

# Enhancing Justice Through Responsive Law in Indonesia

*by* Rochmadi Rochmadi

---

**Submission date:** 19-Oct-2024 10:28AM (UTC+0700)

**Submission ID:** 2489950693

**File name:** ningkatkan\_Keadilan\_Melalui\_Hukum\_Responsif\_di\_Indonesia\_1.docx (25.69K)

**Word count:** 3711

**Character count:** 18877

# Enhancing Justice Through Responsive Law in Indonesia

Rochmadi <sup>1</sup>, Zainal Arifin Hoessein <sup>2</sup>

{ [fadhlanghaisan49@gmail.com](mailto:fadhlanghaisan49@gmail.com) <sup>1</sup>, [arifinhoesein19@gmail.com](mailto:arifinhoesein19@gmail.com) <sup>2</sup> }

Faculty of Law, Borobudur University, Indonesia

**Abstract.** Responsive law in Indonesia is an approach that aims to adapt the legal system to the dynamics and needs of a growing society. This article analyzes how the application of responsive law can improve justice and the effectiveness of law enforcement in Indonesia. The methodology used in this study includes a qualitative analysis of existing legal policies, in-depth interviews with legal practitioners, and case studies from several regions in Indonesia that apply the principles of responsive law. The results of the study indicate that the application of responsive law is not only able to answer emerging social challenges, but also strengthen the legitimacy of law in the eyes of the community. By integrating the values of justice and local needs in the law-making process, it is hoped that the Indonesian legal system will become more inclusive and responsive to community aspirations. This study recommends the development of more flexible and adaptive legal policies to ensure more equitable justice throughout Indonesia.

**Keywords:** Responsive Law, Justice, Law Enforcement, Indonesia, Legal Policy, Social Inclusion.

## 1 Introduction

<sup>1</sup> Responsive law is a model or theory introduced by Nonet and Selznick as response to criticism sharp from Neo-Marxist against liberal legalism. In the liberal view, law considered as institutions that stand own, have system regulations and procedures that are objective, no side with, and completely autonomous. Autonomy law This become characteristics typical main in liberal legalism, where the concept of the rule of law becomes the most real representation from principle said. With characteristic autonomous this, law expected capable control action repressive and guarding his integrity by yourself. In more deep, law responsive emphasize importance responsiveness law to needs and dynamics society. Different with a more liberal approach emphasizes structure and procedures law, law responsive try accommodate values social and justice. The law does not only seen as a series rigid rules, but as the tool that should be capable adapt with change condition social. Responsive law invite We For consider How law can more Good serve interest community and respond problems that arise in life daily.

From the perspective internal system interests law, concept integrity of course can understood. However, it is important For noted that law is not objective That itself. The law

functions as tool for human , namely designed instrument For fulfil needs and interests society . if system law isolated from various institution social other , things This can impact negative to fulfillment need human beings . Separate laws can changed become more entities take importance existence himself alone , instead of become means For serve society . When the law start functioning only For interest internally , he lost his ability as tool For change social and achievement justice substantive . In the situation this , law No Again Can reliable as supporting instruments public in look for justice and prosperity . Signs from decline authority law and deadlock in achievement justice substantial become focus increasing criticism deep to system existing law . [1]This criticism highlight the need law For No only functioning as a rigid and autonomous system , but also as responsive mechanism to dynamics social . The law must can adapt with need society and not become just procedure administrative distance from reality social .

Search For apply law responsive has become focus important in theory modern law . Its purpose is For make law more sensitive and adaptive to need social , as well as For consider with more deep and thorough the facts underlying social implementation and execution law That itself . Responsive nature from law can understood as effort For fulfil needs and interests perceived social directly by the community , not only by officials or taker decision . The law must capable interact with reality life daily society so that it can functioning in a way effective . However , to reach matter This in a way authentic , required steps special that allows participation public in the process of formation and implementation law.By Because that 's important For open paths new that supports participation public in law . Participation This No only covers involvement in making laws , but also in the evaluation and implementation process existing law . With involving voice of the people, law can become more inclusive and appropriate with need them . This is ultimately will strengthen legitimacy law and improve justice substantive in public .

Responsive nature in law reflect commitment to perspective consumers , as expressed by Edmond Cahn in “ Law in Perspective Consumers .” However , the concept law responsive No only refers to the desire for the system law can accessed by demand society . Openness in system law without clear substance can with easy transform become opportunism , where interests individual or group certain dominate . To ensure that law responsive truly reflect need society , important For build more mechanisms from just openness . This includes create channels that allow public For participate in a way active in the process of legislation and implementation law . With involving public in a way significant , law can functioning as more tools fair and relevant , not just filled instrument with demands that are not planned .

Nonet and Selznick identified dilemma complexities faced by institutions between integrity and openness . Integrity refers to the ability a institution For fulfil need social while still bound by procedures and methods work that sets it apart from institution others . However , keeping integrity This Can result in isolation , where the institution only communicate in the terminology yourself and use possible concepts No Again can understood by outsiders , including experts law . As a result , activities institution can lost relevance social.In On the other hand , total openness means that language and practice institution fully in line with Language public general , but matter this also reduces meaning specific from institution said . Institutional actions will fully customized with the power that exists in context social , without maintain characteristics unique . Concept law responsive try find solution For dilemma This with merge element openness and

integrity , so that institution can still relevant and responsive to need public without lost identity and its function .

## 2 Method

Methodology used in study This consists of from a number of a mutual approach complete For get understanding deep about implementation law responsive in Indonesia. First , analysis qualitative done to policy existing law For evaluate to what extent the principles law responsive has integrated in applicable regulations . Second , interviews deep done with practitioner law , including judges, lawyers , and academics , to dig views and experiences they related implementation law responsive as well as challenges faced in practice . Third , study case from a number of areas in Indonesia are taken For see How various community apply principles law responsive in context local they .

## 3 Results and Discussion

### <sup>1</sup> 3.1 Implementation of Responsive Law in Indonesia

responsive law , proposed by Nonet and Selznick, emerged as response to criticism sharp from Neo - Marxist against liberal legalism. In view of liberal legalism , law considered as institutions that stand alone , with system regulations and procedures that are objective , neutral and completely autonomous [2]. Characteristics from liberal legalism is draft autonomy law , the most visible in implementation rule of law regime . With autonomy this , it is believed that law capable control action repressive and guarding its integrity . However , even though There is supporting arguments importance integrity in system law , we need understand that law No should become objective That itself . The law should understood as designed tool For serve interest human . When the system law isolated from context social and life human , he at risk become mechanism that does not relevant and irrelevant effective in fulfil need society . Isolation This can result in law No functioning as instruments that can reliable For reach justice substantive and changes social.condition This show that law should No only seen from internal perspective , but also must consider context more social wide . When the law disconnected from reality social , then the underlying goals and values Can neglected [3].

In the middle various criticism to authority the law in progress experience crisis , Nonet and Selznick introduced a legal model responsive . In their approach , they give attention specifically on a number of relevant variables with law , such as role coercion in enforcement law , interaction between law and politics , existing moral norms , space For discretion , as well as the purpose behind decisions law . In addition , they also emphasize importance participation society , legitimacy , and compliance to law.Law responsive considered as means For respond need social and aspirations public . Within the framework of this , law No only functioning as gathering rigid rules , but as a tool that is capable adapt with change social . Type law This emphasize accommodation to dynamics society , with objective reach more justice substantive and

emancipatory for public wide. With approach This, Nonet and Selznick hope law can more relevant and capable answer challenge as well as demands that arise in context social that continues developing. Responsive law push involvement public in the process of making decision law, so that law can reflect living needs and values in public.

With Thus, the potential responsiveness in every system advanced law is highly context-dependent supportive politics. Responsive law to signify existence society that has capacity political For handle the problems, set priorities, and make the required commitment. However, the law responsive is not solution magical For create justice; its achievement depends on will and resources Power in the political arena. Contribution the main thing is facilitate objective public and building Spirit For do introspection in the process of governance. Understanding law as device regulations that govern public only will means If supported by the system firm and clear sanctions, so that justice can enforced. The justice referred to here is justice vindicative, not justice absolute, which drops punishment based on procedure clear laws and fundamental reasons, as well as No based on feelings or reason subjective others that can blurring the sense of justice. This is in line with the spirit contained in Article 27 of the 1945 Constitution. The process of achieving a sense of justice is the series that is not may separated, start from making regulation legislation, handling case or incident law, to the process in the police and prosecution by the prosecutor, as well as lawsuit in case civil. All This end with the judge's verdict that has been own strength law remain (inherent in the process). The quality of this process is guarantee for results or benefit from a set regulation legislation that has been made.

With Thus, there are opportunity big For to uphold supremacy law in our country. Harold J. Laski stated that "citizens only obliged comply law certain If law the satisfy the sense of justice them." In the context of enforcement law, situation This become very complex. Indonesia has undergo reform with objective eradicate corruption as well as various crime others, such as drugs, abuse sexual, and violations right basic humans, including trafficking which is increasingly expanding. This effort done through enforcement supremacy law. However, we see that the reform movement it seems No give significant impact. Corruption Still Keep going grow and become the problem is getting worse serious, while effort enforcement supremacy law seen weak, as if only hang on to the "thread" wet." In a state of this, trust public to system law start decreased, because they feel law No Again functioning as tool For reach justice and protection rights they. Enforcement law that does not consistent and frequent influenced by interests political make challenge For realize supremacy law become the more heavy. Reformation law should No only focus on validation Constitution new, but also on implementation and enforcement fair and transparent law. It is necessary commitment real from all element government and society For create environment in which law respected and obeyed. Without effort collective this, ideals For reach supremacy law will difficult realized, and justice for public will Keep going become distant hope from reality.

### **Responsive Law As Institutions Social Serve Need Social in Transition**

In context law responsive, law viewed as institution social. This means that law No only just gathering regulations, but also includes How law functioning in society and for interest public

That myself . With consider law as institution social , we must consider various processes and dynamics that influence law in more context wide. According to Edwin M. Schur, although law seen as a structured set of norms , in fact law is product from a social process . Law is created and changed by interaction. as well as effort human beings , and therefore law No Once is static [4]. It always is at in condition dynamic , influenced by various factor social , political , and cultural aspects that exist in society . The approach This emphasize importance understand context social where law operating . In the order law responsive , law must capable respond and adapt with need as well as aspiration society . This is covers confession to plurality the values and interests that exist within society , and importance participation public in the process of creation and implementation law .

According to Nonet and Selznick, twenty year final has become period resurrection interest to related issues with institution law . Focus main attention is How institutions law operating , factors that influence they , as well as the limitations and capabilities that they have have . During this , has There is awareness that formation law , system justice , and administration security often separated from reality social and principles the underlying justice. Resurrection interest This reflect encouragement from circles academic For apply perspective and method from knowledge social in analyze institution law . That is , a more extensive and comprehensive required For understand How law functioning in context a more society big . This shows that law No only just a series rules , but also an integral part of life more social complex .

Through draft law responsive , Nonet and Selznick put law as tool For responding to social norms and aspirations society . With open characteristics , law This prioritize accommodation to change social use reach justice and emancipation for public . Responsive law considered as step forward that reflects effort For align law with dynamics need society that continues developing . According to Nonet and Selznick, the law responsive is also manifestation from two streams thinking , namely sociological jurisprudence and realist jurisprudence. Both flow this is basically push study law of a nature more empirical , beyond just frequent formalism become limitation in thinking law conventional . This means that understanding law must involving observation and analysis to condition real problems faced by society . The approach This push expansion knowledge law and pay attention role policy in taking decision law . This is indicates that law No can separated from context existing social , economic and political conditions , and that every policy must consider impact real that will felt by the community .

Responsive law is A theory that describes characteristics the necessary laws during period transition . In the context of this , law responsive sued For own sensitivity to conditions and changes that occur around it . Not only as open system , law responsive is also a must emphasize importance the sovereignty of purpose that is desired achieved , and consider the impact generated from implementation law The existence of law responsive become very relevant in a situation in which society experience change significant , good in a way social , political , and economy . Law does not can stand Alone without consider the reality on the ground . Therefore that , law responsive functioning as bridge between expected values and challenges faced in society . In terms of this , law must capable adapt and give relevant solutions For problems that arise during the transition period . Priority objective in law responsive No only just formality , but is fundamental principles that must be made into guidelines in every decision law . This requires the

makers of policy and practitioners law For always evaluate and consider effect from the law that they apply . When the law designed and implemented with notice objective more social big , he will more Possible reach desired justice as well as give benefit for public in a way overall .

In order law responsive , competence functioning as a norm of criticism and emphasizes a number of points important : ( i ) Justice substantive made into base legitimacy law ; (ii) Regulations viewed as sub- ordination from more principles and policies area ; (iii) Consideration law must aiming at goals and impacts positive for welfare society ; (iv) Use Discretion in taking decision law is highly recommended , provided that still focus on the goal ; (v) System obligation must nurtured as replacement system coercion ; (vi) Morality cooperation made into moral principles in implementation law ; (vii) Power must used For support vitality law in serve society ; (viii) Rejection to law must understood as challenge to legitimacy law That (ix) Access to participation public must opened wide For support integration advocacy law and social .

Friedmann associates purpose and intent law with the existing complexity in discussion This [5]. According to him , the purpose law is what do you want achieved by the makers law . However , understanding desire Actually from authority This often become challenges . A legislative body usually consists of from Lots individuals , and decisions often taken via panel or commission . In the situation like this , is very possible that every maker law own diverse different purposes and goals . This is cause difficulty in understand what is the truth want to achieved through the laws they make. Wrong One difficulties that arise is that statement issued by the maker law No always reflect objective indeed . There are times when they disclose One thing , but the meaning behind it Possible different . Situation This create complexity in analyze law , because No only need consider written text , but also possible context and intent No expressed in a way explicit .

David Schmidt disclose that view public about justice can as if as bone behind human , which functions For give response to ongoing problem develop . He explain that If design bone behind considered as problem engineering , we Possible conclude that from aspect functional , bone behind man not optimal. In the context of this , if We own chance For design it from beginning , we Possible will choose different designs . However , the reality is is We No can start from beginning .

Analogy This describe How draft justice in public formed and adapted along time . Like bone back that experienced changes and adjustments For face challenge physical , concept justice is also a must capable adapt with condition dynamic social , economic and political justice . is not a static concept ; it must develop For answer needs and demands changing society .

With thus , justice must seen as response functional to problems social problems faced by society . Although Possible There is weakness or lack in system justice that exists , we must understand that change No Can done in a way fundamental in One Steps . Repair process must in progress in a way gradually , with consider legacy and context history that has there is . The desired justice is results from business collective For overcome injustice and achieve balance social , while still honor existing structure There is .

## **4 Conclusion**

The responsive law proposed by Nonet and Selznick offers relevant approach For understand and overcome challenges faced by the system law in Indonesia, especially in context crisis authority law and enforcement supremacy law . With emphasize importance responsiveness to need social and aspirations public , law must functioning as a dynamic and adaptive tool , not just gathering rigid rules . However , success implementation law responsive depends on context supportive politics , willingness For carry out reforms, and commitment from all party For to uphold justice in a way substantive . Without steps concrete in implementation and enforcement transparent and fair law , hope For reach supremacy law and justice for public will Keep going become a difficult challenge realized .

Responsive law viewed as institution social that is not only functioning as a bunch regulations , but also as adaptive tools to needs and dynamics society . With confess that law is product from the ongoing social process change , approach This emphasize importance participation society and relevance context social in making as well as implementation law . Through perspective this , justice must seen as growing response to challenge social , which requires evaluation and adjustment sustainable so that the law can fulfil objective more social big and creative balance as well as welfare in public .



## Bibliography

- [1] PN & P. Selznick, Responsive Law, Choices in Transition, Jakarta: Ford Foundation-HuMa, 2003.
- [2] PN & P. Selsnik, law and Society in transition toward Responsive Law, Bandung: Nusa Media.
- [3] S. Utsman, Towards Responsive Law Enforcement, Yogyakarta: Pustaka Pelajar Publisher, 2008.
- [4] S. Rahardjo, Law and Society, Bandung: Angkasa, 1980.
- [5] LM Friedmann, "Legal System from a Social Science Perspective," Bandung, Nusa Media, 2013, p. 65.

# Enhancing Justice Through Responsive Law in Indonesia

## ORIGINALITY REPORT

4%

SIMILARITY INDEX

4%

INTERNET SOURCES

0%

PUBLICATIONS

0%

STUDENT PAPERS

## PRIMARY SOURCES

1

fh.unpatti.ac.id

Internet Source

4%

2

digilib.iain-palangkaraya.ac.id

Internet Source

<1%

Exclude quotes Off

Exclude bibliography Off

Exclude matches Off

# Enhancing Justice Through Responsive Law in Indonesia

GRADEMARK REPORT

FINAL GRADE

GENERAL COMMENTS

/0

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8