



Classical Thought and Legal Theory

Underlying Progressive Judges to Achieve Justice

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Abstract—A professional judge's primary responsibility is to embrace a forward-thinking legal perspective to interpret and enforce the law promptly. This involves employing innovative interpretations of current regulations, as relying on legislative modifications could be more practical. According to Dutch jurist Prof. Taverne, determining whether legislation is good or harmful depends on a judge's decision-making during public hearings. According to Satjipto Raharjo, progressive law entails transformative measures that prioritize enhancing the legal system and the welfare of individuals. Judges should fearlessly undertake legal exploration with an innovative mindset to address ever-changing societal circumstances, diverging from traditional limitations. Recommendations for improving judicial professionalism encompass intellectual acuity, legal expertise, comprehension of social norms, and ongoing education to guarantee decisions are guided by moral discernment and responsive to changing social circumstances.

Keywords— Legal Theory; Progressive Judges; Justice.

I. INTRODUCTION

The rulings made by progressive judges are crucial for the well-being of individuals; the absence of progressive legislation would prevent achieving a structured and peaceful society.[1] A well-organized and balanced society can be achieved when the legal system establishes fairness since the Law was designed to serve humanity rather than the other way around. This research falls under the category of normative legal research with a descriptive-analytical approach.[2] The legal materials utilized in this study encompass primary legal materials, secondary legal materials, and tertiary legal materials.

This writing compiles legal materials through the process of doing literature research and document studies. The critical challenge in this study is the judge's decision-making process, which mainly relies on doctrinal approaches, such as progressive Law, based on framing the problem and the study's objective. The study's findings indicate that the decision made by the interlocutory judges, The correlation between justice and positivity Law, became the focal point of attention among Greek scholars, who were preoccupied with the concept of Law throughout that period. In this paper, the author will discuss the theories of Plato and Aristotle about justice in Law.

These two philosophers are chosen to represent classical thought that formed the basis for the concept of justice. The question of justice became a central focus in ancient Greece with the establishment of Aristotle's natural Law.[3] This is because a prevailing concept of inherent fairness existed throughout that period, forming the central focus of philosophical discourse on justice as espoused by Plato and Aristotle in legal philosophy. Both individuals dedicate much of their work to providing precise explanations of justice and exploring the connection between justice and positive Law.[4] Given the background mentioned above, the problem addressed in this paper is as follows: What is the professional demeanor exhibited by judges when making progressive rulings?

II. LITERATURE REVIEW

A. *Foundations of Classical Thought in Law*

Classical thinking encompasses legal principles that form the basis of the perspectives held by progressive judges.[5] Plato and Aristotle, renowned philosophers, made significant contributions to the concepts of justice, rights, and government duties. These ideas have since formed the basis for contemporary interpretations by progressive judges. An extensive examination of the impact of classical thinking on the creation of law provides valuable insights into its significance for contemporary law enforcement. Progressive judges' perspectives on justice are influenced by their contemplation of ethics, morality, and the state's role.

B. *Legal Theory as a Foundation for Progressive Judges*

Legal positivism, constructivism, and constitutional interpretation are the foundational legal ideas that progressive judges rely on to shape their perspectives on the law.[6] Gaining a more profound comprehension of these theories provides an excellent knowledge of how progressive judges employ these concepts in making decisions. Implementing these legal theories in the practice of progressive judges establishes an intricate system for enforcing the law. This enables them to draw conclusions that follow societal advancements and the requirements of justice.

C. *Evolution of Progressive Legal Thought and Social Justice*

An examination of the development of progressive legal ideology throughout history underscores progressive judges' flexibility to adjust to societal shifts. The emphasis on attaining social justice as a central objective exemplifies the transformation of the principles advocated by progressive judges.[3] Prioritizing social justice An examination of the impact of progressive judges on attaining social justice offers a valuable understanding of how their perspectives lead to beneficial societal transformations. This demonstrates their cognizance of the desire to attain a fairer society through legal authority.

III. METHOD

This research applies the library research method to explore the role of professional judges in adopting a progressive legal perspective to interpret and enforce the law with innovation. This approach involves creative interpretation of existing regulations, prioritizing practical adaptation rather than relying on legislative changes. According to Prof. Taverne, the assessment of the legislation depends on the judge's decision during the trial. The concept of progressive law by Satjipto Raharjo emphasizes transformation to improve the legal system and individual welfare. Judges are expected to dare to explore the law with an innovative mindset, going beyond traditional boundaries. Recommendations for increasing judicial professionalism include intellectual acumen, legal expertise, understanding social norms, and continuing education to make moral decisions responsive to social change.

IV. RESULT AND DISCUSSION

Professional judges have advanced and progressive thinking as the basis for their judicial reasoning, thus making them progressive judges.[6] Progressive legal thinking requires judges to act as spokespersons for the law and comply with existing regulations without waiting for changes to regulations.

According to a legal expert from the Netherlands, Prof. Taverne, as quoted by Dr. Amran Suadi, there is an opinion that a competent judicial institution can guarantee the achievement of justice in society, even when the law itself has weaknesses. This is by the saying, "Give me competent judges, even though I am faced with unjust laws." The advantages and disadvantages of statutory regulations depend on the judge's decision on the case submitted in a publicly announced decision. To efficiently enforce the law within the appropriate time and location. Progressive judges must be able to bring about change by employing inventive interpretations. [7]

Progressive professional judges must possess a solid basis of progressive legal ideology. Etymologically, progressive law refers to a form of law that is more advanced or developed. Progressive law refers to a legal framework that goes beyond a purely normative and dogmatic perspective, instead focusing on the principles of substantive justice.[8] According to Jamadi, Lc., this interpretation aligns with Satjipto Raharjo, the pioneer of progressive law, who defined progressive law as a sequence of radical measures to transform the legal system, including modifying regulations if necessary. The primary objectives of these actions are to enhance self-worth and guarantee human well-being and happiness.[5] Satjipto Rahardjo's perspective on law enforcement is centered around prioritizing the application of law to benefit individuals rather than individuals being subservient to the law. Satjipto's perspective affirms that the underlying principle of law enforcement is to maximize service.

A professional judge must possess a forward-thinking legal perspective and logical reasoning.[9] Due to the static and inflexible nature of the law, courts may choose to accept cases where there is a need for applicable laws as societal conditions evolve.[10] Therefore, judges must be able to uncover legal principles rooted in progressive legal perspectives. Adopting progressive jurisprudence necessitates that judges exhibit the courage to be forthright in their decision-making and venture beyond the confines of legal norms. Seeking and liberating rigidity in pursuing justice and preserving human rights is one approach to achieving justice.[11] According to Sudikno Mertokusumo, legal discovery is the judicial process of establishing legal principles or applying general legal laws to particular legal situations.[12] Moreover, legal discovery is a procedure that involves specifying and solidifying broad legal rules while being mindful of them.

Professional judges, distinguished by their sophisticated and forward-thinking approach to judicial reasoning, epitomize the core principles of progressive judges.[1] Their strategy is to serve as advocates for the law and strictly adhere to current regulations without waiting for legislative modifications. Professor Taverne, a legal scholar from the Netherlands, highlighted the crucial importance of proficient judicial institutions in upholding justice, even when laws are imperfect. The statement, "Even if I am confronted with unfair laws, provide me with capable judges," emphasizes the significant influence of judges' rulings on the benefits and drawbacks of statutory restrictions. In order to effectively uphold the law within the designated timeframe and jurisdiction, forward-thinking judges must utilize innovative interpretations and facilitate transformative growth. Progressive professional judges are grounded in a strong basis of progressive legal ideology, which goes beyond normative and dogmatic viewpoints to stress principles of natural justice.[10] As per Satjipto Rahardjo, a trailblazer in progressive law, this interpretation entails implementing drastic actions to overhaul the legal system and adjust legislation to improve self-esteem and ensure human welfare and happiness. Satjipto's stance highlights the importance of prioritizing the utilization of law for the advantage of persons rather than individuals being subordinate to the law. For a professional judge, possessing a forward-thinking legal viewpoint and employing logical reasoning are essential qualities, particularly given the unchanging character of the law. Judges must discover legal concepts based on progressive legal viewpoints as society changes and bravely go beyond legal standards to pursue justice and protect human rights. As defined by Sudikno Mertokusumo, legal discovery is the judicial procedure of formulating legal principles and implementing general legal statutes to particular circumstances. It entails clarifying and consolidating overarching legal regulations while maintaining awareness of them. Essentially, the position of a professional judge is multifaceted, necessitating flexibility and a dedication to innovative legal reasoning to uphold justice and safeguard human rights.

V. CONCLUSION

The professional attitude of judges in forming progressive decisions is characterized by the views and thinking grounds of judges based on progressive law. These, namely laws, not only understand the law from a normative and dogmatic point of view but are also oriented towards substantive justice values. The foundation of thinking based on progressive law today is essential, considering that the existing laws in the sense of legislation) are rigid and static. At the same time, the conditions of society continue to develop along with the times. If judges only look at every new problem that continues to arise using only a normative legal lens, legal protection and justice will not be achieved. Therefore, based on progressive law, judges are required to conduct legal discovery, which is carried out with a progressive method of legal discovery, one of whose characteristics is that judges dare to do so. To form the professionalism of judges, they must have intellectuality, mastery of laws and regulations, understanding of the social environment and legal values that live in society, and solid personality qualities. Judges must always continue to learn and understand not only legal material but also be able to understand the development of society. The verdict illustrates the existence of moral intelligence and intellectual and emotional maturity to provide spiritual enlightenment for litigants and be in line with social conditions in the social order of society.

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