

Article

# Sociology of Law in The Perspective of Roscoe Pound and Donald Black and Its Relevance in The Indonesian Context

**Ahmad Qiram As-Suvi<sup>1</sup> and Moh. Zainullah<sup>2</sup>**

<sup>1</sup>State Islamic University of Maulana Malik Ibrahim, Malang, Indonesia; email : ahmadqiram2001@gmail.com; (*Corresponding author*)

<sup>2</sup>University of Aberdeen, Scotland, United Kingdom; email : m.zainullah.21@abdn.ac.uk

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## Abstract

This article aims to identify and analyze Roscoe Pound's thoughts on sociological jurisprudence, besides that this article also aims to identify and analyze Donald Black's legal sociology thoughts, as well as the actualization of Pound and Black's thoughts in the Indonesian context. The approach method used in this article is a literature study with a qualitative descriptive approach, while the results in this article show that Pound's sociological jurisprudence and Black's sociology of law both approach law through the discipline of sociology, even though the legal concepts they produce are different. Pound with the concept of interest, social engineering while Black with the concept of law as a quantitative variable in his magnum opus The behavior of law. They both also think that the law is a tool of social control and seems to want to perceive that the law does not always talk about articles, but there are other important aspects that must be considered.

## Keyword

Sociology of law; Roscoe Pound's Perspective; Donald Black's perspective; Indonesian context

## INTRODUCTION

Law and sociology are inseparable, although conflict may arise between them. Postmodern law, which often talks about handful articles that ensnare and become debated on campuses, makes the law itself only visible and written in the articles of legislation, so that not a few legal scholars are found who do not know the origins of the law appearing, and develop to lead to an attitude of indifference to existing social facts. This indifference to social conditions causes the law to run as if it is punishing human itself. However, if examined more deeply, the law itself is intended for humans, not the other way around. This is in line with the statement of Marcus Aurelius *ubi socius ibi ius*, then the role of social science to become a supporting science for legal science is a solution for legal experts to unravel various unresolved legal problems including sociology which will later produce the branch of legal sociology.

Sociology that captures facts in the fields makes the law seem alive and come with existing social conditions. The dynamic and continuous social situation makes sociology a link to decipher *quid facti* in the sense of returning social facts to the forces of relationships (Warikum Sumitro, Moh. Anas Kholish, 2017). Sociology as a liaison between social facts and agreed articles is a tool to break up the rigidity of laws, even though various legal experts have questioned the validity of sociology which intends to destroy law as a norm, principle and indicator of social behavior assessment. The fear of a unwanted precedent imagined by legal experts for sociology is a natural thing and should be internalized how is the fear of confusion in taking portraits of field facts grounded by the absence of media to identify

This isolating attitude towards these two disciplines is increasingly unavoidable, although an sociologist, Maurice Hauriou appears slightly pessimistic about sociology and instead defends sociology "few sociology moves away from law, but many fields of sociology bring it back to law". This phenomenon on sociology and the isolating attitude of both parties inspired the inventor of the legal theory, Roscoe Pound to formulate the two fields of science as a field of science that can synergize and become a solution to the phenomenon of legal degradation of social conditions. Sociological jurisprudence in Pound's view focuses more on legal reality than on the position of law and its function in society. In the same vein, Donald Black, a sociological scientist expressed argued that "Law is governmental social control", which means that an endeavor of social control by the government through legislation, litigation and adjudication, making the law a tool of social control (Iriani, 2016).

This article aims to explore more deeply the biography of Pound and Black as well as the idea of social jurisprudence and its relevance to legal reality

in Indonesia. Furthermore, it also seeks to elaborate on the idea of Pound and Black which is an urgent action, then draws a common thread between the two as a solution for the legal problems in Indonesia.

### **BIOGRAPHY OF ROSCOE POUND**

Nathan Roscoe Pound is an American legal expert and was born on October 27, 1870 in the border town of Lincoln, Nebraska, the capital city of the United States of America. His father Stephen Boswort Pound was quite successful in his career as a lawyer and judge, not only did he get inspiration from his father, the live of young Pound could not be separated from the upbringing of his mother Laura Biddlecomb Pound until he continued his studies at the Latin School. At the age of 13, he continued his studies at the University of Nebraska although he did not take up law but in botany until he got his Masters in 1888 and continued in the same field to get his doctorate. His work as a doctorate in botany inspired Pound's comprehensive foundation for thinking about natural science methods. The absolute empirical foundation in the field of botany did not influence him to fall into positivism in his approach to law, on the contrary his habit of collecting, classifying and cataloging plants with mycology and phycology made him a legal expert who could classify data systematically and catalog ideas about the law as he did as a botanist but objected to the phenomenon of law not plants. Hence, His botanical approach to law became famous since his taxonomic approach was proven in his scientific work in his outlines of lectures on jurisprudence (1903) (Timasheff, 1942).

In addition to Pound's love of Botany, he is also interested in studying law. It started when his father gave him three books on jurisprudence, such as Elements of Dutch Law, Amos Law, and Maine Ancient Law. The three books seemed to inspire Pound to seriously study Law. However, since the University of Nebraska no longer offers professional training in law, Pound resumed his studies in the fall of 1889 at Harvard law school (1889-1890). After he spent a year studying, he left the school and decided to become a believer of utilitarianism and became a follower of the 19th century English legal philosopher, John Austin. But it didn't take long before he know of Austin's view that legal sanctions be found in sovereign power

In 1890-1901 Pound became a legal practitioner at his father's law firm and in the same year he was appointed to the appeals commission in the supreme court of Nebraska until 1903, the following year he returned to being a legal practitioner at his father's law firm until 1904. Although His legal studies only lasted one year at Harvard (1889-1889) his expertise in the field of law was obtained as long as he was a practitioner. He is a hard-working figure who always works 16 hours every day and has a phenomenal memory power

and is also recognized as a very curious intellectual (Latipulhayat, 2014). His intellectual intelligence and experience in practice were highlighted by many legal experts so that he taught at several universities such as the University of Nebraska (1904-1907), Northwestern University (1907-1909), University of Chicago (1909-1910), not to mention Harvard University (1910-1936) he was even appointed dean of the law faculty at Harvard University (1916-1936). he was adjunct lecturer at the University of California at Los Angeles (1949-1953). He also joined various associations and served as Chairman of the Section of Legal Education of the American Bar Association (1907), as President of the Association Of American Law Schools (1911), the National Probation and Parole Association (1941-1949), the Academic Internationale de Droit Compare (1950-1957), the Instituto International para la Unificacion del Derecho public (1955-1958), and the American Academy of Art and Sciences (1935-1937) as Director of the Survey of Criminal Justice in Cleveland (1922) and the National conference of Judicial council (1938-1946), He was also a member of the National Commission on Law Observance and Enforcement (1929), the American-British Claims Arbitration (1926-1927), the International Academy of Legal and Social Medicine, Japan Academy and Royal Society of Humane Letters of Lund.

He has won several awards such as the Awarded the Gold Medal of the American Bar Association "For Conspicuous service to the cause of American Jurisprudence) (1940), and the Gold Medal awarded by the National Chengchi University, nangking China. He has also been an advisor to the Ministry of Justice of the Republic of China (1946-1949) and the Ministry of Education of the republic of China (1947-1949) (Roscoe Pound, 1959).

Many ideas and principles in the legal world he inscribed into writings such as *The spirit of the Common Law* (1921), *Intruduction to the Philosophy of Law* (1922), *Interpretations of Legal History* (1923), *Law and Morals* (1924), *Criminal Justice in America* (1929), *The Formative Era of American Law* (1938), *Appellate Procedure in Civil Case* (1941), *the Lawyer from Antiquity to Modern times*(1953), *The Development of Constitutional Guarantees of Liberty* (1957), *Jurisprudence* (1959) and *The Ideal Element in Law, Tagore Lectures at Calcutta* (1958) (Lili Rasjidi, 2010).

### **BIOGRAPHY OF DONALD BLACK**

Donald Black was born on January 1, 1941, he is a University professor, Social Sciences at the University of Virginia. After completing his doctorate at the University of Michigan in 1968, Black continued his postdoctoral studies as a Russell Sage Fellow in Law and Social Sciences at Yale Law School, and continued to teach at the School of Law and the Department of Sociology, Yale University.

In 1979 he transferred to Harvard University, where he again held positions in the Faculty of Law and the Department of Sociology. He came to the University of Virginia in 1985, in between his busy schedule he sometimes also teaches at Law School. The University of Virginia awarded him the title of Professor as a right to teach in any school or department at the University.

Black is best known for his numerous publications in the sociology of law, morality, and conflict. Many of his books have received awards such as *The Social Structure of Right and Wrong* which became the Distinguished Book Award held by the American Sociological Association. He also wrote *The Behavior of Law* and has been translated into several languages. Likewise, his book, *The Manners and Customs of the Police*, and *Sociological Justice* which describe several aspects of his legal theory received the awards (Abramowitz, 2010).

As for the support for the expansion of his legal theory, he wrote in his book *The Social Structure of Right and Wrong*. In 1995 in *Law & Social Inquiry*, Black also wrote an article *The Epistemology of Pure Sociology* and won an American Sociological Association Scholarship award. Black's latest book, *Moral Time*, which identifies the causes of moral conflict in all human relationships, was awarded the 2012 Inaugural Outstanding Book Award from the American Sociological Association section on Altruism, Morality and Social Solidarity. In 2013 he received the Harry J. Kalven, Jr. Award. (known as the Kalven Prize) for Outstanding Scholarships from the Law and Society Association.

Black was the founder of pure sociology, a distinctive theoretical approach that explains human behavior by its social geometry. He will soon publish a book on the subject entitled *The Death of the Person*. All about Professor Black's work can also be found in the November 2002 issue of *Contemporary Sociology* (Sociology, 2015).

## **ROSCOE POUND'S LEGAL SOCIOLOGY THOUGHT**

In principle, sociological jurisprudence was initiated by Montesquieu, where he stated that the law exist and develop depends on social factors "System of law is a living growth and development interrelated with the physical and societal environment". If examined more deeply, Pound's thoughts are not only influenced by Montesquieu but multiple Jurists, philosophers and sociologists who have had a significant impact on Pound's Sociological Jurisprudence thoughts. So it can be concluded that Pound's thinking is actually a thesis or a systematic combination of the thoughts of the previous legal schools.

Among the jurists who influenced Pound's thinking, such as Jusuf Kohler, one of the historical school of juris, he is one of the 19th century Neo-

Hegelian Juris. Kohler's idea "Law not as a fixed and permanent entity suitable for all time, but as a dynamic phenomenon of human civilization" (Timasheff, 1942). like Pound, Kohler's ideas, position the law is not a permanent entity and is suitable in every space and time in the sense that the law depends on the social community. This is the same characteristic with Pound's sociological jurisprudence principle, it can be identified through Pound's sociological Jurisprudence approach which portrays the influence of law on society in terms of an approach from law to society. Kohler's idea which recognize sociological Jurisprudence has implications for Pound's conceptualization of the theory he offers, where public obedience to the law is more important than giving sanctions. The implication of this concept is to fulfill all the goals of society, either through analytical, historical or philosophic.

"Sociological jurists conceive that legal precepts get their ultimate authority from securing social interests, even if their immediate authority comes from politically organized society".(Roscoe Pound, 1959)

Sociological Jurisprudence has an emphasis on social goals regulated by law, so the concept of true regulation according to Pound can only be strengthened if there is social interest in it, including political regulations regulated by the government. This functional relationship is often referred to in Pound's explanation that law is not just an abstract norm, but a balancing process between all social interests with guarantees of satisfaction for all interested groups along with minimal consequences.

So this view really sees law as an instrument, and the conceptualization results will produce a systematic perception that law is part of technology, by citing the term Pound's theory of tool of social engineering. Social control is the meaning of the term law as a tool of social engineering which is also mentioned by Pound in *Social Control Through Law*, Pound's view of law as a tool of social control is based on the view that humans need "the force of social control to keep their aggressive, self-assertive side in balance with their cooperative social tendency". So that Pound realizes and recognizes that the law has three different meanings. In his term, Pound mentions "legal order, the body of precepts, and judicial/administrative process "this trilogy is an integral part of the idea of social control a la Pound. Although the term law as a social machine or social engineering first appeared from Lawrence's argument and in the 1800s Jeremy Bentham put forward the idea, he acculturated his skills in plant bonification with law so that he received serious attention from the general public. Pound requested that legal experts not only focus their attention on what is in law (law in the books) but also focus on the practice of (law in action), this can be done not only through laws, government regulations, presidential decrees but also

through other decisions. court decision (Daeng, 2018)

From Rudolf von Jhering, Pound was inspired by the theory of interests which he initiated the notion of interests. Jhering's ideas cognizable in Pound's theory of "theory of social interest" can be seen clearly from Jhering's philosophical thought. Where the interest of law is in order to show human existence. Human interests to show their existence can be seen from individual expressions in the form of ego traits and expressions in the form of a desire to work together collectively to achieve an interest due to the demands of ethnicity, ethnicity or other communities.

In this theory, Pound assumes that there are certain interests that must be protected, although Pound does not agree that all interests must be protected by law because there are other social instruments in protecting each social interest. Social instruments such as religion, morals and aesthetics would be the most important instruments for every social interest before entering jurisprudence in achieving interests. As according to Pound, the law cannot be separated from the elements of interest and the function of law as a protector of public, social and private interests.

To harmonize each interest, the balance between interests is something that is absolute. As previously stated, the tendency of individuals to show their existence which is influenced by ego and ethnicity which requires a balance in each interest to be harmonized. Broadly speaking, Pound divides three categories of interests including: individual interest, public interest and interests of the state as a guardian of social interest.

Individual interest or also better known as personal interest, is a private law which talks about demands, requests, wishes and expectations that involve only the personal affairs of an individual. Protecting individual interests against other individuals through the law would be a form of the latest solution to social instruments that are unable to repress the individual ego in the struggle for interests to show their existence. He also divides individual interest into three patterns that can be identified through relations, both domestic, substance and asset. Domestic relations are private relations between individuals such as marriage, personal relationships that emphasize individual rights and individual obligations as subjects that must be respected, such as interest in honor, reputation, and substance relations that emphasize individual ownership that must be guaranteed for its existence such as ownership of assets, freedom of association.

The public interest by Pound is placed in the order of political dynamics in the form of demands, desires, and hopes of each individual in society. Therefore, according to Pound, the order of political dynamics in society has a

very significant relationship with the political policies of a country. On the other hand, the State provides guarantees from political policies that are decided as a form of guarantee of safety, health, security and order. This is what is called the interest of the state as a guardian of social interest (Latipulhayat, 2014).

Harmonization between all the different interests is an urgency in order to achieve satisfaction between the parties concerned. Satisfaction can only be achieved if there is a balance between the parties. So Pound's offer in order to provide satisfaction between the interested parties cannot be achieved by a passive legal form of dynamic societal changes, as well as rigid and rigid judges' actions. He received an offer to harmonize the interests of all parties from William James's pragmatic philosopher that "the end of ends is the goal for satisfying at all times as many demands as possible".

The embodiment of Pound's offer of a solution has a logical consequence, namely a balance between interests with absolute prerequisites directing legal experts, both practitioners and academics, to factual situations in the field to suit the needs and interests of the community, so Pound considers two significant ways how the law should act, namely accepting as much as possible. This is because he considers law to be a social tool of social control. Furthermore, overlapping demands are inevitable so that according to Pound, the problem of legal philosophy must be detached from the value of Pound repeatedly emphasizes that no legal philosophy can escape the problem of values. Even though, according to Pound, sociological jurisprudence only talks about points of view and values which are implicitly contradicting the philosophical foundations of James's which he adheres to. The goal is to influence the larger social interests of the community, but the consequence of this is recognized by Pound in the end, namely a compromising attitude, "manifestly one cannot speak with assurance as to how we are in the end to value competing and overlapping interests in the present century".

The most important part in Pound's discussion is the origin of the sociological school he followed which later influenced the sociological jurisprudence he brought. The cognitive component of Pound's sociology cannot be separated from the people around him as far as his experiences go. Among the biggest influences is Lester F. Ward, an advocate who specifically controls government activities and social planners who have in common with Albion W. Small that social reform will be carried out through legal channels from these two people, the concept of social engineering was born. Most importantly, E.A. Ross was Pound's colleague while at the University of Nebraska where Ross's ideas influenced Pound's jurisprudence and thus departed from a sociological starting point. If we look deeper, Ross greatly influences Pound's cognition on



sociological foundations, Ross's opinion on social control instruments consists of various aspects such as public opinion, law, belief, social, and religion, requiring Pound to focus more on legal instruments that exist in society because of their character. So Pound defines law as "a highly specialized form of social control, carried on in accordance with a body of authoritative precepts, applied in a judicial and an administrative process" (Roscoe Pound, 1959).

### **DONALD BLACK'S LEGAL SOCIOLOGY THOUGHT**

Sociology of law according to Donald Black is a study that discusses the special rules that apply and are needed to uphold order in legal field (Idayanti, 2020). Black's framework of thought indicates that the sociology of law is very identical with empirical and factual matters of law. The discussion of the sociology of law indirectly leads not only to the conceptuality of the law itself, but a portrait of the facts of the role of law in society itself or about legal behavior that applies in society. This definition cannot be denied, even though Black's definition of law is social control through legislation, litigation and adjudication, in other words, law is a normative path for society in a country in carrying out social control, law is governmental social control (de la Roche, 1995).

Black's assumption of law as social control cannot be separated from his efforts to explain law as cross-national despite opposition among anthropologists who state that law exists in all societies so that the form of centralized control through legislation, litigation and adjudication is actually very biased and inaccurate, because in fact it is a form of intervention from a third party and is not in accordance with the legal approach that grows in society. It also includes various modes of intervention by third parties, such as mediation, arbitration and adjudication. (Titarenko, 2006)

Furthermore, the characteristics of the law according to Black lies in the quantitative variable (law is quantitative variable), so that it has an impact on the quantity of law that varies according to the locus and where the law is applied. So, such variables must be measurable based on actual fluctuations in legislation, litigation and adjudication. However, Black is aware that not all forms of attitude in society can be controlled through social control carried out by law alone, such as ways of behaving, customs and attitudes in the bureaucracy.

However, it should be noted that the effectiveness of law as a means of social control, according to the figures of the sociology of law, is a solution for various legal studies that tend to stagnate in substance in society, so legal behavior in society according to Black must be quantitative, directed and there is a legal characteristic for a community although Black further explained that law is the dependent variable. Legal dependence on social variables according

to Black can be conceptualized on social expressions which are fundamental aspects of social life. Both are vertical (stratification), horizontal (morphology), symbol (culture), corporate (organization) and normative dimensions (social control) (H. Michalski, 2015). Each of these propositions states a relationship between law and another aspect of social life stratification, morphology, culture, organization, or social control (Donald Black, 2010).

First, Stratification does not discuss more about vertical distinctions, although in social stratification this distinction is not only based on power but on wealth in order to show personal existence in the form of such as food, access to land or water and money, although it is necessary to be aware that the law does not recognize this kind of stratification, but the existence of a sociology of law wants to restore a factual portrait that must be considered.

Second, morphology, this variable highlights horizontal aspects in human life, in this case legal behavior can be measured by looking at how active social interaction is in the community so that people live peacefully and calmly. The third variable is culture, in this case the idea of symbolic or ceremoniality becomes the main discussion such as religion, decoration and folklore, meaning that every newcomer will adapt to local cultural habits. Then, the fourth variable is the organization, in this case, the discussion of a communal group that can have a collective impact through their goals and is regulated by a system called law, such as the existence of articles of association or up to the stage of the Act. The fifth variable is social control which is related to normative aspects of life, in the sense of carrying out deviant behavior in the form of social responses to it through normative ways such as prohibitions, accusations, punishment and compensation (Black, 1984). All social expressions indicate the many variations that need to be considered to measure legal behavior in society, the increase in expression and decrease over time and space. These fluctuations make it possible to measure and proportionally formulate quantity predictions to be applied according to place and time so as to be able to explain legal behavior in that society with precision.

More specifically, Black mentions how the application of social control by law applies in his book entitled *The Behavior of Law*, it seems that Black does not guarantee that law is the only tool to exercise social control. Through the 1970s, then Black emphasized that the law is but one of many areas of social life susceptible to his theoretical strategy (de la Roche, 1995). The legal behavior referred to by Black is a situation where legal facts in the community act in accordance with the written law or not, the concept of Black's behavior of law cannot be separated from his contemplation of legal phenomena that are getting duller down and sharper up and that is legal behavior that is currently running

(Titarenko, 2006). One small example is more rich people who like to solve their problems through litigation channels than poor people, because according to Black social stratification is unavoidable in the application of law so that such phenomena often occur. From this Black concept, it is to look back at legal behavior in society in other words an effort to restore and improve laws that are not in accordance with the positive law.

### **ACTUALIZATION IN THE CONTEXT OF INDONESIAN COURTS**

Legal development in the modern context closely follows the interests of capitalist elites. That is the characteristic of legal development in Indonesia which fails to highlight the complexity of the legal substance itself encompassing both the improvement of the formal structure and the law, in other words, legal development in Indonesia tends to be institution oriented-development (Rahardjo, 1997).

According to Pound, law is a social engineering in which made of components of interest although the behaviour and custom of the Indonesian people seem to depend on colonial legacy. If we look back, it is undeniable that as a Dutch colony, Indonesia's independence in drafting laws is far from being adequate. During the Dutch colonial period, various legal policies were determined by the Hague as a social controller for its colony, the Dutch East Indies, to protect its interests. Furthermore, stratification during this period affected the legal conditions so that even though Indonesia had become independent, the influence of the Dutch in the legal aspect was still very strong.

Although the complexity of the law is increasing, it is not perfect in its application and further worsens the image of Indonesian law. Legal positivism that ensnares Indonesia's heterogeneity seems to benefit some groups and curb other groups. The incompatibility of the articles applied by the legislature seems to be used as a justification because each individual is unique, it seems that they never consider what approach they use. If legal positivism is not able to accommodate the interests of heterogeneous communities, then strangely it will continue to maintain such paths.

In essence, here I want to photograph only one aspect, namely legal behavior from the perspective of sociological jurisprudence. Shortly, what I want to say is that the social condition of the Indonesian people from spectators to actors can only be constructed through new Indonesian legislation behaviour. Pound's perception of legal sociology observes the influence of law on society through an approach from law to society. In other words, the law of sociological perception is not only related to regulations but focuses on the culture of law.

Apart from that in the context of Indonesia as described above, the fate of

legal development in Indonesia is only focused on the adoption of institutions and this is very shallow. The lack of improvements to the substance of the law itself, both in terms of structure, actors and legal culture, does not get much of a share. Even if we refer to one aspect that can be conceptualized in quantitative variables according to Black, it is corporate organization where the availability of institutions that establish values, roles and organizations to the community including political, family, educational, religious, legal, science and technology institutions which interact on an ongoing basis. It will further perpetuate the social control exercised by the law.

In the Indonesian context, legal development is often isolated from other aspects. This is very taboo if legal development is only identified with legal institutions. The existence of other institutions as mentioned above should be a consideration because to carry out a good legal development, the pulls from other institutions in the form of values and rules must be considered. This is necessary to develop law in Indonesia as creating a good environment in legal institutions will not be achieved if other institutions is damaged.

In conclusion, we recognize that the essence of law is justice, but law enforcement is rarely recognized as a process towards justice. It can be said that from law enforcement that is sharp downwards and blunt upwards, in fact it is not the law but the legal behaviour applied by law enforcers, so Pound is very implicit in stating that in sociological jurisprudence law enforcers should be flexible and adaptive which in Pound's theory is included in the machine of social control.

One concrete form of dependence of legal institutions on other institutions, we see various actions taken under the pretext of improving the economy, various companies entering and various regulations being violated to facilitate their business, the transformation of economic institutions into capitalist ghosts which is very scary to legal institutions where law can be manipulated and justified through existing legal process. Such an impact will damage the legal situation in Indonesia, this is what Black calls that law is a quantitative variable.

A little reflection on Japan, where the development of law as described by Black in his book *The behavior of law* is very easy to find, the synergy between institutions including family institutions that really respects the original Japanese culture. For example, Japanese people will really regret it when they summon lawyers to proceed in court because Japanese culture strongly upholds kinship, obedience, respect for tradition and is even willing to take extreme actions, even though they adhere to the legal system that adheres to the flow of positivism. Furthermore, the synergy between legal institutions and Japanese educational institutions can be seen from the graduates where the communal

nature of Japanese society is not eroded, unlike the case with Indonesian people who tend to be individualistic, that is what distinguishes the performance of existing laws in Indonesia and Japan.

The synergistic relationship between institutions and the flexible behavior of law enforcers are not implemented appropriately. The relationship between values and rules still looks chaotic and does not look like every decision has been considered. The interests pursued tend to look individualistic, there are still various judges' decisions that oppress victims such as the Marsinah case, Sum kuning and others. Inequality in institutions is very easy to photograph, for example in the law and Pancasila strongly supports the principles of harmony and collectiveness, but law faculties in Indonesia teach ways to be individualistic and capitalist agents, on the other hand the law greatly enhances water, land and air are fully owned by the State. The governments include various foreign entrepreneurs and even include articles that are not in accordance with the rules of the law. that is a portrait of Indonesian legal behavior which tends to be hypocritical to its positive law.

## **CONCLUSION**

Pound's sociology of jurisprudence and Black's sociology of law is an attempt to provide assistance in order to understand problems in the legal field more realistically, not as an alternative to avoiding legal positivism, but want to show us that the law has other supporting aspects considering the inequalities in society. It must be admitted from Pound and Black in approaching through one discipline, namely sociology, as a empirical science, the ability of sociology to collect a lot of data from factual events, these data collections are very useful to help understand legal institutions comprehensively. This is because legal institutions are not institutions that are free from the influences of the surrounding environment.

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