

Religious Cosmology Indonesian Legal Studies (Basic Philosophical Understanding of Indonesian Law Based on Wisdom)

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Religious Cosmology Indonesian Legal Studies (Basic Philosophical Understanding of Indonesian Law Based on Wisdom)

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Abstract

The way of thinking of the Indonesian people is based on the pre-establish harmony which is cosmic, integral and beyond human consciousness. The highest wisdom is at the cosmic level (a macro cosmos). Efforts to penetrate it are done through taste and not ratio. Cosmic harmony recognizes also the intertwining of the past, present and future. From this point of view science, religion and philosophy are never seen as contradictory things. Nature (environment), Man and the Divine are closely intertwined. This leads to our understanding that Indonesian philosophy is metaphysical. The highest science is not knowledge of rational truth but a kind of ability to access pre-establish harmony which is cosmic metaphysical. This description provides a fairly broad understanding of the condition of the soul or spirit of philosophy to Indonesia.

Religious cosmology is the distinctive identity of Indonesian legal science based on the value of living wisdom, based on the soul or spirit of Indonesian philosophy. Religious cosmology of jurisprudence describes the beauty and fullness of meaning, value, soul, desire, dignity, personality, sociality, rationality, relationality, dialogueality, culturality, religiosity, naturalness, genuity, historical tradition on legal science in the context of Indonesia. or a wisdom-based legal science or wisdom-based legal science. Therefore, in the science of law there is a strong relationship between humans, God and the universe.

Keywords

Legal science cosmology, pre-established harmony, metaphysical cosmic

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Introduction

Debates about legal scholarship continue to roll on as the nature of science itself, not infrequently differences in views trigger a prolonged polemic due to the complexity of the issues studied, however, the spirit to initiate legal science based on Indonesian values continues to grow and strengthen, as shown by Indonesian thinkers such as Satjipto Rahardjo (2009a; 2004), and Arief Sidharta (2013). Esmi Warassih's (2016, 2021) ideas, about pluralistic spiritual values, Islamic concepts developed by Absori and Kelik Wardiono (2015) through prophetic law, or young thinkers from later generations as works are spread today. This is a form of commitment to building a legal scientific order based on Indonesian values.

Since Indonesia has transplanted laws from the West, the consequence is that all aspects of philosophy, theory, science, thoughts or ideas refer to the Western understanding. (Anthon F. Susanto, 2015) The transplant process is not simple, when the legal substance is transplanted, all components of the legal system, both structure and culture, are brought in, as is the essence of a legal system, one part related to another. Society is then polarized (formed) through stages known as internalization, objectivation and externalization processes, gradually people see and feel that modern (liberal) Western-style laws are compatible with their lives. Western legal institutions enter through a rational - bureaucratic legal system. Society hegemony and experience pleasure (ecstasy) in applying the Western legal system. In this phase, the community begins to enter the stage *legal simulacra*, law namely the behavior of pretending in (Anthon F. Susanto, 2015).

Is legal science characterized by Western values in accordance with the scientific reality in Indonesian society? The problem is not simple, considering that people live in both tradition and modernity which we know as "glocal" reality. Glocal (with global values maintaining a local essence) is paradoxical, on the one hand globalization has eroded local values, on the other hand, people are trying to preserve their ancestral heritage. Ancestral heritage is something that is (considered) sacred, sacred and becomes a guide in everyday life. This is the "soul" or "spirit" of the local community, the foundation of life that is not just a word but manifests in daily behavior. The soul/spirit of this society is a struggle for humanity that has been going on from generation to generation, not lost but always mutating or symbiotic with values that emerge later. (Anthon F. Susanto, 2019).

What is meant by soul and spirit is a way of thinking that can be said to be Indonesian philosophy, based on a *pre-establish harmony* that is cosmic, integral and transcends human consciousness. The highest wisdom is at the cosmic level (a macro cosmos). (Anthon F. Susanto, Mella ismelina Farma Rahayu, 2021). Efforts to penetrate it are done through taste and not ratio. Cosmic harmony recognizes also the intertwining of the past, present and future. From this point of view religion and philosophy are never seen as contradictory. Nature (environment), Man and the Divine are closely intertwined. This leads to our understanding that Indonesian philosophy is metaphysical. The highest science is not knowledge of rational truth but a kind of ability to access *pre-establish harmony* which is cosmic metaphysical. This description provides a fairly broad understanding of the condition of the soul or spirit of philosophy to Indonesia.

This paper is a resume of research results that aim to build a new concept (model) of legal scholarship in Indonesia. This paper looks back at the idea of an Indonesian soul which tends to be forgotten by the digital acceleration that leads life to freedom and materialism. Society is presented with an abundance of goods and services, as well as the ease of obtaining them and society is presented with intoxicating pleasures that lead to hedonic behavior. The forgotten soul is a characteristic of a society that relies on "*pre-establish harmony*". (Aryaning Arya Kresna, 2014). This is an insight into philosophical wisdom, namely religious cosmology, which lives in local communities. Religious cosmology is essentially the philosophical foundation of Indonesian law.

The Identification of The Problem

Cosmology in Legal Studies in the West is hegemonized (very strongly) by Positivism as the biological child of the Cartesian-Newtonian paradigm which makes legal science a reductionist and very formal (formalism) imbued with liberal-materialist values. The purpose of legal scholarship is only for the benefit of science, and has never been in contact with the needs of the community. Legal Positivism as the dominant philosophical school separates the science of law from the reality of morals, ethics and spiritual values. Cosmology Legal positivism, which is a legacy of Cartesian-Newtonian thought, explains that law is nothing but a mechanical machine governed by the law of cause and effect and has nothing to do with spiritual reality. Legal science is very textual and

formal which focuses more on the game of rules and logic (*rules & logic*). This scientific cosmology is very incompatible with the cosmology of Indonesian society based on spiritual wisdom, so that there is a gap between the scientific aspects of law and the underlying reality which results in law enforcement falling apart.

Research Methods

This paper explains philosophically about the religious cosmology of Indonesian law, by first describing the characteristics of Western law. This paper is the result of research using a philosophy of science approach, a philosophy of law approach and also a conceptual approach. The use of these diverse approaches is intended so that Unu's writings can describe the essence of science from an ontological point of view between different regions, namely the liberal-materialist cosmology of Western Law and the religious cosmology of the Indonesian people. The use of the triangulation approach above is very useful for explaining various issues related to the latest developments, both from an internal point of view and from the perspective of global scientific developments.

Results and Discussion

The hegemony of the Cartesian-Newtonian paradigm as a world view is closely related to the historical reality, that modern civilization is indeed built on the basis of ontology, cosmology, epistemology and methodology proclaimed by the two leading figures of modernism. This paradigm is *worldview* perspective that is pervasive and contains certain ontological and epistemological assumptions, visions of reality and value systems. Paradigms contain two main components, namely *basic principles* and *intersubjective awareness*. The Cartesian-Newtonian naming is based on several things, namely (a) Descartes and Newton are the two most influential figures or scholars in the formation of modern science and civilization, (b) Descartes and Newton represent the development of modern philosophy and science. Descartes is known as the father of modern philosophy, so Newton is dubbed as the founder of modern science and the Newtonian school of cosmology and classical physics. (Anthon F. Susanto, 2010) (Anthon F. Susanto, Mella Ismelina, 2021).

The cosmological assumptions of this paradigm include: (a) *subjectivist – anthropocentric*, (b) *dualism*; (c) *Mechanistic-deterministic*; (d) *Reductionist-atomistic* (Anthon F. Susanto, 2010). This assumption later became the cosmological basis of Positivism, namely a pervasive philosophical (science) understanding that even tends to become a dogmatic religion because it has institutionalized its world view into a doctrine for science. The characteristics of Positivism are: (a) Objective/value-free (b) Phenomenalism; (c) Nominalism; (d) Reductionism, (e) Naturalism, thesis on the regularity of events in the universe which negates supernatural (super-natural) explanations. The universe has its own structure and derives its own structure; (f) Mechanism, the thesis that all phenomena can be explained by principles that can be used to explain machines (mechanical systems). The universe is likened to a *giant clock work*.

Progress that is built on the basis of Cartesian Newtonian cosmological and Positivism occurs in all fields, but progress is no more than mere physical progress, without spiritual progress. Tall buildings, economic adequacy, technological developments in various fields to digital intelligence (*artificial intelligence*). Science is separated from its spiritual aspect, so it is suggested that science only deals with physical, fact and material matters, while spiritual values are religious and sacred matters.

Positivism also penetrated Legal Science which gave birth to the flow of Legal positivism. This flow hegemonized legal reality so that legal science was separated from the spiritual aspect. Legal Positivism has the following characteristics: (Anthon F. Susanto, 2010) (1) *Dualistic*: Legal Positivism sees the law of something as always being dualistic, for example the separation between morals and law, the separation of law from the point of view of form (*form*) and its content (material); (2) *Reductionist*: Legal positivism always sees the law as a *system* that can be sorted and stripped down from the largest to the smallest. Laws are reduced to only positive texts, or only orders formalized by certain authorities. (3) *Mechanistic*: Legal Positivism in explaining relations/relationships is always mechanistic. Law is described as a mechanical machine, either in the form of a hierarchy of statutory rules or also the arrangement of societal norms. Law is always seen as a machine consisting of many components where the components work mechanistic -

deterministic, in other words this philosophical assumption sees law as a large machine that moves in an orderly and definite manner.

(4) *Closed*, this description explains that Legal Positivism adheres to a closed (exclusive) legal system from changes and other disciplines. The law must be cleared of non-legal elements (including spiritual elements) showing this closed view. (5) *The rules and logic*, in the closed legal system then will apply the rules and logic (*rules and logic*) with concepts subsumsi, derogation and non-contradiction. The structure of the rules is embedded logic, using the term "principles" or legal principles. These legal principles/principles are the main basis for the movement of the law. The principles or the main basis of this law are drawn from the values above it (compromise/not absolute). Then the principles or principles are concreted into norms or rules and concreted again into rules, namely articles that regulate concrete actions.

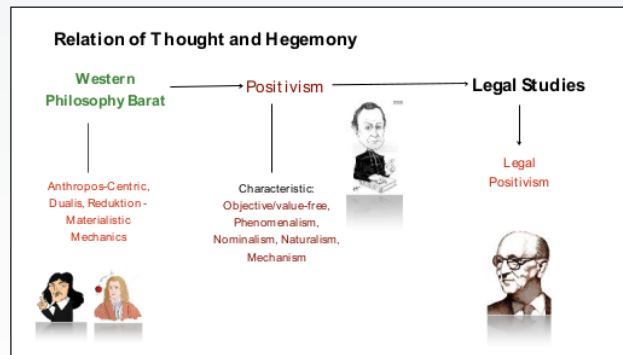


Exhibit 1 – Characteristics of Western Philosophy, Positivism and Physical Science

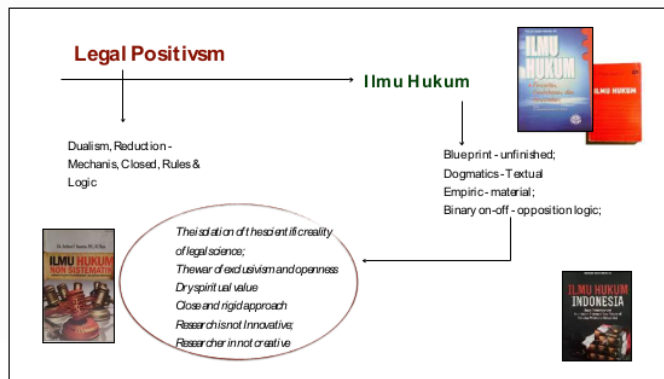


Exhibit 2. Implications of Positivism on Legal Studies

Efforts to integrate science with religion were born as a form of resistance to reality that tends to be factual and materialist, this effort is getting stronger in the decade of the 21st century. The goal is to find a gap that can be reconciled to create a new and better understanding. Philosophers such as Ian G Barbour (2000), Huston Smith (2003) did many things to explain the relationship between religion and science. Muslim philosophers such as Mullashadra did scientific synthesis (Mullashadra, 2011), Sayyed H. Nasr (2017), and others explained science from a spiritual perspective. The relationship between spirituality - religion and science is a hot and interesting topic to study (Kuntowijoyo, 2004), although many of these ideas cannot be resolved. The emergence of quantum physics makes efforts that used to be unreasonable to begin to find its essence, as explained by Sean Carroll (2021) that quantum mechanics is not magic, but the most comprehensive and profound perspective on the reality of the world and is also the best theory, full of mystery and magic-like . The human perspective on humans, nature and God has changed, especially with the emergence of spiritual studies such as Fritjof Capra (2001, 2004, 2008, 2010), Gary Zukaf (2003), Huston Smith (2003) Bruce Lipton (2019), Gregg Braden (2018), Mark Thurston

(2019), and many others.

When modern science is crushed by human greed, when humans place themselves above nature, what happens is exploitation. When humans give up their human values, science only becomes a means of satisfying lust to achieve the desired goal. Life is seen as the pursuit of gratification so that nature is damaged, and life is meaningless. Legal science should be based on behavior which contains the value of wisdom in interpreting the law, in order to be able to explain the main essence of life itself, which can provide a sense of freedom, meaning to life. If law is interpreted broadly from just a formal text, then the sense of morality, ethics, character and wisdom in it will easily be present, so that legal science will depend heavily on its spiritual aspects. Religious cosmology can manifest through various forms in life, manifesting in the form of awareness of diversity that guides legal life, which can reflect a good legal life in society. Because the main essence is that the law is a value that is manifested in behavior, that a good life is the basis of a good law. Society is the basis of law, thus community behavior is the essence of law, as a driver of law, even the law itself. To present a society with good quality, we need a way of living and working together and to realize that we need *trust* (Satjipto Rahardjo, 2009b).

Religious cosmology is the distinctive identity of Indonesian legal science based on the value of living wisdom, based on the soul or spirit of Indonesian philosophy. The religious cosmology of the study of law describes beauty and the fullness of meaning, value, soul, desire, dignity, personality, sociality, rationality, relationality, dialogueality, culturality, religiosity, naturalness, genuity, historical traditions about legal science in the context of Indonesia. or a wisdom-based legal science or wisdom-based legal science. Therefore in the science of law there is a strong relationship between humans, God and Nature in the formation of the science of law.

This trust and tendency to work together is a symbol of a healthy society, a good life and good behavior and character. This position that is needed is honesty, politeness, trustworthy, respect for others, caring for others, is an example of a good life. The higher the quality of these attitudes and actions, the higher the quality of the community. It is only in the next layer that we talk about law, and law is nothing but a thesis mirror of the behavior of the community. Law is nothing but behavior and behavior, so the purpose of law is none other than humans. And the human factor is a symbol of the elements of *compassion, empathy, sincerity, dedication, commitment, dare and determination*. (Satjipto Rahardjo, 2009a).

Cosmic understanding may manifest in ideas and ideas that are considered as the umbrella paradigm for the legal order operating in a society, for example regarding legal ideals, namely the embodiment of ideas, intentions, creativity and thoughts regarding law. This legal ideal is formed in the minds and hearts of humans as a product of the unification of life views, religious beliefs and the reality of society. Indonesian people have the ideals of Pancasila law and Legal Studies must refer to these aspects. Pancasila is the 'base-values' and at the same time the 'goal-values'. All of the values in Pancasila are united by the principle of unity in difference and difference in unity, which animates the basic structure of human existence in togetherness which is formulated in the phrase "Bhineka Tunggal Ika". (Arief Shidarta, 2013).

The cosmic religious wisdom, of course, has a character that is attached to the locus (place), from which it is drawn an adjective, local (related to place). Locus in philosophy does not just say a geographical point of view but human life related to the region. Timpai lives in an area not only in the form of plains or mountains or the coast or forests, rice fields, but also describes a wisdom where it grows and develops. Locality basically shows the relationship between humans and nature, God who is above his life and his fellow human beings. Their relationship with the context of life is often embodied in existing myths, legends, or symbols, such as buildings and nature, which then give birth to fascinating wisdom called *local wisdom*, local stories or people's stories. (A Setyo Wibowo, 2019). Human relations with the context of their lives have a finding of awareness of the sacred, which transcends, so that the sacred is not based on the teachings of the doctrines of religious institutions, but from the inner consciousness of man. (Fleet Riyanto, et al. 2021).

Legal science, based on religious values in which there are values of wisdom and tolerance of the depths of the Indonesian human heart, respect for civilized human values, unity and togetherness with the aim of elevating the nobility of human dignity, based on exemplary (ahlaq) which leads to efforts to create social justice. Legal science based on spiritual values is essentially based on a dynamic (liquid) life and based on legal reality, namely the reality of community wisdom. Law is holistic/whole, not only based on rationality but also conveys a sense of fulfillment of truth. Legal Studies based on diversity awareness (plural and multi-cultural, spiritual wisdom); Law is an exemplar of hermeneutics. All of the characteristics of the Legal Studies above, are integrated or converted through Ahlaq. This is a spiritual understanding in a broad sense, namely placing Ahlaq

in the process of seeking truth. Legal science is meaningless and cannot work properly if it is not guided and driven by behavior. This is the basis for understanding the religious cosmology of Law at an early stage. Not only religious aspects (spiritual religious), but also ancient wisdom, human values, morality and ethics become an inseparable part.

The development of a very strong understanding and criticism in the West itself of the concept of separating the value of spirituality from the legal aspect, continues to strengthen, at least we find it from some western thought or philosophers and scientists who have begun to look at the existence of a spiritual cosmological understanding in legal science, even though it is increasingly difficult. explained empirically, so to enter it the approach to science must also be improved.

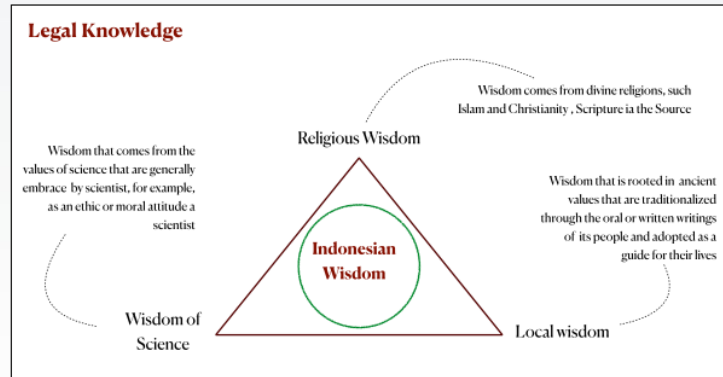


Exhibit Ragaan 3. Wisdom of Legal Studies

Closing/Conclusion

For legal science, the integration of spiritual understanding as a cosmological aspect is essentially: (1) combining aspects of form and content, spiritual aspects are filling aspects of the form of legal science, thus perfecting aspects of science for the benefit of humans; (2) Integrating substantial aspects with material aspects, that the science of law is essentially concerned with physical, material, text, and factual aspects, while the spiritual aspects of legal science will be related to substantial values, namely being the direction for the science of law. , as a direction to go where. (3) Incorporating belief, spirituality, avoids legal science only prioritizing aspects of rationalism, this makes legal science fatalistic, banal, because it only talks about aspects where ratio is the tool. (4) The spiritual aspect is always eternal while the factual aspect is very bound by space and time: (5) Separating the spiritual aspect and being more oriented to worldly concepts, while the science of law is not only for worldly interests but also its essence to prepare for another better life.

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