

When a Judge Had to Row Between Three Coral Islands: A Judge's Reflections on Gustav Radbruch's Prophetic Message

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Abstract. Law enforcement, in essence, is not simply about how to formally apply legal norms. Based on this thesis, judges are required to possess sufficient competence to maintain harmony among the values of justice, legal certainty, and expediency. A judge must be adept at navigating these three dimensions of legal objectives. Because of their position, judges must, in effect, be willing and able to row between three coral islands in carrying out their vision and mission; this is certainly easy to say, but not easy to realise. The question now arises: on which island should a judge anchor their boat for a greater and more noble purpose in the context of upholding law and dignified justice? This prophetic-metaphorical expression can stir a judge's inner feelings based on divine messages.

Keyword: judge; Gustav Radbruch; justice; legal certainty; utility.

INTRODUCTION

There's one thing that often becomes a shared reflection. This reflection (udar rasa in Javanese; wirasa in Balinese) stems from intellectual unease. Among these, unease is the message that judges, when deciding disputes, should not simply carry out orders stipulated by law [1]. Rather, it should go beyond that: judges should possess a transcendental outlook on life. They believe that what they do is a humanitarian duty, and that being a judge is more than just a job for ordinary people.

For a long time, in society, almost no day has passed without curses, insults, and swearing related to court decisions. The dynamics of Indonesia's judicial system have long been a public concern across every corner of society. The public focuses on its perception of the court's performance, and this image often influences perceptions in other countries. This perspective becomes relevant when discussing the public's sense of justice. There is scepticism, distrust, and

even cynicism. Justice seekers (justitiabelen) sincerely hope that a judge's decision will provide justice in their cases. However, many are dissatisfied with judges' decisions for various reasons. Judges' decisions are expected to provide solutions for the disputing parties by instilling a sense of justice that favours the truth; this will increase public satisfaction with the judge's decision, which, in turn, can foster public trust in the judge's or the court's performance. The statement above contains highly subjective terms, namely "sense of public justice" and "public satisfaction" [2].

Justice is a value that fosters ideal relationships among people regarding what is rightfully theirs, as defined by law and morality. It is crucial in the legal world, anytime and anywhere. Unfortunately, this sense of justice is individual, thus subjective and relative.

Justice is also inextricably linked to the influence of locus, tempus, and other variables that can influence a judge's sense of justice as a decision-

maker, particularly when questions of law are applied to questions of fact. So, has the motto "uphold justice though the heavens fall (fiat justitia ruat caelum)" been realised, and has it become the spirit of judges in upholding law and justice [3]?

Ideally, logical, juridical, philosophical, and sociological legal considerations will result in sound judicial decisions that are acceptable to both society and those seeking justice. Therefore, judges are also required to be more responsive to societal developments and to be wise in addressing legal issues.

Law is a crucial instrument for human life. Legal norms regulate human behaviour to create a prosperous and peaceful environment for humanity. Gustav Radbruch, a highly influential legal philosopher, once advised that every legal norm must uphold noble values as its goal [4].

It is worth reflecting on whether the constitutional mandate of the state, as stipulated in Article 24 § 1 of the 1945 Constitution, which states that "Judicial power is an independent power to administer justice to uphold law and justice," has been properly and correctly carried out by its holders.

The principle of judicial independence requires the judiciary, as an institution, to resist influence from the executive and legislative branches and from extrajudicial parties. Based on this principle, judges must remain impartial. They must also understand the mandates entrusted to them and carry out their duties and responsibilities accordingly. They are required to be consistent, professional, and to possess integrity, and to uphold the code of ethics in every aspect of their duties [5].

The judiciary is a space where law meets social reality [6]. In this space, judges are central figures who determine how the law operates and is perceived by society. Judges are not only required to understand the legal provisions but also to understand the values of justice and the evolving social needs of society [7]. Therefore, the judge's task is not merely to apply the law, but also to maintain a balance between the values that constitute the law's objectives.

Gustav Radbruch argued that law has three primary objectives: justice (gerechtigkeits), legal certainty (rechtssicherheit), and utility (zweckmäßigkeit) [8]. Ideally, these three objectives should coexist, but in practice they often

conflict. In such circumstances, judges face a dilemma: determining which value takes priority in a given case [9].

The metaphor "a judge rowing between three coral islands" illustrates the complexity of the judge's role in maintaining balance among these three legal objectives. This metaphor provides a new perspective, emphasising that judges are not merely interpreters of the law but also navigators, determining the direction of law enforcement amidst clashing legal values.

METHODS

This research uses a normative juridical method, a conceptual approach, and a library research approach [10]. The researchers obtained legal materials from scientific journals discussing Gustav Radbruch's theory and its implementation in Indonesian judicial practice. They conducted a descriptive and analytical analysis, using the metaphor of "three coral islands" as an interpretive framework to understand the dynamics of judicial decision-making. The novelty of this paper lies in the metaphorical approach of "three coral islands" as a theoretical construct to explain the dynamics of judges' considerations in balancing Gustav Radbruch's three legal objectives.

RESULT DISCUSSIONS

When Conscience Becomes Its Own Judge. To illustrate the socio-psychological and anthropological dynamics of a judge as God's Representative in deciding a case, the author provides a narrative below that invites collective reflection. This dramatic work depicts the fate of a judge who has tried a case, illustrating the human struggle of the judicial process.

The script for this story is "Mahkamah, Sebuah Mahkamah Hati Nurani," one of Asrul Sani's best works [11]. There are compelling reflections within this drama's narrative, a story that touches the human conscience.

This phenomenal story was broadcast on the national TVRI network in 1984. It took the form of a theatrical performance, set and themed during the Indonesian struggle. The main characters in the story were Syaiful Bahri (as a veteran Indonesian independence fighter) and Anwar (as a subordinate during the struggle), who died by being shot by Syaiful Bahri, Anwar's friend.

Meanwhile, Murni (Syaiful's wife) always faithfully accompanies Him in his dying moments.

The script for "Mahkamah" tells the story of a retired army officer from the revolutionary era, Major Syaiful Bahri, who is facing death. Accompanied by Murni, his loyal wife—a beautiful woman who, when she was young, was fought over by the youth movement (played by Mutiara Sani)- Major Syaiful faces his deathbed. He is in a state of extreme anxiety. As he approaches death, a past event replays vividly before Syaiful's eyes and memory, as if a film is being screened especially for him.

The root of Bahri's anxiety is an event he never intended, yet it happened anyway. He shot, with his own hand, one of his subordinates, Captain Anwar, whom he considered a traitor to the country. Syaiful is furious and accuses Anwar of being a traitor to the country. He decides to shoot Anwar dead with his own hand because Anwar had been proven to have refused his orders to crush the communist rebellion in Madiun in 1948.

Constantly accompanied by Murni, his wife, the Major felt uneasy because, on the one hand, she truly believed the execution of Captain Anwar was a patriotic act. However, before his death, another story suddenly emerged, accompanying his life's journey. Anwar and the Major had apparently competed for the heart and love of a beautiful girl, Murni. Long story short, Syaiful Bahri was the one who ultimately married the beautiful Murni.

On the verge of death, events from his past constantly haunted him, hindering the veteran's call to God. One such incident was when he sentenced his subordinate, Captain Anwar, to death by shooting him for treason. It turned out that unsavoury rumours eventually spread about the reasons for his sentence.

Which factor played a greater role in the sentencing, personal sentiment or state affairs? Syaiful and Anwar were known not only as good friends but also as romantic partners, who were involved in an isosceles triangle at the time, specifically with Murni. They both competed for the woman's affection, who is now Syaiful's wife. Syaiful's memory lingered on Anwar, his friend whom he had shot dead and his former love rival. Was Syaiful's action entirely in the name of patriotism and love for his country? Syaiful believed so. However, he and Anwar were in a fierce competition

for Murni's love. Anwar was his strongest rival, and none of Syaiful's other men dared approach Murni. In fact, Anwar showed no respect or qualms toward him as his commander.

In the years since Anwar's execution, Syaiful had never considered his true motives. Moreover, after Anwar's death, Syaiful married Murni and lived together as husband and wife until old age. But now, at the end of his life, a courtroom was open. Syaiful sat as the defendant. Three judges stared intently at him.

In the face of his deathbed, Bahri began to doubt whether he was truly patriotic or merely a man in a fierce competition for the woman he adored, Murni. Then came the opportunity to eliminate his rival, accused of treason, in the courtroom where he himself was the judge.

To determine Bahri's status and anxiety, a three-judge court was convened before Bahri, who was in his death throes. The first judge was his childhood Quran teacher. The second judge was a writer who had written a biography of Bahri as a patriotic defender of the nation. The third judge was his former superior, a Lieutenant Colonel, who also served as Anwar's superior.

The first judge was his childhood Quran teacher who taught him religion. The second judge was a biographer who chronicled his life as a patriotic defender of the nation. The third judge was a Lieutenant Colonel, Syaiful's superior, and thus also Anwar's. The trial was intense, with arguments coming from all sides. Syaiful managed to answer them effectively. Then, the three judges differed on what was right and wrong in Anwar's execution case. They couldn't reach a consensus and decided to resign. A new trial would be held with a single judge. It wasn't clear who the judge was or what his profession was.

On the appointed trial day, Syaiful sat in the defendant's seat. The judge's chair was still empty. The courtroom door opened, and a man entered. He was tall, walking briskly, and sat down in the judge's chair. The two of them met eyes. Syaiful was utterly shocked: it turned out the judge was himself! Syaiful was truly afraid and confused. How would he face this completely unexpected courtroom?

That's a depiction of life: being a judge is not so easy. Every mind and head has its own opinion. And these individual views emerge from layers of interpretation that reside beneath the dim light of the person's brain and conscience.

It becomes a deeply reflective question: what if a judge were also a defendant?

Social constructs and legal-formal realities make this impossible. After all, a single human body cannot be in two places at once—on the judge's bench and also on the defendant's bench. However, fiction provides a way out within the realm of imagination. Mayor Saiful Bahri is both a defendant and a judge in the final act of the drama "Kota, Sebuah Mahkamah Hati Nurani" (A Court of Conscience). His heart becomes the judge, demanding an explanation and accountability for his past actions as a defendant.

If the judge were someone else, Saiful would still be able to construct arguments, create reasons, and craft interpretations and justifications. It was evident in the first trial that even the three judges who knew him retreated in an orderly fashion, unable to withstand his skilful rhetoric. But in the next trial, when he faces himself, who will he deceive? With his life on the line, his breath already gasping for breath as he approaches the end? So, director Asrul Sani is not really talking about judges, or war veterans, or love triangles, or the meaning of devotion to the nation and state.

A fictional story, yet it inspires and awakens us, especially judges. That everything is inseparable from something called "interpretation." Because nothing escapes the layers of interpretations of those who interpret it.

Asrul reminds us that everyone will face their own judgment. When the conscience, which knows the motives of all actions, becomes the sole judge for oneself, it's still fortunate if, after the judgment is over, someone lives long and repents. But what if, at the final judgment of life on earth, when life is dying, their life "passes by" and they die?

But this hand has already been raised and clenched, and the voice has already shouted: "rawe-rawe rantas malang-malang putung." Once the sails are unfurled, they never turn back. In Javanese wayang, there's Werkudoro from Central Lumajang; in China, there's Judge Bao; and in the United States, there's Benjamin Cardozo. We, from our beloved Indonesian archipelago, also want to contribute to law enforcement and justice in our beloved country of law, Indonesia, to the best of our ability.

Judge as Legal Navigator. In the classical paradigm, particularly legal positivism, judges are viewed as enforcers of the law. In this paradigm,

judges merely mechanically apply the wording of an article or norm [12]. However, societal developments demonstrate that written law is not always capable of addressing all emerging legal issues. In such situations, judges cannot simply act as "mouthpieces for the law" but must also be legal inventors (*rechtvinding*).

The metaphor "a judge rowing between three coral islands" suggests that judges are in a precarious position. Each direction their decision takes will bring them closer to one of the legal objectives, but it may also distance them from others. If a judge is too close to the coral island of legal certainty, their decisions tend to be legalistic and rigid. Conversely, if a judge is too close to the coral island of substantive justice, the judge may compromise legal consistency. Meanwhile, an overly expediency-driven focus can cause the law to lose its normative legitimacy [13].

Justice as a Judge's Moral Compass. Justice is the moral core of law. From Radbruch's perspective, an unjust law essentially loses its legal meaning. Therefore, judges must not only ensure that a decision complies with the law but also ensure that it reflects society's sense of justice.

Research in the Gorontalo Law Review shows that judges in corruption cases often adopt a progressive approach, considering the social impact and public sense of justice in their decisions [14]. This demonstrates that judges operate not only within a normative framework but also within a social framework. In the metaphor of the three coral islands, justice serves as a moral compass that guides judges, ensuring the law does not lose its human dimension. However, overly subjective justice, lacking normative boundaries, can also create legal uncertainty.

Legal Certainty as a Guardian of Stability. Legal certainty is necessary for predictability and public trust in the law. Without legal certainty, law enforcement will be arbitrary, potentially leading to social instability. However, legal certainty should not be interpreted as absolute adherence to the law's text, as overly formalistic legal certainty can actually create substantive injustice.

In some criminal cases, the textual application of norms sometimes results in decisions that are formally valid but contradict the public's sense of justice. Therefore, legal certainty must be understood dynamically, namely as the consistent application of the law that still leaves room for

judges to make progressive interpretations to achieve justice.

Benefit as Social Legitimacy of Law. The utility of law is related to its ability to create order and social welfare. An ideal judge's decision not only resolves disputes between parties but also positively impacts society at large. The journal "Dilemma Keseimbangan dalam Penejakan Hukum" explains that law must address society's social needs to maintain public legitimacy. Therefore, judges need to consider the social consequences of each decision they render.

This paper positions utility as the social legitimacy of law; that is, law is not merely normatively correct; it must also benefit society [15]. However, an overly dominant orientation toward utility, lacking a clear legal basis, has the potential to render law merely a tool of social pragmatism, undermining its certainty and normative legitimacy as an instrument for upholding justice.

The Paradigm of Legal Certainty, Justice, and Benefit as the Basis for Judges' Decisions. The purpose of law varies among legal experts. Based on these differing opinions, we can conclude that three distinct purposes of law have developed over time. These purposes are often referred to as the three major schools of thought that have been highly influential in legal scholarship today: the ethical school, the utilitarian school, and the normative-juridical school [16].

The ethical school holds that, in principle, the purpose of law is solely to achieve justice. The utilitarian school holds that, in principle, the purpose of law is solely to create benefit and happiness for society [17]. Meanwhile, the normative-juridical school holds that, in principle, the purpose of law is to create legal certainty.

Legal scholars have questioned the view that the purpose of law is solely justice, because justice itself is abstract and subjective. Justice manifests as a permanent, continuous will to give everyone what is due [18]—however, some view justice as a justification for law enforcement rather than arbitrariness [19]. The ethical school can be considered a moral ideal, or theoretical moral teaching. Proponents of this school include Aristotle, Justinian, and Eugen Ehrlich.

The utilitarian school incorporates practical moral teachings that, according to its adherents, aim to provide the greatest benefit and/or happiness for as many citizens as possible, as argued by Jeremy Bentham. Bentham's message was

that the rule of law exists solely for the true benefit of the people. Similarly, John Rawls, with his distinctive theory of justice, stated that law must be able to create an ideal social order, namely a society that allows for the greatest possible happiness.

In contrast, the normative school (dogmatic juridical) is based on positivism, which views law as something autonomous. According to it, law is merely a collection of norms contained in formal statutory provisions. The purpose of implementing the law is to guarantee legal certainty. According to this school of thought, even if a legal rule is unjust and provides little benefit to the majority of society, this is not a problem as long as legal certainty is maintained.

From these various schools of legal thought, the question arises: are judges' decisions the product of a standard or mediocre thought process? What is the basis for judges' reasoning in considering and delivering argumentative decisions in accordance with the purpose of law, namely the realisation of justice? Then, how do judges deliver their decisions, viewed from the perspective of Gustav Radbruch's teachings, namely that judges' decisions must embody the values of legal certainty, personal justice, and social benefit [4]?

Legal certainty requires that the law be strictly implemented and enforced in every concrete case, with no deviation; this aligns with the adage *fiat justitia pereat mundus*, which means the law must be upheld even if the sky falls. Legal certainty provides protection to the just and prevents arbitrary actions by others, and is related to the pursuit of order in society [20].

Law exists to serve humankind. Society expects law enforcement to provide benefits, and governments must prevent social unrest. In law enforcement, society must uphold the values of justice. However, law is not synonymous with justice, as it is general, binding on everyone, and equates the status or actions of individuals. Under the law, every crime committed by an individual must be punished by a statute. Hence, justice under the law is not necessarily the same as moral or societal justice.

Based on the discussion above, scholars can view the purpose of law from various perspectives. Normative, positive-law, and dogmatic-juridical perspectives emphasise legal certainty as the primary purpose of law. Legal certainty perspectives emphasise justice as the purpose of law,

while legal sociology emphasises utility. Although Gustav Radbruch taught three basic values: justice, utility, and legal certainty, Radbruch taught the principle of prioritising these three principles. The priority should emphasise justice, followed by utility, and finally, legal certainty. This opinion appears to have been accommodated by our new National Criminal Code.

In deciding a case, judges must consider three principles: legal certainty, justice, and expediency. According to Sudikno Mertokusumo, judges must implement these principles through compromise and balance their application proportionally [21]. He argues that it is not necessary to adhere to the principle of priority at all times, as Radbruch taught. Judges must be flexible, applying the principle of priority on a case-by-case basis, depending on the nature of the case.

In judicial practice, it is not easy for judges to accommodate these three principles in a single decision. Judges must choose one of the three principles to decide a case, as it is impossible to encompass all three principles simultaneously. Apply the principle of priority based on the case. Like a line, a judge, when examining and deciding a case, moves between two points on that line. Whether the judge stands on the point of justice or the point of certainty, the point of practical expediency will fall somewhere in between. It is something anomalous like this that judges often face when deciding a case.

When a judge issues a decision that aligns more closely with the principle of certainty, the judge automatically moves further away from the principle of justice. Conversely, if a judge issues a decision that aligns more closely with justice, the judge automatically moves further away from the principle of legal certainty; this is where the limits of judicial freedom lie, as judges can only move between these two boundaries. In this teaching, a judge must determine when they are close to the principle of legal certainty and when they must be close to the principle of justice. It is not true that examining and ruling on a case is free and without limits [22].

From these two examples, it can be concluded that a judge, when examining and deciding a case, is not always bound by a single principle. In each case submitted to them, or in a case-by-case scenario, the judge's decision may shift from one principle to another. Most importantly, judges must consider the principles with sound reasoning in specific cases.

The emphasis is on legal norms written into existing norms. Judges and law enforcement authorities must enforce statutory regulations to ensure legal certainty. This normative way of thinking will run into problems when written provisions cannot address the problem at hand. In such situations, judges must find law to fill in the gaps.

The principle of justice requires judges to consider the prevailing law of society, which comprises customs and unwritten legal principles. In this regard, scholars must distinguish between the sense of justice of individuals, groups, and communities. Furthermore, the sense of justice of one society may not be the same as that of another.

Therefore, in considering their decisions, judges must reflect on all these factors, for example, when choosing the principle of justice as the basis for their decision. The approach to the principle of utility is more nuanced in economic terms, based on the premise that law exists for humans, and that its purpose should be beneficial to society at large. Meanwhile, legal certainty is more nuanced in creating order and discipline within society.

Reframing the Meaning of Justice and Legal Certainty. The differences between the definitions of justice and legal certainty stem from people having different understandings of these terms. Some legal scholars understand and interpret law through a positivist lens, while others adopt a sociological perspective, focusing on legal effectiveness and compliance [23]. These diverse interpretations arise from different initial premises.

Over time, views on law have increasingly fragmented into separate schools of thought. One idea posits that legal order is the opposite of legal disorder [24]. The notion of legal certainty is based on the idea that the legal system has two poles. The first pole defines legal certainty as the law's certainty. Law is crucial in assessing judicial decisions. This school of thought argues that if a judge's decision does not conform to the law, the decision is legally uncertain, even if it is considered more just.

On the other hand, the second pole disagrees with legal certainty. People view law as a rigid text that cannot encompass all legal events or societal changes. Ultimately, law will always lag behind societal changes. Therefore, it is a major

mistake to think that legal certainty only means the certainty of written law. Legal certainty means that law, court decisions, and society's adherence to the law work together. Therefore, legal certainty is a broader term that encompasses many factors that help maintain order in a given situation.

This paper aims to enhance and unify our understanding of justice and legal certainty by conducting a more in-depth examination of both concepts. The author argues that justice and legal certainty are not separate concepts.

Justice is the Highest Goal of Law. The ultimate goal of law enforcement is justice [4]. Justice is a value highly regarded in society. Justice creates a civilised and equitable social order that enhances social welfare and promotes harmony and balance in the patterns and dynamics of societal life. Justice gives everyone in society what they deserve, uniting them all.

From a sociological perspective, justice is like a stream flowing on a flat, smooth surface. This stream continues without changing the existing state of affairs. It continues to flow, leading society toward a unified, civilised and peaceful community.

The author argues that justice, although subject to diverse interpretations and perspectives, can be conceptualised as the proper ordering of entities, the balance of rights and responsibilities, and the provision of a fair and impartial trial. From this basic understanding, it is easy to see why justice is so important and why the law should make it a paramount goal.

People often use the word "fair" to mean "professional" or "balanced." Justice is a just state in which rights and obligations, as well as structures and functions, are aligned and appropriate to one another. Justice creates a stable environment (homeostasis) that allows all elements of society to operate effectively; this is why justice is seen as the most important goal of law, although law also serves other purposes such as security and benefit. The author argues that legal certainty and benefit will arise inherently with the implementation of justice.

Reconstruction of the Meaning and Understanding of Legal Certainty. Having briefly explained what justice means, it's even more important to understand what legal certainty truly means. Why? Because biases in norms, interests, and backgrounds often influence how people understand

legal certainty. A simple example of how positivists think about legal certainty is this: They say that the literal wording of the law makes it certain.

The legal text is the only thing that can determine whether a situation, event, or decision is legally certain. Legally certain things must conform to the law's elements and meaning. If they deviate even slightly from the meaning or wording of the law, they lose their certainty, become less certain, or even disappear altogether. In this context, the author cites Satjipto Rahardjo, who argued that this form of certainty is statutory rather than legal, as judges, lawyers, and legal scholars can assess it only through language, norms, or legal provisions.

In general, a cohesive society establishes legal certainty through a legal process or dynamic that operates within it. However, in reality, this kind of certainty is an illusion, as it considers only the logic established by law and ignores the fact that logic outside the law is also stronger, more valuable, and more influential.

Based on the above description, the author proposes a hypothesis that society will uphold the law, thereby ensuring legal certainty. The law referred to here is law that meets three general criteria, namely [4]:

1) *Ius Constituendum.* This means that society created these laws, which is why they still exist. The idea of law stems from everyone's desire for the best and most eternal laws that apply to everyone. Ideal law is law that meets society's needs. Therefore, responsiveness to what society desires is a hallmark of *justitiendum*.

2) *Ius Constitutum.* This term refers to the definition of law as a set of rules. The main characteristic of *ius constitutum* is the existence of a fundamental rule, or overarching norm, that governs all subordinate regulations. This *ius constitutum* is the law created by the state, often called positive law. This positivized law, whether *de jure* or *de facto*, constitutes the law of the state and has the authority to compel every citizen to comply fully. Currently, *ius constitutum* lacks the authority to compel all citizens to comply with societal values, including moral ideals and customs regarding justice. Thus, conflicts can arise between what society needs and desires and the law itself.

3) *Ius Operatum.* *Ius operatum* means the law followed or used by society, including lawyers. *Ius operatum* is the easiest and most accurate

way for people to determine whether a law is still accepted or valid in society. If society no longer applies or follows part of a law, that law becomes obsolete and no longer meets society's needs and desires. Legal scholars and policymakers often use this idea to determine whether a law truly reflects society's wishes.

It's clear from these three criteria that the concept of legal certainty is more complex than commonly understood. Law is not simply a set of written rules; it is a set of written rules and principles that govern government and society. Legal scholars define this as the true meaning of law, which goes beyond how people understood it in the past.

As mentioned earlier, when a judge states that the inheritance ratio between men and women is 2:1, the judge is actually applying the 21st principle of Islamic inheritance, which bases distribution on merit and contribution. Islamic law does not treat this ratio as fixed. Initially, Islamic law assigned a 2:1 ratio to men because men carried more obligations. However, judges can adjust the ratio when both men and women make significant contributions and provide equal service.

This is clear evidence that Islamic law values every kind of help and contribution a person makes. Islamic law states that every good deed, no matter how small, will have an impact; this is where we need to understand legal certainty not just by looking at its text, but by looking at the law itself, which the authors refer to as its "spirit" or "soul." The analysis concludes that legal certainty guarantees the application and enforcement of legal principles, standards, and norms in society. Legal certainty is necessary for creating a just and prosperous society.

Justice and Legal Certainty in Judges' Decisions. A judge decides a case by comparing the legal facts with the applicable legal rules and applying legal reasoning. When a judge decides a case, they go through three steps: constituting (establishing the facts), qualifying (validating the facts according to the law), and reasoning (drawing a legal conclusion). This process culminates in a judge's decision. These three steps are necessary to achieve the goals of law, namely justice, certainty, and benefit.

A current issue is the belief that judges often violate positive legal rules (ignoring formal provisions) when they attempt to be fair in their decisions. *Contra legem* is a legal term for a judge's

decision that contradicts the literal meaning of a law.

However, in some cases, a judge's decision cannot fully achieve all three legal goals simultaneously, because the judge may use reasoning that contradicts the law's literal meaning. Some argue that such decisions do not create "legal certainty," even though justice may have been served for those who sought it.

Judges often use *contra legem* to achieve true legal certainty in certain cases. Should we continue to follow the law if it no longer serves society? Shouldn't a judge be able to make a decision that differs from what the law says when the case is very different from what the law says?

The author argues that making decisions that deviate from the law, based on sound legal reasoning, is an attempt to establish substantive legal certainty, because the legal language is not broad enough to cover all aspects of reality. It's easy to see why judges sometimes make decisions that differ from the law. Legal language is often broad and not very specific.

Legal scholars define legal certainty as a state that judges and legal institutions create by carefully considering all aspects of a problem to reach decisions that can guide future cases.

Legal certainty changes as society changes. A community's shared values, beliefs, and knowledge shape legal certainty. However, in reality, strict legal rules often marginalise or ignore these individuals. Legal formalism does not recognise the institution of reconciliation in criminal cases, which provides a clear example of its rigidity. On the other hand, this type of reconciliation institution remains an important part of our society in addressing crime because it is flexible and focuses on restoring victims' rights rather than punishing or discrediting perpetrators.

Judges are responsible for upholding and protecting these principles and values in these situations. Judges will consider the law when making decisions. Thus, the doctrine of judge-made law is crucial here, especially when understood as judge-made substantive law.

Thus, when judges make decisions that differ from what the law dictates to get to the heart of the matter, they, in a sense, create a kind of legal certainty that might otherwise be overlooked or perceived as "statutory certainty"; this is because, once again, legal language is too limited to describe or regulate reality fully. Judges must

protect this "language" to truly uphold justice and fairness.

From this explanation, it can be concluded that justice and legal certainty are inextricably linked and parallel, not opposed. The justice created by judges through their decisions essentially creates legal certainty. However, this legal certainty is not the normative, rigid, and narrow nature of statutory law. Legal certainty is the assurance that the principles, norms, and legal regulations related to the law are upheld, codified, and enforced by officials and the public.

A judge's decision based on a *contra legem* is an attempt to affirm that legal certainty is the "soul" of a law. Certainty cannot be discerned solely from the text of the law, as beyond the text lies a glimpse of meaning that often constitutes the spirit or soul of the statutory regulation itself.

Legal Consideration is the Face of the Judge Himself. Legal considerations represent a judge's responsibility in establishing an authoritative judiciary. A judge's decision is a legal product of the court in carrying out its primary duties: to receive, examine, try, and resolve cases submitted to it.

The court's function is to administer justice and uphold the law, based on Pancasila and the 1945 Constitution, ensuring the rule of law in the Republic of Indonesia. Judges are the primary actors in the judicial function. Therefore, judges must exercise all their powers and duties to uphold law and justice.

Building judges' independence and professionalism is intended to restore public trust and establish an authoritative judiciary. The freedom granted to judges by the state includes freedom to judge, freedom from external interference, freedom of expression, freedom to develop practical law, and the freedom to explore the legal values mandated by the 1945 Constitution, namely, law enforcement that is just, certain, and beneficial.

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CONCLUSIONS

In carrying out their duties, judges are like rowers who must navigate three major reefs: justice, legal certainty, and expediency. These three legal objectives, as stated by Gustav Radbruch, cannot always be realised simultaneously, so judges must exercise wisdom in determining the direction of their decisions.

The metaphor "a judge rowing between three reefs" frames a theoretical approach to explain the dynamics of judicial decision-making in balancing these three legal objectives. This metaphor emphasises that judges today are not merely enforcers of the law, but also legal navigators, determining the direction of law enforcement amid the clash between legality, morality, and society's social needs. Furthermore, judges are also required to possess critical thinking in handling each case, which is inherently case-by-case.

Critical thinking itself is a sign of existence and the actualisation of human life. Through this critical thinking, humans possess the ability to self-awareness, thus enabling them to break through and transcend the boundaries of their existence. Therefore, there is no need to fear the deconstruction of reason; this is essentially an effort to establish Pancasila as a philosophy of life for the nation and the state, appropriate to every era. However, it's important to remember that a critical spirit must be fostered as a first step toward initiating improvement efforts.

Critical thinking is a reflective thinking process. Reflective thinking is a way of thinking that focuses on discovering what one believes and what one needs to do. With a critical attitude, truth is challenged, ultimately giving rise to a thesis, an antithesis, and a synthesis. This process of thesis, antithesis, and synthesis will continue to rotate dynamically, maintaining a progressive orientation.

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