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Progressive Legal Reform as an Effort to Address Inequality in Law Enforcement and Strengthen Social Cohesion in Indonesia

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Abstract: Social cohesion is a key pillar in maintaining national unity and preventing societal disintegration, but unequal law enforcement in Indonesia often creates a sense of injustice that weakens social cohesion. This study aims to examine the application of progressive law as a strategic instrument to strengthen social cohesion through a substantive justice approach that respects legal certainty. Using normative methods through statutory and conceptual approaches, this study analyzes the relevance of progressive law in addressing the misalignment between formal law and societal justice needs. The study shows that progressive law, as developed by Satjipto Rahardjo, views law as a means of social engineering that must be responsive to societal values. Its implementation is reflected in the restorative justice policy (Prosecutor's Regulation No. 13 of 2019) which emphasizes victim recovery and improving social relations; the child diversion mechanism (Law No. 11 of 2012 concerning the Juvenile Criminal Justice System) which prioritizes rehabilitation; and the obligation of judges to explore the values of justice in society (Article 5 paragraph (1) of Law No. 48 of 2009 in conjunction with Law No. 5 of 2023 concerning the Supreme Court). This approach demonstrates that substantive justice can be achieved without sacrificing legal certainty, increasing public trust in the law, and strengthening social cohesion. Thus, progressive law is relevant as a guideline for reforming the Indonesian legal system to make it more responsive, humane, and socially just.

Keyword: Social Cohesion, Progressive Law, Justice, Legal Certainty.

INTRODUCTION

The development of Indonesia's legal system still faces serious challenges in the form of unequal law enforcement, which undermines the public's sense of justice (Tarigan, 2024). The elitist and formalistic legal landscape demonstrates that the law often favors those with power or access to legal resources, while marginalizing vulnerable groups (Nusantara, 2025). This situation creates a gap between written law and the law as it exists within society. Consequently, public trust in law enforcement institutions declines because the law is no longer perceived as a means of justice, but as an instrument of power (Abdullah, 2025).

Progressive law emerged as an alternative concept that emphasizes the importance of placing humans at the center of legal orientation to restore humanitarian values and morality in the upholding of justice (Wijaya, 2022).

Inequality in law enforcement in Indonesia can be seen in a number of practices that demonstrate unequal treatment of citizens before the law (Al Banna, 2025). Law enforcement is often selective and dependent on a person's socio-economic status, thus giving rise to discrimination that contradicts the principle of equality before the law as affirmed in Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia (Vidyapramatya, 2021). This injustice not only erodes legal legitimacy but also hinders the achievement of the ideals of a rule of law state that upholds social justice for all Indonesians. This reality demonstrates that the law does not always operate in accordance with the moral values entrenched in society. When substantive justice is ignored, the law loses its social binding power and ultimately weakens social cohesion as the glue that binds national life.

Social cohesion is crucial for maintaining social stability and the sustainability of national development (Chalid, 2024). This concept refers to the level of solidarity, trust, and concern among community members that fosters a sense of togetherness in social life (Tumanggor, 2025). According to Émile Durkheim, social cohesion is rooted in collective morality that binds individuals into a harmonious social order (Putra, 2024). Meanwhile, Lockwood emphasizes the structural and cultural dimensions that influence the sustainability of social integration (Irayanti, 2023). Robert Putnam adds that social cohesion is achieved when social capital, in the form of trust and citizen participation, is strong and balanced (Mahmudin, 2021). When law enforcement fails to deliver justice, this structure of trust collapses, and society loses its sense of belonging to the legal system.

The relationship between legal justice and social cohesion is inseparable, as they reinforce each other. Legal justice serves as the moral foundation for social cohesion, while social cohesion serves as the social energy that ensures compliance with the law (Mawardi, 2024). The failure of the legal system to uphold justice creates social frustration, which triggers disintegration and the potential for horizontal conflict. Law enforcement that is responsive to community social values actually strengthens relationships between citizens because the law is perceived as a tool for restoring social harmony, not an instrument of oppression (Bahri, 2024). Thus, strengthening social cohesion requires a transformation of the legal paradigm from positivist to progressive, placing humanitarian values and substantive justice as the primary orientation.

Satjipto Rahardjo's progressive legal theory stems from the idea that law is not a static entity, but rather a dynamic means for creating social justice. He rejects the positivist view that views law as merely a normative text that must be applied mechanically without considering the underlying humanitarian values (Rizqullah, 2025). He argues that law must be understood as a means of social engineering that can guide society toward a more just, humane, and moral life (Yamin, 2023). This thinking demands the courage of legal officials to go beyond formal procedures to explore the values of justice inherent in society. This orientation makes progressive law an alternative paradigm for addressing the justice crisis facing the nation.

A comparison of the positivist, responsive, and progressive legal paradigms reveals a fundamental shift in understanding the function of law. The positivist paradigm positions law as a written rule that must be strictly enforced without questioning the moral values behind it (Sartono, 2025). The responsive paradigm recognizes that law must adapt to social dynamics but remains oriented toward the formal structure of legal institutions. The progressive paradigm goes beyond both by emphasizing law as a tool for liberating humanity from social injustice (Mudhoffar, 2024). In this paradigm, humans are no longer the objects of law but

rather the primary subjects who determine the direction of law formation and implementation. This paradigm shift opens up space for law to function more adaptively and humanistically.

The primary goal of progressive law is to realize substantive justice that favors humanity. Law is not merely a formal mechanism for resolving disputes, but also a means of repairing social relations damaged by injustice (Setyawan, 2025). This approach emphasizes the balance between legal certainty, justice, and expediency, as stipulated in Article 2 of Law Number 1 of 2023 concerning the Criminal Code (KUHP). This article emphasizes that criminal law must consider substantive justice in its application. This principle aligns with the mandate of Article 1 paragraph (3) of the 1945 Constitution, which affirms Indonesia as a state based on law, justice, and humanity.

The theoretical framework of progressive law is not only based on critical legal thinking but also rooted in the values of Pancasila, the source of all sources of national law (Iqbal, 2025). The second and fifth principles of Pancasila emphasize the importance of just and civilized humanity and social justice for all Indonesian people, which serve as a moral orientation in the formation of law (Ningsih, 2023). These values must be realized in legal practice through the role of judges, prosecutors, and law enforcement officials who support substantive justice. Article 5, paragraph (1) of Law Number 48 of 2009, in conjunction with Law Number 5 of 2023 concerning the Supreme Court, requires judges to explore, follow, and understand the legal values and sense of justice that exist in society. This provision serves as a normative foundation for the implementation of progressive law in Indonesia.

Progressively oriented national legal reform requires adjustments to the old legal paradigm, which was overly textual. Law Number 5 of 2023, as an amendment to the Supreme Court Law, provides space for judges to be more active in interpreting the law based on society's sense of justice. This provision provides important momentum for legal reform that is more adaptive to the nation's social and moral developments. The integration of progressive law into the judicial system opens up opportunities for the creation of more concrete substantive justice, particularly in cases that cannot be resolved solely through a legalistic approach.

The values of Pancasila must also be internalized throughout all stages of law formation, implementation, and enforcement. As the ideology and foundation of the state, Pancasila directs that Indonesian law must be inseparable from morality and humanity (Safina, 2025). Every statutory regulation enacted should reflect the spirit of mutual cooperation, social justice, and respect for human dignity. When the law is implemented in accordance with Pancasila values, the law becomes not merely a regulatory tool but also a medium for shaping the character of a just and civilized nation. These values align progressive law with Indonesia's national legal ideals.

The development of a progressive legal framework ultimately requires synergy between legal theory and practice so that the Indonesian legal system can realize social justice and strengthen social cohesion. Law enforcement oriented toward humanity, justice, and morality will strengthen the legitimacy of the law in the eyes of the public. Living law is not law merely written on paper, but rather law whose benefits and justice are felt by the people. When the law can restore public trust, social cohesion will strengthen, and the law will once again become a means of national unity, not a source of division.

METHOD

This research uses a normative legal research method that focuses on the study of legal norms, principles, and rules applicable in the Indonesian legal system. The approaches used include a statute approach and a conceptual approach. The statutory approach is carried out by examining various relevant legal instruments, such as the 1945 Constitution of the

Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, Law Number 48 of 2009 concerning Judicial Power in conjunction with Law Number 5 of 2023, and Regulation of the Attorney General of the Republic of Indonesia Number 13 of 2019 concerning Termination of Prosecution Based on Restorative Justice. The study of these regulations aims to assess the extent to which Indonesian positive law accommodates the values of substantive and humanist justice as advocated by progressive legal theory. Meanwhile, the conceptual approach is used to understand the idea of progressive law as developed by Satjipto Rahardjo, which positions law as a means of social engineering to achieve justice that lives in society. Through conceptual analysis, this study interprets the relationship between law, morality, and human values as an inseparable whole in realizing social justice. By combining these two approaches, the study is expected to provide a comprehensive understanding of the importance of progressive legal reform as an effort to address inequality in law enforcement and strengthen social cohesion in Indonesia.

RESULTS AND DISCUSSION

Analysis of Inequality in Law Enforcement and Its Impact on Social Cohesion

Law enforcement in Indonesia often presents an unequal picture for all citizens. Inequality arises when the law is enforced selectively, as if there are two sides to the law: those in power and ordinary citizens. This reality is evident in various cases that give the impression that the law remains subject to economic and political power. While perpetrators of law violations from lower-class backgrounds often receive severe sanctions, criminals from elite backgrounds are often treated more leniently. This inequality not only weakens the law's function as a tool of justice but also creates social tensions that affect public trust in the national legal system.

The phenomenon of discriminatory law enforcement is evident in the differences in the handling of major corruption cases and minor offenses. Some perpetrators of corruption crimes that cost the state billions of rupiah often receive light sentences or preferential treatment during the legal process, while perpetrators of petty theft are often sentenced to severe penalties. This inequality demonstrates the weakness of the principle of equality before the law, as guaranteed by Article 27, paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The principle of equality before the law, a pillar of the rule of law, should ensure that everyone receives equal legal treatment regardless of social status. When this principle is ignored, the law loses its moral legitimacy in the public eye.

The source of inequality in law enforcement stems not only from the behavior of law enforcement officials but also from the fragile legal structure and system. A less-than-professional law enforcement apparatus, political interference in the judicial process, and weak internal oversight are factors that reinforce this inequality. An unbalanced institutional structure creates room for abuse of authority and corrupt practices. Article 3 of Law Number 30 of 2014 concerning State Administration emphasizes the importance of professionalism and accountability in every action of public officials, yet its application is often inconsistent. As a result, the law, which should be a tool of justice, is instead transformed into an instrument of power.

Legal inequality is also rooted in the substance of the law, which remains formalistic and does not fully support substantive justice. Many laws and regulations are created without considering the evolving social realities in society, resulting in their implementation often resulting in a mismatch between the rules and the public's sense of justice. Law Number 1 of 2023 concerning the Criminal Code, for example, continues to generate debate over articles that are open to multiple interpretations and risk creating inequality in law enforcement. Rigid and overly text-oriented laws often fail to address the need for justice within society.

This situation reinforces the view that law in Indonesia functions more as a tool of social control than a tool of liberation.

The legal culture of society also reinforces the existing inequality. A legal culture that remains permissive of bribery, collusion, and nepotism causes law enforcement to lose its moral force. The public tends to resign itself to legal injustice because they have become accustomed to viewing inequality as normal. This view reflects weak legal awareness and declining trust in the country's legal institutions. Yet, Article 1 paragraph (3) of the 1945 Constitution affirms that Indonesia is a state of law, meaning all actions of the government and citizens must be subject to just laws. When this value is not firmly embedded in the legal culture, substantive justice is difficult to achieve comprehensively.

An analysis of the Indonesian legal system using Lawrence M. Friedman's framework shows that legal inequality arises from an imbalance between three main elements: legal structure, substance, and culture. The legal structure encompasses law enforcement agencies responsible for enforcing the law; legal substance reflects the content and values of applicable regulations; and legal culture reflects societal behavior patterns toward the law. When any of these three elements is weakened, the legal system cannot function effectively. Indonesia faces challenges when the legal substance does not reflect social justice, the legal structure is unprofessional, and the legal culture does not support the rule of law. These three factors collectively create persistent systemic inequality.

The impact of unequal law enforcement on social cohesion is significant because legal justice plays a crucial role in fostering social trust. When the law is enforced unfairly, society loses its sense of security and confidence that the legal system can protect it. The loss of a sense of collective justice creates a social gap between groups benefiting from and those disadvantaged by the legal system. This situation has the potential to trigger horizontal conflict and weaken solidarity among citizens. Fragile social trust will result in decreased public participation in supporting law enforcement.

Legal injustice also has psychological and moral impacts on society. When people continually witness unequal law enforcement, they develop apathy toward the law and tend to resolve problems through non-legal means. This attitude weakens the legitimacy of legal institutions and creates space for the emergence of street justice, which risks social violence. The decline in public morality regarding the law has the potential to erode the values of solidarity that form the basis of social cohesion. A state based on the rule of law that loses the trust of its people faces not only a legal crisis but also a broader social crisis.

Evaluations of the positive legal system indicate that the unequal law enforcement in Indonesia is largely caused by an overly textual and rigid legal approach. Legal officials often interpret regulations without considering substantive justice and the social conditions of the community. Article 5, paragraph (1) of Law Number 48 of 2009 concerning Judicial Power actually provides space for judges to explore, follow, and understand the legal values and sense of justice that exist in society, but this provision has not been optimally implemented. Reliance on legal certainty alone, without considering humanitarian aspects, causes the law to lose its adaptive power to social change.

The need for a more adaptive and humanistic legal approach is increasingly pressing as public awareness of social justice increases. A legal system that is unable to address public concerns will be abandoned by its citizens, because the law truly lives only when it is trusted. Inequality in law enforcement is not only a technical issue, but also a moral and social justice issue. Reforming an overly formalistic legal system is a prerequisite for the realization of true justice. The law must be able to accommodate humanitarian values, balance, and togetherness to maintain social cohesion amidst the ever-evolving dynamics of Indonesian society.

Progressive Legal Reform in Strengthening Justice and Social Cohesion

Progressive law arose from the realization that law should not be trapped by rigid normative texts but rather should be oriented toward humanitarian values and substantive justice. Satjipto Rahardjo's principle of "law for humanity, not humanity for the law" asserts that the primary purpose of law is to promote human welfare and maintain social harmony. When law ceases to focus solely on formal certainty without considering substantive justice, it loses its social function. Progressive law serves as a paradigm that encourages renewed thinking among law enforcement officials, making them more adaptive to societal dynamics. This principle serves as the foundation for national legal reform efforts that require living justice, not justice frozen in articles.

The progressive legal paradigm is highly relevant to the formation of a more humane and egalitarian national law. Law is no longer viewed as an instrument of power, but rather as a means to serve the interests of society at large. Legal reform through a progressive approach enables a shift in orientation from repressive law enforcement to participatory social justice. The implementation of the principles of social justice, as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, is a goal that must be achieved. The spirit of progressive law reinforces the idea that legal certainty must align with a growing sense of justice within society.

The concept of progressive law demands a paradigm shift in law enforcement, not just upholding texts but also values. Every legal process should be directed toward restoring social balance, not merely retaliation or punishment. This idea is reflected in the implementation of restorative justice, which is now the mainstream of law enforcement policy in Indonesia. This approach shifts the orientation of criminal law from retributive to restoring relationships between perpetrators, victims, and society. This principle emphasizes that true law is law that heals social wounds, not simply imposing sanctions.

The concrete implementation of progressive law is evident in the restorative justice policy, as stipulated in the Republic of Indonesia Prosecutor's Office Regulation Number 13 of 2019. This policy emphasizes victim recovery, improving social relations, and resolving cases fairly. Law enforcement is given the space to assess cases holistically, taking into account the social and moral impact of the crime. The ultimate goal is not to impose the harshest possible punishment, but to restore harmony to society. Restorative justice is proof that the law can operate without losing its humanitarian side. Diversion in the juvenile criminal justice system, as regulated by Law Number 11 of 2012, also reflects the application of progressive law. This mechanism positions children as individuals in need of guidance, rather than as criminals to be punished. A rehabilitative approach is prioritized to prevent children from becoming trapped in a legal system that is destructive to their future. Diversion provides space for out-of-court settlements by involving families, communities, and victims to seek solutions that foster shared responsibility. This concept demonstrates that laws that favor humanity can foster a more inclusive and just society.

Legal reform is also evident in the new Criminal Code (KUHP), enacted through Law Number 1 of 2023. This regulation marks a major shift in the Indonesian criminal law system, emphasizing the values of restorative justice, prevention, and respect for human dignity. The new KUHP not only regulates criminal acts but also emphasizes the principle of balance between legal certainty and social justice. This reform aligns with the spirit of progressive law, which views law as an instrument for building a more civilized society. This principle indicates a new direction for the Indonesian legal system, moving towards a more humane order.

Judicial institutions have a strategic role in realizing progressive law through fair and contextual interpretation of societal values. Article 5, paragraph (1) of Law Number 48 of 2009, in conjunction with Law Number 5 of 2023, emphasizes that judges are obliged to

explore, follow, and understand the legal values and sense of justice that exist in society. This provision provides a normative basis for judges to avoid being trapped in merely textual interpretations. Judges are given the space to interpret the law by considering social dynamics and public morality. This obligation demonstrates that the law does not exist in a vacuum but is always linked to the human values that exist in society.

The progressive jurisprudence emerging in the courts is an indicator that the progressive legal paradigm has begun to be implemented in practice. Several judicial decisions demonstrate the courage to interpret the law substantively to achieve social justice. This approach demonstrates that law can be an effective tool for social transformation when applied wisely. Progressive-minded judges play a crucial role in expanding the meaning of substantive justice. Their decisions can set precedents that strengthen the direction of legal reform towards a more responsive and equitable future.

The future direction of progressive legal reform needs to be directed towards integrating humanitarian values into every stage of the formulation of legislation. Legislators must avoid drafting legal norms solely oriented towards certainty, without considering their social impact. Humanitarian values such as empathy, balance, and social solidarity must be the spirit of every legal policy. Responsive legal reform will strengthen the legitimacy of the law in the eyes of the public and encourage a real sense of justice. A progressive legislative process will produce laws that are not only formally valid but also morally valid.

Legal education in Indonesia needs to be directed towards developing the character of law enforcers with integrity and humanity. The progressive legal paradigm demands a shift in thinking from positivist to an orientation toward substantive justice. Legal education institutions have a significant responsibility to instill human values, empathy, and a commitment to social justice in law students. The legal curriculum must include case studies and a value-based approach so that law graduates not only master the text of the law but also understand its moral meaning. Improving the quality of human resources in the legal field is key to realizing progressive law sustainably.

Synergy between law enforcement agencies is a crucial pillar in strengthening the implementation of progressive law. Harmonious relationships between the police, prosecutors, courts, and correctional institutions must be based on a collaborative, not competitive, spirit. The implementation of substantive justice values will be more effective if each legal institution shares a shared vision of serving the public interest. This synergy will build public trust and strengthen social cohesion, the ultimate goal of progressive law. Institutional reforms oriented toward transparency, accountability, and humanity will ensure that the law truly serves as a protector, not a threat, to citizens.

CONCLUSION

Inequality in law enforcement in Indonesia continues to be a serious problem that threatens the sense of justice and social cohesion. Reality shows that the law is often applied discriminatorily, revealing a disparity between the treatment of criminals wearing ties and those of the lower classes. This situation undermines public trust in legal institutions and fosters a sense of social alienation within society. Progressive law offers an alternative paradigm that places humans at the center of the legal system, emphasizing that the purpose of law is not merely to establish certainty but to deliver vibrant and meaningful justice. The principle of "law for humans" guides the direction of reform so that the law functions as a responsive, inclusive, and humanitarian social engineering tool. By prioritizing substantive justice, the law can once again serve as a social glue, strengthening solidarity among citizens and maintaining balance in national life.

Progressive legal reform is a crucial step in national legal reform to avoid becoming trapped in rigid positivism. Lawmakers need to adopt progressive values in every new

regulation, ensuring that every legal norm is oriented towards social justice and human welfare. Law enforcement officials at all levels must internalize humanitarian values in exercising their authority, so that legal decisions are not only procedurally valid but also morally and justly grounded. Legal education in higher education should be directed toward developing a humanistic legal character that supports substantive justice. Integrating policy, practice, and legal education based on progressive values will create a legal system that is adaptive, imbued with integrity, and capable of strengthening social cohesion as the primary foundation of a just national life.

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