

## Justice as A Law Sacrament: Measuring Justice in Pancasila Philosophy

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### ABSTRACT

Indonesia as a plural country with a diversity of ethnicities, religions, races, customs, cultures, regional languages, will really rely on a single nation principle, namely Pancasila with the logical consequence that every aspect of its life will be governed by Pancasila which is chaired by the state through its tool, namely the government. fully sovereign. This means that all complex life of society is entrusted to the State, including in the field of law to achieve essential justice. In this regard, the state is obliged to carry out the orders of Pancasila through the constitution, which is used as a guideline and benchmark in every practice of state administration, including aspects of law enforcement that are just for all Indonesian people.

### Keywords

*Justice, Pancasila, Law, People*

### INTRODUCTION

Justice is in principle a balance between obligations and rights that every human being deserves as private property, without limitation for any reason. This balance of fair taste contains values that apply Universal. New justice can be said to be universal when its fulfillment includes all social and individual justice issues that arise, including universal in the process of its application that applies to all members of society. Generally, justice can be subjective and can be individualistic, meaning that it cannot be equalized. Since fair to A is not necessarily fair to B, "sense of justice" must refer to a variety of psychological and sociological considerations to satisfy the essential concept of fairness.(Mehra & Sharma, 2010a)

At this time, talking about justice is always the main topic in solving problems related to law enforcement. Many legal cases go unresolved because they are drawn into political issues. The truth of law and justice are manipulated in a systematic way so that the judiciary does not discover the true state of affairs. Government policy is unable to bring the law into "commander-in-chief" in determining justice, because the law is castrated by a group of people who can afford it or people who have higher power.(Labobar, 2020)(Bakir, n.d.; Jahar et al., 2021)

The concept of Justice will always be confronted with doubts about injustice, that in fact justice will be powerless without injustice and doubt. Discussing the concept of justice, according to him, which will then be collided with injustice and doubt, will enter the terrain of non-systematic, or anti-systematic, even almost aphoristic territory, because it talks about justice, injustice, doubt standing in an unstable, shaky or liquid territory (melee). Therefore, justice (law) is considered plural and plastic .(Hum & Syafuri, 2015; MEMORY, n.d.; Current, 2018)(Lefebure, 2016)

As is known, the term justice is always contrasted with the term injustice. In this case, where there is a concept of justice, there is also the concept of injustice. Usually the two are juxtaposed and in the context of legal studies there are many examples of injustices that are antithese of justice in the field of law for example in Indonesia, such as: injustice in the Poso case, Prita case, injustice of reporting by the mass media, injustice of BLT distribution, gender injustice in society, injustice in solving legal problems, and so on. (Riyadi, 2017)

As an example it can be illustrated in the application of several court rulings that are often considered to numb the sense of justice of society. For example, in the acquittal handed down by a panel of judges of the South Jakarta District Court against the defendants in the Bank Mandiri corruption case prosecuted by the Prosecutor, 20 (twenty) years in prison, inviting various pros and cons. Or in other cases related to investigating past human rights violations through the enforcement of the rule of law, justice is also an inseparable part of upholding human rights.(Sintara & Suhaidi, 2019; Suwartono & Meinarno, 2012)

In essence, Justice as part of social values has a very broad meaning, even at some point it can conflict with the law as one of the social value systems. A crime committed is a mistake. However, if it is not greed, it cannot be called causing injustice. Conversely, an act that is not a crime can lead to injustice. The measure of justice as mentioned above actually reaches the ideal area or is in the realm of the mind, because talking about the issue of justice, means already in the area of meaning that falls into the philosophical level that needs deep contemplation to the deepest essence, even Kelsen emphasized in Plato's philosophy of law, that justice is based on knowledge of something good.(Susilowati, 2020; Usada, 2022)

From these views as an initial study, it is clear that justice is the study of philosophical sciences. Many philosophies expect inspiration for the knowledge of justice. They include philosophies that are very different in time and space. Justice is one of the norms that has been the object of philosophy that has been studied seriously since the beginning of Greek philosophy. Justice talks have a wide scope, ranging from ethical, philosophical, legal, to social justice (Mehra & Sharma, 2010b) .

In addition to legal certainty and expediency, Justice is also an inseparable part of the purpose of the law itself. Responding to the problems of law enforcement that occur in the Indonesian state which are then outlined in several judges' decisions that are considered to ignore the fair point, so that we lead to a reflection that the term justice which incidentally exists in philosophical studies can be used as a major part in achieving legal goals?, considering the abstract concept of justice so that an understanding is needed in the philosophy of legal science that will explain the basic value of law philosophically so as to establish actual laws.

Referring to the empirical facts that occur where social turmoil in Indonesia is allegedly caused by the lack of justice as expected by society as a whole, in order to explain this complexity, this paper is intended to examine the Aspects of Justice in the View of Legal Philosophy.

## **METHODS**

Moving on from a brief overview of the issue of Justice, this research is directed at empirical juridical research studies. This approach is a research conducted on Notes, Legal Dogma, regulations and Aspects of Literature and Written Legal Value which is then faced with the real situation to see the empirical phenomenon of Justice in the context of Indonesian society.

## **RESULTS**

### **1. The Achievement of Justice as a Sacrament of Law**

The dignity of law rests on the basis, process and finalization of implementation that definitively and convincingly gives the content of values, morals and justice that is indisputable with mere theory, especially by viewing justice unilaterally which is only obtained in the form of "legal texts". Fair at other points is like a "sacrament" which means holy. The word "sacrament" comes from the Latin "sacramentum" which literally means "to make holy". The logical consequence of this is that the soul of the law is in man, justice is not merely a necessity worth fighting for, but something that in its abstract has divine value that "has" been possessed from the beginning.

To achieve true justice, the law must be free from restraints, both the restraints of political rulers, and the rigid constraints of the law. Because of the endless restraints, the law must be progressive in all aspects, not least in the process of seeking justice. The simple reason for breaking through the rigidity of law was revealed by the maestro of progressive Indonesian Law, Prof. Satjipto Rahardjo, who convincingly gave the picture that progressive law is a liberation movement because it is fluid and always restless in searching from one truth to truth. Furthermore, this study was also revealed by his loyal follower from East Nusa Tenggara, Bernard L. Tanya. In every argument of the Law, Bernard always calls and reminds that progressive law is law with the spirit of doing the best for society, nation, and state. Progressive law requires people to be honest. Daring to get out of order is one way of seeking and freeing.

As a supporting reference, Lawrence Friedman considers 3 legal systems, including: Legal Substance which is the norm (rules, decisions) resulting from legal products, Legal Structure which is a state institutional system / legal institution whose concept is to provide services and law enforcement, and Legal Culture which is ideas, behaviors, desires, opinions and values related to law (positive / negative aspects), which directly gives an idea of how the law should be enforced. In relation to him, if it is manifested with Prof. Satjipto's thinking with a progressive legal approach, it is not excessive when the Indonesian law enforcement process is required to fulfill aspects of honesty, ethics, dignity, and most importantly conscience in one main frame,

namely "Legal Morality". At this point, aspects of legal structure become the most highlighted thing in Indonesian legal behavior. It is undeniable that the strong influence of "Legal Positivism" directs law enforcers to play sacred dirana, to determine the guilt or innocence of a legal act based on the will of the rules without other considerations that actually have moral value and opportunities for self-improvement for everyone involved in legal cases.

## 2. Justice in the Pancasila Frame

The view of justice in national law is based on the basis of the state. Pancasila as a state policy or state philosophy (fiilosofische grondslag) is still maintained and is still considered important for the Indonesian state. Axiologically, the Indonesian nation is a supporter of Pancasila values (subscriber of Pancasila values). The Indonesian nation is divine, humanitarian, united, populist, and socially just.

As a supporter of values, it is the Indonesian people who appreciate, recognize, and accept Pancasila as a value. The recognition, appreciation, and acceptance of Pancasila as something of value will seem to reflect in the attitudes, behaviors, and deeds of the Indonesian nation. If the recognition, acceptance, or appreciation is reflected in the attitudes, behaviors, and actions of humans and the Indonesian nation in this case as well as its bearance in the attitudes, behaviors, and actions of Indonesian people.

Therefore, Pancasila as the highest source of law of the Indonesian nation, justice is something that is absolutely to be enjoyed by all Indonesian people. Explicitly the aspect of justice is contained in the 5th precept of Pancasila which reads Social Justice for All Indonesian People. Justice is for the benefit of the people to the greatest extent, in the sense that everyone is equal and dignified in all aspects of life.

According to Kahar Masyhur in his book put forward opinions about what is called fair, there are three things about the understanding of fair.

- 1) "Fair" is putting something in its place.
- 2) "Fair" is to receive rights without more and to give others without less.
- 3) "Fair" means to give the right of every entitled person in full without more or less between the entitled neighbors in the same circumstances, and the punishment of wicked or unlawful persons, according to guilt and transgression".

In principle, the Social Justice Precepts require equal prosperity among all people, not a static equal, but a dynamic and increasing equity. This means that all of Indonesia's natural wealth, all the nation's potential, are processed together according to their respective abilities and potentials, to then be utilized for the greatest happiness for all people. Social justice means protecting the weak. This does not mean that the weak can then not work and just demand protection, but on the contrary must work according to their abilities and fields. The protection provided is to prevent arbitrariness from the strong, to ensure the existence of true justice that is Pancasila.

## 3. Portrait of Law and the concept of Social Justice in Pancasila in Indonesia

It is stated that in law enforcement this nation refers to three elements, namely: legal certainty, expediency and justice. The ideal of law initially became something very beautiful to discuss, not only academics, but became a discussion with all people. However, what happens is precisely the aspect of legal certainty to become a god, which seems to be sanctified by no longer cooperating with the expediency aspect of the law to achieve the sacred value of the law, namely justice. This kind of legal practice is certainly contrary to the view of the Utilitarians pioneered by Jeremy Bentham, as a supporter of the theory of usefulness, that the purpose of law must be useful for society to achieve the greatest happiness.

At different levels, the concept of social justice is different from the idea of legal justice that is usually imposed through the legal process. But the concept of social justice certainly also does not only concern the issue of morality in social life that varies from one culture to another so that the degree of university becomes uncertain. As stated above, social justice must indeed be distinguished from various dimensions of justice, such as legal justice, political justice, economic justice, and so on, although it can also be understood that the whole idea of justice can ultimately be encompassed by and lead to the idea of social justice. Because in the end, legal justice and economic justice must produce the final result in the realization of social justice for all. It contains the understanding that the injustices that exist so far must be tackled to the lowest point, the redistribution of wealth, power and status of individuals, communities, and social good, which in general states and governments have the responsibility to ensure the basic quality of life for all citizens.

The Meaning and Meaning of Social Justice Precepts for All Indonesian People

- Prosperity is equitable for all people in a dynamic and increasing sense.
- All natural wealth and so on are used for mutual happiness according to their respective potentials.
- Protect the weak so that community members can work in accordance with their fields.
- Develop noble deeds that reflect the attitude and atmosphere of kinship and mutual cooperation.
- Be fair.

- Maintain a balance between rights and obligations.
- Respect the rights of others.
- Likes to give help to others.
- Stay away from blackmail attitudes towards others.
- Not extravagant.
- Not a fancy lifestyle.
- Do not commit acts that harm the public interest.
- Love to work hard.
- Appreciate the work of others.
- Together strive to realize equitable progress and social justice

## CONCLUSION

These views are not without reason, it is clear that society in its diversity has entrusted its entire life to the state to regulate and guarantee all its needs. The logical consequence is that the state bears a moral responsibility to make every individual happy through policies, rulings (precedents) that overall effect public trust in the government (law enforcement and policy makers). For reasons of trust from the community, law enforcers and public policy implementers in solving a problem and in making decisions related to people's needs must start from the noble goals of the law and the spirit of Pancasila, namely Justice.

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