legal doctrines. To ensure a thorough examination, the gathered data is subjected to a descriptive analysis method, allowing for a detailed explanation and interpretation of legal phenomena and their implications within the broader legal and ethical context. This combination of normative and conceptual approaches ensures a rigorous and holistic examination of the research topic.

## 3. Results and Discussion

### 3.1 Sociology of Law and Society

The historical interpretation shows that the sociology of law was first used by Anzilotti, an Italian citizen, in 1882. However, the point of view of the development of the sociology of law was essentially born from the results of experts' thoughts in the field of legal philosophy, legal science, and sociology. Sociology of law as a branch of science that stands alone is part of social science, namely the science that studies human life with each other, namely social life or social relations (life association); in short, law studies the legal phenomena of society (Mauldin, 2020). In essence, society can be studied from two angles: the structural point of view and the dynamics point of view. The structural aspect is also called the social structure, namely social rules, social institutions, social groups, and social layers (Bojarski, 2021).

Legal scientists believe that sociologists cannot always be used to understand or be independent of the content of the law. The emergence of the "Law and Society" movement, which focuses on the relationship between law and society, is usually traced back to the mid-1960s. The rise of this movement was associated with general social change in the United States, along with criticism of standard societal practices. Law was seen as an essential tool for social change, and behind it emerged the idea of making use of the knowledge offered by the social sciences about reality for policy purposes (McLean et al., 2019). The "Law and Society" movement was instituted in 1964 on the basis of "Law and Society's Associations."

The development of law and society then directs the problem to the problem of how the citizens of the community for whom the law is made feel and accept the law. The same problem is also expressed by teachings that argue that the awareness of social groups determines the validity of the law (Slyvka, Harasymiv, Levytska, Kolyba, & Panchenko, 2021). What is important is the seriousness of the social pressures that lie behind the regulations, which lead to the factor of obedience to the rules. It was even later stated that the formation of law must be based on the existing (moral) code of conduct in society, and for the formation of law to have power, the process must be consistent with that code of conduct.

If the legislator's issue regulations that are not following the awareness of feelings of the community, it is expected that adverse reactions will arise from the community. On the other hand, the reality in society shows that the factors of low education, financial ability, lack of life skills, and the availability of limited employment opportunities affect the culture of the community (Haryadi, Darwance, & Saputra, 2020, p. 71). Furthermore, according to Barda, the component of legal culture, which is part of the judicial system, is a manifestation of the value-system of legal culture, which includes philosophy, principles, as well as legal theory, and legal science, and legal behavior. Another factor that should be considered is complexity, the reality in a society that a social event, in general, will be linked/give rise to the following social event. One affects the other to form a causal circle (causality). A cause-and-effect relationship is a logical relationship and becomes a link that links/give rise to the next event (Hartanto, 2020).

According to Satjipto Rahardjo, giving an opinion in the idea of progressive law, that progressive law enforcement is not only applied by law as it is in textual (black and white) or limited to policy texts or legal products but under a deeper essence and spirit (substantial) of the statute or law. Satjipto Rahardjo has emphasized that progressive law contradicts the "law of two components," namely rules and behavior. Furthermore, the context of law enforcement is philosophical logic and must also be based on spiritual intelligence. In other words, the law requires the courage to find ways other than usual to enforce that is done wholeheartedly, dedication, empathy, and mutual commitment (Ortynskyi, Shamrayeva, Zeman, Lisna, & Valetska, 2021, p. 98). The idea of progressive law enforcement was born from a long intellectual reflection. The description of progressive law enforcement is one example of an intellectual reflection which is the starting point for why progressive law enforcement functions as an alternative type of law enforcement. It can be seen that legal truth cannot only be interpreted as legal truth but must be understood as the truth of the principle of justice underlying the law because, in the perspective of progressive legal theory, the law is not an autonomous institution separated from human interests. The

quality of the law is equated with the ability of the law/legal system to serve and prosper human beings (Rodiyah, 2017).

Many experts argue that the sociology of law should be open to other social sciences, such as the example of legal science, because this openness is the main factor for developing a sociology of law, and in the author's opinion, to be able to answer problems in society. The following argument is that the sociology of law cannot be viewed only as a part of academic sociology. On the other hand, the sociology of law must be seen as a truly multidisciplinary field of science (Hernowo, Zaid, & Erawan, 2021).

An irrational and rational-legal system to interpret ideal types, according to Max Weber, indicated by the existence of a bureaucracy in modern industrial society, then a rational and formal legal system emerges, namely the factors of legal certainty dominate over justice. Law with all changes the changes are considered to be by the changes that occur in the social system of society. In Weber's view, the rule of law is a coercive order because, because law enforcement is considered different from the enforcement of social norms/orders, it requires a heteronomous (coercive) factor: the ruler/state.

Meanwhile, Emile Durkheim essentially argues that law is a reflection of social solidarity in society. There are two categories of solidarity in society based on their nature, namely mechanical solidarity and organic (organic) solidarity. Mechanical solidarity generally occurs inhomogeneous and simple societies, so its citizens' bonds are based on personal relationships and the same goals. Organic solidarity is generally formed in a plural/heterogeneous society, resulting in a complex division of labor. The dominance of relations in society depends on the functional relations of the elements generated by the division of labor. Mechanical solidarity in society, the legal system is criminal law which has a repressive nature. An act is a criminal act if the act violates/reduces the notions/customs that live in a society in society, meaning that the habits that have become living law (rooted) in society based on mechanical solidarity, citizens act based on feelings that The same applies to those who violate the rule of law, because of the violation of the rules of law, all members of the community immediately feel that they are disturbed.

At this time, the law may be considered somewhat repressive or referred to in a more positive word, namely responsive. The characteristic of repressive law is the passive and opportunistic adaptation of its institutions to its socio-political environment. Autonomous law is a reaction to absolute openness and equality of all. The emphasis is on maintaining institutional integrity to achieve goals. While responsiveness is not merely open or adaptive, but rather shows that the law must have the ability to be responsible. Therefore, the adaptation is unique and selective. Something that is considered necessary for the integrity of the law and considers the

new needs that exist in the legal environment. In the transition from autonomous to responsive, the decisive step is to generalize the aims of the law. Specific policy rules and procedures are considered tools and ignored. Therefore, the characteristic of responsive law is the search for implicit values that exist in rules and policies (Fithriatus Shalihah, 2017, p. 77).

To be able to run the law is strongly influenced by the legal culture that comes from the legal awareness of the community. An excellent legal culture is strongly influenced by high legal awareness. Legal awareness will become a "rare" item if the factors change and determine the effectiveness of a legal product that is still looking for loopholes to justify doing things that violate the ideals of national law. This is important because in the flow of *rechtsidee* or legal ideals, in its concrete manifestation apart from referring to legal formalism, society is also an essential factor that determines whether the law has been effective or not.

### 3.2 Law Enforcement in Society

Law is full of values, ideas, ideals that are pretty abstract. Legal values or ideals such as justice and truth contained in the law must be realized in objective reality. The existence of the law is recognized if the moral values contained in the law can be implemented. The implementation of the law to realize these legal ideas and ideals is a series of processes called law enforcement (Al Arif, 2019, p. 104). Dewey states in his paper that the study of the political economy of law enforcement has a multidisciplinary role in explaining that there are many cases where governments and bureaucracies see economic or political gains from adapting or toying with law enforcement mechanisms. This is a response to social and economic pressures. in-law/law enforcement(Dewey, Cornelia, & Lucas, 2021).

Law enforcement in the theory of law enforcement illustrates that good law enforcement involves harmonizing values with the principles and natural behavior of humans. The application of the rule of law is called "*geltung*" (German) or "*gelding*" (Dutch). In legal theory, in general, there are three kinds of things that apply to the law, namely: (Soejono Soekanto, 198 C.E., p. 33)

- a. Legally enforceable.
- b. Applies sociologically.
- c. Apply philosophically.

In the Republic of Indonesia, law enforcement institutions are known as the police, prosecutors, judiciary, lawyers, and correctional institutions as legal institutions. These five elements of law enforcement play a vital role and function in the administration of the rule of law, especially injustice (Rodak, 2019, p. 286). Indonesian people long for creating an excellent legal state, where one of the indicators is the

administration of a trustworthy and just judiciary based on the One Godhead. Law enforcement functions are synergistic and equal in carrying out their primary duties and functions based on the law so that in carrying out their vision and mission, they do not intersect with each other but, on the contrary can optimally synergize and collaborate nicely between the law enforcers (Rompis, 2015). The concept of the police from the perspective of government power has a broader meaning from the perspective of the police as law enforcers (Mathieu Deflem, 2008, pp. 234–235), We can see this from historical phenomena that exist and are still visible today in terms of the transition from the military to civilian police, and we can also see from the programs of the community police (civil police).

The legal structure is an understanding/recognition that the highest law in a country is state law. The laws and regulations under it must comply and must not conflict with state law, in this case, positive law in Indonesia. Law enforcement in society has no intrinsic rationality if every case is resolved based on political or ethical policies alone in its order (Biroli, 2015). The law will be firm and coercive when it aims to create order in society, namely order and peace. The law that exists in society is the law used to regulate rational-legal events, which is empirical, not speculative. If the law is enforced with justice, then the law will be upheld in society. The law does not look at social classes (equality), public awareness in law (social relations), which will determine the course of law enforcement in Indonesia.

The general uses of the sociology of law associated with law enforcement are as follows:

- a) The organizational level in society
  - 1) Sociology of law can reveal the ideologies and philosophies that influence the planning, formation, and enforcement of laws.
  - 2) Identifying which cultural elements influence the context or substance of the law.
  - 3) Institutions are very influential in the formation of law and its enforcement.
- b) The level of groups in society
  - 1) Disclosure of decisive groups is in the formation and application of the law. Institutions are very influential in the construction of law and its enforcement.
  - 2) The Group in society is lucky or otherwise is harmed by the existence of specific laws.
- c) The level of person
  - 1) Identification of legal elements that can change the behavior of citizens.

- 2) Law enforcers' strength, ability, and sincerity in carrying out their functions.
- 3) The compliance of the community with the law in the form of rules concerning obligations, rights, and regular behavior.

The crime prevention model is classified into three methods, namely: (Subarsyah, 2017, p. 52)

- a. The implementation model of criminal law. Through the application of criminal law that puts forward efforts to enforce, eradicate and destroy/countermeasures.
- b. Through prevention, without crime (prevention without punishment is a non-penal method), it is also called preventive efforts that can be finished by preventing, fostering, and controlling; and
- c. The model combines penal and non-penal, between the application of crime and prevention without crime. (contains both repressive and preventive elements).

Efforts to realize law enforcement in society are efforts to learn respect for social norms so that social norms are a means of social control and that people want to participate actively. Several things are needed: (Rasyid, 2017, p. 166)

- a. The existence of law enforcement officers is accommodative, sympathetic, and able to invite the public to participate.
- b. Relevant government agencies must cooperate transparently with non-governmental organizations or other relevant social institutions.
- c. The behavior of law enforcement officers was tested and worked honestly, professionally, and immune to bribes and bribes.
- d. The Strict, consistent, and transparent was an application of the law. Fourth, there are instructions or guidelines for community participation from all relevant agencies to direct and effective community participation.

#### 4. Conclusion

The relationship between law and society is at the core of the sociology of law as open science. Culture can be studied from two angles, namely the structural point of view and the dynamics point of view, to be helpful for the welfare of the community. In other words, legal operations are the harmonization of values and principles and natural human behavior. In a tangible form, legal improvement must include improving the conduct of law enforcement officers. In its implementation, the law can run well because of good law enforcement officers (like if you want to sweep, then the broom must be clean). Then the stages of law enforcement must be carried out simultaneously between preventive and repressive efforts.

Thus, in law enforcement and especially in efforts to overcome problems in society, it is necessary to instill legal awareness and morality towards law enforcers. Furthermore, if the law is terrible, but law enforcement is good, it will influence the public to believe in legal mechanisms, thus creating a legal culture. On the other hand, no matter how good the law is, if it's felt that law enforcers do not have good morality to realize the objectives of the law, then the ideals of the law in terms of the welfare of the community it is even possible that the community. In this case, those who should enjoy legal protection will become victims of injustice. The community participation is not yet optimal because the working relationship (synergy) between law enforcement officers and the community has not gone well. Law enforcement officers must realize the fundamental legal values (justice, usefulness, and legal certainty) in carrying out their functions and authority. The more optimal the performance of law enforcement officers, the more prosperous society will be. So that the sociology of law is very useful for law enforcement and law enforcement, to provide analytical, evaluative, and assess the effectiveness of the role of law in society (social).

## References

- Al Arif, M. Y. (2019). Penegakan Hukum dalam Perspektif Hukum Progresif. *Undang: Jurnal Hukum*, 2(1), 169-192. <https://doi.org/10.22437/ujh.2.1.169-192>
- Baillie, L. C. (2019). Civil Society Representative. *Proceedings of the ASIL Annual Meeting*, 113(2018), 103-105. <https://doi.org/10.1017/amp.2019.209>
- Biroli, A. (2015). Problematika Penegakkan Hukum di Indonesia (Kajian dengan Perspektif Sosiologi Hukum). *Jurnal Pemikiran Sosiologi*, 8(2), 1-9.
- Bojarski, Ł. (2021). Civil Society Organizations for and with the Courts and Judges - Struggle for the Rule of Law and Judicial Independence: The Case of Poland 1976-2020. *German Law Journal*, 22(7), 1344-1384. <https://doi.org/10.1017/glj.2021.72>
- Dewey, M., Cornelia, W., & Lucas, R. (2021). The Political Economy of Law Enforcement. *MaxPo Discussion Paper*, 21(1), 1-22. Retrieved from <https://www.alexandria.unisg.ch/262492/>
- Fithriatus Shalihah. (2017). *Sosiologi Hukum*. Depok: PT Rajagrafindo Persada.
- Gusti Ngurah Dharma Laksana. (2017). *Sosiologi Hukum*. Denpasar: Pustaka Ekspresi.
- Hartanto, A. D. (2020). Posisi Hukum Korban Perzinahan yang Dilaporkan atas Tindak Pidana Kesusilaan Berdasarkan Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik. *Jurnal Hukum: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 6(3), 282-289.
- Haryadi, D., Darwance, D., & Saputra, P. P. (2020). Antroposentrisme dan budaya hukum lingkungan (Studi eksploitasi timah di Belitung Timur). *PROGRESIF: Jurnal Hukum*, 14(1). <https://doi.org/10.33019/progresif.v14i1.1777>

- Hernowo, W. S., Zaid, Z., & Erawan, M. A. S. P. (2021). Peran Sociological Jurisprudence Dalam Menciptakan Keefektivitasan Hukum Melalui Living Law. *Legalitas: Jurnal Hukum*, 13(1), 44–52. <https://doi.org/10.33087/LEGALITAS.V13I1.243>
- M. Chairul Basrun Umanailo. (2016). *Sosiologi Hukum* (2nd ed.). Kediri: Fam Publishing.
- Mathieu Deflem. (2008). *Sociology of Law, Vision of a Scholary Tradition*, University of South Carolina. England: Cambridge University Press.
- Mauldin, J. T. (2020). Law, religion, and society in China: A contested terrain. *Journal of Law and Religion*, 35(1), 1–11. <https://doi.org/10.1017/jlr.2020.5>
- McLean, R. M., Harris, P., Cullen, J., Maier, R. V., Yasuda, K. E., Schwartz, B. J., & Benjamin, G. C. (2019). Firearm-related injury and death in the United States: A call to action from the nation's leading physician and public health professional organizations. *Annals of Internal Medicine*, 171(8), 573–577. <https://doi.org/10.7326/M19-2441>
- Nur Dewata, M. F., & Achmad, Y. (2017). *Dualisme Penelitian Hukum Normatif & Empiris* (Cetakan ke). Yogyakarta: Pustaka Pelajar.
- Ortynskyi, V., Shamrayeva, V., Zeman, I., Lisna, I., & Valetska, O. (2021). Philosophy of “Soft Law” as a Universal Regulator of International Relations Management. *Wisdom*, 20(4), 95–103. <https://doi.org/10.24234/wisdom.v20i4.501>
- Park, J. Y. (2019). Law of Genre and Intercultural Philosophy: A Reading of Kwok-ying Lau's Phenomenology and Intercultural Understanding. *Dao*, 18(1), 119–126. <https://doi.org/10.1007/s11712-018-9646-2>
- Rasyid, W. (2017). Kajian Sosiologi Hukum Terhadap Penyalahgunaan Narkotika Oleh Anak. *Madani Legal Review*, 1(2), 158–173.
- Rodak, L. (2019). From Rules of Life to Rules of Law. An Account of M. Krygier Approach to Sociological Jurisprudence. *Hague Journal on the Rule of Law*, 11(2–3), 283–288. <https://doi.org/10.1007/s40803-019-00105-2>
- Rodiyah. (2017). Philosophy of Progressive Law on Establishment of Laws and Regulations in the Context of Substantive Justice: An Indonesian Experience. *International Journal of Business, Economic, and Law*, 13(4), 124–129. Retrieved from <http://ijbel.com/wp-content/uploads/2017/10/LAW-14.pdf>
- Rompis, T. (2015). Kajian Sosiologi Hukum Tentang Menurunnya Kepercayaan Masyarakat Terhadap Hukum Dan Aparat Penegak Hukum Di Sulawesi Utara. *Lex Crimen*, 4(8), 166–176.
- Roseffendi, R. (2018). Hubungan Korelatif Hukum Dan Masyarakat Ditinjau Dari Perspektif Sosiologi Hukum. *Al Ijarah : Jurnal Pemerintahan Dan Politik Islam*, 3(2), 189. <https://doi.org/10.29300/imr.v3i2.2151>
- Shidarta. (2015). *Menyikapi Problematika Metodis Dalam Penelitian Disiplin Hukumm, Pengembangan Epistemologi Ilmu Hukum*. Surakarta: Universitas Muhammadiyah Surakarta.
- Slyvka, S., Harasymiv, T., Levytska, O., Kolyba, M., & Panchenko, S. (2021).

Development of Ideas of Philosophy of Law in the Ancient East. *Wisdom*, 20(4), 209–216. <https://doi.org/10.24234/wisdom.v20i4.502>

Soejono Soekanto. (198 C.E.). *Beberapa Permasalahan Hukum Dalam Kerangka Pembangunan di Indonesia (Suatu Tinjauan Secara Sosiologis)*. Jakarta: UI Press.

Subarsyah, T. (2017). Law Enforcement against Criminal Acts in Politics in Indonesia Connected with Positive Law. *Journal of Politics and Law*, 10(3), 51. <https://doi.org/10.5539/jpl.v10n3p51>