

The Legal Futurology as a Criticism of Law Enforcement in Indonesia

Ma'ruf Muzakir^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: marufmuzakir@gmail.com

Abstract. *Legal futurology or the concept of future law aims as a legal thought that is planned or thought about now regarding legal issues (polemic) in the future, we must prepare how to deal with problems where the problem has never happened, this is done so that the law no obsolete terms. This study uses a legal philosophical method with a collection of legal case studies in Indonesia. The concept of law in the future, namely to overcome a problem, will come at a time and hour that we do not know, we feel ready and safe, because we have conceptualized it, but the disadvantage is from the legal futurology itself, namely whether the problem will arise later or not. , if not then what we have conceptualized can be said to be a loss and not only that we also have to think about whether the law we have made will be agreed upon or instead it will create conflict. We must research and examine carefully the problems that might occur in the future.*

Keywords: Certainty; Concept; Futurology.

1. Introduction

Indonesia is a constitutional state which prioritizes the legal basis in all activities, as stated in Article 1 paragraph 3 of the 1945 Constitution. For all people in Indonesia, they should have a very good understanding of the law. People who must understand the law are not only legal scholars, but this applies to everyone. The influence of law has a great impact on our lives, because all actions and actions based on law have been stated in legal laws which adhere to the principle of legal fiction.

This principle argues that if a statutory regulation has been enacted, there is no reason for the public not to know the law that has been enacted. The existence of the principle of legal fiction has been normalized in the elucidation of Article 81 of the provisions of Act No. 12 of 2011 concerning Legislation, namely by

promulgating Legislation in the official gazette as referred to in this provision, everyone is deemed to have known it¹.

As we know, if someone already knows the rules regarding the law, he will automatically know his rights and obligations. And if one day he is faced with a legal problem, he already knows what he has to do. For example, if someone violates the law, they will be subject to sanctions. When we understand the law, we will also know the purpose of the law itself, namely implementing truth, peace and justice.

The laws that apply in Indonesia are partly a legacy of legal products made by the Dutch colonialists, because Indonesia at that time was a Dutch colonial country. The Netherlands was once colonized by Germany. At that time Germany already had its own law then the law was used by the Netherlands and the Dutch brought it to Indonesia as we know Indonesia still uses the law until now. It can be said that until now Indonesia has not had its own laws and regulations.

Day by day, the development of world progress is increasing drastically, especially developments regarding technology, almost all people in this world make use of technology. In fact, almost all companies in the world have replaced all of their workforce into machines.

With developments that are increasingly rapid, we should not only think about the fun, but there are many other effects to pay attention to. One of them is the impact on factory workers as ordinary people who become unemployed due to the Termination of Employment (PHK).

Responding to this, it's not only people with a small economy who feel overwhelmed, but also legal experts. With this problem they have to think about how the law in Indonesia is not left behind by the crime cases, and not only that they also have to think of a way out and a solution.

The law that is thought about is not only about the law for today's problems. However, they must prepare the law to respond to all kinds of polemics in the future.

Another biggest problem can be observed from law enforcement in Indonesia where there are still many officials or people who have the right to legal authority to violate the law itself, many corruption cases are rampant today. And what is very unfortunate for people who understand the laws and regulations that have

¹Considering: A. That To Realize Indonesia As A Country, 2011.

been set but instead they break the law without the slightest feeling of guilt in their minds.

Even though Indonesia is a rule of law country, the reality is that the rule of law is often violated, even by law enforcement officials and lawmakers themselves. Law enforcement in Indonesia is still sharp downwards but blunt upwards. For this reason, it is necessary to improve law enforcement. Improvement of law enforcement can be done by improving the legal system which includes legal substance, legal structure, and legal culture. In addition, with the concept of a democratic rule of law, law enforcement is not only focused on written legal rules. If written legal rules do not provide justice, then written legal rules can be deviated.

This is what makes law in Indonesia not progressively advanced, sometimes there are many elements who want to carry out what should be their responsibility if there is a guarantee for them. Maybe we usually call it a bribe.

This bribe is very profitable for people who have a strong economy, the problems they face can be solved in a matter of days or even hours, but this does not apply to those who have a weak economy. To voice what has become his right to be voiced, sometimes it is not heard at all.

The conscience of the political rulers has been exchanged for the material. There is a play on our first precepts not Belief in One God, but Finance in One God (a pun that is spread in society). More and more people believe that the hope for a future for a country capable of creating prosperity, intelligence, a sense of security, peace, justice, and so on is like dew in the daytime. Politics is no longer guided by morality and the interests of the nation. Politics is more driven by personal and group interests which kill the interests of the nation. With such political passion, it is not surprising that power no longer serves the interests of the people.

In various facts that are so striking, what can be seen is that this country is controlled by many rulers and businessmen. Justice can even be traded. Corruptors can also have their sentences commuted and even released easily if they can "ingratiate themselves" with state apparatus. And when corruption cases have infected the spirit of justice in this country, the law can be manipulated at will. Then we ask with what reasons can we imagine the future of law in Indonesia. Everything is gloomy and dark.

All legal cases in this country are related to justice. There are so many law-abiding problems in our country related to this sense of injustice. In many cases involving powerful people, we can see that justice is very difficult to uphold. Of course upholding justice is not only upholding the law, but also related to morality. The law must be carried out in tandem with public morality. Upholding justice is like

straightening wet threads. But we must conquer this myth. We can realize everything if all groups, from the small, old, young, commoners, rulers, rich, poor, agree against injustice, against all forms of oppression, against arbitrariness, even evil.

We have to pay close attention to practice in our daily lives, research, and understand properly. It must be guarded really, all practices on all fronts. It is feared that there are plans that have been drawn up that day by day must find a way out in a solutive way.

Law and morality are always integrated, but are often considered absent. Dozens of laws and regulations were looked for for weaknesses and then tricked. The strong always win and the small must lose. One of the proverbs that we are familiar with is "Law in Indonesia is like a machete, the bottom is sharp and the top is blunt". The point is that the law only applies to the lower class but does not apply to the upper class. Therefore, law enforcement also needs to be supported by progressive legal theory and integrative legal theory.

The rampant practice of criminal acts of corruption is increasingly worrying for the sustainability of this nation. Corruption is carried out in congregation without any burden on the hearts of the corruptors. The Arabic rule says *Al haqqu Bila nidzomin Yaglibuhul Batilu binidzomin* (organized crime will defeat unorganized good). Jalaluddin Rumi also once stated that if good people withdraw from their lives, don't blame the tyrannical people who will take over.

Education to educate and build a better national character is actually misused as a field for making profits (education commercialization). The economic sector is sold to foreigners at low prices without thinking about the future of the nation's children and grandchildren. Weak national defense makes it easy for foreign countries to carry out espionage, wiretapping, harassment of our country. Borrowing Pramoeidia Ananta Toer's term, that Indonesia is like a greenhouse that is exposed by anyone.

It is still warm to our ears, the people's representative institutions that are being hit by chronic and critical illnesses. Institutions that we trust actually hurt themselves and even the people. Is there a drug that can treat this disease before death picks up? How could the officials of this country hurt their own people. President Soekarno once said: "In the past we fought against the invaders, in the future you will fight against your own people."

This is the reality of legal justice in this country. Enforced if it benefits the authorities and vice versa legal justice is ignored because it is considered to interfere with the political interests of the authorities. There are those who argue that there are two groups that are above the law today, one of the two being the

authorities and businessmen. Rulers are immune from the law because their power is abused and entrepreneurs are immune from the law because their money can control the state apparatus.

Power plays a major role in producing laws that are sensitive to the public. The law which is believed to be the only basis for all disputes that arise in the democratic process is misused. Law can be trusted if the principle of equality in law (no matter if he is rich or powerful, all have the same degree in the eyes of the law) and there is a commitment to equality. With factors like these, the law aspired to in Pancasila and the 1945 Constitution will be able to realize the prosperity of the Indonesian people.

Justice and humanity in Indonesia can be said to be few or even non-existent, justice is only for people who have money. Then how will the fate of the Indonesian nation in the future, will the law in Indonesia run according to its objectives, namely justice, expediency and certainty.

Along with the development of this country which is increasingly advanced with a variety of technological sophistication but not with the nation and its laws are very sad, sometimes we just enjoy the pleasures without thinking about what will happen later and tomorrow and even beyond. Based on the description above, an important point that will be discussed in this article is about a practical offer regarding future law with a legal futurological perspective as a critique of law enforcement in Indonesia.

2. Research Methods

This study highlights aspects of the quality of law in Indonesia which often become polemics that seem to be controlled by certain groups. This research was conducted to strengthen the foundation of future legal concepts with the aim of prioritizing justice, expediency and certainty. This study uses a legal philosophical method with a collection of legal case studies in Indonesia.

The main point of this research is to formulate a concept of law enforcement based on the perspective of legal futurology and also useful as national judicial control.

3. Result and Discussion

3.1. Legal Lagging in Reaching Problems That Might Come Up

Crime cases in Indonesia are very diverse, ranging from small to large crime cases, even though these cases have been written down in the Criminal Code and the

Civil Code.² The development of the era from time to time continues to change, starting from an era where there is no technology, to entering an era where technology has emerged, even though it is still very minimal, to entering an era where technology is very fast as it is today.³

This increasingly advanced civilization does not only always bring benefits, but also has many negative effects, such as case 4.0 where at present there are many cases of layoffs (termination of employment) because many companies are already using more sophisticated technology compared to human power⁴.

This technological advancement is indeed very good for the civilization and progress of a country, but if there is no other solution for people who are affected by termination of employment or layoffs, then it cannot be denied that there will be many problems in crime cases that will occur. Humans need money and food for their survival, if there is no job vacancy that can accommodate him, then he will not hesitate to commit a crime due to an urgent need.⁵ This is what is happening in our country, Indonesia, technological advances are indeed increasingly sophisticated and modern, but progress in terms of security and comfort in society is not progressing, but is decreasing.

The crime rate in Indonesia has not decreased, there are many unemployed as a result they cannot send their children to school and in the end many of the nation's children have dropped out of school even though their level of education is still very long, this is done to help their parents work to produce a piece of paper which is very valuable and also a mouthful of rice to fill their stomachs.

Judging from this problem, we can take a small lesson that the government has not been successful in advancing its people. State security is not guaranteed, because crimes in this country are also caused by the government itself, corruption cases everywhere are not small, the amount that has been corrupted is billions to trillions, corruption cases are rarely paid attention to, even the KPK (Corruption Eradication Commission)) was dismissed⁶.

²Yuvens, DA, Criminal Code in Contemporary Perspective Implementation of Article 1 Code in Contemporary Perspective. 2, 2016. Pg. 21.

³Heckman, JJ, Pinto, R., & Savelyev, PA. Civil Code. *Angewandte Chemie International Edition*, 6(11), 1967. Pp 951–952.

⁴Sofyan, F.A., Implementation of Hots in the 2013 Curriculum. *Inventa*, 3(1), 2019. Pp 1–9. <https://doi.org/10.36456/inventa.3.1.a1803>

⁵Rahman, M., Criminal, BH, Hukum, F., & Hasanuddin, U., 2011. Criminological review of the crime of theft with violence from ponds in Bulungan district, Hasanuddin University, Makassar, Hal. 8-9.

⁶Putri, CN, Alwi, H., & Suharto, B. 2020. Conspired to Disband the Corruption Eradication Commission. ' is: Law and Justice Bulletin, 4(3), 73–83.

It is very concerning, they are officials and the government are actually very busy taking care of things that should not be taken care of by corruption, such as for example displacing street vendors who work in a halal way for a bite of rice. And even worse, if the small traders don't follow the government of the elements, they can be taken and dragged away by force. Is this like the law in Indonesia, from the beginning the slogan of a law that is sharp downwards and blunt upwards has never gone away. But it's true that it is⁷.

The development of technology, which is increasingly modern, cannot be denied that the law also follows it. Meanwhile, if the law follows that but the person carrying out the task of carrying out and enforcing the regulation does not do as it should. This is what is called the tyranny of the rulers.

It can be said that the law in Indonesia is still behind the times (not yet advanced) even though the law is flexible but until now there are still cases that have not been resolved, and more importantly, this case has been rampant from ancient times to the present, it's not a crime what he has done, is not enough to hurt and torture but death is the main target. This is what makes many people feel anxious and do not feel safe. This case is a practice in the world of shamanism or can be said (witchcraft). Even though this witchcraft crime case has been included in the Criminal Code in Indonesia, it has not yet found a point to resolve this problem.

What can be criminalized is not the practice of witchcraft, but people who claim or claim to have supernatural powers and that power is used to harm and injure other people. There are also actions that enter into criminal cases but have not been regulated in law, namely agreement on crime or crime planning. For example, there is a group of people who negotiate to commit a crime or intend to commit a crime. This is included in a crime case but has not been regulated in the law because there is no concrete evidence to explain that they committed a crime.

Even though there is someone who hears and knows their evil plans, they still cannot be charged with the Criminal Code because there is no evidence that they will commit the crime. Maybe this can also be said to be lagging behind the law in reaching problems that might come.

3.2. Need Laws That Can Reach the Future

If today we have laws that are capable of reaching the future, that would be very good and very concrete, so we are prepared and can anticipate dealing with problems that suddenly arise. Even with the existence of legal capabilities that can

⁷Santoyo. 2008. Law Enforcement in Indonesia. *Journal of Legal Dynamics*, 8(3), 199–204.

reach the future, maybe it's not only the benefits that we feel and are faced with, but there are also many problems that might arise.

An example of a legal problem is if we have drafted a law regarding future problems, maybe if the problem actually occurs the strategies and thoughts that we have tried will be useful, but if you cannot say that it is very redundant.

And maybe we think about it now, it is a problem, but we cannot deny that it will be a very, very big benefit. And many of those other people support or agree with that. There, inevitably we will formulate laws again to think about this matter. This is one of the advantages and disadvantages if we have a law that is able to reach the future.

3.3. How Law Reaches the Future

One way to build a legal ideal that is capable of reaching the future in the context of law enforcement in Indonesia is to strengthen the foundation of the principles of the state ideology, namely Pancasila. The core of Pancasila consists of five precepts of divinity, humanity, unity, democracy and justice.

In the field of law, the manifestation of the Pancasila ideology is spelled out in the legal ideals of Pancasila which serve as the foundation and direction for the development and development of national law. The ideals of Pancasila law are interpreted as rules of community behavior that are rooted in the ideas, feelings, intentions, creativity, and thoughts of the people themselves. In this case, there are three elements, namely justice, efficiency, and legal certainty⁸. Talking about legal issues that have never happened can be said to be a bit very difficult, we as humans have very limited minds, where it is difficult for us to guess what will happen in the future. Will it be a problem or an advantage in the future.

Moreover, a country that is not governed by law, does not know what will happen. Even though the problem of law enforcement may not necessarily occur in the future, it would be nice if we had prepared for it in advance. We can only think about it to the extent of our brain's ability to think, outside of that is the power of God. Maybe we can analyze from the signs alone but can't be sure whether this will happen or not. For example, on the planet Mars humans can survive. And in an uproar in the future humans will be sent to the planet mars. But that is not yet concrete.

⁸Sidharta, BA, Reflections on the Foundations and Scientific Nature of Law as the Foundation for the Development of Indonesian National Law, Dissertation of the Faculty of Law, University of Padjadjaran, Bandung, 1996. Hal. 39.

You can be sure that there will be many problems that will occur besides that the planet Mars is different from Earth, the distance to get to that planet also takes a long and long journey, moreover access to it is not like taking a train, bus or plane but by rocket. Of course a vehicle and tool has a maximum level and drink.

If you think about it, there will be several trips to take you back to earth and then take you back, it really takes a very long time. Maybe we can reach future problems by following a study which examines future phenomena.

The State of Indonesia is a state of law, all existing problems can be resolved in law. For this reason, it is necessary to think about bringing the law so that it can reach problems that might come in the future⁹.

4. Conclusion

Legal futurology as a critique of law enforcement is very influential in the life of the nation and state society, the goals of law itself are justice, certainty and usefulness. A country that is already structured by law is sometimes still messy. By preparing an umbrella before it rains, we won't get caught in the rain, as is the case with problems. If we study and examine the problems that might come, then the problem really comes, we already know what we should do. But we must not forget to think about the consequences of what we have planned and have strategiced earlier. Maybe this is a job that really drains the mind and brain. Because by thinking about a problem that has never happened before, it's like we are at war between mind and logic. In addition, we must not exceed our limits to overcome what God has willed. It cannot be equated, because in fact God and humans are very very different. God who created and humans are only limited to their creatures.

5. References

Heckman, JJ, Pinto, R., & Savelyev, PA 1967. Kuhaperdata. *Angewandte Chemie International Edition*, 6(11), 951–952.

Putri, CN, Alwi, H., & Suharto, B. 2020. Conspired to Disband the Corruption Eradication Commission. *Is*, 4(3), 73–83. <https://doi.org/10.15408/Jadi.v4i3.16271>

⁹Dewi, T., Muhammad Amir Masruhimi, RS, In *Research and Development Laboratory of TROPICAL PHARMACY Faculty of Pharmacy Vol (3) 2016.*: Proceedings of Mulawarman Pharmaceuticals Conferences (Proceedings of the National Pharmaceutical Seminar). Pp. 2-3.

- Rahman, M., Criminal, BH, Hukum, F., & Hasanuddin, U., 2011. A criminological review of the crime of theft with violence from ponds in Bulungan district.
- Santoyo. 2008. Law Enforcement in Indonesia. *Journal of Legal Dynamics*, 8(3), 199–204.
- Siddharta, BA (1996). Reflections on the Foundations and Scientific Nature of Law as the Foundation for the Development of Indonesian National Law, Dissertation of the Faculty of Law, University of Padjadjaran, Bandung, 1996.
- Sofyan, FA (2019). Implementation of Hots in the 2013 Curriculum. *Inventa*, 3(1), 1–9. <https://doi.org/10.36456/inventa.3.1.a1803>
- Tiara Dewi, Muhammad Amir Masruhim, RS (2016).. In TROPICAL PHARMACY Research and Development Laboratory. Vol (3) 2016.): Proceedings of Mulawarman Pharmaceuticals Conferences (Proceedings of the National Pharmaceutical Seminar). Pp. 2-3. <https://doi.org/10.25026/mpc.v3i1>
- Yuvens, DA (2016). The Criminal Code in a Contemporary Perspective Implementation of Article 1 Code in Contemporary Perspective. 2.