

Islamic Worldview as a Base for Alternative Epistemology Law Studies in Indonesia

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Abstract

This study examines the Western worldview regarding its influence on Indonesian law and the urgency of using the Islamic worldview in understanding Indonesian law. This research is research using library materials. The data is then analyzed using qualitative methods. The results show that, first, the western worldview, which is based on Secularism and liberalism, essentially separates science from spiritual-moral values developed in Indonesia. This colonial legacy comes with a way of life. That. Second, Islam is a value system inherent in the majority of the Indonesian population, so of course, it is necessary to review the laws that have developed in Indonesia by the worldview inherent in the Indonesian people, not the western worldview which is unwittingly imposed in the science of law in Indonesia. Indonesia, which has the ideology of Pancasila, has spiritual values based on religious matters. Islam is a value system inherent in most Indonesian populations, so it is necessary to re-examine the laws that develop in Indonesia by the worldview inherent in the Indonesian people, not the western worldview, which is unwittingly imposed in the Indonesian society science of law in Indonesia. Islamic worldview can be an alternative basis for the epistemology of legal science.

Keywords: *Worldview, Islamization, Law.*

INTRODUCTION

Liberalism & Secularism was born in the 17th century in the Western world. Liberalism aims to separate the intellectual, religious, political and economic spheres from the moral, supernatural and even divine order (Bellamy, 2015). Liberalism indicates the negation of all absolute authority because authority, according to a liberal view, shows the existence of forces outside and above humans that bind them morally (Zarkasyi, 2009). In the 17th century, driven by the French philosopher Rene Descartes (Berhouma, 2013), who promoted rationalism, which ended in the mid-18th century. The central teachings in Descartes' view were a) belief in human reason, b) the importance of the individual, c) immanence of God, and d) meliorism (the belief that humans are developing and can be developed) (Zarkasyi, 2009).

Secularism in separating science from theological values (Troian, Bonetto, Varet, Barbier & Lo Monaco, 2018) has a negative impact. First, nature and its laws and patterns, including humans themselves, are seen by modern science as merely material and incidental things that exist without divine intervention. Second, based on this perspective, it becomes a problem when applied to examine the social reality of Muslim communities who have a different view of life from the West (Nasution, 1992).

After the renaissance, the Western world experienced very rapid development of science (Rouvray, 2004). Various new scientific discoveries continue to emerge from time to time and continue to expand to multiple parts of the world, including in Muslim countries. Meanwhile, in Muslim countries, the opposite is true. Haris (2010) argues that the passion for developing science has degraded so that Muslims who once held control of science experienced a slump which in the end made the West a nation that dominated the Muslim world through the colonialism movement in the political and economic fields and westernization in the areas of science and technology thinking (Brisson, 2015).

In the field of law, especially in Indonesia, the school of legal positivism, which until now is still the centre of various legal studies (Mahdi, 2016), although this school has been criticized by many experts, especially after the emergence of the theory of relativity as applied to the natural sciences or sciences. exact (Tamanaha, 2015). Positivism has developed into modern legal mainstream thinking, which has led legal issues to become one of the most significant contributors to the destruction of human civilization. Wibowo (2017) illustrates that positivism gives birth to modern humans who do not have a spiritual horizon. There is no spiritual horizon, but because modern humans stand on the edge of the circle of existence, they create alienation in themselves.

Naquib Al-Attas was one of the early figures who asserted that science is not value-free but instead is full of values (Ashidqi, 2014). Science is not merely a processed product without being influenced by values that consider the validity of the science so that science cannot stand alone as a form of fact without a particular worldview.

Humans see nature based on certain factors that dominate human life (Zarkasyi, 2005). These factors vary, ranging from culture, philosophy, religion, belief, custom, and so on. The terms used in general for this human perspective are worldview or philosophy of life (*weltanschauung*) or *weltansicht* (worldview) (Zaharia, 2015). Alparslan (1996) defines worldview as a principle for every human behaviour, including scientific and technological activities. Every human action is based on a view of life, and in that sense, human activity can be reduced to a picture of life.

The difference between Western and Islamic sciences is evident in the worldview. In the Islamic worldview, knowledge is not only from reason alone but also from revelation, intuition, and experience. On the other hand, in the West, reason and the senses are based on doubt and reinforced by philosophical speculation, are placed above revelation, and even leave disclosure.

Soleh (2011) argues that what modern science has achieved, in various aspects, is something extraordinary. However, behind it all, this progress also has worrying excesses. Secular views produce current knowledge that is considered dry, separate from the values of monotheism, which includes five units: the unity of God, the harmony of nature, the unity of truth, the unity of life, and humanity's unity. The purpose of this study is to find an overview of how the Western Worldview affects Indonesian law and how urgent the use of Islamic Worldview is to understand Indonesian law.

METHOD

This study uses a normative research model. This research is also referred to as library research, namely research conducted through library materials or literature as a written source. In this study, the analytical method that will be used is a qualitative method. Library data will be analyzed and presented systematically to make it easier to provide information on research results and discussion. This analysis is carried out by classifying, comparing, and connecting to be systematically arranged according to the flow of a debate (Suriasumantri, 1986).

RESULT AND DISCUSSION

Western Worldview and Its Influence on Indonesian Law

The western civilization of the Middle Ages after the Dark Ages and developing a new worldview. This view of life succeeded in bringing Western Civilization to the Age of Enlightenment. Western worldview is coloured by the emergence of various systems of thought based on materialism (Martin, 2016) and idealism (Kafatos & Kato, 2017) which are supported by methodological approaches such as empiricism (Di Fate, 2011), rationalism (Preston, 2016), realism (Park, 2016), nominalism, and pragmatism (Long, 2013).

This Western perspective is based on philosophical thinking that is far from spiritual values. This is natural because Europe's decline in the dark ages was indicated by the substantial religious influence that killed science (Fears, 2004). Such a worldview has sufficient impact on secularization, liberalization and the development of scientific disciplines that reject the existence of God as Creator (Setiawan, 2013).

Al-Attas (1993) states that one of the main elements of the western worldview is dualism. Dualism (Berhouma, 2013) arises when two things are seen as contradictory, separate and cannot be brought together in harmony. The duality of modern Western epistemology departs from presumptions or prejudices and is motivated by sceptic efforts without being based on revelation.

Furthermore, Husaini (2005) analyzed the factors that influenced the West to choose a secular-liberal worldview. First, the historical trauma of the domination of religion (Christianity); second, the problem of the Bible text; and third, the issue of Christian theology. These three problems are related to one another, giving rise to a traumatic attitude towards religion, which gives birth to a secular-liberal thinking attitude in the history of modern Western thought traditions.

This secularization movement has a broad impact on other fields, one of which is the law. European law was originally a derivative or embodiment of religious law but later turned into law based on reason alone (Yudarwin, 2016). In this case, in Europe, understanding the development of law should also understand the social, economic and thinking realities that develop. At this time, the law applied in Indonesia (and in many other countries) has a basic pattern rooted in European law. Many of the concepts, systems, procedures come from these systems.

The development of legal science in Indonesia is strongly influenced by the legal tradition of Continental Europe, which is rooted in the positivism paradigm, which has become the mainstream paradigm in its homeland of Continental Europe

(Dimiyati & Wardiono, 2005). Due to the concordance of secular-liberal-positivist European law, Indonesia also applied through the Dutch colonial process. Thus the legal norms originating from the western legal system are the product of rational and positive thinking, not at all related to issues of divinity (Asshiddiqie, 1984).

The legal positivism school believes that the search for legal truth can be found through written legal products issued by the authorized government (Sjaiful, 2017). The dimension of written legal certainty has excellent potential to make humans alienated in the laws they make and away from human values in law, namely justice. It is said so because the applied legal system only dwells in the area of certainty of articles (law) alone (Rismawati, 2017).

The legal positivism school, which until now is still the mecca of various legal studies, although this school has been criticized by many experts, especially after the emergence of the theory of relativity as it applies to natural or exact sciences (Mahdi, 2016). The importance of law develops based on its stages by breaking the relation of social systems between theological, metaphysical and positive phases. Positivism has developed into mainstream modern legal thought, which has led legal issues to become one of the most significant contributors to the destruction of human civilization. Positivism gives birth to modern humans who do not have a spiritual horizon, not because there is no spiritual horizon but because modern humans stand on the edge of the circle of existence that creates an alienation in themselves (Wibowo, 2017).

A dogmatic research model also compounds this dogmatic teaching of law. As a result, the development of field research which is a source of data on the application of law in the field, is less attractive. Establishing legal regulations above the offices of lawyers, notaries, and the legislature can only make and apply rules to certain circles or political elites and economists. As a result, legal thought without ideology becomes legal scholars who are deficient in using their conscience. It is not impossible if then the use of the law is further away from the needs of ordinary people.

The modern positivistic law that overrides the role of God ultimately causes problems in the legal world that are sometimes difficult to solve. Human freedom with its ratio and reality. Human life becomes dry and loses its meaning because modern positivistic jurisprudence tends to be unable to touch the inner spiritual level (Nugroho, 2016).

The urgency of Islamic Worldview

So far, modern positivistic science (Kahraman, 2015) is in the corridor of modernism-positivism hegemony (Jörg, Davis & Nickmans, 2008). The positivistic paradigm of contemporary science with the doctrines of empiricism, objectivism, and rationalism began to be challenged by post-positivistic postmodernist thinkers by mainstreaming its meaning, which became more open and intact. It can be said that science changes from time to time.

Postmodernism tries to bring back irrational things (emotions, feelings, intuitions, personal experiences, speculations), morals, and spirituals as an integral part of understanding scientific studies/issues. Legal science has been established but is not able to solve the problems of humanity. Absori (2018) revealed that positivist legal science gave birth to significant issues in the social world. Thoughts on alternative epistemology of legal science in Indonesia continue to be carried out along with the development of science. The desire to move from the idea of modern legal science of positivism to the thought of postmodernism began to be felt in the legal world.

In the context of legal science in Indonesia, it is recognized that a divine authority is an inseparable part of the traces of modern Indonesian life, which is stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (Absori & Nugroho, 2018). In addition, it can be seen in Article 29 of the 1945 Constitution, which states that the state is based on Belief in the one and only God.

In the world of justice, it can also be seen in court decisions that contain decisions "Based on the One Godhead". This means that judges are representatives of God on earth. Indonesia is a state of law where Islamic law has been embedded in people's hearts and has become a rule in everyday life. Supposedly, the law must be based on something that should not be called law, but more fundamental than law, but more fundamental than law. That is a value system that is consciously embraced as a belief that must be fought for. (Muhammad, 2013).

Regarding legal ideals, in Indonesia, Pancasila as a legal plan is the basis for binding and controlling the development and development of the national legal system. Pancasila is a spirit, a guide, and a sign that must be heeded in the growth and development of the Indonesian legal system, both now and in the future.

Western law is secular, while customary law and Islamic law are not. Both customary law and Islamic law systems are closely related to divinity, which is the first and foremost principle and the essence of Pancasila. Indonesian National Law is appropriate if Islamic Law and Customary Law are instead used as the first primary source of norms (Ashidqie, 2017).

According to Al Attas (1995), Western civilization can produce practical knowledge, but behind it also has contributed to the damage in human life. He further argues that science is not neutral and value-free. When science develops in an area, it is formed based on the cultural, ideological, and religious values adopted by the thinkers and scientists in which the

science develops. The science that has evolved in the West and those that have developed throughout the world, including Indonesia, have experienced westernization. The western worldview is formed without involving revelation or religion but focuses on human reason (Thoib & Mukhlis, 2013). The impact on science and even ethics and morals are determined by the human ratio. This also has the effect of continuously changing walking according to the human balance.

Al Attas (1995) offers the concept of Islamization of modern western knowledge. The Islamization of knowledge is not just labelling of Islam on the sciences with verses and Sunnah, but rather in the realm of epistemology. It is necessary to "deconstruct" the Western epistemology that is developing now and then "reconstruct" an alternative epistemology by critically composing the materials contained in the "Muslim intellectual tradition". According to Kartanegara (2003), this epistemological re-construction includes the ontological domain of the object of science, classification, and methodology of science. Contemporary science can be converted to Islam by reinterpreting the facts of its findings according to the Islamic worldview contained in the Qur'an and by reorienting science and technology research programs and humanities to fulfil the interests of "*maqashid sharia*".

According to al-Attas (1999), five factors underlie the western worldview, namely: (1) the main reason in determining human life; (2) dualism towards reality and truth; (3) a secular view of life; (4) the concept of humanism; (5) make drama and tragedy the dominant elements in human nature.

Hanapi (2013) argues that the world view in the Qur'an consists of six elements. First, based on monotheism; second, slavery/worship to the methodology of Allah SWT; third, humans as servants and caliphs as development actors; fourth, natural resources as a tool or means of development; fifth, the balance between this world and the hereafter; and sixth, aiming to achieve the pleasure of Allah SWT. The core element of the six conceptual aspects of this worldview of development is *al-tawhid*. The world view of development built on the Qur'an has at least five strengths. First, it is based on revelation; second, the point is *al-tawhid*; third, the essential elements which include aspects of Allah SWT as the Creator, humans and natural resources as creation; fourth, the time frame provides for the world of *al-ruh*, the current world, and the next world; and fifth, the goal is to achieve the pleasure of Allah SWT.

Indonesian thinkers also have a similar concept called prophetic science with a basis in the form of Islamic science. The idea of predictive science in Indonesia came from Kuntowijoyo, a professor of history at Gadjah Mada University. The Islamic literary movement seeks to bring religious texts into the current context. So Kuntowijoyo tries to continue the existing knowledge journey and tries to make improvements from within (Wardiono, 2016).

Kuntowijoyo's conception is described from three elements which are mentioned in the Qur'an as prerequisites for the best people. The three main elements in Kuntowijoyo's prophetic ideas are humanization, liberation, and transcendence. This is based on Surah Ali Imran verse 110 (Kuntowijoyo, 2006).

Asmu'i (2016) provides an overview of the education curriculum in Indonesia, which he calls dichotomous education. According to him, Islamic education is monotheism, not dichotomous. The dichotomous is the separation between the material and the spiritual, radically separating the subject from the object, between general science and religious science, the empirical from the rational, separating physics from metaphysics, and so on. As a result of such education, scholars and scientists who are born will be divided. Between scientists who only recognize empirical and rational sources as a way to gain knowledge, and the other camps put more emphasis on science-based news. This is not by the concept of Worldview Islam because all sources of knowledge are included in Islamic epistemology and Islamic aqidah. Thus, Westernization in the field of education, especially in Indonesia, has resulted in educational institutions losing their role in linking science with the Islamic worldview.

Universities will produce civilized Muslim scholars when the curriculum design reflects human beings, namely monotheism (Rahman et al., 2012). This means that it is a curriculum built on human nature, which consists of both physical and spiritual aspects, which are seen as a unified whole. Furthermore, the organization and role of faculty in universities, research, admissions, even in offering courses and the timing of seminars, and formal and informal activities should reflect this as closely as possible. Thus the university becomes a medium for instilling etiquette in oneself to imitate as closely as possible the person of the Prophet Muhammad. So that Muslim scholars were born who are universalist in their perspective and have authority in several related branches of science.

Worldviews are an essential part of human life because they describe the way people think and act. This article aims to examine the studies carried out by scholars, the definition of the term "worldview", and scientists' exploration of the worldview and discuss how the category can be applied to capture reality. This study concludes that the worldview has been the focus of intensive research since the 1980s. Many scientists have defined the concept of "worldview" and attempted to explain its dynamics. Worldview studies can be grouped into several paradigms. Due to the vast area of study, worldviews can theoretically be classified into several categories: views of self and others, time, space, relationships, and causation. The world view of a society can be seen in how community members live about God, nature, humans, and the environment. In examining the worldview held in social reality, the specific categories mapped out by scholars must

be made in harmony with the reality on the ground because sometimes these categories are interrelated and difficult to understand in isolation (Sartini & Ahimsa-Putra, 2017).

Every person or society has a specific way of thinking and acting. This way of thinking and acting is determined by the values and experiences that shape it and are thus shaped by human life's long history. This mindset is relatively permanent, difficult to change, and if it does change, it does so slowly, over time. In academic studies, the patterns of thinking that influence human actions, either as individuals or groups, are often referred to as worldviews. Worldview plays a vital role in human life, both in personal life and in community life. The following references support this statement. The world view has long been a concern and focus of study for scientists. Many definitions of the term "worldview" have been explored, and the dynamics of worldviews and their emergence in reality. According to many of these studies, worldviews can be classified and divided into categories, making it easier for researchers to study them. The world view can be captured from the activities of life and from what its proponents express in interviews and community observations. Although the available theories are pretty detailed, they must be adapted when applied in the field, given the great variety in society.

In Islam, science is formed and sourced from the Islamic worldview, which is closely related to the basic metaphysical structure of Islam, which has been formulated in line with revelation, hadith, reason, experience and intuition. In this case, the Islamic worldview is an Islamic view of reality and truth visible to the eyes of our hearts and explains the nature of existence (Al-Attas, 1995). Because what Islam emits is a total being, the Islamic worldview means the Islamic view of being (*ru'yat al-Islām li al-wujūd*). So basically, the Islamic worldview is "a vision of reality and truth, in the form of an architectonic unit of thought, which acts as a non-observable principle for all human behavior, including scientific and technological activities". So that every human activity can finally be traced from his view of life or that human activity can be reduced to that view of life (Acikgencen, 1996).

The Qur'an and al-Sunnah are the two primary sources of Islamic knowledge and epistemology (Wan Mokhtar et al., 2013). Therefore we must not ignore the importance of al-Sunnah in the Islamic worldview as a secondary source. In the process of developing an appropriate pure Islamic worldview, the Sunnah is used as a reference to avoid misleading information about Islam and its epistemological content. Therefore, the sources and arguments for developing Islamic theories and worldviews must use the primary sources recognized by all scholars, which are the Qur'an, al-Sunnah, consensus and Qiyas. At the same time, al-Sunnah is the second leading source after the Qur'an. Only then can we take the Islamic worldview as the highest source in Islam.

Muslims need to know Islamic science and Western science simultaneously so that they can carry out these Islamization works conceptually, objectively and simultaneously. For this reason, higher education institutions or universities are needed with their curriculum designs and qualified lecturers in their respective fields (Marzuki, 1999). Islamization of science is an idea to realize scientific concepts based on knowledge revealed by God and by human nature. This idea is based not only on the rejection of Western science alone but also an effort to adapt the social sciences to the views, insights, and problems in the Muslim community.

Wardiono (2016) argues that the prophetic paradigm of legal science is based on a dialectical view between structure and superstructure. An important characteristic in prophetic is to make transcendence an essential part of its constituent elements. This is contained in 2 things: making revelation as a source of knowledge and making the heart (*aql/qalb*) a cognitive component to understand. The integration of prophetic science requires the integration of science as well as the integration of human beings. This human integration is referred to as demystifying intellectual movement. The process is divided into three stages. The first stage is a metaphysical process in the form of an effort to internalize values and the process of building a theoretical construct that comes from revelation. The next stage is the humanization process in the form of an effort to understand social reality in real terms. The last stage is the liberation process in the form of social transformation based on prophetic ideals. Its axiology is derived from the derivation of the three values described, namely humanization, liberation and transcendence.

Value-free positivism breaks the relationship between legal science and spiritual morality. This has an impact on the results of legal education, which has poor moral and spiritual values. Most legal scholars who are born have a narrow understanding or wear glasses (positivism doctrine). Legal thought without ideology becomes legal scholars who are deficient in the use of conscience. Islamization of legal science is a solution offered to give birth to legal science and legal intellectuals based on Islam. The process is by assessing the knowledge developed and then analyzing and developing legal science by Islamic values.

CONCLUSION

The western worldview is based on Secularism and liberalism, which essentially separates science from moral and spiritual values. One of the European laws that developed with this worldview is the positivistic doctrine. Law is separate from moral values. Law expands based on its stages by breaking the relation of the social system between theological,

metaphysical and positive phases. Indonesia's legal system is a colonial legacy that comes with this view of life. Law in Indonesia is still under hegemony by the positivistic paradigm. This view is included in the western worldview, which is secular and dualistic/dichotomous. The worldview of the west is formed without involving revelation or religion but focuses on human reason. The human ratio determines its impact on science and even ethics and morals. This also has the effect of continuously changing walking according to the human balance. Legal development must have dimensions of religious values, as a source of intergalactic justice, between the makers, implementers, guards and citizens in forming a legal paradigm with the essence or substance of religious values. It is necessary to deconstruct the system built by the West with an alternative epistemological construction in the form of an Islamic worldview. This worldview offers an integral view, looking at the physical world's narrow reality and covering the metaphysical. Postmodernism presents a moral and spiritual dimension in science. Indonesia, which has the ideology of Pancasila, has spiritual values based on religious matters, in which Islam is the religion that is mainly followed by the Indonesian population. From an Islamic perspective, a monotheistic education will be born, not a dichotomous one. Islam is a value system inherent in most Indonesian population, so of course, it is necessary to re-examine the laws that develop in Indonesia by the worldview inherent in the Indonesian people, not the western worldview, which is unwittingly imposed in the science of law in Indonesia. Islamic worldview can be an alternative basis for the epistemology of legal science.

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