



SEVERAL PERSPECTIVES ON THE RELATIONSHIP BETWEEN PHILOSOPHY, PHILOSOPHY OF SCIENCE, AND LAW

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ABSTRACT

The aim of this study is to determine the degree to which philosophy, law philosophy, and law science are related and distinct in order to discern the features of each of these disciplines. Philosophy is a science that seeks to discover the core of original truth via the qualities of its thinking: rational, methodical, systematic, coherent, and integrative thinking, macro and microcosmos thinking, also sensory and non-sensory in nature. Legal philosophy is a subfield of philosophy, namely the philosophy of behavior or ethics that examines the essence of law. In other words, legal philosophy is a discipline that examines law intellectually.

KEYWORDS: Legal, Philosophy, Science, Law, Jurisprudence, Indonesia.

INTRODUCTION

If we talk about philosophy, we seem to be in a very abstract realm, and legal philosophy is a branch of philosophy; legal philosophy has a strategic function in forming law in Indonesia.

Historically, the times have continued to develop through a hierarchical development that has been accompanied by social changes, where these two things always go hand in hand. A human being whose first basis is free becomes problematic when he lives in a social community. His independence clashed with the independence of other individuals or even with other creatures. So that he continues to be bound by the cosmic order, that is how he should relate to other people, with nature, with himself and with his God. Then came the rules, norms or values that became a universal agreement that must be obeyed. Such things above are the beginning of human civilization, where humans must always uphold the values of humanity and the value of justice. He must hold the values of the rules that apply to human life.

In doing or carrying out our daily lives, without us realizing it, we often do philosophy in general, namely thinking about the good and bad of what we will do or when we work we often think about what we should do and how we do it. From this simple thought, we can say that philosophy is a critical way of thinking about a problem or problem, both regarding what values it contains and how to implement them. In philosophy, the most profound questions are discussed with meaning, foundation,

structure, and the like so that an efficient and universal critical nature is needed.

Here the authors try to discuss a little about:

1. The relationship between philosophy and the philosophy of law and jurisprudence
2. The difference between philosophy and philosophy of law and jurisprudence

The purpose of this research is to see to what extent are the relationships and differences between philosophy, legal philosophy, and legal science so that the characteristics of each of these sciences can be seen.

LITERATURE REVIEW

Philosophy

Since we sit on the bench of further education and universities, we often hear about philosophy; what exactly is philosophy? A person who philosophizes is likened to a person who stands on earth looking up at the stars; he wants to know the nature of his existence, he thinks with a holistic nature (not satisfied if he knows something that something is true). He also thinks with a speculative nature (in his analysis and proof, he can separate which speculation is reliable and which is not), and the main task of philosophy is to establish reliable foundations (Jujun S. Suriasumantri, 2003)

Philosophy or also called the science of philosophy has several main branches of science. The main scientific branches of philosophy include:



- a. Ontology (metaphysics) is the science that deals with the fundamental nature of the existence of things.
- b. Epistemology, namely discussing the knowledge obtained by humans, for example, regarding the origin (source) of where humans obtained the knowledge, what is the measure of the truth of the knowledge obtained by humans, and the composition of the knowledge that humans have obtained.
- c. Axiology or the science of values is a part of philosophy that discusses the nature of things explicitly.
- d. Moral (ethics) is a science that discusses customs or habits in life that contain good values.

The definition of philosophy in the Big Indonesian Dictionary is

- 1) Knowledge and inquiry with reason regarding the nature of all that exists, its causes, origins, and laws.
- 2) The theory underlies the nature of the mind or activity or means science with a core of logic, aesthetics, metaphysics, and epistemology.

The famous philosopher Plato (427 - 347 BC) defines philosophy as a science that is interested in reaching the original truth, Then Aristotle (382 - 322 BC) defines philosophy as a science that includes truth and contains knowledge in it; metaphysics, logic, rhetoric, ethics, economics, politics, and aesthetics.

In general, the definition of philosophy is a science that wants to achieve the essence of the original truth with the characteristics of its thinking, which include:

- 1) Rational, methodical, systematic, coherent, and integral,
- 2) Macro and microcosmos
- 3) Are sensory and non-sensory.

The essence of the truth sought from philosophy is only from the point of view that is only seen by the senses. He also thinks with nature (no longer believes in the truth about the nature of life and life, not only in theory but also in practice.

Philosophy of law

Philosophy of Law According to Gustaff Radbruch is a branch of philosophy that studies the truth law. Meanwhile, according to Langmeyer: Philosophy of Law is a philosophical discussion of law. Anthoni D'Amato terms Jurisprudence or legal philosophy, which is often connoted as fundamental research and an abstract understanding of the law; then, Bruce D. Fischer defines Jurisprudence as a study of the philosophy of law. This word comes from Latin, which means wisdom (prudence)

regarding the law (Juris), so that grammatically it means the study of the philosophy of law.

In simple terms, it can be said that the philosophy of law is a branch of philosophy, namely the philosophy of behaviour or ethics, which studies the nature of law. In other words, legal philosophy is a science that studies law philosophically, so the object of legal philosophy is law, and the object is studied in depth to the core or basis, which is called essence.

Purnadi Purbacaraka & Soerjono Soekanto mention nine legal meanings, namely:

- (1) Science, namely knowledge that is systematically arranged based on the power of thought.
- (2) Discipline, which is a teaching system about the reality or the symptoms encountered.
- (3) Norms are guidelines or benchmarks for appropriate or expected attitudes or behaviour.
- (4) Legal order, namely the structure and process of the legal norms that apply at a particular time and place and are in written form.
- (5) Officers, namely individuals who are closely related to law enforcement (law enforcement officers)
- (6) Ruler's decision, which is the result of the discretionary process
- (7) Government Process, namely the process of reciprocal relations between the main elements of the state system
- (8) The attitude of steady action or regular behaviour, namely behaviour that is repeated in the same way, which aims to achieve peace
- (9) The fabric of values, namely the fabric of abstract conceptions of what is considered good and bad.

Legal philosophy studies law speculatively and critically, meaning that legal philosophy seeks to examine the value of statements that can be categorized as law;

- Speculatively, the philosophy of law occurs by asking questions about the nature of law.
- Critically, the philosophy of law seeks to examine existing ideas about law, seeing their coherence, correspondence and function.

Furthermore, Prof. Dr H. Muchsin, SH. In his book, Overview of the Philosophy of Law explains by dividing the definition of philosophy with law separately. Philosophy is defined as an effort to think seriously to understand everything and the most profound meaning. The law is concluded, as a rule, both written and unwritten, regulates the behaviour of humans in society, in the form of orders and



prohibitions whose existence is enforced by strict and objective sanctions from the authorities in a country.

According to Soetikno, the philosophy of law is looking for the nature of the law, and he wants to know what is behind the law, looking for what is hidden in the law, he investigates the rules of law as a value judgment, he gives an explanation of values, postulates (basics) to its fundamentals, it seeks to reach the roots of the law.

According to Satjipto Raharjo, Legal philosophy studies the fundamental questions of law. Questions about the nature of law, about the basis for the binding force of law are examples of such fundamental questions. Legal philosophy can work on legal materials on such a basis, but each takes an entirely different angle of understanding. Positive legal science only deals with a particular legal system and questions the logical consistency of its principles, regulations, fields and legal system.

According to Lili Rasjidi, the Philosophy of law seeks to create an "ethical world that becomes a background that cannot be touched by the five senses" so that legal philosophy becomes a normative science, as is the case with legal, political science. Legal philosophy tries to find a legal ideal that can be a "legal basis" and "ethical" for the implementation of a favourable legal system in a society (such as the grundnorm which has been described by German legal scholars who adhere to schools such as Neo Kantianism).

The authors do not question which definition is the most correct or most appropriate; in this case, the authors present several opinions of experts so that this paper is richer in treasures, and there is a comparison for the reader, critically the author places the philosophy of law as the embodiment of law formation carried out by lawmakers in our country.

Legal Studies

Legal discipline, by Purbacaraka, Soekanto, and Chidir Ali, is defined as a legal theory but in a broad sense, which includes legal politics, legal philosophy, and legal theory in a narrow sense or legal science. Legal philosophy is not included as a branch of law but as part of legal theory or legal discipline from this field.

Legal science is knowledge of human issues, knowledge of what is right and what is not correct according to human dignity. Law is a branch of formal science about positive law.

In the discussion of legal science, there is an extensive scope, including philosophy, sociology, history, and analytical components of legal theory. Legal science means every careful and weighty thought about all levels of legal life, as long as this thought reaches beyond the limits of solving a concrete problem, so legal science includes all kinds

of natural and well-thought-out generalizations in the field of law.

According to Satjipto Rahardjo, Legal science is a science that seeks to examine the law. Legal science covers and discusses all matters related to law. Legal science is the object of law itself. Such is the breadth of the problem covered by this science that it has provoked people's opinion that "the boundaries cannot be determined".

Furthermore, according to J.B. Daliyo, Legal science is a science whose object is the law. Thus, legal science will study all the ins and outs of the law, for example, regarding the origin, form, principles, systems, types of distribution, sources, development, function and legal position in society. Legal science as a science that has a legal object examines the law as a symptom or phenomenon of human life anywhere in the world from any time. A person who wants to know the law in depth really needs to study the law from birth, grow and develop from time to time so that the history of law plays a significant role in this matter.

Bernard Arief Sidharta argues that the understanding of Legal Science used by Satjipto is almost the same as the understanding of Legal Theory in a broad sense and Legal Theory in a narrow sense used by Bruggink. This case is reinforced by the sentence, "in English, it is called jurisprudence".

According to Paul Scholten, Legal Science is actually a field of study that examines the law that applies as a quantity. Meanwhile, Mochtar Kusumaatmadja stated that law could be the object of various sciences with different approaches to talk about legal sciences. Meanwhile, according to Arief Sidharta, Legal Science is a science that collects, describes, interprets and systematizes favourable laws that apply in a particular society or country, namely the conceptual system of legal rules and legal decisions whose important parts are favourable by the bearer of legal authority in society or the country concerned.

Similarities and Differences in Philosophy, Philosophy of Law, and Law.

Philosophy is a science that aims to investigate the true nature through the Philosophy of Law, a science that studies law philosophically. Legal Science is actually a field of study that examines the law that applies as a magnitude Theory is an opinion expressed by someone about a general principle that becomes the basis or guidelines of science. The law is all the rules, both written and unwritten. It is made or recognized by the state as a guide to the behaviour of the people. They have strict and objective sanctions for those who violate them. The legal theory consists of legal principles that serve as guidelines in formulating a legal product. The law



can be implemented in the practice of community life. They are the embodiment of the will of the government of the State Administration regarding the law that applies in its territory; and the direction in which the law is developed, the rule of law is a rule made officially by the state authority binding everyone. The authorized state apparatus can impose its enforcement. Its validity can be maintained by implementing and applying the law from the rules that have been made on the rule of law in concrete events.

From the beginning of the discussion on Philosophy, Philosophy of Law and Legal Science, it can be concluded about the Relationships and Differences between the three Sciences, namely as follows.

1. Equality:

- The three sciences seek the best formulation to investigate the object as entirely as possible down to its roots.
- It gives an understanding of the relationship or coherence between the events we experience and tries to show the cause and effect.
- Want to provide a synthesis, which is a view that goes hand in hand with one another
- It has a particular method and system in its description.
- To provide an explanation of reality entirely arising from human desire [objectivity].
- It is the essence of objective thinking carried out by proving through specific methods related to science as a means of research.

2. Difference:

- The material object (field) of philosophy and legal philosophy is universal (general), namely, everything that exists (reality), while the material object of legal science (scientific knowledge) is specific and empirical.
- Philosophy and philosophy of law are carried out in an atmosphere of knowledge that emphasizes the power of speculation, criticism, and supervision, while research in law must be conducted through a trial and error approach.
- Philosophy and philosophy of law are more to the experience of everyday reality, while the science of law is discursive, which describes the truth of something logically.
- Philosophy and philosophy of law provide a final, absolute, and profound explanation to the fundamental [primary cause] while the science of law shows the causes that are not so deep, closer, secondary [secondary cause].

CONCLUSION

Philosophy, legal philosophy and legal science are branches of science that have the same

characteristics in problem-solving systematics. Namely, by inviting people to think about cause and effect in doing something so that various views can be obtained with different systematic thoughts on a problem that is the same in other words, these three sciences ask us as humans to be able to think critically, realistically and objectively so that the results can be justified. However, not all of the characteristics of these three sciences have similarities; these three sciences also have differences that make their science even more interesting. The differences between them in philosophy and philosophy of Object Science are universal, such as how the world crime rate can increase and the causes? From this question, universal results that are not limited to one area can be obtained. Of course, the proof is by making a poll about which crimes often occur on earth so that the numbers or percentages can be confident. However, when discussing legal science, the question is difficult to answer because it is not necessarily the same in one place as elsewhere, for example, if asked about theft, there is a classification regarding the theft, both the age of the perpetrator, the motive of the possible actions of the perpetrator. It just makes someone a perpetrator who cannot be categorized as a thief, like in Saudi Arabia where when someone steals an apple because he is hungry, then he cannot be punished because he was struggling to defend his life, but in other areas stealing still stealing, whatever the reason Stealing is still an illegal act.

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