

## Effectiveness of Law Enforcement in Achieving Certainty and Justice

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**Abstract:** *Law enforcement is a central instrument in realizing two fundamental legal values that are often in tension with each other: legal certainty and substantive justice. This article aims to analyze the extent to which law enforcement in Indonesia is able to realize these two values simultaneously, as well as the factors that influence its effectiveness. This study uses a normative legal research method with a conceptual and legislative approach, supported by secondary data in the form of laws and regulations, court decisions, and the latest legal literature. The results show that the effectiveness of law enforcement is greatly influenced by the quality of legal substance, the integrity and competence of law enforcement officers, the legal culture of the community, and the consistency of the application of legal principles in judicial practice. It was also found that an overly legalistic-positivistic orientation of law enforcement tends to produce formal legal certainty but ignores the community's sense of justice, while an approach that overly prioritizes substantive justice without a clear basis for legal certainty can lead to uncertainty and inconsistency in decisions. This article recommends the need for a progressive approach that integrates legal certainty and substantive justice through strengthening the judicial system, institutional reform, and strengthening the community's legal culture as prerequisites for realizing effective law enforcement.*

**Keywords:** *Law Enforcement, Legal Certainty, Justice, Legal Effectiveness, Judicial System.*

## INTRODUCTION

Law in national life has a very fundamental function, namely as a means to regulate the social order of life in order to create order, justice and shared prosperity.<sup>1</sup> In the context of a state based on law (rechtsstaat) as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, law not only functions as a tool of social control, but also as a basis for legitimacy for every action of state administrators and citizens.<sup>2</sup> The logical consequence of the principle of the rule of law is that every legal norm that has been established through legitimate procedures must be enforced consistently, transparently, and accountably, thus creating what is known as legal certainty (rechtszekerheid). However, law enforcement cannot be understood narrowly as merely the activity of literally applying the text of the law, because law

<sup>1</sup>Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar* (Yogyakarta: Liberty, 2021), 15.

<sup>2</sup>Achmad Ali, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence)* (Jakarta: Kencana Prenada Media Group, 2021), 42.



in essence also carries the mission of realizing justice (gerechtigheit) for all parties involved in a legal relationship.

The issue of the relationship between legal certainty and justice has become a classic theme in legal philosophy and has never lost its relevance to this day.<sup>3</sup>Gustav Radbruch, one of the most influential legal thinkers in this discourse, argued that law must fulfill three basic values simultaneously, namely legal certainty, utility, and justice, even though the three are often in a tense relationship (Spannungsverhältnis) with each other.<sup>4</sup> In practice, this tension often arises in various concrete cases in Indonesia, where the application of a legal norm in a rigid and textual manner can result in a decision that is formally correct but is perceived as unfair by the community, while on the other hand, decisions that place too much emphasis on a sense of substantive justice without being based on a clear legal basis can give rise to uncertainty and inconsistency in the legal system as a whole.

The phenomenon of weak effectiveness of law enforcement in Indonesia is not a new problem, but has become an issue that has been repeatedly studied by academics, legal practitioners, and law enforcement monitoring institutions.<sup>5</sup> Various independent surveys and reports consistently show that the level of public trust in law enforcement institutions, including the police, prosecutors, and courts, is still at a suboptimal level compared to other countries with a higher rule of law index.<sup>6</sup> Several factors that are often cited as causes of weak law enforcement effectiveness include corrupt practices within law enforcement agencies, disparities in court decisions for similar cases, slow case resolution processes, and limited public access to quality legal aid.<sup>7</sup> This condition ultimately gives rise to the perception that the law is only enforced for certain groups, while for other groups the law becomes a tool that can be manipulated according to the interests of parties who have greater power or resources.

From the perspective of law enforcement theory, Soerjono Soekanto stated that the effectiveness of law enforcement is influenced by five main factors, namely the legal factor itself (the substance of the regulation), the law enforcement factor, the means or facilities that support law enforcement, the community factor, and the cultural factor.<sup>8</sup> These five factors are interrelated and inseparable when assessing the effectiveness of a legal system. If any one factor is weak, it will directly or indirectly impact the overall quality of law enforcement. For example, even if a law or regulation has been well-formulated and meets the principles of ideal regulation formation, if the law enforcement officers tasked with enforcing it lack integrity and adequate competence, the regulation's objectives will not be optimally achieved.

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<sup>3</sup>Fajar Yusrianto, "Penegakan Hukum Progresif sebagai Paradigma Penyelesaian Persoalan Hukum Kontemporer di Indonesia," *Jurnal Ilmu Hukum dan Keadilan* 10, no. 4 (2025): 303.

<sup>4</sup>Achmad Ali, *Menguak Teori Hukum*, 88.

<sup>5</sup>Rizky Pratama dan Lina Marlina, "Reformasi Kelembagaan Penegak Hukum Pasca Reformasi: Capaian dan Tantangan," *Jurnal Hukum dan Kebijakan Publik* 9, no. 2 (2024): 158.

<sup>6</sup>Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 2022), 112.

<sup>7</sup>Rizky Pratama dan Lina Marlina, "Reformasi Kelembagaan Penegak Hukum," 161.

<sup>8</sup>Soerjono Soekanto, *Faktor-Faktor yang Memengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2022),

In addition to structural and institutional issues, increasingly dynamic societal developments also pose new challenges for Indonesia's law enforcement system. Advances in information technology, economic globalization, and changing patterns of social interaction have given rise to various forms of potentially unlawful conduct that have not yet been fully accommodated within the existing regulatory framework.<sup>9</sup> On the other hand, the public is increasingly critical and has broad access to information regarding law enforcement processes, resulting in every action by law enforcement officers and court decisions quickly becoming the focus of public scrutiny through social and mass media. This situation demands a transformation of the law enforcement paradigm from a legalistic-positivistic one to one that is more progressive, responsive, and oriented toward substantive justice, without neglecting the principle of legal certainty as the foundation of the national legal system.<sup>10</sup>

Progressive law enforcement as put forward by Satjipto Rahardjo emphasizes that the law must be interpreted and applied by considering its ultimate goal, namely human welfare and happiness, so that law enforcement officers are required not only to be mouthpieces of the law (*la bouche de la loi*) but also as agents of change who are able to find justice behind normative texts.<sup>11</sup> This thinking aligns with the concept of substantive justice, which prioritizes the purpose of the law without sacrificing legal certainty as a tool to prevent arbitrary enforcement. However, the application of this progressive paradigm in law enforcement practice in Indonesia still faces various obstacles, including normative, institutional, and cultural ones.

The normative aspect is a crucial factor in determining the effectiveness of law enforcement, given that the quality of a law determines the ease and clarity of its implementation. Regulations that are formulated ambiguously, overlapping, or contradicting higher-level regulations (regulatory disharmony) will give rise to multiple interpretations among law enforcement officials and the public, ultimately leading to legal uncertainty.<sup>12</sup> The hyper-regulation phenomenon occurring in Indonesia, where the number of laws and regulations produced in the last few decades has reached tens of thousands of regulations at the central and regional levels, has also exacerbated the complexity of law enforcement, as law enforcement officers have to deal with overlapping authorities and unclear applicable norms.<sup>13</sup>

In addition to normative aspects, institutional and human resources aspects of law enforcement also play a significant role. The institutional reforms of law enforcement that have been implemented since the reform era, including the establishment of the Judicial Commission, the Corruption Eradication Commission, and

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<sup>9</sup>Putri Lestari dan Hendra Wijaya, "Transformasi Digital Sistem Peradilan: Antara Efisiensi dan Akses terhadap Keadilan," *Jurnal Ilmu Hukum* 25, no. 1 (2024): 80.

<sup>10</sup>Haeruddin, Muhammad, and Syukriadi Amil. "Positivisme dan Realisme Hukum dalam Sistem Hukum Indonesia: Antara Kepastian Normatif dan Keadilan Sosial." *Journal of Sharia, Law, and Economics* 1.1 (2026): 1-8. <https://journalfseiunika.com/shariqonomica/article/view/6>

<sup>11</sup>Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Publishing, 2021), 27.

<sup>12</sup>Bayu Aji Nugroho, "Disharmoni Regulasi dan Implikasinya terhadap Kepastian Hukum di Indonesia," *Jurnal Hukum dan Pembangunan* 53, no. 1 (2023): 91.

<sup>13</sup>Ahmad Fauzan, "Omnibus Law dan Tantangan Harmonisasi Regulasi di Indonesia," *Jurnal Legislasi Indonesia* 19, no. 1 (2022): 36.

various other oversight bodies, are efforts to improve the accountability and quality of law enforcement.<sup>14</sup> However, the existence of these institutions has not been able to completely eliminate deviant practices in law enforcement, so that continuous evaluation of the effectiveness of these institutions in realizing legal objectives is needed.

Based on the above description, it can be understood that the issue of the effectiveness of law enforcement in realizing certainty and justice is a complex and multidimensional issue, which cannot be resolved with a single approach. A comprehensive study is needed to understand the root of the problem, the factors that influence it, and formulate policy recommendations that can improve the effectiveness of law enforcement in Indonesia. Based on this background, this article will examine two main issues: first, the relationship between legal certainty and justice within the theoretical and practical framework of law enforcement in Indonesia, and second, what factors influence the effectiveness of law enforcement in realizing these two values and how efforts can be made to improve this effectiveness.

The purpose of this study is to analyze in depth the relationship between legal certainty and justice as two fundamental values in the legal system, and to identify the determinants that influence the effectiveness of law enforcement in Indonesia in realizing both values in a balanced manner. In addition, this study also aims to formulate conceptual recommendations that can be considered by policymakers, law enforcement officials, and academics in an effort to improve the effectiveness of law enforcement that is oriented towards legal certainty and justice simultaneously. The urgency of this research is increasingly felt considering that the challenges of law enforcement in Indonesia are not only local, but are also influenced by global dynamics, including developments in international law, human rights standards, and demands for good governance, which are important parameters in assessing the quality of a country's legal system in the eyes of the international community.<sup>15</sup>

## METHODOLOGY

This research uses a normative legal research method, namely a research method that focuses on the analysis of applicable legal norms, both in the form of statutory regulations, legal doctrines, and court decisions, to answer the legal problems being studied.<sup>16</sup> Normative legal research was chosen because the main issue in this article relates to a conceptual study of the relationship between legal certainty and justice within the framework of law enforcement, which requires a comprehensive analysis of primary, secondary, and tertiary legal materials. The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach is used to analyze various laws and regulations relevant to law enforcement, legal certainty, and justice, including the 1945 Constitution of the Republic of Indonesia, the

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<sup>14</sup>Jawa, Dominikus, Parningotan Malau, and Ciptono Ciptono. "Tantangan dalam penegakan hukum tindak pidana korupsi di Indonesia." *Jurnal Usm Law Review* 7.2 (2024): 1006-1017. <https://doi.org/10.26623/julr.v7i2.9507>

<sup>15</sup>Pranoto, Edi, and Eva Arief. "Penguatan Kelembagaan dan Tata Kelola Pemerintahan dalam Pelindungan Hak Asasi Manusia Pekerja Migran Indonesia di Era Globalisasi." *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia*. 2025. <https://journal.uui.ac.id/psha/article/view/45077>

<sup>16</sup>Achmad Ali, *Menguak Teori Hukum*, 102.

Law on Judicial Power, and other related laws and regulations.<sup>17</sup> Meanwhile, a conceptual approach is used to examine the views of legal experts regarding the concepts of legal certainty, justice, and legal effectiveness, so that a solid theoretical framework is obtained as a basis for analysis.

The legal materials used in this study consist of three types: primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations directly related to the research topic, including the 1945 Constitution of the Republic of Indonesia, Law Number 48 of 2009 concerning Judicial Power, and other relevant sectoral laws and regulations. Secondary legal materials include legal textbooks, scientific journals, previous research results, and other scientific publications discussing law enforcement, legal certainty, and justice, with priority given to literature published within the last five years to maintain the relevance and currency of the analysis.<sup>18</sup> Tertiary legal materials include legal dictionaries and legal encyclopedias which are used to clarify technical terms used in research.

The legal material collection technique is carried out through library research, namely by tracing, collecting, and reviewing various legal materials relevant to the research topic through statutory regulations databases, court decisions databases, and accredited scientific journal databases. Searches for court decisions are carried out to obtain an overview of law enforcement practices in concrete cases, especially those related to the tension between legal certainty and substantive justice. The analysis of legal materials in this study is carried out qualitatively using the deductive method, namely by drawing conclusions from general premises in the form of legal norms and legal theories, to then be applied to the concrete problems being studied.<sup>19</sup> Furthermore, this study utilizes legal interpretation methods, including grammatical, systematic, and teleological interpretations, to understand the meaning and purpose of legal norms related to law enforcement, legal certainty, and justice. The results of this analysis are then presented descriptively and analytically, describing the state of law enforcement in Indonesia based on existing legal data and facts. These are then analyzed to identify patterns of relationships between the variables studied, and recommendations are formulated based on these results.

## RESULTS AND DISCUSSION

### *The Relationship between Legal Certainty and Justice in the Framework of Law Enforcement Theory and Practice in Indonesia*

Legal certainty and justice are two fundamental values that are the primary goals of every legal system, but in practice, these two values cannot always be realized simultaneously without creating tension. Legal certainty, as stated by various positivist legal experts, emphasizes the predictability and consistency of legal application, where every legal subject can clearly understand the legal consequences of each action they commit based on applicable legal norms.<sup>20</sup> Legal certainty is an important prerequisite for creating order and stability in social life, because without legal certainty, each individual will have difficulty determining the boundaries of actions that are permitted and prohibited by law, thus potentially causing social chaos.

<sup>17</sup>Sudikno Mertokusumo, *Mengenal Hukum*, 33.

<sup>18</sup>Lawrence M. Friedman, *The Legal System*, 58.

<sup>19</sup>Achmad Ali, *Mengungkap Teori Hukum*, 109.

<sup>20</sup>Aulia, Keysha Nashwa, et al. "Kepastian hukum dan keadilan hukum dalam pandangan ilmu komunikasi." *Journal Sains Student Research* 2.1 (2024): 713-724. <https://doi.org/10.61722/jssr.v2i1.1006>

On the other hand, justice is a more substantive value and cannot always be reduced to rigid normative formulas. Justice, in Aristotle's view, is divided into distributive justice (*justitia distributiva*), which relates to the proportional distribution of rights and obligations, and corrective justice (*justitia commutativa*), which relates to the restoration of legal relationships that have been harmed by an unlawful act.<sup>21</sup> In the context of law enforcement, justice demands that every legal decision not only complies with the applicable formal provisions, but also reflects the sense of justice felt by the parties involved and society in general.

The tension between legal certainty and justice has become a classic debate in legal philosophy, particularly in the discourse between legal positivism and natural law. Legal positivism, represented by figures such as John Austin and Hans Kelsen, holds that law must be strictly separated from morality, and that the validity of a legal norm depends not on its conformity to moral values, but on whether the norm has been formed in accordance with the procedures established by the applicable legal system.<sup>22</sup> This view places legal certainty as the main value that must be prioritized in law enforcement, because only with legal certainty can the legal system function effectively as an instrument for regulating society.

On the other hand, the natural law school and various contemporary legal thoughts that developed after it, including responsive legal theory and progressive legal theory, emphasize that law cannot be separated from the moral values and justice that exist in society.<sup>23</sup> Gustav Radbruch, who was initially an adherent of legal positivism, experienced a change of heart after witnessing how the Nazi regime in Germany used positive law to legitimize actions that were contrary to human rights. Radbruch then put forward a formula known as the "Radbruchsche Formel", which states that if there is an unbearable contradiction between positive law and justice, then positive law must be defeated by justice (*Gesetz ist Gesetz, aber Recht ist Recht*).<sup>24</sup>

In the Indonesian context, the tension between legal certainty and justice can be found in various law enforcement practices, both in the fields of criminal law, civil law, and state administrative law. One example that is often put forward in legal literature is the application of the principle of legality in criminal law as regulated in Article 1 paragraph (1) of the Criminal Code, which states that an act cannot be punished except by the force of criminal regulations that existed before the act was committed (*nullum delictum nulla poena sine praevia lege poenali*).<sup>25</sup> This principle is a concrete manifestation of the principle of legal certainty in criminal law, which functions to protect individuals from state arbitrariness in imposing criminal penalties.

However, the rigid application of the principle of legality sometimes gives rise to problems when faced with acts that are substantively detrimental to society but have not been explicitly regulated in the applicable laws and regulations, or when existing criminal provisions are formulated in a vague manner so that they

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<sup>21</sup>Mustamilinda, Rizcha Indah. "Ketidakadilan hukum bagi masyarakat miskin dihubungkan dengan teori keadilan menurut aristoteles dan thomas aquinas." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 2.01 (2024). <https://journal.forikami.com/index.php/dassollen/article/view/549>

<sup>22</sup>Rahman, Fathor. "TITIK PERSINGGUNGAN ANTARA HUKUM DAN MORAL DALAM TINDAK PIDANA KORUPSI MENURUT PERSPEKTIF NEO POSITIVISME HUKUM." *Jurnal Magister Hukum Perspektif* 15.2 (2024): 41-56. <https://doi.org/10.37303/magister.v15i2.116>

<sup>23</sup>Satjipto Rahardjo, *Hukum Progresif*, 41.

<sup>24</sup>Syahriar, Irman, Jamil Bazarah, and Khairunnisah Khairunnisah. "Keadilan sosial di dalam negara hukum Indonesia." *Journal of Knowledge and Collaboration* 1.2 (2024): 28-38. <https://doi.org/10.59613/wqx8hn76>

<sup>25</sup>Kitab Undang-Undang Hukum Pidana, Pasal 1 ayat (1).

cannot cover new modes of crime that develop along with technological advances.<sup>26</sup> In such a situation, law enforcers are faced with the choice between maintaining legal certainty by not imposing sanctions on acts that have not been expressly regulated, or carrying out an extensive interpretation of existing norms in order to realize a sense of justice in society, even though this interpretation has the potential to create legal uncertainty for other parties in the future.

The Constitutional Court of the Republic of Indonesia, in its various decisions, has attempted to bridge the tension between legal certainty and justice through the doctrine of "substantive justice" which is one of the main considerations in assessing the constitutionality of a legal norm.<sup>27</sup> The Constitutional Court consistently emphasizes that legal certainty cannot be understood merely in a formalistic manner, but must be interpreted as legal certainty that is just (substantive rechtszekerheid), where the application of a legal norm must take into account its impact on the fulfillment of citizens' constitutional rights.<sup>28</sup> This approach shows an effort to integrate these two values, not by sacrificing one for the other, but by understanding that true legal certainty must contain a dimension of justice within it.

In judicial practice within the Supreme Court, the tension between legal certainty and justice can also be seen from the phenomenon of disparity in decisions, where cases with relatively similar characteristics can receive different decisions from different judges.<sup>29</sup> This disparity in decisions, on the one hand, can be seen as a manifestation of the judge's freedom to make decisions based on his beliefs (vrije bewijswaardering) to achieve justice in the concrete cases he faces, but on the other hand it can also give rise to a perception of legal uncertainty among the public, because the outcome of a legal process becomes difficult to predict.

To address the issue of disparity in decisions, the Supreme Court has issued various sentencing guidelines and circulars aimed at providing guidance for judges in issuing decisions, without eliminating the judge's independence in assessing the specific facts and circumstances of each case.<sup>30</sup> This effort can be understood as a compromise between the need for legal certainty through standardized decisions and the need for justice through allowing judges to consider specific circumstances relevant to the cases they handle. Beyond criminal law, the tension between legal certainty and justice can also be found in civil law, particularly in the application of the principle of freedom of contract, a key pillar of contract law.<sup>31</sup> This principle guarantees legal certainty for the parties who have bound themselves in an agreement, with the consequence that the agreement that has been made legally binds the parties as law (pacta sunt servanda). However, in certain conditions, the rigid application of this principle can lead to injustice, especially in contractual

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<sup>26</sup>Purwaningsih, Rani, and Rahmat Dwi Putranto. "Tinjauan Yuridis Terhadap Penetapan Locus Delicti dalam Kejahatan Dunia Maya (Cyber Crime) Berkaitan Dengan Upaya Pembaharuan Hukum Pidana di Indonesia." *Mimbar Keadilan* 16.1 (2023): 130-138.

<sup>27</sup>Adi Saputra dan Maya Kusuma, "Kepastian Hukum dan Keadilan Substantif dalam Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 21, no. 1 (2024): 5.

<sup>28</sup>Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 91/PUU-XVIII/2020.

<sup>29</sup>Dian Anggraeni dan Bambang Sutiyoso, "Disparitas Putusan Hakim sebagai Tantangan Kepastian Hukum di Indonesia," *Jurnal Hukum dan Peradilan* 11, no. 2 (2022): 148.

<sup>30</sup>Arifin, Raden Muyazin. "Fungsi Pedoman Pembedaan bagi Hakim untuk Menjatuhkan Putusan yang Mencermin Keadilan." *AL-ASHLAH: Jurnal Hukum Keluarga dan Hukum Islam* 1.2 (2022): 89-102. [https://ejournal.uniib.ac.id/index.php/al\\_ashlah/article/view/1506](https://ejournal.uniib.ac.id/index.php/al_ashlah/article/view/1506)

<sup>31</sup>Budi, Grimaldi Setia. "Perkembangan Asas Kebebasan Berkontrak dalam Praktik Hukum Perdata di Indonesia." *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882 3.1 (2025): 139-148. <https://doi.org/10.62379/wnaj8r67>

relationships that have an imbalance of bargaining power between the parties, as often occurs in standard contracts between business actors and consumers.<sup>32</sup>

To overcome this tension, modern civil law has developed various doctrines that function as a correction to the overly rigid application of freedom of contract, such as the doctrine of abuse of circumstances (*misbruik van omstandigheden*), the doctrine of unfair terms, and the principle of propriety and justice (*redelijkheid en billijkheid*) as regulated in Article 1339 of the Civil Code which states that an agreement is not only binding for matters expressly stated therein, but also for anything that, according to the nature of the agreement, is required by propriety, custom, or law.<sup>33</sup> These doctrines show that even civil law cannot escape considerations of substantive justice, even though legal certainty remains a highly valued value in contractual relationships.

In the field of state administrative law, the tension between legal certainty and justice is also reflected in the general principles of good governance (*algemene beginselen van behoorlijk bestuur*), which recognizes the principle of legal certainty as one of the main principles, but at the same time also recognizes other principles such as the principle of accuracy, the principle of balance, and the principle of justice or fairness as limitations on the discretionary authority of state administrative officials.<sup>34</sup> The provisions regarding the general principles of good governance in the State Administration Law show that the validity of a state administrative action is not only measured by its conformity with formal provisions, but also by its conformity with the substantive values that are the spirit of the state administrative law system.

The relationship between legal certainty and justice in the Indonesian legal system cannot be understood as dichotomous or mutually exclusive, but rather as a dialectical one, where both values require and mutually correct each other. Legal certainty without justice will result in a dry legal formalism and potentially legitimize injustice, while justice without legal certainty will produce subjectivism that has the potential to give rise to arbitrariness and inconsistency in the application of the law. Therefore, effective law enforcement must be understood as an effort to realize legal certainty with justice, where legal norms are applied consistently and predictably, while at the same time allowing room for law enforcers to consider substantive aspects relevant to the objectives of the law itself. Understanding this dialectical relationship between legal certainty and justice has significant implications for how to assess the effectiveness of law enforcement. The effectiveness of law enforcement cannot be measured solely in quantitative terms, such as the number of cases resolved or the level of public compliance with a legal norm, but must also consider qualitative aspects, namely the extent to which the process and results of law enforcement reflect the values of legal certainty and justice in a balanced manner. Law enforcement that is only oriented towards achieving quantitative targets without paying attention to the quality of the process and the substance of justice will ultimately lose its legitimacy in the eyes of the public, even though it has formally complied with the applicable provisions.

### ***Factors Influencing the Effectiveness of Law Enforcement and Efforts to Improve It***

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<sup>32</sup>Lannyati, Niniek, Sarwono Harjomulyadi, and Taufiq Taufiq. "Penerapan Prinsip Kesetaraan Bagi Para Pihak Dalam Kontrak Baku." *Konstruksia* 16.2 (2025): 53-63. <https://doi.org/10.24853/jk.16.2.53-63>

<sup>33</sup>Kitab Undang-Undang Hukum Perdata, Pasal 1339.

<sup>34</sup>Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan, Pasal 10.

The quality of legal substance is the initial foundation that determines whether a legal system can be enforced effectively. Good legislation must meet several principles, including the principle of clarity of formulation (*lex certa*), the principle of non-retroactivity (*lex praevia*), the principle of consistency with higher regulations (*lex superior derogat legi inferiori*), and the principle of specificity (*lex specialis derogat legi generali*).<sup>35</sup> If these principles are not fulfilled, the relevant laws and regulations will cause difficulties in their implementation, both for law enforcement officers and for the community who are the targets of the regulations.

The phenomenon of regulatory disharmony in Indonesia is one of the main obstacles to achieving legal certainty. Regulatory disharmony can occur vertically, between lower-level and higher-level laws and regulations, or horizontally, between laws of equal rank that regulate the same subject matter differently.<sup>36</sup> To address this issue, the government has taken various measures, including the creation of legislation using the omnibus law method, which aims to simplify and harmonize various laws and regulations spread across various sectors into one comprehensive law.<sup>37</sup> Although the omnibus law method offers a solution to the problem of regulatory disharmony, its implementation has also given rise to new debates regarding the procedural aspects of the formation of laws and regulations, particularly regarding the fulfillment of the principles of openness and meaningful public participation as emphasized by the Constitutional Court.<sup>38</sup> In addition to harmonization, the quality of legal substance is also determined by the ability of laws and regulations to anticipate changing times. Laws and regulations that are formulated in an overly specific and case-by-case manner tend to quickly become outdated when confronted with technological developments and new societal behavior patterns, as seen in various issues related to cybercrime, electronic transactions, and crimes involving artificial intelligence.<sup>39</sup> Therefore, the formulation of legal norms using open formulations (open norms) while still paying attention to the principle of *lex certa* is one strategy that can be used to maintain the relevance of laws and regulations without sacrificing legal certainty.

Law enforcement officers, including the police, prosecutors, judges, advocates, and correctional officers, are the main actors in the law enforcement process that bridges the gap between abstract legal norms and concrete realities on the ground.<sup>40</sup> The integrity, professionalism, and competence of law enforcement officers are crucial factors in determining the quality of law enforcement, as ultimately, how a legal norm is implemented depends largely on how law enforcement officers understand and interpret that norm. The issue of law enforcement officer integrity remains a major challenge in the Indonesian legal system. Corruption, bribery, and gratification practices involving law enforcement officers not only undermine public trust in the legal system but also directly result in injustice, as access to justice is ultimately determined by the economic capacity of the parties to the case, not by the material truth of the case at

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<sup>35</sup>Putri, Bianka Ilmi Adelia, et al. "Bahasa Hukum dalam Penyusunan Peraturan Perundang-Undangan." *VJJ* 4.1 (2022): 55-65. <https://vjj.upnjatim.ac.id/index.php/vjj/article/view/72>

<sup>36</sup>Bayu Aji Nugroho, "Disharmoni Regulasi," 96.

<sup>37</sup>Hidayah, Salwa Nur. "Implementasi Omnibus Law Dalam Pembaharuan Sistem Pembentukan Perundang-Undangan." *Jurnal Hukum Respublica* 24.2 (2025). <https://doi.org/10.31849/k3kp2x57>

<sup>38</sup>Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 91/PUU-XVIII/2020.

<sup>39</sup>Sihombing, Gracia Rumondang Angelica, and Bagus Hermanto. "DINAMIKA KEBIJAKAN PENEGAKAN HUKUM TERHADAP PEMANFAATAN KECERDASAN BUATAN DALAM KEJAHATAN SIBER DI INDONESIA." *Jurnal Media Akademik (JMA)* 4.1 (2026). <https://doi.org/10.62281/ekbmtj76>

<sup>40</sup>Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, 22.

hand.<sup>41</sup> Various efforts to eradicate corruption within the law enforcement apparatus have been made, both through the establishment of internal monitoring units and through action by external institutions such as the Corruption Eradication Commission, but this problem still requires ongoing and systemic efforts.

In addition to integrity, the competence of law enforcement officers in understanding and appropriately applying the law is also crucial. Continuous education and training for law enforcement officers, particularly regarding the latest legal developments, both nationally and internationally, is an urgent need to improve the quality of law enforcement.<sup>42</sup> Adequate competence will enable law enforcement officers to interpret the law appropriately, so that the application of legal norms is not only in accordance with the text of the regulations, but also in accordance with the purpose and spirit of the regulations, so that legal certainty and justice can be realized simultaneously.

Effective law enforcement requires the support of adequate means and facilities, both in the form of physical infrastructure, information technology, and sufficient budget.<sup>43</sup> Limited resources and facilities can hamper the law enforcement process, for example, by slowing down investigations due to limited digital forensic evidence, or delaying the execution of court decisions due to limited resources. Digital transformation in the judicial system, including the development of case tracking information systems and electronic trials, is one effort to increase the efficiency and transparency of the law enforcement process, thereby contributing to increased legal certainty through easier access to information for the parties involved in the case.<sup>44</sup> The level of public legal awareness is a crucial factor in determining the effectiveness of law enforcement, as ultimately, the law is enforced for and by the public itself. Communities with high legal awareness are more likely to comply with applicable legal norms and be more active in monitoring and reporting deviant practices in law enforcement. Conversely, communities with low legal awareness tend to be permissive toward violations of the law, whether committed by fellow community members or by law enforcement officials themselves.

Public access to justice is also a crucial dimension of the societal factor in law enforcement. Limited access to legal aid, particularly for the poor and vulnerable groups, can lead to structural injustice, where certain groups are unable to assert their rights through formal legal mechanisms.<sup>45</sup> The provisions regarding legal aid for the underprivileged, as stipulated in the Legal Aid Law, are one effort to address the gap in access to justice. However, their implementation still requires expanding the reach and improving the quality of legal aid services provided. Legal culture refers to the values, attitudes, beliefs, and opinions of society regarding the law and the applicable legal system, which ultimately shape people's behavior in relation to

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<sup>41</sup>Arrassy, Awan, et al. "Kesenjangan akses bantuan hukum bagi masyarakat kelas menengah dalam perspektif asas equality before the law." *Jurnal Media Akademik (JMA)* 3.7 (2025). <https://doi.org/10.62281/v3i7.2608>

<sup>42</sup>Rizky Pratama dan Lina Marlina, "Reformasi Kelembagaan Penegak Hukum," 171.

<sup>43</sup>Soerjono Soekanto, *Faktor-Faktor yang Memengaruhi Penegakan Hukum*, 35.

<sup>44</sup>Efri, Yon. "PERAN SISTEM E-BERPADU DALAM PERKARA PIDANA DI PENGADILAN NEGERI BUKITTINGGI UNTUK MEWUJUDKAN PERADILAN YANG EFISIEN DAN TRANSPARAN." *COURT REVIEW: Jurnal Penelitian Hukum (e-ISSN: 2776-1916)* 5.05 (2025): 244-251. <https://doi.org/10.69957/cr.v5i05.2437>

<sup>45</sup>Rosa Sembiring dan Tri Wahyu Hidayat, "Akses terhadap Keadilan bagi Kelompok Rentan: Studi tentang Implementasi Bantuan Hukum di Indonesia," *Jurnal Hukum dan HAM* 13, no. 2 (2022): 203.

the law.<sup>46</sup> In Indonesia, there is a phenomenon of legal pluralism, where state law coexists with customary law and religious law which are still adhered to by some communities in resolving the legal problems they face.<sup>47</sup> The existence of dispute resolution mechanisms outside the courts, such as customary mediation and deliberation, shows that Indonesian society has certain preferences in interpreting justice, which are not always in line with formal law enforcement mechanisms that are adversarial in nature.

Understanding the legal culture of society is crucial in formulating effective law enforcement strategies, as law enforcement that fails to address the socio-cultural context of society has the potential to generate resistance, leading to the legal norms being enforced being unacceptable and internalized by society. The restorative justice approach, increasingly adopted in the Indonesian criminal justice system, both through diversion policies in the juvenile justice system and through mechanisms for terminating prosecutions based on restorative justice, is one example of an effort to integrate the values of the legal culture of society into the formal law enforcement system.<sup>48</sup>

Strengthening the quality of legal regulations is necessary through the consistent application of sound regulatory principles, including through ongoing evaluation and harmonization of regulations to reduce regulatory overlap and disharmony. Law enforcement institutional reform needs to be continuously encouraged, not only through the formation of new institutions, but also through strengthening effective internal and external oversight systems, increasing transparency in the recruitment and promotion processes of law enforcement officers, and consistently enforcing the code of ethics for any violations committed by law enforcement officers.<sup>49</sup> Strengthening the merit system in human resource management within law enforcement agencies will contribute to increased professionalism and integrity, which will ultimately increase public trust in the legal system.

Investment in the digital transformation of the justice system needs to be continuously enhanced, with attention to data security, system interoperability between law enforcement agencies, and ease of access for the public, including those in remote areas who still face connectivity challenges.<sup>50</sup> Effective digital transformation will contribute to increased legal certainty through standardized procedures and transparency in law enforcement processes, while accelerating case resolution, thereby reducing the cost burden borne by the parties. Improving public legal literacy through ongoing legal education, both formal and informal, needs to be a priority in national legal development policies. Good legal literacy will increase public legal awareness, so that the public is not merely an object of law enforcement but also an active participant in maintaining legal order and overseeing the implementation of law enforcement by authorized officials.

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<sup>46</sup>Lawrence M. Friedman, *The Legal System*, 167.

<sup>47</sup>Eko Setyo Wibowo dan Nurul Hidayah, "Pluralisme Hukum dan Penyelesaian Sengketa Berbasis Adat dalam Sistem Hukum Nasional," *Jurnal Antropologi Hukum* 7, no. 1 (2023): 49.

<sup>48</sup>Sri Redjeki Hartono dan Yusuf Saefudin, "Keadilan Restoratif dalam Sistem Peradilan Pidana Indonesia: Tinjauan Normatif dan Implementasi," *Jurnal Hukum Pidana dan Kriminologi* 8, no. 3 (2023): 215.

<sup>49</sup>Rizky Pratama dan Lina Marlina, "Reformasi Kelembagaan Penegak Hukum," 173.

<sup>50</sup>Ndaru, Felix Aglen. "Berbagi Data Lintas Lembaga untuk Penegakan Hukum: Pelajaran dari Penegakan Hukum Lingkungan di Indonesia." *KONSTELASI: Konvergensi Teknologi dan Sistem Informasi* 5.2 (2025). <https://doi.org/10.24002/konstelasi.v5i2.11967>

Expanding access to justice, particularly for vulnerable groups, needs to be achieved through strengthening legal aid programs, both those provided by the state and by civil society organizations, as well as through the development of alternative dispute resolution mechanisms that can be an option for the community in resolving the legal problems they face without having to go through lengthy and expensive court processes.<sup>51</sup> It is necessary to develop a more contextual approach to law enforcement, one that takes into account the legal culture of local communities, without sacrificing the basic principles of the rule of law, such as the protection of human rights and equality before the law. The integration of formal legal mechanisms with community-based dispute resolution mechanisms, as has been implemented in various restorative justice policies, demonstrates that this kind of contextual approach can be a bridge between the legal certainty provided by the formal legal system and substantive justice understood by communities based on their local values.<sup>52</sup> Ultimately, effective law enforcement in realizing certainty and justice cannot be achieved through a single intervention, but rather requires systemic and sustained reform of the five factors outlined above. A strong political commitment from all stakeholders, including the government, legislative bodies, judiciary, and civil society, is needed to consistently push for legal reforms oriented toward realizing a legal system that provides certainty and justice for all citizens, without exception.

## CONCLUSIONS

Legal certainty and justice are two fundamental values in the legal system that have a dialectical, not dichotomous, relationship. Therefore, effective law enforcement must be directed towards the realization of legal certainty with justice, not on prioritizing one value at the expense of the other. A legalistic-positivistic approach that only emphasizes formal legal certainty has the potential to produce substantive injustice, while an approach that overly prioritizes substantive justice without a clear basis for legal certainty has the potential to give rise to inconsistencies and arbitrariness in the application of the law. The effectiveness of law enforcement in Indonesia is influenced by five main interrelated factors: the quality of legal substance, the integrity and competence of law enforcement officers, the adequacy of supporting facilities and infrastructure, the level of public awareness and access to justice, and the prevailing legal culture within the community. Weaknesses in any one factor will affect the effectiveness of law enforcement as a whole, so efforts to improve the effectiveness of law enforcement must be carried out comprehensively and simultaneously across all five factors.

Efforts to improve the effectiveness of law enforcement in realizing certainty and justice require strategic steps, including strengthening the quality of legal regulations through regulatory harmonization, reforming law enforcement institutions oriented towards strengthening integrity and professionalism, digital transformation of the justice system, improving public legal literacy, expanding access to justice for vulnerable groups, and developing a contextual law enforcement approach by integrating local legal cultural values through mechanisms such as restorative justice. The realization of effective law enforcement ultimately depends on the systemic and sustainable commitment of all stakeholders in the legal system,

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<sup>51</sup>Rosa Sembiring dan Tri Wahyu Hidayat, "Akses terhadap Keadilan bagi Kelompok Rentan," 210.

<sup>52</sup>Rahmawati, Rahmawati, and Bulqis Bulqis. "MEDIASI HUKUM DAN KEADILAN RESTORATIF: SEBUAH PENDEKATAN TERPADU DALAM PENYELESAIAN SENGKETA PERJANJIAN." *GOVERNANCE: Jurnal Ilmiah Kajian Politik Lokal dan Pembangunan* 13.1 (2026): 193-201. <https://doi.org/10.56015/gjikplp.v13i1.627>

considering that the issues of legal certainty and justice are not issues that can be resolved instantly, but rather require a long-term transformation process that simultaneously involves normative, institutional, and cultural dimensions. Further research is needed to empirically examine the implementation of these recommendations in the context of specific legal sectors, so that a more concrete picture can be obtained regarding the extent to which legal certainty and justice can be simultaneously realized through law enforcement in Indonesia.

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