

Artikel Hamzani

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Study of ideas national law profile in the development of national law in Indonesia

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Abstract

The Indonesian people do not yet have their own national product laws. The development of national law is still proceeding. The idea of a national law profile in Indonesia is also still being debated. This study aims to examine the idea of a national law profile in Indonesia. This study uses a philosophical approach, which is studying the law from the ideal side. The results of this study indicate that the idea of a national law profile in Indonesia has been widely described by legal experts. There is Mohctar Kusumaatmadja who offers the idea of development law. Satjipto Rahardjo offers progressive law and Romli Atmasasmita with integrative law that tries to combine ideas from previous legal experts.

Keywords: national law, development law, progressive law, integrative law

Introduction

National law is the product law itself, born from the customs and traditions of the people from the time the law was implemented. In the Indonesian context, national law was the ideals of the founding father when they founded the State of Indonesia. National law in which contains various life practices of all Indonesian people from Sabang to Marauke. Every regime that leads the Indonesian state always makes a grand design in the direction of the development of Indonesian law for the realization of a national legal system that is based on the Pancasila and is based on the 1945 Constitution of the Republic of Indonesia.

The current legal system in Indonesia is a mixture of traditional systems, religious law, and Western law from the Netherlands. In general, the law in force is more dominant in Western law from the Netherlands. This is because Indonesia has been colonized for a long time by the Dutch. This Western law from the Dutch inheritance has been criticized as a law that is not of the same age as the plural and plural character and identity of the Indonesian nation with the ideology of Pancasila.

Pancasila as the source of all sources of law has gained legal legitimacy through the Decree of the People's Consultative Assembly Number XX / MPRS / 1966 concerning Memorandum of Mutual Assistance Council for the Mutual Cooperation of the Republic of Indonesia and the Order of Laws of the Republic of Indonesia. After the reformation the existence of the Pancasila was reaffirmed in the Law of the Republic of Indonesia Number 12 of 2011 concerning Laws and Regulations. Pancasila as the source of all legal sources means that the national legal system must be based on Pancasila.

It is proper for the Indonesian state to have its own national law in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia with various legal characteristics that live in Indonesian society, such as customary law and religious law. It is hoped that Indonesian law will emerge and there will no longer be a disharmony of law and legal pluralism which sometimes becomes a

scapegoat for law enforcement non-compliance in Indonesia.

1.2. search methodology

This research is a type of normative legal research. Normative legal research is doctrinal legal research or theoretical legal research. Called normative legal research because what is studied is the law from theoretical or normative aspects, not to examine the applied aspects or their implementation. The approach used is philosophical. Philosophical approach is an approach that sees law as an ideal value device, which should be a reference in every legal formation, regulation and implementation. The philosophical approach is used because this study is ideal by using the perspective of legal philosophy that sees law as a law in ideas. The data used is secondary data. Secondary data is data that is not obtained by researchers directly or from other parties in the form of written documents. Researchers obtained data through searching library materials online. The data that has been collected will be analyzed qualitatively. Qualitative data analyst is a form of analyst by interpreting and describing data through words narratively with scientific logic.

Discussion

1. National Law Design

National law in the future needs to be designed to suit the wishes of the Indonesian people. The Indonesian people need an ideal law design, unique and in accordance with the nation's character. The national law profile needs to be designed, developed, socialized, then applied continuously in order to shift the old law. Colonial law to this day is still used as a standard law in judging the Indonesian people. Though the law is not in accordance with the self and character and will of the entire legal community that applies the law.

One thing that must be considered in designing the national law profile requires a strong foundation, especially in its historical aspects. The role of the community is also very important. The marginalization of the role of the community

in the process of legal development has consequences. First, the law will most likely only be a text that has no significant social significance. Second, the law can be transformed into a burden or a trigger factor for community clashes. The development of national law is not only focused on the rules or substance of the law, but also on the structure or legal institutions and on the legal culture of Indonesian society. According to Romli Atmasasmita the Indonesian law system both in the field of criminal law, private law and state law still uses the law system and the method of civil law approach. Although in the aspect of civil law including business contract law and business dispute resolution, a common law system has been used. Included in the law material, there have been many updates, although partial. Whereas in criminal law it still runs very slowly. Consequently, national law as a system has not been formed holistically, has not been comprehensive and has not enriched the life values of indigenous peoples to adapt to the lives of developed people^[1].

Designing a national law model is needed to get an ideal national law profile. Various law issues that exist today, are considered as well as how the law can reach future problems. There is an expression that the law concept was originally created because it depends entirely on its purpose. Ideally, law exists for humans, not humans exists for law. In it justice is a principle in law and every law decision must be able to give birth to solutions to law problems^[2]. Law is not the king of everything, but the tools and means for humans to achieve humanity. The law is able to make the people more happy, in which there is the soul of the nation, containing concretely and real individual law rights, and equality before the law. In addition, it is also a control by the people of the government in the form of social control and social engineering. The law becomes the basis of government or state administrators and state administration procedures.

The picture of the national law profile is still debated by theorists and lawpractitioners in Indonesia. Theoretical support to formulate a national law profile is needed so that the idealized law will later illustrate the law awareness of the Indonesian people.

National law is basically a law system that is based on national cultural values, which have been around for a long time and have evolved to the present. In other languages, national law is a law system that arises as a cultural effort of the Indonesian people that reaches Indonesia. The law system which covers all people as far as the national boundaries of the Indonesian state. This means that the Indonesian people basically want to build a law system with an Indonesian perspective^[3].

The law condition in Indonesia on the other hand is still centralistic, formalistic, repressive and the status quo. This reality invites various criticisms from experts and at the same time raises a new idea to overcome these problems for the improvement and development of national law better

and more favoring justice and the benefit of the law^[4].

2. Development Law: Mochtar Kusumaatmadja

There are already several law experts in Indonesia trying to provide an overview of the national law profile going forward, including Mochtar Kusumaatmadja. According to him, law development is aimed at fostering national law by accommodating views on law from Eugen Ehrlich and Roscoe Pound's legal theory "law as a tool of social engineering", with Northrop's cultural philosophy and Laswell-Mc Dougal's "policy oriented" approach, and processing it into a form conception of law in accordance with Indonesian conditions. According to Mochtar Kusumaatmadja, legal theory of development provides the basic function of law as a means of public renewal and law as a system needed by the Indonesian people and the ultimate goal is order^[5].

The essence of development is change. The law must play a role in it. The law cannot be understood as a static element which is always behind the change itself. The law must be at the front of guarding these changes. The law is not only as a follower, but must be the prime mover of development^[6]. The legal function is a means of encouraging community renewal. As a means to encourage community renewal, the emphasis lies on the formation of statutory regulations by the legislative body. By way of legislation can construct new communities that want to be realized in the future through the implementation of the legislation.

The emphasis of Mochtar Kusumaatmadja's law thinking is oriented as a means of community renewal or a means of development that is often identified as development law. Development law places the legal function to uphold and prioritize the value of order as a condition for the emergence of justice and legal certainty. Law of life and development in line with the development of society. This thinking is in line with the sociological ideology of jurisprudence and Savigny's thought^[7]. The main thoughts about the development can be abstracted into two things. First, law is a means of community renewal based on the assumption that there is order or order in the development effort or reform is something that is desired or even considered (absolutely) necessary. Second, law in the sense of rules or legal regulations can indeed function as a tool (regulator) or a means of development in the sense of channeling the direction of human activity in the direction desired by development or renewal. Both of these functions are expected to be carried out by law in addition to their traditional functions, namely to ensure certainty and order^[8].

Romli Atmasasmita said that the core of the idea of national law development Mochtar Kusumatmadja there are five

⁴ Bayu Setiawan, "Penerapan Hukum Progresif oleh Hakim untuk Mewujudkan Keadilan Substantif Transendensi", *Jurnal Kosmik Hukum*, 18 (1), 2018, p. 91.

⁵ Munnice Yasmin, "Analysis of The Legal Thought of Postmodern Era of The Development Legal Theory By Mochtar Kusumaatmadja and Progressive Legal Theory By Satjipto Rahardjo For Legal Development of Indonesia The Perspective of ontological, Epistemological And Axiological", *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)*, 21 (9), 2016, p. 67. DOI: 10.9790/0837-2109026675.

⁶ Atip Latipulhayat, "Mochtar Kusumaatmadja", *Padjadjaran Jurnal Ilmu Hukum*, 1 (3), 2014, p. 629.

⁷ Munnice Yasmin, *op.cit.*, p. 69.

⁸ Wahyu Nugroho & Agus Surono, "Rekonstruksi Hukum Pembangunan dalam Kebijakan Pengaturan Lingkungan Hidup dan Sumber Daya Alam", *Jurnal Hukum Lingkungan*, 4 (2), 2018, p. 78-79.

¹ Romli Atmasasmita, "Memahami Teori Hukum Integratif", *Legalitas*, II (2), 2012, p. 3.

² Harry W. Jones, "Law and Morality in the Perspective of Legalism", *Columbia Law Review*, 61 (5), 1961, p. 801.

³ Khudzafah Dimiyati dan Kelik Wardiono, "Tipologi Pemikiran Hukum: Sebuah Eksemplar Pemikiran Mochtar Kusumaatmadja", *Digest Epistema*, 2 (2), 2012, p. 8

components, namely:

- a. all developing societies are always characterized by change and the law functions to ensure that changes occur in an orderly manner. Regular changes can be helped by legislation or court decisions or a combination of both;
- b. both change and order is the initial goal of a developing society, so law becomes a tool that cannot be ignored in the development process;
- c. the function of law in society is to maintain order through legal certainty and also the law must be able to regulate the process of change in society;
- d. good law is a law that is in accordance with living law in a community, which is certainly also in accordance with or is a reflection of the values prevailing in that society; and
- e. implementation of the function of law can only be realized if the law is exercised by a power but the power itself must run within the limits of the rules set out in that law^[9].

The role of law in development is to ensure that changes occur in an orderly manner, the law plays a role through the assistance of legislation and court decisions, or a combination of the two. But the formation of legislation is the most rational and fast way compared to other legal development methods such as jurisprudence and customary law^[10].

The main mission of Mochtar Kusumaatmadja's law development is the hatchery and development of law reforms oriented to the modernization of the Indonesian state organization, especially in the context of the economic growth of post-colonial Asian countries^[11]. The efforts made by Mochtar deal with the governance of state institutions that have the authority, capacity, and planning to make and apply state law. This effort is to support the government policies that manage Indonesia as a modern nation-state in the vortex of economic and business globalization. Law reforms that are carried out are structural in order to create claims about the rule of law in Indonesia^[12]. In addition, legal reform through legislation and distribution of values or aspirations that live in society is a conceptual reflection of legal thought to build a theory that is nuanced in Indonesia^[13].

3. Progressive Law: Satjipto Rahardjo

There is also Satjipto Rahardjo who provides progressive legal ideas. Progressive law that was initiated originated from two basic components in law, namely rules and behavior. Departing from the basic assumption that law is for humans, not vice versa. The presence of law is not for itself, but for something broader and bigger, that is why when there is a problem in the law, then the law must be reviewed and corrected, not humans who are forced to be included in the legal scheme^[14]. Thus, progressive law is not submissive or just submissive to existing law but rather

is critical^[15].

Law is an institution that aims to bring people to a just, prosperous life and make people happy. The law does not reflect law as an absolute and final institution, but is determined by its ability to serve humans. 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 serve human welfare^[16]. As Satjipto Rahardjo said that the law is for humans and not vice versa. Law not only builds rules, but also builds ideas, culture and legal goals. For this reason, law needs to be rethought in a philosophical essence, namely human law. with this philosophy, human beings become the determinant and point of orientation of the law^[17].

Progressive law theory arises because of dissatisfaction with the function of law in realizing a better life in Indonesia^[18]. Progressive law questions the existence of modern law that has been considered well-established in the law so far. The progressive law movement was born as a result of disappointment to law enforcers who are often positivist perspectives who are only focused on the text of the law without wanting to dig deeper into justice in society. Adherents of positivism argue that the civil law adopted by Indonesia 'requires' the judge as a mouthpiece of the law (*la bouche de la loi*). Positive law in Indonesia has been piled up in the same way as the pile of dividing walls that are often found among the homes of its citizens. Positive law only acts as a castle fort in the strata of social life and almost deviates from the philosophical goals of its formation. So that makes the law very superior to the inferior people^[19]. The law should be able to keep abreast of the times, be able to answer the changing times with all the bases in it, and be able to serve the interests of society by relying on the morality aspects of the law enforcement human resources themselves. The law exposes the veil and searches the various failures of modern law which are based on positivistic, legalistic and linear philosophy to answer various legal issues. Progressive law contains the spirit of liberation, namely liberation from the conventional legalistic and linear law tradition and seeing that the relationship between the political subsystem and the law subsystem, it would appear that politics has a greater concentration of energy so that the law is always in a weak position^[20]. In simple language, progressive law is pro justice and pro people's law^[21].

Progressive law starts from the basic assumption that law is an institution that aims to bring people to a just, prosperous life and make people happy or in other words progressive law is a law that wants to liberate both the way of thinking and acting in law, so as to be able to let the law just flow to

⁹ Romli Atmasasmita, "Tiga Paradigma Hukum dalam Pembangunan Nasional", *Jurnal Hukum Prioris*, 3 (1), 2012, p. 7.

¹⁰ Atip Latipulhayat, *op.cit.*, p. 630.

¹¹ Tanius Sebastian, "Masalah Metodologis Ilmu Hukum Indonesia", *Vej*, 4 (1), 2018, p. 73. DOI: 10.25123/vej.2913

¹² *Ibid.* p. 74.

¹³ Mudzafiah Dimiyati & Kelik Wardiono, *op.cit.*, p. 14.

¹⁴ Dey Ravena, "Wacana Konsep Hukum Progressif Dalam Penegakan Hukum di Indonesia", *Jurnal Wawasan Hukum*, 23 (02), 2010, p. 164.

¹⁵ Satjipto Rahardjo, *Hukum Progressif sebagai Dasar Pembangunan Ilmu Hukum*, Semarang: Pustaka Pelajar, 2006.

¹⁶ Satjipto Rahardjo, *Hukum Progressif Sebagai Sintesa Hukum Indonesia*, Yogyakarta: Genta Publishing, 2009, p. 1.

¹⁷ Rodiyah, "Philosophy of Progressive Law on Establishment of Laws And Regulations in The Context of Substantive Justice: an Indonesian Experience", *International Journal of Business, Economics and Law*, 13 (4), 2017, p. 125

¹⁸ Munnice Yasmin, *op.cit.*, p. 69.

¹⁹ Muhammad Erwin, *Filsafat Hukum: Refleksi Kritis terhadap Hukum dan Hukum Indonesia dalam Dimensi Ide dan Aplikasi*, Jakarta: Raja Grafindo Persada, 2018, p. 237.

²⁰ Henry Arianto, "Hukum Responsif dan Penegakan Hukum di Indonesia", *Lex Jurnalica*, 7 (2), 2010, p. 116.

²¹ Munnice Yasmin, *op.cit.*, p. 71.

complete the task of serving humanity and humanity [22]. The presence of progressive legal concepts is not something accidental, not something that is born without a cause, and falls from the sky. Progressive law is part of the never-ending process of searching for the truth and searching for justice [23].

Progressive law that relies on rules and behavior, places humans not to be bound by absolute reins of rules. That is why, when there is a change in society, when legal texts experience delays in the values that develop in society, law enforcers must not only let themselves be bound by the reins of rules that are already irrelevant, but must look out (out world), seeing the changing social context in making legal decisions [24].

The predicate of progressive law enforcement will be related to the ideology of the law enforcers themselves. How do law enforcement's views on law and law functions will affect the value and quality of law products through the decisions that result. Does law enforcement look at the law formally, or see also what is in metayuridis, or see the law in a holoyuridist perspective, or see the law as inseparable from social relevance. Progressive law also departs from the basic assumption that law is not an absolute and final institution, because law is always in the process of continuing to be (law as a process, law in the making) [25]. Law not only stops at reading texts and applying them like a machine, but rather an action or effort effort. This method of punishment is very draining of energy, mind, empathy and courage [26]. The law is not a telephone book that only lists rules and articles, but something that is full of meaning and value. Reading rules evenly is solving problems by using rational intelligence alone [27].

Progressive law that relies on humans, brings the consequence of the importance of creativity. Creativity in the context of law enforcement in addition to limiting the backwardness of the law, overcoming inequality, is also intended to make law breakthroughs. These law breakthroughs are expected to realize humanitarian goals through the operation of the law, which according to Satjipto Rahardjo is termed a law that makes happy [28]. Law enforcers in this country should always feel uneasy if the law cannot make people happy. Even the ultimate goal of having a legal state, is to make the lives of the people and the nation happy [29].

Progressive law is related to preexisting legal theory. The idea of progressive law can be identified as follows: *First*, progressive legal studies seek to shift the focus of legal studies that originally used legal optics to behavior. Law is not seen as a collection of articles which [2] applied in a rigid and very procedural manner. *Second*, progressive law places its presence in close relations with humans and society or the type of responsive as initiated by Nonet & Selznick, who wants the law to always be positioned as a facilitator who responds to the needs and aspirations of the community. The characteristics of responsive law offer

more than procedural justice, but are more oriented to justice, pay attention to public interests, and promote sub-justice justice [30]. Responsive law puts laws not only rules (logic and rules), but there are also other logics. Not merely law as a set of primary and secondary rules made by humans, including recognition of basic rules [31]. In other words, law is a means of responding to the needs and aspirations of the community [32]. *Third*, progressive law shares understanding with legal realism because law is not seen from the lens of the law itself, but rather is seen and valued from the social goals to be achieved and the consequences arising from the operation of the law. The realist law theory of Oliver Wendell Holmes is famous for [3] credo that "life is basically not logic, but experience" (The life of law has not been logic; it has been experience). Understanding of the law is not limited to legal texts or documents, but goes beyond the legal texts and documents. *Fourth*, progressive law has a closeness to the sociological jurisprudence of Roscoe Pound. Sociological jurisprudence studies law not only limited to the study of regulations, but goes [20] and looks at the effects of law and the operation of law (law as a tool of social engineering). *Fifth*, progressive law has a closeness to natural law theory, because it cares about "metajuridical" matters. Natural law views law as inseparable from moral values that are transcendental [33]. *Sixth*, progressive law has a close relationship with critical legal studies, Robert M. Unger but its scope is broader [34]. While the characteristics of progressive law include the following: *First*, progressive law is a type of responsive law, while rejecting legal autonomy that is final and cannot be contested. *Second*, progressive law cares about things that are meta-juridical and prioritizes "the search for justice". *Third*, progressive law also idealizes that law is judged by social objectives and the consequences of the operation of law. *Fourth*, progressive law faces its face to "completeness, adequacy, fact, actions and powers". Progressive law wants to dismantle the tradition of making judges' decisions based on mere construction. This needs to be done so that the law in accordance with the real needs of life of the community. *Fifth*, progressive law contains the substance of criticism of legal education, the making, implementation and law enforcement. *Sixth*, progressive law places the human factor more important and above the rules. Fascinating elements in humans such as compassion, empathy, sincerity, edification, commitment, dare and determination, are considered more decisive than existing regulations. Based on this view, progressive law agrees with the phrase "give me a good prosecutor and judge, then even with bad regulations I can make good decisions" [35].

In connection with the progressive law offense with the concepts of law above, theoretical exploration of progressive law should also discuss responsive "legal concepts", "legal realism", sociological jurisprudence, natural law, and critical legal studies [36]. The law must really be able to become as said Immanuel Kant: law as

²² Bayu Setiawan, *op. cit.*, p. 35-36.

²³ Dey Ravena, *op. cit.*, p. 156.

²⁴ *Ibid.*, p. 164.

²⁵ *Ibid.*, p. 162.

²⁶ Satjipto Rahardjo, *Memahami Hukum: dari Konstruksi sampai Implementasi*, Jakarta: Raja Grafindo Persada, 2009, p. 3.

²⁷ Satjipto Rahardjo, *Membedah Hukum Progresif*, Jakarta: Kompas, 2008, p. 20.

²⁸ Dey Ravena, *op. cit.*, p. 162.

²⁹ Satjipto Rahardjo, *Membedah Hukum...*, *op. cit.*, p. 12-15.

³⁰ Dey Ravena, "Mencandra Hukum Progresif dan Peran Penegakan Hukum di Indonesia", *Syiar Hukum*, 9 (3), 2007, p. 102.

³¹ Mark Fathi Massoud, "Ideals and Practices in the Rule of Law: An Essay on Legal Politics", *Law & Social Inquiry*, 41(2), 2016, p. 491.

³² Jauharyah, "Pengaruh Sistem Politik dan Tipe Hukum Terhadap Politik Hukum Perundang-Undangan", *Jurnal Lex Librum*, 1 (1), 2014, p. 4.

³³ Dey Ravena, "Mencandra Hukum Progresif...", *op. cit.*, p. 193-194.

³⁴ Dey Ravena, "Wacana Konsep Hukum.....", h. 164-165.

³⁵ Bayu Setiawan, *op. cit.*, p. 36.

³⁶ Dey Ravena, "Mencandra Hukum Progresif...", *op. cit.*, p. 193-194.

harmonizing voluntary actions (the law as a harmonization of actual actions that must be obeyed) and to quote Rudolph Stammler that the law guarantees the achievement of various objectives. The most important thing in the context of a progressive legal offer is law education in Indonesian society which is still positivism and is repressive and unresponsive. This condition certainly affects the pattern of law enforcement that is legal positivistic. Law education must be able to integrate sociological approaches and principles of justice^[37]. The law exists and works for the benefit of humans as law agents and implementers, and all of it is devoted to producing human values.

4. Integrative Law: Romli Atmasasmita

The integrative legal model is a model of national law development offered by Romli Atmasasmita. This model is the result of the reconstruction of the development law that was initiated by Mochtar Kusumaatmadja and criticized the progressive law of Satjipto Rahardjo. Integrative law is more appropriately termed a combination of Mochtar Kusumaatmadja's development law and Satjipto Rahardjo's progressive law. If development law describes law as the norm, integrative law requires the law to apply it in value. Law united with the values and values adopted by each community must be different. Whereas in progressive law, law is not seen in terms of the text of the rules only (law in books) but there are many laws that are so fast developing in society. That is called legal behavior.

Integrative law develops the terminology of processes, legal behavior, and values by integrating development law which is grounded in law as a system of dynamic norms and progressive law, which views law as a system of behavior. Integrative law also explores law as a value system from the philosophical values of Pancasila as the philosophy, ideology and source of Indonesian law. Pancasila as the soul of the Indonesian nation and is a fundamental value, respects various views or values that are heterogeneous, growing and developing in the life of the Indonesian nation since long time ago. In integrative legal terminology, law today can be changed to grow because of people's behavior. The formation of a new law must be based on the basic values and norms of Indonesian society integrated in the Pancasila ideology^[38].

The values of Pancasila must be realized in the norm system of a product of legislation, and the behavior system of the legal apparatus and society^[39]. Both of these systems as derivative values, must be characters that are closely related to each other and provide content to each legislation product so that it is a building of the legal system pyramid. Starting from that, every legal formation and law enforcement must be a policy based on a system of norms and logic in the form of principles and rules, and the normative nature of the law and can be realized in changing people's behavior and bureaucracy towards the ideals of building a democratic rule

of law. Democratic rule of law is built and excavated from three pillars of law, namely law enforcement, legal protection and public access to justice.

According to integrative law the implementation of national law can be done well if; *First*, improving the legal awareness of the state apparatus including law enforcement. Because law as a tool of social and bureaucratic engineering, in the sense that the public will understand and want to obey if the law and bureaucratic apparatus are consistent with the law first; words alone will not encourage public compliance with the law. The spread of irregularities in the law in various forms of corruption, collusion, nepotism, violence, riots in which are followed by persecution, murder, theft, rape at all levels or is a proof of the poor level of community trust in government and law enforcement^[40]. *Second*, there must be a change in law behavior with a conscience in law enforcement, not law formation. Law theory as a tool of social engineering, it is feared will become dark-engineering^[41]. For the behavior of law enforcement officials, including the police, lawyers, prosecutors, and judges in order to restore public trust, they should carry out their duties more in their conscience^[42]. It is time for the law to be returned to its moral, cultural and religious roots. Awareness is needed so that it causes freedom. Freedom gives people the choice to behave and behave. From freedom leads to responsibility^[43].

Through integrative law, Romli Atmasasmita came to the hope that the process of forming laws or court decisions and in law enforcement, the philosophy of Pancasila must always be a reference. In this connection, of course, law enforcement should uphold the conscience and professionally take appropriate and wise legal steps or decisions^[44]. The integrative law model convinces the generation of intellectuals and law practitioners that the breadth and depth of the national law system can only be measured by its representation in appreciating, accepting and analyzing the development of social phenomena in society and the interrelationships between the function and role of law with the development of social, political aspects, economics and technology, both at national and international levels. The Integrative law model is expected to: *First*, produce a generation of intellectuals and Indonesian law practitioners who are smart, clever and have strong integration and are objectively able to see law problems as a social phenomenon. *Second*, gave birth to a generation of intellectuals and law practitioners who were able to put the law as a system of behavior that deserves respect, strengthened by a system of values that is rooted in the soul of the nation so that it can be modeled in spite of the transition of one generation to this nation's generation. *Third*, gave birth to a generation of intellectuals and law practitioners who are able to see objectively and not a priori let alone prejudice, that the law is a norm system that is born and deemed perfect, without defects^[45].

Romli Atmasasmita stated that the combination of the three legal models above, is expected in Indonesian legal theory:

³⁷ Sudyana, "The Model of Law Education to Achieve Progressive Law Enforcement", *Pandecta*, 12 (1), 2017, p. 1, DOI: <http://dx.doi.org/10.15294/pandecta.v12n1.125>

³⁸ Rina Shahriyani Shahrullah & Elza Syarif, "Proposing an Integrative - Progressive Model in Handling Troubled Indonesian Overseas Workers in The Transit Area: A Social - Legal Research in Tanjung Pinang City, Kepulauan Riau Province", *Indonesia Law Review*, 5 (3), 2015, p. 310. DOI: <http://dx.doi.org/10.15742/ilrev.v5n3.187>.

³⁹ Romli Atmasasmita, *Teori Hukum Integratif: Rekonstruksi terhadap teori Hukum Pembangunan dan Teori Hukum Progressif*, Yogyakarta : Genta Publishing, 2012, p. 19.

⁴⁰ Teguh Prastyo & Abdul Halim Barkatullah, *Filsafat, Teori dan Ilmu Hukum; Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat*, Jakarta: PT. Raja Grafindo Persada, 2017, p. 341.

⁴¹ Romli Atmasasmita, *Teori Hukum ...*, op.cit., p. 9-10.

⁴² Teguh Prastyo & Abdul Halim Barkatullah, op.cit., p. 341.

⁴³ Muhammad Erwin, op.cit., p. 349.

⁴⁴ Romli Atmasasmita, *Teori Hukum ...*, op.cit., p. 11.

⁴⁵ *Ibid.*, p. 25-26.

First, to prevent foreign influence in the process of national formation and its implementation in the reality of society. *Second*, can dig deeper into the social moral values of the Indonesian nation which will be used as material for the formation of law, both through the legislative process and jurisprudence⁴⁶.

The development of national law needs to look at the models offered above that have experienced various kinds of dialectics from various legal practitioners and legal practices in Indonesia in various phases of life. Until now there are not many legal models that are truly original and in accordance with the characteristics of the Indonesian people, except those initiated by Mohctar Kusumaatmadja, Satjipto Rahardjo and Romli Atmasasmita. Even if there is only developing or limited to exploring their thoughts.

Conclusions

National law is the product law itself and a necessity for a nation to be aligned with other nations. The idea of a national legal profile has been discussed by legal thinkers to be implemented as a rule of national law model, ranging from the development law of Mohctar Kusumaatmadja, Satjipto Rahardjo's progressive law to the integrative legal model Romli Atmasasmita. The development law of Mohctar Kusumaatmadja rests on the legal views of Eugen Ehrlich and Roscoe Pound's legal theory with Northrop's cultural philosophy and Laswell-Mc Dougal's "policy oriented" approach. The pressure point to be developed in the development of Mochtar Kusumaatmadja's model of national law is that in a change, law must play a role in it and the law must oversee every change. The essence of law in the development of national law is that the law must be able to keep abreast of the times and respond to changing times and place humans as subjects of law and not be bound by rules absolutely. Progressive law Satjipto Rahardjo starts with regulations and behavior, where law as an institution must deliver humans to a just and prosperous life and make people happy. Whereas Romli Atmasasmita's integrative law is a combination of Mohctar Kusumaatmadja's development law and Satjipto Rajardjo's progressive law. The point of emphasis is that the law must be applied in value. The three legal models are still the best as a solution to the stagnation of the legal system in Indonesia. Considering national law as a typical law of Indonesia which has ideology and philosophy of Pancasila in the context of legal development, it is necessary to transform the three legal models besides continuing to explore the life values of the Indonesian people both through the legislative process and jurisprudence.

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References

1. Arianto Henry. Hukum Responsif dan Penegakan Hukum di Indonesia, *Lex Jurnalica*, 7(2), 2010.
2. Atmasasmita Romli. Memahami Teori Hukum Integratif, *Legalitas*, II(2), 2012.

3. Atmasasmita Romli. Tiga Paradigma Hukum dalam Pembangunan Nasional, *Jurnal Hukum Prioris*, 3(1), 3-12.
4. Atmasasmita Romli. Teori Hukum Integratif: Rekonstruksi terhadap teori Hukum Pembangunan dan Teori Hukum Progresif, Yogyakarta: Genta Publishing, 2012.
5. Dimiyati Khudzaifah, Kelik Wardiono. Tipologi Pemikiran Hukum: Sebuah Eksemplar Pemikiran Mochtar Kusumaatmadja, *Digest Epistema*, 2(2), 2012.
6. Erwin Muhammad. Filsafat Hukum; Refleksi Kritis terhadap Hukum dan Hukum Indonesia dalam Dimensi Ide dan Aplikasi, Jakarta: Raja Grafindo Persada, 2018.
7. Jauhariyah. Pengaruh Sistem Politik dan Tipe Hukum Terhadap Politik Hukum Perundang-Undangan, *Jurnal Lex Librum*, 1(1), 2014.
8. Jones Harry W. Law and Morality in the Perspective of Legal Realism, *Columbia Law Review*, 61(5), 1961.
9. Latipulhayat Atip. Mochtar Kusumaatmadja, Padjadjar, *Jurnal Ilmu Hukum*, 1(3), 2014.
10. Massoud Mark Fathi. Ideals and Practices in the Rule of Law: An Essay on Legal Politics, *Law & Social Inquiry*, 41(2), 2016.
11. Nugroho Wahyu, Agus Suroho. Rekonstruksi Hukum Pembangunan dalam Kebijakan Pengaturan Lingkungan Hidup dan Sumber Daya Alam, *Jurnal Hukum Lingkungan*, 10(4), 2018.
12. Prastyo Teguh, Abdul Halim Barkatullah, Filsafat, Teori dan Ilmu Hukum; Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat, Jakarta: PT. Raja Grafindo Persada, 2017.
13. Rahardjo Satjipto. Hukum Progresif sebagai Dasar Pembangunan Ilmu Hukum, Semarang: Pustaka Pelajar, 2013.
14. Rahardjo Satjipto. Hukum Progresif Sebuah Sintesa Hukum Indonesia, Yogyakarta: Genta Publishing, 2009.
15. Rahardjo Satjipto. Memahami Hukum: dari Konstruksi sampai Implementasi, Jakarta: Raja Grafindo Persada, 2009.
16. Rahardjo Satjipto. Membedah Hukum Progresif, Jakarta: Kompas, 2008.
17. Ravena Dey. Mencandra Hukum Progresif dan Peran Penegakan Hukum di Indonesia, *Syarik Hukum*, 9(3), 18-19.
18. Ravena Dey. Wacana Konsep Hukum Progresif Dalam Penegakan Hukum di Indonesia, *Jurnal Wawasan Hukum*, 23(2), 2010.
19. Rodyah. Philosophy of Progressive Law on Establishment of Laws and Regulations in the Context of Substantive Justice: an Indonesian Experience, *International Journal of Business, Economics and Law*, 13(4), 2017.
20. Sebastian Tanius. Masalah Metodologis Ilmu Hukum Indonesia, *Veji*, 4(1), 2018. DOI: 10.25123/vej.2913
21. Setiawan Bayu. Penerapan Hukum Progresif oleh Hakim untuk Mewujudkan Keadilan Substantif, *Ansensensi*, *Jurnal Kosmik Hukum*, 18(1), 2018.
22. Shahrullah Rina Shahriyani, Elza Syarif. Proposing an Integrative – Progressive Model in Handling Troubled Indonesian Overseas Workers in The Transit Area: A Social – Legal Research in Tanjung Pinang City, Kepulauan Riau Province, *Indonesia Law Review*, 3(3), 2015, p. 310. DOI: <http://dx.doi.org/10.15742/ilrev.v5n3.187>.

⁴⁶ Romli Atmasasmita, "Tiga Paradigma Hukum...", *op.cit.*, p. 1.

23. Sudyana. The Model of Law Education to Achieve Progressive Law Enforcement, *Pandecta*, 12(1), 2017. DOI: <http://dx.doi.org/10.15294/pandecta.v12i1.12532>
24. Yasmin Munnir. Analysis of The Legal Thought of Postmodern Era of The Development Legal Theory By Mochtar Kusumaatmadja and Progressive Legal Theory By Satjipto Rahardjo For Legal Development of Indonesia In The Perspective of ontological, Epistemological And Axiological, *IOSR Journal Of Humanities and Social Science (IOSR-JHSS)*, 21(9), 2016. DOI: 10.9790/0837-2109026675.

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