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Editor's Foreword

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Editor's Foreword

The publication of the Indonesian Journal of Socio-legal Studies is a dream come true that would not have been possible without the support of the Faculty of Law, University of Indonesia¹, the Editorial Board, the Van Vollenhoven Institute-Leiden Law School, the Asian Initiative on Legal Pluralism (AILP) and the Indonesian Association of Socio-Legal Studies (Asslesi). The purpose of this journal is to nurture the growth of socio-legal studies in Indonesia through the works of its contributors and to serve as a reference for those who wish to obtain an overview of the development of socio-legal studies in Indonesia.

In 2006, when our faculty hosted an international conference in collaboration with the International Commission on Legal Pluralism, the idea of publishing the Digest of Law, Society, and Development was born. The bilingual digest was published in ten editions from 2008-2013 and laid the roots for IJSLS.

In 2021 the time has come to publish an academic journal. We named this journal the Indonesian Journal of Socio-Legal Studies (IJSLS), in line with the historical track record of socio-legal studies at our faculty. Although the field of socio-legal studies has been cultivated by various Indonesian legal scholars for a long time, the term "socio-legal studies" has only gained momentum in the past decade. Socio-legal studies as a "new" genre of interdisciplinary studies began to be recognized in Indonesia because of the success of various training events for law professors and lecturers that were held throughout Indonesia by the Faculty of Law University of Indonesia in collaboration with Leiden Law School, specifically the Van Vollenhoven Institute. Such trainings managed to generate interest towards socio-legal studies and other forms of interdisciplinary legal studies from fellow law faculty members.

The rapid development of Indonesian society, as part of a global society, has created awareness among socio-legal studies aspirants that empirical knowledge about the law is indeed needed. There are so many legal issues in the academic realm that impact on how legal practice takes place in Indonesia. Human rights violations, including those towards women and children, are still happening in various forms. Conflicts over land grabs, some of which are related to corruption and involve actors such as "land mafia" and corrupt members of the judiciary, are still all too common. Currently, there is also an ever-increasing habit of bringing private issues into the realm of criminal law via Indonesia's ITE Law. Political oligarchs who serve as the face of Indonesian politics are also known to use the law to define and seize power.

It seems that the instances where law is used to change society for the better are few compared to the number of times law is (ab)used to control and assert the private interests of those in authority. The judiciary is not free from corrupt practices either, and at the highest judicial institutions, namely the Supreme Court and the Constitutional Court, judgments are still being made that hurt the public's sense of justice. Court judgments, especially at the appeal level which

¹ We offer the highest gratitude and appreciation for the Faculty of Law, University of Indonesia, especially for the Dean, Dr. Edmon Makarim, our journal's Editorial Board, Van Vollenhoven Institute-Leiden Law School, the Asian Initiative on Legal Pluralism (AILP), and the Indonesian Association for Socio-Legal Studies (Asslesi).

the public cannot follow because there is no open trial, often lose public legitimacy due to the lack of transparency and accountability. Judgments that are not aligned with the public's sense of justice are generally based mainly on a formal application of law, and rarely examine the substance of a case and their proportionality. Additionally, plenty of laws and regulations are not compatible with the development of society and not well-defined, making them open to a range of interpretations. Hence, the public complains that “elastic provisions” are being widely misused, for example the ITE Law or the Blasphemy Law. Thus, the journey for legal reform in Indonesia has been a turbulent one and is still not gaining much traction. Such is the state of Indonesian law today, and its future is very much connected with today’s legal education.

This journal begins with two essays on legal education in Indonesia, the first by Adriaan Bedner and Jacqueline Vel, and the second by Sulistyowati Irianto. After that, Keebet von Benda-Beckmann, one of the pioneers in the study of legal pluralism, wrote an important article about conceptual and methodological implications of inconsistent definitions of personhood in law and society. Next is Lidwina Inge Nurtjahjo's piece on the use of digital methods in law and society research. Finally, Rikardo Simarmata’s essay regarding the inconsistency of state law in its recognition of indigenous peoples and their ownership of land.

Adriaan Bedner and Jacqueline Vel analyse why legal education in Indonesia has become the target of criticism. Students complain that classes are large and lecturers too formalistic. Professors complain about workload and inadequate pay, while legal practitioners complain about law graduates lacking the skill needed in the workforce. What is really going on? They argue that despite the apprehension, legal education in Indonesia has improved in the past 20 years. Access to legal materials is better, and the number of lecturers and law students studying abroad allow those in the field to analyze legal problems with a richer perspective drawing from empirical knowledge. In turn, those lecturers influence the teaching methods of law in their respective institutions. In Indonesia, the debate about whether socio-legal studies should be awarded a more prominent place at law faculties, and whether this will be at the expense of doctrinal studies of law has been misleading and confusing. According to the authors, both approaches are indispensable for a comprehensive study of law, and should complement, benefit from, and empower one another. The issue is related to another debate, namely whether legal education should be “generalist” or “professional” in nature, and whether its orientation should be academic or vocational.

In terms of legal practices, Bedner and Vel identify a lack of collaboration between legal institutions and academia as one of the main problems in Indonesia’s legal system. Law can only develop if novel legal interpretations and the analyses of those interpretations by legal scholars are disseminated throughout the community of jurists. They argue that communication and collaboration between legal institutions and law faculties will advance the much-needed balance between legal certainty and the public's sense of justice. For law professors, this means that their research must critically evaluate court decisions and legislative products. Lecturers must also train students in solving legal cases by applying various legal methods, not only the dogmatic application of law but also approaches drawn from legal philosophy, sociology, political science, psychology, and economics.

Sulistiyowati Irianto points out the role of higher legal education in producing graduates who think critically and are able to respond to rapid changes in society. As someone who has been working at a legal education institution in Indonesia for many years, she conveys criticisms on the lack of willingness to at law faculties in Indonesia to develop legal curricula and teaching methods. She poses questions that are essential to assess the readiness of law faculties for responding to the future needs of the justice-seeking community in Indonesia. To what extent are the legal higher education elites willing to support the principles of academic freedom and university autonomy and show this willingness by allowing various academic activities to take place? Is there enough room to enrich legal knowledge with new approaches and methodologies to analyze the development of law and legal practice more fundamentally? To what extent does interdisciplinary legal studies have a place in the curriculum? The answers to these questions will have an impact on the development of legal science and the future of law enforcement in Indonesia.

Keebet von Benda-Beckmann makes an important methodological contribution by showing how varying definitions of personhood may influence the operation of law. Her work is a reflection of her research journey over the years. According to her, having sensitivity about different concepts of personhood that exist in society is a must when analyzing the operation of the law. Persons can be viewed by society as separate and autonomous entities, but also as diverse, translucent, and scattered entities. Definitions of personhood that exist within law and within society, but also within different fields of law, often conflict with each other. When in a situation of legal pluralism legal systems interact, varying definitions of personhood may cause incongruence between legal systems and confusion among legal actors. Keebet von Benda-Beckmann argues that concepts of personhood have important theoretical and methodological implications for socio-legal research, and therefore socio-legal research should be more sensitized for it.

The question of methodology continues to be addressed in the essay of Lidwina Inge Nurtjahjo. Society has developed beyond our wildest imaginations through the exponential growth of science and technology, while the past year societal change accelerated by the presence of a virus that has grown into a global pandemic. Although this virus has had a wide impact on humanity and driven a tremendous economic downturn, it has not stopped the world from moving. Human needs allow rapid adaptation to the pandemic. Lidwina Inge Nurtjahjo explains how the legal world has also been significantly affected by the pandemic, from online trial procedures to the advent of digital forms of evidence being accepted in court. Likewise, conventional socio-legal research techniques, that previously were carried out in face-to-face interactions, have now changed. Field researchers have begun to develop digital interviewing and observation techniques. Lidwina Inge Nurtjahjo argues that legal anthropology can benefit from research methods developed by digital ethnography when doing legal research from a socio-legal perspective. These research methods can address the problems posed by changes in the rules of engagement between people within the legal system during the pandemic and the methodological complications these changes carry.

Rikardo Simarmata's essay concerns customary rights to land as established in the Basic Agrarian Law, and problems with their implementation. Although customary rights to land are accommodated for in the law, recognition and registration of (mostly communal) customary land, remains problematic. The case of customary land registration is an appropriate space to study the

tensions and conflicts that occur when communities or individuals attempt to gain recognition and realizing the customary rights provided in the Basic Agrarian Law. Rikardo Simarmata's essay explains how the Indonesian government puts forward the goal of respecting indigenous peoples but does not consistently implement it in the matter of customary land registration. How does the inconsistent implementation of legal state instruments impact on the existence of *ulayat* (customary) land owned by communal communities, and to what extent does it have an impact on the further erosion of customary authority over land?

Hopefully, this first edition of the Indonesian Journal of Socio-Legal Studies will contribute to a greater comprehension and novel insights about how Socio-Legal Studies can be conducted. After all, in all its complexity, Indonesia is a large and valuable laboratory for the study of law and society. Hence, this journal will advance the production of novel knowledge in the field of interdisciplinary studies of law in Indonesia today and in the future.

Editor