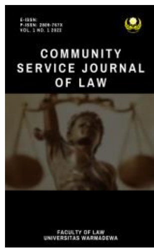

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Explore the Meaning of the Legal System in the Framework of Developing Legal Science and National Legal System

Abdul Ghofur Anshori[1]*
Fakultas Hukum, Universitas Gadjah Mada, Indonesia

ABSTRACT

Even though the legal system is open, the existence of three legal systems in the Indonesian legal system is felt to be an obstacle in determining the right legal system for Indonesia. People still think that in Indonesia, customary, Islamic and Western laws apply as a system, whereas in fact the three legal systems are in one system. The Indonesian legal system is extracted from the local wisdom and local genius of the Indonesian nation without turning a blind eye to changes in the international world. Western law, especially the Anglo Saxon system, customary law and Islamic law can each become raw material in national law. There is no need to contradict the three, but we can synergize them in national law as one Indonesian legal system. The archipelago has a diversity of ethnic groups with diverse social institutions and forms a single unit (Bhinneka Tunggal Ika). The Indonesian legal system certainly has to pay attention to this. For the Indonesian nation, the formation of a national society composed of social subsystems called ethnic groups, and each ethnic group has a system of norms adopted by each ethnic group, is often referred to as customary law. The Indonesian legal system has a metaphysical essence originating from the Indonesian nation itself so that the system is inherent in the Indonesian nation. The essence of metaphysics becomes the foundation and directs law. The metaphysical essence is the values contained in Pancasila and the 1945 Constitution.

Keywords: Legal system, Indonesian, Law

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1. INTRODUCTION

Talking about the Indonesian legal system, we are reminded of the question whether we currently have national laws or not. This is because today there are still laws and regulations from the colonial era. The first opinion says that we don't have a national law yet because there are still many laws and regulations that originate from the colonial era. According to this opinion, we only have national law if all laws and regulations are produced by national lawmakers.

The second opinion says that we currently have national law, although there are still many laws and regulations that date back to the Dutch East Indies era. These rules are passive, requiring an event to be active. The implementation of law in Indonesia is based on Pancasila as our weltanschaung. These regulations may not conflict with Pancasila as the philosophy and foundation of the Republic of Indonesia. Thus, since it was proclaimed, Indonesia already has national law Mertokusumo, (1991).

If there are so many legal regulations now, they are mixed and seem to have no relationship so that it looks chaotic, then jurisprudence views it as a structured whole or system. Legal regulations do not stand alone but have a systematic relationship with other legal regulations. These legal regulations constitute a structured order or legal system.

In this unit there is no desire for conflict. If a conflict occurs, it will be resolved immediately by and within the system itself. In essence, the legal system is an essential unit and is divided into sections in which every problem or problem finds an answer or solution. The answer lies within the legal system itself. The legal system is complete. The regulations are incomplete. Incompleteness in the system will be complemented by the system with interpretations. If you look at Indonesian law, there is often a discrepancy between one regulation and another. For example, between the Investment Law and the Basic Agrarian Law. Problems at

the law enforcement level also sometimes occur, such as when Indonesian law (which is determined by the state) becomes a burden for certain indigenous peoples. An established legal system would be able to overcome this kind of problem. Efforts to develop the Indonesian legal system continue. Law is never stagnant but continues to change following changes in society, bearing in mind that law is a product of human culture. Law and public order have a close correlation even though law is not the only means of achieving order. The right legal system will be a means of public order.

It was not easy to build a proper national legal system for the Republic of Indonesia because before independence, the Netherlands carried out the divide et impera policy, including in the field of law. The application of Islamic law and customary law in society is actually a supporting factor for the success of this divisive politics. After the Proclamation, based on Article 2 of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia, the laws that were in effect at that time, namely Customary, Western and Islamic laws became part of Indonesian National law. This transformation cannot be denied as part of the process of developing Indonesian law. Even though the legal system is open, the existence of three legal systems in the Indonesian legal system is felt to be an obstacle in determining the right legal system for Indonesia. People still think that in Indonesia, customary, Islamic and Western laws apply as a system, whereas in fact the three legal systems are in one system. That's why there is a need for a critical study of the Indonesian legal system for its development which is at the same time related to the development of its legal knowledge.

2. LEGAL REFLECTION

In the philosophy of science the question is whether science is value-free or not and the answer to this question can lead to a long debate but the nature of science is not value-free. One thing that most scientists want to avoid but its presence is difficult to deny is power. Power plays a big role in the development of science – both directly and indirectly – because it is difficult for scientists to plant the flag of scientific autonomy in a country that places power as the dominant factor in making a policy. The possibility of a conflict of interest between the two parties-scientists with their truth claims has the potential to occur Mustansyir, Rizal,Munir, n.d.(). Epistemologically, the knowledge developed by the Western and Eastern (Indonesian) worlds is different. Thus this makes the reflection of the knowledge obtained is different. Epistemology as the main field in philosophy that discusses the principles of how the nature of knowledge and how to obtain that knowledge. Epistemology is basically a human effort to gain correct knowledge. Epistemology is an activity of thinking that meets certain requirements. The two main criteria for epistemology are first, scientific thinking must have a logical (rational) line of thought, second, it must be supported by empirical facts. 6 Rationality and empiricism are ways of obtaining knowledge that is built and becomes a reference for Western knowledge. Indonesia knows intuition-revelatory epistemology. Rationality and empirical have not fully guaranteed the truth. This is because truth is relative. A court decision, for example, has various patterns. Ratioly and empirically each Prosecutor, Defendant, Judge and Society can state the truth based on valid arguments in certain cases. Also in different (even contradictory) decisions at the judicial level from the District Court, High Court, and the Supreme Court. The truth of the decision is relative. The measure of truth is determined by the judge (as a case breaker). Differences in decisions on the same issue are due to differences in the life values of judges and therefore different legal concepts adopted Himawan, (2003).

In this regard, truth must also be based on intuition. Zainudin, (2003) 8 Intuition built as the foundation of Indonesian legal knowledge is religious intuition. Unlike other countries, Indonesia has the ideology of Pancasila. Pancasila as the basis of philosophy, way of life, the basis of the state, and the source of Indonesian legal order animates and becomes a beacon of Indonesian law. This Pancasila is the justification for the development of Indonesian legal science based on a ratio-empirical-intuition-revelation epistemology. The inclusion of religious intuition as a method in Indonesian legal science is expected to be able to complete legal science and provide enthusiasm and spirit for the development of Indonesian law.

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archipelago, it became difficult to formulate an appropriate legal system for Indonesia. At least we always remember and adhere to the principle that the application of colonial legal institutions is "only" based on the transitional provisions of the 1945 Constitution.

More than that, the acceptance of some of the substance of colonial law is a social necessity and a necessity. But the people must leave the colonial spirit and explore the soul of Indonesia as an independent nation. As stated by Von Savigny, the law was not created intentionally, but was born and disappeared together with society. This definition refers to customary law and unwritten law. Of course, this is appropriate in the context of customary law and unwritten law. These two sciences rarely get the full attention of legal experts. Complex reasons may be put forward. Indonesia's legal identity can actually be built by giving portions to customary law institutions and unwritten law proportionally. Not written rules and customary rules that are learned and then memorized. Scientists better see the phenomenon behind it all, study, discover and solve. The essence of wisdom can then be obtained and become the raw material for Indonesian law. The development of Indonesian law also includes Islamic legal institutions as its raw materials. There is an end to the long debate about the applicability of Islamic law in Indonesia. Because it has been understood that the Indonesian legal system is open.

3. NATION TASKS

Indonesia's legal system was created because of Indonesia's independence. Indonesian independence was achieved through sacrifice of soul, body and property. The ideals of the nation are eternal in the heart of every Indonesian. The goals of the Indonesian state are stated in Alenia III and IV of the Preamble of the 1945 Constitution:

Thanks to the grace of Allah the Almighty and driven by a noble desire to live a free national life, the Indonesian people hereby declare their independence. Then than that to form an Indonesian State Government that protects the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice, the Indonesian National Independence was drafted in an Indonesian Constitution

The orientation of our predecessors in establishing the Indonesian state was clear. Indonesian law as an instrument of engineering for an independent Indonesian society is of course oriented toward the goals outlined. The law must protect the entire Indonesian nation, all of Indonesia's bloodshed, promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice. These goals become a reference for every Indonesian person. This is based on the fact that the perpetrators of the law are human beings themselves, namely every human element that makes up the composition of the Indonesian nation. This is what must be realized for the first time. This is a tough task for us to determine the right law for Indonesia so that law becomes an instrument in achieving this goal.

Every Indonesian human being, apart from being responsible to God, has a responsibility to himself and all Indonesian people. Colonization of this motherland must be abolished and the Indonesian people must defend themselves from the new style of colonialism in all aspects, including law. The awareness of independence has consequences for the personality and independence of the nation. Laws should not be used for pseudo-welfare oriented towards materialism and hedonism. Because by doing so it means that the law has distorted from its original purpose. Laws that should be prosperous become destructive laws.

4. INDONESIAN LEGAL SYSTEM DEVELOPMENT

The system is a complete structured order or unit consisting of parts or elements that are closely related to each other, namely rules or statements about what should be, so that the legal system is a normative system. In other words, the legal system is a collection of elements that exist in interaction with each other which form an organized unit and work together towards a unitary goal Mertokusumo, (2001). Efforts to develop Indonesian law have been carried out by our professors. For example Prof. Djojodigoeno who defines law as a work that is condescending to the behavior and actions of its members in self-interested relationships and aims at order, justice, and the society that supports it. According to him law is the result of the nature of culture, while culture has a lasting nature tansah owah gingsir (eternal and always changing). He once issued an idea regarding the repeal of the codification of colonial law and replaced with a new one.

Prof. Suhardi argued that the state is not a religion institution, but a mere human institution whose workspace lies in the political, economic, social and cultural fields, all of which it must be carried out in accordance with the principles of justice. Then Prof. Muchsan once proposed to replace the judicial system in Indonesia with a jury system in America. He stated that Indonesia was not like the continental Netherlands. Indonesia is an archipelagic country and has 19 customary laws so the proper legal system is the Anglo Saxon

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The idea of law science was also put forward by Prof. Sudjito is about the holistic paradigm. The holistic paradigm is a paradigm that views the whole as more essential than the sum of its parts. Having a holistic paradigm means using a set of general theoretical assumptions and laws and scientific application techniques that look at the aspect of the whole as more important than the parts, with a systemic, integrated, complex, dynamic, non-mechanistic, and nonlinear pattern. Everything in nature is seen as having intrinsic values. Nature (cosmos) is seen as an interconnected network, and is a living system capable of self-organization. A phenomenon with other phenomena is interconnected and awareness participates (participating consciousness) in the unity of the cosmos Sudjito, (2007). Factually, the legal system in Indonesia has a uniqueness, namely that it cannot be separated from Divine values, which can be seen in the products of laws and regulations related to religious values. For example Law No. 3 of 2006 concerning Amendments to Law No. 7 of 1989 concerning the Religious Courts, Law No. 38 of 1999 concerning Zakat Management, and Law No. 41 of 2004 concerning Waqf Kaelan, (2008). There are several legal experts who have given their thoughts on the Indonesian legal system which has a divine dimension. Qodri Azizy offers the concept of national legal eclecticism. Eclecticism is defined as a system (religion or philosophy) which is formed by critically choosing from various sources and doctrines. Forming national law by critically selecting elements from legal doctrines that are applicable in Indonesia. Qodri Azizy rejects the existence of a legal dichotomy between Islamic law and positive law. The point put forward by Qodri Azizy is that Islamic law can become national law, not only in a normative approach, but also in academic and analytical terms. Islamic law which has a promise to uphold and realize the benefit of the people should be able to fill in national law. Qodri Azizy warned by emphasizing the conception Islamic law itself to avoid misunderstanding what is meant

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Previously there was Prof. Hasby Ash-Shideqy who initiated Indonesian Jurisprudence, Prof. Hazairin initiated the National Law School, K.H. Ali Yafie initiated Social Jurisprudence, and Prof. Bustanul Arifin with the concept of institutionalization of Islamic law in Indonesia. Their thinking can be said to be the embryo of the development of the Indonesian legal system which places more emphasis on inclusiveness and abandons the exclusivity of Islamic law. They do not want divisions of law, even for Islamic law itself. In particular, it is realized that Islamic law with its fiqh institutions can incarnate and adapt in a different form at one time and in a particular society, in this case the Indonesian people. The responsibility and adaptability of Islamic law has been proven, for example in inheritance law and marriage law.

Inheritance law, as part of the Islamic legal system, has relatively high adaptability in relation to social developments in society. This adaptability is due to the relatively few provisions of nash qat'i. The existence of ijtihad is the main factor for the adaptability of Islamic inheritance law. 15 The adaptability of marriage law in Indonesia is embodied in Law no. 1 of 1974 concerning Marriage. The Marriage Law in its formulation clearly uses fiqh as a reference. It is stated in the regulation that marriage is an inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on belief in One Supreme God. From the sound of these provisions, it indicates that marriage is not only seen as a mere civil bond, but contains a transcendental dimension. Therefore this provision is very different from what is adhered to by BW (Civil Code)-as a law that does not have Islamic (divine) roots-which states that the law views the matter of marriage only in civil relations (Article 26 of the Civil Code) Anshori, (2005).

These thoughts are an effort in the development of an Indonesian legal system that is in accordance with the values that exist, live and develop in society. That's why building the Indonesian legal system is done by exploring these values.

5. ESSENCE

Aristotle was of the opinion that law is a source of power so that it will guarantee the growth of commendable morality and high civility, and be able to prevent the rulers from being arbitrary. Aristotle rejected sovereignty over humans, because after all humans have lust, Aristotle equated law with reason or intelligence, even gods, so whoever to give place for law to rule, means he has given place to gods and reason and intelligence to rule. Law is reason or intelligence which cannot be influenced by desires and passions. Prof. Soejadi in this matter commented that Aristotle's opinion was theoretically acceptable. However, when viewed from a practical point of view, this opinion has weaknesses, because the enactment of the law depends on humans. In this case Aristotle himself argued that humans cannot be separated from law. Even Aristotle was of the opinion that only with and within the law that humans can reach the highest peak of development of their humanity but if humans are separated from the law, then they will turn into the worst among all creatures. This view is the basis for the recognition of the rule of law Aristotle was of the opinion that law is a source of power so that it will guarantee the growth of commendable morality and high civility, and be able to prevent the rulers from being arbitrary. Aristotle rejected sovereignty over humans, because after all humans have lust, Aristotle equated law with reason or intelligence, even gods, so whoever to give place for law to rule, means he has given place to gods and reason and intelligence to rule. Law is reason or intelligence which cannot be influenced by desires and passions. Prof. Soejadi in this matter commented that Aristotle's opinion was theoretically acceptable. However, when viewed from a practical point of view, this opinion has weaknesses, because the enactment of the law depends on humans. In this case Aristotle himself argued that humans cannot be separated from law. Even Aristotle was of the opinion that only with and within the law that humans can reach the highest peak of development of their humanity but if humans are separated from the law, then they will turn into the worst among all creatures. This view is the basis for the recognition of the rule of law Soejadi, (2003).

The inseparable linkages between law and humans make it important for the development of Indonesian law through an understanding of human nature. Prof. Notonagoro shows human nature integrally. The basic nature of human beings in the Republic of Indonesia which adheres to Pancasila as monoplural (singular-compound) creatures. Humans as monoplural beings by Notonagoro are defined as creatures that simultaneously have 3 (three) natures as follows:

1. Monodualist natural composition: that is, humans as creatures composed of body and soul.
2. Monodualist nature: namely humans as individual beings and social beings.
3. The position of monodualist nature: namely humans as independent beings and creatures created by God Almighty.

The view of the nature of human ontology is a metaphysical view of humans, showing the existence of humans in the universe, the existence of humans towards their Creator, namely God Almighty. On the basis of understanding human ontology which is monoplural in nature which plays a role in understanding law, it can be a starting point or source for the birth of an order of knowledge about law. Legal knowledge for human welfare. So the nature of humans as legal subjects and not as legal instruments. Through the understanding that humans are monopluralist, this provides the foundation that the paradigm of Indonesian law is Pancasila. Described by Notonagoro that the monopluralist basis of human ontology is the basis for Pancasila to become a philosophical system. Furthermore, Pancasila becomes a philosophical system that animates all laws (rules) in the Indonesian legal system.

One way to adopt the Pancasila paradigm is to realize that humans are God's creatures. Thus this brings reflection on knowledge that is based on a comprehensive relationship between humans, nature, and God. Thinkers known as ulama-fuqaha (Islamic law experts) are aware of this and have offered a religious conception of Indonesian law, namely Islam, without the need to establish an Islamic state (khilafah islamiah) due to its integration sharia/fiqh in national law (Indonesian law) and by this means that Islam as a religion is in accordance with the wishes of the Indonesian people, who are predominantly Muslim. The characteristics of Pancasila as a scientific paradigm do not require a dichotomy of secularism but require religiosity. That is why the law must place the contents of its provisions on a religious basis

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Meanwhile, according to Moch. Koesnoe, the Preamble and the 1945 Constitution contain the basic values of our national legal system which are legal rechtsidee and an ideal form of what is called law in our country. In summary, these basic values include:

1. The first basic value: law has the character of protecting (protecting) and not just governing.
2. The second basic value: the law embodies social justice for all Indonesian people. Social justice is not merely a goal. But at the same time a concrete guide in making legal regulations.
3. The third basic value: the law is from the people and contains populist characteristics.
4. The fourth basic value: law is a statement of decency and high morality, both in regulations and in its implementation as taught in the religious teachings and customs of our people.

6. SOURCES OF INDONESIAN LEGAL SYSTEM DEVELOPMENT

The archipelago has a diversity of ethnic groups with diverse social institutions and forms a single unit (Bhinneka Tunggal Ika). The Indonesian legal system certainly has to pay attention to this. For the Indonesian nation, the formation of a national society composed of social subsystems called ethnic groups, and each ethnic group has a system of norms adopted by each ethnic group, is often referred to as customary law. This is a characteristic and at the same time a local genius and local wisdom of the nation, which presumably is an element of the paradigm for the development of law in Indonesia. However, it seems that the scientific academic world in the legal field today is unfair in providing a place for scientific studies, and the existence of customary law for the development of legal theory in Indonesia. In fact, not infrequently, customary law is lectured as materials from an ancient legal system, it is even very ironic that customary law is seen only as 'folklore' in the field of legal science. 20 In fact, the meaning of developing national law is to build an Indonesian legal system based on the personality of the Indonesian nation itself. Our National Law, by itself, will have a distinctly Indonesian style as an aspect of Indonesian culture. Every nation has its culture, so that its legal system will also have a pattern according to its culture

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Regarding the existence of customary law, it is interesting to observe Prof.'s speech. Soepomo at the UGM anniversary entitled: "Customary Law in the Future" he said:

"Customary Law in the future will function as unwritten law, or custom as it applies in other developed countries" Arifin, (1996). The material source for the development of the Indonesian legal system is therefore not only based on ratios that develop from the authorities or not only based on the principles of natural law but also based on a value, namely the values contained in the diversity of the Indonesian nation. The Preamble to the 1945 Constitution contains religious values, moral law values, natural law values and philosophical values

which are a source of material law for Indonesian law. The preamble to the 1945 Constitution according to the philosophy of law in the hierarchical order of legislation is the Staatsfundamentalnorm, which contains the core philosophy of the nation and state of Indonesia and at the same time serves as the core philosophy of the Indonesian legal system, namely Pancasila. In this hierarchical arrangement, Pancasila guarantees harmony or the absence of contradictions between various laws and regulations, both vertically and horizontally.

In particular, there are the noble values of Gadjah Mada University (UGM). The existence of UGM's noble values has basically been firmly attached to the history of UGM's establishment which grew in an atmosphere of the struggle with the community towards the independence of the Republic of Indonesia. These noble values arise naturally because they come from the culture and character of the nation and society who have played a role in raising UGM. These noble values can then flourish and become UGM's tradition and identity. These noble values are essentially sourced from the values contained in the preamble of the 1945 Constitution and are integrated integrally with Pancasila as the basis of the state, namely: having God which implies religiosity, being human means humanity, nationality means nationalistic, populist and justice, and social welfare Tyoso, (2004). Based on Pancasila which upholds religiosity, legal development besides exploring Indonesian culture becomes religious.

Humans will view obedience to the law as meaning obedience to religion. Law as a system that is historically besteem cannot be separated from its historical aspects. Anglo Saxon civil law is one of the dominant subsystems in the Indonesian legal system. deep Indonesian building codification/unification of law more or less refers to the Anglo Saxon system, especially in the formation of laws and regulations. Indonesia accepted the Anglo Saxon civil law as necessary and to address the legal vacuum. The Anglo Saxon civil system has been accepted and is in line with the paternalistic nature of the Indonesian nation. The existence of the Anglo Saxon civil system accesses customary law and becomes a living law in the midst of society. Its existence can become an adhesive in the Indonesian legal system given the open nature of civil law and its principles that are in line with customary law or Islamic law.

Based on Pancasila which upholds religiosity, legal development besides exploring Indonesian culture becomes religious. Humans will view obedience to the law as meaning obedience to religion. Law as a system that is historically besteem cannot be separated from its historical aspects. Anglo Saxon civil law is one of the dominant subsystems in the Indonesian legal system. deep Indonesian building codification/unification of law more or less refers to the Anglo Saxon system, especially in the formation of laws and regulations. Indonesia accepted the Anglo Saxon civil law as necessary and to address the legal vacuum. The Anglo Saxon civil system has been accepted and is in line with the paternalistic nature of the Indonesian nation. The existence of the Anglo Saxon civil system accesses customary law and becomes a living law in the midst of society. Its existence can become an adhesive in the Indonesian legal system given the open nature of civil law and its principles that are in line with customary law or Islamic law.

7. BENEFITS

Indonesia is not a secular country. This is stated in the third paragraph of the Preamble to the 1945 Constitution which recognizes that independence is a blessing from the grace of God Almighty. The acknowledgment of the existence of Godhead is also contained in the fourth paragraph, namely that the State of Indonesia is based on Belief in One Almighty God. Then it is emphasized in Article 29 which states that the state is based on Belief in One Almighty God and the State guarantees the freedom of each resident to embrace their own religion and to worship according to their religion and belief.

In addition to being a country with God, Indonesia is also a country of law. That is why Indonesian law should be based on Divine values. The advantage of Indonesian law is the understanding of the values contained therein. Value is essentially a quality that is attached to everything, so that something is useful for human life. Therefore, the essence of value is non-empirical, meaning that value is abstract in nature which cannot be sensed directly, but can only be understood by using reason Kaelan, (2005).

In the Islamic constellation (ushul fiqh) there is the maslahat method (benefit) which consists of mu'tabarah maslahat (main benefit) and mursalah benefit (discontinued benefit). Maslahat mursalah is a legal method by releasing maslahah mu'tabarah. This means that benefit is not based on the sound of the text in the Koran or al-Hadith but is based on its essence. The existence of the maslahat mursalah method causes the scope of law that can be explored to be very broad. Law is not confined to text alone but extends to all fields covering all human activities. To achieve benefit requires an understanding of the values contained in the rules. On this occasion, we will discuss the principle of property rights and how to acquire them which contain noble values. All economic activity (even life) begins with the conception of property rights. Islam places property rights as one of the mu'tabarah maslahat which becomes al-maqasid ash-shariah Muhammad Abu Zahrah, (1994), meaning that Islam really protects ownership.

Sharia teaches that someone who has property rights, whether or not there are other people (the community), will not affect him always using his property rights for good. This is understandable because his property is only entrusted by the Creator. Thus a Muslim will always maintain his relationship with his Creator which is a vertical aspect (hablummina Allah). So in the concept of property rights according to sharia, a person is prohibited from using his property for things that have no benefit, let alone those that cause harm. These property rights must be spent with the aim of seeking His pleasure alone. In Islam property rights are limited by the existence of tabdzir conception. Mujahid, as quoted by Ibn Kathir stated that if a person spends (spends) all of his wealth in the way of truth then that does not include acts of tabdzir. Meanwhile, if he spends only one mud (smallest unit of currency) in the way of evil, then he is among the group of people who waste their wealth Rifa'i, (2003). The concept of property rights which are limited by tabdzir is what sharia wants.

The value contained in a brief presentation of the conception of property rights in Islam is that there is a balance between individualism and collectivism. If capitalism-individualism glorifies ownership and collectivism-communism abolishes individual property rights, all of which are miserable to the whole human being, then Islam is in the middle of the two. The value of social justice is contained in this conception. If it is associated with the Adat conception that property rights have a social function, then there is compatibility between the Islamic concept of property rights and the Adat conception of property rights.

Property rights in Islam are regulated in such a way as to bring prosperity to society. Things that are prohibited because they will bring disaster related to the acquisition of property rights, namely Maisir (gambling), Gharar (fraud), Ryswah (bribery), Riba, and Bathil. Islam provides an alternative to eliminating these prohibited elements by providing traditional contracts in the form of buying and selling, profit sharing, leasing, borrowing, and contracts in the field of services that can be used in every transaction of acquiring property rights. Regarding the factual implementation of these contracts, it can be seen in the operations of Islamic financial institutions. Islamic values implemented in economic law are an example of its existence providing benefits to everyone as legal subjects by emphasizing the value of justice as the essence of the law itself.

8. SCIENTIFIC ORIENTATION AND LEGAL SCIENCE

The Indonesian legal system has a metaphysical essence originating from the Indonesian nation itself so that the system is inherent in the Indonesian nation. The essence of metaphysics becomes the foundation and directs law. The metaphysical essence is the values contained in Pancasila and the 1945 Constitution. The Indonesian legal system has a metaphysical essence originating from the Indonesian nation itself so that the system is inherent in the Indonesian nation. The essence of metaphysics becomes the foundation and directs law. The metaphysical essence is the values contained in Pancasila and the 1945 Constitution. The true purpose of the existence of Indonesian law is for the order and welfare of all Indonesian people. The Indonesian legal system was built with reference to monopluralist Indonesian people. In this regard, the relationship between law, morality and religion is very close.

The Indonesian legal system is extracted from the local wisdom and local genius of the Indonesian nation without turning a blind eye to changes in the international world. Western law, especially the Anglo Saxon system, customary law and Islamic law can each become raw material in national law. There is no need to contradict the three, but we can synergize them in national law as one Indonesian legal system. Indonesian legal culture is an element of the legal system considering that law is a cultural product. Culture contains noble values as a real volksgeist and becomes the source of the law in question. Legal science as a science with the object of Indonesian law has the task of synergizing existing legal institutions for the creation of laws that lead to the welfare of the Indonesian people. Legal science also has the task of exploring volksgeist so that an accurate picture of the Indonesian legal system can be obtained.

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