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RESEARCH ARTICLE

THE FUTURE DEVELOPMENT AND PRACTICE OF LAW BASED ON DIGNIFIED JUSTICE

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Abstract

The theory of Dignified Justice (Keadilan Bermartabat) offers a philosophical and practical framework for understanding and advancing Indonesia's legal system. Rooted in Pancasila, it emphasizes the alignment of legal principles with Indonesia's cultural and philosophical identity, aiming to humanize individuals (nguwongkeuwong) while fostering justice, utility, and certainty. This theory addresses gaps in existing legal practices and theories, proposing a holistic approach that integrates ethical reasoning and interdisciplinary methods in legal processes. It highlights the importance of balancing state development goals with the protection of individual rights, advocating for law as a regulator and stabilizer in societal and legal reforms. By exploring judicial decisions, legislation, and legal philosophy, Dignified Justice provides actionable insights for building a just, equitable, and humane legal system. This abstract reflects on its potential to navigate modern challenges such as corruption and social injustice while aligning legal practice with Pancasila's values for societal harmony and sustainability.

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Introduction

This scientific discourse begins by exploring the essence of the theory of Dignified Justice (Keadilan Bermartabat¹), a uniquely Indonesian legal theory. Despite the inclusion of the term "justice" within its name, this theory is not merely one among the various types of justice that serve as the focus of legal axiology within the philosophy of law. Unlike Aristotelian concepts such as distributive or commutative justice, Dignified Justice does not represent a specific value or approach within the legal framework. Instead, it transcends conventional categorizations, positioning itself as a philosophy of law rather than an object of legal science. The theory of Dignified Justice is also distinct from methodologies or approaches such as restorative justice, which serves as a principle for resolving criminal cases. While restorative justice has garnered significant attention and is now integrated into legal

¹The essence or definition of the Dignified Justice Theory (Teori Keadilan Bermartabat) has been comprehensively addressed in several works by Teguh Prasetyo. The foundational explanation is found in Teguh Prasetyo, *Keadilan Bermartabat Perspektif Teori Hukum*, First Edition, Nusa Media, Bandung, 2015, p. 1. A similar discussion is provided in Teguh Prasetyo, *Hukum & Teori Hukum Perspektif Teori Keadilan Bermartabat*, First Edition, Nusa Media, Bandung, 2020. Additionally, a broader exploration is offered in Teguh Prasetyo, et al., *Hukum dan Keadilan Bermartabat: Orientasi Pemikiran Filsafat, Teori dan Praktek Hukum*, First Edition, K-Media, Yogyakarta, 2022

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dogmatics, Dignified Justice functions as the foundation of Indonesian Jurisprudence, the essence of Indonesia's legal philosophy. It cannot be equated with the objects of legal inquiry such as those explored in normative legal studies. Hence, this theory cannot serve as an object of investigation.

Philosophy of law operates at the meta-meta level of theorization. A meta-theory may serve as an object, but a meta-meta-theory transcends objectification, existing at the apex of the hierarchy of legal science. As a philosophy, Dignified Justice reflects upon itself, placing it beyond the reach of conventional academic inquiry. Dignified Justice is widely employed in both academic and practical contexts. In academia, it is adopted as a grand legal theory by postgraduate and doctoral researchers to analyze and uncover findings in legal studies. Additionally, it is incorporated into the curriculum for the education of military judges. In practice, the theory serves as a reference for judges across various courts, including Religious Courts, Administrative Courts, Military Courts, District Courts, High Courts, and even the Supreme Court, where it informs judicial reasoning and decision-making. The Supreme Court of Indonesia has further institutionalized the concept by adopting the theme of "Dignified Judiciary" in its annual reports, signaling the practical relevance of the theory in advancing Indonesia's legal framework.

It is crucial to emphasize that the designation of Dignified Justice as a "uniquely Indonesian legal theory" does not imply isolation from global legal discourse or opposition to ideas originating from Western legal traditions. Rather, this theory reflects the capacity of the Indonesian legal system to develop and innovate independently, drawing upon its indigenous legal materials and cultural heritage. The theory aligns with Pancasila, the foundational philosophy of Indonesia, positioning it as the pinnacle of legal thought in the structure of Indonesian legal science. Through exploration of primary legal sources, including legislation and binding judicial decisions, Dignified Justice embodies the axiological spirit and soul of the Indonesian nation. This introduction establishes the framework for understanding Dignified Justice not as a derivative or subordinate legal theory but as a cornerstone for building a uniquely Indonesian legal system that remains open to constructive engagement with global legal traditions.

Justice concepts, such as those proposed by Aristotle (e.g., distributive or commutative justice) or restorative justice as an approach in resolving criminal cases, are distinct from Dignified Justice (Keadilan Bermartabat). These concepts serve as objects of legal inquiry, while Dignified Justice operates as a meta-meta theory, transcending the scope of such investigations. This distinction highlights its position as a philosophy of law that reflects upon itself, placing it at the highest level in the hierarchy of legal science and beyond the realm of objectification.

Dignified Justice has been widely adopted in both academia and legal practice. Academically, it functions as a grand theory employed by legal researchers, particularly at the master's and doctoral levels, to analyze and generate findings in legal studies. It has also been integrated into the curriculum for training military judges. In practice, judges across various courts, including the Supreme Court, refer to this theory when formulating legal considerations. The Supreme Court even uses the concept of "Dignified Judiciary" as a thematic framework in its annual reports.²³ It is essential to clarify that the characterization of Dignified Justice as an "authentic Indonesian legal theory" does not suggest isolationism or opposition to foreign legal thought, particularly Western legal traditions. Instead, it emphasizes Indonesia's capacity to independently build and innovate within its legal system, utilizing resources derived from its own legal and cultural foundations. This theory illustrates Indonesia's ability to advance legal thought authentically, without disregarding the contributions of other nations.

Within the framework of Dignified Justice, Pancasila is understood as the philosophy of law and the highest manifestation of the Indonesian legal system's Volkgeist.⁴⁵ Unlike Von Savigny's concept of Volkgeist, which faces

²Several case numbers can be cited as examples: Decision No. 2893K/Pid.Sus/2017, Decision No. 2647K/Pid.Sus/2017, Decision No. 712K/Pid.Sus/2022, Decision No. 704K/Pid.Sus/2020, Decision No. 4056K/Pid.Sus/2020, Decision No. 110K/Pdt.Sus-PHI/2014, Decision No. 144/Pid.Sus/PN. Brb

³ The Supreme Court of the Republic of Indonesia published the Executive Summary of the 2023 Annual Report under the theme "Strong Integrity for Dignified Judiciary". The report highlights the judiciary's commitment to upholding justice and maintaining public trust through integrity-driven practices. For further details or inquiries, the Supreme Court's contact information is as follows: Address: Jl. Medan Merdeka Utara No. 9-13, Jakarta Pusat, DKI Jakarta, Indonesia 10110 Phone: (021) 3843348, 3810350, 3457661 Email: persuratan@mahkamahagung.go.id

⁴Teguh Prasetyo, *Penelitian Hukum Suatu Perspektif Teori Keadilan Bermartabat*, Cetakan I, Nusa Media, Bandung, 2019, h., 36.

criticisms such as its inability to sufficiently explain the essence of societal values, Pancasila in the context of Dignified Justice is presented as the ultimate source of all legal values. It represents a convergence of divine and human reasoning, shaping the foundation of the Indonesian legal system, referred to as the Pancasila Legal System.

Development and Legal Practice

The Pancasila Legal System positions Pancasila as both the highest guiding principle and the foundation of the legal structure.⁶ Its ultimate aim, as proposed by Dignified Justice, is to "humanize humans" (nguwongkeuwong), alongside intermediate goals such as justice, utility, and legal certainty. The system adheres to fundamental principles, including belief in God, humanity with dignity, Indonesian unity, democracy led by wisdom, and social justice for all. These principles are integrated into a cohesive whole, emphasizing their interdependence within the legal framework. Social justice, for instance, is inseparable from other principles and underpins equality before the law. It affirms the role of individuals as subjects, not objects, of the law. This contrasts sharply with colonial systems, which relegated individuals to subservient positions. With Indonesia's independence, this approach was replaced by a democratic legal system rooted in Pancasila, which also rejects theocratic systems inconsistent with Indonesia's diverse religious and cultural heritage.

Pancasila further informs legal values articulated through legislation and judicial decisions, including fundamental legal principles such as the rule of law, nationalism, mutual cooperation (gotong royong), welfare state ideals, and principles of good governance. These principles manifest across various dimensions, such as religion, economics, politics, and culture, and are reflected in legal norms and jurisprudence established through legal reasoning (rechtsvinding).

Dignified Justice encourages the exploration of these values and principles, both through legislation and through court rulings with final and binding authority. Law, as understood within this theory, comprises rules, principles, institutions, processes, and legal reasoning necessary for regulating societal life. Legal regulations and binding judicial decisions are seen as manifestations of Indonesia's Volkgeist, which ultimately derives from Pancasila. This connection illustrates how law in Indonesia embodies its cultural and philosophical identity.

A key postulate of Dignified Justice, acknowledged in Indonesia's constitutional concept of a "state based on law," is that all human and societal activities, including development and reform across various fields, must be governed and guided by law. Within this framework, such activities are understood as efforts to humanize society through law. Here, "humans" encompass both individuals and corporate entities that create, uphold, and are governed by law. Law, as defined in this theory, includes the norms, principles, institutions, and processes necessary for implementing justice and ensuring societal harmony.

According to the theory of Dignified Justice (Keadilan Bermartabat), the essence of law as a guiding force in societal development or renewal is to "humanize humans" within society. This idea aligns with the view of the late Prof. Mochtar Kusumaatmadja, who equated the concept of "development" with "renewal."⁷ The function of law in national development, as he noted, is synonymous with its role as a tool for societal renewal. Law and development are thus inseparable, and within this relationship, the function of law is specifically framed in Dignified Justice as the means to humanize humans as noble creations of God.

⁵Philosophical thinking is characterized by its systematic nature. Systematic thinking, or a system, refers to a holistic arrangement of interrelated elements organized in a structured manner to achieve a specific purpose or fulfill a certain role. This concept emphasizes coherence and interconnectedness within a framework aimed at reaching defined objectives. This perspective is elaborated in Teguh Prasetyo and Abdul Halim Barkatullah, *Filsafat, Teori, & Ilmu Hukum: Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat*, First Edition, RajaGrafindo Persada, Jakarta, 2012, pp. 3-4.

⁶Teguh Prasetyo, *Sistem Hukum Pancasila (Sistem, Sistem Hukum dan Pembentukan Peraturan Perundang-Undangan di Indonesia) Perspektif Teori Keadilan Bermartabat*, Cetakan I, Nusa Media, Bandung, 2016; Bdnk dengan Teguh Prasetyo, *Hukum dan Sistem Hukum Berdasarkan Pancasila*, Cetakan Pertama, Media Perkasa, Yogyakarta, 2013; Bdnk juga dengan Teguh Prasetyo dan Arie Purnomosidi, *Membangun Hukum Berdasarkan Pancasila*, Cetakan I, Nusa Media, Bandung, 2014.

⁷Mochtar Kusumaatmadja, *Konsep-Konsep Hukum dalam Pembangunan (Kumpulan Karya Tulis)*, Cetakan ke-4, Alumni, Bandung, 2013, h., 87-88.

Dignified Justice views law as a leader and guide for both individuals and society. Humans and society are inseparable within the scope of law, which aims to develop and renew humans within their societal context. Law serves to ensure that wherever it operates, it promotes humanity rather than objectifying individuals. This principle establishes the integral relationship between law and development, with the ultimate goal of law being the humanization of individuals within society.

When individuals seek, acquire, or exercise power—often regarded as one of the most pervasive material elements in society—law provides the framework for directing and controlling such power. This control ensures that power, when sought, obtained, or wielded, aligns with its purpose and does not deviate from its lawful essence. Legal oversight of power operates within the unified values of Pancasila and its derivatives, as expressed in Indonesia's hierarchy of laws and binding judicial decisions. The regulation of power, as emphasized by the late Prof. H.R. T. Sri Soemantri, aims to prevent its misuse.⁸

Pancasila, as the highest law with its foundational principles, ensures that individuals or legal subjects in society seeking, holding, and exercising power act in accordance with its principles: belief in God, a just and civilized humanity, Indonesian unity, democracy guided by wisdom in representative deliberation, and social justice for all. These principles embody the role of Dignified Justice in positioning Pancasila as the soul of the Indonesian nation, the highest law, and the meeting point between divine and human reasoning. Pancasila functions as a legal system that governs societal development and renewal, including the development of the law itself, with the ultimate aim of humanizing humans. This clarity, absent in Savigny's Volkgeist concept, is elucidated within Dignified Justice.

In various domains, including economics (e.g., business activities), politics (e.g., the pursuit and exercise of political power), culture, science, and technology, development must adhere to and be guided by law. This principle is firmly rooted in the "spirit of the nation" as articulated by Dignified Justice and is explicitly stated in Article 1(3) of the Constitution of the Republic of Indonesia: "The State of Indonesia is a state of law." This enshrines the legal foundation upon which all aspects of development and renewal must rest, ensuring that all activities align with the principles of justice, humanity, and the values of Pancasila.

Result and Discussions:-

The understanding based on Dignified Justice outlined above is essential in assessing the current state of the relationship between law and legal practice. This importance arises because, in efforts toward societal development or renewal—such as the pursuit of material prosperity—there are frequent reports of misuse. Governments or individuals within government institutions, whether through executive actions or legislative products such as regulations, often exploit or disregard the law under the pretext of "development or renewal." These actions result in the violation of individual or citizen rights, the creation of regulations, and judicial or administrative decisions that harm ordinary citizens' interests, even to the detriment of the national economy.

From the perspective of Dignified Justice, it is understandable that in a modern society, such as a welfare state, law often becomes a justification for state intervention in the daily lives of individuals or citizens. However, such interventions sometimes lead to conflicts of interest. On one hand, the state sees it as its duty to use its power for the benefit of the public as a whole. On the other hand, individuals seek to maintain their dignity, rights, freedoms, and independence.

In this context, based on the philosophical foundation of Dignified Justice, future legal practice and development must ensure that the law, legal institutions, and legal processes function as effective regulators and maintain balance, order, and equitable utility while upholding legal certainty. Societal development or renewal requires law as a tool, but this must align with the principles of Dignified Justice. In this regard, it is imperative for the incoming government, led by President Prabowo Subianto and Vice President Gibran Rakabuming Raka, to uphold the principle that law should not only regulate and maintain balance but must also be regulated to ensure that it does not merely produce regulations and judicial decisions for their own sake. Rather, such regulations and decisions must become instruments of societal development and renewal that adhere to the integrated principles of Pancasila, ultimately upholding human rights and dignity as the ultimate goal of law—namely, to humanize humans.

⁸H. R. T. Sri Soemantri, *Hukum Tata Negara Indonesia: Pemikiran dan Pandangan*, Cetakan Kedua, Remaja Rosdakarya, Bandung, 2015, h., 358.

Dignified Justice also serves to address gaps in existing legal theories in Indonesia, such as the Development Law Theory advanced by the late Prof. Mochtar Kusumaatmadja. His theory highlighted the role and function of law in solving national legal problems through interdisciplinary approaches and collaboration. Building on Dignified Justice, such approaches have already been applied in legal practice. For instance, many judicial decisions emphasize the role of law in preventing corruption through mechanisms such as legal due diligence or legal reviews, particularly in infrastructure projects involving state-owned enterprises and domestic or foreign corporations.

Court rulings often underscore the importance of principles supporting public welfare, such as efficiency and effectiveness in law, to prevent unfair political practices. They highlight the need for decision-makers to consider norms and ethics while adhering to principles of propriety and fairness across social, political, economic, cultural, and technological contexts. Legal scholarship continually reminds legal practitioners of the intricate relationship between law and power, emphasizing that law must not be misused for the benefit of specific groups at the expense of others, thereby causing harm rather than benefit to society.

Law, in its essence, is a tool for social engineering aimed at improving societal life. However, it must not become an instrument for advancing the interests of one group or individual at the expense of others. Instead, it must constrain power to prevent misuse, ensuring it is exercised within the legal limits established by laws and regulations. The coercive force of law should only be employed as a last resort (*ultimum remedium*).

Dignified Justice navigates legal thought by integrating universal and local values without modifying existing legal understanding for the mere sake of novelty. It views law not only as written norms or regulations but also as embodying the values within these norms, such as justice, fairness, and the prevention of arbitrariness. Law and power, as understood through Dignified Justice, must be derived from Pancasila, which unifies justice, utility, and legal certainty for individuals and society, aiming to humanize humans as noble creations of God.

The theory emphasizes that state administrators and legal authorities must adhere to a unified system of rules and values rooted in Pancasila. For instance, foundational legal principles such as *nulla poena sine culpa* (no punishment without fault) can be derived from this system. In certain clear-cut cases, principles of direct liability may even negate the need for fault-based proof.

These principles, along with others, are integral to the Pancasila Legal System, which serves as a manifestation of the nation's *Volkgeist*. This system is reflected in regulations such as Law No. 1 of 2023 on the Criminal Code and should inform other legal instruments. All legal values in Indonesia—whether derived from legislation, judicial decisions, or jurisprudence—exist, live, and evolve under the guiding star of Pancasila. Ultimately, like the concept of Dignified Justice itself, they aim to humanize humans.

Reflections On the Current State of The Indonesian Legal System And Its Trajectory

The current state of the Indonesian legal system reflects a complex interplay between its philosophical foundations, practical challenges, and societal demands. Rooted in Pancasila as its philosophical bedrock, the system aspires to uphold justice, utility, and certainty. However, its practical implementation often reveals gaps that must be addressed to align with these ideals.

Strengths of the Indonesian Legal System

The Indonesian legal system possesses several strengths that position it for continued growth and reform. Its foundation in Pancasila ensures that law is deeply rooted in the nation's cultural and philosophical identity. This provides a unifying framework for addressing diverse legal issues while preserving Indonesia's unique values. Moreover, the incorporation of principles such as justice, humanity, and social equity into legislative and judicial processes demonstrates a commitment to aligning legal practices with the broader goal of humanizing humans (*nguwongkeuwong*).

The progressive codification of laws, such as the enactment of Law No. 1 of 2023 on the Criminal Code, marks an effort to modernize and harmonize the legal system with contemporary needs. Furthermore, judicial institutions have increasingly emphasized the importance of transparency, accountability, and efficiency in legal proceedings, promoting public trust and confidence in the rule of law.

Persistent Challenges

Despite these strengths, the legal system faces significant challenges. Corruption remains a critical issue, undermining public trust in legal institutions and impeding the equitable application of the law. Instances of judicial and legislative decisions being influenced by political or economic interests highlight the need for stricter safeguards to ensure impartiality and integrity.

Moreover, the tension between rapid development and the protection of individual rights often places vulnerable groups at a disadvantage. Cases where laws or judicial decisions prioritize material development over human dignity illustrate a gap between legal ideals and their practical realization. These challenges underscore the need for a more robust framework that balances state intervention with individual freedoms, ensuring that development does not come at the expense of fundamental rights.

The Role of Dignified Justice

The theory of Dignified Justice (Keadilan Bermartabat) provides a philosophical and practical lens for addressing these challenges. By emphasizing the humanization of individuals within society, it offers a guiding principle for the legal system to navigate the complexities of modernization and globalization. Dignified Justice encourages the integration of ethical considerations into legal processes, ensuring that laws serve as instruments of societal improvement rather than tools of oppression or exploitation.

Trajectory for the Future

Looking ahead, the trajectory of the Indonesian legal system must focus on several key priorities:

1. **Strengthening Legal Institutions:** Efforts should be directed toward enhancing the independence and integrity of judicial and legislative bodies. This includes rigorous enforcement of anti-corruption measures and promoting meritocracy within legal institutions.
2. **Balancing Development and Rights:** The legal system must find a sustainable balance between the state's developmental goals and the protection of individual rights. Laws and policies should prioritize human dignity as a central tenet, ensuring that economic growth does not marginalize or disenfranchise citizens.
3. **Integrating Technology and Innovation:** Embracing technological advancements can improve efficiency, accessibility, and transparency in legal processes. Digital platforms for case management, legal education, and public participation in legislative drafting can help bridge the gap between legal institutions and the public.
4. **Fostering Legal Education:** Building a future-ready legal system requires investment in legal education that integrates interdisciplinary approaches, ethical reasoning, and a deep understanding of Pancasila's values. This will equip legal practitioners with the tools to address evolving societal challenges.
5. **Expanding Public Awareness:** Encouraging legal literacy among citizens can empower individuals to understand and assert their rights. Public engagement in legal reforms will strengthen accountability and ensure that the legal system remains responsive to societal needs.

Conclusion:-

Looking ahead, if Pancasila is truly understood and applied within the framework of Dignified Justice, as discussed above, the foundation for guiding and implementing other legal norms—particularly those that are more concrete and operational—will be firmly established. This understanding would ensure that the practical aspects of law, referred to in this discourse as legal practice, can effectively regulate, organize, and control development and renewal across all sectors, including legal development and reform itself. By rooting the legal system in these principles, Indonesia can foster a society that is orderly, just, and respectful of human dignity.

With such a framework, there is hope for achieving a prosperous, happy, and equitable society, free from the entrenched issues of corruption and other social maladies that continue to plague the nation. By embracing the values of Pancasila and embedding them in all aspects of legal practice and governance, Indonesia can create a robust legal system that not only addresses existing challenges but also serves as a foundation for sustainable progress. This vision ensures that the ultimate goal of law—to humanize individuals and promote societal harmony—remains central to all efforts in development and legal reform.

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