
Law Enforcement Based on the Age of Thinking (*Mesu Budi*):***Beyond Call for Duty***

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ABSTRACT

This article aims to develop a model of thinking for law enforcement officials with a model of thinking that enters the dimension of depth, namely looking for hidden meanings and values in the object being examined through sharp thinking (*mesu budi*) or using spiritual intelligence. Spiritual intelligence does not want to be limited by benchmarks, nor is it only contextual, but wants to get out of the existing situation in an effort to find deeper truths, meanings or values. The sharpness of thinking (*mesu budi*) is a concretization of the transcendental approach in law enforcement and is interesting to be linked to ways of thinking in law, which in turn affects one's actions in carrying out the law, especially judges in court. The interaction between law combined with spiritual values in the context of law enforcement is very important, which includes: ethics, morals and religion. In the end, spiritual thinking or spiritual intelligence as a concretization of the transcendental approach becomes an offer or formulation and even an antithesis of a non-systematic and positivistic-legalistic paradigm or approach, in the context of law enforcement to dig deeper (dive to depth / think *falsafati*), there will be found divine values, human values, justice values, and the value of benefits.

Keywords: Law Enforcement, *Mesu Budi*, Transcendental Approach

INTRODUCTION

The Republic of Indonesia is a state of law as stated in the 1945 Constitution of the Republic of Indonesia. Philosophers assume with deep musings since centuries then the term state of law was born. As a state of law, it is very certain that the law is a basis for our country in living in society. Thus the law becomes very important in the life of this nation in limiting authority and protecting every human right. In this case, the community is required to obey the applicable law. (Aswandi, 2019)

Formally, the Indonesian people succeeded in building and establishing independent State institutions based on the concept of the rule of law. However, the ideals or ideas of law (*Rechtsidee*) as contained in the concept of the rule of law still contain problems in its realization and application. The condition of our country's law still seems alarming. Among the public there are symptoms of dissatisfaction with the performance of law enforcement officials and distrust of legal institutions.

In Indonesian legal system, there are still many inconsistencies between the nature, function and purpose of the law that are expected, both reflecting on the substance, structure and legal culture. If the law is only seen from the legal codification and unification program as a benchmark then legal development in substance and structure is adequate, if the benchmark is the legal culture tends to decline. The existence of unsynchronized growth of substance, structure and legal culture is due to the existence of supporting factors for the operation of the legal system in the State of Indonesia . (Budiono, 2021)

In carrying out its duties, the judiciary still produces many decisions that have resulted in public dissatisfaction with the judiciary that has emerged in the past few years. This dissatisfaction is mainly related to the decisions made by the courts on cases. Of course, public dissatisfaction has also resulted in a decline in the authority of the law and the judiciary in Indonesia.

The cause of the decline in the authority of law in the eyes of the community cannot be separated

from several weaknesses of the legal positivism paradigm, where in the legal positivism paradigm, the law or the entire legislation as something that contains the law completely so that the judge's job is only to apply the law mechanically and linearly to solve problems that exist in society, in accordance with statutory regulations.

This thinking was inspired by the teachings of Montesquieu who greatly deified the existence of the law. Initially the teaching that judges are mouthpieces of the law (*bouches des lois*) was intended to prevent abuse of power by judges. This way of thinking was then embraced and developed by the teachings of legal positivism which applied positive norms to the structure of concrete cases, making judges' decisions provide more legal certainty and legal predictability and stability. (Nugroho S. S., Masyarakat Jawa., 2019)

Departing from the thoughts as described above, the problem can be formulated, namely: how to realize the idea of law enforcement based on sharp thinking (*mesu budi*) in order to realize justice with conscience?

RESEARCH METHODS

Based on the theme of the research article used in this writing is normative research (non doctrinal) by taking a conceptual approach and a philosophical approach (Nugroho S. S., 2020) so that an in-depth analysis of legal materials can be carried out on the subject matter in accordance with normative rules and from the point of view of the legal nature philosophically.

RESULTS AND DISCUSSION

When we talk about law enforcement, the law has been implemented, the laws have been applied, and the debt as a country of law has been paid. This attitude can have far-reaching consequences, namely providing false arguments, especially when we are faced with extraordinary circumstances like today. We should invite the public to think more intelligently and critically by saying that enforcing the law is not the same as applying laws and procedures.

According to Soerjono Soekanto (Miswardi, 2021) The success of law enforcement is not solely related to the enforcement of the applicable law, but also depends on several factors, among others:

- 1) The law. In this case what is meant is the law, meaning that the law must be made by following the principles of the enactment of laws, such as laws do not apply retroactively, special laws override general laws; laws made by higher authorities have a higher position as well; laws that apply later cancel laws that apply earlier; laws cannot be contested. Lawmaking must fulfill philosophical / ideological, juridical and sociological foundations, where laws must not conflict with the state ideology, namely Pancasila, and laws must not conflict with the state Constitution, and laws made must be in accordance with the needs and conditions of the community where the law is enacted.
- 2) Law enforcers, namely those who are directly involved in the field of law enforcement which includes law enforcement and peace maintenance. Law enforcers must carry out their duties properly in accordance with their respective roles that have been regulated in the legislation. In carrying out this task, it is carried out by prioritizing justice and professionalism, so that it becomes a role model for the community and is trusted by all parties including all members of the community.
- 3) Means or facilities that support law enforcement. These facilities include educated and skilled human resources, good organization, adequate equipment, sufficient finance, and so on. The availability of adequate facilities is a must for the success of law enforcement.
- 4) Society, namely the community in which the law applies or is applied. In this case, citizens must know and understand the applicable law, and obey the applicable law with full awareness of the importance and necessity of law for community life.
- 5) Culture, namely as a work, copyright and taste based on human spirit in living in society. This culture is

the values that underlie the laws that still apply, which values are abstract conceptions of what is considered good, and what is considered.

Several factors that influence law enforcement as mentioned above, the Judge in his position has an important role as a law enforcer is one of the factors that determine the success of law enforcement in making decisions that are considered correct. Therefore, as a law enforcer, the Judge is the key official for the success of law enforcement, in this case the Judge is the determinant for imposing sanctions on law violators by not distinguishing between perpetrators of law violations because all are considered the same. This is the key to the law being truly enforced indiscriminately. Therefore, in making a decision on a case, the judge must really find the truth about the event and collect strong evidence so that he can determine the sanctions imposed along with the verdict. With the imposition of a verdict, it means that a form of justice must be realized between various parties, especially those involved in the case in question, because every judge's decision must have the head "For the Sake of Justice Based on God Almighty". The judge's decision is what puts the judge's image at stake in the eyes of the community. Decisions that are deemed not to create a sense of justice will lead to ridicule for Judges and public distrust of the legal system in Indonesia, even though under the pretext of being based on the evidence submitted along with their beliefs the Judge has maximally examined the case concerned in making a fair decision.

The ethical behavior of judges in handling a case in court, as well as the value system adopted will influence. The value system that exists in the soul or mentality of the judge is very influential when the judge determines the decision in handling a case. Judges will choose values that are considered important and prioritized in a case before them. In practice, there are three types of value orientations of judges in handling cases with their respective characteristics, namely materialist judges, namely judges who are very materially oriented, pragmatic judges, namely judges who follow favorable situations, and idealist judges, namely judges who are oriented towards the ideal goals of law. (Nugroho W. &, 2018)

In principle, the law is for humans. Thus, when society changes, judges in enforcing the law also always update their knowledge, especially everything that happens in the dynamics of community life. The court is not a sterile legal institution, which only deals with the concretization of laws, but has a wider reach. The court must be a social institution towards the dynamics of community development. The court is loaded with thoughts of justice, defense of the people and the fate of the nation, for that the court also has a conscience in handling various cases with justice (consilience of the court).

Law enforcement is more than that. The quality and intensity of law enforcement can vary. In the spiritual treasures of Javanese society, the word mesu budi is known, namely the mobilization of all the potential of psychic acuity in the self. Because eastern societies (such as Indonesia) emphasize the spiritual dimension, Mesu Budi is more discussed in the spiritual realm, such as fasting (Java: *tapa brata*) or *nyepi* (Bali) (Nugroho W. &, 2018)

In the 21st century, which is increasingly prevalent and crowded with technology, science, and rational thinking. In legal philosophy itself is part of the search for truth presented in the scope of philosophy. Philosophy (Agiyanto, 2016) is a systematic thinking activity that can only be satisfied with the results arising from the thinking activity itself. Mesu Budi is still very relevant to be applied. Even in such an atmosphere, the attitude of mesu budi remains of high value because we can do mesu budi rationally. Without that attitude, science and technology will only bring disaster. Law of the warrior model In the legal world, the way of law can be done according to the text of laws and procedures (black-letter law). This method is still dominant in Indonesian law today. This is the easiest and simplest way of practicing law. That said, among law enforcement officials such as a judge or prosecutor, this method is also considered the safest way to run while waiting for the arrival of retirement. Therefore, there are very few of them who want to become vigilantes (fighters) in law enforcement, (Dewi, 2014) as did Supreme Court Judge Adi Andojo Soetjipto when he wanted to expose collusion in the Supreme Court (MA), in 1993 or judge Artijo Alkostar who was extraordinary in every decision, especially in handling corruption crimes.

Law enforcement model of law enforcement comes with a high risk. This was experienced by Judge Adi Andojo who, for the love of the Supreme Court, wanted to improve the image of the highest court.

But instead he was bounced. That's the risk. Supreme Court Justice Adi Andoyo is an example of a law enforcer who applies mesu budi. Judge Artijo Alkostar, who is widely antagonized by corruption suspects, also applies mesu budi in sentencing or ruling on corruption crimes. Other judges who do not practice mesu budi, who do not "misbehave", who follow the book-rule model, are safe in their careers. But which kind of judge is more meritorious for the nation? The ones who do or do not?

The opinion of Paul Scholten, a famous Dutch legal thinker, that the law has the power to break out of stagnation (expansiekracht). However, basically that power will only appear (manifest) in the hands of law enforcers who carry out their duties by holding on to the sharpness of thinking by putting forward conscience.

In curriculum fakulty of law in Indonesia, there are no courses on mesu budi. Law is taught formally and flatly. This is a major shortcoming, especially when from these faculties are expected to emerge legal vigilantes who are able to fight the black forces that want to destroy Indonesia, such as corruption, drugs, and environmental destruction.

If there is a term for doing one's job beyond the call of duty, i.e. doing more than one is required to do, the mesu budi in law enforcement is doing law with a quality beyond the call of rule. Why did Supreme Court Justices Adi Andoyo and Artijo Alkostar not sit back while serving as Supreme Court Justices? The answer is because they belong to the category of judges who carry out their work beyond the call of rule. While the Supreme Court judges were anxious about the low image of the Supreme Court, the others sat quietly because they thought "my job is only to examine and adjudicate." To deal with the current extraordinary situation, we need those who are passionate beyond the call of duty more than those who follow the book-rule model. Practicing law enforcement beyond the call of duty is none other than law enforcement by way of mesu budi (practicing law with spiritual intelligence) (Nugroho, 2022).

The law is not something static, sterile, but an institute that dynamically works to provide justice to its people. Thus, there is a dynamic interaction between the law and the social circumstances surrounding the law and the challenges of extraordinary situations are answered in extraordinary ways. Courts, prosecutors' offices and others are prominent institutions in a society that yearns for justice. However, courts (and others) can only achieve the noble title of "hall of justice" if they are filled with people who always understand and carry out their duties as justice enforcers based on the way of mercy mesu budi.

Law enforcers must be able to translate the law dynamically into the life of a society that is so complex and rich in values and norms that live in society that must be upheld. We need to move from a textual-normative paradigm of law to a holistic way of law that wisely considers the various values and norms that live in society. In deciding a case, the judge must ask a clear and honest conscience, whether the punishment to be imposed is beneficial to the convicted person and to society for the sake of truth and justice. (Nugroho S. S., 2019)

In the dynamics of law and social change, law occupies a broad social space. Technological science that is developing very rapidly causes a shift in the social conditions of society and the legal system contained therein. Charles Stampford in his book "The Disorder of Law: A Critique of Legal Theory" the new theory developed is a critique of the arguments of the positivists whose theory is built on a systematic-mechanical model. According to Stampford, society is basically without a system or in an asymmetrical condition which he calls social melee and the law lives in society, so the law is in a melee (legal melee) . (Nugroho W. &., 2018)

Stampford's theory is a rejection of the system theory in law, having the assumption that society is always orderly and Stampford's theory is different from the social basis of law which is full of asymmetrical relationships. Because of the uncertainty it looks orderly and organized. The chaotic condition of society (melee/disorder/asymmetrical) contains plurality, transformation, mutation, difference, diversity, and multiplicity. This is seen by positivists as something scary and should not happen. Based on Stampford's theory of chaos, disorder and uncertainty are caused by relationships in society based on power relations. Power relations are not always reflected in the formal relations of society, so there is a gap between formal relations and real relations based on power, which is what causes irregularity. Amid the chaos in

law enforcement, it should be used as material for reflection and evaluation for law enforcers to punish by using spiritual intelligence, always relying on God's laws (samawi) in every law enforcement exercise (Absori N. S., 2019)

The imbalance of power in society, with an asymmetrical relationship between citizens and legislative and law enforcement officials, is considered there are differences in interpretation between law enforcement officials and the community (Absori, et al., 2015). Legal norms are not systematic-hierarchical like the understanding of positivistic adherents, but are pluralistic and chaotic. Legal norms will be determined by the process of reading and text relations that are intertextual, so that it is possible to read and interpret legal norms. With the interpretation of legal norms will always move chaotically.

There must be an awareness that when a judge makes a decision, the judge becomes God's representative in court, not just a law enforcer. That is why every court ruling begins with a sacred sentence that reads "For the Sake of Justice Based on the Almighty God". This means that the judge is a decision maker who has justice in accordance with the mandate from God. So here there is a spiritual value that is put forward. Moreover, in deciding cases, judges stand on a principle called "judge's belief. This conviction is located not in the head but in the conscience based on the sharpness of thinking (mesu budi). So the conscience of judges, as well as other law enforcers, must be clean before God, so that their decisions can be fair according to the sacred sentence above. The sacred sentence should not only be a display or slogan without meaning, but must be lived and practiced responsibly by all law enforcers. Because the law does not only have a physical dimension, but there is also a spiritual dimension that must be considered and always maintained so that the law truly reflects justice as the spirit of law.

Satjipto Rahardjo quoted in his book Zohar and Marshall, (Spiritual Intelligence-The Ultimate Intelligence, 2000) law enforcers must think more inward, namely looking for unknown values and meanings in the object being studied. This way of thinking is called spiritual thinking or spiritual intelligence. A legal approach based on sharp thinking (mesu budi) that prioritizes spiritual intelligence will be used by law enforcers. Spiritual intelligence is free, also not only contextual, but wants to get out of the existing situation in an effort to find deeper truths, meanings, or values. Thus, thinking becomes an infinite game. It does not want to be bound and limited by existing benchmarks, but wants to go beyond and penetrate the existing situation (transcendent) (Rahardjo, 2009) Spiritual intelligence is a concretization of the transcendental approach in law enforcement and has a way of thinking in law, which will affect the actions of law enforcers in carrying out their duties as God's representatives in deciding a case.

CONCLUSION AND SUGGESTION

The law is not something static, sterile, but rather an institution that dynamically works to provide justice to its people. Thus, there is a dynamic interaction between the law and the social circumstances surrounding the law. Courts, prosecutors' offices and others are institutions that stand out in a society that wants to be equal before the law called justice. However, courts (and others) can only achieve the noble title of "hall of justice" if they are filled with people who always understand and carry out their duties as upholders of justice based on the way of thinking (mesu bud). The lack of law enforcement ethics, and the strong dominance of the legal positivism approach or paradigm, as well as the dryness of the legal approach in the arena of law enforcement, requires ideas as an antithesis to the dogmatic-linear way of thinking in law enforcement. Law enforcement based on the sharpness of thinking (mesu budi), namely the divine approach will bring closer to human values, justice, and benefits, including social facts that cannot be separated from issues of religious, ethical, and moral values. It is there that divine values, human values, values of justice, and values of expediency will be found. Enforcement based on sharp thinking (mesu budi) is based on spiritual intelligence which is a concretization of the transcendental approach in law enforcement and is interesting to be linked to ways of thinking in law, which in turn affects our actions in carrying out the law.

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