

THE ROLE OF LAW IN REALIZING SOCIAL JUSTICE: PERSPECTIVE OF PHILOSOPHY OF SCIENCE

Wafiya

University of Bengkulu, Indonesia
fiya_ismail@yahoo.com

Nur Sulistyو Budi Ambarini

University of Bengkulu, Indonesia
ambarini@unib.ac.id

Abstract

This study discussed the role of law as an instrument for realizing social justice in Indonesia through the perspective of philosophy of science. Law was not only understood as a set of formal norms but also as a means of social transformation grounded in ontological, epistemological, and axiological foundations. Using a normative juridical research method and a qualitative approach based on literature review, this research analyzed the contributions of various legal theories and theories of justice including Satjipto Rahardjo's responsive law, John Rawls' theory of distributive justice, H.L.A. Hart's legal positivism, Amartya Sen's development paradigm, and Alasdair MacIntyre's ethics of justice in shaping a legal framework that was inclusive and responsive to complex social realities. The findings showed that law in Indonesia had the potential to become a catalyst for social change through redistributive policies, protection of vulnerable groups, and strengthening of community solidarity. The perspective of philosophy of science deepened the understanding of the relationship between law and social justice, particularly in explaining the nature of law as an adaptive institution (ontology), the process of legal knowledge formation (epistemology), and the substantive values of justice underpinning legal practice (axiology).

Keywords: law, justice, social, philosophy, science

INTRODUCTION

In the context of modern society that continues to undergo changes and developments, law plays a very important role as a means to achieve various social goals, one of which is to realize social justice. Social justice is not just an ideal concept separate from reality, but a fundamental need in diverse societies. This concept emphasizes the importance of a fair distribution of resources, opportunities, and rights in a society with diverse backgrounds, cultures, and interests. In this sense, law is understood not only as a rigid and immutable set of norms, but also as a tool of social transformation that has a deep philosophical basis. In other words, law can serve as a bridge that connects social values with real practices that occur in people's lives.

The philosophy of science provides an important foundation in terms of epistemological, ontological, and axiological in understanding the role of law in realizing social justice. For example, legal epistemology focuses on the ways in which knowledge

about law is generated and understood by society, while legal ontology discusses the essence of law itself. On the other hand, legal axiology deals with the values underlying the law and how those values can be applied in a broader social context. Therefore, a deep understanding of these three aspects is indispensable to explore how the law can contribute to achieving social justice in a complex society.

The author is interested in conducting this research because it lies in the need to connect the legal paradigm with the perspective of the philosophy of science, especially in the face of various increasingly complex global challenges, such as social inequality, marginalization, and structural injustice. In various existing legal systems, there is often a tendency to place the law as a formal mechanism separate from existing social reality. This often results in the law being unable to respond effectively to pressing social issues. In fact, law has enormous potential to be a catalyst for change if it is designed and implemented based on comprehensive social justice principles. For example, in the context of increasing economic inequality, law can play a role in creating more equitable and inclusive policies.

This research departs from the existence of a significant gap, namely: The lack of research that integrates philosophy of science as an analytical framework to understand the role of law in the context of social justice. Many existing studies are still stuck in separate normative or empirical approaches, without linking the two within a single comprehensive framework of thought. Likewise, the limitations of studies that discuss aspects of epistemology and legal axiology in the framework of social justice. While many studies have focused on normative aspects, few have explored how values and knowledge of the law can contribute to social justice practices. Lack of elaboration on the implementation of social justice principles in globally diverse legal systems. In the context of globalization, legal systems in different countries often have different characteristics and challenges, so it is important to explore how social justice principles can be applied in a relevant way in each context.

Thus, this research will answer this gap by offering an interdisciplinary approach that combines philosophy of science and legal theory in analyzing the role of law in social justice. Through this approach, it is hoped that new ways of understanding and applying law can be found in the broader context of social justice, so that the law can function as a more effective tool to achieve desired social goals. Problem formulation in this study: How can law play a role as a tool to achieve social justice in Indonesia? And how can the perspective of the philosophy of science provide a deeper understanding of the relationship between law and social justice?

RESEARCH METHOD

This research is a normative juridical research using a qualitative approach with literature review methods and theoretical analysis. This method was chosen to explore in depth the concepts of social justice, the role of law, and relevant philosophical

perspectives in the context of the Indonesian legal system. The following is a breakdown of the research methods that will be used. This research combines legal theories with philosophy of science to answer research questions comprehensively, with descriptive-analytical: describing how law functions in realizing social justice and analyzing it based on the philosophy of science approach.

RESULTS AND DISCUSSION

Findings

This study found several main points related to the role of law in realizing social justice from the perspective of philosophy of science:

1. Law Functions as an Instrument of Social Transformation

Laws in Indonesia not only serve as a formal mechanism for regulating behavior, but also have the potential to be a transformative tool that can reduce social inequality through redistributive policies and protection of vulnerable groups.

2. Responsive and Progressive Legal Paradigm Supports Social Justice

The responsive legal approach (Satjipto Rahardjo) and progressive law show high relevance in the context of a pluralistic Indonesia. This approach places law as a dynamic living law that is sensitive to social realities, rather than just written rules.

3. The Concept of Distributive Justice Strengthens the Legal Normative Framework

John Rawls's principle of distributive justice becomes an important conceptual reference for designing legal policies that guarantee basic rights and equal access to resources. Its implementation is reflected in various social affirmation policies such as agrarian reform, social protection programs, and pro-education policies.

Positivist Law Requires a Balance of Moral Values and Social Context, H.L.A. Hart's approach to legal positivism which emphasizes legal certainty remains relevant to the stability of the Indonesian legal system. However, the separation of law and morality poses challenges when the law is faced with the issue of substantive injustice.

4. The Importance of Substantive Freedom in the Legal Development Paradigm

Amartya Sen's view of substantive freedom is an important contribution to the development of inclusive law. Law-based policies that provide access to economic facilities, education, and social protection support the creation of substantive freedoms for the poor.

5. Ethics of Community Justice as the Foundation of Social Cohesion

Alasdair MacIntyre's theory emphasizes the importance of social practices and virtues in forming community solidarity. In the Indonesian context, customary law and community-based development policies are tangible instruments in supporting social cohesion.

6. Philosophy of Science Provides an Epistemological, Ontological, and Axiological Foundation

The philosophy of science helps explain:

Legal ontology: law as an institution that contains the value of justice.

Legal epistemology: how legal knowledge is formed through rational interaction and community participation.

Legal axiology: law as a vehicle for achieving social goals in the form of welfare and justice.

Analysis

The Role of Law as a Tool to Achieve Social Justice in Indonesia

Law as a tool to achieve social justice in Indonesia can be analyzed through various relevant legal theories and philosophies of science:

Responsive Legal Theory

According to Satjipto Rahardjo (2014), the law should not only be a rigid formal instrument, but also a tool that is responsive to the needs of the community. Responsive law seeks to integrate social justice values in its formation and application. In the Indonesian context, responsive law can serve to address social inequality through regulations that support equitable redistribution of resources.

The responsive legal theory initiated by Satjipto Rahardjo is a relevant and contextual paradigm to be applied in Indonesia. This paradigm places law not only as a normative-formal instrument, but also as a dynamic mechanism in responding to the needs of society. Responsive law aims to create substantive justice, where law refers not only to the text of the rules, but also to evolving social values and realities.

According to Satjipto Rahardjo, the law must be a *responsive law*, namely a law that is able to listen to the needs and aspirations of the community. In this view, law is not only a tool of social control, but also a means of social empowerment. This means that the law must be able to provide space for the community to develop and achieve social welfare.

Responsive law does not see regulation as the ultimate goal, but as a tool to achieve justice and well-being. This refers to the principle that law must be a living law, namely a law that lives in accordance with the dynamics of society. Satjipto Rahardjo emphasized that "the law does not live in an ivory tower; it must be present and relevant in the midst of society" (Satjipto Rahardjo, 2007).

In the Indonesian context, responsive law is very relevant to overcome social inequality which is still a major issue. Inequality in the distribution of resources, both economic, educational, and health, can be overcome with regulations that favor vulnerable communities. A concrete example is the application of laws that support land redistribution through agrarian reform, as stipulated in the Basic Agrarian Law, which is in line with the concept of social justice in Pancasila.

The above is in line with what Mardona Siregar explained, that the implementation of progressive legal theory in Indonesia shows the potential to improve

welfare and justice, especially through more inclusive and participatory policies (Mardona Siregar, 2024). By applying progressive legal principles, the law can be a tool for community empowerment and protection for vulnerable groups. However, challenges remain, including resistance to change and bureaucratic barriers in the existing legal system.

Although this concept is ideal, its implementation faces great challenges, especially in terms of legal bureaucracy that tends to be rigid and less innovative. Law in Indonesia is still often seen as *a tool of power* rather than a tool of community empowerment. This is an obstacle in creating laws that are truly responsive to the needs of the people (Henry Arianto, 2010).

Satjipto Rahardjo himself admitted that this paradigm shift requires profound reform in legal education and the judicial system. He argues that "forming responsive laws is a long journey that requires courage to get out of the shackles of legal positivism" (Satjipto Rahardjo, 2002).

John Rawls's Theory of Justice

John Rawls in *A Theory of Justice* emphasized the principle of distributive justice, under which institutions must regulate the equitable distribution of rights and wealth. This principle is relevant for Indonesia, where laws can be designed to ensure the protection of vulnerable groups and equitable access to resources (John Rawls, 1971).

John Rawls, in his magnum opus *A Theory of Justice*, offered a revolutionary approach to justice through the principle of distributive justice. Rawls based his theory on the concept of *justice as fairness*, which emphasizes the equitable distribution of rights and wealth to create substantive equality in society. This theory is very relevant to be applied in Indonesia, where economic and social inequality is still a major challenge.

Rawls introduced two main principles in his theory, namely: The Principle of Freedom: Every individual has an equal right to basic freedoms that are compatible with similar freedoms for others, and the *Difference Principle*: Inequality is only acceptable if it brings the greatest benefit to the most disadvantaged groups and is associated with a position or position that is open to all under conditions of equality of opportunity (John Rawls, 1971).

These principles are rooted in the idea of *original position and the veil of ignorance*. In this position of origin, individuals design the rules of justice without knowing their social position, wealth, or status in society. This approach ensures that the resulting rules are non-discriminatory and fair to all parties.

In the Indonesian context, Rawls's principle of distributive justice offers a normative framework for addressing inequality rooted in social, economic, and legal structures. With significant poverty rates and glaring wealth distribution inequalities, laws in Indonesia can be designed to ensure protection for vulnerable groups.

For example, the allocation of budgets for education and health that focuses on remote areas reflects the application of the Difference Principle. Programs such as the Healthy Indonesia Card (KIS) and the Smart Indonesia Card (KIP) are real steps to provide fairer access to disadvantaged groups.

In addition, Rawls's principle of freedom is relevant to efforts to protect fundamental rights, including the right to freedom of speech, freedom of religion, and freedom from discrimination. Indonesian law, particularly through the constitution, can integrate these principles to ensure that the policies taken serve all levels of society fairly.

John Rawls's theory of justice is a strong philosophical foundation for creating a more just and inclusive society. In the Indonesian context, Rawls' principle of freedom and difference can be applied to improve socio-economic inequality through policies that prioritize vulnerable groups. Although structural challenges remain, the application of this theory through progressive public policies and laws can push Indonesia towards a more just society.

Rawls's view is of course very important and inspiring for a pluralistic society like Indonesia. To ensure our unity as a nation, the constitutional agreement that is the *basic structure of society* must be able to guarantee the principle of fairness. Without the principle of *fairness*, our unity as a nation will be very weak (Faiz. P. M, 2017).

The Legal Theory of Positivism H.L.A. Hart

Within the framework of legal positivism, Hart emphasizes the importance of a clear rule of law to create legal stability and certainty. However, in the context of social justice, positivism needs to be balanced with a moral approach to encourage the implementation of fair laws (H. L. A. Hart, 1961).

H.L.A. Hart, in his work *The Concept of Law*, makes a major contribution to understanding law through the framework of legal positivism. Hart emphasized that law is a system of rules that govern behaviour and provide structure to society. This approach prioritizes clarity, stability, and legal certainty as fundamental elements. However, this approach also faces challenges in the context of social justice, where law often has to come into contact with moral values in order to achieve substantive justice.

Hart developed a view of legal positivism that distinguishes between primary and secondary rules: Primary Rules: Rules that govern the direct behaviour of society, such as certain prohibitions or obligations. Secondary Rules: Rules that govern how primary rules are created, amended, or enforced, such as legislative procedures and court jurisdiction.

Hart also introduced the concept of the rule of recognition, which is a basic rule recognized by society as the source of legitimacy of all other legal rules. It provides a foundation for the legal system to create legal certainty. However, Hart firmly separates law from morality, known as the *separability thesis*. According to him, the law

does not have to reflect the morality of society, but rather functions as a tool to regulate social life (H. L. A, Hart, 1983).

In the Indonesian context, Hart's legal positivism is relevant to building a stable and structured legal system. As a country with high diversity, Indonesia needs clear and firm laws to regulate various aspects of life. Legal clarity and certainty, as Hart advocates, are essential in managing the relationship between governments, communities, and economic actors.

For example, the application of the law in the field of business and investment in Indonesia shows the importance of the rule of recognition. Regulations such as Law No. 25 of 2007 concerning Investment are the legal basis that provides certainty for domestic and foreign investors. In this case, legal positivism supports the creation of a stable investment environment.

However, in the issue of social justice, Hart's approach to positivism is often considered inadequate. For example, the implementation of agrarian law in Indonesia, which is based on the Basic Agrarian Law, sometimes does not reflect substantive justice for indigenous peoples and smallholders. This shows the need for a more inclusive approach, where morality and social values are also considered.

Although Hart provides a logical and systematic framework, the separation between law and morality is often a weak point. In many cases, formally legal laws can be at odds with society's sense of justice. For example, legal provisions that criminalize certain cultural expressions may be legal under the rule of recognition, but they are contrary to the values of social justice.

Hart himself acknowledged that law cannot be completely detached from morality. In certain contexts, such as criminal law, moral values are often the basis for rulemaking. Therefore, the approach to legal positivism must be balanced with a moral perspective to achieve broader justice.

Amartya Sen's Development Theory

Amartya Sen highlighted the importance of substantive freedom as a key indicator of development. The law plays a role in creating an environment that allows individuals to thrive and participate in social life. In Indonesia, the law can support this freedom through pro-poor policies (Amartya Sen, 1999).

Amartya Sen, in his work *Development as Freedom*, defines development as the process of expanding the substantive freedom that individuals have to live the lives they find valuable. Sen criticized the development approach that solely measures success based on economic indicators, such as per capita income or economic growth, without regard to the quality of human life. In this view, the law plays an important role in creating an environment that allows each individual to develop his or her potential and participate fully in social life.

Sen divides substantive freedoms into five types of instrumental freedoms: Political freedom: The right to participate in democratic processes and decision-making.

Economic facilities: Access to economic resources that enable individuals to improve their well-being. Social opportunities: Availability of education and health services. Transparency guarantee: Trust built through fairness and transparency in social interactions. Security protection: A social protection network to prevent individuals from falling into extreme poverty.

Sen emphasized that ideal development is not only about economic growth, but also about reducing injustices, improving the capabilities of individuals, and empowering vulnerable groups.

In Indonesia, Amartya Sen's development theory is particularly relevant given the major challenges in terms of poverty, social inequality, and access to basic services. Laws and policies can be effective tools for expanding people's substantive freedoms, especially for the poor and vulnerable.

For example, programs such as Direct Cash Assistance (BLT) and Smart Indonesia Card (KIP) reflect legal efforts to support economic facilities and social opportunities for the poor. These programs allow underprivileged communities to access basic education and services, which are essential elements of substantive freedom.

In addition, policies related to the protection of informal workers and access to health services through the National Health Insurance (JKN) show how the law can provide security protection to the community. This effort is in line with Sen's view that development must overcome the structural barriers that prevent individuals from developing.

Although pro-people policies have been adopted, implementation often faces obstacles such as corruption, inefficient bureaucracy, and a lack of public participation in the decision-making process. This creates a gap between development goals and the reality on the ground.

Sen also highlighted the importance of individual capabilities to take advantage of the freedom given. In the Indonesian context, pro-poor legal policies need to be accompanied by empowerment, such as job skills training or education, so that the community can fully enjoy the benefits of these policies (Amartya Sen, 1992).

Amartya Sen's development theory offers a humanistic and inclusive paradigm to understand development. In Indonesia, the law can be a key instrument in creating an environment that supports substantive freedoms, especially for the poor and vulnerable. However, the successful application of this theory requires greater efforts in terms of transparency, community participation, and individual empowerment. By adopting the Sen principles, Indonesia can move towards a more just and sustainable development.

Ethical Theory of Justice

Alasdair MacIntyre in *After Virtue* emphasizes the importance of virtue and community in achieving justice. In Indonesia, laws can be designed to encourage social

solidarity through policies that strengthen community cohesion (Alasdair MacIntyre, A, 1981).

Alasdair MacIntyre, offers a profound perspective on the ethics of justice rooted in tradition and virtue. In contrast to the often individualistic approach to liberal justice, MacIntyre emphasizes the importance of community in the formation of morality and the achievement of justice. In this view, justice is not only understood as a formal rule, but as the result of social practices that reflect the virtues and solidarity of the community.

MacIntyre argues that virtue is a moral disposition developed through social practices that have an intrinsic purpose (internal goods). These practices not only result in technical skills but also shape the character of the individual. Virtues such as honesty, courage, and justice can only develop in the context of a supportive community (Alasdair MacIntyre, A, 1981). In addition, MacIntyre emphasized the role of tradition in shaping moral values. According to him, a strong community must have a shared narrative that gives meaning to individual and collective actions. Justice in this context means building fair and supportive relationships between community members.

The Relevance of Justice Ethics to the Indonesian Context.

Indonesia, with its diversity, is a real example of a society that urgently needs a community-based justice approach (Rahmatullah wahid, 2020). In the legal context, MacIntyre's ethics of justice can be applied to designing policies that strengthen social solidarity and community cohesion.

For example (Surya Ananda, 2015), customary law in Indonesia reflects the principles of community that are in harmony with MacIntyre's ethics of justice. In customary law, dispute settlement aims not only to punish violators, but also to restore social harmony. This principle can be used as a model for the national legal system to create a more humane and inclusive justice.

Programs such as *community-based development* are also in line with this approach. Through policies such as the Village Fund, the government gives autonomy to the community to determine development priorities that are relevant to local needs. This approach not only empowers communities, but also strengthens social solidarity and trust between citizens.

Although MacIntyre's ethics of justice offers an ideal approach, its application in the Indonesian context faces several challenges. One of them is the influence of globalization and modernization that tends to erode local traditions. In addition, social fragmentation due to political polarization and economic inequality often weakens community cohesion.

To address these challenges, laws should be designed to strengthen the role of local communities as key actors in development. Public policies should encourage community participation and protect local traditions from the threat of cultural homogenization.

The perspective of the philosophy of science can provide a deeper understanding of the relationship between law and social justice.

The philosophy of science aims to understand the ontological, epistemological, and axiological foundations of science, including the science of law. In the context of the relationship between law and social justice, the philosophy of science helps dissect:

Legal Ontology and Social Justice

Legal ontology refers to what is meant by "law" itself and how law functions within the structure of society. In the context of social justice, legal ontology investigates whether law is merely a tool that regulates individual behaviour or whether law also has a mission to realize justice in society. Law as an institution is understood as a system that is not only normative but also reflects larger social values, such as justice and equality.

John Rawls, in his *A Theory of Justice*, argues that an ideal legal system is one that creates the principle of justice as *fairness*, in which individual rights are guaranteed in an "original position" governed by the principle of justice that is fair for all. This concept emphasizes that law should be able to create a social system that not only regulates relationships between individuals but also creates a balance in the distribution of resources that takes into account equality of opportunity for all.

Legal Epistemology

Legal epistemology focuses on how we acquire knowledge about law and how that knowledge shapes our understanding of social justice. In relation to social justice, legal epistemology looks at how law accommodates empirical and normative knowledge to assess whether the law meets the principles of social justice. In other words, how do we know that the law is truly just and fulfills the purpose of social justice?

Hans Kelsen in *General Theory of Law and State* talks about "normativism" which emphasizes that law is a system of norms independent of moral values. However, this does not mean that law cannot accommodate the values of social justice, because within this framework, law aims to create social order based on clear and structured norms (Hans Kelsen, 1945). Meanwhile, a critical philosophical approach as expressed by Jürgen Habermas in *Between Facts and Norms* introduces the concept of rational communication that is important in creating legitimate and just law, which focuses on the consensus of society in defining justice (Habermas, 1996). This perspective provides an epistemological basis for stating that social justice can be evaluated through rational and inclusive community participation.

Legal Axiology

Legal axiology is a branch of philosophy that focuses on the value generated by law. In the context of social justice, it has to do with the question: what values does the legal system promote? Does the law support the welfare of society as a whole, and is it fair for all individuals, including marginalized groups?

Habermas also discussed the importance of truth and justice in the context of law as the achievement of inclusive societal values. Law serves as a tool to achieve social goals, namely equal social welfare and justice. Therefore, the axiology of law in relation to social justice emphasizes how law regulates resources, rights, and freedoms to ensure that all citizens benefit equally from the social structure.

Law is not only a set of rules, but also a tool to achieve social goals, namely justice. In the philosophy of law, the natural law theorist (Thomas Aquinas) states that a just law is a law that corresponds to universal morality. Meanwhile, the theory of legal positivism (Hans Kelsen) emphasizes the importance of the formal structure of law without ruling out justice as the ultimate goal of law.

John Rawls's Theory of Justice: The perspective of justice as fairness provides normative guidance on how the law should operate to create equality. Rawls said that social justice is achieved when the law reflects the principles of liberty and equality agreed upon in the "original position." Habermas also explained the importance of rational and inclusive communication to create legal legitimacy that supports social justice.

The perspective of the philosophy of science deepens the understanding of the relationship between law and social justice through critical reflection on how the law is applied and its impact on marginalized communities. For example, the importance of affirmative action policies to address social inequality can be seen as a concrete manifestation of distributive justice.

CONCLUSION

Law can play a role as a tool to achieve social justice in Indonesia if it is designed and applied in a responsive manner to the social, economic, and cultural realities of society. Through its role as a tool for social transformation, the law is able to create more inclusive policies, such as progressive laws in the areas of taxation, social security, and the protection of vulnerable groups. By integrating social justice values into the process of legislation, law enforcement, and judicial practice, law becomes not only a formal mechanism, but also an effective instrument in distributing rights, resources, and opportunities more equitably in society.

The philosophy of science perspective provides a deeper understanding of the relationship between law and social justice by examining aspects of legal epistemology, ontology, and axiology. This approach allows the exploration of how legal knowledge is produced and applied (epistemology), the nature of law as an adaptive social tool (ontology), and the values of social justice that underlie law (axiology). Thus, the philosophy of science contributes to the development of a comprehensive framework of thought to design laws that are able to respond to global challenges, such as social inequality and structural injustice, as well as create a legal system oriented towards substantive justice.

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