Basic Legal Theory in Indonesian Constitution: Reviewing Developmental, Progressive, and Pancasila Legal Theories

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Abstract:

Three legal origin theories of Indonesia have influenced the development of study and practice of Law in Indonesia, whether in its thought, creation, implementation, and enforcement. Those three theories are Mochtar Kusumaatmadja's Developmental Legal Theory, Satjipto Rahardjo's Progressive Legal Theory, and Romli Atmasasmita's Integrative Legal Theory. Developmental Legal Theory has been criticized by Progressive Legal Theory and Integrative Legal Theory which rebuilds both Developmental Legal Theory and Progressive Legal Theory. It proves that a theory is built based on previous theories. Viewing these theories (the Developmental Legal Theory, Progressive Legal Theory, and Integrative Legal Theory) from a convergence point generates the Legal Theory of Five Principles known as Pancasila. All these theories are based on living Law in society and primordial values of Indonesian, which are the values of Pancasila as peculiar of social life and volkgeist. Legal Theory of Pancasila is a legal theory based on the importance of Pancasila as an ontological, epistemological and axiological foundation.

Keywords: *Legal Theory; Pancasila; Legal Theory; Pancasila.*

Abstrak:

Tiga teori hukum asli Indonesia menjadi ciri perkembangan kajian dan praktik hukum di Indonesia mengenai pemikiran, penciptaan, penerapan, dan penegakannya. Ketiga teori tersebut adalah Teori Hukum Pembangunan yang dipelopori oleh Mochtar Kusumaatmaja, Teori Hukum Progresif yang digagas oleh Satjipto Rahardjo, dan Teori Hukum Integratif yang diusung oleh Romli Atmasasmita. Teori Hukum Pembangunan dalam perkembangannya dikritik oleh teori Hukum Progresif dan Teori Hukum Integratif, yang merekonstruksi teori Hukum Pembangunan dan sekaligus Teori Hukum Progresif. Ini membuktikan bahwa sebuah teori dibangun di atas teori-teori sebelumnya. Teori Hukum Pembangunan, Teori Hukum Progresif, dan Teori Hukum Integratif, jika ditarik benang merah pada titik konvergensi, maka akan memunculkan Teori Hukum Pancasila sebagai sebuah sintesa. Ketiga teori tersebut didasarkan pada hukum yang hidup dalam masyarakat dan nilai-nilai primordial bangsa Indonesia itu sendiri; yaitu, nilai-nilai Pancasila sebagai ciri khas kehidupan sosial dan sekaligus sebagai

volkgeist. Teori Hukum Pancasila adalah teori hukum yang didasarkan pada nilai-nilai Pancasila sebagai landasan ontologis, epistemologis, bahkan aksiologisnya.

Kata Kunci: *Teori Hukum; Pancasila; Teori Hukum; Pancasila.*

INTRODUCTION

Since the 1970s until now, there have been three original Indonesian legal theories that have colored the development of legal studies and practices in Indonesia in terms of thought, formulation, application, and enforcement. The three theories are Development Law Theory pioneered by Mochtar Kusumaatmaja, Progressive Legal Theory initiated by Satjipto Rahardjo, and Integrative Legal Theory promoted by Romli Atmasasmita. Development Law Theory, in its development, was criticized by Progressive Legal Theory and Integrative Theory reconstructing Development Law Theory and at the same time Progressive Legal Theory. This proves that a theory is built on previous theories. The Theory of Development Law, which was pioneered by an expert on International Law who had served as Minister of Foreign Affairs and Minister of Justice in the New Order era, was included as legal material in the draft of the Five-Year Development Plan (Repelita) II in 1974-1979. According to Mochtar, all communities that are developing are always characterized by change, and the law functions as a guarantor against changes that occur regularly, which can be assisted as a means (not as a tool) that cannot be ignored in the development process. Good Law is Law that is in accordance with the living Law or *the living Law* in society and is following the reflection of the values prevailing in that society (Mangar & Ridho, 2022).

Theory of Development Law, in practice, the formation and enforcement of laws still experience obstacles due to the difficulty of determining the objectives of legal development (renewal), which is even worse due to the destructive efforts of policymakers who often take loopholes to use the Law merely as a tool with the aim of strengthening the Law—and prioritizing the interests of power over the goods and benefits of society (Atmasasmita, 2012).

Empirical reality or facts that place Law as a primary justification tool for regulations, and there has been a legal phenomenon that makes Law a channel for carrying out political decisions. Law has become a means of social engineering as well as a means of bureaucratic engineering. This makes Satjipto Raharjo bring up the Progressive Legal Theory as a pro-people and pro-justice law with the assumption that the legal basis is for humans, not humans for Law. The Law is in charge of serving the community, not the other way around. The quality of a law is determined by its ability to do the welfare of the people. The Law is for human dignity, happiness, interest, and glory, so whenever there is a problem with the Law, it is the Law that is reviewed and corrected, not humans who are forced to be included in the legal system (Atmasasmita, 2012, p. 77).

According to Romli Atmasasmita, Integrative Legal Theory is a combination of Development Law Theory and Progressive Legal Theory in the Indonesian context, which is inspired by the legal concept according to HLA Hart. This is because Hart emphasizes the importance of the rule of recognition in the legal image compared to primary controls, which underline the obligation of community members to obey the Law. Integrative Legal Theory explains that bureaucratic engineering and community engineering must be based on a system of norms, behavior systems, and value systems rooted in Pancasila as the ideology of the Indonesian nation (Atmasasmita, 2012, p. 89).

If a common thread is drawn, the three theories, Development Law Theory, Progressive Legal Theory, and Integrative Legal Theory, have the same tendency, namely that the Law should achieve the welfare of its people. This is when it is associated with Indonesia; the

thinking of the three theories is based on the philosophy of the nation, namely Pancasila as a view of life, *a peculiar form of social life, and volkgeist*. Therefore, on this occasion, it is exciting to observe the convergence of the three legal theories mentioned above and raise and confirm that the correct legal Theory for the Indonesian nation is the Pancasila Legal Theory as a synthesis of the legal issues of the country and state. From the explanation above, the legal Theory initiated by the nation's children, if a convergence point is drawn, will bring up the Pancasila Legal Theory; how to converge the three theories and make the Pancasila Legal Theory as a synthesis of the convergence?

METHOD

The discussion of this problem is carried out using a qualitative method (Setia & Rahman, 2021). This paper aims to identify and analyze the intersection of Development Law Theory, Progressive Legal Theory, and Integrative Legal Theory and to make Pancasila Legal Theory a synthesis of the convergence. The process of data collection is carried out through a literature study. The primary references from the three legal theories, namely Development Law Theory, Progressive Legal Theory, and Pancasila Legal Theory, are collected and then used for analysis, categorized into the main topics of discussion.

RESULTS AND DISCUSSION

Legal Theory, according to Aulis Aarnio as quoted by Bernard Arief Sidharta, is a logically interrelated set of statements, views, and understandings regarding a particular legal system or a part of the system, which is formulated in such a way that based on it it is possible to design hypotheses about the content of the rule of Law. (i.e., the product of the interpretation of the rule of Law) and juridical concepts open to testing functions to systematize legal rules in specific ways (Sidharta, 2016).

The legal Theory defined above by JJH Bruggink is referred to as a legal theory in the sense of a product, namely a whole interrelated statement regarding the conceptual system of legal rules and legal decisions, and the system is, for the most part, positive. Legal Theory, in the sense of this product, refers to the results of academic activities in the field of Law (Bruggink & Sidharta, 1999).

On the other hand, there is a legal theory in the sense of a process, namely the theoretical activity in the form of interpreting legal concepts, legal norms, legal principles, to legal values. This whole series is accommodated in a branch of the legal discipline called the Theory of legal science. Legal Theory, in the sense of this product, is a legal theory as a pillar of legal science. In contrast, Theory, in the sense of process, is a legal theory (science) branch of legal discipline (Sidharta, 2016).

Every theory, including legal Theory, has at least two functions: explaining phenomena and predicting phenomena. This understanding is in line with Kerlinger's opinion, which states, Theory is a set of interrelated constructs (concepts), definitions, and propositions that present a systematic view of phenomena by specifying relations among variables to explain and predict the phenomena (Sidharta, 2016, p. 110-111).

Legal Theory is thus part of a cognitive strategy built from the bottom (factual realm), generalized to concepts, from concepts realized to other concepts as propositions that are interrelated and form a framework of thinking to explain, explain, predict, or predict a thing. Phenomenon. As a cognitive strategy, Theory is assumed to exist (born) and precedes science.

After the science is formed and established, it will continue producing new or modifying old theories. The Theory is positioned as the pillar of science so that science, including legal science, has legal theories as its pillars (pillars). An approach, in general, must depart from

propositions and concepts that are connected with facts, meaning that there is no theory that is not factual. This is what is called the cognitive strategy of science formation (Meuwissen, 2007).

Legal theory, as a branch of the legal discipline, is a bridge between dogmatic legal science and legal philosophy. The tasks of this legal Theory are threefold, namely: first, to analyze and explain the meaning of Law and juridical concepts used in Law; second, to describe the relationship between Law and logic; and thirdly to provide the philosophical basis of science for legal science and providing teaching methods for legal practice (Sidharta, 2016, p. 118).

Development Law Theory

To understand the Theory of Development Law promoted by Mochtar Kusumaatmadja, it is necessary to pay attention to the following fundamental propositions (Sidharta, 2012) :

First, the Law is one of the social rules (in addition to moral, religious, moral, politeness, customs, and other rules), which is a reflection of the values that apply in society, so that a good law is a law that is following the Law. Living law.

Second, the Law is not only a complex of rules and principles that regulate but also includes the institutions and processes needed to enact the Law.

Third, Law is characterized by coercion by the state through its equipment because without the power of Law; it is only a rule of recommendation; power is needed for the sake of an orderly (orderly) community life; Law without power must have its limits (power without Law is despotism).

Fourth, power can create authority and last a long time if it has the support of the party being controlled; For this reason, the ruler must have the spirit of serving the public interest, or a sense of public service, and those who are arrested must submit to the authority or the duty of civil obedience; both must be educated to have an awareness of the public interest or public spirit.

Fifth, the primary and first objective of all Law orders, which is a fundamental condition for the existence of an orderly society; To achieve order, certainty is needed in the interaction between humans in society; the second goal after order is justice, whose content varies according to society and its era.

Sixth, Indonesian society is in a transitional period from closed to open, dynamic, and advanced (modern); The essence of the problem of development is the renewal of ways of thinking (attitudes, traits, values), both in the rulers and those who are controlled, for example, members of the community must change from just being mental as subjects (kawa-Javanese) of the state to mental attitudes as citizens (not being a citizen). Only passively following the orders of the authorities but also actively knowing and even daring to demand their rights).

Seventh, in a developing society, the Law is not enough to only maintain and maintain what has been achieved (conservative nature of the Law) but also plays a role in engineering society. However, the point is that there must still be order (as long as changes are made in an orderly manner, as long as there is still room for the role of Law).

Eighth, development must be interpreted as broadly as possible, covering all aspects of people's lives and not only in terms of economic life.

Ninth, the Law as a tool of reform in a developing society can also be detrimental, so it must be done carefully; therefore, the use of Law must also be linked to aspects of sociology, anthropology, and culture; Legal experts in developing societies need to study positive Law with a spectrum of social and cultural sciences.

Tenth, the role of Law in development is to ensure that changes occur in an orderly manner; the Law plays a role through statutory assistance and court decisions or a combination of both,

but the formation of legislation is the most rational and fast way compared to other forms of developing laws such as jurisprudence and Customary Law.

Eleventh, obstacles or difficulties faced in the context of the role of Law in development;

a. The problem of determining the objectives of legal action (renewal);
b. At least empirical data that can be used to conduct a descriptive and predictive analysis;
c. The difficulty of establishing an objective measure of the success or failure of legal reform efforts;
d. The existence of charismatic leadership, most of whose interests are contrary to the ideals of legal engineering towards a society or the rule of law;
e. The low level of trust and reluctance towards the law or respect for the law and its role in society, especially for people born through political turmoil (revolution);
f. Public reaction because they think the change could hurt national pride;
g. A response based on self-deception, that is, the intellectual class itself does not practice the values or traits they advocate; h. heterogeneity of Indonesian society, regarding the level of progress, religion, language, and others.

Twelfth, In the context of the formation of legislation in the era of Indonesia, which is developing, it is necessary to prioritize the construction of laws and regulations in legal fields that are neutral (insensitive).

Such a legal realm will practically not cause much controversy related to customs, religion, and other primordial values. These propositions are built on cultural Theory from Northrop and policy-oriented Theory from Mc. Dougal and Laswell and Roscoe Pound's Pragmatic Legal Theory. According to Mochtar, Law is the whole of the principles and rules that govern human life in society; it also includes institutions or institutions, processes or processes that realize the application of these rules in reality. This understanding shows that the Legal Development Theory is strengthened by the theories mentioned above, namely that Law is not just a norm but also an institution or from Northrop Cultural Theory, and legal sensitivity to social conditions and symptoms and the function of Law as a means of development is a significant contribution. From Eugen Ehrlich and Roscoe Pound, who came from the school of pragmatic Law (Rasjidi & Putra, 1993).

Mochtar's Legal Development Theory is a transformation of his legal Theory, plus a transformation of Roscoe Pound's Theory. Mochtar rejects the mechanical concept of "law as a tool of social engineering" and replaces the term tool or tool with the term means. The explanation above is a description of the Legal Theory of Development of the first phase; the second phase of this Theory bases the Theory on the philosophy of Pancasila as the fundamental basis to replace the theories of Northrop, Eugen Ehrlich, Roscoe Pound, Mc. Dougal and Laswell. Terms such as the ideals of Pancasila law, Pancasila legal philosophy, and Pancasila state law began to be discussed. The purpose of Law, in general, is order and justice. The definition of this justice includes social justice (the fifth principle of Pancasila). The problem of Indonesian people in development is based on the assumption of acceptance of Pancasila and the 1945 Constitution as a reality and the basis for thinking and acting by the Indonesian people (Shidarta, 2020).

Progressive Legal Theory

Satjipto Raharjo can be understood through the following postulates (Sidharta, 2012):

First, progressive Law is for humans, not humans for Law. In essence, every human being is good, so this trait deserves to be capital in building his legal life. Law is not a king (everything) but just a tool for humans to give grace to the world and humanity. The Law is not for itself but something broader and more significant. Therefore, if there is a problem in

and with the Law, it is the Law that must be reviewed and corrected, not humans who are forced to be included in the legal scheme. The legal system needs to be placed in a big groove or deep ecology, so the above thought can be spelled as Law for the context of universal life, where humans are no longer the only central point.

Second, progressive Law must be pro-people and pro-justice. The Law must be on the side of the people. Justice must be placed above the rules. Law enforcers must have the courage to break through the rigidity of the regulation's text— termed legal mobilization—if the text injures the people's sense of justice. These pro-people and pro-justice principles are measures to prevent progressivism from deteriorating, defrauding, abusing, and other harmful things.

Third, progressive Law aims to lead humans to prosperity and happiness. The Law must have a goal further than that proposed by liberal philosophy. In post-liberal philosophy, the Law must be prosperous and happy. This is in line with the Eastern perspective, which prioritizes happiness.

Fourth, progressive Law is always in the process of becoming or Law as a process, Law in the making. Law is not a final institution but is determined by its ability to serve humans. He is constantly building and transforming himself to a higher level of perfection. Each stage in the legal journey is a decision made to achieve legal ideals, whether caused by the legislature, judiciary, or executive. Each decision is terminal, leading to the next better decision. The Law can never completely marginalize the autonomous forces of society to regulate its order. These forces will always be there, even in a latent form. At certain times he will appear and take over the work that cannot be adequately done by state law. Therefore, it is better to let the law flow.

Fifth, progressive Law emphasizes the good life as the basis of good Law. The legal basis lies in the behavior of the nation itself because it is the nation's behavior that determines its legal quality. Legal fundamentals do not lie in legal materials, legal stuff, legal systems, legal thinking, and so on, but human behavior. In the hands of bad behavior, the legal system will be broken, but not in the hands of good people; the legal system will be sound.

Sixth, progressive Law has responsiveness. In the responsive type, Law will always be associated with purposes outside the textual narrative of the Law itself, which Nonet and Selznick call the sovereignty of purpose. This opinion, at the same time, criticizes the doctrine of due process of Law. The responsive type rejects legal autonomy, which is final and cannot be contested.

Seventh, progressive Law encourages the role of the public. Given that the Law has limited capabilities entrusting everything to the power of Law is an unrealistic and wrong attitude. On the other hand, society has the autonomous ability to protect and organize itself. This power is temporarily submerged under the domination of modern Law, which is state law. To that end, progressive Law agrees to mobilize society's autonomous power or encourage the public's role.

Eighth, progressive Law builds a conscientious rule of Law. In a legal state, the main thing is culture, the culture primacy. The culture in question is the culture of people's happiness. This situation can be achieved if we do not dwell on the state's legal structure but must prioritize a state with conscientiousness. In the form of a question, it will read "the rule of law for what?" and answered with "a state of law to make the people happy."

Ninth, progressive Law is carried out with spiritual intelligence. Spiritual intelligence does not want to be limited by standards or rule-bound, nor is it only contextual, but wants to get out of the existing situation and seek the truth of deeper meanings or values.

Tenth, the progressive Law destroys, replaces, and liberates. Progressive Law rejects the status quo and submissive attitudes. The status quo attitude causes us not to dare to make changes and regard doctrine as something absolute to be implemented. This attitude only refers to the maxim 'the people for the law.'

Similar to other theories, Progressive Legal Theory is also built adjacent to or shared with other schools of thought and approaches, including: the flow of natural Law which is seen in laying the legal basis, namely the values of justice and humanity; the historical school of thought that Law is a reflection of its society (peculiar form of social life) or social specific; interessenjurisprudenz (the jurisprudence of interest) that the Law (Law) is made with a specific purpose, namely the general purpose of society; sociological jurisprudence at the point of contact that the study of Law is not only about regulations, but also the effects of Law and the operation of Law; legal realism-freirechtslehre does not see the Law in the Law itself, but from the social goals to be achieved and the consequences of the operation of the Law; Critical Legal Studies, the meeting point is the second criticism of the liberal legal system which is based on liberal political thoughts, mainly related to the rule of Law and the legal side to the people through affirmative action; Responsive Legal Theory that progressive Law is a legal process that should not be subject to a specific limit, and the Law is allowed to flow.

Integrative Legal Theory

This Theory was conceived from the public's skepticism towards handling legal cases in Indonesia, with the conclusion that legal practitioners have forgotten and ignored the noble values of Pancasila as the nation's ideology and are trapped in the 'normative contract' that the Kelsenian school has inherited. Posner inspires integrative Legal Theory in his book Frontiers of Legal Theory which states that this legal Theory uses an external perspective of legal discipline (Atmasasmita, 2012).

This Theory is claimed to be based on previous theoretical thinking, namely Development Law Theory and Progressive Legal Theory; even Romli Atmasasmita called this Theory the Theory of Development Volume II (Atmasasmita, 2012, p. 85-86). Therefore, this Integrative Legal Theory is based on the Theory of Development Law volume I by Mohtar Kusumaatmadja, which has the same thought points. The thoughts built by the Theory of development law examine efforts to balance between positive Law or Law in the books and living Law.

The function of Law thus leads to a means of social order or as the most conservative function of Law, as well as a tool of social engineering. This means that, at the earliest stage, mandatory Law leads to attaining order as a condition, to a state of certainty and justice. This Theory places justice as the ideal goal, even though the meaning of justice can be very diverse, all of which are directed at the success of national development in the Indonesian (social) context (Shidarta, 2020).

This integrative legal Theory states that Law essentially consists of three elements: a system of norms, behavior, and values called the tripartite character of the Indonesian legal Theory of social and bureaucratic engineering. The issue of who is the "motor" in the development of Law or rechtsbeoefening becomes one of the essential keys in Integrative Legal Theory—referring to Mochtar's opinion that the formation of Law or legislation is the most rational and fast way compared to other legal development methods such as jurisprudence and Customary Law. This means that legislators have a position as a 'motor.'

However, Mochtar also saw the importance of jurisprudence and customary Law as sources of formal Law but never positioned jurisprudence and customary Law as a criterion for legislation. This leap in integrative legal Theory suggests that the Indonesian legal system should include jurisprudence as an element in the structure or hierarchy of legislation (Atmasasmita, 2012).

Integrative legal Theory states that the bureaucratic and social engineering approach uses the concepts of "role model" and "leadership." (Atmasasmita, 2012, p. 83). Therefore, bureaucrats and judges are "motors" in Law. Bureaucratic engineering related to the system of

norms and behavior will be practical if it is based on the inculcation of values. Legal norms are the concretization of those values, which are embodied through behavior. This means that both the system of norms (positive Law) and the design of behavior still need to be engineered to be loaded with values that, among other things, must contain Pancasila.

Pancasila Legal Theory

If a common thread is drawn at a point of convergence, the three theories mentioned above will bring up the Pancasila Legal Theory as a synthesis. Development Law Theory, Progressive Legal Theory, and Integrative Legal Theory are based on living Law in society and on the primordial values of the Indonesian nation itself, namely, the values of Pancasila as a peculiarity of social life and at the same time as a volkgeist. Pancasila Legal Theory is a legal theory that is based on the values of Pancasila as its ontological, epistemological, and even axiological basis. Law as a product (legal structure) must be based on legal principles. The legal principles of Pancasila include (Kusumaatmadja & Sidharta, 2000):

First is the principle of divinity, which mandates that there should be no legal product that contradicts, rejects, or is hostile to religion or belief in God Almighty; Second, the principle of humanity, which mandates that the Law must protect citizens and uphold human dignity; Third, the focus of unity and unity or nationality, that Indonesian Law must be a law that unites the life of the nation by respecting the diversity and richness of the nation's culture; Fourth, the principle of democracy, basing that the relationship between Law and power, power must be subject to the Law, not the other way around. The democratic system must be founded on the value of deliberation, wisdom, and wisdom; Fifth, the principle of social justice is that all citizens have the same rights and obligations before the Law.

In addition, Pancasila has become very axiomatic and scientific in terms of the collective agreement of the Indonesian people. The five precepts of Pancasila form a series of ideological, philosophical systems with scientific logic as the primary legal basis that places them as grundnorm so that they are the source of all sources of Law (Rijadi & Priyati, 2011).

Pancasila as a philosophical system is essentially organic, a unity of its precepts. The five precepts are a basic civilization principle of the philosophy of the state and nation of Indonesia. The precepts of Pancasila constitute unity and integrity; each precept is an element (an absolute part) of Pancasila. Therefore, Pancasila is a single plural unity. Consequently, each precept cannot stand alone apart from the other precepts and does not contradict each other (Rijadi & Priyati, 2011).

Philosophically, Pancasila as a unified philosophical system has its own ontological, epistemological and axiological basis, which is different from other intelligent systems, such as materialism, liberalism, pragmatism, communism, and other philosophical systems in the world. The ontological basis of Pancasila is essentially a human being who has an absolute monoplural nature that has elements of the physical and spiritual nature of the structure, the heart of the individual-social beings, and the natural position as an independent person-a creature of God Almighty.

The elements of human nature are an organic and harmonious whole. Each piece has its function but is interconnected. Therefore, the Pancasila precepts embody the monopluralist human spirit, which is an organic unity, so the Pancasila precepts also have an organic agreement. The main supporting subjects for the Pancasila precepts are human beings, with the explanation that; Those who believe in the One and Only God are civilized, are united, are people who are led by wisdom in deliberation/representation, and social justice are essentially human (Kaelan, 2010).

The epistemological basis of Pancasila cannot be separated from its ontological basis, namely human nature. Three fundamental issues arise on the epistemological basis, namely,

first about the source of human knowledge, second about the Theory of truth of human knowledge, and third about the nature of human knowledge (Smith et al., 1984).

Epistemological issues about Pancasila can be explained as follows: According to Notonegoro, in the scheme of human spiritual potential, especially about knowledge of the human mind, it is a resource for human creativity, and to obtain correct knowledge, there are levels of thought, namely; memory, receptive, critical, and creative. As for the power or potential to absorb or transform learning, there are levels: demonstration, imagination, association, analogy, reflection, intuition, inspiration, and inspiration.

Based on this level, Pancasila recognizes the truth of the ratio that comes from human reason. In addition, humans have senses, so in the receptive process, the implications are a tool to get the truth of empirical knowledge. Pancasila also recognizes practical truth, especially positive human understanding. In addition, Pancasila also acknowledges the truth of knowledge that comes from intuition. The position of man according to his nature is a creature of God Almighty, so following the first principle, the epistemology of Pancasila also recognizes the absolute truth of revelation (prophetic truth) as the highest level of truth.

The truth in human knowledge is a harmonious synthesis between the potentials of the human psyche, namely, reason, taste, and human will to obtain the highest truth, absolute truth. As an epistemological understanding, Pancasila believes that science is essentially not value-free because it must be placed in the framework of human nature and religious morality to obtain an absolute level of knowledge in human life (Smith et al., 1984).

The axiological basis of Pancasila explains that the precepts as a philosophical system also have a single axiological basis so that the values contained in Pancasila are essentially one unit. The values contained in Pancasila include spiritual values that hold other values completely and harmoniously, both material, vital, truth (reality), aesthetic, ethical, and religious. The values are arranged hierarchically, namely the importance of divinity as the highest value, then the value of humanity, the value of unity, the value of democracy, and the value of justice. Although these values have different levels and areas, they are united and do not conflict with each other (Lon, 2019).

In its implementation or realization in the daily life of society, nation, and state, for example, in Law, the religious value is the highest and absolute value. Therefore favorable Laws or legislation should not conflict with spiritual matters (Smith et al., 1984). The position of Pancasila as a philosophy, according to Abubakar Busro, can be viewed from three realities, namely: material reality, from the scope and content of which are fundamental, universal, comprehensive, and metaphysical values; even the central teaching includes religious and human values; the practical, functional reality, is a fabric of importance in the socio-cultural of the Indonesian nation so that its form can be seen from the principle of belief in God, tepa sefira, loyal friends, kinship, cooperation, deliberation and consensus, and others; and formal reality (the founders of the state adopted and formulated Pancasila as an ideology whose form is seen in the Preamble to the 1945 Constitution as the basis of the Unitary State of the Republic of Indonesia (Susilo, 2011).

CONCLUSION

Development Law Theory, Progressive Legal Theory, and Integrative Legal Theory if a common thread is drawn at a point of convergence, it will bring up the Pancasila Legal Theory as a synthesis; all of these three theories are based on living Law in society and based on values. Primordial of the Indonesian nation itself, namely, the values of Pancasila as a peculiar social life and at the same time as a volkgeist. Pancasila Legal Theory is a legal theory that is based on the values of Pancasila as its ontological, epistemological, and even axiological basis. This legal theory was also chosen to be the legal basis for the nation and state in Indonesia. Through

this theoretical basis, it is hoped that the Indonesian people can live in justice with a diverse or multicultural nation philosophy.

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