

Positioning Of Legal Philosophy To Maintain The Dignity Of Law Enforcement

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ABSTRACT

The enforcement of law is an integral aspect of the legal system's functioning, and it is often criticized with phrases like "no viral, no justice" or "law is sharp downwards, blunt upwards." In this context, how does the philosophy of law play a role in upholding the integrity of law enforcement, and how can a legal enforcement system be grounded in the rationality of legal philosophy. This type of research is normative with a conceptual approach based on secondary data. Secondary data is obtained through literature review and then analyzed qualitatively. Based on the analysis, it is found that the role of legal philosophy in maintaining the integrity of law enforcement involves guiding law enforcers to work effectively, respect, follow, and consistently apply rules to create balanced relationships by providing rights to everyone through fair and proportional procedures. A legal enforcement system based on the rationality of legal philosophy would involve: Methodical Enforcement: Law enforcement.

is conducted in a structured and systematic manner. Systematic Enforcement: Law enforcement follows a structured process. Coherent Enforcement: Law enforcement is logically consistent. Rational Enforcement: Law enforcement is based on reason rather than emotion. Comprehensive Enforcement: Law enforcement addresses all relevant aspects comprehensively. Radical Enforcement: Law enforcement applies thoroughly and decisively. Universal Enforcement: Law enforcement is applied universally, ensuring that it is fair and equal for all. This research confirms that a strong and integrated legal philosophy position in the law enforcement system is the key to maintaining and enhancing the dignity of the law itself. This requires commitment from all legal stakeholders to continue to apply and develop the principles of legal philosophy in every aspect of law enforcement.

Keywords: *Law enforcement; rationality; legal philosophy*

Introduction

Law enforcement is essentially an interaction between various human behaviors representing different interests within the framework of mutually agreed-upon rules. Therefore, law enforcement cannot be solely regarded as a process of applying the law, as suggested by legalistic perspectives. Rather, law enforcement encompasses a broader dimension because it involves human behavior. With this understanding, we can recognize

that the legal problems that will always stand out are those related to "law in action" rather than "law in the books" (Arif, 2005).

Currently, it can be observed, seen, and felt that law enforcement is in an unfavorable position. The failure of judicial institutions to achieve legal objectives has led to increasing public distrust in legal institutions and their agencies. These institutions, including the courts, the prosecutor's office, the police, and lawyer organizations, are shaped by the aggressive behavior of individuals within them. Incidents such as prosecutors being caught distributing drugs, lawyers bribing judges, or police officers having suspicious bank accounts symbolically indicate that these institutions have internal issues that need to be addressed first (Arif, 2005).

Boy Nurdin stated that law enforcement officers, who should ideally uphold the law as the ultimate authority, often misuse it as a tool to achieve specific interests. This situation arises because many law enforcement officers exploit legal loopholes to manipulate the law for what is commonly referred to as "money." With money, people can obtain things beyond the usual limits, including manipulating or changing the law according to the desires of those who commission it. This is also what John Locke meant when he said, "the scene changes after money is introduced" (Boy, 2012).

Based on the above background, the issues under examination are: What is the role of legal philosophy in maintaining the dignity of law enforcement, And what is the system of law enforcement based on the rationality of legal philosophy.

Research Method

This research uses a qualitative approach through a literature review. This approach aims to analyze and understand relevant legal philosophical concepts and how these concepts can play a role in maintaining the dignity of law enforcement. This research is a descriptive-analytical research that focuses on collecting, evaluating and interpreting existing literature related to legal philosophy and law enforcement. This research aims to map the position of legal philosophy in the context of law enforcement and explain its contribution to maintaining the dignity of the law. Primary Literature, Primary sources that will be analyzed in this research include classic and contemporary books on legal philosophy, works from leading legal philosophers (such as H.L.A. Hart, Ronald Dworkin, and Lon Fuller), as well as legal documents that discuss theory and practice of law enforcement. Secondary Literature, Secondary sources include academic journal articles, theses, dissertations, and reviews that discuss the relevance and application of legal philosophy in the context of law enforcement.

Data Collection Procedures, Researchers will identify and select literature sources that are relevant to the research topic through searches in academic databases, libraries and other trusted sources. Once relevant sources are identified, the researcher will collect the literature for analysis. The literature collected includes classical texts, scientific articles, and studies related to legal philosophy and law enforcement. The literature that has been collected will be categorized based on the main themes or topics related to legal philosophy and law enforcement, such as justice, legal morality, and legal integrity.

Result and Discussion

As understood, philosophy is the mother of all sciences.

It contributes and plays a role as the parent that gives birth to and helps develop sciences so that they can live and thrive. Philosophy aids science in maintaining a rational stance in justifying its knowledge. Rational accountability here means that every step must be open to all questions and objections and must be defended argumentatively, with objective arguments. Philosophy is an unlimited science because it does not only investigate a specific field of particular reality. Philosophy always questions the essence, principles, and foundations of all existing realities, even everything that can be questioned, including philosophy itself.

Traditionally, philosophy is divided into ten branches as follows: Logic, Epistemology, Philosophy of Science, Ontology, Theology, Cosmology, Anthropology, Ethics, Aesthetics, and History of Philosophy (Boy, 2014). No one knows exactly when legal philosophy first emerged. However, some sources state that philosophy has been developing since Greek times for over a century when Socrates was born (469 SM). After that, other figures such as Plato and Aristotle appeared, whose philosophical thoughts were significantly influenced by the works of pioneers known as "Presocratics" and Sophists of the fifth century, who were philosophers and scientists. The development of thought among Greek figures led the society of that time to abandon their deep-rooted belief in the myths of the Olympian gods. The development of philosophy was significant because the abstraction of legal principles crystallized in the form of norms within legal instruments needs to be explored and studied philosophically, rooted in critical questions. On the other hand, exploring the meaning of the legal instruments themselves requires a series of efforts considering non-legal aspects as well as the facts present in the societal environment (Christina, 2022).

According to Utrecht, legal philosophy answers questions such as what the law truly is, why we obey the law, and whether justice serves as the measure of the law's goodness or badness. These questions are also addressed by legal science. However, for many, the answers provided by legal science are unsatisfactory. Legal science as an empirical science only sees law as a phenomenon, accepting law as mere *gegebenheit* (given). Legal philosophy seeks to view law as a norm in the sense of *ethisch waardeoordeel* (ethical value judgment) (Kamarusdiana, 2018).

In both modern legal perspectives and ancient Greek law, the interest in law and philosophical thought about law in a law-conscious society is very clear. To this day, law is deeply intertwined with human life. Legal philosophy also provides the spirit of justice in human life, including in the context of law enforcement.

Based on the thought of legal philosophy, positive law was created, acknowledging that progressive law coexists with law enforcement (Laurensius, 2016). However, there are some issues in legal philosophy that intersect with law enforcement, including:

1. The purpose of law
2. The foundation for why people must obey the law
3. The state's right to punish its citizens
4. Law related to legal power
5. Legal development (Otje, 1992)

Understanding the purpose of law, especially from a philosophical aspect which studies the essence of law and part of ethical behavior or ethics, the essence of law can be achieved through a humanitarian foundation, justice based on divine grace. This relates to legal development, essentially an effort or journey from actual conditions to the ideals to be realized through a mission of development following certain changes (Otje, 2012). Humans will act as regulators and directors of development efforts, and therefore, faith and religious values should play a role in abstract law enforcement to be realized in concrete law enforcement (Atmasasmita, 1996). The urgency of integrating the spirit of abstract law with concrete law enforcement by law enforcers is crucial, given that law enforcement has been built within a blurred optic structure. Various behaviors of law enforcers that undermine the purity of law have significantly damaged the dignity of law, resulting in the public's distrust of law enforcement institutions.

In recent decades, the phenomenon of legal abuse has become more prevalent. Judicial actions are often unwise, not providing satisfaction to the public. Judges no longer deliver just decisions in every court proceeding because proper procedures are not followed. Cases are decided based on laws ordered through collaboration between lawmakers and criminals who can manipulate the interpretation of legal regulations with judges' opinions, leading to the growth of the "judicial mafia" (Bismar, 1996). Legal products are deceived by their violators, causing the authority of the law to collapse. People escape legal traps because the law used has been systematically packaged, preventing cases from being thoroughly adjudicated, often becoming prolonged and eventually disappearing under new, more pressing issues.

The current state of law is very concerning because regulations have become mere traffic of rules, not addressing the core issues but expanding with aspirations and interpretations that do not reach truth, justice, and honesty. The function of law has lost its meaning due to unrestricted interpretation driven by political power packaged for specific purposes. Law has become a political tool to achieve goals, even though politics often lacks clear direction. Politics has multiple purposes, shifting according to party lines that can breach the law from any angle to reach desired targets and objectives.

Legal philosophy is relevant to building the true legal condition because its task is to explain the fundamental values of law philosophically, capable of formulating ideals of justice and order in life relevant to existing legal realities, even radically changing them with human desires through a new legal paradigm to meet legal developments at a particular time and place. Regarding the function of legal philosophy, Roscoe Pound states that philosophers strive to solve issues about the idea of creating a perfect law that should stand firm forever, then prove to humanity that established law's power is unquestionable. An effort to solve problems using the legal system in a certain time and place by abstracting higher legal materials (Roscoe, 1972).

The legal system becomes a reality when law enforcers work well, respect and follow established rules, and there is no deviation from consistently applied regulations, such as using codification and legal unification for legal certainty and justice. Especially since justice is a term used in various contexts, referring to procedural justice, legalistic justice, corrective justice, commutative justice, distributive justice, substantive justice, and so on. From the

definitions given by various experts, it can be concluded that justice is a value used to create balanced relationships among people by giving each person their rights with fair procedures and proportional distribution. If there is a breach of justice, individuals should be given appropriate redress that provides a fair and accurate resolution.

A Law Enforcement System Based on the Rationality of Legal Philosophy

Legislation is an instrument to implement the goals that law seeks to achieve. Therefore, legislation must contain norms that will provide happiness to society. This thought aligns with the utilitarianism school pioneered by Jeremy Bentham (1748-1832), John Stuart Mill (1806-1873), and Rudolf von Jhering (1818-1889). The essence of Bentham's teaching is that laws providing the greatest happiness to the greatest number of people are considered good laws (Boy, 2014). Jeremy Bentham's basic principles are as follows:

1. The purpose of law is to guarantee happiness to individuals and then to the public. Bentham's utility principle states "the greatest happiness of the greatest number."
2. This principle should be applied quantitatively, as the quality of pleasure is always the same
3. To achieve individual and societal happiness, legislation must reach four goals:
4. To provide subsistence (to provide livelihood),
5. To provide abundance (to provide abundant food),
6. To provide security (to provide protection),
7. To attain equity (to achieve equality)

Utilitarianism is an idea or understanding in moral philosophy emphasizing the principle of utility or usefulness in evaluating an action as the most fundamental moral principle. The principle of utility means the principle that makes usefulness the main measure to assess and decide whether an action is morally justifiable or not. An action is morally right if it is useful. An action is considered useful if its overall consequences, considering all involved parties and without discrimination, increase happiness and reduce suffering.

Bentham believes that nature gives happiness and suffering. Humans always strive to increase happiness and reduce suffering. Goodness is happiness, and evil is suffering. The law's task is to preserve goodness and prevent evil. In other words, to preserve utility. The existence of law is necessary to prevent individual interests from clashing in pursuing the greatest happiness, for which boundaries need to be established within the law. Otherwise, *homo homini lupus* (man becomes a wolf to man) will occur. Therefore, Bentham's teaching is known as individual utilitarianism. According to Mochtar Kusumaatmadja and Arief Sidarta, the purpose of law cannot be separated from the ultimate goal of living in society, which cannot be separated from the values and philosophy of life that form the society's foundation, ultimately leading to justice (Kusumaatmadja, 2000).

Bentham's view is that law aims to realize what is beneficial or effective. His famous adage is "the greatest happiness for the greatest number," meaning "the greatest happiness for the greatest number." This teaching is known as "eudaemonism" or "utilitarianism." This theory teaches that only in order can everyone have the opportunity to achieve the greatest happiness (Boy, 2014).

Regarding the purpose of law, Achmad Ali states that the purpose of law can be studied from 3 perspectives:

1. From the positive-normative legal science perspective, the law's purpose focuses on legal certainty,
2. From the legal philosophy perspective, the law's purpose focuses on justice,
3. From the sociological legal perspective, the law's purpose focuses on utility (Achmad, 1990).

Achmad Ali's opinion, which also refers to Gustav Radbruch's "three basic ideas of law," includes justice, legal utility, and legal certainty. If the law's purpose is simultaneously justice, utility, and legal certainty, there will inevitably be conflicts between them in practice. To understand how justice, utility, and legal certainty should relate, Radbruch introduces the "priority principle," prioritizing "justice" first, then "utility," and finally "legal certainty." In the history and practice of law enforcement worldwide, much has been discussed about access to justice, which means the right.

In the history and practice of law enforcement around the world, much has been said about access to justice, which refers to the right to obtain justice and the assurance of an impartial legal process and service from the judicial system, which must always be guaranteed by the state. This issue is not only significant within the jurisdictions of authoritarian regimes, developing countries, or those transitioning to more democratic systems, but it is also important and still visible in advanced nations that have been practicing democracy for centuries. For example, the Black Lives Matter movement in the United States demonstrates that there is still discrimination in the fairness of the legal process for citizens from certain backgrounds (Deborah, 2004).

The main issues that hinder access to justice generally include:

1. Operational Problems within the Judicial System: This includes lack of cooperation between law enforcement agencies, ineffective legal aid services for poor justice seekers, insufficient counseling processes before a case is brought to court, and high litigation costs.
2. Structural Problems: This encompasses elitism within the judicial system, overly complex legal language that is hard for laypeople to understand, poverty that complicates and undermines everything, and low legal awareness among the public, all of which are interrelated (Abregu, 2021).

Access to justice might appear as a "luxury" priority for many poor or developing countries. Before addressing it, many rulers prioritize other urgent needs. Access to funding for micro-industry and trade, education systems, healthcare systems, infrastructure for mobility and economic activity, and better public services are often seen as more pressing. Access to justice might be the lowest priority. This mindset is flawed because access to all these priorities is part of access to justice in a broader sense. Without equal treatment before policy and legal processes, these priorities cannot be effectively achieved.

Adnan Buyung Nasution adds that access to justice is not just a legal issue but also a political and cultural one. Changing political situations further complicate access to justice. The problem is exacerbated when viewed from an economic perspective, due to widespread poverty (Buyung, 1982). Efforts to achieve access to justice include three main aspects:

1. The right to benefit from and use judicial institutions
2. Ensuring the availability of means for poor communities to achieve justice
3. Establishing effective methods and procedures to expand public access to justice

Access to justice means being treated fairly according to the law, and if not treated fairly, a person will not receive appropriate redress. The concept of access to justice involves not only access to advocates or courts but also access to law enforcement agencies and other justice enforcers (Adrian, 2012). A legal enforcement system with characteristics of legal philosophy that facilitates access to justice includes:

1. Methodical Enforcement: Using methods and approaches commonly employed by philosophers in their thinking processes
2. Systematic Enforcement: Thinking in terms of the interrelation between elements within a whole, forming a philosophical pattern
3. Coherent Enforcement: Ensuring that elements considered do not conflict and are logically organized
4. Rational Enforcement: Based on correct and logical thinking principles (in line with logical rules)
5. Comprehensive Enforcement: Acting and thinking from multiple perspectives (multidimensional approach)
6. Radical Enforcement: Acting and thinking deeply, reaching the root or most fundamental level.
7. Universal Enforcement: Ensuring that the content of justice is universal, aiming at the overall reality of human life.

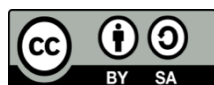
Conclusion

The role of legal philosophy in maintaining the integrity of law enforcement is to guide law enforcers to work effectively, respect, follow, and apply rules consistently to create balanced relationships by granting everyone their rights through fair and proportional procedures. A law enforcement system based on the rationality of legal philosophy includes enforcement carried out methodically, systematically, coherently, rationally without emotion, comprehensively, radically, and universally.

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