



The Role and Position of Legal Sociology for Society as a Control of the Social Environment

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Abstract

Background. Legal sociology is a branch of the legal science that specifically focuses its research on humans in interacting and relating to law. On the way to modern man, law is used as social control.

Purpose. What is the relationship between the sociology of law and society and how is the sociology of law to social control?

Method. This type of research is normative, namely research on the synchronization of law with social phenomena that occur in society. So there is a relationship between the sociology of law and society as an important indicator of social control to create happiness in society according to Thomas Hobbes' theory.

Results. Based on the results of research and analysis of different literature, it can be concluded that a person obeys the law for different reasons. Fear of negative consequences if you break the law. Because the law is in accordance with the values that apply in society.

Conclusion. The sociology of law offers the opportunity and ability to evaluate the effectiveness of law in society.

Keywords: sociology of law, society, social control



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INTRODUCTION

Law and society are two different entities. Both have their respective roles and functions in life. However, the two cannot be separated from each other, because they need each other. The existence of the law also requires the existence of the community. On the contrary, a lawless society is just a bunch of wild animals. That is why law and society cannot be separated. This means that the existence of the law really needs the existence of the community in carrying out its functions. Meanwhile, the community

needs the law to create a good and orderly life order. Society, law functions as a control over the dynamics of developing people's lives. Especially in the context of providing a sense of justice and preventing individual behaviors that are not in accordance with social norms and legal norms that have become mutually agreed. Thus, the stability of society will be achieved when the existence of the law can be played well in the midst of society. This is because the behavior of individuals or social groups is closely tied to various social or legal norms, both written and unwritten (Marzuki, 2018).

Humans are social creatures who live in groups and need each other. As social creatures and living in groups in daily life, of course, the name does not avoid communication or interaction (Inah, 2013). It is impossible for one to live alone, and one cannot achieve what one wants without the help of others. And this applies to everyone regardless of status or wealth. Every human being always needs another human being. In social life, humans need to communicate, communicate and also communicate with others. Man as a social creature has existed since he was born on the surface of the earth. The natives also needed others to help. To create an orderly and peaceful life in the life of human society, we must pay attention to the norms of the law and apply them. If the law violates existing laws, the violated provisions must be enforced.

Humans must interact with other humans. Social interaction is one of the ways for individuals to maintain an individual's social behavior so that he or she can behave socially with others (Susilo et al., 2021). The social reality that occurs in society is sometimes not as expected to happen. Likewise, the law as a norm that should be followed or implemented sometimes cannot run according to expectations, either because the norm cannot be applied because it is not relevant to the reality of life in society or because of the behavior of the community that makes the law not obeyed. The cause of law is irrelevant to the reality of society because the existing law comes from the will of the elite of rulers and nobles, while society is the object of the target. In fact, in order for the law to apply responsively, the law must be formed based on the reality that lives in society.

The relationship between society and the law lies on the basis of the formation of laws that originate from the need of society for rules that regulate the procedures of life so that each individual society can live in harmony. The essence of law in social life, *law is a tool of social engineering*, which means that in fact the law can never be made based on the deliberate rationality of the human mind. The actual law is always processed and manifested in and at the same time as the development of society and the history of a nation (Pratiwi et al., 2020).

Sociology of law is a branch of sociology study. Law in the framework of sociology does not have the same meaning as what exists in legal science. Legal sociology mainly asks for the empirical or factual application of law. The sociology of law is not directly directed at law as a conceptual system, but at the social reality in which the law plays a role.

Law and society have interrelated functions. The function of law in society is to

prevent conflicts of interest. If it happens, then the law provides a way to solve it based on policies based on applicable norms. With the relationship between law and society, the actions of the community to play judge themselves will be avoided. All problems and conflicts of interest in society must be resolved through legal channels. This is where the functions of law and society are related. The law contains elements of human behavior rules, while regulations are held by official bodies that have authority. As for the characteristics inherent in the law, according to him, it is because of orders and prohibitions. Prohibitions and orders must be obeyed and obeyed by the people and there are strict legal sanctions. In essence, the law is intended to regulate behavioral relationships and relationships that exist in society. Either done by one person with another, the individual with the country and regulating the institutional relations that exist in that country. With law, power is exercised in accordance with the functions and objectives of the law itself (Saleh et al., 2020).

Seeking and finding solutions for effective settlement is simply a way to re-examine the correlation between law and society. Given that law is for society and society needs laws to regulate social life, not for the legal society and knowing the correlative relationship cannot be separated from the role of legal sociology.

PROBLEM FORMULATION

Based on the above background, the formulation of the problems that the author can present here includes:

1. What is the relationship between the sociology of law and society?
2. How is the sociology of law said to be social control?

METHOD

Research is a human means to strengthen, foster, and develop science (Soekanto, 1984). Legal research is a method to find legal rules, legal principles, and legal doctrines with the aim of answering the legal issues faced (Marzuki, 2011). This research is a literature study (*library research*) (Andi, 2012). The type of research approach used by the researcher in this study is normative legal research with a legal theory approach.

Normative legal research is defined as research that refers to legal norms contained in laws and regulations and court decisions. Normative legal research can also be referred to as doctrinal law research (Efendy and Ibrahim, 2012). The research method is used to examine and analyze how the actions of dentists are carried out outside their authority from a legal perspective.

The procedure in this study is carried out in stages, namely collecting literature materials, reading, taking notes, researching, collecting concepts or texts, then developing and explaining the collected information or texts related to the topic. The main discussion of this study. This is according to Zed who said that Pustaka research is not only limited to reading and recording literature or books, but a series of activities related to the method

of collecting Library data, reading, recording and processing research materials (Zed, 2008).

RESULTS AND DISCUSSION

The Relationship between Legal and Society Sociology

Humans are creatures who have a desire to live together. Living together that consists of at least two people. No human being can live alone, Aristotle once stated that humans are *zoon politicon*, which means that humans are creatures that always want to get along and gather with other humans (Copleston and Frederick, 2021) and because of their nature humans are called social creatures. Every human being has different characteristics, dispositions, and wills. And in relationships with fellow humans, cooperation is needed, please help and help each other to obtain the needs of life. If these interests are aligned, the needs of each will be easily achieved. But if not, it will instead create problems that interfere with compatibility. And if these interests are different, it is the strong who will rule and pressure the weak to fulfill their will. Therefore, a rule is needed that regulates every member in society. So a rule called a norm was made. With these norms, every member of society will consciously or unconsciously be affected and suppress his or her personal will.

It must be recognized that in social and social life, each individual is bound by various social norms that develop in the midst of society. The social norms referred to here are laws, both written and unwritten. According to Esmi Warasih, that social and legal institutions substantially both have the goal of achieving stability and order so that the ideals of a prosperous, peaceful and peaceful life can be achieved. Law and society are actually two entities that influence and strengthen each other in achieving the ideals of human life. The law will exist if there is a community. On the other hand, the interests of the community can be realized if the law is upheld. If the law can be seen as the values found in society, then the more cohesive the structure of these values and the easier the law will be to regulate them (Sholehudin, 2011).

The existence of these rules is useful for the achievement of common goals in society, giving instructions on what can be done and what is not, and giving instructions on how to behave in society. That is the basis for the formation of laws from the community's need for rules that regulate the procedures of life so that every individual community can live in harmony. It can be understood that in the beginning human beings were individual beings. As individual beings, humans have ego traits, selfishness, interests and wills, and have rights or freedoms as an inseparable nature of human nature. However, these interests will never be fulfilled without interaction and cooperation with other humans. Through cooperation, humans help each other and complement each other. Therefore, interaction is a human need in achieving his interests or life goals, so that in addition to humans being interpreted as individual beings, humans are also referred to as social creatures, thus, a complete human being is a human being who can place himself as an individual creature and a social creature harmoniously in him. Given the many

interests, it is not impossible for conflicts or clashes between fellow humans, because their interests are in conflict with each other. Disturbance of interests or conflicts must be prevented or not allowed to continue, because it will disturb the balance of the social order.

The balance of the disturbed social order must be restored to its original state where there is contact between people in the society and the protection of interests is required. Especially if there is a conflict, the need for protection of interests is felt. The protection of interests is achieved by the creation of guidelines or rules of life that determine how humans should behave in society so as not to harm others and themselves. This is called a guideline, benchmark or measure for behaving or behaving in a shared life. In this context, law functions as a tool to realize security and order and is also seen as a tool of social engineering. The theory is that the societies *ibi ius yam* penetrates space and time (Machmud, 2013). Thus, the law is a reflection of human interests. The aforementioned theory is also supported by van apeldorn with his theory that, "laws are not finite, but are ubiquitous (Van Alperdorn, 1982).

The above description emphasizes the very close correlative relationship between humans, society and legal sociology. Law is born from the will of man to create safe, peaceful, and orderly social conditions so that his goals are easily achieved. And vice versa, the law, which is a reflection of human will, has an important role in protecting humans from all bad possibilities that arise from the interactions that occur. That is, law functions as a means to realize security and order and also as a tool of social engineering where law can encourage the creation of a desired state. It should be underlined that not all laws protect human rights. There are times when the law is actually used as a tool of legitimacy for the ruler over his actions.

The law can be analogized to a sword, when the sword is held by a good person then the sword will be used to protect the people around it from the arbitrary actions of others. And vice versa, when the sword is held by an evil person, then it will be used to oppress and even kill others. Too often we have heard sayings where there is a society where there is a law. A simple statement, namely that human beings are creatures who cannot live outside the order. However, the statement does not talk about the complexities that exist between societies and *ius*. It is indescribable how intensive and complicated the relationship between the two is, especially since we are using the distant one.

Modern legal problems start from the application of written law, where the public and legal practitioners in Indonesia are trapped in legalistic-formalistic views, so they cannot turn away from written law. Although people are eager to bring or incorporate justice into written law or law, the results are more flawed than good. Thinking about justice and formulating it are two very different things. Formulation is highly binding and depends on the availability of vocabulary, grammar and other requirements of written civilization. So people say, that the law is nothing more than a language game, game or language affair. So it is not surprising that some people argue that the law is defective since birth. Indeed, thinking about justice and formulating it are two different things.

Portalis, as confirmed by Sudikno Mertokusumo, argues that the law book even though it seems complete, it is never completed, because thousands of unexpected problems will be submitted to the judge (Roseffeni, 2018).

The laws that have been established will not change, whereas humans never stop and the development always gives rise to new events. In line with the opinion of the portalist, Bagir Manan in Ridwan HR stated that the law is only a reflection of an instantaneous event (*moment opname*) which contains only general provisions and the changes require a complicated process. Meanwhile, the reality of life in society is dynamic with the times. Therefore, laws will always be lagging behind social dynamics, in other words when a regulation is made, then since then the regulation has become obsolete with the times. As a further result, the legal certainty contained in written regulations is often irrelevant to the justice expected by the community. Law was originally an instrument for achieving justice, but in a development influenced by the formal legality of the positivistic school, it indirectly made law the goal.

As a result, the factor of justice in law enforcement is often overridden by legal certainty. In fact, justice is the ultimate goal of a legal process, justice is not located in laws and regulations, but in the perspective of the community. Laws and regulations are only a means that lead humans to achieve justice. Therefore, in the formation of laws and regulations, the reality of society cannot be ignored, because it determines the substance of the law, as stated by Karl Menheim who said that circumstances determine thoughts and actions. Thus, ideally, changes in the law follow the changes of time, changes in circumstances and the reality that lives and develops in society. If a material containing pure laws and regulations comes from the community, then of course there is no reason for a person to state that he does not know that there is a law that stipulates that he may not do a certain act. Even if adhering to the principle of *praesumptio iuris et de iure*, not only can a person be subject to the rule of law, but also can be subject to the rules of customary law or jurisprudence even though the person does not know modern law.

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According to Bagir Manan, the law both in its formation and in its enforcement is greatly influenced by social, economic, political and cultural realities. Although in certain situations, it is recognized that law can act as a means of reform, but in many ways the law is a reflection of society. Therefore, it can be said that law enforcement does not solely mean the implementation of legislation, although in reality in Indonesia the tendency is so, so the definition of *law enforcement* is so popular. In addition, there is a strong tendency to interpret law enforcement as the implementation of judges' decisions. It should be noted that these rather narrow opinions have weaknesses and weaknesses, if the implementation of the law or the judge's decision actually disturbs peace and order in social life.

Based on the description above, it can be understood that actually the law is not only understood as a matter or a regulatory issue alone. Law is more of a human problem than a rule. The regulation will not cause various upheavals in the law if it is not driven by humans. But on the other hand, the law can indirectly affect human behavior and society in behavior. When the existing law contains severe sanctions, it will form a tendency for people to obey and order, although a person's obedience or obedience to the law is not always caused by fear of sanctions, but there are times when a person obeys the law because he realizes that he will benefit from the law itself.

Legal Sociology of Social Environmental Control

Legal sociology tries to explain why certain legal practices occur in the social life of people, the causes, and what factors influence them. Legal sociology always tests the empirical validity of a provision or legal statement to be able to predict the appropriate and/or inappropriate laws for a particular society (Sholahudin, 2016).

Basically this is the general goal of legal sociology so that there can be no doubt that the legal system reflects the social system of which it is a part. However, the problem is not that simple, because it must be seen from the aspect of how and how the social system affects the legal system as a subsystem, and the extent to which the influence process is mutually beneficial (Mastur, 2013). If we look at the concept of legal sociology from Soerjono Soekanto, which states that legal sociology is a branch of science that analytically and empirically analyzes or studies the reciprocal relationship between law and other social phenomena (Soekanto, 1989). Then we see the concept of Thomas Hobbes, namely that the purpose of life is happiness, it can only be achieved by

competing, then the tools to achieve such happiness through the power of wealth, good name, the greatest power for the benefit of humans is the state (Soehino, 2011).

It can be said that the importance of legal sociology as a tool to control social phenomena when dealing with a legal product made by the state. A good law is a law that is not formed based on the unilateral will of the despotic government, but a law that is formed based on the will of the people/society and used for the benefit of the people to achieve the goal of the law itself, namely justice. In essence, the problem of legal awareness of citizens concerns the factors of whether a certain legal provision is known, understood, obeyed, and respected. If the community only knows the existence of a legal provision, then the level of legal awareness is lower than those who understand it, and so on.

According to Zainuddin Ali (2021), the things that determine legal awareness are:

- a. Legal knowledge, if a law has been promulgated and issued according to a legal and official procedure, then juridically the laws and regulations apply. Then there is an assumption that every citizen of the community is considered to know the existence of the law.
- b. Legal understanding if legal knowledge alone is owned by the community, it is not adequate, it is still necessary to understand the applicable law, through legal understanding, the community is expected to understand the purpose of laws and regulations and their benefits for parties whose lives are regulated by the laws and regulations in question.
- c. A citizen's obedience to the law obeys the law for various reasons. The reasons in question can be exemplified as follows:
 - 1) Afraid of negative sanctions, if they violate the law, they will be violated.
 - 2) To maintain good relations with the rulers.
 - 3) To maintain good relations with fellow colleagues.
 - 4) Because the law is in accordance with the values adhered to. The interest is theoretically guaranteed, the fourth factor is the best thing. This is due to the first, second, and third factors, the application of the law is always in reality.
- d. Hope for the law
A legal norm will be appreciated by the community if he has known, understood, and obeyed it. That is, he can really feel that the law produces order and peace in him. The law is not only related to the external aspect of man, but also to the inner aspect.
- e. Increasing legal awareness increasing legal awareness should be carried out through regular legal information and counseling on the basis of solid planning.

The main purpose of legal information and counseling is for community members to understand certain laws, according to the legal problems that are being faced at a given time. Legal information and counseling are the task of legal circles in general, and especially those who may be directly in contact with community members, namely law officers. If the legal awareness is embraced by the wider community, it will form a legal

culture that contains the values that underlie the applicable law such as the value of order and peace, ethical value, value of certainty, value of utility, and value of justice. These values motivate everyone to obey the law, so that in the end the law can function as it should in achieving the noblest legal goals, namely justice, utility, and certainty.

CONCLUSION

Humans as creatures who always want to interact with other humans. In this interaction, a rule is formed to regulate the relationship between humans. The existence of these rules is useful for the community to achieve common goals, give instructions on what to do and what not to do, and direct behavior in society. It can be understood that in the beginning human beings were individual beings. These guidelines, benchmarks or standards of behavior or behavior in a person's life are called laws. The sociology of law is useful for understanding law in a social context. Although people want to encourage or incorporate justice into written laws or regulations, the result is more harm than good. Justice is the ultimate goal of law enforcement. Such a discussion is the object of study from the sociology of law.

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