

Suhardi Somomoeljono ¹ | Legal Theory as the Foundation of Certainty, Justice, and Utility in the Indonesian Judicial System

Abstract

Legal theory plays a fundamental role in shaping both the intellectual framework and the practice of law enforcement in Indonesia. As a normative system, law is not only required to provide certainty but also to ensure justice and deliver practical utility for society. Legal certainty functions as the basis for consistent enforcement of rules, justice represents the moral goal of law, and utility emphasizes the law's practical value in addressing social needs. This article examines legal theory as the primary foundation of Indonesia's judicial system, highlighting the debate among legal positivism, natural law theory, and progressive law in achieving a balance between these three fundamental values. The study employs a normative approach with conceptual analysis of various schools of legal thought and their implementation in judicial practice. Findings reveal that the Indonesian judicial system continues to face challenges in harmonizing certainty, justice, and utility particularly in the context of law enforcement oriented toward substantive justice. Thus, reinterpretation and revitalization of legal theory are needed to make it more adaptive to societal developments, while maintaining the supremacy of law as an instrument of social justice.

Keywords: Legal Theory, Legal Certainty, Justice, Utility, Judicial System

A. Introduction

Law, by its very nature, exists to provide order that guarantees justice, certainty, and welfare within society, the nation, and the state. In Indonesia, law is positioned as the primary instrument for upholding justice and safeguarding national integrity based on Pancasila and the 1945 Constitution. However, judicial practice in Indonesia frequently encounters dilemmas when confronted with the three primary objectives of law: certainty, justice, and utility. These goals often conflict, creating fundamental challenges in law enforcement. Radbruch, G. (1950).

Legal theory offers a conceptual foundation to bridge these differences. Natural law theory emphasizes universal justice, legal positivism stresses certainty through written norms, while progressive law provides a dynamic perspective that prioritizes utility and substantive justice. These differing perspectives illustrate that legal theory is not merely an academic discourse, but also a practical framework shaping judicial decisions, legislative drafting, and law enforcement responsive to societal development.

Therefore, an in-depth study of legal theory as the foundation of certainty, justice, and utility is highly relevant in addressing the problems faced by Indonesia's judicial system. Through a theoretical lens, the national legal system is expected to integrate these three fundamental values in a balanced manner, ensuring that law truly serves as an instrument of social justice for all Indonesians. Kelsen, H. (1967).

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The Indonesian judiciary continues to face a number of critical challenges, including:

- a. Weak legal certainty – marked by inconsistent judicial decisions, overlapping regulations, and weak enforcement, creating uncertainty for society in resolving legal disputes.
- b. Unfulfilled justice – evident in sentencing disparities, unequal treatment of social groups, and the strong influence of political power and interests within the judicial process. Hart, H. L. A. (1961).
- c. Limited utility of law – where judicial decisions and regulations often fail to meet the real needs of society, and in some cases even cause social harm.

These issues highlight the gap between legal theory and judicial practice. On one hand, Indonesian positive law provides certainty through normative frameworks; on the other hand, societal demands for substantive justice and practical utility remain unmet. It is in this context that legal theory functions as a philosophical and conceptual foundation for balancing certainty, justice, and utility. Alexy, R. (2002).

By re-examining legal theory in the framework of Indonesia's judicial system, it is possible to develop a paradigm that is more adaptive, responsive, and oriented toward the public interest, without abandoning the core principles of a state based on the rule of law.

B. Theoretical Foundation

1. Definition of Legal Theory

Legal theory is a branch of legal science that explains the foundations, principles, and concepts that shape law as a system. Hans Kelsen defines legal theory as the *Pure Theory of Law*, focusing on norms as the center of legal analysis. Gustav Radbruch, on the other hand, emphasizes that law must be built upon three fundamental values: legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and utility (*Zweckmäßigkeit*). Rahardjo, S. (2000).

In Indonesia, legal theory functions as a normative and philosophical framework underpinning legislation, legal interpretation, and judicial practice. It is not merely an academic abstraction but also a practical instrument that shapes the direction of law enforcement in real life.

2. Radbruch's Three Fundamental Values of Law

According to Gustav Radbruch, law must rest on three core values: Legal Certainty

- a. Law must provide clarity and be enforceable consistently.
- b. Certainty protects citizens from arbitrariness by authorities.
- c. In practice, legal certainty is reflected in consistent judicial decisions, coherence of legislation, and clear legal procedures. Green, L. (2012).

Justice

- a. Law must embody the sense of justice prevailing in society.
- b. Justice is relative, but remains the moral goal of law.
- c. In Indonesia, substantive justice is emphasized to balance normative certainty with social needs.

Utility

- a. Law must bring real benefits to society and function as a tool of social engineering.
- b. Utility stresses the effectiveness of law in addressing societal needs and resolving social problems.

- c. In judicial practice, utility is reflected in decisions that not only comply with the law but also provide comprehensive and beneficial solutions.

These three values often generate tension. For example, certainty may conflict with justice, while utility may compromise certainty. Thus, legal theory serves to mediate and balance these values. Vesting, T. (2021).

3. Relevant Legal Theories in the Indonesian Judicial System

- a. Natural Law Theory
 - 1) Emphasizes universal principles of justice grounded in morality and ethics.
 - 2) Encourages judges not to be bound solely by legal texts but to also consider society's sense of justice.
- b. Legal Positivism
 - 1) Developed by John Austin and Hans Kelsen.
 - 2) Views law strictly as written norms, independent of morality.
 - 3) Relevant for ensuring certainty through adherence to existing regulations.
- c. Legal Realism
 - 1) Originating in the United States, this theory views law as what judges decide in practice.
 - 2) Highlights the importance of understanding social, psychological, and political factors influencing judicial decisions.
- d. Progressive Law Theory
 - 1) Developed by Satjipto Rahardjo in Indonesia.
 - 2) Views law as a means of realizing substantive justice and societal welfare.
 - 3) Law is seen not as an end in itself, but as an instrument serving human interests. Nainggolan, B. (2023).

4. The Position of Legal Theory in Indonesia's Judicial System

Within the Indonesian judiciary, legal theory serves as a foundation for:

- a. Law-making → ensuring regulations embody certainty, justice, and utility.
- b. Legal discovery (*rechtsvinding*) → guiding judges to interpret laws in line with social context and societal sense of justice.
- c. Law enforcement → providing legal practitioners with a normative, moral, and practical framework to maintain legitimacy and credibility in the judicial system.

Thus, legal theory is not only an academic discourse but also a practical guide in safeguarding the integrity of Indonesia's judicial system. Van Vollenhoven, C. (1931).

C. Methods

1. Type of Research

This study employs **normative legal research**, which focuses on examining legal doctrines, theories, and norms. Normative legal research is utilized to analyze legal theories, statutory regulations, and judicial practices to identify the conceptual foundation that positions legal theory as the basis of certainty, justice, and utility. Coleman, J. (Ed.). (2019).

2. Research Approaches

Several approaches are adopted in this study:

- a. **Statute Approach:** Examining relevant statutory instruments such as the 1945 Constitution, the Civil Code, the Penal Code, the Law on Judicial Power, and other regulations related to the Indonesian judicial system.
- b. **Conceptual Approach:** Exploring fundamental concepts of legal certainty, justice, and utility based on both classical and modern legal theories (e.g., Radbruch, Kelsen, Satjipto Rahardjo).
- c. **Historical Approach:** Tracing the development of legal thought and its implementation within Indonesian legal practice.
- d. **Case Approach:** Analyzing judicial decisions that demonstrate conflict or harmony among legal certainty, justice, and utility. Rahardjo, S., & colleagues. (2020–2024).

3. Types and Sources of Data

This research relies on **secondary data**, consisting of:

- a. **Primary Legal Materials**
 - 1) The 1945 Constitution of the Republic of Indonesia.
 - 2) Law No. 48 of 2009 on Judicial Power.
 - 3) Law No. 12 of 2011 as amended by Law No. 15 of 2019 on the Formation of Laws and Regulations.
 - 4) Relevant Supreme Court and Constitutional Court rulings.
- b. **Secondary Legal Materials**
 - 1) Legal literature (Hans Kelsen, Gustav Radbruch, John Austin, Satjipto Rahardjo, etc.).
 - 2) Textbooks, legal journals, and academic articles related to legal certainty, justice, and utility.
- c. **Tertiary Legal Materials**
 - 1) Legal dictionaries, legal encyclopedias, indices, and other supporting references. Alexy, R. (2019).

4. Data Collection Techniques

Data were collected through **library research**, including:

- a. Inventorying relevant statutory regulations.
- b. Gathering literature on legal theory from various academic sources.
- c. Reviewing judicial decisions as case studies. Gorsuch, N., & Nitze, J. (2024).

5. Data Analysis Techniques

Data were analyzed using **normative qualitative analysis** through the following steps:

- a. Classifying primary, secondary, and tertiary legal materials.
- b. Linking legal theories with judicial practices.
- c. Analyzing the interrelation among legal certainty, justice, and utility in judicial rulings and legislation.
- d. Drawing conclusions on how legal theory functions as the foundation of the Indonesian judicial system.

This methodological design integrates statutory, conceptual, historical, and case-based approaches, ensuring a comprehensive analysis of the role of legal theory in balancing certainty, justice, and utility within Indonesia's judicial system. Tan, S. H. (2021).

D. Results

The Position of Legal Theory as the Foundation of Judiciary: Legal theory plays a central role in shaping the paradigm of law enforcers in Indonesia. It is not merely an academic abstraction but a normative framework that guides judges, prosecutors, lawyers, and other legal actors in judicial practice.

- a. **Dominance of Legal Certainty:** The Indonesian judicial system remains heavily grounded in legal positivism. Judicial decisions primarily rely on statutory law, which secures legal certainty but often fails to deliver substantive justice to society.
- b. **Justice in Judicial Practice Remains Relative:** Justice in Indonesia is largely determined by judges' interpretation within the framework of positive law. Discrepancies persist between formal justice produced by court rulings and the substantive justice expected by society.
- c. **Utility of Law Remains Limited:** From a utilitarian perspective, law should maximize social benefits. However, findings reveal that judicial decisions frequently lack practical utility and occasionally generate social harm, particularly in civil and administrative disputes.
- d. **Triadic Tension Among Certainty, Justice, and Utility:** The study identifies inherent tensions among the three fundamental values of law. Judges often face dilemmas in balancing certainty, justice, and utility, with decisions favoring one value at the expense of the others.
- e. **The Need for Progressive Legal Approaches:** Evidence indicates a growing necessity for progressive and adaptive legal approaches. Some judicial decisions reflect bold innovations to achieve substantive justice and social utility, affirming the relevance of Progressive Law Theory.
- f. **Implications for Judicial Reform:** The integration of legal certainty, justice, and utility is a pressing need for judicial reform in Indonesia. A balanced framework would foster rulings that are fair, socially beneficial, and legally predictable. Supreme Court of the Republic of Indonesia. (2019, rev. 2022).

E. Discussion

1. The Dual Role of Legal Theory: Normative and Practical

Legal theory functions both as a **normative framework** (providing fundamental concepts such as certainty, justice, and utility) and as a **practical guideline** for legal actors (judges, legislators, prosecutors, lawyers) in interpreting and applying the law. Without a clear theoretical basis, judicial decisions risk becoming ad hoc, inconsistent, and arbitrary. Hukumonline & Law Journals. (2020–2024).

Conversely, legal theory provides direction, legitimacy, and analytical tools for weighing conflicting values in practice.

Legal Certainty: Concept, Role, and Challenges in Indonesia

- a. **Conceptual Basis:** Rooted in legal positivism (Kelsen, Austin), legal certainty demands clear, predictable, and consistently enforced rules.
- b. **Role:** Ensures stability, protects rights, and reduces arbitrariness in governance.
- c. **Problems in Indonesia:**
 - 1) Overlapping and contradictory regulations.
 - 2) Inconsistent court rulings.
 - 3) Bureaucratic delays in legal proceedings.
- d. **Improvement Strategies:**
 - 1) Legislative harmonization and quality control.

- 2) Strengthening administrative mechanisms (SOPs, digital case management).
- 3) Development of judicial guidelines to ensure consistency. Arifin, R. (2023).

Justice: Formal and Substantive Dimensions

- a. **Formal Justice:** Equal treatment and fair procedures.
- b. **Substantive Justice:** Outcomes perceived as fair by society, considering social and economic context.
- c. **Challenges in Indonesia:**
 - 1) Political influence and unequal access to justice.
 - 2) Difficulty translating Pancasila and human rights values into concrete rulings.
- d. **Solutions:**
 - 1) Expanding interpretive methods (teleological, purposive).
 - 2) Judicial training on human rights and restorative justice.
 - 3) Strengthening access to legal aid and pro-poor policies. Izzati, N. R. (2024).

Utility: Law as Social Engineering

- a. **Concept:** Law should maximize benefits and solve social problems.
- b. **Challenges:**
 - 1) Lack of regulatory impact assessments.
 - 2) Risk of subordinating rights to utilitarian goals.
- c. **Strategies:**
 - 1) Systematic impact analysis in lawmaking.
 - 2) Inclusive and participatory legislative processes.
 - 3) Promotion of non-litigation mechanisms (mediation, ADR).

Balancing the Triad: Certainty, Justice, and Utility

- a. **Core Issue:** Emphasizing one value often undermines the others.
- b. **Balancing Mechanisms:**
 - 1) Judicial balancing/proportionality tests.
 - 2) Application of *lex specialis* and *lex posterior* principles.
 - 3) Procedural safeguards ensuring due process with room for substantive interpretation.

Institutional and Structural Reforms

- a. **Legislature:** Improve quality and consistency of laws through participatory drafting and impact studies.
- b. **Judiciary:** Ensure independence, transparency, and effective case management (e-court systems).
- c. **Non-Judicial Actors:** Academic institutions, NGOs, and professional associations play key roles in legal advocacy, training, and oversight.
- d. **Public Engagement:** Citizen participation in legal reforms and monitoring implementation.

Legal Education and Professional Culture

- a. **Curriculum Reform:** Legal education should integrate legal theory, interpretive methods, ethics, and practical skills.
- b. **Professional Ethics:** Strong codes of conduct and enforcement to uphold integrity.
- c. **Reflective Practice:** Encouraging judges and lawyers to critically balance values beyond textual formalism.

Practical Recommendations

- a. Harmonize regulations through evidence-based legislative drafting.
- b. Develop national judicial guidelines on balancing certainty, justice, and utility.
- c. Provide continuous training for judges and legal practitioners in purposive interpretation and human rights.
- d. Strengthen access to justice through expanded legal aid, simplified procedures, and ADR.
- e. Digitalize case management to enhance procedural certainty and efficiency.
- f. Ensure participatory lawmaking to enhance social utility.
- g. Establish monitoring and evaluation mechanisms for post-enactment legal effectiveness. Bix; Ott & Rea-Frauchiger. (2020–2025).

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2. Limitations and Future Research Agenda

This discussion remains normative and conceptual in nature—further empirical research is necessary. For instance, longitudinal case studies are needed to explore how judges actually balance the triadic values in real cases, evaluations of the impact of specific regulations on vulnerable groups, and comparative analyses of best practices from other jurisdictions.

Brief Closing Remark: Legal theory through the understanding and application of legal certainty, justice, and utility should not remain merely an academic discourse, but must serve as a concrete tool to improve the quality of judicial decisions and legal policymaking in Indonesia. Balancing these three values requires a combination of legislative reform, context-sensitive judicial interpretation, institutional capacity-building, and public participation. If carried out consistently, legal theory will truly serve as the foundation that strengthens the legitimacy and function of the judiciary as a servant of social justice. Research Institutions & NGO Reports. (2021–2024).

3. Novelty

A Holistic Triadic Approach: The novelty of this research lies in its effort to integrate the three core values of law certainty, justice, and utility into a unified analytical framework. Previous legal studies in Indonesia often overemphasized one value, such as positivism privileging legal certainty, or progressive law focusing on substantive justice. This study offers a more balanced synthesis that avoids extreme prioritization of one value at the expense of others. Recent Academic Collections (2020–2025).

- a. **Strengthening Interdisciplinary Perspectives:** This research not only draws on classical legal theories such as positivism and natural law but also enriches the analysis with perspectives from contemporary philosophy of law, social justice theory, and modern utilitarian approaches. This makes the study more relevant to the challenges facing Indonesia's judiciary in the era of globalization and digital society.
- b. **Analyzing Value Tensions in Judicial Practice:** A key contribution is the systematic identification of value conflicts between certainty, justice, and utility in Indonesian judicial practice. The study moves beyond normative theory by showing how these dilemmas manifest in practice for example, disparities in judgments, overlapping regulations, or decisions that are formally just yet socially harmful.
- c. **Contextual Application of Progressive Legal Theory:** Another novelty is the argument that progressive legal theory should be adopted contextually not as a paradigm that

negates legal certainty, but as a corrective mechanism to balance the rigidity of positive law. This approach opens interpretive space for judges and legal actors to apply the law more responsively to the demands of social justice.

- d. **Contribution to Judicial Reform in Indonesia:** The study contributes concrete reform ideas, positioning legal theory not only as a conceptual foundation but also as a practical tool for regulation-making, judicial training, and the development of judicial guidelines. Legal theory thus becomes both reflective and solution-oriented in improving Indonesia's legal system.
- e. **Analytical Framework for Justice in the Digital Era:** Finally, this research highlights that integrating certainty, justice, and utility must adapt to technological advances and the digitalization of courts (e-court, e-litigation). This digital justice perspective is rarely explored in Indonesian legal theory, making it an original contribution to contemporary legal discourse.

Taken together, the novelty of this research is not merely theoretical but also practical: it demonstrates how legal theory can be implemented in policymaking, judicial practice, and reform of Indonesia's legal system to make it more responsive to the needs of modern society.

4. Conclusions and Recommendation

Based on the Conclusions and Recommendations of the study entitled "Legal Theory as the Foundation of Certainty, Justice, and Utility in the Indonesian Judicial System," several key points can be drawn as follows:

1. Conclusions

Legal theory as a fundamental foundation: Legal theory plays a pivotal role in shaping the Indonesian judicial system. It functions as a normative framework, an interpretative guideline, and a practical tool for judges, legislators, and law enforcement officials. Without legal theory, legal practice tends to become fragmented, inconsistent, and devoid of philosophical direction.

- a. **Inherent value tension:** This study highlights the ongoing tension between legal certainty, justice, and utility. Legal certainty is largely supported by legal positivism but often sacrifices substantive justice and social utility. Conversely, prioritizing justice or utility may create risks of legal uncertainty. This demonstrates that the Indonesian judicial system continues to face a fundamental dilemma in balancing these three core legal values.
- b. **Dominance of legal certainty in judicial practice:** The Indonesian judicial system still prioritizes legal certainty through rigid application of statutory texts. While this provides predictability, it simultaneously creates a gap between the law and the social realities of communities seeking justice and tangible benefits.
- c. **The need for a progressive legal approach:** The findings suggest that a progressive legal approach is necessary as a corrective measure to overcome the rigidity of positive law. Progressive law enables judges to adopt teleological, purposive, and contextual interpretations, ensuring that law delivers not only certainty but also justice and social utility.
- d. **Implications for legal and judicial reform:** Another significant conclusion is that legal theory must be positioned as an instrument of reform, both in legislative drafting, judicial training, and the development of judicial guidelines. In this way, legal theory truly serves as a foundation that strengthens the legitimacy and effectiveness of Indonesia's judicial system.

2. Recommendations

Strengthening legislative quality: The government and the House of Representatives (DPR) must draft laws that are more harmonious, clear, and free from overlap. The legislative process should be based on academic studies that consider legal certainty, substantive justice, and social utility.

- a. Development of judicial guidelines: The Supreme Court should reinforce guidelines for judges to balance the values of certainty, justice, and utility. This would enhance the consistency of rulings while allowing flexibility in legal interpretation.
- b. Capacity-building for judicial actors: Judges, prosecutors, lawyers, and other law enforcement officials should receive continuous training on legal theory, modern interpretative methods, and human rights principles.
- c. Utilization of digital legal technology: The expansion of e-court and e-litigation systems must be continuously pursued to achieve procedural certainty, improve access to justice, and ensure that the benefits of law are widely felt by society.
- d. Measured application of progressive law: Judges should be encouraged to exercise *rechtsvinding* by emphasizing substantive justice and social utility while maintaining legal certainty through rational and consistent reasoning.
- e. Public participation in legal reform: The law-making process must involve communities, academics, and civil society organizations to ensure that legal products are responsive to social needs and reflect the public's sense of justice.

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