



## The Relevance of Progressive Legal Theory in Judicial System Reform in Indonesia

Daei Aljanni<sup>1\*</sup>, Danang Wahyu Muhammad<sup>2</sup>  
Muhammadiyah University of Yogyakarta

**Corresponding Author:** Daei Aljanni daei.aljanni.psc24@mail.umy.ac.id

---

### ARTICLE INFO

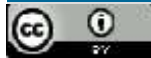
*Keywords:* Progressive Legal Theory (PLT), Indonesian Judicial Reform, Substantive Justice, Restorative Justice

*Received:* 21, November

*Revised:* 20, December

*Accepted:* 30, January

©2025 Aljanni, Muhammad: This is an open-access article distributed under the [Creative Commons Atribusi 4.0 Internasional](#) terms.



### ABSTRACT

This study examines the challenges of Indonesia's justice system, focusing on structural corruption, administrative inefficiencies, and the dominance of positivistic legal culture. The research uses Progressive Legal Theory (PLT) to explore its applicability in judicial reform, particularly in juvenile justice and restorative justice practices. A normative legal approach was adopted, analyzing primary legal sources and relevant academic literature from 2020 to 2024. Findings reveal that PLT offers significant potential for fostering substantive justice but faces barriers like rigid legal culture and inconsistent judicial interpretations. The study underscores the importance of legal culture reform, enhanced judge training, and PLT-based policies. These results provide a foundation for building Indonesia's more adaptive and justice-oriented legal system.

---

## **INTRODUCTION**

The justice system in Indonesia faces fundamental challenges, including structural corruption, administrative inefficiencies, and low public trust in legal institutions. This phenomenon creates substantive injustice and hinders efforts to build the rule of law, which serves as the foundation of social justice (Kristiana & Hutahayan, 2024). In this context, the reform of the judicial system is urgently needed to overcome the crisis of public trust and direct the law to be more relevant to social reality.

Logically, this reform requires a paradigm that can go beyond the positivistic framework that has dominated legal culture in Indonesia (Fikriawan et al., 2021). Phenomenologically, cases such as the failure to implement restorative justice in juvenile justice reflect how important a more responsive and substantive legal approach is (Rosidah et al., 2019).

Progressive Legal Theory (PLT), as formulated by Satjipto Rahardjo, offers a relevant conceptual framework to answer this challenge. PLT emphasizes law as a dynamic and evolving entity designed to serve the needs of society and prioritize substantive justice over mere adherence to formal norms (Fikriawan et al., 2021; Lisma, 2019).

In this framework, the law is seen as a tool to enforce rules and a social engineering tool aimed at creating justice and welfare (Fikriawan et al., 2021). By basing its approach on the social context, PLT provides a theoretical foundation that is logical and phenomenologically relevant in the Indonesian context (Lisma, 2019).

The contribution of this research to knowledge enrichment lies in three main dimensions. First, this study enriches the theoretical discourse by applying the principles of PLT to the context of the Indonesian judicial system, thus producing a new perspective on how this theory can be applied practically in a pluralistic legal system (Fikriawan et al., 2021; Lisma, 2019). Second, this study seeks to bridge the gap between theory and practice through empirical analysis of concrete cases, especially in applying restorative justice in juvenile justice (Rosidah et al., 2019).

Third, the results of this study are expected to provide policy recommendations that can be used to improve the effectiveness and integrity of the judicial system in Indonesia (Lisma, 2019; Rosidah et al., 2019).

With a focus on the theoretical and phenomenological relevance of PLT, this research not only contributes to the enrichment of progressive legal theories but also offers practical solutions for reforming the legal system in Indonesia. This approach will direct the Indonesian legal system towards a more humanistic, adaptive, and substantive justice-oriented paradigm. In addition, this study introduces a potentially new result in the form of the integration of PLT into the judicial system, which a positivistic approach has historically dominated, thus creating a stronger foundation for future legal reform (Fikriawan et al., 2021; Lisma 2019).

## LITERATURE REVIEW

### Judicial Corruption and Legal Reform Challenges

Corruption in the Indonesian justice system is still a significant challenge despite the various reforms after the 1998 Reform Movement. Corrupt practices that damage the judiciary's integrity hurt public trust and hinder substantive justice. Progressive Legal Theory (PLT) offers a solution to this problem by highlighting the importance of a holistic approach that not only improves regulations but also eradicates a culture of corruption in the legal system (Kristiana & Hutahayan, 2024). PLT emphasized the importance of building clean and transparent institutions through legal culture reform that puts morality and justice above pragmatic interests.

Regarding the role of judges, PLT encourages decision-making that is not only oriented toward legal certainty but also toward substantive justice that reflects the needs of the community. Judges are expected to be able to apply progressive principles that allow them to make judgments that are adaptive to social change (Fikriawan et al., 2021). This paradigm seeks to shift a rigid and textual approach to a more dynamic and relevant interpretation of law. Thus, judges become the leading agents in creating progressive jurisprudence that is responsive to the times' challenges.

However, the positivistic legal culture that dominates the Indonesian judicial system is often an obstacle to implementing PLT principles. In the juvenile court system, for example, the orientation to formal law takes precedence over the values of substantive justice, resulting in verdicts that do not reflect social and religious morality (Rosidah et al., 2019). Legal reform in line with LLP requires a fundamental change in this legal culture by integrating a social and moral value-based approach into the legal decision-making framework.

In addition, the implementation of LLP also faces challenges in terms of the capacity of judges. The non-uniform interpretation of the law, especially in cases involving Sharia law, indicates the need for ongoing training for judges (Hidayah & Azis, 2023). By improving their competence and understanding of progressive approaches, the justice system can better address existing problems of corruption and legal inequality. Therefore, developing a training program that focuses on the practical application of LLP in decision-making is important.

### Implementation and Practical Applications of Progressive Legal Theory

The implementation of Progressive Legal Theory in Indonesia is still partial, even though it shows great potential. A concrete example can be seen in the Constitutional Court's (MK) ruling on the age of marriage, where the PLT element is used to balance legal certainty and substantive justice (Saifullah & Lutfi, 2020). However, the inconsistency in its application shows a gap between the idealism of LLP and the prevailing legal practice. LLP-based legal reforms should be directed to create mechanisms that ensure consistency in applying progressive values across judicial institutions.

In the context of Sharia banking disputes, applying contextual legal interpretations that align with the principle of LLP has proven to be more

relevant in creating substantive justice. This approach accommodates the values of community justice and strengthens the legitimacy of the legal system in the eyes of the public (Hidayah & Azis, 2023). This shows that PLT can present a more inclusive and flexible solution than a rigid textual approach. However, this application requires strengthening understanding among law enforcement officers in order to be able to translate the principles of PLT into practice.

In addition, the restorative justice approach in criminal law enforcement provides a real illustration of the application of PLT in creating a more humane justice system. With a focus on relationship restoration and conflict resolution oriented towards substantive justice, restorative justice has helped reduce the tension between legal formalities and societal needs (Sufriadi, 2024). This approach also shows that LLP can be an effective framework to address legal rigidity that is often insensitive to social dynamics.

However, to ensure the successful implementation of PLT, strategic steps are needed to improve the competence of law enforcement officers. Intensive training on progressive values, applying contextual approaches, and integrating social and moral considerations into the legal process should be a priority (Hidayah & Azis, 2023; Sufriadi, 2024). Thus, PLT is not only a theoretical foundation but also a practical guide in creating a judicial system that is more relevant and responsive to the needs of society.

## **METHODOLOGY**

This study uses a normative law method that analyzes legal principles, norms, and doctrines within the framework of positive law. This approach involves a systematic study of written legal rules (*de lege lata*) while also providing recommendations for future legal reforms (*de lege ferenda*). The first step in this study is to establish the objectives and scope, namely, to provide a detailed explanation of the relationship between legal rules and analyze the relevance of applying progressive legal theory in the context of judicial reform in Indonesia.

The scope of research includes the study of laws, regulations, court decisions, and relevant academic literature (Hamzani et al., 2024; West, 2011). In data collection, this study prioritizes primary legal sources such as laws, regulations, and judicial decisions, accompanied by analysis from secondary sources such as law journals and legal commentary to support more profound legal interpretations.

The collected data was analyzed using various legal interpretation methods, including grammatical, systematic, and teleological interpretation. Critical analysis is conducted to evaluate the coherence and relevance of existing legal rules, while a comparative approach is used to compare legal practice in Indonesia with other jurisdictions that have applied progressive legal principles (Coleman, 2004; Van Hoecke, 2011). This study's results are expected to provide a holistic understanding of the legal issues under study and to produce recommendations for more substantive and progressive legal reforms.

## RESULT AND DISCUSSION

The judicial system in Indonesia is experiencing significant challenges, such as structural corruption, administrative inefficiency, and low public trust in legal institutions. This phenomenon hinders the development of the rule of law, which should be the foundation of social justice. Therefore, reforming the judicial system is urgently needed to rebuild public trust and direct the legal system to align more with social realities.

This reform requires an approach that goes beyond the traditional positivistic paradigm, which has dominated legal culture in Indonesia. A progressive legal approach that emphasizes the substance of justice rather than mere formal compliance is a promising solution.

The Progressive Legal Theory (PLT) introduced by Satjipto Rahardjo provides a relevant conceptual framework to address the problem. PLT considers the law as a dynamic tool to serve the needs of society, emphasizing substantive justice over the formality of rules. Thus, the law is a tool for enforcing rules and an instrument of social engineering to create welfare and justice. This approach provides a logical and phenomenological answer to the need for legal system reform in the Indonesian context.

However, implementing PLT in Indonesia faces serious challenges, mainly due to the rigid and textual positivistic legal culture. For example, in juvenile justice, a formal approach is often prioritized over substantive values that reflect social morality. As a result, legal decisions often fail to meet the community's needs. Therefore, reforms based on LLP require fundamental changes in legal culture, including integrating social and moral values in the decision-making process.

In addition, the capacity of judges is a key factor in implementing PLT. The absence of uniform legal interpretation and the limitation of continuous training for judges show that legal reform must include improving the competence of law enforcement officers. With training that focuses on a progressive approach, judges can be more responsive to social needs and the dynamics of changing times.

This reform requires support from various parties, including the government, academics, and civil society. Implementing PLT in Indonesia has shown promising potential even though it is still partial. For example, the Constitutional Court's ruling on the age of marriage reflects an effort to balance legal certainty and substantive justice. However, the gap between LLP's idealism and everyday legal practice points to the need for a mechanism to consistently apply progressive values across judicial institutions. This requires a more systematic integration of LLP values in the legal system.

The restorative justice approach provides a concrete illustration of how PLT can create a more humane justice system. The focus on relationship restoration and substantive justice-oriented conflict resolution shows that PLT can bridge the gap between legal rigidity and community needs. However, the success of this approach requires a well-thought-out strategy, including strengthening training and integrating progressive values.

The normative legal method used in this study allows a systematic analysis of written legal rules and their application in a social context. This approach is relevant not only for analyzing the status quo but also for recommending future legal reforms. With a critical analysis of primary and secondary legal data, this study provides in-depth insights into the relevance of LLPs in legal reform in Indonesia.

This study identifies fundamental challenges in the Indonesian justice system, including structural corruption, the dominance of a positivistic legal culture, and the limited capacity of law enforcement officers to implement a progressive approach. These problems directly impact the low public trust in legal institutions and the inability of the judicial system to meet the needs of substantive justice. In this context, Progressive Legal Theory (PLT) offers a relevant framework, focusing on law as a dynamic tool that serves society, emphasizing the values of substantive justice over normative compliance.

The analysis shows that the formalistic approach that dominates the legal system in Indonesia often hinders the application of PLT principles. In the case of juvenile justice, for example, legal decisions are more oriented to the certainty of the rule than to the values of morality and social justice. This creates a gap between legal practice and the needs of society. Therefore, LLP-based legal reform requires fundamental changes in legal culture, including integrating social, moral, and contextual approaches in the decision-making process. Another challenge is the inconsistency of judges' legal interpretations, especially in Sharia law cases. This indicates that capacity building of law enforcement officers through continuous training that focuses on applying progressive principles is urgently needed. This training aims to ensure that the values of PLT are not only a theoretical discourse but also applied consistently in legal practice.

Implementing PLT in Indonesia has shown promising results, although they are still partial. An important example is the Constitutional Court's ruling on the age of marriage, which tries to balance legal certainty and substantive justice.

However, the gap between LLP's idealism and everyday legal practice points to the need for a more systematic mechanism to consistently apply progressive values across legal institutions. Restorative justice is one of the applications of PLT that shows great potential in creating a more humane justice system. With a focus on restoring relations and resolving conflicts substantively, this approach successfully bridges the tension between legal formalities and the needs of society. The success of this approach requires strategies to strengthen law enforcement officers' understanding of the values of PLT and its application in case resolution.

## **CONCLUSIONS AND RECOMMENDATIONS**

This study emphasizes that the Indonesian justice system faces fundamental challenges in the form of structural corruption, a rigid positivistic legal culture, and the limited capacity of the legal apparatus to implement a progressive approach.

These challenges directly impact the low public trust and the inability of the legal system to meet the needs of substantive justice. In this context, progressive legal theory (PLT) is a potential solution that offers a more responsive, dynamic, and community-oriented legal approach.

The implementation of PLT shows promising results, as seen in the Constitutional Court's decision regarding the age of marriage and the restorative justice approach in handling criminal cases. However, this application is still limited and often inconsistent, reflecting the need for systematic reforms to integrate LLP values into legal practice in Indonesia.

The analysis also underscores the importance of strengthening the capacity of judges and other law enforcement officers to ensure consistent implementation of progressive principles. This research also highlights the relevance of the normative approach in understanding and analyzing the existing legal system. By basing the analysis on written legal rules, social values, and empirical contexts, the results of this study offer theoretical and practical perspectives for legal reforms that are more adaptive, relevant, and oriented toward substantive justice.

1. **Legal Culture Reform:** The government and legal institutions need to change the positivistic legal culture to be more progressive by placing social and moral values as the basis for legal decision-making. This step can be done through a legal education campaign focusing on substantive justice's importance.
2. **Capacity Building of Law Enforcement Officers:** Intensive training for judges and other law enforcement officers is urgently needed. The program should include an in-depth understanding of LLP, applying a contextual approach, and integrating progressive values in the decision-making process.
3. **Strengthening the Implementation Mechanism of PLT:** There needs to be a systematic mechanism to ensure consistency in implementing LLP values throughout judicial institutions. This includes preparing guidelines or operational standards based on PLT that can be a reference for judges and other law enforcement officials.
4. **PLT-Based Policy Development:** Legal policies must be designed with an adaptive approach to the needs of society, such as prioritizing restorative justice in criminal cases and integrating the principles of substantive justice in family or Sharia law settings.
5. **Multi-Sector Collaboration:** PLT-based legal reform requires the support of various parties, including academics, legal practitioners, and civil society. This collaboration can strengthen legal reform advocacy and encourage wider implementation of LLP.
6. **Continuous Monitoring and Evaluation:** A continuous monitoring and evaluation system is needed to implement LLP in the judicial system. This step aims to identify obstacles and provide more effective solutions in the long term.

## **FURTHER RESEARCH**

This research has several limitations that need to be acknowledged. First, the normative legal approach mainly focuses on the analysis of written legal rules and theoretical interpretation, so it lacks empirical aspects related to applying Progressive Legal Theory (PLT) in the field.

This makes this study more prominent conceptual arguments than empirical findings, limiting the potential to validate theories through empirical data. Second, although examples of the application of LLT, such as restorative justice and the Constitutional Court's ruling on the age of marriage, have been reviewed, the scope of the analysis is still partial.

This study has not comprehensively explored other legal sectors, such as environmental law, economic law, or customary law, which are also relevant in the Indonesian context. Third, another limitation lies in the lack of comparative analysis with legal systems in other countries that have applied a progressive legal approach. The comparison can provide broader insights into how PLT can be adapted and implemented more effectively locally.

Based on these limitations, some suggestions for further research may be proposed:

1. Empirical Research: Subsequent studies should involve an empirical approach to examining the application of PLT directly, for example, through interviews with judges, lawyers, or other relevant parties, as well as the analysis of concrete cases in the field.
2. Broader Legal Sector Coverage: Further research can expand the scope of LLP's application to other areas of law, such as environmental law, economic law, or customary law, to understand how these approaches can be adapted in different contexts.
3. Comparative Analysis: A comparative study with other countries that have adopted a progressive legal approach will provide more in-depth insights into the best practices that can be adopted in Indonesia.
4. Policy Evaluation: Future research can focus on evaluating the effectiveness of PLT-based policies that have been implemented so that it can provide more specific and strategic recommendations for future legal policy development.
5. Multidisciplinary Integration: Integrating social, economic, and cultural perspectives in legal analysis will enrich the understanding of how LLPs can provide more holistic solutions to legal challenges in Indonesia.

## **ACKNOWLEDGMENT**

With all humility, the Author would like to express his most profound appreciation and gratitude to the supervisor, Dr. Danang Wahyu Muhammad, S.H., M. Hum, who has provided direction, advice, and support while writing this research. The guidance and input provided have inspired and driven the Author to complete this research well. The Author would also like to thank [mention the party/agency that provided assistance, if any], which has made this research possible.

This assistance plays a vital role in supporting the smooth research process until the preparation of this report. All the contributions, support, and guidance that have been given will get a worthy reply. The Author hopes that this research can provide benefits and make a small contribution to the development of science in law. Thanks.

## REFERENCES

- Coleman, J. L. (2004). Methodology. In *The Oxford Handbook of Jurisprudence and Philosophy of Law*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199270972.013.0008>
- Fikriawan, S., Anwar, S., & Ardiansyah, M. (2021). The Paradigm of Progressive Judge's Decision and Its Contribution to Islamic Legal Reform in Indonesia. *Al-Manahij: Jurnal Kajian Hukum Islam*, 15(2), 249–266. <https://doi.org/10.24090/mnh.v15i2.4730>
- Hamzani, A. I., Widyastuti, T. V., Khasanah, N., & Rusli, M. H. M. (2024). Implementation approach in legal research. *International Journal of Advances in Applied Sciences*, 13(2), 380–388.
- Hidayah, N., & Azis, A. (2023). IMPLEMENTATION OF PROGRESSIVE LAW IN SHARIA BANKING DISPUTE SETTLEMENT: Case Study of Religious Court Decisions in Indonesia. *Ulumuna*, 27(1), 227–257. <https://doi.org/10.20414/ujs.v27i1.652>
- Kristiana, Y., & Hutahayan, B. (2024). Judicial Corruption in the Post-Reform Era: Assessing the Effectiveness of Legal Reforms in Indonesia. *International Criminal Law Review*. <https://doi.org/10.1163/15718123-bja10208>
- Lisma. (2019). Progressive Law Functions in Realizing Justice in Indonesia. *Syariah: Jurnal Hukum Dan Pemikiran*, 19(1), 1–13. <https://doi.org/10.18592/sy.v19i1.2543>
- Rosidah, N., Amnawaty, & Ritonga, R. (2019). Does the juvenile justice system protect the youth supply chain? Progressive juvenile court judges: Reform of Indonesia's juvenile criminal justice system through a socio-legal approach supported by PLS-structural equation modeling. *International Journal of Innovation, Creativity and Change*, 6(1), 216–235. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85072614390&partnerID=40&md5=6356be3f831ee84ca9de4b3ea68fb53c>
- Saifullah & Lutfi, M. (2020). Critical analysis of the progressive law theory on the constitutional court judges' decisions in Indonesia regarding marriageable age limit. *Pertanika Journal of Social Sciences and Humanities*, 28(1), 397–408. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85082046266&partnerID=40&md5=542beb2dd77309fa73000bda9285632a>

- Sufriadi, Y. (2024). The progress of Indonesian law enforcement reform after 25 years of the reform movement. *Asian Affairs(UK)*, 51(1), 28–54. <https://doi.org/10.1080/00927678.2023.2268491>
- Van Hoecke, M. (2011). Methodologies of Legal Research: Which Method for What Discipline? In *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* Bloomsbury Publishing Plc. <https://doi.org/10.5040/9781472560896>
- West, R. (2011). Normative jurisprudence: An introduction. In *Normative Jurisprudence: An Introduction*. Cambridge University Press. <https://doi.org/10.1017/CBO9781139043922>