

**FAITH IN GOD, INDEPENDENCE OF LAW AND  
INDEPENDENCE OF JUDGES  
(STUDY OF THEISTIC LEGAL REALISM IN LEGAL  
SETTLEMENT)**

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**Abstrak:** Kondisi hukum dan aparat hukum di semua tingkatan termasuk hakim, dipenjara dalam positivisme yang fatal. Pemahaman ini mereduksi hukum hanya sebagai hukum dan peraturan deterministik, mekanistik dan esoteris belaka. Hukum soliter adalah hukum soliter tanpa memasukkan transendensi, moralitas, atau kebiasaan. Hasil akhir dari paradigma ini hanya mampu menghadirkan kepastian hukum tetapi kurang keadilan. Akar semua krisis dan runtuhnya kepercayaan publik pada hukum berasal dari hukum yang hanya mendidik corong undang-undang. Hukum yang mengajarkan legislasi sebagai ideologi sakral, hukum itu hanya hukum atau regulasi. Lulusan hukum baru yang mengisi posisi ahli hukum memiliki keterampilan tetapi mereka kurang empati, mengabaikan keadilan publik dan korup. Diperlukan paradigma pilihan hukum baru, yaitu realisme hukum teistik yang memberikan kebebasan kepada para hakim dan aparat hukum lainnya dari belenggu keadilan prosedural dalam gaya positivisme. Melalui hukum dengan paradigma Realisme Hukum Teistik, diharapkan aparatur hukum akan memiliki kebajikan, untuk dapat membaca substansi keadilan dengan keimanannya kepada Allah daripada sekadar menjadi corong hukum dan mampu menjaga dari perilaku tercela atas dasar imannya.

**Kata kunci:** Ketuhanan, Hukum, Independen

**Abstract:** The condition that law and legal apparatus in all levels including judges, are imprisoned in fatal positivism. This understanding reduces the law only as mere deterministic, mechanistic and esoteric laws and regulations. Solitary law is solitary law without include the transcendence, morality, or custom. The final result of this paradigm is only able to present legal certainty but lack of justice. The roots of all crises and the collapse of public trust in the law are originated from a law that educates only the mouthpiece of the legislation. The law that teaches the legislation as a sacred ideology, the law is just law or regulation. Fresh graduate of law who fill positions of legal apparatus experts have skills but they are lack of empathy, neglect of public justice and corrupt. A new legal choice paradigm is needed, namely theistic legal realism which gives judges and other legal apparatuses the freedom from the shackles of procedural justice in the style of positivism. Through the law with the Theistic Legal Realism paradigm, it is expected that the legal apparatus will have virtue, to be able to read the substance of justice with his faith in Allah rather than merely being a mouthpiece of the law and be able to guard against despicable behavior on the basis of his faith.

**Keywords:** Deity, Law, Independent

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## INTRODUCTION

Law in Indonesia can be felt quite minimal in terms of developing a vision of justice (justice vision building), so that it can be felt that legal scholars or law graduates are not able to overcome the problems that occur in the fields of law, especially those relating to the sense of justice. Laws in Indonesia are often managed by judges who have no concern for the sense of justice that lives in society. There are quite a number of cases or cases that arise and are decided by judges with decisions that actually ruin a sense of justice in the community because the Judge decides only to be oriented to procedures and regulations. This condition occurs as a result of the education of judges in Indonesia, which originated through the world of law, precisely making the apparatus deviate from the purpose and essence that should be achieved by a judge. Laws that should be able to form independent, justified judges in Indonesia based on the faith of God Almighty in accordance with national ideals are not achieved.

According to the hadith related to law and judges, there is a narration from Buraidah RA that the Prophet said, *"The judge is divided into three, two in hell and one in heaven: 1) someone who punishes wrongly when he knows what is right, then he is in hell, 2) a foolish judge then destroys human rights, then he is in hell, and 3) a judge who punishes correctly, then he enters heaven."* (HR. Tirmidzi No 1244)<sup>5</sup>. This shows that a judge in deciding a case must hold on to truth and justice, and to be able to judge fairly and he must understand justice and truth. Indonesia's own legal world conditions are very different from what is expected. The world of law is now highly prioritized in legal skills as well as those that are oriented towards implementing regulations only and not judges or legal apparatus that are independent and fair. Judges and legal apparatus become shackled by procedures or artificial boundaries in the form of regulations that prevent the arrival of essential justice. Comprehensive judicial independence is required with the personality of the nation so that it is not far apart from social reality<sup>6</sup>. Legal thinking mainly stagnates and the same thing is experienced in its application in the world of justice as a means of seeking justice for problems and disputes in Indonesia. Law and jurisprudence experience chaos with the tendency of mainstream positivistic Indonesian law. Legal

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<sup>5</sup>Abu 'Isa Muhammad ibn 'Isa al Tirmidzi. Al Jami' Al Shohih. Pentashih Nashiruddin Al Albani. Pustaka Azam Jakarta. Hadits Nomor 1244.

<sup>6</sup>Paulo Fraire, *Pendidikan Pembebasan*, LP3ES, Jakarta, 194.

Positivism gives excessive attention to state law and ignores customary laws, customs, beliefs, and other laws that live in society<sup>7</sup>.

The positivist paradigm, which is a rigid, autonomous and legal paradigm, becomes merely a legislation that reduces the law to be simple, linear, mechanistic and deterministic and raises the condition that positivistic justice is only limited to procedural justice and not essential justice. This positivistic paradigm dragged its apparatus especially those who later became judges and legal apparatuses into mere mouthpieces. Moreover Hans Kelsen in the theory of solitary law releases the social, political, moral and spiritual aspects of the law. Positivism equates the meaning of law with rules and logic. The law is not integrated with the lives of its people, even there is no moral validation<sup>8</sup>. The legal concept of positivistic produces legal principles and praxis that are not complete and the law becomes dry, rigid and unable to explain reality. Justice in positivistic is merely a procedural justice and nothing more than that, just based on certainty is not substantive. Such conditions cause anxiety and require a paradigm shift so that the *das sein* and *das sollen* do not occur in a gap. This positivistic and deterministic law enforcement, which was marked by the first law university in Batavia in 1922, has been developed until now and invested in prospective lawyers, prosecutors and judges<sup>9</sup>. So it is not surprising that these legal objectives greatly affect all aspects of law enforcement.

Satjipto Rahardjo views this modern law as a wilderness of formalities with the procedures and bureaucracy of law enforcement. Legal material is formulated formally and formally and new concepts and special constructs are also created; also not everyone can be a legal operator, but those who have special qualifications and undergo certain formal initiations. Judges must have a law degree; an advocate must have a work license and so on. As a result the law becomes an institution that is artificial and far from the community<sup>10</sup>. The problem is that the law in Indonesia treats regulations and laws as ideologies or even like “religion” which is very tightly held even though it

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<sup>7</sup>Brian Z. Tamanaha, *A General Jurisprudence fo Law and Society*, (Oxford: University Press, 2006), 115.

<sup>8</sup>Hans Kelsen, *Teori Hukum Murni : Dasar Dasar Hukum Normatif*, (Bandung: Nusa Media, 2015), 120-121.

<sup>9</sup>Frans Hendra Winarta, *Probono Publicio: Hak Konstitusional Fakir Miskin Untuk Memperoleh Bantuan Hukum*, (PT. Gramedia Pustaka Utama: Jakarta, 2009), 67.

<sup>10</sup>Yesmil Anwar dan Adang, *Pembaruan Hukum Pidana: Reformasi Hukum Pidana*, (PT. Grasindo: Bandung, 2008), 108.

is contrary to essential justice. Because it freezes into a 'belief', the development of the Law is stagnant, because it tends to be esoteric. Moreover, the gap between *das sollen* and *das sein* in Indonesia is very sharp, where everything happens is not always linear from what is in the book of laws, but often deviates from the prevailing practices<sup>11</sup>. The real conditions of law and justice in real terms are not the same as what is contained in the regulations because there is a rapid development in society so that the laws and regulations become merely procedural. The positivistic law actually certainly cannot be referred to as the real law if it is based only on regulation or positive law. Degraded law is only a tool of the law itself and not for achieving justice. The law should have a vision of justice and not just dwell on the law<sup>12</sup>. The law should consider the moral, sociological, anthropological and other aspects of legal life<sup>13</sup>. The law has led to only legal expertise with the minimization of material that will develop faith and fear of God Almighty. This model law leads to the morality of the graduates, or in other words, the legal apparatus. The absence of legal morality has brought about quite alarming effects, one of which is a crisis in law enforcement that ended with the collapse of public confidence in Indonesia in the Law.

This crisis condition can be said to be one of the effects of the positivism paradigm and law enforcement in Indonesia which still relies on the type of colonial legal tradition (rule of law). Continental legal tradition is classified as a positivistic type of law of legal development because it characterizes the very dominant role of state institutions (government and parliament) in determining the direction of law in a society by ruling out a sense of justice. Positivist-instrumentalist laws actually become the main means for denying the sense of justice of the community that has exceeded procedural justice which is presented in the rules. The future law does not merely function as 'legal craftsmanship' and 'legal mechanic', but more than that, it has empathy and a critical perspective to change the existing situation to be more just. Likewise in the realm of legal practice, if for the sake of justice based on Allah the Almighty is the goal of law then other judges and legal apparatus should identify themselves as

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<sup>11</sup>Widodo Dwi Putro, *Tinjauan Kritis-Filosofis, Terhadap Paradigma Positivisme Hukum*, Disertasi, (FH UI, Jakarta, 2011), 301.

<sup>12</sup>C Maya Indah, *Memanusiatekan Manusia Melalui Ilmu Hukum Holistik*, Jurnal Kritis, Studi Pembangunan Interdisipliner Vol 19 N0 3, (2007), 2.

<sup>13</sup>Satjipto Rahardjo, *Hukum dan Perilaku*, (Kompas Media Nusantara: Jakarta, 2009). 98.

someone who struggles to achieve it. As fighters, not only carry out the law routinely and positively but always try to bring the law closer to justice as the embodiment of the One-God Philosophy.

The combatant legal apparatus is not the type of person who rises both of his hands while saying, "What can be done, the law is just like that". Wisdom is needed if he reads the rules by trying to dive into the spirit, principle, purpose of the law and transcend the Almighty God and dialogue with the context<sup>14</sup>. This is what has not been accommodated in Indonesian law so far. The law cannot be separated from the transcendence of God where the law is something that is sustained by the spiritual dimension. The law becomes not just a standard arrangement of mere legislation, but who has faith in God Almighty so that it becomes conscientious. For that reason, they can find the deepest wisdom and truth behind reality<sup>15</sup>. This faith makes judges able to break through the procedural partition that holds justice. This study presents a legal concept in Indonesia based on theistic legal realism in which the law is enlightened with a spiritual source of faith in the God of God Almighty with the aim of realizing essential justice. A law that derives from the independence of judges against legal positivism with the support of transcendence towards God Almighty is a very radical leap of renewal of law in Indonesia. With this choice of theistic legal realism, the law in Indonesia is expected to be enlightened and no longer oriented to justice that is bound by procedures.

## RESEARCH RESULTS AND CONCLUSIONS

The legal pattern in Indonesia that only produces practitioners or lawyers caused a failure of the legal system in the collapse of public trust. William T. Pizzi, in 1999 as cited by Satjipto Rahardjo illustrates that the failure of the justice system to be able to provide truth and justice. The court is just a magnificent building that becomes a field where the victory seekers fight a win-at-all-cost mentality. The current concept of law is to establish professional expertise and skills as a law school graduate. By orienting on practical needs, skills that are more emphasized on legal programs are not on academic theoretical skills or the ability to think critically ("critical academic thinking"), but emphasized practical skills in mastering positive law to solve legal problems.

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<sup>14</sup>Widodo Dwi Putro, *Op. cit.*, 302.

<sup>15</sup>Musa Asyarie, *Rekonstruksi Metodologi Berfikir Profetik, Perspektif Sunnah Nabi*, (Lesfi, Yogyakarta, 2016), 88.

When someone enters the world of law, legal knowledge is emphasized on 'substantive legal knowledge'; so it is limited to mastery or knowledge of the applicable positive law and is limited to legal theories (doctrines) that are directly related to the norm or content (substance) of the relevant law<sup>16</sup>. This condition is a bomb time or root of the problem of a multi-dimensional crisis that is experienced by Indonesian law due to legal stagnation. Law is no longer a means of achieving justice but is a means to subordinate society to law; positivist law emphasizes its own interests. Gerry Spence, as quoted by Satjipto Rahardjo, a senior legal professional is a strong critic of the legal system that produces practitioners in the Court. Many legal practitioners are incompetent. That is because of their incompetence rather than as legal experts, but as aspects of humanity (human being). To be a good professional does not require so much legal knowledge, but to be a good person first (good trial lawyers need to be evolved persons underneath all the lawyer stuff). Spence likens that much knowledge as a horse saddle of gold saddle gold that is of no use if it is installed on only five dollars.<sup>17</sup>

One of the movements that criticize the understanding of the Movement "Legal realism Movement" names that have been submitted for legal realism include; *Functional Jurisprudence, Experimental Legal Jurist, Legal Pragmatism, Legal Observationism, Legal Actualism, Legal Modesty*. Legal Realism bases its teaching on the temporary separation between *das sollen* and *das sein*. In order for the law to have a purpose, it should be noted that the values must be as general as possible and should not be influenced by the will of the observer. Realism is not based on positivistic legal concepts, namely the rule of rule because realism intends to describe what the court and its people actually do<sup>18</sup>. As an anti-thesis from positivistic, this is a legal realism or legal realism figure, Karl Nickerson Llewellyn (1893-1962) as quoted by Qadri Azizi, denied Positivistik's claim that the legislation can solve all existing problems. Karl suggested seeing the fact that not all cases were in court, especially in severe cases regulated in the Act. In fact, the judges have a freer role to choose and determine and be more creative in the

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<sup>16</sup>Lihat lebih lanjut Barda Nawawi Arief, *Beberapa Aspek Pengembangan Ilmu Hukum Pidana (Menyongsong Generasi Baru Hukum Pidana Indonesia)*, Diucapkan pada Peresmian penerimaan Jabatan Guru Besar Dalam Ilmu Hukum pada Fakultas Hukum Universitas Diponegoro, Semarang, 25 Juni (1994), 4-6.

<sup>17</sup> Satjipto Rahardjo, *Penegakan Hukum Progresif*, (Kompas Media Nusantara: Jakarta, 2010), 180.

<sup>18</sup>Damang, *Pragmatic Legal Realism*, (Portibi Press, Medan, 2011), 4.

application of law than just taking in the rules made by the authorities (the Act). In fact factors such as the psychological temperament of the judge, spiritual, social class and values that exist in the judge function more in making legal decisions than the written rules that have been established.<sup>19</sup>

A Judge needs to be independent even against the rule of law even when the regulation has hampered essential justice. The law is not a “waterproof” (esoteric). Text is a subjective (subjective) product that is objectified. When faced with a text, judges must understand, interpret, converse or dialogue with legal texts. The accuracy and relevance of arguments are always context-related, or contextual, so they are always dynamic. The perspective of seeing the law as intersubjective truth also has theoretical implications in understanding legal certainty and justice. The law is not synonymous with justice, although it is possible that justice can be “approached” from what is legal. If the law is assumed to be synonymous with justice, then the consequence of seeking extrajudicial justice will be stopped because the search for justice is only based on the law, even narrower, the law. To clarify the sitting problem, it is also necessary to distinguish between regulations, rules and justice<sup>20</sup>. Law and justice cannot be compared (especially disputed) because the law is a tool, means, or media to approach justice. Means and goals are not equal, then how can it be possible to dispute between means and purpose? The law cannot go beyond justice, because once assumed, the tool has colonized its purpose. Justice is always ahead of the law, and provokes the law to always approach it. Legal certainty is not an ‘ultimate goal’, but only an ‘intermediate goal’ to approach justice.

Justice cannot be “ascertained” objectively and everyone has their own views about justice. We cannot draw clear and definite boundaries between law and justice, but it can be illustrated that justice is a concept that goes far beyond the law so that justice cannot be fully ascertained in the legal formulation<sup>21</sup>. As a judge he had to ask Allah the Almighty to be given enlightenment which made him dare to fight for justice. Judges may not be shackled in taking or resolving legal issues. This is to prevent the tragedy from happening. “Indeed the rules are like that, what can I do?” When people ask question about

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<sup>19</sup>A Qadri Azizi, *Elektisisme Hukum Nasional, Kompetisi antara Hukum Islam Dan Hukum Umum*, (Gama Media Offset, Yogyakarta, 2013), 205-206.

<sup>20</sup>Widodo Dwi Putro, 2011, *Op. Cit*, 300

<sup>21</sup> *Ibid*, 301.

justice? The issue of judicial independence is indeed a major concern for Legal Realism adherents because with that independence the judge will be able to reach a decision that is truly expected to bring about justice. In the realm of modernism, a transcendental perspective with all its aspects such as religion, ethics, and morals is placed as a separate part of a single unit of development of modern civilization. Therefore, modern law in its development has lost the essential element in the form of transcendental values. This happens as a result of the way of thinking which is based on worldly views which are taken care of by the emperor and religion which is submitted to religious leaders.

Solitary legal theory or positivism which is taught in law so far is perceived as something that has not fulfilled the expectations of justice in society. The conception of legal truth which is a very important value indicates a relative and vague tendency. The value of truth is understood by using different views and leads to an understanding that truth is its size according to the perception of the legislator. Lawmakers are based on the will of the authorities which is supported by the majority political group in the form of laws or other rules. In fact, the political will and views of the majority group do not necessarily reflect the truth<sup>22</sup>. The paradigm of Theistic Legal realism means that faith or spirituality is one aspect that is recognized as having a role for judges or legal apparatus to act or consider a decision. Danah Zohar and Ian Marshall in "Spiritual Intelligence, The Ultimate Intelligence", introduces spiritual thinking (spiritual thinking) using a spiritual intelligence approach (spiritual question), which will be obtained by the most perfect intelligence (ultimate intelligence), done by breaking the line formalism (existing rule) and transcendental, so that new thoughts can be obtained that approach the ultimate truth. Humans need spiritual quotient because in the western community there has been a crisis of the meaning of life in the modern world (the crisis of meaning). Spatial question is a tool for humans to be able to build new perspectives in life, able to find broad horizons in a narrow world and can feel the presence of God without meeting God. It can be used to generate hidden human potentials<sup>23</sup>, make human beings more creative and able to overcome essential problems substantially.

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<sup>22</sup>Absori, "Epistemologi Ilmu Hukum Transendental dan Implementasinya dalam Pengembangan", Program Doktor Ilmu Hukum, Artikel pada Seminar Nasional dengan Tema "Pengembangan Epistemologi Ilmu Hukum" Di Universitas Muhammadiyah Surakarta Pada 11 April 2015, Solo, 2015), 3

<sup>23</sup>Danah Zohar dan Ian Marshall, *Spiritual Intelligence, the Ultimate Intelligence*, (Bloomsbury, London, 2000)..



In human beings there is a voice of conscience which Agustian Ary Ginanjar calls the point of God (God Spot), which is *mudghoh* which always whispers, conveys and speaks the truth. The philosopher Al-Ghazali called it the term *fuaad* who always whispered the right words and deeds and never laid, even though the body (physical), speech (tongue) and deed (body) in a state of wrongdoing. Truth and justice are twins and become the ultimate goal of the law. God Spot 7 can be identified through the understanding of the principles of life in the form of: (1) Star Principle, a principle of life that is solid (*aqidah*) and noble (*akhlaq*), (2) Angel Principle, a principle related to belief / belief (faith), (3) Leadership Principle, principles relating to the spirit of leadership (*khalifah*), (4) Learning Principle, principles related to learning spirit that never knows stop (*iqra*), (5) Vision Principle, principles that are oriented towards future achievement in the pleasure of Allah , (6) Well Organized Principle, a principle that is oriented towards self-management that is orderly, disciplined, systematic and integrative (*istiqomah*).

Spiritual intelligence is the ability of humans to understand the meaning of activities of life (worship) through natural steps and thoughts, towards a whole person (Hanif), and have an integrality thought pattern (*tauhid*), and principled "just because of God" they are active. A person understands his life or profession as worship for the benefit of mankind and his God. Monotheistic thinking understands all conditions, social, economic and political situations in one unity (integral)<sup>24</sup>. In it there is freedom of the soul that is independent and independent solely because of the truth, and what decides with truth-based. The concept of legal realism or legal realism gives judges an extraordinary freedom to make decisions with axiology is justice. A judge is not allowed to only stick to the rules of the rules, but the judge must dig, understand and see clearly the facts of social facts that occur so as to be able to make the law in his decision. Every problem or case will have a new law that is produced by the skills, abilities and understanding of the judge in depth. The realist movement begins to see actually the law by connecting both sides, such as facts or reality in social life. Realism that developed in the United States explained how the court in this case the judge made a decision. Their findings develop formulas in how judges (judges) make decisions as a legal fact. Legal realism focuses on the personal personality of the judge

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<sup>24</sup> Ary Ginanjar Agustian, *Rahasia Sukses Membangun Kecerdasar Emosi dan Spiritual, ESQ, Emotional Spiritual Quotient*, (Penerbit Arga, Jakarta, 2004), 236.

and urges the judge to give good law to the country and accept all the consequences of judicial law making (judge made law)<sup>25</sup>. And the law based on theistic legal realism means that the law contains how to grow initiatives for independence. Independent initiatives mean that they cannot be influenced by threats, persuasion and shackles of rules to achieve justice. This also means maximizing the potential to see essentially the problems that occur and make decisions honestly and trust in God.

The concept of theistic legal realism initially developed in America combines legal realism with the principle of faith in God. This concept developed among legal realism at first in America because according to some realists American law actually rooted in trust in God. Common Law, the Declaration of American Independence and its Constitution all reflect America's belief in God. The American Founding Fathers according to theistic legal realism adherents are influenced by faith in God<sup>26</sup>. This principle of recognition of American faith in God was written by John Locke as quoted by Mark Goldie in *Second treatises Of Government* "(The) law of nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, i.e. to the will of God, of which that is a declaration, and the fundamental law of nature being the preservation of mankind, no human sanction can be good, or valid against it<sup>27</sup>." The principle of law which is a shared value that is agreed upon by all humans as a gift from God includes the prohibition on obscenity, respect for marriage, not stealing, honest behavior, respecting the rights of others. Other values are not witnessing false, and seeking fair trial and not taking sides, acting and saying right, not swearing a fake and interacting with good intentions. Not cheating, and loving nature. This objective value of gift from God is what can be used as a guide and guidance from the judge to give judgment<sup>28</sup>. Faith in God Almighty is also a principle that is accepted and recognized by the Indonesian people, where it becomes a noble personality.

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<sup>25</sup>Gary J Aichele, *Legal Realism and twentieth Century American Jurisprudence : The Changing Consensus*, (Taylor and Francis Inc, 1990), 100.

<sup>26</sup>Michael Hernandez, 2010, *Theism, Realism, Rawls*, Seton Hall University School of Law, Newark, Volume 40, Issue 3, Article 4, page 909.

<sup>27</sup>Mark Goldie, *John Locke : Two Treatises Of Government, 10th Reprinted, Everyman Library*, London, 2006), 116.

<sup>28</sup>Charles E Rice, *Natural Law in the Twenty-First Century, in Common Truths: New Perspectives On Natural Law*, (1st Edition, Delaware, 1999), 310.

Law is more complex than just logic and thought or mere legislation. A judge according to the concept of theistic legal realism may or may not use his personal preferences to help him judge his decision or take a legal decision. Judge's personal preferences such as his faith, his beliefs, ideology and other factors needed for judges to make legal decisions because achieving justice cannot all be solved only by logic, thought or mere regulation. Honesty is needed, and at the same time guidance from God to achieve justice. This concept seeks to find the right justice through the value of spirituality and faith or transcendence and keep judges from recklessly deciding where the judge is controlled by his responsibilities to God and makes decisions comprehensively and fairly. This is because someone with a vision of life in the religious and faith dimensions can help to achieve which is responsible for respecting order, personal and community rights. This value of faithful transcendence values directs to eliminate or fight evil, fight for justice and bring great benefits<sup>29</sup>. With a legal concept that is intertwined with this transcendence and faith, the judge or legal graduate is not imprisoned in the confines of the legislation. Judges or law graduates can become more independent to realize justice in deciding or enforcing the law. With this potential, judges and graduates of the legal program will be able to capture the essence of the problem and think to the nature of the essence and thus be able to meet the expectations of society towards justice.

## CONCLUSION

*First*, Legal positivism is only able to offer legal certainty with procedural justice. Psychoticism is not able to reach the essence and nature of justice which is the main goal of the law. *Second*, Judges and other legal apparatus acting and imprisoned by the laws and regulations are originated from the law. The law aims to print lawyers by executing the Act. The law so far has been carried out with the positivism paradigm based on solely legal theory, namely that the law is a rule of law by negating the customs, beliefs, beliefs and sociological and spiritual conditions that grow in society.

*Third*, Theistic Legal-based Law Realism is a law based on the independence of judges to analyze, think about and make decisions by weighing and understanding the essence and nature of the law by maximizing the potential and faith in God to act honestly so that

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<sup>29</sup>Hernandez, 2010, *Opcit*, 90.

justice is expected to be achieved. *Four*, The Concept of Legal Theistic Realism is a concept that becomes the antithesis of the concept of legal positivism legal theory. The concept of Theistic Legal realism allows judges and legal apparatuses to become independent, independent from the shackles of regulation based on faith and transcendence to God Almighty in accordance with Chief of Judgment, namely For the sake of Justice Based on the Almighty Allah.

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