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LEGAL THEORY IN THE APPLICATION OF INDONESIAN LAW

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ABSTRACT

The position of theory is very important in science, this can be seen from the task of theory, namely deepening the problem being studied. The existence of a theory can strengthen what previously stood alone, so that they reinforce each other and questions that are not yet clear are explored more deeply. In any field that is a field of legal science, theory can be a practical guide that explains how to approach the subject matter to be studied. Legal theory generally follows the flow of positive law, namely the search for just law. Law is an order issued by a sovereign authority, addressed to the government and given sanctions if violated (Austin). Pure law is a necessity that regulates human behavior as intelligent creatures (Kalsen). The application of legal theory emphasizes that a positive legal system will operate effectively if it follows the rules and norms of society. The combination of the three judges, certainty theory and utility theory is the right way to apply it in Indonesia.

Keywords : Theory, Law

Introduction

The position of theory is very important in the world of science. This can be seen from the function of theory, namely to understand the problems being studied in more depth. The presence of theory can strengthen what previously only stood alone, so that they strengthen each other and things that are not clear will be studied more deeply. The influence of theory in the world of law is very large, because theory is a basic concept that can answer a problem. Theory is a tool that provides a summary of how to understand problems in each field of legal science. It is very important for a legal academic to know the broad meaning of theory, so that errors do not occur in creating scientific work, which is the process of an academic's activities in scientific activities or in research (Sumaya, 2019).

Theories contain subjectivity when discussing very complex matters. From here emerged various schools in legal science that use a theory in law. Legal theory has at least two functions, namely the function of explaining and the function of predicting phenomena. The implementation and application of a law must be supported by an in-

depth understanding of legal theory, in order to be successful in the legal field. This is an important requirement, and must be done to ensure that no errors occur in producing scientific concepts, namely carrying out a process of academic activities that involve research or scientific activities (Helmi, 2022).

In the dynamic development of law and the development of theories in legal science. In legal theory, it is divided into several schools of law.There are various legal theories that have developed from ancient times to the present. Legal theory is part of a cognitive strategy that is built from the world of facts, generalized into concepts, realized from concepts to other concepts as an interconnected part and forms an explanatory framework of thought.in a phenomenon (Rahardjo, 2016). As a cognitive strategy, theory is considered to have emerged because it preceded science. Once science is established and established, it continues to produce theories (pillars) (Helmi 2022).

Law is a symptom of the reality of a pluralistic society which has many aspects, dimensions and sides. Law is rooted and formed in the interaction of various aspects of society (political, economic, social, cultural, technical, religious, etc.). Forming and shaping the order of society, its form is determined by society with its various characteristics, but at the same time it also determines the shape and characteristics of society itself. Law is thus conditional in its dynamics and society. Because its specific aim is to implement order and justice in society. Therefore, the law contains conservative tendencies (protecting and preserving what has been achieved) and modernist tendencies (creating, analyzing and directing change). Law requires power in its application, as well as determining the limits and methods of its implementation.

Observing the development of the Indonesian legal system, it can be seen that there are specific and interesting characteristics that need to be studied more deeply. Before the legal influence of Dutch colonialism in Indonesia, customary law and Islamic law were applied which were different from various indigenous peoples in Indonesia from each different kingdom and ethnicity. After entering, the Dutch colonialists brought their own laws, most of which were in concordance with the laws in force in the Netherlands, namely written law and legislation with a positivist pattern. However, the Dutch adhered to customary law politics (adatrechtpolitiek), namely allowing customary law to apply to native Indonesian groups and European law to apply to European groups residing in Indonesia (the Dutch East Indies). The development of law is always based on existing legal theory. Law in its most generic and comprehensive theme is defined as rules issued to provide guidelines for behavior for a human being as an intelligent being from another human being (another intelligent being) in whose hands there is power (authority) over that first intelligent being (Helmi , 2022).

Legal theory is a continuation of positive legal studies, at least in this framework we can clearly reconstruct the existence of legal theory. In studying positive law, society is always in contact with legal regulations in all fields of activity

and with problems such as errors, interpretations, etc. Human reason has no limits, this encourages greater curiosity to look for something new that is different from what already exists. The ability to think like this leads people to more concrete explanations or vice versa, from detailed explanations to philosophical explanations. Legal theory attempts to explain the value of legal postulates to their highest philosophical basis. According to Gustav Radbruch, law has ideal legal goals/ideals, or what must be achieved, including justice, expediency and certainty (Wibowo, 2018).

Formulation of the problem

Legal theory is present from time to time, from era to era, and from generation to generation according to the time. By giving the spirit of the era or era and showing the color of cosmology and also presenting a shift in perspective according to the era. For now the author presents thinkers ranging from classical thinkers, medieval thinkers, medieval thinkers, modern thinkers and contemporary thinkers, at the same time the author also presents the natural law generation, the rationalism generation, the historicism generation, the positivism generation, socio-anthropology generation, realism generation and other generations to come. Legal theory will question things as have been explained, namely why does the law apply? what is the basis of its binding strength? What is the aim of the law? How should the law be understood? What is its relationship to the individual, to society? What is the law supposed to do? What is justice? What is a fair law?

The problem formulation is based on the background above, including how to apply legal theoryappropriate and appropriate to the reality of law enforcement in Indonesia?

Literature review

1. Understanding Legal Theory

Legal theory does not yet have a standard definition, so several experts express their opinions regarding the discipline of legal theory, which are mentioned below (Darusman, etc, 2020);

a. According to Hans Kelsen, legal theory is the science of applicable law and not just about the law as it should be. What he means by legal theory is pure legal theory, which can also be called positive legal theory. Pure legal theory or positive legal theory is meant because it only explains the law and attempts to clear the object of explanation from everything that has nothing to do with the law. As a theory, Hans Kelsen also explains what is meant by law and how this law exists (Sujono, 2019).
b. Ian Mc Leod expressed his opinion regarding the definition of legal theory. According to him, legal theory is something that leads to systematic theoretical analysis of various basic characteristics of law, legal rules and legal institutions in general.

c. John Finch defines it as a study that includes the essential characteristics of law and customs that have general characteristics that exist in a legal system with the aim of analyzing the various basic elements that make it a law and distinguishing it from other regulations.
d. The definition of legal theory according to Jan Gijssels and Mark van Hoecke is a science that has the nature of explaining or explaining the law. Legal theory itself can be interpreted as a material discipline whose development is influenced by and has a large connection with general legal teachings. Legal theory is a continuation of general legal teachings which have independent disciplinary objects, including legal dogmatics on one side and legal philosophy on the other. During its development, legal theory was also recognized as a third discipline in addition to its function of complementing legal philosophy and legal dogmatics, each of which has its own area and values. Legal theory is also seen as a value-free a-normative science which makes it different from other disciplines (Sujono, 2019).
e. In his research, Bruggink defines legal theory as all statements related to the system of concepts in legal regulations and legal decisions. This system is used to some extent, and most importantly, it is positive.
f. Arief Sidharta is of the opinion that legal theory or jurisprudence in general can be interpreted as a science or legal discipline that can be used both from an interdisciplinary and external perspective to critically analyze various aspects of legal phenomena and as an individual and legal phenomenon as a whole, both theoretically and practical, the aim of which is to gain a better understanding and be able to present as clear an explanation as possible regarding the legal material presented and the legal activities that actually occur in society (Shidarta, etc, 2020).

Based on the understanding and opinions of the experts above, the disciplines of legal theory can be formulated into three, as follows.

a. Legal theory has the same meaning as legal philosophy.
b. Legal theory has a different meaning from legal philosophy
c. Legal theory is a synonym for legal science.

Based on this explanation, Lili Rasjidi and Ira Thania Rasjidi try to differentiate between legal theory and legal philosophy. According to them, legal theory is a science that studies the basic meaning of existing laws and systems. The basic meaning can be in the form of legal entities, regulations and others that have general and technical meanings. This basic understanding is very important for understanding the legal system in general and also the positive legal system. Legal theory itself is divided into two main views, which are contradictory in nature, but coexist in reality. The explanation of these two views is as follows;

a. First, there are three arguments that support the view that law as a system has principles that can be predicted based on accurate knowledge of the current state of the system, where the behavior of the system is determined by many of the smallest

parts of the system. . systems and laws. A theory can explain a problem as it is without having to have anything to do with humans or observers. This illustrates a view of legal theory that is deterministic, reductionist and realistic.

b. Second, the view that law is not a fixed system of order but something related to disorder cannot be predicted and law is greatly influenced by the perception of people or observers in interpreting the meaning of law. This view is often expressed by people who adhere to sociology and postmodernism, who generally believe that all experience, whether small or large, evolutionary or revolutionary, is constantly changing.

In line with the current development of legal science, legal experts emphasize three main aspects of legal theory, which consist of:

a. Natural law is the idea that we are governed by inalienable laws and that existing institutions should strive to comply with existing natural laws.
b. Analytical jurisprudence, which asks questions such as what is meant by law, what are the criteria for legal acceptance, and what is the relationship between law and morality, and many other similar questions discovered by legal philosophers.
c. Normative jurisprudence, which discusses what the law should be. It is also based on moral and political philosophy, and also covers various questions about whether a person should obey the law, what violations of the law are punishable, the proper use and limits of existing provisions, and how judges seek solutions. and solutions. existing cases

2. Characteristics of legal theory

Based on the explanation of legal theory, the following characteristics of legal theory can be identified.

a. The first characteristic, legal theory, is a kind of thinking about law.
b. The second characteristic, legal theory, is used to search for all laws.
c. The third characteristic, legal theory, is a science that asks what things are included in the law.
d. The fourth characteristic, legal theory, asks what the existing legal system contains.
e. The fifth characteristic is that legal theory is not a fixed law.
f. The sixth characteristic, legal theory receives its material or content from legal science.
g. The seventh characteristic, legal theory is a metaform of legal theory.
h. The eighth characteristic, legal theory is a reflection of legal technology.
i. The ninth characteristic of legal theory is the way legal experts talk about law.
j. The tenth characteristic, legal theory, views law from a perspective that is not technical law, and also uses language that is not technical law.
k. The eleventh characteristic, legal theory, asks whether logical interpretation techniques are permissible or not. I.

l. The twelfth characteristic, legal theory, is related to the reasoning and arguments of legal experts.
m. The thirteenth characteristic is that legal theory does not question which solution is most appropriate.
n. The fourteenth characteristic or legal theory examines the views of legal experts and becomes an instrument used by legal experts.

3. Uses of Legal Theory

Legal theory, which is a separate discipline of dogmatics and legal philosophy, has an interdisciplinary and external perspective that critically analyzes various perspectives of legal phenomena both independently and in relation to the whole. The aim of legal theory is also to explain various events in the legal field and try to make judgments about them. Legal theory itself is a continuation of efforts to study positive law. Where legal theory uses positive law as teaching material, uses philosophical analysis to explain the law. This is also contained in its theoretical concept and its relation to the whole, both in its theoretical concept and in its practical application, the aim of legal theory is to obtain a better understanding and provide as clear an explanation as possible about law, its existence in society (Darusman, etc, 2020).

4. The Urgency of Legal Theory

Urgency legal theory has the following uses.

a. Legal theory is used to explain law by interpreting the meaning or meaning of a legal event, the conditions or elements of law and the hierarchy of power contained in the law.
b. Legal theory is used to evaluate an existing legal event.
c. Legal theory is used to predict something that will happen.

According to Mochtar, there are also ways to use legal theory, especially developmental legal theory which has received a lot of attention, as follows.

a. First, the current development legal theory is a legal theory created or created by the Indonesian people, which was created by looking at the dimensions and culture of Indonesian society. Therefore, the theory of legal development was born, grew and developed by measuring existing dimensions to adapt to the conditions prevailing in Indonesia. In essence, if it is implemented in an application that is appropriate to the conditions and situation of Indonesia's diverse society.
b. Second, development law theory uses a dimensional reference framework regarding the lifestyle or attitudes of Indonesian people and society which departs from the family-oriented principles of Pancasila towards Indonesian norms, principles, institutions and regulations. The existing legal theory of development is relative and has dimensions that include structure, culture and content.
c. Third, the theory of legal development essentially provides a basis for the enactment of law which is used as an instrument of social reform, namely law as a social planning

tool and law as a system, which is very necessary for Indonesian society, as a country experiencing development.

Discussion

Theory has a very important position in the world of law, because it is the basis or basic concept that can answer a problem. Theory is also a tool or means that provides the essence of how to understand a problem in every field of legal science. For an academic to know the broad meaning of theory is very important. Legal theory is a whole set of interrelated statements regarding the conceptual system of legal rules and legal decisions. Many legal theories teach that the law must be stable, but must not be still or rigid. At first glance it seems that these statements contradict each other, but if you look carefully and analytically, they actually do not contradict each other. One of the essential facets (aspects or facets) of law where a legal party must contain an element of certainty and predictability, so that it must be stable. But on the other hand, the law must be dynamic, so that it can always follow the dynamics of the development of human life itself (Surya A, etc, 2021).

Legal theory always develops following human development and follows the needs and values that live in humans so that theory can be said to be a fundamental study. This legal theory is an effort to clarify the values contained in the content of the law and its postulates which reach its deepest philosophy. The definition of "Legal Theory" is not much different from the study of legal philosophy in general, therefore law still traces back to the deepest philosophical search for the material objectives of law itself (Shidarta, etc, 2020). The development of legal theory is classified into several periods. This separation or classification does not provide a firm boundary in understanding a legal theory context, but rather to study and understand each period/period when a philosopher and legal expert gave birth to legal theory (Wibowo, 2018).

1. Basic Development of Legal Theory

Thoughts about law actually emerged long before the enactment of religious law, namely the birth of human civilization itself, so it is not surprising that law is seen as part of the concept of human civilization itself. In this period, many thoughts about law emerged from the philosophers of the Greek region, which lived as a state and then gave birth to the concept of the polis as a government system. Although it is not limited to Greek philosophers alone, it cannot be denied that the way of thinking of these Greek philosophers has had a greater influence on the development of legal theories that are applied almost throughout the world today. The development of law actually began even during the time of Hammurabi and the Prophet Moses. In fact, some of the laws contained in the "Ten Commandments", such as the prohibition on killing, are rules that have now developed into legal regulations (Darusman, etc, 2020).

Legal thinking that developed over time by philosophers, which then influenced the thinking of legal experts, shaped the legal order as it is known, recognized and applied by world society today. Some of the thoughts of philosophers and legal experts are summarized in several periods of the development of law faculties to make it easier to understand these thoughts. It's time for you to understand something. Legal theory cannot be separated from the periods, factors, conditions, social and national conditions that surround the growth and development of the legal theory in question. Even though legal theory does not focus on the stages of dispute resolution and does not focus on specific positive law, legal theory can be used as an analytical tool in studying the role and flow of law using the positive law flow approach. the jury's findings. and the judges' judgments (Sujono, 2019).

2. Application of Legal Theory in the Legal System in Indonesia

Indonesian law as a whole still uses laws originating from the colonial country, namely the Netherlands. Almost all the laws that apply in the Netherlands are also applied in Indonesia. Indonesian law is law that still refers to the law made by the Netherlands. The Continental European Legal System is the legal system applied in the Netherlands. Because Indonesia is a former Dutch colony, the Continental European system has also been implemented in Indonesia. The Continental European Legal System places more emphasis on written law, and legislation occupies an important role in this legal system. In Indonesia itself, the legal basis is the constitution. As one of the dimensions of the life of the Indonesian nation, Indonesian law is a fundamental need whose presence is desired as a means of regulating life, both in individual life, social life and state life (Mas M, 2014).

Another opinion states that with the entry of European power into Indonesia, the development of thought that occurred in Europe also entered. Especially when Indonesian people are given the opportunity to study/pursue education in Europe. Indonesian students who later formed the Indonesian Association (Indische Vereniging) became acquainted with elements of Aufklarung ideology as a secular ideology that was closely related to the development of Rationalism, Empiricism, Idealism and Positivism. Indonesian people began to recognize teachings about human rights, independence, equality, democracy, republic, constitution, law, state and society. Thinkers such as John Locke, Thomas Hobbes, Rousseeua, Voltaire, Immanuel Kant, Hans Kelsen, Hegel, Adam Smith and Karl Marx became known. Individualism, Liberalism, Capitalism, Socialism, and Marxism have also been experienced (Sujono, 2019).

Initially the legal system applied in Indonesia was only the continental European legal system, after that the legal system applied in Indonesia experienced a combination of the Continental European system and the Anglo Saxon legal system.

a. The continental European legal system prioritizes written law, legislation has an important position. In terms of good legal regulations, it can be assumed that apart

from guaranteeing legal certainty which is an absolute prerequisite for creating order, there are also values of justice and interests. Legal authorities must believe in the law. The static nature of written law is expected to be more flexible with a tiered system from basic standards to technical standards and provide a mechanism for changing laws.

b. The Anglo-Saxon legal system tends to side with common law, namely law that works dynamically according to the dynamics of society. Legislation through judicial institutions with a jurisprudential system is considered better so that the law is always in harmony with justice and the true welfare of society (Maysarah A, 2017).

According to pure legal theory, "law is nothing other than a positive legal system created by the authorities. Positive law can be in the form of statutory regulations as general rules (general norms) and rules that occur due to judge decisions as special rules (individual norms). According to pure legal theory, the object of legal study (legal science) is only the content of positive law. Meanwhile, regarding whether a rule is good or bad, which reflects a certain value system, issues of legal objectives and so on, are philosophical in nature, not the object of legal theory, but rather the object of philosophy. This view is related to the understanding of "legal positivism" and Hans Kelsen is an adherent of the Positivist School (Sujono, 2019).

The legal system in Indonesia today is a unique legal system, a legal system that was built from a process of discovery, development, adaptation, and even compromise of several existing systems. The Indonesian legal system not only prioritizes local characteristics, but also accommodates general principles adopted by the international community. The development of the Indonesian legal system became increasingly visible when there were contributions from the thoughts of legal thinkers and philosophers. One of these developments is from the positivist school of thought. Positivism is as old as philosophy. But as permanent movements in general philosophy, sociology and legal science are essentially modern phenomena, which on the one hand accompany the importance of science, and on the other hand explain political philosophy and theory of legal science (Sujono, 2019).

Law as a regulation in its concept originates from reason for the general good which is made by a person who has an obligation to protect his community and promulgates it (Sumaya PS, 2019). All positive law is an effort towards just law. One of the legal schools is Legal Positivism which was put forward in two forms, including by John Austin (1790-1859) and Hans Kelsen (1881-1973);

1. The first opinion was from John Austin who said that law is the command of the ruler and law is strictly separated from morality. The essence of law itself, according to John Austin, consists of "orders" issued by sovereign power, addressed to those who are governed and accompanied by sanctions if the order is violated..
2. Another school of legal positivism is Pure Jurisprudence put forward by Hans Kelsen, which states that law must be cleared of illegal elements such as sociological, political,

historical and even ethical elements. Law is an obligation that regulates human behavior as rational creatures. In this case, the law does not ask "what the law should be" but "what the law is". This positive legal system will work effectively if it follows the rules and norms of society.

Positivism has had a major impact on the creation and enforcement of laws in Indonesia. In the activities of most legislative bodies in enacting laws, in the activities of the government (administrative bodies) and civil servants in implementing laws, and even in the activities of judges in deciding cases, this model of thinking is always used as a reference. The aspect of justice in law enforcement in the national legal system is always seen from the perspective of legal justice. Positivism emphasizes that any method for discovering truth must transform reality into something existing and objective and free it from various subjective metaphysical understandings. When positivist thinking is applied in the legal field, legal positivism liberates legal thinking as put forward by natural law thinkers (Maysarah A, 2017Law is not conceptualized as an abstract moral principle about the nature of justice, but rather something that has been positive as a law to guarantee legal certainty. The formation of law referred to here is the birth of written rules that have the validity to be enforced. The birth of a valid law is due to a decision from a body/institution that is authorized by the constitution to create law. If you interpret law as a system of positive legal rules, then the institutions that form law (legislative function) in the Indonesian government system are run by the Legislative Institution (People's Consultative Assembly, the People's Representative Council, and the Regional Representative Council), the Executive Institution (the President/Vice President assisted by the Minister), and the Judiciary (judiciary) (Surya A, etc 2021).

Pure Legal Theory is still widely used in Indonesia, this is reflected in the continued following/application of several ideas from Hans Kelsen in the juridical system of life and in the constitutional system; including in the Sequence of Legislative Regulations stipulated in the form of MPR-RI Decrees which are influenced by Kelsen's Stufenbau theory. In the relationship between the duties of judges and legislation, the influence of the Legist School (Legalism view) is still visible, which states that judges cannot do anything other than strictly apply the law. Judges only trumpet the law and apart from that, in the application of law by Judges they are still stuck to written statutory regulations (Sujono, 2019).

The Indonesian police model cannot be separated from the influence of positivist thinking. According to Kelsen, currently applicable legal norms are the basis for assessing every activity of each individual/social group. The relevant assessment standard is the relationship between human activity and legal standards. Legal norms thus become a tool to punish or not, and the determination of guilt must be measured based on written regulatory articles, without paying attention to moral and justice aspects. Positivists define legal rights as legality. A law is considered fair if it is actually

applied in all cases. On the other hand, statutory regulations are considered unreasonable if they only apply to a particular case and do not apply to other similar cases. The essence of justice in the positivist approach is the application of law without considering the value of legal norms (the principle of certainty). Law and justice are two sides of the same coin. Legal certainty is fair, and legal justice means legal certainty (Darusman YM, etc, 2020).

The reality of law is basically the will of the public, so it is not just law in the sense of law in books (written law). Sociological Jurisprudence shows a careful compromise between written law as a need for the legal community for the sake of creating legal certainty (positivism law) and living law as a form of appreciation for the important role of society in the formation of law and legal orientation. The Sociological Jurisprudence school in its teachings is based on the distinction between positive law and living law, or in other words, a distinction between legal rules and other social rules. That positive law will only be effective if it is in harmony with the laws that exist in society. That the center of the development of law does not lie in legislative bodies, decisions of judicial bodies or legal science, but instead lies in society itself (Darusman YM, etc, 2020).

In reality, legal changes in Indonesia are taking place whether carried out by authorized state administrators (legislative and executive institutions) through the creation of various legislative regulations that cover all phases of life, whether oriented towards individual life, social life or state life (politics) or proposed by various institutions that are committed to reforming and fostering law, so that they are able to fill legal gaps or vacuums in various aspects of life. With good planning, legal changes are directed in accordance with the concept of legal development in Indonesia, which must be done in a timely manner (Kusuma, 2012).

1. Increasing and perfecting national legal development by, among other things, reforming, codifying and unifying laws in certain fields by paying attention to public legal awareness.
2. Regulate the functions of legal institutions according to their respective proportions.
3. Increasing the capability and authority of law enforcement.
4. Fostering public legal awareness.
5. Developing the attitude of rulers and government/state officials towards a strong commitment to law enforcement, justice and protection of human dignity.

The main reason why theories fail is because theories are instructive for understanding the merits of a problem summary and there are usually several things to consider:

1. First, this theory does not explain the idea of differences in laws, criminal status, prohibition or punishment for crimes, and is almost the same as the rules given to others.

2. Second, law has many variations, including the legal power to act as a judge to decide something, or to control the implementation of a law, or to fulfill legal relationships, which cannot be separated even without impossibility, and which are interpreted as rules. , which is the opposite of threat.
3. Third, there are current regulations that conflict with the core regulations by not adding analogies to explain the provisions.
4. Fourth, the analysis of power, which usually covers all legal boundaries, does not seem to take into account the continuing nature of legal power in modern legal systems.

Ideally, law enforcement in Indonesia must still prioritize the three legal ideals put forward by Gustav Radbruch, namely justice, expediency and certainty.Because, if left to run its course, positive law will be trapped in its own logic. Positive law is a legal product that was born through a legislative process that is full of conflicts of interest that reflect political alignments. As a result, the resulting law will not be very sensitive to the values of justice. Then, such a law must be enforced not because of its ethical normative content, but because of the correctness of the formal procedures for its creation and formation according to the applicable regulatory provisions (Wibowo AM, 2018).

Justice is considered to have been fully realized if everyone has obtained their rights in accordance with the law. However, the value of justice is not easy to accommodate in the language of legislation (positive law). This is where natural law (justice) is required to be present as content, criticism and input to positive law. However, if the laws of nature run their course, they will continue to be in a world of uncertainty. If the idealism of natural law can be accepted and can be realized, it will certainly produce ideal conditions. The difference between ideal nature and real life could cause chaos due to this uncertainty.

By prioritizing the legal objectives put forward by Gustav Radbruch to be applied to the reality of law enforcement in Indonesia, it will provide justice, certainty and benefits for the community and officials. Where this happens is because of the diversity of the Indonesian nation. There are unwritten laws (customary law) that apply in some Indonesian societies. However, on the other hand, there is positive law that applies nationally in Indonesia (in this case, statutory regulations), and there is even global law (international law) that applies in Indonesia. Thus, combining the three theories of justice, certainty theory and benefit theory is the right thing to apply in Indonesia.

Conclusion

1. The development of legal theory in Indonesia cannot be separated from the historical context. Indonesia itself used the Dutch legal system because Indonesia at that time was a Dutch colonial colony and did not yet have laws originating from its own traditions at that time.
2. The Indonesian Legal System uses the Continental European system. As the traditions and habits of society develop, this causes Indonesia to implement a legal system that combines the legal systems of Continental Europe and Anglo Saxon.
3. Law is a regulation that originates from reason for the general good which is made by someone who has an obligation to protect their society and promulgates it.
4. Law as a regulation that arises for the public interest, is made and promulgated by someone who has the duty to protect society. 4. Legal theory follows the flow of positive law which seeks fair law. Law is an order made by a sovereign ruler addressed to the governed accompanied by sanctions if the order is violated (Austin). Pure law is a necessity that regulates human behavior as rational creatures (Kalsen). 5. The application of legal theory emphasizes that a positive legal system will operate effectively if it complies with the rules and norms that exist in society. The combination of the three theories of justice, certainty theory and benefit theory is the right thing to apply in Indonesia.

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