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Legal Reform in Indonesia from the Perspective of Dignified Justice Theory

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Abstract

Purchasing decisions are an important thing that every company needs to pay attention to. Once consumers decide to buy goods or services, a product is a positive thing for the company. This research aims to examine the influence of digital marketing and social media on purchasing decisions for agricultural production products at CV. Damar Batur Archipelago. This research uses quantitative methods. Data was collected through a survey by distributing questionnaires to 98 respondents. The data obtained is then processed to test the hypothesis using software. Quantitative data analysis shows that digital marketing and social media have a significant positive influence on purchasing decisions. Brand Image has a significant positive effect on purchasing decisions.

Keywords
Digital marketing; social media; buying decision; agricultural products.

I. Introduction

Humans, society and law are 3 (three) interconnected series. Humans need to think rationally which aims to discover, develop, or test the truth of knowledge. According to the perspective of the Dignified Justice Theory, humans must be seen as creatures created by God Almighty who are noble creatures. The glory of man exists because he, Man, was created in the image of the Creator, with his God (imago dei). This image is characterized by the ability of humans to think, rationalize their existence and the environment in which they are placed or in space and time by their Creator, God Almighty. Humans are called thinking creatures, rational humans. When compared with other creatures created by God Almighty, humans are the ones who are blessed with reason, with reason.

To understand the law, we must adhere to the theory of dignified justice, we can find this in the soul of the nation itself. So far, the term legal reform is often used in legal literature which discusses the subject of legal reform or renewal, as well as generally used in social life in society and state life. This is different from what is found in legal practice in everyday life. Sometimes, the term legal reform is used for surprises used or created by the government, which are related to the legal field in everyday life. These surprises are to make concrete what policy packages the government wants to implement.

The order and security of a country is determined by whether the law is implemented effectively or not. Law is a picture or reflection of the society in which the law applies. The laws that apply in Indonesia will be effective if the laws originate from the spirit of the people who created the laws themselves, namely the Indonesian legal community. As explained above, the laws currently in force in our country are no longer able to respond to the challenges of the times, so revolutionary changes are needed in the sense that there is a need for fundamental changes to the existing laws and legal system. The proof of this is that the applicable law is no longer able to overcome the problems that arise and entangle this nation. It is difficult for the law to raise awareness and have a deterrent effect on

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society because the law is far from burning. The risk of such a law is that it cannot be implemented properly. Including at the legal level in Indonesia.

Dignified justice as a grand legal theory views Pancasila as the highest basic postulate, namely as the source of all sources of juridical inspiration to create political ethics (democracy). The polemic of the concept of dignified justice towards legal reform is still a dilemma for some academics regarding the design of a new legal construction, starting to build a dignified Pancasila legal system, and no longer relying on theoretical justifications. In line with this, efforts are needed to realize responsive Indonesian law enforcement. Therefore, law enforcement officials cannot only pay attention to and refer to the text of the Constitution (UUD).

Officials must be able to see and pay more attention to the local wisdom values that live and develop in the wider community. In other words, the law must serve society itself. Justice is actually everywhere, just as law is also everywhere. Justice can appear in various forms, whether social, economic, political and so on, but all of them are expensive. National law (which in academic language is called positive law) cannot guarantee the realization of justice. Justice, prosperity and happiness will not fall from the sky, and will not be present as part of human life without trying to get it. In fact, sometimes humans (both individually and in groups) have tried their best by using their minds, but justice, prosperity and happiness are still far from reality. Because of this, the author is interested in choosing a theme for writing this assignment with the title Legal Reform in Indonesia from the Perspective of the Theory of Dignified Justice.

1.1 Formulation of the problem

1. What is the concept of dignified justice in the rule of law in Indonesia?
2. What is the scope of legal reform from the perspective of the theory of dignified justice?

1.2 Writing purpose

1. To understand the concept of dignified justice in the rule of law in Indonesia
2. To find out the scope of legal reform from the perspective of the theory of dignified justice

II. Review of Literature

2.1 Theory of Justice with Dignity

Thomas Aquinas put forward justice by distinguishing justice into 2 groups, namely general justice (justitia generalis) and special justice. General justice is justice according to the will of the law, which must be carried out in the public interest, while special justice is justice on the basis of equality or proportionality. Special justice is divided into 3 types, namely: 1) Distributive justice (justitia distributiva), namely justice that is proportionally applied in the field of public law in general. For example, the state will only appoint someone to be a judge if that person has the skills to be a judge; 2) Commut11ative justice is justice that equates achievements and counter-achievements; 3) Vindicative justice is justice in terms of imposing punishment or compensation for criminal acts. A person is considered fair if he is given a corporal punishment or a fine in accordance with the amount of punishment that has been determined for the criminal act he committed.

O. Notohamidjojo stated that types of justice include, among others, creative justice (justitia creativa) and protective justice (justitia protectiva). Creative justice is justice that

gives everyone the freedom to create something according to their creative abilities, while protective justice is justice that provides protection to everyone, namely the protection needed in society. Furthermore, Roscoe Pound, a follower of Sociological Jurisprudence, expressed the view that justice can be carried out with the law or without the law. Justice without law is carried out in accordance with the wishes or intuition of a person who, in making decisions, has a wide scope of discretion and is not attached to a particular set of rules.

III. Results and Discussion

3.1 The concept of dignified justice in the rule of law in Indonesia

Justice comes from the word just, which means not arbitrarily, impartially, impartially. Justice can be divided into at least three types, namely general justice or legal justice, special justice, and aequitas. Legal justice is justice according to law, which must be carried out in the public interest, while at the same time not sacrificing humans as individuals. Special justice is justice on the basis of equality or proportionality. Meanwhile, aequitas is justice that is generally accepted, objective and does not take into account the situation of the people concerned.

The theory of dignified justice is a science, in this case the science of law. As a legal science, the scope or scope of the theory of dignified justice can be seen from the composition or layers in legal science which includes legal philosophy (philosophy of law) in the first place, the second layer is legal theory; the third layer is legal dogmatics (jurisprudence). While the fourth structure or layer contains law and legal practice.

The theory of dignified justice originates from the tension between lex eterna (upper current) and volksgeist (undercurrent), in understanding law as an attempt to approach God's mind according to a legal system based on Pancasila. The theory of dignified justice uses a legal approach as legal philosophy, legal theory, legal dogmatics and law and legal practice, using systematic dialectics. The aim of dignified justice is to explain what the law is. The aim of law in the theory of dignified justice emphasizes justice, which is interpreted as achieving law that humanizes humans. Justice in the sense of building awareness that humans are the noble creation of God Almighty, is not the same as the Western view, for example that developed by Thomas Hobbes, that humans are animals, political animals, wolves, who are ready to prey on fellow wolves in life, including political, economic, social, cultural life and so on.

Justice with dignityis a legal theory or what is known in English language literature as the concept of legal theory, jurisprudence or philosophy of law and knowledge of the substantive law of a legal system. The theory of dignified justice also reveals all the legal rules and principles that apply in the legal system, in this case the legal system in question is the Indonesian positive legal system; or a legal system based on Pancasila.17 the Pancasila Legal System is a dignified system, because it is based on the spirit of the nation (volksgeist). Pancasila as a positive ethic which is the source of all sources of law, the soul of the nation (volksgeist) contains the completeness needed for state administration. As positive ethics, Pancasila contains ethics, the highest and most upheld values (values and virtues), including political ethics, as a moral foundation, which is basically expected not only to enlighten, but to provide a way for the life journey of a nation and state.

The Theory of Dignified Justice as a legal theory is a system of legal philosophy that addresses all rules and principles or substantive legal disciplines. Included in substantive legal disciplines is a network of values that are linked to each other and bind each other. This network of interrelated values can be found in various rules, principles or networks of

rules and principles that are inherent in the values and virtues that are related and bind each other.

The Theory of Dignified Justice is called dignified because the theory in question is a form of adequate (scientific) understanding and explanation regarding the coherence of legal concepts in the applicable legal rules and principles as well as doctrines which are actually the face, structure or structure of justice. nisi and spirit or spirit (the spirit) of society and nation in a legal system based on Pancasila, which is explained by the theory of dignified justice itself. This is because humans are noble creatures as creations of the Almighty God as stated in the 2nd principle of Pancasila, namely just and civilized humanity. These precepts contain the value of recognizing the dignity of humans with all their rights and obligations and that humans also receive fair treatment from other humans, and receive the same thing towards themselves, the natural world around them and towards God.

The theory of dignified justice contains a theoretical view with a postulate that all activities in a country must be based on applicable laws and regulations. Pancasila, from the perspective of dignified justice, is the highest legal regulation, the source of all sources of law. It is said that statutory regulations are the highest because from the perspective of dignified justice, Pancasila is the First Agreement. Those who study law understand this in the expression pacta sut servanda (the agreement is a binding law as befits a law for those who make it). As a law, the law can be enforced for those who do not want to obey and implement it.

As the source of all sources of law, from the perspective of dignified justice, all laws and judges' decisions in Indonesia are derivations ("soul mates") from Pancasila. In other words, all statutory regulations and court decisions with permanent legal force are Pancasila too, because they are in the spirit of Pancasila, do not conflict with Pancasila, do not go against Pancasila.

Justice is the glue that holds the order of civilized social life. Laws are created so that every individual member of society and state administrators takes actions necessary to maintain social ties and achieve the goals of life together or vice versa so as not to take actions that could damage the order of justice. If the ordered action is not carried out or a prohibition is violated, the social order will be disrupted due to the violation of justice. To restore order to social life, justice must be upheld. Each violation will receive sanctions according to the level of the violation itself. According to Prof. Dr. Teguh Prasetyo, SH, M.Sc., linked the theory of dignified justice he initiated to election conditions in the country. The theory of dignified justice, he said, is a legal theory based on the noble values contained in Pancasila as the basis of the Indonesian state. This theory explains that the law must be based on justice and dignity so that the law can serve people or humanize humans.

According to Radbruch, law as the bearer of the value of justice is a measure of the fairness and unfairness of a legal system. Not only that, the value of justice is also the basis of law as law. Thus, justice has both normative and constitutive characteristics for law. Justice is the basis for every dignified positive law. Justice is the moral foundation of law and at the same time the benchmark for a positive legal system. It is from justice that positive law originates. Meanwhile, constitutive value, because justice must be an absolute element for law as law. Without justice, a rule does not deserve to become law. If law enforcement tends towards the value of legal certainty or from the perspective of regulations, then as a value it has shifted the values of justice and usefulness.

In legal certainty, the most important thing is that the regulations themselves are in accordance with what is formulated. Likewise, when utility value is prioritized, then utility value will shift the value of legal certainty and the value of justice because what is

important for utility value is the fact whether the law is useful for society. Likewise, when the only thing that is considered is the value of justice, it will shift the value of legal certainty and usefulness. So, in law enforcement there must be a balance between these three values. Gustav Radbruch said that law is the bearer of the value of justice. Because justice has both normative and constitutive characteristics for law. Justice must originate from positive law and must also be an absolute element of law, without justice, a rule does not deserve to be law.

When referring to the principle of priority, Gustav Radbruch stated that to apply the law appropriately and fairly in fulfilling legal objectives, the priority is justice, then expediency and then legal certainty. The study of justice is considered very general and broad. Therefore, more concise limitations are needed regarding the concept of justice, especially the concept of justice in Indonesia. Indonesia, which has the Pancasila philosophy, has its own concept of justice, namely dignified justice as stated by Teguh Prasetyo. Dignified justice is "dignified justice looking at the development of a unique Indonesian legal system. How does the positive legal system give its identity, in the midst of the very strong influence of the world's legal systems that exist today and very harshly as if it were enforcing the way of law of the Indonesian nation.

Aristotle was the first philosopher to formulate the meaning of justice. He said that justice is giving everyone what is their right, fiat jutitia bereat mundus. Next he divided justice into two forms, namely:

1) Distributive justice is justice determined by the legislator, the distribution of which includes services, rights and goodness for members of society according to the principle of proportional equality.
2) Corrective justice, namely justice that guarantees, monitors and maintains this distribution against illegal attacks. The corrective function of justice is in principle regulated by the judge and stabilizes the status quo by returning the property of the victim concerned or by compensating for lost property. Or in other words, distributive justice is justice based on the amount of services provided, while corrective justice is justice based on equal rights.) Plato, according to him, justice can only exist in laws and legislation made by experts who specifically think about this. Fairness concerns human relations with others.

3.2 Scope of Legal Reform from the Perspective of Dignified Justice Theory

The term legal reform, namely legal reform, refers to a new institution established by the government to study legal problems and prepare plans for legal reform, namely an effort to create a national legal system that guarantees the upholding of the supremacy of law and human rights based on justice and truth. The use of the term legal reform in the meaning just stated is to obtain objective study and planning results in legal reform, the implementation of which requires the involvement of elements in society. This can be seen, for example, from a decision of the President of the Republic of Indonesia which was in force, namely the Presidential Decree. Number 15 of 2000 concerning the National Law Commission.

Legal renewal or also often referred to as legal reform in Indonesia is not just changing, growing, correcting, reviewing, replacing or completely erasing the provisions of legal rules and principles in the law and the provisions of the laws and regulations that apply in a legal system. Legal reform is more of a spirit in the law, manifesting through amending, adding, replacing or deleting a provision, rule or legal principle in the law of legislation that applies to a legal system so that the related legal system becomes better, fairer, more beneficial. and become more certain under the law.

The various terms and meanings that have been explained above include the definition of legal reform along with the operational definition of the concept of legal reform, so from within it can be seen the scope of the legal institution referred to as legal reform. Why is legal reform a proposal to carry out legal reform legal reform as a path to justice methods and approaches in carrying out legal reform including an institutional approach to legal reform the role of the courts in legal renewal history of development of society and legal reform direction and objectives of legal reform and legal reform in the Pancasila legal system with the perspective of dignified justice theory.

Actual legal reform occurs when law-making power bodies, namely the judiciary, and legislation-forming bodies, namely the government and legislative power bodies that have power or authority in a country, take the necessary steps to enforce laws and regulations. laws and regulations in force in that country with the hope of determining whether the legal rules and principles contained in the laws and regulations in that country can adequately fulfill their respective objectives and as a system, Are there still gaps there, does the legal system in the system have certain undesirable consequences and are the legal system and applicable laws and regulations consistent with international standards that bind the country, for example including human rights? and make necessary changes to it.

Indonesian law, which is a historical legacy of Dutch colonialism, still exists in the arena of state life in Indonesia. The presence of contemporary laws that reflect the social conditions that exist in Indonesia is a need that cannot be ignored. The law must reflect the direction of the nation's legal politics. Legal politics is a direction for making laws or legal policy of state institutions in making laws and at the same time as a tool for assessing and criticizing whether the laws made are in accordance or not with the legal policy framework to achieve the goal of the country. . Barangjali's current conditions are not in accordance with this. The law should be for the people, not the people for the law.

Legal development is not something that stands alone, but is integrated with development directions in other fields that require harmonization. Even though the direction of legal development is based on the outlines of ideas in the 1945 Constitution of the Republic of Indonesia, it requires alignment with the level of development of society that is envisioned to be created in the future. Development. Law is not identical and should not be identified with the development of laws or statutory regulations according to the terms commonly used in Indonesia. Forming as many laws as possible does not mean the same as forming laws. The rule of law is not a state of laws.

The formation of laws only means the formation of legal norms. However, the social, economic, cultural and political order is not merely a normative order. For this reason, a certain spirit is needed so that this order has capacity. viewed from the aspect of legal norms, this is only a small part of legal life. Legal norms are a substantial aspect of law. Apart from legal substance, there is legal structure and culture. Structure refers to the institutions that create and implement law (law enforcers) and legal culture which refers to the values, orientations and hopes or dreams of people about the law. This last thing can be compared to secondary rules conceptualized by HA L Hart. The essence is the same, namely the values, orientations and dreams of people about law or things that are outside the norms of positive law in Hart's model, play a very determining role in the capacity of positive law.

Lawrence M. Friedman stated that there are 3 (three) important pillars in legal development, namely substance, structure and culture. Ideally, the three pillars of national legal development must work harmoniously, harmoniously and in balance because these three things are very closely related to each other. Apart from that, in terms of legal objectives, Gustav Radbruch stated that the objectives of law are justice, certainty and

usefulness. Justice must have the first and most important position rather than legal certainty and expediency. Historically, according to Gustav Radburch, the goal of legal certainty was ranked at the top among other goals.

The legal system requires long-term planning as a direction and priority for overall development which needs to be carried out in stages to create a just and prosperous society as mandated by the 1945 Constitution of the Republic of Indonesia. This is important because changes to the 1945 Constitution of the Republic of Indonesia have resulted in changes in development management, namely by no longer creating Outlines of State Policy (GBHN) as guidelines for preparing national development plans. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia regulates that the State of Indonesia is a legal state. This article has the implication that all aspects of state administration must be based on law (rechtsstaat) and not based on power (machtstaat) with Pancasila as the source of all sources of state law and the 1945 Constitution of the Republic of Indonesia as the basic law and highest hierarchy in statutory regulations.

To realize the concept of the rule of law (rechtsstaat/the rule of law), it is necessary to understand the law as a unified system. Each system generally consists of supporting elements. By referring to Friedmann's theory, substance, structure and culture are 3 (three) very important supporting elements as pillars of the legal system. The development of legal substance, especially written law, is carried out through a mechanism for forming national laws that are better suited to development needs and community aspirations, namely based on Law Number 12 of 2011 concerning the Formation of Legislative Regulations.

With the enactment of Law Number 12 of 2011 concerning the Formation of Legislative Regulations, the process of forming laws and statutory regulations can be realized in definite, standard and standard ways and methods that are binding on all institutions authorized to make statutory regulations and improve coordination and smoothness of the process of forming laws and regulations. Structurally, the amendments to the 1945 NRI Constitution have also brought about fundamental changes in the government system of the Republic of Indonesia, for example in the field of judicial power with the establishment of the Constitutional Court which has the right to review laws against the 1945 NRI Constitution and the Judicial Commission which has the authority to supervise actions. and the behavior of judges.

Currently Law Number 24 of 2003 concerning the Constitutional Court has been amended by Law Number 8 of 2011 and Law Number 22 of 2004 concerning the Judicial Commission has also been amended by Law Number 18 of 2011. Amendments to the two laws were carried out by considerations include, among other things, keeping pace with the fast dynamics of constitutional life, causing some of the substance of the two laws to need to be adapted to developments in the legal needs of society and constitutional life. This is done to further guarantee the independent implementation of judicial power to uphold law and justice in accordance with Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, so that the implementation of state functions in the legal field can be carried out more effectively and efficiently.

In the context of Indonesian law enforcement, Bagir Manan stated that Indonesian law enforcement could be said to be communis opinionso doctorum, which means that current law enforcement is considered to have failed in achieving the objectives implied by the law. Therefore, alternative law enforcement is permitted, namely the Restorative Justice System, where the approach used is a socio-cultural approach and not a normative approach. From a legal perspective, the Preamble to the 1945 Constitution of the Republic of Indonesia which contained Pancasila became the basis of the state philosophy which

gave birth to legal ideals (rechtsidee) and the basis of a separate legal system in accordance with the soul of the Indonesian nation itself.

Pancasila as the basis of the state is the source of all legal sources that provide legal guidance and overcome all statutory regulations. In this position, the Preamble to the 1945 Constitution of the Republic of Indonesia and the Pancasila contained in it become staatsfundamental norms or basic state rules that are fundamental and cannot be changed by law, unless changes are made to the identity of Indonesia which was born in 1945. In formulating the implementation concept The Indonesian state is based on the concept of the rule of law, beforehand it is necessary to know what the aim of administering the Indonesian state is, or what the aim of the Indonesian state is. This is important because the concept of implementing a rule of law must always be focused on realizing the goals of the Indonesian state.

The goals of the Indonesian state are definitively stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely:

a. Protect the entire nation and all of Indonesia's bloodshed;
b. Promote general welfare;
c. Enrich the life of a nation;
d. Participate in implementing world peace, based on independence, eternal peace and social justice.

The realization of this state goal is the obligation of the Indonesian state as the highest organization of the Indonesian nation whose implementation must be based on the five state principles (Pancasila). From this it can be understood that Pancasila is the main guideline for state administration activities which are based on the principles of belief in the Almighty God, just and civilized humanity, Indonesian unity, democracy led by wisdom in deliberation/representation, and social justice for all Indonesian people. Law enforcement officers apply the law based on the formal rules of the Criminal Code and Criminal Procedure Code without paying attention to social aspects that develop in society.

As the progressive legal perspective places the law for humans, this idea, optics or basic belief does not see the law as something central in law, but rather humans are at the center of the legal cycle. The law revolves around humans as humans at its center. The law exists for humans, not humans for the law. If we hold on to the belief that humans are for the law, then humans will always be tried, perhaps even forced, to fit into the schemes that have been created by the law.

IV. Conclusion

The theory of dignified justice contains a theoretical view with a postulate that all activities in a country must be based on applicable laws and regulations. Pancasila, from the perspective of dignified justice, is the highest legal regulation, the source of all sources of law. It is said that statutory regulations are the highest because from the perspective of dignified justice, Pancasila is the First Agreement. Those who study law understand this in the expression pacta sut servanda (the agreement is a binding law as befits a law for those who make it). As a law, the law can be enforced for those who do not want to obey and implement it. As the source of all sources of law, from the perspective of dignified justice, all laws and judges' decisions in Indonesia are derivations ("soul mates") from Pancasila. A dignified justice in legal reform occurs when law-making power bodies, namely the judiciary, and legislation-forming bodies, namely the government and legislative power bodies that have power or authority in a country, take the necessary steps to enforce laws and regulations applicable laws and regulations.

Suggestion

Justice is the glue that holds the order of civilized social life. Laws are created so that every individual member of society and state administrators carry out actions necessary to maintain social ties and achieve the goals of life together. If the ordered action is not carried out or a prohibition is violated, So, every violator should receive sanctions according to the level of the violation itself.

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