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THE CONTRIBUTION OF LITERATURE TO THE HUMANIZATION OF THE LAW IN INDONESIA

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ABSTRAK

Gerakan hukum dan sastra telah berkembang di dunia barat sejak paruh pertama abad ke 20 sebagai respon terhadap isolasi hukum dari disiplin ilmu lain dan keinginan untuk memanusiakan hukum agar lebih berfungsi secara maksimal untuk kepentingan masyarakat. Gerakan ini memiliki potensi besar dalam pengembangan metode pengajaran dan interpretasi terhadap teks hukum yang berdampak pada perbaikan kinerja pembuat hukum dan pemahaman yang lebih baik terhadap hukum. Meskipun pengisolasian hukum juga terjadi di Indonesia, gaung gerakan ini belum terlihat secara nyata di Indonesia. Nyaris tidak ada sastra dalam hukum di Indonesia. Dalam payung gerakan hukum dan sastra, penelitian kualitatif ini tidak bertujuan untuk menemukan alasan atas tersingkirnya sastra dalam hukum; akan tetapi untuk menunjukkan dan mempromosikan bahwa sastra dapat memberi kontribusi dalam pemahaman dan pembuatan teks hukum yang lebih humanistik di Indonesia. Melalui metode kajian pustaka dengan model heuristik dan analisis deskriptif komparasi tulisan ini berkesimpulan bahwa karya sastra dapat menjadi sumber pembelajaran dan pemahaman hukum di Indonesia, dan teori sastra dapat diterapkan dalam pembuatan dan pemahaman teks hukum yang lebih humanistik.

***Kata Kunci**: gerakan hukum dan sastra, hukum, humanistik, kontribusi, pemahaman teks, sastra*

ABSTRACT

Law and Literature movement has been developing in western countries since the first half of the twentieth century as a response to the isolation of law from other disciplines and the idea of humanizing law to have optimal function for the betterment of social order. This movement exerts great potentials in developing methods of teaching and interpreting legal texts resulting in the betterment of the performance of the law makers and the deeper understanding of law. The isolation also happens in Indonesia; however, there is no obvious echo of the movement in Indonesia. There is no place of literature in Indonesian law. Under the movement of law and literature, this qualitative research aims not at finding out the reasons for excluding literature from law; instead it aims at demonstrating and promoting that literature could contribute to the understanding and production of humanistic legal texts in Indonesia. Adopting a heuristic model and comparative and descriptive analysis, this research concludes that literary works could provide sources of learning and understanding law, and literary theories could be applied in improving the making of more humanistic legal texts in Indonesia.

Keywords: contribution, humanistic, law, literature, law and literature movement, understanding legal text

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INTRODUCTION

Expressing his high regard for the law, for lawyers, and for the British constitution, John Buchan (1936), a British lawyer who was better known as the author of many thrillers, said that law should be regarded as an elastic tissue which clothes the growing body. It must fit exactly and should not be too far behind or too far ahead of the growth of society. It has pervasive character and paramount importance in our everyday life, not only in our relationship with one another but also with the State. It develops as society develops (Crabtree, 1974); and because social conditions always change, accordingly, the law must change, too. Law is always up-to-date (Friedman, 1973). It stands continuously exposed to demands of justification, and that too shapes its nature and rules in our lives and culture (Green, 2003). However, the basic function is still the same. It is needed especially to regulate human conduct (Barnes and Oreen, 1972) for the betterment of social order. Its value lies in its applicability to and in its usefullness in our daily life. Law, therefore, always attracts the attention of almost the whole society regardless of their discipline and backgroud; and it is presumed to be worth learning and understanding.

Along with the emergence of positivism, the face of law changed. Positivism sees law as emanating from state authority rather than from God or other sources. Once laws are made by legitimate authority, they must be obeyed by all including those who made them. It supports the idea that all legal system must be rational (David Bouchier, 2012). The rationalisation of law was often deemed as the isolation of law from the society. Law is often seen as a set of rules which is always clear and, however pointless or wrong, is to be rigorously applied by officials and obeyed by subjects. This leads to the argument that positivism fails to give moral responsibility and fails to execute its natural function. In the academic sphere, legal positivism which dominated legal studies was commonly accused of driving the Law discipline to be isolated from other disciplines.

The isolation of law from society and the isolation of the Law discipline from other disciplines gave rise to the anxiety not only among legal scholars, but also scholars from other disciplines and laymen as well. It invited great effort to humanize and put the law back to the social millieau and there emerged *the sociological movement in law*. There were also thoughts to relate it to other disciplines. In line with this James R. Elkins (2004 updated 2012:3) wrote that **"**If law is best studied not as a single, isolated discipline, but as a locus of disciplines—as a cross-roads discipline—then law implicates and of necessity must be related to psychology and sociology, anthropology and history, philosophy and literature." Wurzel, also asserted an interdisciplinary approach encompassing, among others, psychology, economics, linguistics and politics :

> "....Of all men, judges and legislators were the first that found themselves compelled to seek a clear and conscious knowledge of the principles according to which human beings live together....Thus the law began to examine, long before any later and independent science, created by purely theoretical interests, took up the study of such matters, a large number of phenomena: logical and psychological ones, such as will, purpose, intention, declaration, error, coercion, passion; economic ones, like estate, value, price, utility; linguistic ones, like sentences, meanings; ethical phenomena, such as liberty, personality, honesty; political ones, like order, public authority, etc." (Wurzel in Fuller, 1967:132-132)

The Law and Literature movement has been developing since the first half of the twentieth century. It has contributed to the development of the concept of the interdisciplinary connection between law and literature. There are two ambitions of connecting law and literature. The first is the argument that literature leavens law; it makes law more interesting, fresher, fun even; and the second is the claim that literature can help sensitize the law student, perhaps even reinvigorate a slumbering sense of moral

responsibility, the second of which is regarded as the most controversial (Ward, 2011:4). This movement exerts great potentials in developing methods of teaching and interpreting legal texts resulting in the betterment of the performance of the law makers and the deeper understanding of law. Various researches and course designs on Law and Literature have developed these past few decades, each focusing on a specific aspect of literature, questioning and convincing the potential of literature in contributing the deep and comprehensive understanding of law.

The isolation of law and the effort to put it back in its social context also happens in Indonesia. The adherents of the sociology-of-law movement started voicing their thoughts. Satjipto Raharjo and Soetandyo Wignjosoebroto are two prominent figures among others who are active in voicing their progressive thoughts. Rahardjo states that Faculties of Law as the institutions preparing for the enforcers of law in Indonesia are still dominated by the concept of strict "Rule of Law" (2003:10). Rahardjo then argues that law is not only a set of rules consisting of thousands of articles, but it is also an ethical document containing moral teachings for the betterment of social life. Law is only a small part of the universe of norms (*Jagat ketertiban*) and man is the centre of all. A holistic approach is needed to be able to have comprehensive results. He then proposes that "*penyakit-penyakit hukum*" (diseases of law) referring to the progressive thoughts of law criticizing the "Rule of Law" need to be offered in Faculties of Law. He asks his doctorate students coming from many universities in Indonesia to study the law deeply and comprehensively, and to see and put the law in the wider universe and thus put it in the wider contexts (2006:95). Wignjosoebroto (2002) proposes a micro approach and grounded or qualitative method in analyzing the existing legal realities. Some Faculties of Law have offered subjects such as Legal Antropology, and Sociology of Law in their curriculum, implying the intention to break the isolation of law.

However, there is not much echo of the Law and Literature movement in Indonesia. There seems to be no place of literature in Indonesian law. Literature has always been regarded as fiction useful merely to be the complementary part and entertainment of few people. In 2002 there was a forum discussing Law and Literature but it did not really work. There are only few writings on law and literature. Before 1960s students of law were obliged to read a novel chosen by the lecturer, since then literature has been omitted from any legal studies (Sukma, 2002 and updated 2011). Kurniawan (2002) in "Law and Fiction: A Dialogue" (*Hukum dan Fiksi: Suatu Perbincangan*) wrote that no Indonesian writers took serious attention in presenting legal themes in their works. Wahyu Heriyadi (2011) in "Film as Law?" (*Film Hukum sebagai Sebuah Hukum?*) summons the documentation of films on law asserting the rich source of learning of law and the opinion of law based on the establised theory of law or even questioning the existing theory. Even Legal Language which is supposed to be the link to literature vanished from the legal curricula at Gadjah Mada University since 2008 (Sudjito, 2012). This is challenging.

Obtaining available data by heuristic model and comparative and descriptive analysis, this qualitative research is not intended to find out the reasons for excluding literature from law in Indonesia; instead it aims firstly at building the awareness of the existence of abundant Indonesian literary works dealing with law and promoting their contribution to the understanding and learning of law in Indonesia; secondly, it aims at promoting the adoption of literary theories in producing legal texts which are more humanistic in Indonesia. The history of Law and Literature movement in western countries will be explored at a glance first as the comparison.

LAW AND LITERATURE MOVEMENT IN WESTERN AT A GLANCE

The movement of Law and Literature was pioneered by John Wigmore and Benjamin

Cardozo who were acknowledged novelists and poets as the principal teachers of law in the first half of the 20th century. However, *Legal Imagination* written by James Boyd White in 1973 was commonly regarded as the starting point of connecting literature with law. In its early stages, the law and literature movement focused strictly on the *law in literature*; however, beginning in the late 1970s the *law as literature* perspective began to gain popularity. *The law in literature movement* is the study of representations of the legal order in fiction usually novels and plays (Dunlop, 1991:63). It was marked initially by Dean John Wigmore's efforts to chronicle the rise of literature about the law (Musanthe, 2007). Wigmore in his *List of Legal Novels* (1908) classified the works into 4 catagories: A. Novels in which some trial scene is described - perhaps including a skilful cross-examination; B. Novels in which the typical traits of a lawyer or judge, or the ways of professional life, are portrayed; C. Novels in which the methods of law in the prosecution and punishment of crime are delineated; and D. Novels in which some point of law, affecting the rights or the conduct of the personages, enters into the plot. Wigmor intentionally selected great books and emphsized that every lawyer must be acquainted with certain fictional works by virtue of his special professional duty to be familiar with those feature of his profession which have been literature taken up into general thought and liteature. In other words he desired that the lawyer could learn various personality types in the great books for the betterment of their professionalism. Two aspects are striking in his approach. Firstly, he looked upon literature as an historical source. Secondly, he emphasized the importance in the humanist tradition of the educational function of literature (Gaarkeen, 2009).

In 1976 the catagories were revised by Richard H. Weisberg as follows : A. Works in which a full legal procedure is depicted, sometimes exclusively a "trial scene," but just as frequently the preliminary investigations leading to the trial. B. Works in which, even in the absence of a formal legal process, a lawyer is a central figure in the plot or story, frequently, but not always, the protagonist. C. Works in which a specific body of laws, often a single statute or system of procedures, becomes an organizing structural principle. D. Works in which, in an otherwise non-legal framework, the relation of law, justice, and the individual becomes a central thematic issue (Weisberg, 1976). Under the assumption that modern lawyers in particular often share their clients' interests in advancing odious goals, Weisberg in his *Poethics* (1992:175) nevertheless recommends the study of literature, especially fiction dealing with legal themes, as a means of inculcating a common ethical sense in lawyers. Weisberg believes that literature should be valued for its ability to cause one to relate to others, and for the political and social contexts that novels, particularly those dealing with the law concern with. For him it is the subject matter of novels and not their rhetorical tools that make them important in instructing law students, as well as furthering understanding of legal matters for the independent law scholars.

Among the adherent of the first movement is Dunlop (1991) who states that literature studies are an appropriate, even necessary part of legal studies. Fiction gives legal scholars the opportunity to get beyond the technical and circumscribed study of legal rule, and to look at law as part of the broader civilizaion. Literature challenges assumption about rationality and the rule of law and emphasizes neglected but important aspects of the legal process. Further he wrote that:

> "Fiction contains representations of the legal order markedly different from the representations in the casebooks and treatises. Lawyers need to be aware that most people see law very differently from the way that lawyers see their profession. Laypeople will talk about law and will make decisions which are incomprehensible to the lawyer who has lost sight of the broader culture and confined herself to orthodox legal materials. The good lawyer should cultivate her sensitivity to other discourses by reading a variety of texts, including fiction." (1991:77).

Jeanne Gaakeer (2009) shared the idea when she said that works of fiction can illustrate a legal point of view from a different perspective and thus enhance our understanding of law and the legal system and of our own performances as lawyers.

However, Donlop cautions the pitfall of the overuse of the great books model. The oversuse of the great books model will result in decontextualization of the text, because, they are treated as autonomous units of meaning more or less free from their authors, periods, and genres, but engages in the same conversation about law. It therefore would run the risk of a superficial misreading of the novel; and it may not spell out or value highly the differences among periods of history, writers or even different books by the same writer (Dunlop, 1991:93).

The second movement *law-as-literature* developed when Benjamin Cardozo began utilizing literary tools to examine and more effectively create judicial opinions. His writings are considered to be an example of this approach to law and literature. *Law as literature* draws insights from literary criticism and theory to assist in the reading and interpretation of legal texts, particularly judicial decision (Dunlop, 1991). The first to mention from this movement is James B. White (1985) who asserted that the law is not merely of system of rules but it is a language and habits of mind and expectation which may be called as a culture.

> "It is enormously rich and complex system of thought and expression, of social definitions and practices, which can be learned and mastered, modified or preserved, by the individual mind.... and Law is a kind of cultural competence: an art of reading the special literature of the law and and an art of speaking and writing—of making a compositions of one's own—in this language. It is a branch of rhetoric... Law is not just language... but I think the greates power of law lies not in particular rules and dicisions but in its language, in the coercive aspect of its rhetoric – in the way it structures sensibility and vision... The law is an art, a way of making something new of existing materials—an art of speaking and writing (xiii-xiv).

In *The Cultural Background of the Legal Imagination* (2006) White explained that the book was designed to be used in the law school curriculum. White writes that the book is intended to "invite students of law to think of legal language and legal education as dangers: of legal language as potentially narrow and technical and dull, as excluding from consideration virtually everything that matters, as founded on a form, the rule, in which the truth can never be said; and of legal education as habituating the student to this language, making his or her mind the servant of the language rather than the other way round." White regards it as the real problem in law and believes it worth thinking. He hopes that students will understand that the life of the lawyer is a life of writing and speech, of expression, of the arts of language and that it will give opportunities of a unique kind and to recognize that the life it offers can be one full of interest and importance and value (White, 2006:20).

In fact, White points out that the law can to some degree be regarded as an institution that is founded in the principle of recognizing others, in large part by giving them a chance to tell their stories and have them heard. At the same time the law can be seen as a method of integration, a way of putting together different voices, different languages into a single composition; a way of comprehending two opposing side and what can be said in favor of each. The central task of the lawyer is to give herself the voice of her own, a voice that at once expresses her own mind at work in its best way and speak as a lawyer, a voice at once individual and professional (1985:xiv).

The defender of this movement includes Guyora Binder and Robert Weisberg who promote wider perspective of this movement. In the *Literary Criticisms of Law* (2000) they wrote that law is not only a scheme of social order, but

also a process of creating meaning, and a crucial dimension of modern culture. Law may best be analyzed as interpretation, narration, rhetoric, language, and culture, placing each of these approaches within the history of literary and legal thought, and reviving the old role of lawyer, they propose present lawyers as rhetorical artists who creatively interpret legal authority, narrate disputed facts and hypothetical fictions, represent persons before the law, move audiences with artful rhetoric, and invent new legal forms and concepts; and that the judicial task was no longer to represent political majority but to engage them in a dialogic legal process with the aim of provoking, teaching, and transforming popular opinion (2000:30).

In its development, the contemporary law and literature studies also focus on the narrative aspects of law and the scholarship taking a different track to investige historical interactions between law and literature.

LITERARY WORKS AND UNDERSTANDING OF LAW

Western writers found the right and fruitful momentum in expressing themselves and resulted in the creation of abundant legal fiction from the movement. Indonesian writers are considered not to take the chance; and as a result there are only few literay works on law. There are only few writers who are interested in presenting legal fiction such as Arswendo Atmowiloto, who wrote the series of *Imung* in the teenage *Hai* magazine, and S. Mara Gd and V. Lestari who are preoccupied with mystery and detective stories. Kurniawan (2002) lamented the lack of legal scenes in Indonesian fiction, regretting that even the great writers such as Sitor Situmorang, Goenawan Mohamad, dan Pramoedya Ananta Toer who had been tried for lawsuit had never written ones portraying legal scenes in Indonesia which Laksana believed it could be resulted from a lack of dramatic legal scene in Indonesia. There are no jurists and lawyers before the court such as those found in dramatic American trials. Ironically since 1960s up to 1990s Indonesian publishers had enthusiastically published Indonesian version of legal fictions of those of Earl Stanley Gardner, Ian Fleming, Agatha Christie, Ellery Queen, Arthur Conan Doyle, Scott Turow, and John Grisham.

It is a hasty conclusion. The limited number of literary works having legal scenes especially those having to do with criminal law does not mean that there is not law in Indonesian literature. It needs to bear in mind that law does not limit itself to criminal law; however, it covers a wide range of spectrum. Even if Indonesian writers do not create legal fictions presenting trial scenes due to their ignorance of the movement of law and literature, in fact, there are many literary works about law in Indonesia. It is found not only in canonical works proposed by the pioneer of the movement but also in those catagorized as the popular ones. It is important to include the popular literary works because they reflect the covert culture which the great works fail to show (Marx, Bowron and Rose, 1957). The great books and the popular ones contribute the deeper understanding of law, particularly the implementation of law in society and of the response of society toward certain aspect of law which in turn serves as the source in tracing the history of law and the source of inspiration to make better the law or to create humanistic new law.

Literature has always been regarded as the complementary part of some people lives. Not all people find it necessary to have, appreciate and learn it. The existence of literature is under-estimated because there is no direct contribution to the betterment of social condition. This is especially true because many people incorrectly believe that literature is only the products of the author's imagination who merely wants to fulfill his/her own ego. These people believe that the authors do not really care whether their creations are meaningful for others or not. In the name of art, they create art for the sake of art. Even if there is a purpose in the creation of literary works, the aim of the writer was fundamentally the same. They try to amuse their readers by means of

fictitious story (Kooistra and Schutt, 1937). This may be true. To suppose this absolutely, however, is to ignore reality.

Literature is best studied and will give its greater contribution when it is seen not only as an art, but also as an institution having its function. There are various functions of literature, chiefly as a means to an end, an instrument for getting something done. They could be classified into two different polars to what Kuenzli (2010) asserts as the norm-fulfilling and norm-breaking functions. On one side literature supports, restates and reinforces the dominant cultural system and its values. On the other side literature violates and breaks the familiar social norms and codes. The norm-fulfilling function may make the readers remain passive because it presents values, solutions, and a view of reality which they are familiar. The readers agree to whatever depicted in literature. It may also be used to be the justification of what they have already had or believed, and in fact this is the main reason of using literature as a means to build the character of children and adolescents in many countries (Brynildssen, 2002, Smith, 2002, Edgington, 2002). Taking the same conviction literature will also be useful in understanding the existing laws and its implementation in society. The law allowing a parent to marry his children without their consent and the subordinate role of women in society presented in *Sitti Nurbaya: Kasih Tak Sampai* (*Sitti Nurbaya: Unrealized Love)* written by Marah Rusli in 1922 and *Azab dan Sengsara* (*Pain and Suffering*) written by Merari Siregar in 1920 will gain no protest because such law exists in the society. The acceptance to fate of being subordinate before the law will be seen in *Sri Sumarah and Bawuk* written by Umar Kayam in 1975 and *Dukuh Paruk Trilogy* of Ahmad Tohari.

In fact, some writers are aware of the importance of the certain aspects in their surrounding and they intentionally arrange the plot in such a way to attain the purposive themes on certain issues. The writers are aware of their role in society; and that their works represent the real condition of the society at the time and the expression of their own thoughts and perceptions toward such condition Even if they do not mean to teach the readers, the reader themselves may learn that the fictionalized accounts can be used as a prism through which actual matters are scrutinized. *Sitti Nurbaya* does not only reflect the forced marriage, but to some degree it reflects the idea of Marah Rusli to fight against the existing law. Different responses toward the enactment of Marital Law of 1974 could be seen for instance from *Keluarga Permana* (1978) by Ramadhan Karta Hadimadja, and *Para Priyayi* (1992) and *Jalan Menikung* (2002) both of which were written by Umar Kayam. The challenges of the female judge in performing her duty and her struggle against injustice can be learnt from *Jurang Keadilan* (*The Gap of Justice*) (2011) by Pipiet Senja. *Bumi Manusia* (*This Earth of Mankind*) dan *Nyanyi Sunyi Seorang Bisu* (*A Mute's Soliloquy*) of Pramoedya Ananta Toer reveal injustice, too. Even regional stories, such as *Tanah Warisan*, *Api di Bukit Menoreh*, *Naga Sastra dan Sabuk Inten* by S.H. Mintarja would be resourceful knowledge of the struggle of keeping the property right of land.

Beside our own national and regional literature, it is now easy for us to have international literature most of which have already been translated into Indonesian. This will help to open out the window of knowledge of the variety of legal matters in Indonesia and other countries. Under the assumption that they are mature enough to understand the need to have the law useful for the betterment of social condition in Indonesia, the international ones will allow students to compare their own cultural identity with that of other countries and thus will help them in constructing humanistic laws suitable for Indonesian as a whole.

The translated works found in Indonesia are of use, too for other reason. The global era opens the relation of one to another nation. International law will undoubtedly be found in any countries including Indonesia. Students of law automatically need to understand them. Theoretically students taking the international

law will get the knowledge from the lecturer particularly in the form of rule. Take an example they have already learnt about the inheritance law especially the transfer of property by the last will and testament which is uncommon in Indonesia. In the implementation, people tend to distribute their property as they wish which is sometimes different from the the law of government. The reading of the work having to do with such law such as John Grisham's *The Testament* and *The Summon* will help them in understanding the implementation of the law in the real life more deeply.

It is of no impossibility that literature breaks the existing norm. At best it helps develop other virtues and broaden the reader's mind because it opens windows to challenging values different from the existing and shared one. For example the existence of the gay and lesbian community is acknowledged and their rights have been legalized and treated the same like common citizen in some of western countries. Indonesian writers reveal the existence of such community in Indonesia. *Taman Api* (2011) writen by Yonathan Rahardjo, for example, describes the complex hidden sides of the life of transgender. Those belong to fragant writers frequently if not always reveal the "grey" area which is still regarded taboo such as the life of gay, lesbian and transgender. Reading such novels will help legal scholars think of how to treat them and it will lead to the question of what Indonesian law says to the existence of such community.

The breaking-norm function of literature has someting to do with the natural characteristic of literature which is always up-to-date. Horton and Edwards (1974:1-2) state that literature tends to reflect the dominant tendencies of its era and to grow out of the moral, social, and intellectual ferment impinging upon the sensibilities of literary men. Accordingly it always changes in accordance with the era. Indonesian literature is set in periods. One period usually emerges as the continuation and the protest to what happened in the previous period. Each period has its own emphasis and characteristic depending on the social and cultural conditions at the time. Tracing the history of certain aspect of law could be done by reading and comparing the works from different periods. The works up to the period of Balai Pustaka are known to be loaded with customary law, the following periods tend to present the condition of the society in which customary and state law are sometime in conflict. These works will provide significance sources for example for tracing the history of the legal system in Indonesia before and after Independence. The development of the position of women before Indonesian law can be traced from the classical works to the modern ones such as those written by Titis Basino P. I., Ratna Indraswari Ibrahim, Abidah El Khalieqy, and Helvy Tiana Rosa who pay particular attention to questions of how gender is constructed and in turn constructs the identities, roles, and status of Muslim women in Indonesia.

LITERARY THEORY AND LAW

Literary theories develop in such a way that impresses the un-linear, backward and forward development. It experiences accommodation and resistance ranging from one designing literature as a text of its own stand out from social context to literature as socio-cultural and political phenomena. Literary theories are also closely tied to the functions of literature and the history of literature. The function of literature develops dynamically. It does not go straight but move upwards and backwards depending on the era and the interests of the creators, the users and often those in power. The functions of literature vary and develop under the influence of the condition outside of the world of literature. Economy, religion, science, politics, and culture have great influence on the development of the function of literature. Different historical periods have emphasized various characteristics of literature.

It seems complex, but Abrams (1979) helps make it easy by diagramning the four orientations of theories derived from four basic elements: the work, the artist, the universe, and the audience. The work refers to the product itself, the artist

refers to the maker; the universe refers to the subject "which, directly or deviously, is derived from existing things--to be about, or signify, or reflect something which is either, or bears some relation to, an objective state of affairs." It may "consists of people and action, ideas and feelings, material things and events, or super-sensible essence; and the audience refers to the listeners, spectators, or readers to whom the work is addressed, or to whose attention it becomes available (Abrams, 1979:6). The first orientation is to connect the Work with the Universe, the second is interested in the relationship between the Work and the Audience; the third is interested in the relationship between the Work and the Artist and the last orientation take an interest in close reading of the Work. Abrams' primary concern is the English theories of poetry during the first four decades of the nineteenth century; however, it could not be denied that the four orientations still exist. Even the newest theories will always refer to each of the four orientations, or the combination of one to another, because in fact there is no strict border between one to another.

To create more humanistic legal texts, it is recommended to regard them as literary works. In other word, it is necessary to draw an analogy between legal texts and literary works.This paper does not recommend the last orientation. Limiting the focus on the work as an art in the framework of semantic analysis will be a neglect to its other orientations and it will eliminate it from the possible functions available for the betterment of social condition and other functions. Furthermore it will entrap us to do isolation we are going to break because in this orientation the significance and the value of the work are determined without any reference beyond itself. The work tends to be seen objectively as a self-sufficient entity which is the same like seeing the law solely as set of rules.The other three orientations would be more effective to adopt in contributing the creation of legal texts which are more humanistic.

The orientation to relate the work with the universe based on the idea that the work is supposed to be the imitation of the universe, however, Abrams points out that the artist not only had to imitate, he had to find new things to imitate in new ways. This implies the requirement of being creative and attentive to the changes occuring in the society. In line with this other scholars theorizing that "literature represents a social reality" (Wellek and Warren, 1970); "The autonomy of a novel was impaired by forces that were in large part internalized by the author long before he sat down to write.... Many of the forces at work in the fiction are clearly of social origin" (Tate, 1973:50) "the form and the content of the novel derive more closely from social phenomenon, and they seem to bound up with particular moments in the history of the society" (Zeraffa, 1973:36-9); and that "literature tends to reflect the dominant tendencies of its era and to grow out of the moral, social, and intellectual ferment impinging upon the sensibilities of literary men" (Horton and Edwards, 1974:1-2). Taking the analogy, legal texts need to reflect its humanistic character by taking into consideration the dynamic in society as the object. The subject-matter of legal text lies in society. Society is made up of competing and changing interests and legal texts as the expression of the reality may be revised, updated or even changed totally, without of course ignoring its moral function to preserve a peaceful society and social order that has built-in protections so that the justice system stays in balance.

The relation between the work and the audience invites the attention to look at "the work of art chiefly as a means to an end...and tends to judge its value according to its success in achieving that aim." The tendency of this orientation is to conceive the works as something made for the goodness of the reader." It has a purpose to achieve certain effects in an audience. It imitates only as a means to proximate end of pleasing and pleasant, it turns out, only as a means to the ultimate end of teaching (Sidney in Abrams, 1979:14) For similar reason Rahardjo said that law is not only a set of rules consisting of thousands of articles, but it is an ethical document containing moral teachings for the betterment of social life. In

line with this, legal texts must be created solely as a means to achieve the ideal end for all. It is not an end itself and it should not be created solely for the interest of certain parties or the creators.

Theories connecting the work with the artist emphasize the conviction that literary works cannot be separated from the author. The authors expresses themselves through their works. "The extrinsic elements of literature such as history and environmental factors can be argued to shape a work of art, but the actual problems begin when we evaluate, compare, and isolate the individual factors which are supposed to determine the work of art" (Wellek and Warren, 1970). A work of art is "essentially internal made external, resulting from a creative process under the impulse of feeling, and embodying the combined product of the poet's perceptions, thoughts and feelings." (Abrams, 1979:22). It could not be denied that one's perceptions and thoughts are influenced by various factors mostly from the interaction with others through the process of receiving and selecting and determining. The works, therefore may not only the expression of purely the authors themselves but it may also be the reflection of what happens in their surrounding. For the same reason, the works may be intentionally created for certain purposes; it is not only "art for the sake of art." A reality may be perceived and thought differently by different person depending on the intensity of stimulus. The author, therefore could not claim that his perception is correct and the other's is wrong. They need to be aware of the existence of other people having different perception. In this respect, the law makers need to do and to have the same awareness.

Taking only single orientation is not enough. The combination of the above three orientations would be more effective to give great beneficial effect to the reader. The significance of the literary works cannot be fixed solely by the intention of the author but also by its acceptance and the usefulness for the society; and to be able to do so, the author needs to be attentive to what happens in the society, and take it as the subject-matter for the betterment of society. Legal texts are literary works. For the same reason, the law makers may adopt the combination of the three orientations of literary theories in creating the humanistic legal texts.

CONCLUSION

Even though the isolation of law from society as the trigger of the emergence of Law and Literature movement in western counties takes place in Indonesia, the movement do not gain popularity. Those concerned with law in Indonesian literature pay more attention to criminal law, asserting only few authors pay attention to the movement; while in fact there are many Indonesian literary works which show the existence of certain aspects of law such as the subordination of women, forced marriage, injustice, the power of customary law, property right, the crash between customary law and the state law. Reading such works will help students of law, law scholars, and especially the lawmakers get a better understanding of the existence and the implementation of law, and the response of society toward certain aspects of law in society. Reading translated works is also needed to get a better understanding of the existence and the implementation of international law in society. Reading literary works dealing with law from different periods will help trace the history of law. Above all., the regional, national, and international works can provide inspiration to make better the existing law which is regarded as not applicable and useful in society.

Legal texts are literary works. To be humanistic, legal texts need to reflect its humanistic character by taking into consideration the dynamic in society as the object. The subject-matter of legal text lies in society. As expressions of reality they may be revised, updated or even changed totally, without of course ignoring their moral function to preserve a peaceful society and social order. They need to be created by the makers who are attentive to what happens in society and take it as the subject-matter to fulfill the needs of the society. They

must be created solely as a means to achieve the ideal end for all. It is not an end itself and it should not be created solely for the interest of certain parties or the creators. The significance of the legal texts cannot be fixed solely by the intention of the makers but also by its acceptance and the usefulness for society. To sum up, literary works can provide sources of learning and understanding law, and literary theories can be applied to improving the making of more humanistic legal texts in Indonesia.

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