



A Study of Ronald Dworkin's Thought on Legal Positivism

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ABSTRACT

This paper provides an overview of Dworkin's view of legal positivism, particularly his understanding of law as more than a set of rules as Dworkin explains. Dworkin explains Dworkin's critique of legal positivism as concerning the principal claim of positivism which stipulates that the existence of law is determined exclusively by its formal source, methodology, or process and therefore, irrelevant is anything moral. Dworkin explains law as integrity, that legal reasoning or legal argumentation is required to be the best moral reasoning to make sense of the legal system. This paper adopts normative-philosophical research methods, using comparative and analytical methods to study legal positivism (Austin and Kelsen) alongside Dworkin's interpretive methodology. The study shows that Dworkin's philosophy of law integrates moral thinking and the theory of justice within the legal process and justice and legal reasoning. Dworkin's critique of legal philosophy, particularly reductivism and legal positivism, advocates a legal philosophy that is closer to the ideals of morality.

Keywords: Dworkin, Legal Positivism, Legal Interpretation, Principles, Morality.

ABSTRAK

Kajian ini membahas pemikiran Ronald Dworkin terhadap positivisme hukum, khususnya kritiknya terhadap pandangan hukum sebagai seperangkat aturan yang terpisah dari moralitas. Dworkin menolak klaim sentral positivisme yang menyatakan bahwa validitas hukum hanya ditentukan oleh sumber dan prosedur formal, bukan oleh nilai moral. Melalui konsep *law as integrity*, Dworkin menegaskan bahwa interpretasi hukum harus mempertimbangkan prinsip moral yang terbaik untuk menjelaskan praktik hukum secara koheren. Kajian ini menggunakan metode penelitian normatif-filosofis dengan pendekatan konseptual dan analitis, serta menelaah perbandingan antara positivisme hukum (Austin dan Kelsen) dan teori interpretatif Dworkin. Temuan penelitian menunjukkan bahwa pemikiran Dworkin memperluas cakupan analisis hukum dengan memasukkan dimensi moral dan prinsip keadilan sebagai bagian dari proses penemuan hukum. Oleh karena itu, kontribusi teoritis Dworkin memberikan kritik mendasar terhadap reduksionisme positivisme dan membuka jalan bagi model penalaran hukum yang lebih responsif terhadap nilai-nilai moral.

Kata Kunci: Dworkin, Positivisme Hukum, Interpretasi Hukum, Prinsip, Moralitas.

INTRODUCTION

Legal positivism is a notable school of thought in modern legal philosophy that argues that law is made up of rules that are valid only with respect to being created by a legitimate authority, irrespective of their moral content. John Austin and Hans Kelsen were prominent in the development of this thought; whereas Austin viewed law as being commands of the sovereign, Kelsen suggests a hierarchical system of norms in which the Basic norm is the foundational rule of legal validity. (Austin, 1861).

Critics contend that legal positivism is inadequate in addressing justice in the practice of law because it separates law from ethics. Dworkin is regarded as the most significant defender of legal positivism. In his critique of the core tenets, Dworkin argued that law is more than rules; it also comprises the moral principles that guide a judge's reasoning in the adjudication of a case. (Dworkin, 2013). His critique primarily considers the positivist assertion that the law has a genealogy or formal source criteria that bestow legitimacy upon the norm. Dworkin maintains that this methodology is insufficient to explain the reasoning employed by judges in complicated cases.

According to Dworkin's theory of 'law as integrity', judges have a duty to interpret the law as consistently and morally as possible, in accordance with the existing legal practices in the community, and in the most unified manner. (Dworkin, 1988). Most paradigms do not incorporate ethics alongside legal practice. Dworkin also uses legal positivism while offering a fresh perspective on law and its applications. This study is of utmost importance as Dworkin's ideas hold great practical and theoretical value in modern law and its enforcement. This is particularly true in Indonesia. This Institution claims that law is an order from legal authors. (March, 2023)

Several contemporary legal challenges—including human rights issues, normative uncertainties, and fundamental conflicts—demand an analytical approach that transcends mere mechanistic reasoning. (Hart, 1965). Dworkin's work is significant as it highlights how judges ignore morality when pursuing real justice. This research will focus on Dworkin's legal positivism and his criticisms of Austin and Kelsen, and how each is useful in contemporary legal practice. The normative-philosophical method elucidates the organization of Dworkin's theory and its impact on the advancement of legal knowledge. This study attempts to contribute to the literature on legal philosophy by providing an alternative to the predominant positivism in legal scholarship.

METHODS

The focus of this research is on Ronald Dworkin's legal positivism, his conceptions and theories, as well as his philosophical reasoning, accomplished through normative legal research methods. Normative legal research is examined here due to normative legal research's focus on abstract considerations of law, morality, and legal interpretation, rather than empirical material (Mahmud, 2016). The focus of this study is doctrinal research, analysis of literature, and critique of legal theories. Since legal philosophy is thoughtful, analytical, and scholarly, this

approach is appropriate. This study engages and builds upon Dworkin's philosophical arguments concerning legal positivism to critique it through a normative lens. This approach is, however, primarily prescriptive and evaluative. Scholars aim to understand how Dworkin constructed law as Integrity as a critique of positivism, and assess its conceptual frameworks. Normative research is distinct from empirical one, as the former relies less on observation of the social world and more on reasoning, debate, and theoretical frameworks (Wacks, 2021).

This research has relied on work done by Dworkin on abstract concepts, making the focus of the work on the constellation of concepts painful, including rights as trumps, principles and policies, contestable cases, law as integrity, and Hercules the Judge, several of which deal with law and philosophy. This research, from the given goal, applies legal structure to Dworkin's concepts and explains how they justify a criticism of legal positivism. The legal positivism core tenets – law and morality, genealogy, law as a rule, and law in Kelsen's Pure Theory of Law as a norm – are dealt with in the same fashion as Dworkin's ideology. This research attempts to explain Dworkin's ideology in the context of history. This work encompasses the study of the history of positivism in the 19th and 20th centuries, including the socio-political and intellectual environments of Austin, Bentham, and Kelsen. The experts then outlined positivism as the leading theory in Anglo-Saxon legal philosophy, which has brought criticisms from Hart and Dworkin. Having a fair knowledge of the major trends of contemporary legal philosophy and the interplays that brought about different legal theories, like classical positivism, modern positivism, Dworkin's interpretivism, which work in isolation from each other, and Dworkin's theory of legal positivism, to enhance analysis, is a great help. This approach involves a comparative study on how each of the two schools of thought views legality, legal validity, the role of judges, the law and morality, and the legal system. This exercise confirms Dworkin's non-positivistic drive to break the chains of positivism by avoiding a void of moral norm and, as such, in favor of a complex of order.

In this particular research, primary, secondary, and tertiary legal literature are utilized. Primary legal materials include Ronald Dworkin's *Taking Rights Seriously* (1977), *A Matter of Principle* (1985), and *Law's Empire* (1986) (Dworkin, 1988). This important book provides a summary of Dworkin's theories and also critiques legal positivism. Positivism is further elaborated in Austin's *The Province of Jurisprudence Determined*, in H. L. A. Hart's *Positivism and the Separation of Law and Morals*, and in Hans Kelsen's *Pure Theory of Law*. (Austin, 1861). The viewpoints and critiques of contemporaneous law and analytical observers are complemented within the inquiry through the integration of secondary legal materials. Secondary materials comprise textbooks and articles of legal philosophy, theses and dissertations of scholarly journals, and theses and dissertations of scholarly journals relating to the debate of positivism and interpretive theory. (Magnis-Suseno, 2016).

These tools expand on the scholarly analysis of Dworkin's philosophy about the theory's coherence, the problems regarding finality, and its ability to address contemporary issues of justice, as well as its overall assessments of theory coherence and justice issues. (Shapiro, 2011). Tertiary legal authorities are making their way in

legal dictionaries, encyclopedias, and other materials that should define and explain research terminologies. (Hellyer, 2005). Tertiary legal documents verify the analysis terminology but do not engage in debate. Literary studies (or library research) comprise the inquiries of legal materials in books, electronic journals, international legal databases, and scholarly library resources. (Bowen, 2009). Scholarly research examines academically relevant material with great deliberation. Researchers have conducted systematic searches for current publications in Dworkin's theory and the development of law in JSTOR, HeinOnline, SpringerLink, and Oxford Academic. The authors employ hermeneutic methods to distill the intricacies of the texts. (Gadamer, 2013).

The position argument centers around the fact that the context of the writer's intellect and ideas should be given prominence in constructing meaning. The research will focus on Dworkin's perspective on the notion of legal theory and practice and the morality of the legal practice. Reasoning will be used to extract the position of Dworkin and the rationale of legal positivism. This modality will help the scholars determine to what extent Dworkin's criticism has debunked the positivist theory or has simply introduced a different problem in legal theory. This technique will assist in producing a map of argumentation that captures the core of the dispute in the two divergent theories, e.g., separation of law and morality, the role of the judge, and legality. This research employs a mixed research design in a bid to attain comprehensive and coherent integration of the study. This line of study is able to be double-pronged in a bid to advance the study of legal science in the field of legal philosophy and the theory of interpretation of law. This research aims at legal theory in the framework of Dworkin's theory of legal practice. The focus will be on contemporary theories on legal practice that have to offer in jurisdictions like Indonesia, which are largely marred by legislative positivism and substantive justice.

RESULTS AND DISCUSSION

The volume undertakes the review of Ronald Dworkin's philosophy in relation to legal positivism, paying particular attention to the tension between viewing law as a system of rules, on the one hand, and as a moral-political endeavor, on the other, as a legitimate critique. Dworkin's critique has been narrowed down into four analysis domains: 1) the definition and scope of legal positivism; 2) Dworkin's critique of the positivist conception of rules; 3) law as integrity as a paradigm of interpretation; 4) the application of Dworkin's critique in contemporary law enforcement, including Indonesia. This arrangement emphasizes the theory's divergence between Dworkin and positivism and the relevance of the former's concept to the enhancements in modern legal philosophy.

The Basic Character of Legal Positivism

Legal positivism as a conceptual framework has profoundly influenced and shaped the core tenets of the prevailing legal traditions of the 19th century and the subsequent periods: the common law and civil law jurisdictions. The principal tenet of legal positivism is the concession that law consists of norms that should be accepted based on the legitimacy of the institutions that created them, irrespective of

the moral worth of such norms. (Austin, 1861). In the initial phase of positivism, John Austin developed his theory pursuant to command theory, wherein 'law is the command of the sovereign, backed by the threat of punishment.' (Austin, 1861). Educational positivism transformed into a more intricate structure, as influenced by Kelsen, who dismissed Austin's sociological and psychological aspects and substituted them with a theory of pure law (Pure Theory of Law), which emphasizes the normative architecture of the legal system. (Kelsen, 2005). The two variations of positivism differ greatly. Austin focused on law as a concrete phenomenon dependent on political power. Kelsen then focuses on law as a rational and ordered system, which sets it apart from morality. Both, however, retain the core tenet of positivism, namely that the existence of law comes from its formal sources and not the content's morality.

The insights of legal scholars Hart, HLA, and others have further developed legal positivism in the 20th and 21st centuries in the form of the specification of the rule of recognition as a more nuanced criterion of legal validity than a mere command of a sovereign. Hart identifies that judges do have chamber discretion in the absence of resources. (Hart, 1965). Dworkin later criticized legal positivism due to the concept of discretion. Dworkin outlines three central claims of legal positivism: The source thesis, which claims the law's validity is only dependent on the official source, and thus, begs the question of morality. The discretion thesis, which asserts that a judge is permitted to take discretion when rules are vague or incomplete to construct a new law. The separation thesis argues that there is a difference between law and morality.

Dworkin counters these three figures by affirming that judges always consider moral tenets, arguing that law goes beyond mere rules and is an interpretative activity that requires harmony and completeness. Legal positivism is one of the most influential branches of contemporary legal theory, characterized by an unequivocal division between law and morality (the separation thesis) (Hart, 1965). Classical positivism, as articulated by John Austin, perceives law as a command emanating from a (sovereign) power (command theory) (Austin 1861). According to Austin, law exists as a command, as it is backed by the possibility of sanctions, and not as it may be examined through the lenses of fairness and morality. This theoretical framework of law, advocates of this school of thought assert, concludes that a law may be valid not in its morality, but in the legitimacy of its power. Supporters of positive law insist that it is essential to draw the line between law and morality, between laws that may be enforced and those that ought to be enforced, and between reality and ideals. (March 2023).

New evidence suggests a recent modification of positivism by Kelsen. In 'The Pure Theory of Law', Kelsen attempted to legally exclude non-judicial elements such as politics, sociology, and morality. (Kelsen, 2005). According to him, the Basic Standard is the most fundamental norm serving as the underpinning for all other norms in the legal system. Modern positivism, as espoused by Kelsen, suggests that legislation builds a structure of norms in a hierarchy, which is indifferent to moral considerations. (Kelsen, 2005). This approach assists in arguing that law is a formal entity that can be dissected aside from moral concerns. In the 20th century, Hart

H.L.A. developed in more refined positivist re-analytical approach. In the Concept of Law, Hart analyses primary versus secondary norms, and argues that the recognition of law as a valid instrument is made through a rule of recognition, a formal criterion of law which is endorsed by the legal power holders. (Hart, 2012)

Although Hart conceded the possible impact of morals on the making of laws, he unknowingly further espoused analytical positivism and thus the principle of the separation thesis by claiming that the truth of laws is based on social factors, not on morals. Hart and Kelsen's forms of positivism received criticism from a host of scholars due to their supposed inability to deal with the moral dimension of the practice of law. Ronald Dworkin, positivism's most eloquent critic, argues that legal reasoning is too much oversimplified on account of a core norm. (Dworkin, 2013). Dworkin argues that positivism falls short of giving adequate explanations as to how judges decide matters of judgment, especially in murky contexts involving no clear rules.

Dworkin's Critique of the Dominance of Rules in Positivism

Dworkin has affected legal theory positivism by concentrating on the dominance of rules in positivism. According to Dworkin, positivism, primarily Hart's theory, reduces the practice of law to a set of rules and a dull, mechanical application of rules... Hart's positivism views law as a set of rules to be applied in a mechanical process. In rule-oriented legal systems, there exists, in Hart's view, a rule of recognition, an all-or-nothing rule that states certain situations and matters fall within the purview of legal positivism. If matters fall within the legal positivism all-or-nothing rule, judges have the discretion to set the rules. In opposition to that view, Dworkin views the system as inclusive of rules, moral considerations, and the performance of standards that were not operative as rules but were still valid as components standard of the system.

In response to Hart's positivism and Dworkin's view rules theory, Dworkin's strand of legal theory argues that positivism fails to account for principles and that judges don't have a liberty of discretion to create legal standards in the system since judges, in view of Dworkin, are confined, as it were, by moral principles in a system of legal practice and a system of legal institutional memory. In Dworkin's view, the overemphasis of rules in a system of legal positivism appears to be reductionist and unsatisfactory in a system's legal theory. Defense of legal positivism assumes that law, in the system, presupposes only rules.

According to positivist philosophy concerning norms, the choice is binary; that is, either they apply universally, or they do not apply at all. (Dworkin, 1985). Dworkin argues this perspective misses the core of what judicial reasoning entails. In the field of the law, judges not only apply the rules, but also use foundational ethics, which are more malleable and can justify reasoning in some decisions. Furthermore, judges are entrusted with the responsibility of protecting the law's connection with human beings, preventing the law's isolation from the human condition, and ensuring that the law serves the betterment of humanity. (March

2023). Conceptualization Fundamentals: The contributions of Dworkin's case/standpoint can significantly enrich legal theory.

He differentiates his viewpoint regarding principle from rule by stating that principle lacks conclusive legal consequences; rather, it bears moral significance to guide the discretion of a judge where responsive rules are deficient. (Gregory, 1987). As such, principles are not the rules that prescribe, but the reasoning that explains the understanding of law. This distinction is important because it expands the scope of the legal materials from being only formal rules to also including the ethical principles that are part of the legal process.

Dworkin also pushed back on the Positivist lineage, which argues that the legitimacy of laws is based upon the formal genesis and procedural steps of the laws for their development. By formulating these norms of law and using them to criticize law and legality, he is thus creating a jurisprudence. (Bix, 2018). Dworkin argues that there are some judicial norms that are not traceable to formal sources. Particular concepts of law are relevant not because they are specifically articulated; they are relevant because they have been determined to be useful for purposes of consistently illuminating legal theory. The ideals of equality and justice, and fairness are frequently absent from written rules; nonetheless, they are essential and available to judicial decision makers in a great number of situations. Dworkin responded to Hart's position regarding the rule of recognition. In Hart's theory, the rule of recognition functions as the standard that shows the outer boundaries of what is legally valid. However, Dworkin thinks that the rule of recognition does not account for the absence of the moral values that are so frequently embedded in judicial discretion. (Burton, 1987). Judges have no reason to use moral reasoning to adjudicate disputes if the law comprises solely of legally acknowledged norms.

There exist relentless debates surrounding the nature of judicial law-making, yet courtroom experience suggests the complexity of the debate, if any, is defensive toward the practice. Dworkin relied on the notion of "hard cases" to expand on his critique, in which he juxtaposed the claims of the positivist school of thought regarding the limitations of the law to cases in which he argues courts are competent to create law (Dworkin, 2013). As Dworkin suggests, in challenging cases, judges do not make law; they choose the best solutions to legal problems through a deep and principled reading of the law (Dworkin, 1988). The law has principles (inherent) that govern what judges can do at their discretion.}

The Law as Integrity Paradigm as an Alternative to Positivism

In an attempt to correct positivism's shortcomings, Dworkin, in his landmark work *Law's Empire*, developed a theory of law as integrity. Such an interpretation involves viewing the law as a system of representations that can be understood and presented in the most just and coherent manner. (Dworkin, 1988). Within this idea, judges play the part of authors in a collective writing project, responsible for creating the following chapter in correlation to the antecedent chapters composed by other individuals. (Dworkin, 1988). One of the concepts proposed by Dworkin, which is an example of a legal theory that opposes positivism, is law as integrity. The most

central of these claims is the emphasis that law should be viewed as a systemically one complete entity, which judges will be morally cohesive with the best explanation for the set of legal norms a country operates with. Dworkin refuted the claim that law is simply a collection of rules given by someone with authority, with law itself being a part of the moral confusion of legal norms. In law as integrity, judges are not lawless in the face of ambiguity, as they must grapple with the case as "judge Hercules" who, with his coherence of legal history as a whole, embodies a legal system that is the most rational and just in their decision.

Law as Integrity claims that law exceeds mere institutional molding; it constitutes a practice of moral interpretation that harmonizes norms, precedents, and principles and seeks coherence and integrity. The law inherently embodies integrity. A legal society is, therefore, a moral community attempting to preserve the ideals of justice. Consequently, law interpretation must incorporate moral principles to yield the most complete explanation of the given legal order (Dworkin, 1988). This indicates that judges experience challenges with specific cases; therefore, beyond taking the rules into consideration, judges must display interpretive flexibility, with the interpretation having political nuances, in order to achieve true justice. Judges must painstakingly search for the truth and for justice actively throughout the judicial process (Astim, 2010). The concept of rights as trump cards also plays an important role in Dworkin's philosophy. He contended that one's rights must not be sacrificed solely for utilitarian purposes and/or efficiency (Dworkin, 2013). Ethical principles impose restrictions on governmental actions to curtail civil liberties in favor of the greater good. This strategy departs markedly from positivism, which, in many instances, privileges substantial authority to the detriment of the ethical obligation to respect fundamental civil liberties.

Dworkin also introduced theoretical personas, one of whom is Judge Hercules, a model of a super-judge, possessing extraordinary legal wisdom, as well as the theoretical ability to parse any statute with perfect accuracy. (Dworkin, 2013). The metaphorical notion of Hercules gives judges a lens to understand the law in conjunction with the entire legal system, ethical considerations, and inner consistency. Hercules neither invented new legal norms nor formulated them, but, after a painstaking review of legal practice, discerned the most fitting solutions. The idea of law in its completeness and coherence poses a significant challenge to positivism. If one views the law as moral coherence within its interpretation, then positivism, which seeks to sever the connection between law and morality, collapses as a coherent theory. (Raz, 2009). Dworkin's theoretical exposition shows that the law should not be perceived purely as a system of formal rules but should rather be understood as a normative practice that is intrinsically linked to ethics and justice.

The Relevance of Dworkin's Thought in the Modern and Indonesian Context

The evolution of modern legal theory and practice is, in no small measure, impacted by Dworkin's work. In modern society, a number of legal problems cannot be addressed by written rules alone. Problems of a human rights nature, constitutional issues, discrimination, and protection of the vulnerable, the legal

issues require an adaptive approach to the ideals of ethics. (Himma, 2020). Dworkin's contributions remain relevant in understanding modern legal theory and practice. In contemporary society, there are many legal issues that cannot be remedied solely through legislation. Issues such as human rights, constitutional conflicts, discrimination, and the protection of minorities require a more flexible interpretive approach grounded in ethical considerations.

Dworkin has supplied a foundational argument for a flexible approach focused on substantive justice. Dworkin offers a philosophy that is particularly applicable in contemporary Indonesia, given that his views on the concepts of moral values, integrity, and uniformity of interpretation in the application of the law have become increasingly relevant. Within the complexities of Indonesia's constitution – specifically judicial review by the Constitutional Court, human rights protection, and administrative law courts – Dworkin's perspective serves to state that judges ought to go beyond the mere application of the rules to a text, and consider law as a venture saturated with values. When it comes to positive law, which is frequently sketchy, susceptible to numerous interpretations, and contradictory, the method of law as integrity ought to be framed. Judges and lawmakers ought to be motivated to bring their decisions and policies into harmony with the substantive principles of the Constitution, such as justice and equality, as well as the protection of the rights of the people.

The tendency of Indonesian courts to interpret laws positively, evaluate legal documents concerning laws of the land, and exercise decision loyalty as a dimension of legal system fidelity is indicative of the system's integrity. Dworkin's theory provides just the right normative base for supporting a system of justice that is substantive in fairness and not merely a matter of process. In Indonesia, the relevance of Dworkin's theory is becoming more pronounced in the decisions of the Constitutional Court (MK), where moral considerations and constitutional imperatives are employed to affect the lex a lesser standard of legal reasoning. Many decisions of the Constitutional Court unreservedly declare justice, equality, and the rights of the constitution as substantial justice. This is in accord with the idea of law as integrity, to which judges do not merely apply the law but also invoke the constitution as a moral-political device. Moreover, in the Indonesian legal system, which is oriented to civil law and with constitutionalization, the value of interpretation has become even more pronounced (Asshididie, 2022). The contemporary understanding of law is no longer limited to a norm of writing, as a constitutional paradigm, and carries a more profound form of social conscience. This illuminates the importance of Dworkin's argument, which espouses the significance of principles in the law's construction.

Mochtar Kusumaatmadja argues that in Indonesia, law has an additional function aside from utility, which is to stimulate social change. This idea has been given recognition as a particular institution in the field of legal philosophy, as the Unpad School of Legal Philosophy. However, the implementation of Dworkin's theory is not without problems. Indonesia's pluralistic legal system, which is subject to multiple authorities of law – religion, customs, and statutes – searches for a unified moral consistency elusive (Magnis-Suseno, 2016). In addition, judges'

abilities to perform integrative interpretation are not evenly distributed, resulting in discrepancies in interpretation that are not small by any means. Dworkin's theory primarily defends the establishment of a substantive justice court. Dworkin's amalgamation of the formal and the moral in his interpretation facilitates the legal system of Indonesia to respond to more complicated contemporary problems. Dworkin's contribution to legal studies was immense. He changed the approach to legal philosophy from a rules-based to a principles-based theory, bringing a fundamental shift in the way it was viewed. (Dworkin, 2013)

Within constitutional theory, he builds upon the justification that interpretive practices within the Constitution must be moral and systematic (Zreik, 2019). Whilst bearing in mind the aims of the judiciary in the area of its rationale, particularly in relation to human rights and constitutional affairs, the judiciary is encouraged to foster a culture of progressive interpretation (Asshiddiqie, 2022). Dworkin's influence is pervasive in several decisions taken by the Constitutional Court of Indonesia.

CONCLUSION

Ronald Dworkin's critique and subsequent expansion of legal positivism have greatly influenced contemporary Dworkin considers positivism to go against the claim that law and morality are mutually exclusive and the view that law is merely an edict of an authority holder. Law as integrity views morality as not an external addition to the law's principles, but as an internal component. Dworkin argues that in order to be rational and just, judges must incorporate the moral principles of legal positivism and be rights-justifying. This describes the weakness of legal positivism in contrast to the rational principles of Dworkin. Dworkin dismantled Hart's legal positivism through principles, policy, and constructive interpretation. Dworkin proposed a triadic model consisting of pre-interpretive, interpretive, and post-interpretive, whereby the judge is an interpreter of the law and a possessor of legal morality. Therefore, judges must morally stand and be the ones to ensure that the law does not fail to satisfy the moral justice of society. Dworkin's critique of Hart's rule of recognition illustrates that the law is a relationship of rules and principles, thus not a monolithic entity.

Aspects of Dworkin's Thesis focus on the moral interpretation of the constitution, which anchors it to modern-day constitutionalism. The U.S. Supreme Court, the European Court of Human Rights, and the Indonesian Constitutional Court serve as examples of how a morally progressive interpretation of the constitution can protect the rights of the people and act as a safeguard. Dworkin's interpretivism can be shown in significant decisions made in Indonesia, as it encourages the protection of rights and the assessment of the law on a legal basis. This goes to show how legal positivism does not meet the demands of a pluralistic and democratic society, especially the demands of substantive justice. Community legal traditions and Asian legal theory critiqued Dworkin's approach as overly liberal, focusing on the individual. Beyond the individual, however, integrity, coherence, and moral interpretation of the law must be preserved in Indonesian legal thought. Dworkin does not abandon positivism. Rather, he expands the scope of

legal interpretation to include morality, substantive justice, and the preservation of the legal order. This leads to the conclusion that Dworkin's theory presents a strong conceptual ground in the building of a justice system that is not only coherent and just but responsive to ethics. His theory encourages legal practitioners and legal scholars to view law as a moral endeavor, one that demands alignment, integrity, and a sense of moral responsibility. The balance between legal certainty and justice that Dworkin talks about is what is predominant in law and is what is needed in the development of the law in Indonesia.

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