

11-2022

Editorial Foreword IJSLS Volume 2 Number 1

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Recommended Citation

Irianto, Sulistyowati (2022) "Editorial Foreword IJSLS Volume 2 Number 1," *The Indonesian Journal of Socio-Legal Studies*: Vol. 2: No. 1, Article 6.

DOI: 10.54828/ijsls.2022v2n1.6

Available at: <https://scholarhub.ui.ac.id/ijsls/vol2/iss1/6>

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Editorial Foreword IJSLS Vol. 2 No. 1

The Need for Interdisciplinary Research in Indonesian Legal Studies

This edition of IJSLS further emphasizes the importance of interdisciplinary research in legal studies, which is needed to explain various legal issues and legal institutions more fundamentally and completely. The findings of doctrinal studies can be enriched by an approach that places legal issues in the social, political, economic, and cultural contexts. Thus, legal studies can produce explanations and recommendations that are close to the community's sense of justice.

The contribution of Rositawati demonstrates the importance of interdisciplinary research to investigate the *raison d'être* of the judiciary. The judiciary has two principles it must adhere to in carrying out its functions. First, the judiciary functions as a control mechanism in the distribution of state power according to *Trias Politica*. In carrying out this function the judiciary is tied to the principle of the Rule of Law, including the matter of judicial independence. The extent to which the elements of the rule of law exist in a legal system can be explored through doctrinal legal research and empirical research into legal practices. Second, in the context of judicial governance, the judiciary also adheres to the principles of transparency and accountability. In managerial organization, judicial institutions must apply the principles of efficiency, effectiveness, and service quality. The extent to which the judiciary does adhere to these principles can only be assessed through interdisciplinary research.

In this case, Rositawati investigates the interaction between the principles of Rule of Law and Accountability. She identifies tensions between the two, but also interaction, resulting in a negotiation process between the two principles in which "a new legal framework" is born to ensure the running of the institution. From a legal pluralism perspective, it is not enough for researchers to only identify the existence of the two legal principles together in a certain social arena (F & K Benda-Beckmann and Griffiths, 2005, 2009). They must study the merging process: how the two legal frameworks related to those principles influence each other, adopt elements, and in the end give birth to a brand new legal framework. Subsequently, this novel framework becomes the norm for the actors in this social arena, in this case the judicial governance system.

Studying the law of a society is incomplete without studying its institutions or dispute resolution forums. The contribution by Ratuanak, Irianto and Lestarini discusses



the community's choice of dispute forums outside the court, namely dispute forums for fishing communities in the Kei Islands, Maluku. Keebet von Benda-Beckman's legacy of *Forum Shopping* and *Shopping Forums* that are very influential concepts to this day (Lund, 2021) show that when a person is involved in a dispute, they have several options about how to resolve it. The choice for a certain dispute resolution forum will be based on a rational calculation of which forum is the most beneficial to them, although there is little certainty about whether these benefits will be obtained (K. Benda Beckmann, 1981).

In the situation of Indonesia, there is an appeal by local communities for recognition of their customary dispute resolution process and decisions by the state. This insistence is very reasonable considering that state courts are generally not the first choice of local community members for various reasons - such as lack of knowledge on state law, lack of networks among people that can help to make a claim at state courts, or lack of access to the courts as they live far from the district capital where the courts are situated. In addition, according to Reiling, justice seekers around the world are faced with delays, lack of access and corruption (Reiling, 2009). The state could make it easier for judges in state courts by developing a legal framework that regulates and recognizes customary dispute resolution forums.

How is customary dispute resolution organized by the fishing communities in the Kei Islands, Eastern Indonesia? These communities traditionally have a Customary Council (*Sidang Adat*), which applies the customary law of *Larvul Ngabal* (Kei customary law). Decisions from this customary forum have authority, are obeyed by the community, and is generally the first forum approached by community members to resolve their disputes. The research on the dispute resolution processes relating to marine resources in the Kei Islands shows that customary courts remain the first choice for justice seekers. The judgments of the Customary Council consider the context of the case and thus go beyond the doctrinal limits that are usually set by state courts. The Customary Council takes into account how the dispute affected the victim and his social environment.

Kouwagam's study discusses legal strategies in two decisions of the Indonesian Constitutional Court, analyzed from a socio-legal perspective. The case concerns a legal rule that prevented developers from building small houses and selling them. The Supreme Court judged that the rule was contrary to the Constitution. The interdisciplinary perspective sheds light on how redefinitions of the concept of justice relate to the legal reasoning of judges in these cases.



The contribution by Irianto, Nafi, Prasanthi and Amany stresses the importance of interdisciplinary research as basis for policies, particularly the policy on preventing and handling COVID-19 and its implementation in Indonesia. Changes in society already were happening fast because of developments in science and digital technology, when the COVID-19 virus disrupted our world. The global pandemic phenomenon called for scientists not only from the fields of health, medicine, and economics, but also from many other fields of science, including legal and social sciences, to collaborate to produce the most appropriate policies.

This research applied digital-based methods, namely digital surveys, focus group discussions, and interviews conducted digitally during the pandemic. The results of the study show that the main issues experienced were the lack of clarity of the policies for the prevention and handling of COVID-19 and their implementation. Informants, including doctors and the families of victims who died due to COVID-19, as well as the wider community, shared their experiences and views through their stories during the FGDs. These experiences and testimonies concerning the pandemic proved to be a window to identify more general health policy problems in Indonesia.

One of the important parameters in achieving access to justice for vulnerable groups is legal identity (Commission on Legal Empowerment, 2009). It is the obligation of the state to ensure that every person born has their legal identity as one of their human rights. However, Indonesia, which is home to more than 270 million people, for various reasons has not been able to provide legal identity to all its citizens. Among these causes for lack of access to legal identity are poverty, remoteness, and adherence to a minority religious sect. This lack of documentation turns them into underserved communities with lack of access to health care and government programs.

Horii and Wirastris contribution discuss the lack of access to birth certificates, especially for children of parents whose marriages are not registered. When the marriage is not registered, they will not have a marriage certificate. This lack of legal identity will have broad implications for the family's access to public services, whether from the state or society.

Children born from unregistered marriages are prone to double stigmatization due to the “suspect” condition of their parents, who do not have a marriage certificate, and their own social status as “bastard” children, often without birth certificate. The lack of documentation has an impact beyond social stigma due to ambivalences of the law. Their legal status is unclear, and they are unable to access public services, most notably schools.



These children are also deprived of inheritance and maintenance rights of their fathers under the state legal system. This paper utilizes interdisciplinary research to critically assess government policies pertaining to marriage and child registration.



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