

CHAPTER V

CLOSING

A. Conclusion

Based on the results of the discussion above, it can be concluded that:

1. The regulation of the concept of law that lives in the community or living law in Emergency Law No. 1 of 1951 compared to that regulated in the new Criminal Code has similarities and differences. Similarities, both laws recognize the existence of living law and both adopt to the principle of legality materill to the living law. Meanwhile, the difference is that the New Criminal Code regulates living law more completely than Emergency Law No. 1 of 1951, both related to the definition of living law, the limitations of living law, the provisions of the requirements for enacting living law, and orders for further regulation of living law.
2. The application of customary law in the settlement of criminal cases currently based on Emergency Law No. 1 of 1951 has been carried out, where there are five judge decisions that have been decided based on customary criminal law. However, generally judges at the lower level (District Court and High Court) are still hesitant to apply customary criminal law because it is considered to violate the principle of legality. With the implementation of the New Criminal Code which has a more complete and clearer regulation, the effectiveness of the application of living law is considered to be better qualitatively and quantitatively, but

this effectiveness depends on some influencing factors namely legal substance, legal structure, and legal culture.

B. Advice

1. The government needs to maximize socialization to law enforcement officials and to the public regarding the new living law regulation based on the new Criminal Code.
2. Judges in deciding criminal cases must be able to adapt from patterns of law enforcement that are usually formal legalistic or based on written law to patterns that are humanist and sociologically oriented by also considering customary criminal law.

