

CONVERGENCE EPISTEMOLOGIES OF LEGAL STUDIES PERSPECTIVES OF ISLAMIC PHILOSOPHY

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Abstract

Epistemology of knowledge, also epistemology of legal studies, which is derived from the senses, rationality, and inner voices, has their own analysis methods to attain truths; inductive reasoning to seek validity of empirical knowledge, deductive reasoning for knowledge based on reason or rationality, and intuition for that derived from inner voices. The three analysis methods often lead to debate and contradicting claims creating a conflicting truth in epistemology. This conflicting claims of truth results in stagnancy, deviation, and distortion, in which the truth attained during the process may be misused for certain parties, since in the field of law, truth may be established to accommodate one's needs. Therefore, it is crucial to create a concept which reconciles various epistemologies in knowledge, as well in legal studies, which is through a convergence of epistemology in legal studies through the perspective of Islamic philosophy. Through Islamic philosophy which is based on Quran, a conflicting knowledge derived through the senses, rationality, and inner voices will reconcile in one central point. Islamic philosophy which is based on Quran is the basis for epistemological truth derived from the senses, rationality, and inner voices, to simultaneously and jointly understand and complement each others' strengths and weaknesses through a circular triadic process in order to reach reconciliation.

Key words; senses, reason, conscience, Quran, convergence

abstrak

Epistemologi pengetahuan juga epistemologi ilmu hukum berasal dari indera, akal dan hati nurani memiliki metode analisis sendiri untuk mencapai kebenaran; penalaran induktif untuk mencari validitas pengetahuan empiris, penalaran deduktif untuk pengetahuan berdasarkan alasan rasionalitas dan intuisi berasal dari suara hati nurani. Tiga metode analisis tersebut sering menyebabkan perdebatan dan klaim kebenaran yang bertentangan dalam epistemologi. Klaim kebenaran yang bertentangan ini menimbulkan stagnasi, penyimpangan dan distorsi dimana kebenaran yang diperoleh dalam proses dapat disalahgunakan untuk kepentingan tertentu, karena di bidang hukum kebenaran dapat digunakan untuk memenuhi kepentingan seseorang. Oleh karena itu, sangat penting untuk menciptakan konsep yang menyatukan berbagai epistemologi dalam pengetahuan, serta dalam studi hukum melalui konvergensi epistemologi perspektif filsafat Islam. Melalui filsafat Islam yang didasarkan pada al-Quran pengetahuan yang bertentangan yang diperoleh melalui indera, akal, dan hati nurani dapat bertemu dalam satu titik temu. Filsafat Islam yang didasarkan pada al-Quran adalah dasar kebenaran epistemologi yang berasal dari indera, akal, hati nurani secara bersama untuk memahami dan lengkapi kelebihan dan kelemahan masing-masing melalui proses triadik melingkar untuk mencapai rekonsiliasi

Kata kunci: indera, akal, hati nurani, konvergensi, al-Quran

INTRODUCTION

History has witnessed how humans struggled with never-ending debates throughout decades to find out what a truth is.¹ Philosophical and religious perspectives are two fundamental bases to construct what considered as truth for humans. Humans as beings with cognitive abilities have always desired to find out the truth through the knowledge they have. Knowledge is not only limited to the result, but also the process to uncover the truth. Knowledge is classified into four categories; common knowledge, scientific knowledge, philosophical and knowledge of God and religions. The conflicting truth amongst people is very much associated with one's own knowledge. The validity of one's uttered truth can be viewed from how great one's knowledge regarding that particular issue. As John Dewey argued, knowledge is often simplified as a precise and fixed decision. Knowledge must be a truth (truth is a condition of knowledge), accordingly, people must have the knowledge to gain truth, which is vital with the increase of complexity of current issues.

Truth gained by humans is bound to a particular epistemology, as epistemology is a branch of philosophy concerned with what qualified as truth, criteria of truth, how to gain knowledge (the procedure), what needs to be examined to get a right knowledge, and ways/techniques/instruments to help people gain a correct knowledge. Some main issues discussed in epistemology are; nature (essence), the existence and scope of knowledge, sources of knowledge, methods to gain knowledge, instruments to implement the aforementioned methods, and knowledge validity test.² Epistemology as human's means to achieve knowledge is much affected by their own potential source. Human as Allah's creation is equipped with the senses, reason, and inner voices as potential sources to attain correct knowledge. Having this potential distinguishes humans from other beings, and thus humans are at the highest level among Allah's creations. Through the senses, rationality, and inner voices, humans are capable of gaining knowledge in a correct manner, for all the human potentials were particularly created as instruments to perceive the nature of knowledge (epistemology).

However, problems occurred when humans are incapable of using their senses, rationality, and inner voices to perceive correct knowledge. For example, those solely

¹ Muhammad Baqir Shadr, *Falsafatuna*, Trans. M. NurMufid Ali, (Bandung, Mizan, 1994), p. 25

² Paul Edward (ed.), *The Encyclopedia of Philosophy*, (New York, London Macmillan Publishing Co, Inc, dan the Free Press, 1990), p. 9

using senses as the basis to obtain knowledge (empiricists), or solely using rationality as the source and test of knowledge (rationalists) or solely using inner voices to perceive knowledge (Sufism). If one bases his or her opinion and claims on solely one source, debates and conflicts will most likely occur, as each claims theirs as the truth. The problem of truth was raised in any aspects of knowledge, as in legal studies. Those basing their claims primarily on sensory experiences will only regard empirical evidence as truths amongst the society, as in the perspectives of the sociology of law. Accordingly, the claimed truth contradicts those basing their claims on rationality or inner voices. Those regarding rationality to attain truths will only approve any views which are based on logical reasoning, as in the perspective of normative positivism.³ Consequently, the end results tend to oppose those derived from the senses and inner voices. Those basing their opinion on inner voices will only support truths coming from intuitions, and as a result, contradicts those come from the senses and rationality. With this pattern, truths will be divided into several contradicting categories based on the source preferred, and in turn, will lead to endless debate.⁴ The danger posed by this approach occurs when there exists a particular demand on the basis of professionalism, so the attained truths refers only to a particular occupation and hardly accepted for any of those basing truths on the senses, rationality, or inner voices.

Epistemology as a method or means to achieve truths is crucial in gaining knowledge, as in legal studies. Allah has equipped humans with the senses, rationality, and inner voices to perceive and attain a correct knowledge. Hence, humans have to utilize the senses, rationality, and inner voices given by Allah to obtain knowledge and truths as part of their tasks of being the most superior of all creations. Given all those potentials, comprehensive and integral truths will be attained, not partial truths separated into each perspective. Legal studies should be simultaneously attained through the senses, rationality, and inner voices to reach an agreement. For this reason, a novel concept offering alternatives to attain truths in the epistemology of legal studies is essential; which is a concept to coincide various epistemologies derived from the senses, rationality, and inner voices in the field of legal studies. This concept of convergence is similar to an integration of knowledge and religion, however, in this

³Kelik Wardiono, *Basis Epistemologi Paradigma Rasional Dalam Ilmu Hukum: Sebuah Diskripsi Tentang Asumsi Dasar Teori Hukum Murni Hans Kelsen*, (Jurnal Dinamika Hukum, Universitas Jenderal Soedirman, Vol.14, No.3, 2014), pp. 370-371

⁴ZulfadliBarus, *Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis*, (Jurnal Dinamika Hukum, Universitas Jenderal Soedirman, Vol.13, No.2, 2013), p. 309

case, the convergence emphasizes the role of Quran as the basis to reach an agreement amongst knowledge derived from the senses, rationality, and inner voices, so the perceived knowledge are approved by each standpoint. The aforementioned concept of convergence of the three epistemologies in legal studies is expected to contribute a novel approach to the progress of legal studies in Indonesia.

1. THE EPISTEMOLOGIES OF LEGAL STUDIES

a. Epistemology of Legal Studies Based on the Senses

The epistemology of legal studies derived from the senses to attain a correct knowledge is fundamentally corresponding to other knowledge, which is to utilize empirical research. The senses as a means to perceive knowledge are based on concrete physical indicators characterized by a regular pattern of a particular case and matching and repeating actual cases to make a generalization. In this view, the physical world is concrete and tangible, and hence, any physical symptoms identified by the senses are seen as correct knowledge. The epistemology of knowledge which is based on the sensory experiences will regard truths are only seen as truths when they are identified by the senses, while others are a lack of conviction. The dominant role of the senses in attaining truths stands on the characteristics of objects which are physical, thus, only the senses are capable of identifying their existences. The senses as means of epistemology not only establish scientific knowledge (physics) that is material,⁵ but also to perceive social humanities sciences, as in legal studies.

The epistemology of knowledge derived from the senses is, as empirical argued, one of many forms of knowledge which are realistic and sensory, a portrayal of what happens in the real world so that only those correspond to what happens in the real world are seen correct knowledge. The validity of knowledge is a correspondence to its object, where the validity of the object itself is being the focus of the research which is capable of determining truths even though the object themselves are prone to change. Epistemology of knowledge basing its arguments on the sensory experiences is the basis of empiricists. The important role of senses in attaining truths is viewed as the only means to obtain truths, as conveyed by a French astronomer, Pierre Simon Laplace, "*I mistrust anything but the direct result of observation and calculation*".⁶

⁵ Ibn Rusyd, *Al-Kasyf 'an Manâhij al-Adillahfi 'Aqid al-Millah*, (Beirut, Dar al-Afaq, 1978), p. 127

⁶ Bertrand Russell, *Religion and Science*, (London, Oxford University Press, 1982), p. 57

Epistemology of knowledge derived from the senses, as in other knowledge, view senses as the ruling means of knowledge, such those in the principles of the empiricists. It is impossible to perceive knowledge without using senses. Reason functions as a means to organize data derived from the senses. Senses are such spotless papers that will be filled with experiences which roles are as empirical to be turned into ideas since knowledge consists of connection and disagreement of our ideas. As David Hume uttered, the role of senses in attaining knowledge is more assuring than logical reasoning. Causality (or cause and effects) in previous cases cannot be used to determine future cases. Senses convey direct and precise information towards the observed objects in accordance with times, places, and patterned characteristics of a particular case, such as clouded sky are typically followed by rains. In perceiving knowledge, senses observe the objects by directly hearing, seeing, touching, tasting, and smelling them. Observation through imitating the mechanism of how certain things work is also common. A certain object is imitated into another object by repeating the mechanisms. This approach is termed as inductive where the starting point is something 'known' going towards the "unknown".

Epistemology of knowledge derived from the senses as in legal sociology (sociology of law) which is based on observations of social realities in the society is also classified as legal theories of legal empiricists. The validity of claims depends on the correspondence of the claims and the social realities. Broekman and van Eikema Hommes argued that norms are constructed through social realities which are seen as symptoms, such as unique and frequent behaviour. Legal empiricists agreed on this notion and claimed that legal studies are part of social humanities science, hence, legal studies concerns laws with humans as the main subject. Inductive reasoning, on the other hand, bases their argument of truths on the results of empirical observations. To test the validity of sociology of law, there should be a correspondence between the knowledge of truth and the reality in the real world, so that the logical thought is more detailed and precise.

Ehrlich, a primary Austrian sociologist of law, the founder of the concept of Living Law, asserted (in introduction to his books written by Roscoe) that his concept of sociology of law differs from the concepts used by the previous sociologists of law, as how legal history which is metaphysical is different from an individual subject which is abstract. Ehrlich discussed the relationship between groups of people and the society, or in other words, it can be argued that Ehrlich implemented the correct method of

sociology. According to Durkheim, a law is much related to the society. Law emerged as a special institution of changes happen in the society which is patterned as a process of social differentiation. Durkheim argued that the types of social solidarity correlate with types of society. Each type of social solidarity corresponds with the law applied at that time, while the study of social background- which is being studied by Weber (a sociologist of law)- is conducted in Western and European countries where capitalism is the main characteristic of their social development. Weber claimed that sociology of law started out with understanding the standpoint of economic order and law order. Weber used the differences between the two orders to get into the economic order as a discussion of laws in an economic reality order. The unification of economic and law order in society's social system can influence each other, and therefore, make it qualified as an empirical theory of validity. In analyzing cases, sociology of law employs inductive reasoning by making a broad generalization based on specific cases. Inductive reasoning starts out with a specific and restricted statement to reach a broad conclusion. The conclusion drawn is seen as a correct knowledge as it is constructed from several statements which correspond with each other and are repeating. As stated by Karl Marx:

*“The use of a commodity belongs to him (the capitalist, dd), just as much as the right to use any other commodity, such as a horse he had hired for a day. The use of a commodity belongs to its purchaser, and the seller of labour-power, by giving his labour, does no more, in reality, than part with the use-value he has sold. From the instant steps into the workshop, the use-value of his labour-power and therefore also its use, which is labour, belongs to the capitalist. By the purchase of labour-power, the capitalist incorporates labour, as a living agent of fermentation, into the lifeless constituents of the product, which also belong to him. From his point of view, the labour process is nothing more than the consumption of the commodity purchased, i.e. of labour-power; but he can consume this labour-power only by adding the means of production to it. The labour process is a process between things the capitalist has purchased, things which belong to him. Thus the product of this process belongs to him just as much as the wine which is the product of the process of fermentation going on in his cellar”.*⁷

b. Epistemology of Legal Studies Based on Reason

Rationality or reason is the epistemological foundation of legal studies and other knowledge. Rationality manages the data derived from senses and holds the mental and individual concept which is non-physical. Using the rationality in attaining knowledge is immaterial, universal, and non-partial. Rationality as the epistemology of legal studies

⁷Karl Marx, *Capital I*, (New York, Vintage Books, 1977), p. 292

is also the basis used for attaining truths in the field of normative positivism. The logic and rational nature of the mind in its idea, mental, intellectual, and non-physical concept is supported by H.L.A. Hart's and John Austin's and Hans Kelsen's which can only be accepted through logical reasoning,

According to Hart's:

"However, rejected the "absurd views that law in its proper functioning needs no recourse to other disciplines and that 'correct' legal decisions can simply be deduced by strictly logical means from purely legal premises. Indeed, Hart went so far as to describe his theory of law as a "sociological" one".⁸

According to John Austin's:

"A rule laid down for the guidance of an intelligent being by an intelligent being having power over him. Every law or rule is a command. Or, rather, laws or rules, properly so called, are a species of commands. If you express or intimate a wish that I shall do or forbear from some act, and if you will visit me with an evil in case I comply not with your wish, the expression or intimation of your wish is a command. The evil which will probably be incurred in case a command be disobeyed or in case a duty be broken, is frequently called a sanction, or enforcement of obedience. Or the command or the duty is said to be sanctioned or enforced by the chance of incurring the evil".⁹

According to Hans Kelsen's:

"The Pure Theory of Law is a theory of positive law... It is called a "pure" theory of law, because it only describes the law and attempts to eliminate from the object of this description everything that is not strictly law: Its aim is to free the science of law from alien elements. A legal system is to be equated with a collection of pure interpreted by legal scientist as non-contradictory field of meaning --- such interpretation entailing the logical postulate that legal norm must originate in a finite number of sources. The Pure Theory of Law separates the concept of the legal completely from that of the moral norm and establishes the law as a specific system independent even of the moral law. Norms according to which men ought to behave in a certain way can also be created by custom. If men who socially live together behave for some time and under the same circumstances in the same way, then a tendency --- that is psychologically, a will --- comes into an existence within the men to behave as the members of the group habitually do. At first the subjective meaning of the acts that constitute the custom is not an ought. But later, when these acts have existed for some time, the idea arises in the individual member that he ought to behave in the manner in which the other members customarily behave and at the same time the will arises that the other members ought to behave in that same way. If one members of the group does not behave in the manner in which the other members customarily behave than his behavior will be disapproved by the others, as contrary to their will. In this way the custom becomes the expression of a collective will whose subjective meaning is an ought. However, the subjective meaning of the acts that constitute the custom can be interpreted as an objectively valid norm only if the custom has been instituted by a higher norm as norm creating fact. Since custom is constituted by human acts, even norms created by custom are created by acts of human behavior, and are therefore --- like the norms which are the subjective

⁸ H.L.A. Hart, *The Concept of Law*, (Oxford University Press, 1994), p. 302. William E. Conklin, *The Invisible Origins of Legal Positivism*, (Kluwer Academic Publisher, 2001), p. 64.

⁹ John Austin, *The Province of Jurisprudence Determined*, (Cambridge University Press, 1995), p. 18

meaning of legislative acts --- "posited" or "positive" norms. Finally it is not to be noted that a norm need not be only the meaning of a real act of will; it can also be the content of an act of thinking. This is the case if the norm is only presupposed in our thinking. Just as we can imagine things which do not really exist but "exist" only in our thinking, we can imagine a norm which is not the meaning of a real act of will but which exists only in our thinking. Then, it is not a positive norm. But since there is a correlation between the ought of a norm and a will whose meaning it is, there must be in our thinking also an imaginary will whose meaning is the norm which is only presupposed in our thinking --- as in the basic norm of positive legal order".¹⁰

As stated by Surya Prakash Sinha; in order to maintain this order, the king should always hold the Rod up to strike, since there is no better means for the subjugation of human being than the Rod. A king without the Rod is a source of terror to human beings; a king mild with the Rod is despised; ; and a king just with the Rod is honored. When used after full consideration, the Rod endows the subjects with spiritual good, material-being, and pleasures of the senses. When used unjustly, i.e. in passion, anger, or contempt it enrages people. If not used at all, it gives rise to the law of the fish wherein the stronger swallows the weak.¹¹

Legal studies seek to describe, systemize and explain legal positivism which consists of written laws. The object of legal studies is legal positivism which is rationally practical and neurological. Legal study is a study of law in a rational way of thinking, including all types of research in legal positivism¹² which applies in a particular time and place.¹³ For this reason, legal studies implement deductive reasoning as the analysis method. Mainstream legal positivists use deductive reasoning to attain truths for any study of law concerning with acts. Consequently, the nature of legal positivism is on being immensely rational. According to Cicero:

"True law is right reason conformable to nature, universal, unchangeable, eternal, whose command urge us to duty, and whose prohibitions restrain us from evil. Whether it enjoins or forbids, the good respect its injunctions, and the wicked treat them with indifference. This law can not be contradicted by any other law, and is not liable either to derogation or abrogation. Neither the senate nor the people can give us any dispensation for not obeying this universal of justice. It needs no other expositor and interpreter than our conscience. It is not one thing at Rome, and another

¹⁰Hans Kelsen, *The Pure Theory of Law*, Trans. Max Knight, (University of California Press, 1976), p. 1. Andrei Marmor, *Exclusive Legal Positivism*, (The Oxford Hand Book of Jurisprudence and Philosophy of Law, Oxford Press, 2002), pp. 104-124. Lloyd of Hampstead and Freeman, Llyod's, *Hans Kelsen, The Pure Theory of Law Introduction to Jurisprudence* (London, Steven & Sons, Fifth Edition, 1985), pp. 348-394

¹¹ Surya Prakash Sinha, *Jurisprudence Legal Philosophy In a Nutshell*, (West Publishing, 1993), pp. 172-173.

¹² H. Ph. Visser 'tHooft, *Filsafat Ilmu Hukum*. Trans. Bernard Arief Sidharta, (Universitas Katolik Parahiyangan Bandung, 2003), pp. 1-5.

¹³ Paul Scholten, *Struktur Ilmu Hukum*. Trans. Bernard Arief Sidharta, (Bandung, Alumni, 2003), pp. v-vi.

at Athens; one thing today and another tomorrow, but in all times and nations this universal law must for ever reign, eternal and imperishable. It is the sovereign master and emperor of all beings. God himself is its author, its promulgator, its enforcer. And he does not obey it flies from himself, and does violence to the very nature of man. And by so doing he will endure the severest penalties even if he avoid the other evils which are usually accounted punishments".¹⁴

The focus of legal positivism is apparently reduced to being a routine to learn 'legal craftsmanship and 'legal mechanic' who have a comprehensive knowledge and skill to set a law in a particular case, but not to broaden and review the legal system, as the truth in the major premise in its deductive reasoning is through an existing coherent and consistent laws which exists in the written laws.¹⁵ Jurists' job is limited on governing regulations in a systematic and linear way based on the referred laws.¹⁶ This way of thinking results in positivists' view of problems as 'black and white', though people's cases exceed those included in the constitution. Law is turned into an overly simple normative institution in which order and disorder are seen as black and white. Legal positivism as the theory of the mind in creating ideas (imperative) emphasizes the norm authority and force people to obey it. As fairness is not seen part of the reasoning, when the norms have turned into a legal positivist, there exist a power to force people to obey them. Normative positive is much related and became a part of laws applied in Indonesia. According to Cicero Brian Z. Tamanaha:

"How do judges judge? According to the formalist, judges apply the governing law to the facts of a case in a logical, mechanical and deliberative way. For the formalist, the judicial is a "giant syllogism machine" and the judge acts like a "highly skilled mechanic." Legal realism, on the other, represent a sharp contrast ... For the realist, the judge "decides by feeling and not by judgment; by 'hunching' and not by ratiocination" and later uses deliberative faculties "not only to justify that institution to himself, but to make it pass muster".¹⁷

Deductive reasoning in normative positivism views truths depend on the self-evident proposition and always apparent in a major premise proposition (Axioma) or also termed as coherence and consistency theory in the field of philosophy studies. Drawing conclusions through deductive reasoning is by implementing syllogism reasoning which consists of two premises and a conclusion. Statements supporting

¹⁴Howard P. Kainz, *Natural Law: An Introduction and Re-examination*, (Carus Publishing Company, 2004) pp. 1-12.

¹⁵ R.A. Posner, *Frontiers of Legal Theory*, (Harvard University Press, 2001), pp. 1-2.

¹⁶M.D.A. Freeman, *Llyods's, Introduction to Jurisprudence*, (London, Sweet & Maxwell, 2001), pp. 1384-1386.

¹⁷Brian Z. Tamanaha, *Beyond Formalist-Realist Devided the Role of Politics in Judging*, (Princeton University Press, 2010), pp. 1-11

sylogism are termed as premises, which are classified as major and minor premises. The conclusion drawn through this process is a form of logically correct knowledge. As stated by Fung Yu-Lan:

“Just as the sun and moon shine forth, the four seasons progress, the clouds spread, and the wind blows, so does the ruler not encumber his mind with knowledge, or himself with selfishness. He relies for good government or disorder upon laws and methods (shu); leaves right and wrong to be dealt with through rewards and punishments... The intelligent ruler carries out his regulations as would Heaven, and handles men as if he were a divine being. Being like Heaven, he commits no wrong, and being like a divine being, he falls into no difficulties. His shih (power) enforces his strict orders, and nothing that he encounters resists him... Only when this is so can his laws (fa) be carried out in concert”.¹⁸

c. Epistemology of Legal Studies Based on Conscience

Inner voices as the foundation of the epistemology of legal studies can be used to investigate and achieve truths through innate intuition. The epistemology of legal studies through innate intuition has been written in national law, which uses innate intuition as a basis to give a summary judgment. In giving a judgment, a judge should be assured of the judgment she or he gives. Being assured is closest to innate intuition, rather than the rationality or the senses, in that being assured is a form of inner voices of what considered as the truth. To arrive at knowledge, innate intuition does not use sensory experiences or rational process, as the truth comes from being convinced and assured. When one believes in his or her innate intuition, sensory experience, and rational process will no longer work. This means that a belief resulted from innate intuition has a strategic role in constructing the truth.

Humans have innate ability to investigate and attain the truth in knowledge (also in legal studies) which is called “intuition”. Through intuition, a truth may be attained without empirical and logical reasoning, which in turn may be hard to be proven true using the scientific method, although everyone is born with a sensor to attain truths coming from innate intuition. Its personal inter-subjective characteristic may hide the attained truth, as it is best felt than observed or analyzed. According to Maslow, a truth attained through innate intuition which is proven true is the peak experience¹⁹ and is the highest form of intelligence.²⁰

Epistemology of legal studies which is based on innate intuition is that of natural law. The natural law views humans as God’s creation which is close to their spiritual

¹⁸ Fung Yu-Lan, *A Short History of Chinese Philosophy*, (New York, The Free Press, 1966), p. 158-162

¹⁹ Stanley M. Honer dan Thomas C. Hunt, *Invitation to Philosophy*, (Belmont, Cal. Wadsworth, 1968), p. 72

²⁰ George F. Kneller, *Introduction to the Philosophy of Education*, (New York, John Wiley, 1969), p. 10

dimension, meaning that the close relationship between natural law and human's innate intuition becomes a special extrinsic characteristic. Thomas Aquinas as an influential jurist in the tradition of scholasticism argued that natural law is originated with God, so it is closer to one's inner voices as the basis of epistemology of legal studies. The natural law rooted in the beliefs of supernatural beings and God is the major source of knowledge which is beyond human senses and rationality. The basic principles of natural law are similar to the principles of divine revelation as the basis of the epistemology of law; a statement should first be trusted before being accepted, and believing does not require empirical evidence (take for granted).²¹ The said belief as the basis of truths derived from inner voices is acquired without any scientific methods, yet the accuracy level is beyond the empirical and rational truths. These beliefs have their own places in the lives of society and are currently used, although empirical and rational reasoning are employed almost in every circumstance.

Thomas Aquinas distinguished four kinds of law; *IexAeterna* (Eternal Law) is the decree of God or Supreme Reason which cannot be understood with human senses and rationality; second, *IexLivina* (Divine Law) is specially revealed laws -of how human lives his/her life and behaves- in the divine scripture; third, *IexNaturalis* (Natural Law) is basic and general guidance, for example, the commandments to do the good deeds and leave the bad deeds. This law is human participation of the Eternal Law; fourth, *IexPositivis* (Human Law) is the natural law applied in the society which is in the form of positive laws of a particular country. According to Thomas Aquinas, law based on inner voices which are derived from God is at the highest level due to its proximity to God, and for this reason, it is impossible to understand it. The epistemology of legal studies which is derived from the inner voices is in accordance with the nature of interpretation of the law as the universal principles of truth and justice. Legal studies created in the perspectives of natural law require an understanding of human's inner voices. This view corresponds with William David Ross who uttered that the first duty should be considered as prima facie until a more important duty appears. Intuition (gut feeling) can be utilized as a hypothesis for the next analysis to test the validity of knowledge.

Every human being has an intuition which consists of the aforementioned prima facie duties. Paul Scolten argued that the intuition or the inner voice is related to

²¹William James Earle, *Introduction to Philosophy*, (New York, Toronto, Mc. Grawhill, 1992), p. 21

common things since human beings basically have the same understanding of good deeds. One principle of epistemology of legal studies derived from the inner voices is that all legal sciences are based on inner voices which have closer proximity to the valid truth, as argued by Sufists that the inner voices of human beings can acquire knowledge immediately from the divine (God) when they are pure, released from any bonds and reliance on the senses and reason. This is most likely the reason why not all people can attain knowledge derived from the inner voices.

2. CONVERGENCE EPISTEMOLOGIES OF LEGAL STUDIES PERSPECTIVES OF ISLAMIC PHILOSOPHY

“In the name of Allah, Most Gracious, Most Merciful. Praise to be Allah, the Cherisher and Sustainer of the worlds. Most Gracious, Most Merciful. Master of the Day of Judgement. Thee do we worship, and Thine aid we seek. Show us the straight way. The way of those on whom Thou hast bestowed Thy Grace, those whose (portion) is not worth, and who go not astray,” (Q.S, al-Fatihah: 1-7).

Religion-based integral education as human deep human thought is related to human existence as God creature. Religion-based integral education do not only control human life, it controls beyond because human do not only love in world, there is beyond. Religion-based integral education helps people to understand the use of the knowledge well and in the right track. By using Religion-based integral education people can avoid of getting lost in religion.

Ijtihad is done by giving all the thought, exploring and analyzing the law, *aqidah*, philosophy, tasawwuf, of Islam and other fields. Based on the above definition, it can be understood that a concept from Islam can solve the problem elaborated before. Human mind is given ability to find the best problem solver. Therefore, exploration on the ability to find the sources of science will solve the misunderstanding in education system in Indonesia. *Ijtihad* is a must in facing the complex life.²² *Ijtihad* as one of Islam methodology have a comprehensive and complete principals. It means that Islam does not limit the ability of human mind in solving problems as long as it is done well and correctly. By using the human mind ability and Allah SWT bless, so the exploration of science sources can be clearly defined. A good education goes with broad mind, knowledge, and varieties. By doing *ijtihad*, human will be open minded including in finding solution of the problems they face. Finally, people can consider the miss-

²² AbdWafi Has, *Ijtihad Sebagai Alat Pemecahan Masalah Umat Islam*, (Jurnal Epistemé, Vol.8, No.1, 2013), p. 89

understanding. Accepting the science from God which involves ethic and morals.²³ In this reformation era, Indonesia needs new ideas in education. It is the time to end the gullible education, and it is the time to fix the education system. Education which limits to teaching methodology should get a vision which is related message from Allah. There is no reason to separate science, since science is originally from Allah. Whatever the science, it is accepted as long as it is in line with Islam values that can be proven logical and illogically.

Tajdid is a concept in Islam which means clarifying and development. It is based on the idea that Islam is religion which can be a reference in life. Islam contains *syariat* which are from Allah SWT to be survived in the world and beyond. Islam mentions all the things which happened and will happen in Al-Quran and Al-Hadist. Thus the concept of *Tajdid* in this field is through purifying and developing science based on Al-Quran and Al-Hadist. Clarifying *tajdid* can used in education context. It mean that education system which is stagnant, deviate, and distorted can solved by clarifying the essences from foreign countries. Education system should be focused on the essence of learning. Clarifying is meant to bring *moslem* back to the real Islam which has been forgotten in years ago. By doing exclamation and discovering new ideas which are based on Al-Quran and Al-Hadist.²⁴ Clarifying education is putting it in the right place. Education can interact with other subject; politics, economics, culture, arts, etc. However, it should be in the right track, and make a good complete human being. *Tajdid* in education is meant follow the development in the society. Education quality should be increased human beings. Becoming a good civilization, people need change and develop in all areas. Changes is a moderate approach to suit the era. It is impossible for people to avoid globalization. Therefore, being wise is a must as long as it is based on Islam law. Changes is important to improve civilization, since human is considered as successful when he has good civilization. Changes mean accepting different concept and integrate it in the same concept of Islam. Furthermore, changes also means accepting values from other countries yet becoming selective and adaptive, however characters should be maintained.

Tarjih is an analysis proses to determine law and rule with good analogic. In this way, it should be based on knowledge and clear reasons. This concept appears when

²³ Hamid FahmyZarkasyi, *MaknaSains Islam*, (JurnalMajalahIslamia, Vol.III, No.4, 2008), p. 29

²⁴ MuhamadZaid Ismail &Norahida Mohamed, *Islah Dan Tajdid: PendekatanPembinaanSemulaTamadun Islam*, (Icic-International Conference On Empowering Islamic Civilization In The 21st Century Eisbn 6-7 September 2015. Universitas Sultan ZainalAbidin Malaysia), p. 6-7

there is a situation to find the function. *Tarjih* is done as an effort when discussion cannot be done. A researcher needs to choose one of the reasons which is good. *Tarjih* can be broadened in the education field. The relative concept of science has brought to some contradiction. It is normal and common that science can be used as a media to find agreement. However, it is also common that crisis and contradiction leads to unsolved problems, therefore everybody thinks that they are true. Moreover, there is rejection from one to another, so science becomes meaningless. *Tarjih* in education can be done to find the best science which is suitable to the problems. It is true that science can be the best solution for all yet it should give advantages to religion and society. Science should be integrated to a concept which supports the development of science. A good education is the one which is integral with science but it is based on God. As Islam which is opened to any science which gives advantages to human beings since Islam is a moderate religion.

Each epistemology has issues; one drawback of the epistemology of sociology of law is the more dominant position of truths derived from the senses than those derived from the empirical reality in the society. On the other hand, normative positivism's shortcoming lies on its dependency on logical reasoning, while epistemology derived from inner voices suffers from its inter-subjectivity in which only a certain individual accepts its validity. In accordance with the aforementioned drawbacks, the idea to converge epistemologies on the basis of Islamic perspectives emerged. This concept is similar to the integrative approach in legal studies proposed by Khudzaifah Dimiyati which is derived from Kuntowijoyo's prophetic social science enacting transcendence as the major pillar of humanity and liberalism. The integrative approaches in legal studies rooted in prophetic social sciences turn religious values into a crucial part of the process of developing human civilization; which is to base every argument on Quran.²⁵

The concept of converging epistemologies of legal studies through Islamic philosophy views Quran as the basis of knowledge (as in legal studies) in a more comprehensive way. This concept converges the validity of truths derived from the senses, rationality, and inner voices in accordance with Quran which is seen as a revelation of an integral and comprehensive truth. Hence, this convergence of epistemologies is more comprehensive, reaches all existing aspects, and stands on the

²⁵Khudzaifah Dimiyati, *Pemikiran Hukum; Konstruksi Epistemologis Berbasis Budaya Hukum Indonesia*, (Yogyakarta, Genta Publishing, 2014), p. 130

truth, so this method continually proceeds among various methods of attaining truths to achieve an integral and comprehensive truth.

In Quran, Allah has set the senses on the basis of the epistemology of knowledge for humans follow its guidance in obtaining the truths. Using the senses as the basis of epistemology of knowledge is in accordance with the commandments of Allah as stated in AdzDzariyat verse 21, Al Araf verse 185, An Naba verse 6-7, Yusuf verse 105, Ali Imran verse 191, Yunusayat 6, Yasin verse 37-40, Qaaf verse 7, al-Ghasiyah verse 17 and Al Alaq verse 1. As mentioned in Quran, humans are obliged to use their senses in obtaining the truths of knowledge. Abu Sa'id Al-Syirafi, a linguist following Bayani framework, argued that texts, words, or language existed earlier than the meanings.²⁶ Likewise, Ikhwan al Shafa as cited by Jallaluddin and Usman Said uttered that the validity of knowledge is tested through the senses. Knowledge is obtained by observing an object in a real world, as done by Islamic philosophers and scientists; al-Kindi, Nashir al-Din al-Thusi, IbnHaitsam, al-Ghazali, etc.

Allah has also set rationality as the basis of the epistemology of knowledge in Quran, so humans can follow Quran to achieve truths. Using rationality as the basis of the epistemology of knowledge is stated in al-Baqarah verse 242, Ali Imran verse 65 dan Ali Imran verse 191, which commands humans to think of every being created by Allah using rational logic. Based on this reason, knowledge of can is attained by using rational logic. Knowledge can be attained through rationality by contemplating pondering that any objects and occurrences are created by Allah. Anyone using his or her rationality will perceive that the whole universe –including her/himself- is created by Allah.

Abu BisyrMatta, a follower of Burhani (logic), argues that rationality exists way before words or language,²⁷ which means that truths derived from rationality exist before those derived from the senses. Rationality is the basis of knowledge as uttered by IbnSina in his well-known argument on the development of active and pure rationality which is solely from Allah. Similarly, IbnBajjah asserts that rationality occupies a high position or rank. In the epistemology of knowledge derived from rationality, Allah is the main source of knowledge which is then mediated through human

²⁶Muhammad Abed al-Jabiri, *Bunyah al 'Aql al 'Arabi; Markaz Dirasah al Wihdah al Arabiyah*, (Beirut Libanon, 1986), p. 421

²⁷ Muhammad Abed al-Jabiri, *Ta'win al-Aql al-Arabi; Formasi Nalar Arab*, Trans. Imam Khoiri, (Yogyakarta, IRCiSoD, 1990), pp. 29-30

rationality.²⁸ Rationality implements syllogism reasoning as asserted by al-Syathibi, al-Farabi, and al-Jabiri through Burhani framework, as well al-Kindi in his notion of using intellectual.

Inner voices as the basis of epistemology of knowledge is in accordance with Allah's commandments for humans to use the inner feeling to attain knowledge, as mentioned in As Syams verse 7-10, Muhammad verse 19, Al-Jatsiyyah verse 23, Baqarah verse 147 and al-Anfal verse 29, which consists of commandments to use the inner feeling as a means to understand His creations. In Islamic perspective, the epistemology of knowledge derived from the inner voices -or intuition- is termed as Irfani. Inner voices are related to spiritual experiences through *fikr* and *dzikr*. Muhammad Iqbal argued that intuitional truths are highly ranked among others –the senses and rationality. Intuition is a means to directly and comprehensively attain truths. Inner voices are based on one's spiritual experiences, which are called as presence, as the objects are seen as existing inside the human soul. The inner voices can directly understand, since they attain the truths, not through empirical reality or ideas. The characteristics of one's inner voices are subjective and depend on one's spiritual level, in which there will be differences in one's level of knowledge based on their level of spiritual; the first step (preparation) includes *taubat, wara, zuhud, fakir, sabar, tawakkal* and *ridha*, the second step (acceptance) is accepting a direct knowledge of the God through illuminative process, so by having this awareness one can see their own self-reality as objects that raise Huduri knowledge and self-object knowledge, the third step is establishing a concept in one's thought, and the fourth step is expressing or portraying the knowledge either through verbal or written means.

The convergence of epistemology of legal studies in Islamic philosophical perspective needs to reconstruct the epistemology of legal studies in several ways; first, disassemble the roots of the isolation of religious text which is a revelation of God from the field of legal studies, and then prove that religious texts can legally be part of epistemology of legal studies, as done by al-Jabiri towards the empirical, rational, and intuitional characteristics of religious texts. Secondly, the aforementioned reconstruction should be equipped with basic methodologies to bring religious texts into knowledge by using empirical, rational, and intuitional approaches. In the convergence of epistemology of legal studies in Islamic philosophical perspective, religious values

²⁸ MM. Syarif, *History of Muslim Philosophy*, Trans. Ilyas Hasan, (Bandung, Mizan, 1991), p. 165

become a crucial part of a process to construct the logical reasonings to attain truths. To formulate the basic outline and methodological procedure of this convergence, the following steps should be done.

a. Mutual Understanding Epistemologies

This is one of the elements in the concept of epistemology convergence of legal studies taken from the theoretical framework of the pattern of epistemological relationships in Islamic philosophy extracted from the Quran supported by some other relevant thoughts. With various combinations and mixes by then, this is drawn a slightly different understanding and focused more to epistemology based on the senses, mind and innate intuition under the auspices of the Quran. Epistemology mutual understanding in the concept of convergence epistemology of legal studies perspective of Islamic philosophy is a form of relationship that explains two things, namely the mutual understanding of the advantages and disadvantages of each epistemology of law and giving and receiving the advantages and disadvantages of each epistemology of legal studies.

The senses as the basis of the epistemology of legal study as it is found in the sociology of law have several advantages, namely: (1) the senses are instruments or means to extract and acquire the knowledge of the law easily because the human senses will respond indirectly to whatever is caught by them; (2) by using the senses, humans can explore and obtain the legal knowledge which is real, material and tangible; (3) by using the senses, humans can explore and obtain the legal knowledge directly captured by the senses ability without other intermediaries; (4) by using the senses, humans can obtain the truth of legal knowledge which is drawn from things that are specific to the things that are general (inductive); (5) the truth generated by the epistemology of the legal studies derived from the senses inductively can be measured its validity through correspondence method, that is by matching what is considered correct in the legal studies with the reality facts in the field.

While the weakness of the senses as the the epistemological foundation of legal studies as well as the weakness of other studies, namely: (1) the senses in digging and legal studies are limited, because it is only dependent on the senses ability to capture the reality of the object, so those limits of the senses cannot report the truth of the object of science as it is, so that it will lead to a conclusion about the truth of wrong science; (2) the senses in obtaining the truth of legal studies can deceive men because what is perceived by the senses is not really what it is right. Just like an official with all the

visible virtues from the outside, in fact, he was doing something that he should not have done; (3) the senses in obtaining truths of legal studies cannot capture the object of the existing law because the object is beyond the reach of the human subject. Just like an incident or a single law incident that there is no witness there, then the resulting truth can be doubted; (4) the senses in acquiring the truth of the legal studies cannot capture the whole of the existing truth because one truth is covered by another truth.

According to Hendry Bergson, senses as the basis of epistemology have a weakness which becomes a weakness of the legal studies derived from the senses, namely that the object captured by the senses can be only understood if we concentrate the senses on the object. Each sense can capture different aspects of the object, so the sense knowledge is partial. The sensory knowledge lies only in the surface reality, as it is confined to the sensory matter individually and is only seen in a certain aspect only. The sense knowledge is always changing, always in a state of being, moving, over or under quantity and changing its quality. Therefore, the observation method used by the senses in digging and obtaining the truth of law could be wrong.

Rationality as the basis of the epistemology of legal study as it is found in normative positivism law has several advantages, namely: (1) rationality can dig and obtain the truth of legal knowledge through the sensory intermediaries, meaning that the senses are as a medium to deliver objects of legal knowledge that are physical; (2) rationality can dig and acquire the legal knowledge, not only from objects that are physical or material, but also objects that are immaterial; (3) rationality in uncovering and acquiring the legal studies does not require the presence of subjects or objects in space and time; (4) rationality can dig and acquire the legal studies through the deductive method by drawing general conclusions to the things that are special (deductive); (5) the truth generated by the epistemology of the legal studies derived from rationality deductively can be measured its validity through the coherence method, that is by looking at the consistency of objects of legal studies that is specific with the truth of the law which is general. Rationality in obtaining truth based on the al-Quran is the command of Allah for the good of human life.

While the weakness of rationality as the epistemological foundation of legal studies is almost the same with the weakness of knowledge generated senses in general, namely: (1) rationality is often helpless when it is confronted with feelings, emotions, souls and intuitions, because rationality does not understand the essential experience; that is the experience we feel is not conceptualized; (2) rationality is incapable of

comprehending the object of study directly, since rationality by using words or symbols will spin like the object, it will not be able to directly touch it, the recognition of rationality in an object is only symbolic by word, but only words will not give enough true knowledge about the object studied. The principle of rationality which states that the attribute of something must be defined by another attribute leads to an infinite process (and infinite) which means there will be an unknown absurdity.

The tendency of epistemology of the legal studies based on rationality by using the method of syllogism (deductive) has weaknesses as in other knowledge, that is: (1) deductive syllogism tends to accentuate/emphasize something rational and empirical that it indirectly simplifies or limits the extent of diversity of reality, whereas reality is not only on the concrete caught by sense but reality also exists beyond that, like feelings, soul, mental and intuition; (2) there is a principle that special conclusions should be deduced in general statements, thus the conclusion has been listed in a general statement called the major premise, if it does not exist then it will not be achieved because something that does not exist will not create something new; (3) Syllogism tends to be a black-and-white or right-wrong way of thinking. So that, this way of thinking becomes very hard and easy to cause conflicts, because it does not know the truth on the other side.

Inner voices as the epistemological foundation of legal studies have several advantages, namely that the legal study that comes from the innate intuition becomes closer to the real truth. Even the Sufis claim that with the innate intuition, man can acquire knowledge directly (immediate) from the single essence (God) when a man has been pure, loose, and far from all forms of bonding and outward dependence of the senses and rationality outcome. The inner voice is the source of the ultimate truth and the peak of human ability. The truth that the innate intuition produces does not require proof because the truth comes from the pre-existing beliefs. The truth that the inner voices produce can exceed the limitations of human senses and rationality, because the innate intuition as the source of the truth of science is unlimited. Innate intuition is a source of truth that cannot be manipulated or modified as in the sense and rationality because the righteousness of intuition can unite in the human subject and object. While the shortcomings of the epistemology of legal studies which is based on innate intuition can only be done by certain people who are able to cultivate the mind to the level of high self-purification. Not all of these sciences can be submitted and accepted by the public because science is self-object-knowledge depending on the ability of each

individual. Because the inner voice is an epistemology close to God, not everyone can achieve such an understanding. Since the validity of the inner voices cannot be proven scientifically, then it is difficult to prove it.

b. TakeAnd Give (Advantages and Disadvantages of Epistemologies)

Having understood the advantages and disadvantages of the senses, mind, and innate intuition as the basis of epistemology of legal studies, the next step is the process of giving and receiving the advantages and disadvantages that exist on each epistemological foundation of legal studies, so the advantages that exist in each can be used to adjust weaknesses on the other epistemological foundation and vice versa, the weakness of the epistemological foundation can be improved by using the advantages of the other epistemological foundation of legal studies. Through the process of the epistemology of legal studies, thus we will obtain a unified understanding.

The senses as the basis of the epistemology of legal studies have the advantage of being able to observe the object directly (empirically), this can be used to manage the weakness of the abstract rationality-based epistemology of the legal studies from logical ideas and epistemology of intuition-based inner voices (feeling). The senses as the basis of the epistemology of legal studies also have a weakness that is limited to their material empirical nature; this can be corrected by the rational logic of the immaterial mind and the intuition (feeling) of inner voices.

Rationality as the basis of the epistemology of legal studies has the advantage of being able to think in rational logic that is immaterial; it can be used to improve the deficiencies of epistemological of legal studies with senses as the basis that is limited to the material empirical nature and epistemology of legal studies through innate intuition. Rationality as the basis of the epistemology of legal studies also has I weakness that is abstract from logical ideas, it can be improved by direct empirical observation of the senses and intuition (feeling) of inner voices.

Inner voices as the epistemological foundation of legal studies have an intuitive advantage that can touch human feelings; it can be used to improve the deficiencies of epistemological of legal studies with senses as the basis that is limited to the material empirical nature and the abstract rationality-based epistemology of the legal studies from logical ideas. Inner voices as the basis of the epistemology of legal studies also have a weakness, namely, it has intuition nature (feeling), this can be improved by direct empirical observation of the senses and rational logic of the mind that is immaterial.

c. Triadic Circular Movement Epistemologies

Triadic circular movement is a movement proposal for solving a contradiction in the epistemology of legal studies derived from the senses, rationality, and religious texts (Quran). This movement is one crucial element in the convergence concept of the epistemology of legal studies in the perspectives of Islamic philosophy. This concept is built upon issues in epistemology of legal studies which often contradict each other and fight over claiming the truth to reach an agreement of what considered as truth.

For these reasons, it is important to construct a concept to converge the epistemologies of legal studies into a convergence concept which can unify the differences among the three epistemologies. To reach a convergence, a circular triadic process among knowledge derived from the senses, rationality, and religious texts (Quran) is required since Quran functions as a medium to unify the epistemologies derived from the senses, rationality, and religious texts (Quran) in one central point. Along the process of convergence, a circular triadic movement can be continually conducted amongst epistemologies derived from the senses, rationality, and inner voices, so an agreement can be reached to solve the issues in legal studies. Each epistemology in legal studies is dependent on others. When one epistemology claims its truth, and feel like it can solve the problems by itself without others' help, this self-sufficiency will soon turn into narrow-mindedness.

Therefore, it is important to cooperate and collaborate with mutual needs and mutual respect to connect various field of knowledge in order to help people solving problems and issues they encounter. This is in accordance with Amin Abdullah's argument of integration-interconnection of general knowledge and religious knowledge. Converging epistemologies of legal studies through circular triadic movement matches the complexity and the current issues happening in the society in a global era which needs an integral and comprehensive approach.

The circular triadic movement may appear to be more conducive to solve current issues which are more complex and contemporary than those in the past, which requires a longer process to reach a mature and wise decision in the process of analyzing the legal science. This process is the continuation of the previous consideration of law, so each epistemology (senses, rationality, and inner voices) can understand each other's weaknesses and take advantage of each other's strengths to fix each drawback. Accordingly, the inflexibility, fallacy, inaccuracy, and anomaly of each epistemology (derived from senses, rationality, or inner voices) can be diminished and reviewed after

receiving feedbacks from another type of epistemology. This circular triadic movement does not indicate a final point or exclusivity which may cause a deadlock that tends to cause a dissonance and does not give a chance for new possibilities which may appear to be more fitting and conducive to solve law issues happening in the society.

d. Reconciliation of the Epistemologies

Reconciliation among epistemologies of legal studies derived from the sense, rationality, and inner voices is a continuation process of the circular triadic process which is also the final concept to converge epistemologies of legal studies through the perspective of Islamic philosophy. The circular triadic movement cannot be the final end since it still leaves some issues which need to be quickly solved, as portrayed by the circular triadic movement which is continually moving among the three epistemologies of legal studies (those derived from senses, rationality, and inner voices). Thus, in this continually moving circular triadic movement, there needs to be a point of reconciliation which unites each epistemology of legal studies, so the perceived truth can be accepted by all parties.

This point of reconciliation among the epistemologies of legal studies is a concept to establish a new way of thinking which is different from the previous concepts because the point of view, methodology, and the finishing process proposed is more comprehensive so that it can include all existing thoughts and is capable of presenting a prototype of an integral and comprehensive epistemology. This reconciliation point is based on the argument that Islam is not only a religion but also a way to attain knowledge and understand how the world works, since Islam respects and upholds knowledge. Worshipping in the absence of knowledge is worthless, and likewise, having knowledge without worshipping is being *kufur*, as Allah will raise those with *ilm* (knowledge) and *iman* (faith). Islam, as stated in Quran, is capable of shaping and guiding either *ilmiah* or *amaliah* activities as a form of worshipping to Allah. Likewise, Ziauddin Sardar argued that the scientific values of Islam in Quran can be perceived through the philosophy mechanism (methodology) of the epistemology of legal studies which is derived from the senses, rationality, and inner voices.

The aforementioned reconciliation point is reinforced by the values of life which define that Islam obliged humans to use all their potential, including their senses, rationalities, or inner voices as media to achieve the benefits (*hikmah*) of knowledge (Philosophy of Islamic epistemology). Allah has rewarded, obliged, and later, hold people accountable for their deeds in using their senses, rationalities, and inner voices to

uncover and attain knowledge –legal studies as well. Therefore, people have to use their senses, rationalities, and inner voices simultaneously to accomplish the tasks. It is obvious now that there exists a deep meaning of this reconciliation concept of epistemology of legal studies, so it is important to use the senses, rationalities, and inner voices as the basis of epistemology of legal studies in the perspectives of Islamic philosophy.

The idea to reconcile knowledge derived from the sense, rationalities, and inner voices have fundamentally been a provision of Islam which are often mentioned in Quran. Allah has equipped humans with the senses, rationalities, and inner voices to gain an integral and comprehensive truth, not to claim their own version of the truth. Each strength and weaknesses are parts of *sunnatulloh* which required efforts and struggles to review (and fix) them and have a mystery so that people will persistently work hard (*ikhtiar*) and rely on Allah (*tawakkal*) to find the best answer. In this complicated and complex attempt to find the best answer, it is impossible to use only a particular epistemology, let alone it is not supported by the owner of truths, Allah.

Quran al Mukminun verse 78 states that Allah has equipped humans with several potentials tools; the senses, rationalities, and inner voices. Allah obliged humans to use those potentials in the best way possible to gain knowledge and attain truths, and on the contrary, Allah despises those who do not use their potentials, as stated in Quran surat al-Baqarah ayat 72 dan 242; surat Yusuf ayat 2; surat al-Nur ayat 61; surat al-Zukhruf ayat 3; surat al-Hadid ayat 17; surat al-A'raf ayat 179. Allah will make them occupy a lower rank than pets, as mentioned in Quran surat Yunus ayat 100 dan surat al-A'raf ayat 179. The commandment given by Allah to use those potentials is aimed to gain benefits (*hikmah*) of gaining a correct knowledge as described in Ibrahim ayat 52; surat Shad ayat 29; surat al-Thaghabun ayat 11. Allah will hold people accountable for their deeds of not using those three potentials well as mentioned in Al-Isra verse 36.

Based on verses of Quran mentioned above, a reconciliation point of epistemologies of legal studies fits the Islamic philosophy and methodology of obtaining knowledge by through the use of the senses, logical reasoning, and intuition or inner voices which are accompanied by *zikr*, so that all the process will be supervised by Allah and the attained truths will have a high validity, not only in the eyes of humans but also in the eyes of the owner of truths, Allah. The senses, rationality, and inner voices are the bases of epistemologies to obtain the knowledge based on Quran which are proposed by Islamic philosophers. Thus, it is obvious how Islam obliges humans to

use their senses, rationality, and inner voices simultaneously in order to accomplish the tasks.

By converging the concept of epistemologies of legal studies through the perspectives of Islamic philosophy, each epistemology shares, collaborates, and cooperates, to complement each other's weaknesses and strengths. This concept brings out together the three epistemologies derived from the senses, rationality, and inner voices in order to reach reconciliation and become the solution of problems in the field of legal studies which happened due to the ignorance of each epistemology towards the others, so that the isolated epistemology turns into a problem in understanding knowledge. Each epistemology should be seen as an entity which has several flaws which required it to cooperate and collaborate with other epistemologies in order to complement its weaknesses. In paradigmatic-philosophy, there are three aspects to be introduced. (1) In the perspectives of Epistemology, this concept is a response to the adversities in the field of legal studies which is inherited and continually occurred and resulted in a division of epistemologies of legal studies. (2) In the perspectives of Axiology, this concept offers novel perspectives of religionists and scientists which are more open up to dialogue, transparent, future-oriented, and are capable of being held responsible for public. (3) In the perspectives of Ontology, a correlation between legal studies and other studies becomes more open and flexible, although there still exist some boundaries and limits between each study as part of their distinct traits.

To obtain a correct knowledge, a concept of unification of the three epistemologies derived from the senses, rationality, and inner voices through the perspectives of Islamic philosophy is significantly needed. For this reason, each epistemology should have a mutual understanding to accept each others' strengths and weaknesses, so that each of them can collaborate, support and gain strength to achieve reconciliation on the basis of their distinct traits. This collaboration means that each epistemology's strengths and weaknesses can complement the others to unify the three epistemologies of legal studies into a comprehensive and integral epistemology.

This concept of convergence should work simultaneously in order to unify the three epistemologies in legal studies. The unified epistemology of legal studies which complements and supports each distinct epistemology is in accordance with the concept of Islamic civilization which portrays the peak of sensory and emotional intelligence. Sensory intelligence is grounded on the epistemology derived from the senses, emotional intelligence is derived from the inner voices, and rational intelligence

connects both epistemologies derived from the senses and inner voices. The aforementioned concept of convergence through the perspectives of Islamic philosophy may likely be used as a concept of establishing legal studies in Indonesia which portrays the reconciliation of both sensory and emotional intelligence.

CONCLUSION

Epistemology of knowledge, also epistemology of legal studies, which is derived from the senses, rationality, and inner voices, has their own analysis methods to attain truths; inductive reasoning to seek validity of sensory knowledge, deductive reasoning for knowledge based on rationality, and intuition for that derived from inner voices. The three analysis methods often lead to debate and contradicting claims creating a conflicting truth in epistemology. This conflicting claims of truth results in stagnancy, deviation, and distortion, in which the truth attained during the process may be misused for certain parties, since in the field of law, the truth may be established to accommodate one's needs. Therefore, it is crucial to creating a concept which reconciles various epistemologies in knowledge, as well in legal studies, which is through a convergence of epistemology in legal studies from the perspective of Islamic philosophy. Through Islamic philosophy which is based on Quran, a conflicting knowledge derived through the senses, rationality, and inner voices will reconcile in one central point. Islamic philosophy which is based on Quran is the basis for epistemological truth derived from the senses, rationality, and inner voices, to simultaneously and jointly understand and complement each others' strengths and weaknesses through a circular triadic process in order to reach reconciliation.

List of Literatures

- Abd.Wafi Has, *Ijtihad Sebagai Alat Pemecahan Masalah Umat Islam*, (Jurnal Epistemé, Vol.8, No.1, 2013)
- Andrei Marmor, *Exclusive Legal Positivism*, (The Oxford Hand Book of Jurisprudence and Philosophy of Law, Oxford Press, 2002)
- Auguste Comte, *A General View of Positivism*, Trans. H.J. Bridges, (Cambridge University Press, 2009)
- Bertrand Russell, *Religion and Science*, (London, Oxford University Press, 1982)
- Brian Z. Tamanaha, Brian Z. *Beyond Formalist-Realist Devised the Role of Politics in Judging*, (Princeton University Press, 2010)
- Fung Yu-Lan, *A Short History of Chinese Philosophy*, (New York, The Free Press, 1966)

- George F. Kneller, *Introduction to the Philosophy of Education*, (New York, John Wiley, 1969)
- Hamid Fahmy Zarkasyi, *Makna Sains Islam*, (Jurnal Majalah Islamia, Vol.III, No.4, 2008)
- Hans-Georg Gadamer, *Truth and Method, Second*, (Revised Edition. Joel Weinsheimer and Donald G. Marshall, London-New York: Sheed & Ward Ltd and the Continuum Publishing Group, Reprinted 2006)
- Hans Kelsen, *The Pure Theory of Law*, Trans. Max Knight, (University of California Press, 1976)
- Hans Kelsen, *The Pure Theory of Law Introduction to Jurisprudence* (London, Steven & Sons, Fifth Edition, 1985)
- H.L.A. Hart, *The Concept of Law*, (Oxford University Press, 1994), p. 302. William E. Conklin, *The Invisible Origins of Legal Positivism*, (Kluwer Academic Publisher, 2001)
- H. Ph. Visser 'tHooft, *Filsafat Ilmu Hukum*. Trans. Bernard Arief Sidharta, (Universitas Katolik Parahiyangan Bandung, 2003)
- Howard P. Kainz, *Natural Law: An Introduction and Re-examination*, (Carus Publishing Company, 2004)
- John Austin, *The Province of Jurisprudence Determined*, (Cambridge University Press, 1995)
- Ibn Rusyd, *Al-Kasyf 'an Manâhij al-Adillah fi 'Aqid al-Millah*, (Beirut, Dar al-Afaq, 1978)
- Karl Marx, *Capital I*, (New York, Vintage Books, 1977)
- Kelik Wardiono, *Basis Epistemologi Paradigma Rasional Dalam Ilmu Hukum: Sebuah Diskripsi Tentang Asumsi Dasar Teori Hukum Murni Hans Kelsen*, (Jurnal Dinamika Hukum, Universitas Jenderal Soedirman, Vol.14, No.3, 2014)
- Khudzaifah Dimiyati, *Pemikiran Hukum; Kontruksi Epistemologis Berbasis Budaya Hukum Indonesia*, (Yogyakarta, Genta Publishing, 2014)
- M.D.A. Freeman, Llyods's, *Introduction to Jurisprudence*, (London, Sweet & Maxwell, 2001)
- Muhammad Abed al-Jabiri, *Bunyah al 'Aql al 'Arabi; Markaz Dirasah al Wihdah al Arabiyah*, (Beirut Libanon, 1986)
- Muhammad Abed al-Jabiri, *Ta'win al-Aql al-Arabi; Formasi Nalar Arab*, Trans. Imam Khoiri, (Yogyakarta, IRCiSoD, 1990)
- Muhammad Baqir Shadr, *Falsafatuna*, Trans. M. Nur Mufid Ali, (Bandung, Mizan, 1994)
- Muhamad Zaid Ismail & Norahida Mohamed, *Islah Dan Tajdid: Pendekatan Pembinaan Semula Tamadun Islam*, (Icic-International Conference On Empowering Islamic Civilization In The 21st Century Eisbn 6-7 September 2015. Universitas Sultan Zainal Abidin Malaysia)
- Paul Edward (ed.), *The Encyclopedia of Philosophy*, (New York, London Macmillan Publishing Co, Inc, dan the Free Press, 1990)
- Paul Scholten, *Struktur Ilmu Hukum*. Trans. Bernard Arief Sidharta, (Bandung, Alumni, 2003)
- R.A. Posner, *Frontiers of Legal Theory*, (Harvard University Press, 2001)
- Stanley M. Honer dan Thomas C. Hunt, *Invitation to Philosophy*, (Belmont, Cal. Wadsworth, 1968)
- Surya Prakash Sinha, *Jurisprudence Legal Philosophy In a Nutshell*, (West Publishing, 1993)
- William James Earle, *Introduction to Philosophy*, (New York, Toronto, Mc. Grawhill, 1992)

ZulfadliBarus, *Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis*, (Jurnal Dinamika Hukum, Universitas Jenderal Soedirman, Vol.13, No.2, 2013)