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STRUGGLE FOR LAW PRINCIPLES IN LAW DEVELOPMENT

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Abstract- The principles of Islamic law have contributed to the development of modern law science. This is reasonable because Islamic law has already experienced development. This study aims to explore the contribution of law principles to the development of modern law science. This research uses a normative approach. The results of this study indicate that the principle of law is the basis of the law system and fundamental values that are intrinsic. There are two functions of the principle of law: the consistency function, namely how consistency can be guaranteed in the legal system, and the function of dispute resolution facilities. The function of the principle of law directs that law can be interpreted and lived in its true meaning so as to produce justice and satisfaction of legal actors. The principles of law developed in modern law today are the result of contributions from the development of Islamic law. Fundamental principles such as justice, the principle of legality, the principle of presumption of innocence, and the principle of equality are benchmarks in Islamic law.

Keywords: *contribution, the principle of law, Islamic law, modern law*

1. INTRODUCTION

Islamic law has contributed to the development of Western legal science (often referred to as modern law). One of them is the contribution of Islamic legal principles. This is reasonable, because Islamic law has first existed and developed compared to Western law. Apalila studied, many principles in Western law are the adoption of Islamic law.

The principle of law is a benchmark in Islamic law. The strength or weakness of Islamic law and whether or not compatible in society, depends on the principles so that it is reflected in the characteristics of Islamic law in accordance with its fields. In general, the principles of Islamic law can be grouped into two types; general principles that apply in all fields, and special principles that exist in certain fields such as criminal, civil, muamalah, and so on. The principles of Islamic law were extracted from the Qur'an and hadiths which are loaded with values. Its originality and internalization are adhered to by all Muslims throughout the universe (Umar, 2014).

All applicable legal systems have legal principles. The principle of law as a foundation or foundation of thought and reason in law enforcement and implementation (Alim, 2010), or as truth that is used as a foundation of thought and reason for opinions in the implementation of law. The function of the legal principle as a reference to return all problems relating to the law.

Laws and principles are like spirits and bodies in a body. The principle of law will not run out of strength by giving birth to a rule of law, but will continue to exist and will give birth to further regulations. The principle also makes the law live, grow and develop and shows that the law is not just a collection of rules, because the

principle contains ethical values and guidelines (Shomad, 2012: 56).

Law reflects and forms norms, builds problems and forms social institutions (Abel, 2017). Law and social ideals as well as community legal awareness need to be bridged. The principle of law becomes a bridge between law normativeity with social ideals and community law awareness. Through this principle of law, law regulations change their nature to become part of an ethical order.

The principle of law is very important because in a society the security and order of public power must be regulated and guaranteed. As rules and rules of life in social relations, the law actually reflects the ideals, value systems that apply universally, not limited by space and time (Sudarsono, 2001). The strength of the soul of the law lies in the principles and rules. The principle of law is the heart of legal life defense in society. The more established the principle of law, the stronger and more meaningful the life and implementation of law in society. Conversely, increasingly denied, the law is like "life does not want, even death is reluctant" (Sasmita, 2011: 51).

Factually, Islamic law is part of the legal system that currently applies in Islamic countries and in countries where the majority of the population is Muslim. There are countries that apply Islamic law as a whole. There are also those who only apply certain fields. The content contained in Islamic law covers all aspects that solve various problems of society that have grown and developed since Islamic law was enacted until now. The substance covers all aspects of human life from worship (*al-ubudiyah*), family (*ahwal al-syakhsiyah*), economy (*al-muamalah*), statehood (*siyasah al-syar'iyah*), criminal (*al-jinayah*) and other aspects.

As a law that has existed for a long time in Islamic societies, Islamic law has developed its principles. Every provision in Islamic law has a strong, systematic and conceptual basis for logic. The extent to which Islamic law principles contribute to the development of Western law, that is what is examined in this study.

The purpose of this research is to explore the principles of law, the function of law principles, and the contribution of Islamic law principles to the development of Western law science.

2. METHODS

This type of research is library research. Literature research is research conducted by examining library materials or secondary data. This research is included in library research because the data used are secondary data in the form of legal documents. The approach used in this research is philosophical. The philosophical approach in law research is to study the law from the ideal side. This study uses a philosophical approach because it is examined by law in an ideal level. The data source used in this study is secondary data. Secondary data is data that is obtained indirectly or has been provided by another party. Secondary data is used as the main reference which is already available in written form in books, scientific journals, and other written sources. Data collection techniques are carried out through conventional and online search. Conventional literacy is the activity of searching for library resources to a data storage. While online graduation is an activity to find library resources in cyberspace through the internet network. Conventional literature searching is done by searching library materials, purchasing books, journals and attending scientific activities (seminars). While searching online is done by searching on the internet. The data analysis method used is qualitative. Qualitative data analysis is the process of organizing and sorting data into patterns, categories and basic units of descriptions so that themes can be presented in narrative form. This study uses qualitative data analysis because the data will be presented in a narrative-descriptive manner, not in numerical or numerical form.

3. RESULTS

3.1. Discourse on Law Principles

In language, principle means principle or basis (Dahlan, 2001). Principle is something that becomes the foundation of thinking or opinion. The principle of law is the basis upon which law is built. The principle of law supports the legal system and fundamental values that are intrinsic (Slamet, 2004). The principle can also mean a basic law or a general proposition expressed in general terms without requiring specific methods of

implementation which are applied to a series of actions to be an appropriate guide to that action.

Meanwhile, according to terminology, the principle of law is the principles that are considered basic or fundamental law. The principle can also be called a starting point in the formation of laws and interpretations of these laws (Ishaq, 2008). The principle of law is an ethical norm, conception of state philosophy, and political doctrine. In addition, the principle of law is also the thoughts that guide, the choice of policies, legal principles, human and community views, the framework of community expectations (Luthan, 2009). The principle of law should not be considered as concrete legal norms, but it should be seen as a general basis or instructions for applicable law (Wijayanta, 2014).

According to Satjipto Rahardjo (2006), the principle of law contains ethical values and demands. The principle of law as a bridge between law regulations with social ideals and the ethical views of the people. Through the principle of law, law regulations change their nature to be part of an ethical order. The principle of law is at the heart of the rule of law because it is the broadest foundation for the birth of a rule of law or constitutes the legis ratio of law regulations.

It is important to understand that the principle of law is not a rule of law, but no law can be understood without knowing the legal principles contained therein. To understand the law of a nation as well as possible can not only look at the legal regulations, but must dig it up to the principles of law. This legal principle gives an ethical meaning to legal regulations and the rule of law (Rahardjo, 2006).

Bellefroid states that the principle of law is a basic norm that is elaborated from positive law and which is not considered by legal science to come from more general rules. It can be said that the principle of law is the adoption of positive law in a society. The principle of law should not be considered as concrete law norms, but it needs to be seen as a general basis or instructions for applicable law. The formation of law needs to be oriented to these principles. In other words, the principle of law is the basis for directions in the formation of positive law (Ishaq, 2008).

According to Scholten, the principle of law is a tendency required by our moral view of the law, is a general trait with all its limitations as a common trait, which must not necessarily exist. G. Paton said that the principle of law is a means that makes the law live, grow and develop. Law is not just a collection of rules. Van der Velder states that the principle of law is a type of decision that can be used as a benchmark for assessing situations or used as guidelines for behavior. The principle of law is based on values that determine valuable situations that must be realized (Ishaq, 2008).

Theo Huijbers classifies the principle of law into three types, namely: (1) the principle of objective law that is moral, (2) the principle of objective law that is rational, and (3) the subjective principle of law that is morally rational. The objective principle of moral law or moral principle of law is seen as something idle, which may not be realized in the planned law system. The moral principle of law is emphasized that in principle the law must have an intrinsic relationship with moral principles.

The principle of objective law that is rational or known as the rational principle of law, namely principles that include the understanding of law and the rules of rational living together. This rational principle of law is related to a common coherent living rule, and is therefore accepted as a starting point for the establishment of a good legal order. Examples are human rights as individuals, community interests, equal rights before the court, protection of the underprivileged, no compensation without mistakes. Whereas the subjective principle of law which is morally rational, is essentially the rights that exist in humans and becomes a starting point for the formation of law (Erwin, 2018).

Law is very important because in a society, security and order of public power must be regulated and guaranteed. Law as the rules of life in the social community reflects the ideals of the value system that applies

universally, not limited by space and time (Sudarsono, 2001). The strength of the soul of the law lies in the principles and rules, that the element of the principle of law is at the heart of the survival of the law in society. The more maintained the principle of law, the stronger and meaningful the life and implementation of law in society. On the contrary, increasingly denied the principle of law against acts that harm or endanger community members and increasingly abandoned or ignored the principle of law in practice (Sasmita, 2011). For law principles to apply in practice, the contents of those law principles must be more concrete. For example the principle of presumption of innocence that has been stated in concrete form.

It can be understood that the principle of law is the general basis contained in law. The general basics are something that contains ethical values, as well as the spirit of law. Legal norms as a concrete translation of the principle of law. The principle of law is not a concrete law, but a basic general thought and abstract, or is the background of concrete regulations contained in and behind every law system that is embodied in the statutory regulations and judges' decisions. In short, the principle of law is the background of the formation of a concrete law.

3.2. The Function of the Principle in Law

The principle of law will give weight and non-normative power of law. The instrumental nature of the law principle will recognize the possibilities, which means that there are deviations that make the law system ineffective.

The function of the principle of law is basically directed so that the law can be interpreted and lived in the true sense, so as to produce justice and satisfaction for all legal actors. The law in its implementation can also be enforced by the state apparatus as stated by John Austin in *Commmand Theory of Law*, that the law commands the ruling to create a peaceful, orderly and just society. Because the law guarantees the achievement of various objectives (law as the adjusment of purposes) (Atmaja, 2013)

In general, the functions of the legal principle can be grouped into 2 (two), namely:

a. Consistency Function

The consistency function guarantees the implementation of the legal system. For example in civil law the principle of passivity is adopted by the judge. This means that the judge only checks and hears the subject matter of the dispute determined by the parties to the case. The existence of an independent and impartial judiciary is part of the principle of obedience. Free and impartial justice is absolutely necessary in every state of law. Judges in carrying out their judicial duties must not be influenced by anyone, either because of the interests of office (politics) or the interests of money (economy). To ensure justice and truth, intervention is not permitted in the process of making judicial decisions by judges, both interventions from the executive and legislative circles or from the public and the mass media.

Judges must not side with anyone except only the truth and justice. However, in carrying out their duties, the process of examining cases by judges must also be open, and in determining judgments and making decisions, judges must live up to the values of justice that live in the midst of society. Judges not only act as 'mouthpieces' of the law, but also 'mouthpieces' of justice that voices a feeling of justice that lives in the midst of society (Asshiddiqie, 2004: 174).

Judge's decision is something extraordinary or extraordinary. This is because it is difficult to fulfill the values of justice. However, the sense of justice can be seen from several sides, namely:

1) generale opinion public opinion prevailing in society;
2) public interest is more prioritized; and
3) wisdom, knowledge and loyalty of the judge itself towards law enforcement (Suharizal, 2007: 42).

So that the value of legal certainty is also included in the judge's decision, then the binding force of precedent principle is applied. When a judge makes a decision, it is certain to pay close attention to the previous decisions that adjudicate similar cases. If there is no very principal reason, the judge cannot evade unless he also makes a decision that is substantively the same as the previous decision.

b. Dispute Resolution Function

Disputes or disputes can occur in the community, both in the family and society, from divorce cases to land boundaries, and so forth. Settlement of disputes in a community, some are resolved through the law there is also resolved by themselves by the people concerned with the help of people around them. (Ishaq, 2008).

The principle of law has the function of resolving disputes. Even the function of the means of dispute resolution is an important function of the principle of law. Hans Kelsen in "Aquo theory" or "Stuffen Bow" adds to the level of legal norms that states that legal norms are tiered and layered in a hierarchical arrangement. Hierarchy is used when there is a conflict, in this case the legal hierarchy is considered (Ishaq, 2008).

The function of the legal principle as a dispute resolver can be used in resolving legal conflicts through legal channels. As an explanation, several principles in the law are recognized as being popular:

1) lex dura secta mente scripta, the rules are hard but they have been written that way.
2) lex niminem codig ad imposibilia, rules do not force someone to do something impossible;
3) lex posterior derogat legi priori, the most recent regulation paralyzing the old rule;
4) lex specialis derogat legi generali, special regulations (lex specialis) override general regulations (lex generalis);
5) lex superior derogat legi inferior, higher rules override lower rules (principle of hierarchy); and
6) res judicata veritate pro habetur, the judge's decision must be considered correct unless proven otherwise.

As an example of implementation, if there is a conflict between a Government Regulation and a Law, then the Law is used because the law is higher in degree. This theory is increasingly clarified in positive law in Indonesia in the form of laws concerning the formation of laws and regulations. Dispute resolution through law will lead to the highest level of legal rules.

Thus, the function of the principle of law can be seen in the context of law as an applicable rule and function in the science of law. The function of the principle of law in law bases its existence on the formulation by the legislators and judges and has a normative and binding influence on the parties.

3.3. Contribution of Islamic Law Principles in the Development of Western Law

Long before Western law developed, which was further popularized as modern law, Islamic law had existed and even experienced a peak of development in the Islamic world. Birth of scholars in the field of caliber law, which until now the theory he formulated, still exists and is followed by schools which are developed in Islamic law. Islamic law is characterized as a law that originates from revelation, namely the legal rules that originate from the Qur'an and the hadith / sunnah of the Prophet Muhammad. It is not surprising if John Maksidi (1985) calls it God's law par excellence. Complete Islamic law covers the private and public sphere (Zaman, 2008).

During this time in the legal discourse, the principles and theories developed in law as if the monopoly of Western law. This is undeniably seen from the Islamic law that had developed long before the struggle of Western law. It is precisely Western law influenced by Islamic law that existed long before Western law was born. In general, the law that was born later, could not be free from the influence of pre-existing law.

Islamic law has already been established with the theories it developed and the principles used as benchmarks. Some of the principles in Islamic law that have influenced the development of Western law can be elaborated as follows:

a. The Principle of Justice

The issue of justice becomes a discourse in Western law or modern law. According to the perspective of legal philosophy, the purpose of law is the fulfillment of three basic elements, namely: justice, expediency, and legal certainty. Justice is a priority of the law.

There are two understandings of legal philosophy about the relationship of law with justice in modern legal science. According to the school of natural law, justice lies in the nature of the law. Law must be the same as justice, if not, not law. Everyone is morally bound only to obey the law which is just, and not to the unjust one. Unfair laws are only obeyed because of the demands of the situation, which is to avoid scandal and chaos. *One is morally bound to obey just laws, but not unjus now. One should obey unjuts law only when circumtance demand it, in order to avoid scandal or disturbance.* According to empirical flow and legal positivism. The linkage of law and justice is reflected in the aims of the law. If there is an unjust law, the law still applies, only the goal has not been achieved.

Justice is the goal of the law. There is even an adage that states where there is justice, there is law, although the essence of law does not contain justice, because justice itself will only be achieved or addressed by law (Seters, 2010). The conception of justice itself has been questioned by Greek thinkers, such as Socrates, Plato, Aristoteles, and Stoism (Sudjana, 2018: 137). Continued by philosophers such as Thomas Aquinas, Friedrich Nietzsche, Gustav Radbruch, Jhon Stuart Mill, Jhon Rawls, Robert Nozich, and others. Thomas Aquinas states that justice is closely related to what is fitting for others according to proportional similarity. Justice is the same power or strength. Justice is the reward or reward and exchange with conditions of power and power that are roughly the same. Gustav Radbruch distinguishes that justice in several meanings, namely: *First*, justice as virtue or virtue is justice as a trait or personal quality (for example for a judge). *Second*, justice according to the standards of positive law and justice according to the ideals of the law (rechtsidee), or positive law and the ideals of the law are the source of justice. *Third,* the essence of justice is equality (gleichheit) (Rhiti, 2011).

Justice is a very principle in Islamic law. Justice is placed as a general principle that exists in all areas of Islamic law. Justice is good that does not contain violations, cruelty, guilt or sin. There must not be a subjective element in the definition of justice. Justice is a quality that applies morally and gracefully in giving every human being his rights (Muslehuddin, 2000: 104).

The principle of justice is placed as the main joint in Islamic law. Even justice is the most important principle in Islamic law. Many verses of the Qur'an and the hadith that tells people to be fair and uphold justice. For example Q.S. Shaad [38] verse (26): "... *Give judgments (cases) among men with justice and do not follow the passions* ...". Q.S. al-Maidah [5] verse (8): "... *Never, ever because of your hatred of a people, encourage you to do unjustly* ..." And the hadits: "*if my daughter (Fatimah) stole, I would have cut off her hand* ..."

Justice in human conceptions is certainly limited because human nature is not absolute but is in the shadow of a relative mind (Wasitaatmadja, 2015: 48). Justice in Islamic law is the highest justice compared to other justice systems, both Greek, Roman and other human laws. Islamic law is held to look for the deepest motives for justice. Justice is the main goal of law and what is most desired by every human being. Islamic law places the position of justice in a very fundamental area. Justice is the ideals and hopes of every human being, and injustice is a form of justice.

b. Principle of Legality

The principle of legality has become a public ration in modern legal discourse. The principle of legality emerges as a reaction to the arbitrariness of the authorities. The principle of legality was later adopted in various

countries using criminal law that had been codified in a "book" such as countries that embraced civil law in Continental Europe. This principle is also contained in the Universal Declaration of Human Rights 1948 Article 11 (Wirawan, 2015: 180).

Lon L. Fuller (1964) used the word "principle of legality" to interpret general legal principles, which he even called the inner morality of law. The word 'principle' in this context means the same as principle. Fuller mentions the eight principles of legality, which are summarized into eight statements as follows: (1) *laws should be general; (2) they should be promulgated, that citizens might know the standards to which they are being held; (3) retroactive rule-making and application should be minimized; (4) laws should be understandable; (5) they should not be contradictory; (6) laws should not require conduct beyond the abilities of those affected; (7) they should remain relatively constant through time; and (8) there should be a congruence between the laws as announced and their actual administration.*

Substantially the principle of legality comes first in Islamic law. Al-Quran and hadith clearly mention. Islamic law determines not to punish someone who commits an offense in the period before the Qur'an was revealed or the existence of a law governing the matter as contained in the QS. al-Isra '[17] verse (15) *..." and We will not punish before we send an apostle ".* Also mentioned in Q.S. al-Qashash [28] verse (59): *"And neither is your Lord destroying cities, before He sent in the capital an apostle who read Our verses to them; and never (also) We destroy cities, unless the inhabitants are in a state of despotism. "* Q.S. al-Baqarah [2] verse (286) also states: *"Allah Most High. not burden someone but according to ability ".*

Since the beginning of its existence, Islamic law has made the principle of legality as the main principle in formulating the essence of law in order to create human benefit and protect human rights. This can be seen in the rule: "There is no law for the actions of reasonable people before there are texts or provisions". The act of a competent person (mukallaf) may not be declared as a violation as long as there is no text that prohibits it. People have the freedom to do something or leave it until there is a decisive text.

The principle of legality requires that criminal law must be formulated in writing, rigid, prospective, and certainty. Specifically, the principle of legality is generally applied in the field of criminal law. That in its development became the spirit of criminal law. The principle is placed as a fundamental principle because it is a form of protection for individuals while ensuring justice and legal certainty. The principle of legality spreads and is used in the sphere of law in various countries, especially when Islam experiences interactions with Western countries.

The principle of legality that is applied in criminal law, is the influence of the principle of legality that exists in Islamic law. The principle of legality limits the actions of a person who can be convicted This is a provision in the Qur'an that limits the actions of a person who will be held accountable after the passage of the text governing the act. The discourse of the principle of legility is also the result of direct contact with countries that apply the principle of legality with the Islamic world.

c. The principle of Presumption of Innocence

The principle of presumption of innocence is one of the fundamental principles in providing direction for the operation of the criminal justice system. This principle emphasizes that in every criminal proceedings for the sake of upholding the law must be held based on the principle of presumption of innocence. The validity of the universal presumption of innocence principle. The principle of presumption of innocence is adhered to in international criminal law (Bachtiar, 2015). The principle of presumption of innocence is made the principle of criminal law in the hope that every person who is not considered guilty before a court ruling declares his guilt and has obtained permanent legal force (Butarbutar, 2011).

The application of the presumption of innocence is not allowed to label the guilty person so that until a court decision is issued which states its guilt and the decision has obtained permanent legal force, i.e. there is no

longer an appeal, appeal, or review process (Habsari S., 2017).

The presumption of innocence is a law term in criminal law aimed at people who are suspects or are accused of committing criminal offenses. This principle is enforced until there is a permanent judge's decision or no further remedies. Arrest, detention, and prosecution of a person cannot be done arbitrarily or arbitrarily, but it is aimed at those who really or allegedly committed a crime, because it involves a person's freedom and dignity. If the arrest is not supported by sufficient preliminary evidence, the suspect can make a counter-charge against the authorities to rehabilitate his good name (Dahlan, 2001).

The principle of presumption of innocence is also in line with the principle of legality "Nullum delictum, nulla poena sine praevia lege poenali", which means a person cannot be punished because he is suspected of making a mistake before there is a law stating that his mistake is threatened with punishment. Explicitly also implies that a person suspected of committing an error or a criminal offense cannot be convicted of a criminal before there is a permanent legal ruling from a judge in court (inkracht). Judges are entitled to decide based on the law not in arbitration (decisions based on mistakes, not based on violations of the law). If there is a law that forms the legal basis, it is based on that law that someone is arrested, detained, prosecuted, and tried (Dahlan, 2001).

The presumption of innocence is also the result of the contribution of Islamic legal principles in the science of law. This principle is recognized as an important element in the criminal justice system in various parts of the world. The principle of presumption of innocence is contained in Surah al-Isra '[17] verse (15). This verse begins with the urge to do good, because good deeds are only for his own safety and vice versa misguided deeds for his loss; then someone's mistakes cannot be shared with others. At the end of this verse it is explained that Allah. will not punish mankind before sending His Messenger.

According to Islamic law, not only must there be a law first, but there must also be information or warnings about prohibited acts. This is what is meant by "no crime as long as there is no text that determines it" in Islamic law. The term presumption of innocence in Islamic law is equated with accusations (provisional allegations) directed at perpetrators of criminal acts.

d. The principle of equality

The principle of equality is also a fundamental principle in modern law. The principle of equality puts everyone in the same position. There is nothing more special than another, or discriminatory actions towards certain people or groups. Equality before the law (for example, equality before the law), for example from all groups to the ordinary law of the land carried out by ordinary courts. No person is above the law or even immune from the law, both officials and ordinary people are obliged to obey the same law and have the same rights in law. Even at the theoretical level of the principle of equality before the law is seen as a principle in the state of law (Aedi & Samekto, 2013). The demand for the principle of equality in the field of law then emerges in the practice of justice with the aim that the judiciary is far from acts and treatment of discrimination in all its forms. No person is above the law or even immune from the law, both officials and ordinary people are obliged to obey the same law and have the same rights in law.

Islamic law places the principle of equality in broad aspects that include equality in all fields of life which includes the fields of law, politics, economics, social, and others. Equality in the field of law, for example, guarantees equal treatment and legal protection of all people regardless of position, whether they are from the ordinary people or from the elite. This principle has been established by the Prophet Muhammad. as head of state in Medina, when there were some who wanted dispensation because they were suspects of an elite group. The Prophet said: "For the sake of Allah, if my daughter Fatimah steals, I will still cut off her hand" (Azhary, 2007).

The principle of equality in Islamic law is based on humanity which removes the view of racism. This view holds true between men and women. Men and women occupy the same place in terms of their type. The

difference between the two lies only in the readiness of each. Equality between humans, both men and women as well as between tribes, nations, and offspring is explained in detail in the letter Q.S. al-Hujurat [49] verse (13).

The equation referred to here are men and women both in terms of worship (spiritual dimension) and in social activities (professional career matters). Equality in worship, for example those who diligently worship, it will get more reward regardless of gender. The difference then exists due to the quality of the value of devotion and devotion to Allah. In addition, this verse also emphasizes the main mission of the Qur'an revealed is to free humans from various forms of discrimination and oppression, including sexual discrimination, skin color, ethnicity and other primordial ties (Suhra, 2013). The principle of equality puts everyone in the same position, nothing is more special than others, or discriminatory actions towards certain people or groups. With the equality of position of everyone in any condition including law and government, all forms of discriminatory attitudes and actions in all forms and manifestations are recognized as forbidden attitudes and actions.

4. CONCLUSIONS

Based on the discussion above, it can be concluded that the principle of law is the law basis. The principle of law becomes the basis of the law system and fundamental values that are intrinsic. The principle of law is also a fundamental principle and starting point in the formation of laws and regulations. Law as the rules of life in the community of people reflects the ideals of a value system that applies universally, not limited by space and time. The function of the principle of law can be seen in the context of law as an applicable rule and function in the science of law. The function of the principle of law bases its existence on the formulation by legislators and judges and has a normative and binding influence on the parties. The legal principle functions can be grouped into 2 (two): consistency functions, namely how consistency can be guaranteed in the legal system, and the function of dispute resolution facilities. The function of the principle of law directs that law can be interpreted and lived in its true meaning so as to produce justice and satisfaction for all legal actors. Law in its implementation can also be enforced by the state apparatus. The legal principles developed in Western law today are a contribution of the development of Islamic law discourse. Many principles in Western law are the adoption of Islamic law. Long before Western law developed Islamic law had existed and even experienced a peak of development. The principles of justice, the principle of legality, the principle of presumption of innocence, and the principle of equality in law are the principles that serve as benchmarks in Islamic law. The strength or weakness of Islamic law and whether or not compatible in society, depends on the principles so that it is reflected in the characteristics of Islamic law in accordance with its fields.

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