



THE 3rd INTERNATIONAL CONFERENCE AND CALL FOR PAPER

"Legal Development in Various Countries"



IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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INFORMATION OF THE CONFERENCE AND CALL PAPER

WORLD ISLAMIC UNIVERSITY
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Welcome to Participants on International Conference

"LEGAL DEVELOPMENT IN VARIOUS COUNTRIES"

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.

KEYNOTE SPEAKER:
Prof. Henning Glaser
Thammasat University, Thailand

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

SPEAKERS :

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Nagoya University, Japan
2. Prof. Dr. Ruzian Markom
Universitas Kebangsaan Malaysia, Malaysia
3. Prof. Dr. I Gusti Ayu Rachmi, S.H., M.M
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Indonesia, September 05th 2017

WORLD ISLAMIC UNIVERSITY
UNISSULA
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Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : **Faculty of Law UNISSULA**
Semarang-Indonesia

5
September
2017

FACULTY OF LAW
Sultan Agung Islamic University

SPEAKERS :

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Nagoya University, Japan
2. Dr. Hilaire Tegnau, LL.M.
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Sultan Agung Islamic University, Indonesia

This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5th 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3rd Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

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AND CALL FOR PAPER
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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PREFACE

Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5th 2017

Chairman of the Committee,



Dr. Anis Mashdurohatun, S.H., M.Hum
NIDN : 06-02105-7002

GREETING FROM THE DEAN OF FACULTY OF LAW

As-salamu'alaikum Wr. Wb.

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5th 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.

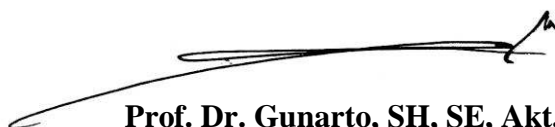
Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

Wassalamu'alaikum Wr. Wb.

Semarang, September 5th 2017

Dean,



Prof. Dr. Gunarto, SH, SE, Akt, M.Hum
NIDN.062004670

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THE AUTHORITY OF PERFORMING A DEATH PENALTY ACCORDING TO THE DOCTRINE OF LOVE OF JESUS CHRIST IN THE BIBLE

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The Student of Law Doctoral Programme UNISSULA

ABSTRACT

God is the creator of human being and God is the source of the life of human, so God is the only one the owner of the life of human being, and God is the only one to be able to take away a life of human being.

According to the doctrine of Love of Jesus Christ and the creation of human being as it is written in the Holy Bible that God and Jesus Christ never give an authority to a man to take away a life of a human being, so a man has no authority to put on a death penalty by his own intention towards an offender or a trespasser or a cruel crime actor.

The prime aim of punishment is to repent an offender or a trespasser and recovering a peaceful situation.

A death penalty is a degrading punishment and it degrades human dignity. Performing a death penalty is also to resist the power and the authority of God as the creator of human being.

A State or a government must be able to perform a welfare and a prosperity and a peaceful situation of a society without a cruel punishment for an offender or an trespasser or a cruel crime actor.

Performing a death penalty to an offender or an trespasser or a cruel crime actor shows that a state or a government fails to fulfill an adherence or obedience to the rules with a dignity legal enforcement.

Key Words : Authority, Death Penalty, Doctrine of Love of Jesus Christ,

A. Introduction

In the beginning God Created the heaven and the earth. Then God said, let us make man in our image, after our likeness, and let them have dominion over the fish of the sea and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth. So God created man in his own image, God created man in the image of God. God created them male and female. And God blessed them, and God said to them, be fruitful and multiply and replenish the earth and subdue it, and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that move upon the earth. The Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life, and so man became a living soul., and in the beginning, God created

the man for living forever as the Angels and not taste a death. Thus, God created the human in the beginning as it is written in the Holy Bible.¹

After God Created the human being, So God settled the human in a paradise garden, and God gave them a commandment. God commanded the human to obey the commandment wholeheartedly, but if they trespass the commandment, so they will die.

The human did not obey the God's commandment and they trespassed the commandment, so God condemned them with a death penalty, and God drove the human away from the paradise garden.

Since, the man trespassed God's commandment in the beginning, so the man's descendents always become a crime actor until now, and so the world is full of evil or crime.

Now a days, many cruel crimes occur in society, and it makes people so anxious and frustration and grievous, so that many people argue that an offender has to be sentenced with a severe punishment i.e. death penalty.²

Death penalty has aroused much interest and controversy, despite the recent rarity of its infliction in the society in generally and especially among the legal scientist.³ Many legal expert accept the death penalty as a legal sentence with the reason that code of penal of Indonesia provides it in chapter 10. Some expert or scientist argue that the death penalty is necessary and very important to be applied for deterrance to someone to do a crime and preventing of arising a crime in the future, but Opponents deny the deterrent value of the death penalty to prevent and to suppress of a crime successfully. They say man cannot conceive of his own death because he can not knowing anticipate the cessation of all experience.⁴

Some of legal scientist and Criminologist argue that A death penalty is also necessary applied towards the criminal actor as a retribution of own evil and recovering the sadness of a criminal victim and enforcing the certainty of law and justice.⁵

Some of the proponent of the death penalty also argue that the death penalty is not contrary with the human rights because the death penalty is also provided in the Holy Bible and the Alqurant.⁶

¹. Alkitab, 2009, Jakarta, Penerbit Lembaga Alkitab Indonesia, halaman 1-

². Lili Rasjidi, 1999, Hukuman Mati dalam Tinjauan Filsafat, cetakan pertama, Bandung, Alumni, halaman 265

³. Elmer Hubert Johnson, 1974, **Crime, Correction and Society**, The Dorsey Press, Illinois, USA, Third Edition, halaman 316

⁴. ibid

⁵. Achmad Ali, 2008, Menguak Realitas hukum, Jakarta, Prenada Media Group, halaman 3

⁶. Nelvitia Purba, dan Sri Sulistyawati, 2014, Buku Teks : Hukuman Mati dalam Hukum Pidana dan Hak Asasi Manusia, Medan, Universitas Muslim Nusantara Al-Washliyah, halaman 60 -70

The proponent's argumentation is not true because their argumentation was based by wrong hermeneutics or false interpretation about the words of God in the Holy Bible. Actually, God provides the death penalty in the Holy Bible but God never give an authority to any man to perform a death penalty to a crime offender by his own intention.

According to this problem or this legal issue, so the writer will promote a problem question, that is : **HOW IS THE AUTHORITY OF APPLYING THE DEATH PENALTY ACCORDING TO THE DOCTRINE OF LOVE OF JESUS CHRIST IN THE HOLY BIBLE.**

B. THE DOCTRINE OF LOVE OF JESUS CHRIST IN THE HOLY BIBLE.

One of the fundamental doctrine of Jesus Christ in the Holy Bible is the doctrine of Love. Jesus Christ thought his doctrine of Love as follows : You have heard that it has been said, An eye for an eye, and a tooth fo a tooth, but I say to you, that you don't resist evil, but whosoever smite you on rigt cheek, turn to him the other also, and if any man will sue you at the law, and take away your coat, let him has your cloak also. And whosoever shall compel you to go a mile, go with him twain. Give to him that ask you, and don't you turn away from him that would borrow of you. You have heard that it has been said, you shall love your neighbour and hate your enemy, baut Say to you, Love your enemies and bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you., so that you may be the children of your father which is in heaven, for He make his sun to rise on the evil and on the good, and sends rain on the just and on the unjust. And if you love them which love you what reward have you ? do not event the publicans di the same?. And if You salute your brethren only, what do you do more than others ? do not even the publicans do so ? You therefore be perfect even as your Father which is in heaven is perfect.⁷

Jesus Christ continued his doctrine about love, saying : don't judge that you are not judged, for with what judgement you judge so you shall be judged, and with what measure you mete so it shall be measured to you again.⁸

The meaning or the conception of the doctrine of Jesus Christ about "don't be judged" is so that someone do not justify himself and blame another. Jesus Christ explained his

⁷. Kitab Injil Matius 5 ayat 38 – 48, Alkitab (Perjanjian Baru), 2009, Penerbit Lembaga Alkitab Indonesia, Jakarta, halaman 5-6.

⁸. Kitab Injil Matius 7 (ayat 1 – 4), Alkitab (Perjanjian Baru), 2009, Penerbit Lembaga Alkitab Indonesia, Jakarta, halaman 7.

doctrine more as follows : why you behold the mote that is in your brother's eye but you do not consider the beam that is in your own eye ? and how will you say to your brother, Let me pull out the mote out of your eye, and behold, a beam is in your own eye ? You hypocrite, first cast out the beam out of you own eye, and then you shall see clearly to cast out the mote out of your brother's eye.⁹

According to the doctrine of Jesus Christ, so human being is not able to justify himself and blame others because a human being is actually a sinner and no one just or right before God.

Jesus Christ also taught another doctrine of love about forgiveness of brothers' sin or others, as follows : take heed to yourselves : if your brother trespass against thee, rebuke him, and if he repent, forgive him. And if He trespass against you seven times in a day, and seven times in a aday turn again to you, saying, I repent, so you shall forgive him.¹⁰

According to the doctrine of Love of Jesus Christ, so every human is not able to recompense evil for evil but every human has to want to forgive the debts or the trespass of others so that the debtor or the trespasser repent and not to do evil again. Jesus Christ does not allow us avenge an evil.

The aims of the doctrine of love of Jesus Christ indicates that the legal enforcement and the punishment towards the trespasser or the offender of law is to perform repentation and recovery so that the trespasser or the offender become a faithfull keeper of law in the future.

A crime can not be recompensed with the cruel punishment or the degrading sentence but a legal enforcement and a punishment must perform a peaceful situation and not to destroy an offender or a trespasser.

C. Conclusion

God is the creator of human being and God is the source of the life of human, so God is the only one the owner of the life of human being, and God is the only one to be able to take away a life of human being.

According to the doctrine of Love of Jesus Christ and the creation of human being as it is written in the Holy Bible that God and Jesus Christ never give an authority to a man to

⁹. Ibid,

¹⁰. Kitab Injil Lukas 17 ayat (3), Alkitab (Perjanjian Baru), 2009, Penerbit Lembaga Alkitab Indonesia, Jakarta, halaman 96.

take away a life of a human being, so a man has no authority to put on a death penalty by his own intention towards an offender or a trespasser or a cruel crime actor.

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