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THE CORRELATION BETWEEN LAW AND MORALITY IN THE PERSPECTIVE OF LEGAL PHILOSOPHY

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Abstract

This study aims to analyze the relationship between law and morality from the perspective of legal philosophy and to examine the role of morality in assessing the justice of law, including the validity of laws that conflict with societal moral values. The research employs a normative legal method with conceptual and statutory approaches. The findings reveal that law and morality are closely interconnected, despite differing views between natural law and legal positivism. In the Indonesian context, moral values are reflected in Pancasila as the source of all legal sources and in various statutory regulations. Morality functions as both a foundation of legitimacy and an evaluative tool for legal justice. Laws that contradict moral values tend to lose social legitimacy and face challenges in enforcement. Although a law may remain formally valid if enacted through proper procedures, its effectiveness largely depends on public acceptance. Therefore, a balance between legal certainty and justice grounded in moral values is essential.



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THE CORRELATION BETWEEN LAW AND MORALITY IN THE PERSPECTIVE OF LEGAL PHILOSOPHY

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Abstract

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I. INTRODUCTION

The correlation between law and morality constitutes one of the fundamental themes in the study of legal philosophy, continuously debated from classical to modern times. Law, as a system of norms regulating human life within society, cannot be separated from the moral values that exist and develop within that society. Morality provides standards of good and bad, right and wrong, which ultimately serve as the basis for evaluating the justice of a law. Therefore, discussing the relationship between law and morality is essential to understanding the nature of law, the purpose of its formation, and the legitimacy of its application in social life. In this context, legal philosophy emerges as a field of study that not only examines law from a normative perspective but also explores the ethical and philosophical dimensions underlying its existence.

Historically, debates concerning the relationship between law and morality have given rise to various schools of thought in legal philosophy, such as natural law and legal positivism. The natural law tradition argues that law must align with universal moral values derived from reason and human nature. From this perspective, an unjust law does not deserve to be called law, as it contradicts the moral principles that form the basis of justice. In contrast, legal positivism views law as a product of the will

of legitimate authority, valid regardless of moral considerations. This school emphasizes that the validity of law is determined by the procedures of its formation rather than its moral content. These differing perspectives demonstrate that the relationship between law and morality is neither simple nor singular, but rather complex and multidimensional, requiring in-depth analysis.

In practice, despite theoretical distinctions, law and morality frequently interact and influence one another. Law cannot be entirely separated from morality because it is created by human beings who possess ethical and moral values. Conversely, morality requires law as a mechanism to implement these values concretely within society. Thus, law and morality share a symbiotic relationship, complementing each other in the pursuit of social order and justice. Without morality, law risks becoming rigid and unjust; without law, moral values are difficult to enforce effectively in a complex society.

In the context of a state governed by law, such as Indonesia, the relationship between law and morality holds significant relevance. This is evident in the state ideology, Pancasila, which embodies moral values as the foundation for legal development. Pancasila functions not only as the nation's ideology but also as the source of all sources of law, as affirmed in Law Number 12 of 2011 concerning the Formation of Laws and Regulations. The values embedded in Pancasila, such as humanity, justice, and balance, reflect moral principles that must be internalized in every legal product. Therefore, law in Indonesia is not merely formal and procedural but must also reflect the moral values prevailing within society.

Furthermore, the 1945 Constitution of the Republic of Indonesia, particularly in its Preamble, emphasizes that the purpose of the state is to achieve social justice for all Indonesian people. The concept of social justice is inherently linked to moral values, as justice itself is an ethical concept associated with notions of goodness and propriety. Consequently, law as an instrument of the state must be capable of realizing justice not only in a formal sense but also substantively. In this regard, morality serves as a benchmark for assessing whether a law reflects the justice expected by society.

However, in practice, discrepancies between law and morality are not uncommon. Certain legal norms, although formally valid, may be perceived as unjust by society because they conflict with prevailing moral values. Such conditions can lead to resistance and non-compliance, ultimately reducing the effectiveness of law enforcement. Conversely, there are situations in which societal moral values evolve more rapidly than the law, rendering legal norms outdated and irrelevant. This phenomenon illustrates that the relationship between law and morality is dynamic and continuously evolving in response to societal changes.

In the era of globalization and technological advancement, the challenge of maintaining a balance between law and morality has become increasingly complex. Developments in information technology, for example, have introduced new legal issues that are not yet fully regulated, such as cybercrime, personal data protection, and the ethics of artificial intelligence. In addressing these issues,

morality plays a crucial role in guiding the formulation of responsive and adaptive legal norms. Therefore, the study of the correlation between law and morality becomes increasingly relevant to ensure that legal frameworks meet societal needs without neglecting ethical values.

Moreover, in the context of law enforcement, morality also plays a vital role. Law enforcement officials are not only required to uphold the law formally but must also consider aspects of justice and humanity in every action taken. Law enforcement that focuses solely on legal certainty without regard to morality risks creating injustice and harming society. Therefore, moral integrity is an essential prerequisite for law enforcement officers in carrying out their duties. In this sense, morality is not only significant in the formation of law but also in its implementation.

Based on the foregoing discussion, it can be understood that the correlation between law and morality, from the perspective of legal philosophy, is complex, dynamic, and inseparable. Law requires morality as a basis of legitimacy and as a guide in achieving justice, while morality requires law as a means of effective implementation within society. Therefore, examining the relationship between law and morality is crucial to ensure that laws are not only formally valid but also substantively just and aligned with societal values. Accordingly, this study is relevant to further explore the extent of the relationship between law and morality and the role of morality in assessing the justice of law from a legal philosophical perspective.

1. How is the relationship between law and morality understood within the perspective of legal philosophy, and to what extent do moral values influence the formation and validity of legal norms?
2. What is the role of morality in assessing the justice of a law, and can a law still be considered valid if it contradicts the moral values prevailing within society?

II. RESEARCH METHODS

The research method employed in this study is normative legal research, which focuses on the examination of prevailing legal norms. The approaches used include the statute approach and the conceptual approach. The legal materials utilized consist of primary legal materials, such as statutory regulations; secondary legal materials, including literature, academic journals, and scholarly doctrines; and tertiary legal materials as supporting references. The technique for collecting legal materials is conducted through library research. Meanwhile, the analysis is carried out qualitatively by interpreting and systematically examining legal norms in order to derive conclusions that are relevant to the research problems.

III. RESULTS AND DISCUSSION

3.1. The Relationship Between Law and Morality in the Perspective of Legal Philosophy and the Extent to Which Moral Values Influence the Formation and Validity of Legal Norms

The relationship between law and morality is one of the classical issues in legal philosophy that continues to be debated to this day. From the perspective of legal philosophy, law is not merely viewed as a set of binding and coercive norms, but also as a reflection of the moral values that exist and develop within society. This view aligns with the natural law tradition, which asserts that good law is law that is consistent with morality. Thinkers such as Thomas Aquinas argued that an unjust law is not truly law (*lex iniusta non est lex*). Within this framework, morality serves as the foundation for the legitimacy of law itself.

In contrast, legal positivism, as developed by scholars such as John Austin and H.L.A. Hart, draws a strict distinction between law and morality. According to this school of thought, law is defined as that which is established by a sovereign authority and does not necessarily have to reflect moral values. However, despite this theoretical separation, in practice law cannot be entirely detached from morality. The formation of law is ultimately carried out by human beings who possess ethical values and moral considerations. Therefore, even if a law is formally valid without moral considerations, its social legitimacy often depends on its conformity with the moral values upheld by society.

In the Indonesian context, the relationship between law and morality is clearly reflected in the state ideology, Pancasila. As the source of all sources of law, Pancasila embodies moral values that serve as the foundation for the formation of legislation. This is affirmed in Article 2 of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022, which states that Pancasila is the source of all sources of state law. Consequently, every legal norm established in Indonesia must reflect the moral values contained in Pancasila, such as justice, humanity, and balance.

Furthermore, the Preamble to the 1945 Constitution of the Republic of Indonesia, particularly the fourth paragraph, emphasizes the state's objective to protect all Indonesian people and to realize social justice for all. The phrase "social justice" reflects a moral value that constitutes the primary goal of legal formation. This indicates that law functions not only as a regulatory instrument but also as a means of realizing moral values in the form of justice and societal welfare.

The influence of morality on the formation of law can also be observed in various statutory provisions that explicitly incorporate ethical values. For instance, Article 1337 of the Indonesian Civil Code (KUHPerdata) stipulates that a cause is unlawful if it is contrary to law, morality, or public order. The term "morality" in this provision highlights the moral dimension in determining the validity of a contract. In other words, even if a contract fulfills formal requirements, it may be declared null and void if it contradicts moral values.

Moreover, in criminal law, moral values play a significant role in determining whether an act qualifies as a criminal offense. The Indonesian Criminal Code (KUHP), for example, contains provisions

prohibiting acts considered contrary to societal morality, such as indecent conduct. This demonstrates that criminal law functions not only to maintain public order but also to protect moral values deemed essential by society.

On the other hand, the effectiveness of law in society is also strongly influenced by its moral acceptance. Legal norms that do not align with the moral values prevailing within society tend to be difficult to enforce effectively. This is consistent with the theory of sociological jurisprudence proposed by Roscoe Pound, which emphasizes that law must reflect the “living law” within society. Thus, societal morality becomes a crucial factor in determining the effectiveness of law.

In practice, resistance often arises when legal rules are perceived as unjust or inconsistent with societal moral values. This indicates that the legitimacy of law is not solely determined by the procedures of its formation but also by the moral substance it embodies. Therefore, lawmakers must take into account the evolving moral values within society to ensure that the law is not only formally valid but also socially accepted.

At the global level, the relationship between law and morality is also reflected in the development of human rights law. International legal instruments such as the Universal Declaration of Human Rights (UDHR) affirm that every individual possesses fundamental rights derived from universal moral values concerning human dignity. In Indonesia, this is accommodated in Law Number 39 of 1999 on Human Rights, which recognizes human rights as inherent to all individuals as creations of God Almighty. This demonstrates that morality—particularly values rooted in humanity and religion—serves as a foundation for the development of legal norms.

Nevertheless, the relationship between law and morality is not always harmonious. In certain cases, law may lag behind the moral development of society, or conversely, law may advance ahead of societal moral acceptance. Such discrepancies can lead to conflict and debate, especially in contemporary issues such as technology, bioethics, and individual freedoms. Therefore, a balanced approach is required between legal certainty and justice, with the latter grounded in moral values.

In conclusion, the relationship between law and morality is close and inseparable, despite differing perspectives among various schools of thought. Moral values play a crucial role in the formation, interpretation, and application of legal norms. In Indonesia, this is reflected in Pancasila as the source of all sources of law, as well as in various statutory provisions that incorporate values of morality, justice, and humanity. Therefore, good law is not only law that fulfills formal requirements but also law that reflects the moral values of society, enabling it to be accepted and effectively enforced.

3.2. The Role of Morality in Assessing the Justice of Law and the Validity of Law in Relation to Societal Moral Values

The role of morality in assessing the justice of law constitutes a fundamental aspect of legal philosophy, as law is not merely evaluated based on the formal procedures of its formation but also on the substance of its justice. Morality serves as an essential *معیار* for determining whether a law truly reflects justice or, conversely, deviates from it. In the perspective of legal philosophy, particularly within the natural law tradition, morality is positioned as the primary foundation for determining both the validity and justice of law. This view asserts that a law inconsistent with moral values cannot be regarded as just and may even lose its legitimacy as law. Therefore, the justice of law is measured not only by its conformity with formal procedures but also by the extent to which it embodies the moral values prevailing within society.

In this context, morality functions as an evaluative instrument for law. It is used to assess whether legal norms fulfill the sense of justice expected by society. This aligns with the fundamental objectives of law as articulated in various legal theories, namely justice, legal certainty, and utility. Among these, justice is most closely related to morality. A law that is formally valid may still be considered unjust if it contradicts the moral values upheld by society. In such circumstances, morality acts as a critical standard against positive law.

Within the Indonesian legal system, the role of morality in evaluating the justice of law is reflected in Pancasila as the foundation of the state and the source of all sources of law. The values contained in Pancasila, such as just and civilized humanity and social justice for all Indonesian people, represent moral principles that must guide both the formation and enforcement of law. This is affirmed in Article 2 of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022, which explicitly states that Pancasila is the source of all sources of state law. Consequently, every statutory regulation must reflect the moral values embodied in Pancasila in order to be considered just.

Furthermore, the Preamble to the 1945 Constitution of the Republic of Indonesia, particularly the fourth paragraph, emphasizes the state's objective of achieving social justice for all citizens. The concept of social justice is inherently linked to moral values, as justice itself is an ethical concept concerning what is considered right and proper in social life. In addition, Article 28D paragraph (1) of the 1945 Constitution guarantees every individual the right to recognition, protection, and fair legal certainty. The phrase "fair legal certainty" indicates that law must not only be certain but also just, thereby aligning with moral values.

In practice, morality is also reflected in various provisions of positive law in Indonesia. For example, Article 1337 of the Indonesian Civil Code stipulates that a cause is unlawful if it is contrary to morality or public order. This provision explicitly acknowledges the role of morality in determining the validity of legal acts. Similarly, in criminal law, numerous provisions are grounded in moral values,

such as prohibitions against acts considered indecent. This demonstrates that morality is not merely a philosophical consideration but has been incorporated into positive legal norms.

However, an important question arises in legal philosophy: does law remain valid if it contradicts the moral values prevailing within society? From the perspective of legal positivism, the validity of law is determined by its formal enactment rather than its moral content. As long as a law is established by a competent authority in accordance with the applicable procedures, it remains legally valid, even if it may be morally unjust. This perspective emphasizes the importance of legal certainty, as law cannot function effectively without it.

Nevertheless, in practice, laws that conflict with societal moral values often encounter challenges in enforcement. This is largely due to the lack of public acceptance of such laws. In this regard, Roscoe Pound's theory of sociological jurisprudence becomes relevant, asserting that law must reflect the "living law" within society. If legal norms do not align with societal morality, they risk losing effectiveness due to the absence of public legal awareness and support.

In the Indonesian context, laws that are inconsistent with moral values may also be subject to judicial review by the Constitutional Court. As stipulated in Article 24C of the 1945 Constitution, the Constitutional Court has the authority to review laws against the Constitution. In exercising this authority, the Court considers not only formal aspects but also the moral and justice values embedded in the Constitution. Therefore, if a law is found to contradict the moral principles reflected in the Constitution, it may be declared unconstitutional and lose its binding legal force.

Moreover, the role of morality in assessing the justice of law is also evident in the development of human rights law. Law Number 39 of 1999 on Human Rights affirms that human rights are inherent to all individuals as creations of God Almighty. This provision indicates that morality—particularly values related to human dignity and humanity—serves as a fundamental basis for legal formation and enforcement. Consequently, laws that violate human rights are essentially contrary to moral values and may be considered unjust.

In conclusion, morality plays a crucial role in evaluating the justice of law. It functions as an evaluative standard to determine whether legal norms reflect the sense of justice expected by society. Although a law may remain formally valid even when it contradicts moral values, its legitimacy and effectiveness largely depend on its alignment with the moral values prevailing within society. In Indonesia, this relationship is reflected in Pancasila, the 1945 Constitution, and various statutory regulations that integrate moral values into legal norms. Therefore, the ideal law is not only formally valid but also morally just, enabling it to be accepted and effectively enforced within society.

IV. CONCLUSION

Based on the results of the research and discussion, it can be concluded that the relationship between law and morality from the perspective of legal philosophy is close and mutually influential, both in the process of legal formation and in the validity of legal norms. Morality serves as an ethical foundation that provides substantive legitimacy to law, meaning that law is not only assessed based on its formal aspects but also on the justice it embodies. In the Indonesian context, this relationship is clearly reflected in Pancasila as the source of all sources of state law, as well as in various statutory regulations that incorporate values of morality, justice, and humanity. Furthermore, morality functions as an evaluative tool to assess whether a law reflects the sense of justice prevailing within society.

Although, from the perspective of legal positivism, a legal norm remains valid as long as it is enacted in accordance with established procedures, in practice the effectiveness of law largely depends on its moral acceptance by society. Laws that contradict moral values tend to lose social legitimacy and are difficult to enforce effectively. Therefore, the ideal law is one that not only possesses formal binding force but also aligns with moral values, thereby achieving a balanced realization of justice, legal certainty, and utility.

Based on these conclusions, it is recommended that in the process of law-making, legislators consistently consider and integrate the moral values that exist within society, particularly those derived from Pancasila and evolving social norms. In addition, law enforcement officials should adopt an approach that is not solely oriented toward legal certainty but also takes into account substantive justice and moral considerations in the application of law.

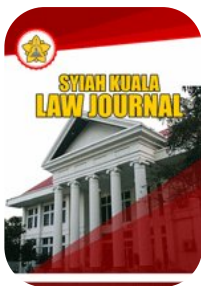
Furthermore, it is necessary to enhance public legal awareness through education and socialization efforts that emphasize the importance of balancing law and morality. This would foster legal compliance that is not merely formal but also driven by ethical consciousness. In addition, the mechanism for judicial review through judicial institutions, such as the Constitutional Court, should continue to be optimized as a means of correcting legal norms that are inconsistent with moral values and constitutional principles.

Accordingly, it is expected that the legal system in Indonesia will develop in a responsive, adaptive, and just manner, while reflecting the moral values that live within society.

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