



## The nature of justice in the decision of the judge of the Serang district court from the perspective of the philosophy of law

Putu Bagus Satya Nugraha<sup>1\*</sup>, I Nyoman Bagiastra<sup>2</sup>

<sup>1,2</sup>Department of Law, Faculty of Law, Universitas Udayana, Indonesia. E-mail: putubagussatyanugraha@gmail.com

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### ABSTRACT

The nature of justice is a fundamental principle in the legal system and has great significance in legal philosophy. To know what justice is, there needs to be self-reflection on the awareness that we do not live alone in this world, so that we are led not to neglect our responsibilities to others. Justice in the philosophy of law pays attention to all aspects of the terminology of justice and philosophy of law. Justice is the ideal and purpose of law that reaches the area of legal philosophy by providing the perspective that justice is realized through law. By examining the opinions of several great philosophers, such as Plato and Aristotle, as the foundations of justice, the author attempts to determine the nature of justice in legal philosophy and its application to judges' decisions in judicial processes in Indonesia, especially in the case of two coolies in the Serang District Court. The basic values of justice included in the study of legal philosophy are answered by the philosophy of law itself. Justice is balanced and harmonious in both formal and material laws. The law must hold fast to the essence of justice and moral strength because without justice and morality, the law will lose its supremacy and independent characteristics and will have a major impact in the form of instability in society.

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#### Corresponding Author:

Putu Bagus Satya Nugraha,  
Department of Law, Faculty of Law,  
Universitas Udayana,  
Jl. Raya Kampus Unud, Jimbaran, Kec. Kuta Sel., Kabupaten Badung,  
Bali 80361, Indonesia  
Email: putubagussatyanugraha@gmail.com

### 1. Introduction

What is "Justice"? This simple question has complex answers from various perspectives. Interpretation of measures of justice is frequently subject to divergent perspectives. Justice encompasses multifaceted dimensions across numerous disciplines, including economics and law. In contemporary discourse, justice is invariably a central theme in discussions of law enforcement. Unfortunately, numerous legal cases remain unsettled, as they become entangled with political considerations. The truths of law and justice are systematically distorted to prevent the judicial system from uncovering the actual state of affairs (Dwisvimiari, 2011). The concept of justice is a central tenet in legal philosophy, and various philosophers have proposed

theories to explain its nature. The author of this work aims to explore the notion of justice within the context of legal philosophy by critically examining the theories proposed by these philosophers and delving deeper into its meaning within the legal framework. As a fundamental principle of the legal system and the cornerstone of legal decision making, justice is a vital topic for consideration. The concept of justice has been a constant debate in the study of the philosophy of law, given its complexity involving moral values, ethics, and social norms. Therefore, it is important to understand the nature of justice from a legal philosophical perspective. The philosophy of law is a field of study that explores both its conceptual and theoretical aspects. Within this framework, a fundamental issue that is constantly debated is the nature of justice in law. It is important to explain the basic concepts of justice in the study of legal philosophy as well as how these concepts affect the development of the legal system. Justice is an important foundation of law. The concept of justice, as part of broader social values, is multifaceted and can sometimes conflict with the law as a social value system. It is important to recognize that making a mistake, such as committing a crime, does not necessarily equal injustice. However, if an act is not driven by greed, it cannot be considered unjust. Conversely, an action that is not criminal can result in injustice. The concept of justice is fluid and has been a subject of contemplation for legal philosophers for centuries.

A complete understanding of the nature of justice certainly affects the development and implementation of a country's legal system. As a state of law, both rulers and people or citizens, even the state itself, are subject to law (Khambali, 2014). In Indonesia, several examples of justice in the law enforcement process exist that can be debated. For example, on July 5, 2007, the Serang Banten District Court sentenced two coolies to eight months. Saprudin 18 and Mulyadi 23 stole 10 kg of shallots. On the same day, in the local district court, three former members of the Banten provincial parliament who had corrupted the 2003 regional budget (APBD) funds amounting to 14 billion rupiahs were sentenced to 15 months in prison. These included Udin Janahudin, Marjuki Raili, and M. Muchlis. Udin Janahudin and his friends are among 75 members of the Banten DPRD who were involved in a corruption case of 14 billion rupiah. The aforementioned former member of the Banten DPRD, Aap Aptadi, who had previously been convicted in the same case, was given a sentence of twelve months in prison. Additionally, four other former DPRD members, namely, Effendi Yusuf Sagala, Dahmir Tampubolon, Rudi Korua, and Malik Komet, received a 15-month history in prison. Thus, the judges' decisions regarding Saprudin and Mulyadi were far from fair. It also triggered social shocks in society, leading to the questioning of judges' decisions as representatives of God in the judicial process. A sense of fairness in society is clearly not found in the verdict, especially when compared with corruption cases, which cost the state a fantastic amount, making the credibility of law enforcement in the judiciary increasingly questionable.

Justice underlies the historical development of human society. This concept involves efforts to create balance, equality, and fair treatment among individuals in society (Devaney, 2022; Ross, 2019). Background on justice in society involves a variety of historical, social, cultural, and political factors that shape the understanding and pursuit of this concept. Human history has recorded various struggles and changes to justice. The concept of justice dates back to ancient times, as in Hammurabi's law in Babylon and the teachings of justice in religions such as Hinduism, Christianity, and Islam. The development of history created the need to regulate social and economic relations, which led to the development of a legal system and principles of justice. The development of society, including industrialization, urbanization, and globalization, has brought about changes in social and economic dynamics. This creates inequalities in access to resources, opportunities, and fuel demand for social and distributive justice. These social changes have also sparked debates about individual rights, including human rights. Philosophy and law have played key roles in the development of justice in society. Philosophers such as John Rawls and Immanuel Kant have contributed influential theories of justice. Legal principles such as equality before law and human rights have also become important for creating a fair legal system. Culture and social values are key to understanding and implementing justice in society (Ross, 2019; Suadi, 2021).

Indonesia, a country with various cultures, has different views on the nature of justice. Different societies have different views on what is considered fair and how to achieve it. Values such as fraternity, solidarity, and social justice are often linked to understanding justice within a culture or community. The government's role is no less important, and law enforcement institutions play a central role in maintaining and promoting justice in society. Creating a government will certainly reap many protests from various circles that feel unfulfilled aspirations but that are important in a government; there must be a fair division of authority between the legislature, the executive, and the judiciary. Thus, the three parts go hand-in-hand (one step) because justice is only a tool for everyone to carry out the law, regardless of differences or positions (Amin, 2019; Nasution, 2014). They establish laws, implement policies, and ensure the protection of individual rights. The role of these two systems in administering justice can vary, depending on the country's political and legal systems. These are behind the author's deeper examination of the nature of justice from the perspective of legal philosophy to translate it into society, which is the result of complex interactions between historical, social, cultural, and political factors. Understanding this background is important for understanding the challenges and aspirations of society to achieve a more just and inclusive legal system. The concept of justice is an integral component of the purpose of law alongside legal certainty and efficiency.

Several court decisions have highlighted the legal issues in Indonesia. This leads to the realization that philosophical discourse on justice can play a significant role in achieving legal objectives, considering the abstract nature of justice. Therefore, it is necessary to understand the philosophical foundations of legal science that can philosophically explain the fundamental values of law, leading to the development of a truly effective legal system. Discussions on justice are prevalent worldwide, including in Indonesia. As evidenced by the aforementioned case, social unrest in Indonesia is believed to be caused by a lack of justice, as anticipated by the Indonesian people, particularly in the case of the two coolies that stole onions in the Serang District Court. Given the findings described above, the presence of justice is increasingly needed with the increasing number of people, accompanied by increasing life needs and complex legal problems. To explain this complexity, this study examined the nature of justice in judges' decisions from the perspective of legal philosophy.

## **2. Method**

Normative legal research was applied in this study (Torrez, 2021; Indriati et al., 2022). As Marzuki defined it, normative legal research is a process aimed at discovering legal rules, principles, and doctrines to resolve legal issues. Based on this definition, the research conducted in this study is categorized as normative legal research because it primarily utilizes literature materials to analyze cases without employing field research. This investigation relies on secondary materials, such as library legal research, which encompasses a range of topics, including legal principles, legal systematics, legal synchronization, legal history, and comparative law. Normative research methods are approaches in normative legal research that focus on the analysis and interpretation of legal documents, including laws, regulations, court rulings, and other legal texts. This method is commonly used in legal studies, philosophies, and fields related to law. The main objective of normative research methods is to understand, explain, and evaluate various aspects of the existing laws and legal norms.

## **3. Analysis and Results**

### **3.1. The nature of justice in the philosophy of law**

The nature of justice in the philosophy of law is a profound concept and is often the subject of intense philosophical debate. Justice reflects the fundamental principles that guide the legal system in creating a just and equitable social order for all individuals in society. In the context of legal philosophy, the concept of justice includes aspects such as the distribution of resources, punishment, human rights, and morality, all of which are determining factors that determine what is considered fair. The nature of justice in the philosophy of law is a profound concept and

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In contrast, the deontological approach, as proposed by Kant, emphasizes the nature of justice as a respect for human rights and absolute moral principles. John Rawls, a famous philosopher of law, proposed a theory of justice known as the "*theory of social agreement*." This theory posits that justice is the result of an agreement made by individuals in a fair initial position without knowing their social position or personal interests. This approach emphasizes principles of justice, such as equality and improvement. In addition, there is a view of restorative law that emphasizes rapprochement and reconciliation as key aspects of justice, especially in overcoming lawlessness. The essence of justice in this context involves repairing the damage that has occurred and restoring the relationship between the perpetrator and the victim. The nature of justice in legal philosophy includes a deep understanding of how society achieves a balance between individual rights, social welfare, and morality. It is a reflection of the human aspiration to create a just and just society and continues to be a philosophical debate rich in nuance and complexity.

### **3.1.1. The Nature of Justice**

Many legal studies speak of justice. The ethical theory of justice posits that the sole purpose of the law is to achieve justice. The substance of law is determined by ethical principles that distinguish between just and unjust. According to this theory, law aims to realize justice (Alexy, 2004). This philosophical thinking about justice, especially from the perspective of legal philosophy, is in accordance with the theoretical perspective of the three layers of legal science, which include legal dogmatics, theory, and philosophy and is useful at the end of legal practice. Through fundamental thinking about what is right that has been the fruit of the thoughts of several philosophers, ranging from Plato and Aristotle to philosophers today, references can be provided for decision-makers to direct and carry out regulatory functions in the practice of law.

For many years, the question of justice has been a topic of inquiry and contemplation for philosophers, politicians, and religious leaders. However, when individuals inquire about justice or seek to define it, they often receive responses that rarely prove adequate for either the inquiring parties or the noninvolved thinkers. The answers may suggest that obtaining a general consensus on justice is exceedingly challenging and that if a society establishes limitations or definitions of justice, a diverse array of responses will emerge. Thus, it can be posited that formulations of justice are relative and subject to interpretation. This difficulty leads many, particularly positivists, to abridge their pursuit of justice by delegating its definition to lawmakers, who may define it arbitrarily.

The idea of justice in relation to law has long been put forward by Aristotle and Thomas Aquinas as follows (Marzuki, 2017; Tamanaha, 1999): justice constitutes the very essence of law; however, it is a multifaceted concept comprising three primary components: individual justice, which pertains to the just distribution of goods according to each person's contribution; social justice, which is grounded in the shifting cultural norms that underpin civilization at any given time; and political justice, which is rooted in the prevailing political power and represented by the state. The reciprocal relationship between law and justice is highlighted as laws are formed

based on preexisting moral principles or values rather than created anew. The author presents the perspectives of two prominent philosophers with divergent views on justice.

*Justice According to Plato*, plato, as an abstract idealist philosopher, acknowledged the existence of influences that transcended human capability and that irrational thinking infiltrated his philosophy. Similarly, Erwin (2013) posited that justice, a concept that eludes the grasp of ordinary individuals, is an ideal state that can be achieved only through the harmony of thoughts, emotions, and passions. Injustices are rooted in social change, and the fundamental components of society must be preserved. Specifically, there must be rigid separation between the ruling classes, which are composed of herders, guard dogs, and human sheep. Additionally, the fate of the state should be aligned with that of its ruling class, with special attention given to this group's unity, loyalty, adherence to its unity, strict rules for maintaining and educating its members, and collectivization of their interests.

These principles provide the foundation for other elements of society (Popper, 2002), including the following: (a) the dominant class possesses a monopoly on various aspects, such as profits and military exercises, as well as the right to possess weapons and receive education in all forms. However, they are prohibited from engaging in economic pursuits, particularly those that generate income. (b) It is imperative to censor the intellectual pursuits of the ruling class and disseminate constant propaganda to promote conformity of thought. All innovations in education, regulations, and religion should be suppressed or prevented. (c) The state must be self-sufficient and strive for economic autonomy. If rulers depend on merchants, their power weakens. Conversely, if the rulers themselves become merchants, this will undermine the unity of the ruling class and destabilize the country.

To achieve justice, society must return to its original state. This responsibility fell into the state to prevent any deviation from the course. Consequently, justice pertains not to the interaction between individuals but rather to the relationship between them and the state (Helmi, 2015). How do individuals serve their country? Justice is also believed to be a metaphysical concept that exists as a quality or function of a superhuman being whose nature cannot be observed by humans. As a result, the realization of justice has shifted to another world beyond human experience, and human reason, which is essential to justice, is subject to the unchangeable ways or unpredictable decisions of God. Plato argued that the one who leads the state should be superhuman, or the king of philosophers.

*Justice According to Aristoteles*, the decline of Athenian democracy during the Peloponnesian Wars and its aftermath was a topic of great interest to philosophers Plato and Aristotle, who devoted considerable portions of their work to exploring the concept of justice. These thinkers aimed to provide concrete definitions of justice and its relationship with positive law. Aristotle's ideas were particularly influential, laying the groundwork not only for legal theory but also for Western philosophy more broadly. His most significant contribution to the philosophy of law was his formulation of the problem of justice, which distinguished between "*distributive justice*" and "*corrective*" or "*remedial*" justice, establishing the foundation for all subsequent theoretical discussions of the subject. Distributive justice refers to the fair distribution of goods and services to individuals based on their social standing and equal legal treatment (Sumaryono 2002). Corrective justice aims to rectify wrongs and provide appropriate compensation to the affected parties. Violations and mistakes can be addressed by imposing suitable punishments for criminal offenses. Additionally, it seeks to restore equality, which is disrupted by injustice. In this context, corrective justice falls under the purview of the judiciary, whereas distributive justice is the domain of the government.

According to Aristotle's *Ethica Nicomachea*, justice between disputing parties is a fundamental aspect of a good life in the polis. He identified three types of justice: distributive, corrective, and commutative justice. The principle of commutative justice governs transactions between the parties involved in exchange or trade. This requires equality in the value of goods exchanged and interconnectivity between them. Money serves as an intermediary in these transactions,

ensuring that the value of the goods exchanged is equivalent to the ratio of parties involved. For example, the number of shoes exchanged should be proportional to the ratio of homebuilders to shoemakers.

From the above explanation of the two great philosophers, it can be concluded that there is a difference in the nature of justice between Plato's and Aristotle's views. According to Plato, justice advocates a highly structured system of society with tightly defined roles, whereas Aristotle regards justice as a more flexible concept concerned with proportion and equality in the distribution of resources and profits. Plato also revealed that justice comes from outside the thinking of ordinary people, so justice can be achieved only if the state is led by extraordinary humans. In contrast, Aristotle pursued the concept of justice through the application of rational principles to examine prevailing political society and legal frameworks.

### **3.1.2. The Nature of Justice**

"*Ubi Societas, Ibi Ius*" is this famous maxim, coined by the renowned statesman Cicero, asserting that where there exists a society, there also exists the concept of law. The formation of a society comprises individuals who either intentionally or naturally come together to form social communities. Such a community is intentionally established for reasons of fate or suffering and is commonly referred to as a norm that encompasses religion, morality, decency, and legal norms. In a country, these norms serve as a counterweight and basis for sanctioning and consequences for members of society who violate the rules that exist in society. Norms exist as deterrents; therefore, there are no conflicts of interest among community members. Legal norms are the strictest norms because they are binding, and sanctions are imposed if there are parties that violate them.

Pound posits that the primary function of the law is to maintain social stability and facilitate peaceful change by reconciling disputing interests and maintaining equilibrium (Erwin, 2013). Private interests of individual citizens, social interests arising from the general conditions of social life, and state interests in general. To address conflicts of interest within society, it is imperative that state law be grounded in principles of justice and morality. Without this foundation, the authority and autonomy of the law would have been compromised. Conversely, if the concepts of justice and morality are well developed and comprehensive, they will be reflected in both the formal and material laws of a nation and applied in the realm of public life.

## **3.2. Factors affecting justice in legal philosophy**

### **3.2.1. Law and morals**

In previous discussions, the author explained the nature of justice in legal philosophy (Tamanaha, 1999; Vega, 2018). In carrying out its function, there are factors that affect justice from the perspective of legal philosophy. One of them is moral and ethical. Good laws or rules are strongly influenced by justice and strong moral forces. The link between law and morals in achieving justice has been a long-standing debate in the philosophy of law and ethics (Maříko, 2022).

The author offers several main views on this relationship, including (1) *law as a moral application*, which states that law should reflect and apply the moral principles accepted by society. In this case, the law is used to ensure that moral values considered important by society are upheld and protected. Laws that reflect good morals are instruments used to achieve justice, and lawlessness is often considered a moral transgression. However, there are challenges in the legal context, such as the application of morals. Moral views can vary from one individual or group to another, resulting in inequality or injustice in the legal system (Smejkalová 2020). (2) *Law is a neutral instrument (impartial)* that considers law an instrument that is supposed to be neutral to certain moral values. The law should not impose a certain moral view on individuals or groups but rather focus on maintaining order and justice in society. According to this view, justice is achieved by applying a rule of law that is fair and equal to all individuals, regardless

of personal moral considerations. This approach attempts to avoid conflicts that may arise if the law imposes certain moral views on everyone. However, this approach faces challenges in determining what is fair and equal (Tampubolon et al.2023).

The relationships between law, morals, and justice are often complex and vary depending on an individual's ethical view, culture, and existing legal system. The word "moral" always refers to the good or bad qualities of human beings (Ali 2023). Various ethical views can influence how laws and morals interact to achieve justice. In practice, many legal systems try to strike a balance between respecting the moral values that society considers important and maintaining the principles of legal neutrality.

### **3.2.2. The rule of law**

The rule of law can be understood in two distinct ways: formally and materially (ideologically). Formally, it refers to a system of organized public power characterized by a hierarchy of commands. This formal sense is often utilized as the most effective and efficient means of governing a tyrannical regime. On the other hand, the material or ideological sense of the rule of law concerns evaluating the goodness or badness of laws and includes considerations such as the following (Ali, 2023; Diesen, 2001): compliance of all citizens of the community with the rules of law made and applied by legislative, executive, and judicial bodies; the rule of law must be in harmony with human rights; states are obligated to create social conditions that enable the realization of human aspirations and reasonable respect for human dignity; and clear procedures in the process of obtaining justice for the ruler's arbitrary actions; and the existence of a free and independent judiciary allows the legislature and executives to examine and correct arbitrary actions.

In a material sense, the rule of law aims to protect citizens against arbitrary actions of the ruler to enable them to obtain their dignity as human beings (Prochownik, 2021). The author argues that the essence of the rule of law in a material sense is that there is a guarantee for citizens in every group to obtain social justice (Canale, 2021; Vega, 2018). From the explanation of the nature of justice and the factors that influence it from the perspective of legal philosophy, if related to the case of Saprudin (18) and Mulyadi (23), who were accused of stealing 10 kg of shallots and sentenced to eight months in prison on the same day in the local district court, three former members of the Banten Provincial DPRD who had corrupted the Regional Budget (APBD) funds in 2003, amounting to 14 billion rupiah, were prosecuted for 15 months' imprisonment, certainly not fulfilling the elements of the nature of justice itself.

The author attempts to see from Plato's point of view that justice is achieved when a community led by humans has high wisdom and a strong understanding of morals in society. The judge in deciding a sentence in the case did not reflect the figure of the "extraordinary man." Although Aristotle's views on justice differ from those of Plato, the judge's decision in this case did not meet Aristotle's standards of justice. Aristotle believed that justice is derived from the scientific examination of rational principles in the context of existing political societies and laws. In Indonesia, the Code of Criminal Procedure (Law Number 8 of 1981) establishes the authority of judges to preside trials, as outlined in Article 1, Number 9 (Putra & Ahyani 2022).

*"Adjudicating is a series of actions by judges to receive, examine, and decide criminal cases based on the principle of free, honest, and impartial in court hearings in terms and in the manner regulated in this law."*

When executing their responsibilities, judges must adhere to the principles of freedom, honesty, and impartiality to promote fairness within society. However, these principles have not yet been upheld. The author also observes that the comparison of judges' decisions in these two cases can be considered as not paying attention to the factors affecting justice in legal philosophy. Law as a moral application, as a neutral instrument, and as a rule of law, as ignored, causes shocks in society because judges' decisions deviate from the nature of justice (Etherton, 2010; Tebbit, 2001).

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#### 4. Conclusion

The pursuit of justice is an ongoing human endeavor that evolves over time and is influenced by societal values. Plato and Aristotle had different views on justice, with Plato advocating for a structured social system and justice from outside ordinary people, whereas Aristotle saw justice as a more elastic concept based on proportionality and equality. In the case of Saprudin and Mulyadi, who were sentenced to eight months in prison to steal 10 kg of shallots, and the case of three former Banten Provincial DPRD members who corrupted 14 billion rupiahs and were only sentenced to 15 months in prison, the judge's decisions did not reflect the nature of justice. Judges in Indonesia are bound by the principles of freedom, honesty, and impartiality, but the judges in these cases do not adhere to these principles. A comparison of these cases highlights the importance of considering justice in legal philosophy and upholding the values of its essence to maintain public trust in the judicial system. The findings of this research contribute to the field of the importance of applying philosophical theories of justice and their meaning in the legal system in Indonesia. The condition of the judicial system in the Serang District Court highlights the unfairness of decisions that result in Indonesian people's low perception of the legal system in Indonesia. This research provides practical implications related to the importance of evaluating the judicial system in Indonesia by considering the rights of citizens, including upholding justice based on impartiality and honesty accompanied by evidence that does not complicate ongoing cases. In the future, further research and studies are needed regarding the role of judicial oversight institutions in monitoring injustices that occur in society.

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