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Shifting the Paradigm of the Indonesian Judicial System from The Influence of the Anglo-Saxon Judicial System

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Abstract

The litigation process in court will run well if all the elements are carried out following their duties and functions. In addition, what is very important is the judicial system that applies. The objectives of this research are 1). To find out and analyze the paradigm of how judges think in the Indonesian justice system, which adheres to the Continental European justice system. 2). To find out and analyze the development of the Indonesian justice system, especially how judges think, which is currently influenced by the Anglo-Saxon system. This research method is normative, namely legal research that aims to find rules or norms. This research is also called library research. Results of discussion 1). that the paradigm of the way of thinking of judges in the Indonesian justice system, which adheres to the Continental European justice system, is more inclined to use statutory regulations as the basis for deciding cases. The principle adopted is the persuasive force precedent. 2). The development of the Indonesian justice system, especially the way of thinking of judges, is currently experiencing a shift, namely that it is no longer pure with the Continental European justice system but is starting to introduce what is the practice in the Anglo-Saxon justice system, for example, the practice of class action lawsuits which have been regulated in environmental laws.

1. Introduction

The thing that is becoming a reality now is that it has become common gossip everywhere that the performance of judicial institutions in Indonesia is abysmal and is still far from ideal expectations, namely the existence as an institution that can guarantee legal justice for the community and adhere to the principles of independence and objectivity consistently.

This situation requires the courts in Indonesia to be able to provide good services for justice seekers to be more transparent, accountable, and professional. The judicial process depends on the judges and how to carry out their duties and functions.

The judiciary initially positioned as the gateway for resolving disputes between disputing parties through legal means, often issues decisions that are confusing because they are inconsistent with each other, for example, the judgment of the civil case in the Grogot Land District Court in Judgment No.10/Rev.G/2015/PN.Tgt. The Panel of Judges also handed down the judgment immediately (*uitvoerbaar bij vooraad*). However, it turned out that the judgment was not executed or implemented by the local District Court, which also caused problems because the Plaintiff did not get legal certainty in the judgment., thus making the disputing parties increasingly entangled in prolonged conflict-realizing law enforcement in an independent and independent justice system, as mandated by the 1945 Constitution.

The judicial power occupies a strategic position in a rule-of-law state. This follows what is emphasized in the 1945 Constitution, which reads, "the state of Indonesia is based on the law (*rechtstaat*), and not based on sheer power (*machtstaat*).

Judicial power involves carrying out legal principles through, among other things, the judiciary. Judicial power is an independent power to administer justice to uphold the law and justice.[1]

This affirmation can also be seen in the Judicial Powers Act, which states that judicial power is the power of an independent state to administer justice to uphold law and

[1] Article 24 paragraph (1) of The 1945 Constitution of the Republic of Indonesia

justice based on Pancasila for the sake of the implementation of the legal state of the Republic of Indonesia.[2]

Based on the fact that there is a civil court, we are perceived to be slow. It took 390 days to complete the lawsuit in the district court (PN) until execution. Settlement of civil disputes is also perceived as expensive. It takes a fee of up to 74 percent of the value of the dispute to resolve the case to carry out a civil decision. More generally, civil courts still need to be seen as needing more power. There are many obstacles so that civil decisions can be implemented to restore the rights of justice seekers.[3]

One of the reasons for all of this is the civil justice system that we adhere to. So far, the civil justice system has followed the Continental European justice system that applies to civil law countries. Apart from that, one of our sources of civil procedural law is still regulated in the HIR and RBG.[4] For this reason, the author is interested in studying and analyzing the development of the judicial system practices in Indonesia which have begun to implement several judicial system practices in Anglo Saxon and are not regulated in the HIR and RBG.

2. Problem Statement

Based on the description above, the problems in this paper are as follows What is the paradigm of how judges think in the Indonesian justice system that adheres to the Continental European justice system in practice and how is the development of the Indonesian justice system, especially the way judges think today, influenced by the Anglo-Saxon system

[2] Article 1 of Law of the Republic of Indonesia Number 4 of 2004 concerning Judicial Power, in conjunction with Article 1 of Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power.

[3] Binziad Kadafi, "Quo Vadis Sistem Peradilan Perdata," kompas.id, October 19, 2018, https://www.kompas.id/baca/opini/2018/10/20/quo-vadis-sistem-peradilan-perdata/.

[4] HIR stands for Herzien Inlandsch Reglement which is often translated to Reglemen Indonesia Refurbished, which is the procedural law in the trial of civil and criminal cases in force on the islands of Java and Madura. This reglement was valid in the Dutch East Indies era, listed in the State Gazette (staatblad) No. 16 of 1848. Meanwhile, RBG [abbreviation of Rechtreglement voor de Buitengewesten which is often translated Reglement "Hukum Daerah Seberang" (outside Madura Java)], which is the procedural law that applies in the trial of civil and criminal cases in courts outside Java and Madura. Listed in Staatblad 1927 No. 227.

3. Methods

Research on the Shifting Paradigm of the Indonesian Judicial System from the Influence of the Anglo-Saxon Judicial System is normative research, namely legal research that aims to find rules or norms. This research is also called library research. Following the object of study, namely legal norms, this research is based on the availability of secondary legal materials.

The approach is carried out by using the method, namely first, the statutory approach which is carried out by examining all related laws and regulations and other regulations that are related to the legal issues being handled. Second, the conceptual approach is carried out by studying the views and doctrines in the field of law.[5]

According to Marzuki, legal materials are official documents in the form of all legal publications. Publications on law include statutory regulations, government regulations, textbooks, legal dictionaries, legal journals, and comments on court decisions.[6]

The analytical method used in this research is qualitative analysis. This study intends to qualitatively analyze the shift in the paradigm of the Indonesian judicial system from the influence of the Anglo-Saxon justice system, which is carried out in three ways: First, systematization of legal materials. Second, evaluation of legal materials. Third, determine how it should be renewed.

4. Discussion

4.1. The Paradigm of the Way of Thinking of Judges in the Indonesian Civil Justice System

Civil courts are expected to provide legal protection to everyone due to vigilante actions (*eigenrichting*) carried out by fellow legal subjects in private relations. In other words, civil justice must guarantee law implementation in civil law.

Civil law itself has principles that the mechanism must implement. The legal principles in the civil procedural law system are guidelines for the judicial

[5] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2014), 93–94.
[6] *Ibid*.

environment in proceedings. Legal principles as basic norms that are described as primary or general guidelines.

As is known until now, the settlement of civil cases in court still comes from Het Herziene Indonesische Reglement (HIR) and Reglement Buitengewesten (RBG).[7] as a source of civil procedural law in Indonesia which was adopted based on the principle of concordance because it is a product of the Dutch colonial government which is still valid today, concerning Article 2 of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia.[8] HIR is often translated as "Updated Indonesian Regulation," which is the procedural law in civil and criminal trials that apply on the islands of Java and Madura. This regulation was in force during the Dutch East Indies era, as stated in the State Gazette (staatblad) No. 16 of 1848. Meanwhile, RBG translates to "Law Regulation of the Opposite Region," which is the procedural law that applies in civil and criminal trials in courts outside Java and Madura (listed in Staatblad 1927 No. 227).

The examination of cases in civil courts is carried out through stages: preparation. Second, inspection. Third, determination. In civil courts, there are 2 (two) essential things needed, namely the event which is the object of the dispute and which follows the law.

As one of the law enforcement officers, the judge has a duty as one of the determinants of a case decision from the disputing parties. In order to resolve the problems or conflicts he faces in the decision-making process; judges must be independent and free from the influence of any party. Judges, in making decisions, are only bound by relevant events or facts and legal principles that become or are used as a juridical basis.

According to R. Soepomo, as quoted by Elizabeth Nurhaini Butarbutar, in civil court, the task of the judge is to defend the civil law order and determine what has been

[7] Yudha Chandra Arwana and Ridwan Arifin, "Jalur Mediasi dalam Penyelesaian Sengketa Pertanahan Sebagai Dorongan Pemenuhan Hak Asasi Manusia," *Jambura Law Review* 1, no. 2 (July 29, 2019): 212–36, https://doi.org/10.33756/jalrev.v1i2.2399.
[8] Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Yogyakarta: Cahaya Atma Pustaka, 2018), 3.

determined by law in a civil case.[9]

In essence, the best and most appropriate implementation of civil law is when it is carried out voluntarily or peacefully by the parties. Civil procedural law is intended to enforce civil laws expressed and enforced by courts. Courts must be able to make decisions that are in nature to resolve cases under the legal awareness of society to create peace in society.

A proper and just judicial process will gracefully contribute to the truth and enlighten people's behavior. More than that, a correct and wise court decision will prevent the emergence of vigilante actions and distrust of the court institution.

For that, Charles Himawan already reminded that the judiciary is an essential body of a country's legal process because the judiciary can reflect the application of applicable legal provisions. The non-implementation of a legal provision by the judiciary will automatically weaken national security.[10]

To create an accurate and fair trial, of course, it is upheld by the executor of the court itself; namely, one of them is a judge. The court executors themselves in civil justice, apart from judges, there are also clerks, bailiffs, legal advisers, and others.

Traditionally, there have been two major legal systems in the world, namely Civil Law and Common Law.[11] Furthermore, the civil law legal system carries the tradition of the Continental European justice system, and the standard law legal system carries the tradition of the Anglo-Saxon justice system.

The differences between the two legal systems are based on the role of statutory law and jurisprudence (judiciary decisions). Countries with a civil law system or Continental European justice system place statutory law (regulations) as the central pillar of their legal system. Meanwhile, countries with a standard law system or an

[9] Elisabeth Nurhaini Butarbutar, "Konsep Keadilan Dalam Sistem Peradilan Perdata," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 21, no. 2 (2009): 354–69, https://doi.org/10.22146/jmh.16262.
[10] Charles Himawan, *Hukum Sebagai Panglima Tertinggi Penerbit Buku Kompas* (Jakarta: Kompas, 2003), 40.
[11] Muhammad Dzikirullah H. Noho, "Mendudukan Common Law System Dan Civil Law System Melalui Sudut Pandang Hukum Progresif Di Indonesia," *Rechtvinding Online. September*, 2020, 1.

Anglo-Saxon justice system make jurisprudence the central pillar of their legal system.

The civil law legal system has three characteristics,[12] namely, First, there is a codification system; Second, judges are not bound by precedent or the stare decisis doctrine, so laws become their main legal reference; All three justice systems are inquisitorial.[13]

The codification system must create legal uniformity within and amidst legal diversity. For this reason, the main and most important solution is codifying laws against various existing regulations. The civil law legal system tends to plan, systematize and regulate everyday matters in a comprehensive manner formed by legal rules as a product of legislation.

In handling a case, the judge will look for references to the rules following the case being handled. Judges in the civil law legal system are active in finding facts and careful in assessing evidence to get a complete picture of the case.[14] Such a situation places the judge at the center because he examines directly the material dispute or case being handled and, at the same time, applies the sentence. Juries do not recognize the Continental European justice system. This makes the responsibility of the judge heavier because the judge must examine, apply, and at the same time decide the law.

Judges in the Civil Law legal system or Continental European justice system trying to get a full picture of the events that confronted him from the beginning. This system relies on the professionalism and honesty of the judges themselves.[15]

The Indonesian civil court refers to the civil law justice system, where the role of the judge is only to apply the law. In contrast, in the common law justice system, judges form the law. In the Indonesian civil justice system, which is more inclined towards

[12] Sunaryati Hartono, *Politik Hukum Menuju Satu Sistem Hukum Nasional* (Bandung: Alumni, 1991), 32.
[13] Compare the opinion of Nurul Qomar, *Perbandingan Sistem Hukum Dan Peradilan Civil Law System Dan Common Law System* (Makassar: Pustaka Refleksi, 2010), 40.
[14] Fence M. Wantu, "Kendala Hakim Dalam Menciptakan Kepastian Hukum, Keadilan, Dan Kemanfaatan Di Peradilan Perdata," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 25, no. 2 (2013): 205–18, https://doi.org/10.22146/jmh.16092.
[15] Qomar, *Op.Cit.*, 47.

civil law, judges are less able to think freely, meaning the law always binds them. Meanwhile, in the common law justice system, judges can think freely so that the judge's decision in certain circumstances can function as a new law.

In its development in Indonesia, when judges make decisions, they sometimes look at other regulations, namely jurisprudence. This cannot be said that Indonesian judges are bound by jurisprudence as it applies in the common law justice system, namely the binding force of precedent. The judge's orientation towards the decision he followed was following his belief that the decision was right, the persuasive force of precedent.[16]

Sudikno Mertokusumo stated that even though we do not adhere to (the binding force of precedent) as adhered to in England, the judges are bound or oriented because they are sure that the decisions, they follow regarding similar cases convince them that the decision is correct (the persuasive force of precedent).[17]

Mahfud expressed a different opinion. Which states that the Indonesian state is not a Common Law state legal system or an Anglo-Saxon judicial system or a Civil Law legal system, or a Continental European justice system but a prismatic legal state, in which the state is based on the ideals (ideas of law) of Indonesian law. The existence of these two systems is a "balancer," and their adoption is not absolute. There is still a filtering process in them.[18]

Following the provisions of the judicial power law, the judicial system in Indonesia does not adhere to the principle (the binding force of precedent). However, it is indeed odd if the judge decides contrary to his own decision or with the decision of his superior court regarding a similar case because then it shows no legal certainty. Instead, the judge must follow and understand the legal values that live in society.

In practice, the Indonesian justice system, which adheres to the Continental European justice system, is always faced with weaknesses in making decisions, ultimately

[16] Mertokusumo, *Op.Cit., 115*.
[17] *Ibid*.
[18] Noho, *Op.Cit*.

becoming an obstacle. According to Munir Fuady, the obstacles faced by the judge are as follows:[19]

1) judges still hang on to court documents and never see what happened, so differences are inevitable;
2) judge never investigates the field to seek the truth;
3) judges have feelings, emotions, interests, and subjective views so that it is impossible to be neutral in making decisions;
4) justice sought by judges has no real meaning;
5) justice and truth are relative;
6) generally, in Continental European law, especially in the field of civil procedural law, judges only seek formal truth;
7) sometimes, there is competition between justice and legal certainty in a court decision;
8) justice is closely related to the element of emotion, so that general sentiment is formed towards justice;
9) judge, it is impossible to be wise because generally, judges only deal with concrete matters in cases.

Seeing the obstacles described above, the Indonesian justice system, which adheres to Continental Europe, must innovate for a better future. Judges should not be faced with a problem that hinders the law enforcement process, especially in civil courts.

Besides Indonesia as a country that adheres to the Civil Law legal system or the Continental European justice system, statutory regulations are very important to be used as the basis for making a judge's decision. One unimaginable thing is how in a civil event, it turns out that no laws and regulations regulate it.

The judge may not refuse to examine the case in the judicial power law. A judge must accept and examine cases submitted to court until they are complete. In civil procedural law, judges may only refuse to examine and adjudicate cases because the law is clear. Court is prohibited from refusing to examine, try and decide on a case filed on the pretext that the law does not exist or is unclear but is obliged to examine

[19] Munir Fuady, *Dinamika Teori Hukum* (Bogor: Ghalia Indonesia, 2007), 130.

and try it.[20] The provisions referred to do not close efforts to settle civil cases amicably.

In addition, in deciding cases in court, the judge's decision must be based on impartiality and equal treatment to the parties.[21] According to Busyro Muqoddas, the judge, in making a decision, does not only refer to the law because it is possible that the law does not regulate clearly, so the judge is required to be able to explore legal values such as customary law and unwritten law that live in a society.[22]

Antinomy means conditions that conflict with each other (conflict with each other) but cannot be separated because they both need each other. In dealing with this antinomy, the judge, in implementing the decision, must have the courage to take a stance according to his conscience and be ready to take risks. It is important to expect the courage of the judges.[23]

The antinomy of the judge's decision occurs in the tendency of the verdict on one of the values, namely between legal certainty, justice and expediency. If the verdict tends to focus more on legal certainty, then the value of justice and expediency is not fulfilled as a whole, and vice versa if the decision leans towards justice, then legal certainty and expediency are less fulfilled or neglected until the next.

4.2. The Development of the Indonesian Judicial System Against the Influence of the Anglo-Saxon Judicial System

Law of the Republic of Indonesia Number 17 of 2007 concerning the 2005–2025 National Long-Term Development Plan, setting the direction for the development of legal materials, legal structures, and legal culture, which include the following:

1) the development of legal materials is directed at continuing the renewal of legal products to replace colonial legacy laws and regulations that reflect social values and the interests of the Indonesian people and encourage the growth of

[20] Article 10 paragraph (1) Law of the Republic of Indonesia Number 4 of 2004 concerning Judicial Power
[21] Bernardus Wibowo Suliantoro, "Refleksi Tentang Hukum Dan Kekuasaan," *Justitia et Pax* 23, no. 1 (2003).
[22] Busyro Muqoddas, "Mengkritisi Asas-Asas Hukum Acara Perdata," *Jurnal Hukum IUS QUIA IUSTUM* 9, no. 20 (2002): 18–31, https://doi.org/10.20885/iustum.vol9.iss20.art2.
[23] Fence M. Wantu, "Antinomi Dalam Penegakan Hukum Oleh Hakim," *Mimbar Hukum* 19, no. 3 (2007): 335–485.

creativity, and involve the community to support the implementation of governance and national development based on Pancasila and the 1945 Constitution. The development of legal materials includes the stages of legal planning, legal formation, legal research, and development;

2) Legal planning as part of the development of legal materials must be carried out by taking into account various aspects that affect both the community itself and the international community, which is carried out in an integrated manner and covers all areas of development so that the resulting legal products can meet the needs of the community, nation, and society. The state can anticipate the development of the times;
3) the formation of laws is carried out through an integrated and democratic process to produce legal products and implement regulations that can be applied effectively and supported by legal research and development based on the aspirations and needs of the community;
4) legal research and development are directed at all aspects of life so that national law can always follow developments and development dynamics under the aspirations of the community, both current and future needs;
5) the development of legal structures aims to consolidate and streamline various legal organizations and institutions, legal professions, and judicial bodies so that legal apparatuses can carry out their duties and obligations professionally. The quality and capability of the legal apparatus are developed through quality improvement and professionalism through an education and training system with a curriculum that is accommodative to every development as well as the development of the attitude of the legal apparatus that upholds honesty, truth, openness, and justice, free from corruption, collusion, and nepotism, and is the responsible answer in the form of exemplary behavior;
6) legal apparatus in carrying out their duties and obligations professionally needs to be supported by adequate legal facilities and infrastructure and improved welfare so that in carrying out their duties and obligations, legal apparatus can function properly and avoid the influence and intervention of parties in the form of corruption, collusion, and nepotism;

7) strengthening the court institution as the implication of one roof with the Supreme Court institution continuously developing the judiciary, increasing the quality of professionalism of judges in all judicial environments, supporting and improving facilities and infrastructure in all judicial environments to restore public confidence in the image of the judiciary as the last bastion justice seekers;
8) Increasing the realization of a society that has high legal awareness continues to be improved by providing more access to all information needed by the community and access to the community to involvement in various decision-making processes for the implementation of national development so that every member of the community is aware of and lives up to their rights and obligations as citizens. . As a result, the behavior of Indonesian citizens who have a sense of belonging and obey the law will be formed;
9) increasing the realization that legal services and aid must support a society with high legal awareness at an affordable cost, an uncomplicated process, and decision-making reflecting justice.

Based on the points of legal development direction as per the above laws and regulations, between legal material, legal structure and legal culture are the top priorities in the legal development effort itself. In line with this, the civil justice system should also ideally accept changes at all times including the influence of existing practices in the Anglo-Saxon judicial system which have not been regulated in the HIR and RBG as a source of civil procedural law.

Lawrence W Friedman, reminded that three elements must be present in the legal system: structure, substance, and legal culture. The structural element is the legal system's framework, manifested in institutions or individual officers implementing the institution.[24]

Friedman's opinion mentioned above, especially regarding the second point element, which concerns the structure, refers to the form of the institution and the individual officers implementing the institution. The intended institution leads to the court and

[24] Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 14–15.

the implementing officers of the institution; one of them is the judge. The court institution carries the duty to implement legal rules in real life.

Judges, as enforcers of law and justice, are obliged to explore, follow and understand the legal values that live in society. Judges in resolving submitted cases must pay serious attention to legal values that live in a society so that their decisions have a sense of legal certainty, justice, and expediency.

When judges are held accountable for decisions, they often seek support from jurisprudence and science. Seeking support for jurisprudence does not mean that a judge is bound by or must follow a decision regarding a similar case handed down by the Supreme Court and High Court or has been decided by himself.[25]

Sudikno Mertokusumo further said that even though we do not adhere to (the binding force of precedent) as adhered to in England, but rather the bound or oriented of judges because they are sure that the decisions, they follow regarding similar cases convince them that the decision is correct (the persuasive force of precedent).[26]

In practice and development, the system in Indonesia is now in line with the civil law legal system.[27] Alternatively, the Continental European justice system because it already has and applies several characteristics that are identical to the common law legal system or the Anglo-Saxon justice system.

The common law system or the Anglo-Saxon justice system is a legal system that originated in England and developed in Commonwealth countries or former British colonies themselves. The common law legal system, or the Anglo-Saxon justice system, is based on court decisions as a source of law.

The common law legal system, or the Anglo-Saxon justice system, is based on jurisprudence.[28] This legal system tends to prioritize customary law, which runs dynamically in line with the dynamics of society. Establishing it through a judiciary

[25] Mertokusumo, *Op.Cit.,* 15.
[26] *Ibid*.
[27] Compare that with the writings of Dolot Alhasni Bakung and Mohamad Hidayat Muhtar, "Determinasi Perlindungan Hukum Pemegang Hak Atas Neighbouring Right," *Jambura Law Review* 2, no. 1 (January 28, 2020): 65–82, https://doi.org/10.33756/jalrev.v2i1.2400.
[28] Qomar, *Op.Cit.*, 48.

with a jurisprudence system is considered better so that the law is always in line with a sense of justice and benefits that are felt directly by the community.

In the Anglo-Saxon justice system, the judge's decision is the main source of law. In this justice system, the role of judges is very broad. It has the function of establishing and interpreting legal regulations and shaping the entire system of community life. Judges can also create new laws to guide other judges in resolving similar cases. The common law legal or Anglo-Saxon justice system adheres to the Stare Decisis doctrine. The point is that in deciding a case, a judge must base his decision on legal principles that already exist in the decisions of other judges from previous similar cases.

Such conditions in the Anglo-Saxon justice system are limited to judges examining and deciding the law. In contrast, the jury examines cases to be able to determine and decide whether the defendant or the litigant is guilty or not. The jury's involvement shows that justice does not depend entirely on the judiciary but becomes integral to the community's presence in the enforcement process.

In the Common Law legal system or the Anglo-Saxon justice system, both parties to a dispute each use their attorney to face off before a judge. Each party drew up a strategy in such a way and put forward as many arguments and evidence as possible in court. In other words, litigants are opponents of each other, led by their respective lawyers.[29]

The common law system or the Anglo-Saxon justice system has advantages and disadvantages. The advantage is that the common law system or the Anglo-Saxon justice system is not written, so it is flexible and can adapt to the times and society. The applicable law is unwritten law or common law. While the weakness, the element of certainty needs to be better guaranteed. The legal basis is taken from an orthodox community or unwritten customary law.

The common law system/Anglo-Saxon justice system and the civil law

[29] *Ibid*.

system/Continental European justice system have differences, some of which are:[30]

1) The civil law system, or the Continental European justice system, recognizes the administrative justice system. In contrast, the common law legal system or the Anglo-Saxon judicial system only recognizes one court for all cases.
2) The civil law system, or the Continental European justice system, became modern because universities conducted studies. In contrast, the common law system or the Anglo-Saxon justice system was developed through legal procedures.
3) The discovery of the rules is used as a guide in making decisions or solving problems so that they are abstract in the civil law system or the Continental European justice system. In contrast, the rules in the common law system or the Anglo-Saxon justice system are concretely used to settle cases.
4) In the civil law system or the Continental European justice system, there is the codification of law. In contrast, there is no codification in the common law system or the Anglo-Saxon justice system.
5) Past judge decisions in the civil law system or the Continental European justice system are not considered rules or sources of law. In contrast, the previous judge's decision on the same type of case must be followed in the common law system or the Anglo-Saxon justice system.

Undoubtedly, the flow of information technology has led to the acculturation of one legal system to another. Although the Indonesian legal system and judicial system depart from the civil law and Continental European justice systems, corporate concepts derived from the common law system have been adopted in certain fields, especially in corporate law. This can be seen from various laws and regulations, such as Law Number 32 of 2009 concerning the Protection and Management of the Environment, which already regulates class action lawsuits in the Anglo-Saxon justice system. Our civil procedural law does not recognize class action lawsuits but what is regulated is a cumulative lawsuit.

[30] *Ibid*.

Based on the opinion above, it seems appropriate that a judge continue to study the laws currently developing and the laws that will arise in the future, including the practice of the Anglo-Saxon justice system. The image and authority of judges in the eyes of society will increase because, in the future, judicial power must be supported by qualified judges with high work power.

The momentum towards the ratification of the Draft Civil Procedure Code, which is still awaiting some substantial changes,[31] must be used as a direction for a paradigm shift that the justice system in Indonesia no longer purely adheres to the Continental European justice system. Several practices usually only exist in the Anglo-Saxon justice system, such as class action lawsuits in environmental laws that have begun to be introduced in judicial practice in Indonesia.

In addition to preparing the civil procedural law itself, which is just waiting for approval, another thing that requires a systematic strategy for revising laws and regulations that have anything to do with civil law. What is also important is the need to encourage the optimization of civil procedural law, which will be able to encourage efficiency in resolving civil cases as expected, because it is a necessity if civil procedural law, which has taken so long to be drafted, does not make a positive contribution to the development of Indonesian law, especially law enforcement through the justice system.

In the Continental European judicial system, which is a reference to the judicial system in Indonesia, there is no known class action lawsuit, instead what is known in Indonesian civil procedure law sourced from HIR and RBG is a curcuma lawsuit. Basically, some provisions of laws and regulations in Indonesia began to regulate the mechanism of class action lawsuits, for example, in the Environmental Law, an example of a class action lawsuit case is a lawsuit filed by some residents of Bukit Duri, South Jakarta, to the Central Jakarta District Court in 2016. This lawsuit was filed regarding the forced eviction carried out by the DKI Jakarta Provincial Government against residents living on the banks of the Ciliwung River on September 28, 2016.

[31] Xavier Grace, "Global Harmonization of Contract Laws Fact, or Fiction?," *Construction Law Journal* 20, no. 1 (2004).

5. Conclusion

the paradigm of the way of thinking of judges in the Indonesian justice system, which adheres to the Continental European justice system, is more inclined to use statutory regulations as the basis for deciding cases. Judges with confidence decide cases based on written rules. The principle adopted is the persuasive force precedent. Then, the development of the Indonesian justice system, especially the way of thinking of judges, is currently experiencing a shift, namely that it is no longer pure with the Continental European justice system but is starting to introduce what has become a practice in the Anglo-Saxon justice system, for example, the practice of class action lawsuits which have been regulated in the law on management and environmental protection.

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