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# Improving the Morals and Ethics of Law Enforcement in Indonesia

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## Abstract

The reason for the reform in 1998 was that the law did not demonstrate its role in achieving justice in the community. After 22 years of legal reform in Indonesia, the situation is not much different; there are already many legal norms that are considered incompatible with human rights and justice, but the state of Indonesian law has not changed much. Formalization of topics to be explored in relation to law enforcement, ethics, and morality of law enforcement officers. In accordance with the problem, empirical normative research methodologies using legal materials are derived from laws and regulations, as well as other scientific works. Based on the discussion, the study's findings revealed the occurrence of a multidimensional crisis in which the law's inability to show its presence in the middle of people's social lives, owing to the fact that most law enforcement agencies have failed to do so, particularly in terms of ethics and morality. As a result, other than redesigning legal standards, no other effort can be made to realize the law as commander in chief in the country of Indonesian law save by strengthening the ethics and morality of law enforcement personnel.

**Keywords:** Ethics, Morals, Law Enforcement, Law Enforcement

## 1. Introduction

### 1.1. Background

The ancient imperial saying of Rome says *Quid leges sine moribus*, meaning the law does not mean much, if not imbued by morality. This saying describes that the law cannot be separated from morals, the law must contain moral values, in other languages it is said that the law is the credibility of moral values. According to Van Apeldorn, the law is not enough to be interpreted as a rule that binds its citizens only, but must have aspects of justice and other principles that are useful for protecting their citizens fairly and ensuring legal certainty for every citizen, without exception (Juanda, 2017). One of the important means to realize justice in the community, is a legal norm formulated from the values that prevail in the community which *includes* ethical and moral values, therefore law enforcement in the community must also be carried out with the accompaniment of ethical and moral values (Suadi & SH, 2018).

Social reality reveals a very paradoxical condition between *das seins* and *das sollin*, where we can no longer turn a blind eye to hide the fact that many incidents of law enforcement officers who commit blatant law enforcement violations under the pretext of law enforcement that sometimes the violation is even greater than the alleged error (Gultom & SH, 2017). Corruption should be processed legally in order to realize justice not infrequently even giving birth to new crimes in the form of extortion, bribery and buying and selling cases, as well as police officers sexually harassing people who need to be ordered, PP police who commit destruction and violence under the pretext of prohibition, judges who accept bribes in prosecuting corruption cases. The case of the Prosecutor in the case — Gaius Tambunan, the tax mafia, and many more cases of bribery, extortion, collusion involving law enforcement officials under the pretext of law enforcement (Syahroni & Sujarwadi, 2018).

If then in society there are many anarchist actions in responding to social phenomena, such as vigilante society against pickpockets, thieves or on a larger scale protests in the form of demonstrations, fights by communities, social institutions, students, workers, it is a logical result that must be understood and addressed wisely, because that attitude is an overflow of the community's a priori sense towards law enforcement officials, where people's trust in law enforcement officials has been reduced, so that in carrying out these actions/protests they carry out actions that actually violate the law in the name of law enforcement efforts, this is a portrait of Indonesian law today (Maruapey, 2017).

Allegedly the reality has occurred so far, among others, because there has been a shallowing of philosophical understanding of the law, where it should be all parties, law enforcement and society including government officials and legislators, understand the value of morality that accompanies legal norms, because simply at the beginning of studying legal science it has been explained that the law is a credibility of social values that grow in a society that contains a load of moral values. high (Ghozali, 2019). H.L.A. Hart said that to create justice, the law must include three elements of value: duty, morals and rules. Therefore, the law cannot be separated from the moral dimension (Tanuwijaya, 2014). According to Murphy & Coelman, in *The Philosophy of Law*, so if you want to create justice in society, the moral element must be fulfilled (Murphy, 2013). It is highly unlikely that the law will give meaning in people's lives when it is enforced by people who do not understand the value of morality (Peffer, 2014). Philosophers say that the moral law will give meaning to people's lives if it is enforced by an apparatus that has good moral values. There has not been a sense of law enforcement justice in society due to the incomplete moral escort for law enforcement officials in law enforcement (Dedek, 2016).

### 1.2. Research Questions

Previous research by Subiharta (2015), examining the morality of law enforcement and justice of society, and discussing also the morality of society, the results of research between law and morals are interrelated, so good law is a moral law, if the law is immoral then it is appropriate for the law to be replaced, so this study is different from the research that will be the author wrapped, where the author examines the ethics and morality of law enforcement itself (Subiharta, 2015). Cecep Wiharma's research (2017), still researching the ethics and morality of law enforcement and community compliance with the law, research results, ethics and morality of law enforcement are influenced by the environment, because society (environment) affects the legal apparatus. Here there are still differences in research that will be done, which does not focus on law enforcement. (Wiharma, 2017). Emma Ellyani's research (2018), her research discusses the ethics and morality of law enforcement influenced by integrity and ethics and religion, the results of research on judges' decisions or law enforcement are based on integrity, ethics and faith and piety. The difference in research that the author will be wrapped up with Ellyani lies in morality and religion (Ellyani, 2018).

### 1.3. Research Methods

Research is carried out by empirical normative methods, by examining concepts and *behaviors of real (actual behavior)*, where this shows social symptoms that are not real or unwritten, experienced by society or individuals in social relations in community life (Sabri & Nasfi, 2020). Where the research method is in the form of sociological or empirical legal research, which includes research on what is the law enforcement's own level and legal identity, as well as research on the effectiveness of the application of the law (Fajar & Yulianto, 2010). Where

the source of research data by reviewing literature and literature and legislation related to research and references in accordance with research studies.

## 2. Results and Discussion

### 2.1. *Morals and Ethics as Law Enforcement Guidelines*

According to Muchtar Samad (2016), the word moral comes from Latin *mores* with the origin of the word *mos* which means decency, character and behavior thus the word moral can be given the meaning of decency, while morality means everything related to decency, so said Muchtar Samad, moral is the soul that underlies the behavior of a person or society that is more emphasized to social provisions (Samad, 2016). Dian Ibung defines morals as a belief that underlies actions or thoughts that are in accordance with social agreements, good morals will make individual capital in social innovation (Dian Ibung, 2013).

The Indonesian legal system is used as *the ground norm* of the basic norm of Pancasila, which is the rule and norm that is the basis for legality in Indonesia. So the thinnest Indonesian law is the view of life, awareness, and moral ideals of the character of the Indonesian nation covering religious life that is virtuous in upholding the value of justice. Thus, the requirements of law enforcement must be honest, fair and have integrity and moral. So according to Prof. Agus Santoso moral is a psychiatric atmosphere and the character and religion of the community or individuals who uphold the values of justice in socializing in community life (Agus Santoso, 2015). According to Haryatmoko morals are normative and imperative discourses expressed in the framework of good or bad, right/wrong which is considered absolute or transcendent value, while ethics is understood as a philosophical reflection on morals, and more a normative discourse (Haryatmoko, 2011).

According to Van Hooft in his book, defining ethics is the values, character and ethos of individuals and groups in acting openly and honestly without hiding the truth (Van Hooft, 2014). According to Stanwick ethics are values that a person uses to interpret whether a particular action or behavior is acceptable and in accordance with the norms and methods prevailing (Stanwick & Stanwick, 2013). In the research of Silke Schicktanz et al (2012), ethics is considered a symptom of recent social trends in government crises, where ethics serves as a social practice and a power play by law enforcement. Silke defines ethics as a moral issue in everyday life situations that relies on subjective views and feelings that guide individual life and what social interactions are important, right and just (Schicktanz et al., 2012).

Thus, from the understanding of the above experts can be drawn conclusions about the understanding of ethics, namely: (1) Values and norms about what is good and what is bad in action; (2) A group of principles or values relating to morals and social trends in action; and (3) Social trends and behavioral principles that guide good or bad. From the above understanding can be defined ethics is an understanding of the norms and values of what is good and bad in everyday life that becomes a social trend, whether individuals or society act right and fair.

According to Dewantara, the meaning of the word moral is simply between moral and ethics can be distinguished, although there are also those who equate moral meaning with ethics in technical so that the terminology of both is the same and must be in accordance with the context (Dewantara, 2017). The terms moral and ethical have the same understanding, although the origin of the word is different. Morals come from the language Latin *mores*, while ethics comes from the Greek, *ethos*. Both have the understanding of *customs* related to human activities that are considered good or right, fair and honest actions. While the understanding that distinguishes between morals and ethics gives an understanding where morals are a value embedded in the human psyche that is abstract as a control tool for humans to behave, while ethics is a form of moral values that appear in the form of human behavior with other meanings ethics are concrete, but between the two cannot be separated and is a unity where morals as the compass while ethics as In his movement, then morals will play a role if there is an ethic otherwise ethics will mean when guided by moral values, for example if a police officer who investigates suspects is said to be immoral meaning that the police's actions violate moral values that apply in their professional groups (Dewantara, 2017).

Thus the definition of morality is the guideline that each individual or group has regarding what is right and wrong based on moral standards that apply in society. Ethics does not question the human condition, but rather questions how man should act, based on values and norms. Questionable morality appears (*tangible*) in behavior and dishonest and invisible (*intangible*) in the mind that is contrary to conscience in planning, implementation and reporting. Morality that deliberately defies conscience is a matter of integrity that is the determination to be opinionated while maintaining standard values. According to Sopirman Rahman & Nurul Qomar, ethics is a conception of the good or bad temperament or behavior of a person. Morals are good or bad behavior. Ethics are ideas, ideals about the desire for the good of human actions or behavior. Ethics always provides good examples, while morals always assess the implementation of the examples given by ethics. Therefore, ethical people are people who exemplify the behavior of transparency, while morals are the ones who carry out the transparency (Sopirman Rahman, 2014). In simple language we can also mean ethics with all its contributions can be seen as a means to build an orientation for humans who want to be good in their lives, besides ethics can be used to help humans in answering the most basic question, namely how should humans/I live and act as human beings and humanely? Although in fact the answer to that question can be found in various institutions for example in religious institutions, indigenous institutions, but the view in terms of ethics remains the most trusted, because the ethical view is based on scientific studies (Djoko & Warsito, 2018).

Anshori explained that ethics is a critical and rational reflection of the values and norms that concern how humans should live both as human beings and deal with the problems of human life by basing themselves on commonly accepted values and norms (Anshori, 2018). If we look at it from this side, it seems that ethics and morality have the same meaning, namely as a value system about how humans should behave so that they can maintain life together well, which is manifested in a pattern of constant behavior and deviations rather than it is considered as something wrong. Frans Magnis Suseno (1997) revealed that the similarity of the two things can also be proven in many studies on morals cannot be separated from the ethics of support for the statement, that ethics is a philosophy or critical and fundamental thinking about moral teachings and views (Harahap, 2015).

Ethics according to William I. Sauser, Jr. in Falah (2018), ethics is an act that is a behavior, especially a moral behavior related to society, broadly where a person's behavior is measured by community standards in measuring one's ethics. William argues that the law includes regulations, administration and cases of punishment as an important thing and a source of shah (Falah, 2018), of course as an ethical guideline for a person manifested in a moral consciousness that contains the belief of right and not something' the feeling that arises that he will do wrongly do something that he believes is not right departs from moral norms and self-respect if he leaves it (Chairunnisa, 2018).

Ethics is a normative field, because it determines and suggests what people should do or avoid. In this sense, people's decision to do something or not is solely because of moral direction and considerations, so that when someone does an act that is not right it means that the deed is not asked for ethical and moral considerations (Salim, 2014). A term that is almost the same as ethics and is always juxtaposed is the word *etiquette*, which although many people interpret the same two words, but actually both have very different meanings, if ethics speaks of morals (good and bad), then *etiquette* speaks of manners. In general, these two words are recognized to have several similarities as well as differences. Yusuf (2017) noted some similarities and differences in the meaning of the two words. The similarities are: 1) ethics and etiquette concern human behavior, so that animals do not know ethics and etiquette and 2) both ethics and etiquette regulate human behavior normatively, meaning to give norms for human behavior so that it knows what to do and what not to do. The difference is: 1) etiquette concerns the way an action must be done, while ethics is not limited to the way an action must be done, while ethics is not limited to the way an action is done. Ethics concerns the issue of whether an action is permissible or not; 2) etiquette only applies in association, while ethics always applies and does not depend on the presence or absence of others; 3) etiquette is relative, while ethics is more absolute; and 4) etiquette looks at man in terms of outward only, while ethics looks at humans more deeply (Joseph, 2017). Thus, from several studies and exposures to existing sources, an understanding of ethics can theoretically be drawn consisting of:

1. Descriptive ethics is to provide an overview and illustration of human behavior reviewed from good and bad values and which things can be done in accordance with the ethics embraced by society.

2. Normative Ethics that discusses and examines the good, bad measures of human actions are usually grouped into the following:
  - a. General ethics that addresses a wide range of relationships with the human condition to act ethically in taking a wide variety of policies based on theories as well as moral principles.
  - b. Special ethics consisting of:
    - 1) Social Ethics is an ethic that emphasizes social responsibility and relationships between human beings in the activities they carry out.
    - 2) Individual ethics is ethics that emphasizes more human obligations as a person.
    - 3) Applied Ethics is ethics applied to a profession.

In the context of law enforcement, ethics can be interpreted as a set of moral principles that distinguish what is right and what is wrong, what is appropriate and inappropriate for a law enforcement officer to do. This ethic must be a handle, for law enforcement officials both when he carries out his duties and functions as law enforcement and in daily activities as a citizen.

## 2.2. Law and Justice Enforcement in Society

Since the introduction of the term law, jurists have sought to provide a definition of what the meaning or definition of the law itself is. However, none of the definitions given by these experts can be satisfactory and accepted by all jurists, because the definition given by jurists is very dependent on their respective points of view, so that from the various definitions given by jurists there is nothing wrong, because indeed the law itself is a very broad social phenomenon, So it is not wrong when Van Apeldoorn (Apeldoorn, 1982) once said that no jurist can give a definite definition of the law, because the law is very broad. However, it is also something that is not possible, when we want to study the law further without having a handle on the meaning of the law itself, therefore we also need to provide definitions or use definitions that have been given by experts before (Juanda, 2017). According to J. van Kan as affirmed by S. Subekti said the law is as a whole provision of life that is coercive, protecting the interests of people in society (Subekti, 2015). Law deals with efforts to realize certain values (Samsudin, 2012). From the diverse opinions of experts on what is a law that can be ascertained is that legal norms as social norms, born from the realization of norms that grow and develop in society, so that although on the one hand there is a difference between legal norms and social norms (non-legal norms) but on the other hand the two norms cannot be separated, because the two norms have the same function, namely both regulate social life and strengthen each other.

In principle, the law has existence because it is solely to regulate various aspects of people's lives, both physical and non-physical, with the sole purpose of achieving justice. Plato defined the law as the best order for dealing with a world of phenomena filled with injustice. Socrates interprets the law in accordance with human nature, then the law is defined as the order of virtue, which is an order that prioritizes virtue and justice for the public (Rahardjo, 2010). According to Socrates the law is not a rule made to perpetuate the lust of the strong (*counter-philosophers of Ionia*), nor the rule to fulfill the instincts of self-hedonism (*counter-sophists*), the law is actually an objective order to achieve virtue and general justice (Widagdo, 2018). While Austin defines the law as a rule held to provide guidance to intelligent beings by creatures who rule over it (Islamiyati, 2018). The law is the order of those who hold the highest power or from those who hold sovereignty. He regarded the law as a logical, fixed and closed system. If closely observed Austin's teachings do not concern the good or bad of the law at all, because the judgment is considered a different matter outside the law.

E. Utrecht in his book "*Algemeen Deel*" states that the law is a guide to what is worth doing and what is not, so it is a commandment (Nugroho, 2017). Bellefroid, the law that applies in one community aims to regulate the order of that society and is based on the power that exists in that society (Adam, 2017). Hugo de Grotius defined the law as an act of morals that ensures justice. Law is the regulation of moral actions that ensure justice to the rule of law on independence.

From the many opinions of experts from classical times to modern times, it can simply be concluded that the law is at least a manifestation of the values of truth that grow and develop in society, which will be used as a means to ensure order in society, because as Aristotle said man as a *zoon oliticon* creature. who cannot live without anyone else, so that humans in their lives at all times require social interaction (*social interaction*), while on the other hand

as said by Thomas Hobbes, humans have the nature of *Homo Homini Lupus*, namely wolves from other humans or in other words humans have egos that cannot be avoided often conflict of interest (*conflict of interest*).) between people with each other. Therefore, it is very important for the role of the law to maintain the balance of the two human natures to achieve order and peace. The Huijbers in Harafa, said that since the beginning of jurists always juxtaposed the concept of law with justice, although it was later discovered that not every legal norm made was able to lead to the ideals of justice, especially because there is always a dichotomy (Harefa, 2016), there are two mores to signify the law, namely:

1. Law in the sense of justice (*iustitia*) or *ius/recht* (from *regere* = lead). In this context the law signifies a just peering of people's lives, as aspired;
2. Law in the sense of law or *lex* or *wet*. These methods of requiring it are seen as a means of creating such just rules.

From huijbers's thinking, there is a clear difference, where the term law contains the demands for justice, while the term law/*lex/wet*, signifies *de facto* norms used as a means to realize the desired justice. Understanding justice in a context often embraced by most jurists and law enforcement officials; Philosophically, justice is the main purpose of law, not looking at law in the meaning of *ius/recht* or law in the meaning of *lex* or *wet*. To understand the meaning of justice in a comprehensive manner in the characteristics of Indonesian law, jurists are primarily contemporary legal philosophers using the philosophy of *hermeneutics*, which examines the meaning of justice as the basic essence of law enforcement, which Josef Bluecher in Agus Budi Susilohermeneutik consequentially is bound to two things of study, namely ensuring the content and meaning of a word, sentence, text and so on and find the instructions contained in symbolic forms (Susilo, 2011).

In the review of various aspects, schools and streams of law cannot be separated from justice, all thinkers/philosophers when discussing the law always juxtapose it with the concept of justice. This is in line with the view of nature law that identifies law with justice (*ius quia iustum*). This teaching is of good view whether or not legal norms are very dependent on the alignment of legal norms with moral values, especially the value of justice. So according to the teachings of the nature law of a norm cannot be said to be a law, if it does not contain the values of justice. Although the truth about the meaning of justice itself is also no definite definition that can be given by jurists and philosophers themselves. However, at least it can be given a simple understanding that is something related to the feeling that a person can accept such a situation with a spacious chest (private justice) or society can accept such a reality also with a broad chest (public justice). As stated by Nani Nurrachman in Agus Budi Susilo, said *Justice or fair treatment* (justice is a concept that identifies the existence of a sense of justice in treatment) (Susilo, 2011).

This means that justice is very closely related to the feelings of a person/public therefore the law (in the form of norms) must be able to respond to individual/public feelings if the law is to be used as a tool to realize justice, so it is certain to uphold legal norms that have responded to the feelings of individual/public justice it must be a person who also understands the sense of justice, because it is very unlikely when we expect the enforcement of legal norms that are just to those who do not understand the meaning of justice itself. In line with the concept of justice according to Plato in Kelik Wardiono, which states that justice in a country can be learned from good rules and souls. Where he himself divides the human soul into three parts consisting of (Kelik Wardiono & Saepul Rochman, 2020): 1) Part of thought (*logistics*), 2) part of feelings and passions, both physical and physical (*ephithumetikon*) and 3) part of good and evil (*thumoedes*). According to him, one's soul will be well organized, while the three parts mentioned above, walk in harmonious unity, for example when the condition of feelings and desires is controlled by reason and mind through good and evil, then justice (*dikaosune*) lies within a balanced boundary between the three parts of the soul, according to their respective forms. For Plato justice, it is a right course of action, not enough just as an obedience to the rule of law. The sense of justice is the nature of every human being as a creature given by god as a balancing tool between fellow humans and other natural creatures, so that there is harmony and harmony among god's created creatures.

Plato further said that the law is the result of a reasonable human thought (*reason thought, logismus*) formulated in a certain form by the ruler. Therefore, Plato rejects the idea that legal authority rests solely on the wishes of the ruler (Kelik Wardiono & Saepul Rochman, 2020). Plato's opinion is supported by Socrates who states that if you

want to measure what is good and what is not good, beautiful and not beautiful, entitled and not entitled, do not be left solely to individuals or to those who have *zolim* power or rulers, but should be sought an objective measure to judge it, because the matter of justice is not only useful for those who are strong/powerful, but it is also useful for the whole community.

We can draw the conclusion that law as a means of realizing the justice that is aspired, man in his formation must contain ethical values not only on external values but also includes inner values. Because the ultimate goal of the law is to realize justice through state institutions, the state through its apparatus is responsible for ensuring the realization of community justice both individually and in groups. Therefore, it can also be said that something is wrong where when someone says that injustice is not synonymous with lawlessness, deviation, incompatible with the norms of written law, because real justice does not always follow the understanding of positivism that places written law (law) as the only reference, where this understanding puts human mind as the foundation and principled all legal problems can be solved by logic. Syllogism and mechanical. Theo Huijbers in Agus Budi Susilo, he said the subject of legal philosophy is not *quid iuris*, but *quid ius*, because *as a quid iuris* law is only oriented to positive law (*ius constitutum*) so that the meaning of justice is only limited to the logic of lawmakers, while *quid ius* Law oriented to the basic substance of justice (Susilo, 2011). Justice itself depends heavily on space and time, so that the feeling of fairness according to the logic of the past (at the time the law was made), is not necessarily the same as the feeling of fairness according to logic at the time when the law was then applied and justice in the sense of judge often influenced by elements of human subjectivity that sometimes justice can only be enjoyed by a group of people, because what is considered fair by certain people is not necessarily fair according to the other party. The law is the framework of the body, while justice is the spirit, the skeleton will not function when the spirit does not exist and even the skeleton will only make a burden for others (otherwise it is said to be troublesome). Thus the legal norm that does not contain the spirit of justice will sometimes only contain injustice.

### 2.3. Revamping The Morals and Ethics of Law Enforcement in Indonesia

One of the theories known in the science of law is utilitarianist theory, popularized by Bentham, among which in the theory we can see Bentham's opinion that states, the good bad of the law does not lie in the good bad content of the norm made, but the good bad of the law must be measured from the good and bad consequences produced by the application of the law. Bentham further said that a new legal norm can be judged well, if the resulting from the application of the norm is good, on the contrary, the legal norm will be said not good when the consequences of applying the norm actually give birth to injustice and suffering, regardless of whether the norm itself leads to injustice and suffering or the wrong enforcement of the law resulting in injustice and suffering.

In line with the above theory, in law enforcement theory since long ago has been known the principle of *Equality before the law* as manifested in Article 27 paragraph (1) amendments to the 1945 Constitution, this article is used as a basis for law enforcement officials, to treat all citizens equally before law and government, this principle is even a joint of the law (*rechtstaat*). ), this principle in the Indonesian legal system has also been accepted in line with the acceptance of Dutch colonial law with the principle of *concordantie*, meaning that the principle of equality of community position before the law is something that cannot be bargained and violated this is intended to achieve fair law enforcement both procedurally and substantially from law enforcement officials.

The equality of human degrees in social life is intended as a means to realize environmental harmony, both between humans and between humans and environmental creatures, maintaining the balance of rights and obligations between individuals and individuals, individual with government and state. In state law the existence of law is something that is very important to regulate the balance between the rights and obligations of both individuals and communities/states. Therefore, the enactment of laws without exception for everyone with the principle of equality of degrees is a necessity. According to Shant Delyana as affirmed by Hasadizohu Moho law enforcement is an effort to realize the ideas of justice, legal certainty and social benefits into reality (Moho, 2019). Dardji Darmodihardjo in his book *The Principles of Philosophy of Law, What and how the Philosophy of Law. Expressing* (Zulkarnaen, 2019), to realize the function of law as a means of protecting human interests, law enforcement must be oriented to 4 elements, namely:

1. Legal certainty (*rechtssicherheit*)



2. Legal expediency (*zweckmassigkeit*)
3. Legal justice (*gerechtigkeit*)
4. Legal guarantee (*doelmatigkeit*)

To realize the four orientations as mentioned above, it is necessary to have a complete idealism for a law enforcement officer, and legal norms that contain ethical values and justice. Furthermore, according to Soerjono Soekamto in Sitompul et al (Sitompul et al., 2020), ideal law enforcement is only possible when supported by four important elements, namely:

1. Good legal norms
2. Good law enforcement apparatus
3. A good legal society
4. Good legal facilities and infrastructure

Thus, for the realization of ideal law enforcement it is at least necessary harmonization of the elements mentioned above. Harmonization of the four elements is believed that law enforcement will be able to realize orientation ideal, but of all that the orientation of justice is the main orientation in law enforcement. The diversity of cultures and cultural values of the Indonesian nation is substantially certain to greatly affect the value of formal justice of legal norms, so that sometimes the value of formal justice of legal norms is not the same as the values of justice of certain people's cultures, under these conditions it is certain that the law must return to the basic essence of justice, namely justice, where the law as a tool to realize justice must be in favor of justice, by not ignoring certainty and usefulness (*utility*). Expediency as one of the orientations of law enforcement can be used as a benchmark for the success of law enforcement. as we understand in the utility teachings of law enforcement (criminal) not only for revenge on the perpetrators of criminal acts, but the punishment will provide benefits not only to the perpetrators of the criminal act itself, as an effort to improve their behavior, but also to other parties so as not to do the same act, and more importantly the community feels safe from the interference of criminal acts, This is what law enforcement says provides benefits/happiness/*happiness* to both the perpetrator and the community.

Although sometimes in social reality we often see, law enforcement in Indonesia actually prioritizes legal certainty rather than justice, for example the case of Kediri Regency in the case of theft of one watermelon, in the trial is demanded by Jalasa Public Prosecutor with a prison sentence of 2 months 10 days, which then by the panel of judges is sentenced to 15 days in prison, on charges of the defendant's actions in violation of Article 362 paragraph (1) of the Criminal Code. At the time of the hearing the reading of the demands was colored by the peaceful action of the Kediri Student Movement Alliance, which voiced that the actions of the public prosecutor who brought this case to the Court trial were unfair. Both cases of Minah's grandmother, a resident of Porwokerto, Banyumas Regency, Central Java who also claimed the same thing stole 3 cocoa beans, so she was satisfied guilty and sentenced to 15 days in prison with one month's probation.

The two cases mentioned above had shocked the legal universe in Indonesia, because many ordinary people judged that the law in Indonesia was very unfair by comparing the number of major corruption cases even disappeared without due process and even if the punishment is very light, this phenomenon in a country of law that adheres to *the continental European* system (understand *positivism*). ) with the principle of legality, it is only natural that there is a conflict between legal certainty and the principle of justice, as once said by Moho Hasiziduhu justice and legal certainty are two legal goals that are often not in line with each other and difficult to avoid in the practice of law (Moho, 2019). Further said by Moho Hasiziduhu, a rule of law that more meets the demands of legal certainty, the more likely the aspect of justice is pressed.

In the context of the above case, it shows that there is a conflict of the value of justice that grows in society and the value of justice contained in legal norms, in both cases there is nothing wrong, on the one hand both the public prosecutor and the panel of judges are correct in the context of law enforcement where the public prosecutor and the panel of judges enforce the law with the principle of legal certainty, justice (formal), expediency and assurance of certainty. While on the other hand, society is also right because the community sees justice in the context of reality in society. That the orientation of law enforcement cannot be focused on one orientation alternatively, but oriented colloquially means that law enforcement cannot only be oriented to the value of justice by excluding the

value of expediency, certainty and legal guarantees. Similarly, law enforcement cannot only be oriented to benefit and so on. Thus, a question arises how to enforce the ideal law so that the four orientations can run together which in the end the law can provide complete benefits. Simply to find the answer to that question we return to the foundation of law, namely *the philosophical, juridical and sociological foundations*, in the context of the philosophy of legal norms that are born must not lack these three foundations as well as in its enforcement, because the fusion of these three foundations is believed to be the legal norms that were born will be able to realize the essence of the law itself. The skill of combining the three basic foundations of law in the law enforcement process is not an easy one, this requires a comprehensive understanding of the law, especially the understanding of legal philosophy where the understanding of law as *a social engineering*, will always develop along with the development of social itself, where classical legal justice emphasizes more on normative justice and legal certainty, while modern legal justice emphasizes more on Empirically-rationalistic, such a thing can be interpreted that the meaning of justice in the context of modern law is wider and comprehensive when compared to the meaning of justice in classical law.

Law enforcement is a social subsystem, so its enforcement is influenced by very complex environments such as political, economic, social, cultural, security defense, science and technology, education and so on (Nurudin, 2016). Law enforcement must be based as expressed in the 1945 Constitution and the legal principles that apply in the civilized nation environment, so that law enforcement can avoid negative practices due to the very complex environmental community. Therefore, the responsibility of law enforcement officials is to strive to uphold justice not only to enforce written rules/norms, thus law enforcement officials should understand really the spirit of law (*legal spirit*) that underlies the rule of law that must be enforced, related to various dynamics that occur in the process of making legislation (*law making process*).

### 3. Conclusion

One of the main causes of the multi-dimensional crisis in Indonesia in particular, allegedly because of the inability of the law to show its existence in the midst of social life, because the law that is expected to provide social justice in the community is sometimes the opposite, often showing injustice in the community. This is not only because existing legal norms have not been able to respond to the value of social justice of society, but rather in the unsustainable of most law enforcement officials, especially from the aspect of ethics and morality. Efforts must be made so that the law really serves as commander in the country of Indonesian law, then there is no other way but to try to fix law enforcement officials in a comprehensive manner, especially aspects of ethics and morality.

Therefore, the responsibility of law enforcement officials is to strive to uphold justice not only to enforce written rules/norms, thus law enforcement officials should understand really the spirit of law (*legal spirit*) that underlies the rule of law that must be enforced, related to various dynamics that occur in the process of making legislation (*law making process*).

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