

INTRODUCTION: MEASURING ENVIRONMENTAL IMPACTS AND JUDICIARY ENVIRONMENTS, THE CRITICAL ANALYSIS

MUHAMMAD SIDDIQ ARMIA

Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
Email: msiddiq@ar-raniry.ac.id

HUWAIDA TENGKU-ARMIA

Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
Email: huwaida@ar-raniry.ac.id

MUHAMMAD SYAUQI BIN-ARMIA

Universitas Islam Negeri Ar-Raniry, Banda Aceh, Indonesia
Email: msyauqibinarmia@ar-raniry.ac.id

ROBERT K. HOME

Anglia Ruskin University, Cambridge, United Kingdom
Email: robert.home@anglia.ac.uk

The cross-border government shows significant effort in accommodating the development of the law and its environmental impacts. The new concept of “green law” should adhere the quality enhancement of disclosure information, innovation, public supervision, promoting innovation behaviour and economic efficiency. People should contribute actively to protect the environment within the societies. The scheme where individuals might raise the complaints toward the legal entities in regard their negative impacts to the nature need to be formulated. Therefore, the authorities need to reconsider new environmental protection law to create environmental awareness between the citizen.

Based on the impact towards the environment, the new judiciary approach also needs to be reconsidered. We could argue in the future, there will be numerous courts such as environmental court, ethics court, public policy court and so on. However, the national judicial systems must be adapted to the demands of democratic, stable and responsible society. Achieving an anticipated justice system through the creation of a cutting-edge, integrated, effective, and open legal system that has shorter trial durations and a unitary body of jurisprudence is possible if ongoing efforts are made to enhance the relevant institutional and normative framework, implement standards based on integrated strategic management, effectively manage resources, and employ creative problem-solving techniques that elevate the quality of justice.

Appropriate responses to the challenges of the past few decades in the field of justice and the execution of the act of justice are needed from the organizations and authorities in charge of running the legal system. Respecting an essential principle is vital because judicial work involves protecting people's reputations, private lives, human dignity, and the presumption of innocence, among other things, in a democratic society. Within this introduction, the authors aim to provide multiple insights of environment, human rights, Islamic economic, family, judiciary development and the historical approach of litigation.

Environment and Human Rights in Islam

When the economy is growing fast and there is a rise in industrialization and urbanization, environmental justice and human rights issues may not be as important. In this regard, Acehnese government, the most westerly province in Indonesia, has the power to accommodate the issues through the law of environmental management. Natsir *et al.* studied the topic of "The Relevance of Islamic Principles in Environmental Management in Aceh". By adopting the methods of normative judicial and concretizing Islamic values in Aceh's environmental law, they conclude that environmental management in law-making is not entirely founded on Islamic law.

The environmental issues are deeply connected with the investment. It's not only due to the desires to bring more capital to the projects, but also increase the awareness of green investments. However, religious values also could present impact in ethical investment. It has been portrayed by Susanti *et al.* through their paper "The Urgency of Sharia-Crowdfunding as an Alternative Funding in Development of Nusantara's Capital City". As it requires huge amount of investment, security crowdfunding might become the sharia-based contributions. Utilising the juridical approach, the study concluded by the theory of utilitarianism, society-based benefit financing, and *hifz al-mal* (maintaining assets) concept in providing ethical based financing.

As the growing of the environmentally friendly concept, it has expanded to the concept of blue economy. There is still confusion on the definition of the "blue economy" despite the growing volume of writing on the subject. The nearer discussion is "Marine Security Model to Prevent Criminal Acts in Aceh" conducted by Gausyah *et al.* They outlined that the maritime crimes are vulnerable in Aceh due to the high intensity of marine activities. By engaging the normative empirical approaches to elucidate maritime security models, the discussion resulted to emphasis the role of Marine and Air Police unit, Indonesian Navy, Custom and Immigration officer with the support of the local communities.

The environmental impacts are often associated with human rights. Since it is a prerequisite for many human rights, including the right to life and health, environmental preservation is an essential component of modern human rights theory. The human rights in Islam have been articulated by Wahid *et al.* Their article "Analysis of the Scope of Human Rights based on the Hadiths", highlighted the groundless criticism of human rights violations in Islamic law. Through philosophical approach, they refused the argument and affirm that Islamic law of human rights extended to rights of creatures, plants, structures and entire environment.

Severe human rights violations shown throughout the war. Humanitarian situations are occurring more frequently, and massive breaches of human rights and war crimes are being revealed by an increasing amount of data gathered by official and nonprofit organizations. For instance, the study by Gunawan and Pane of War in Ukraine. Their article "Responsibility for Excessive Infrastructure Damage in Attacks: Analysing

Russia's Attacking Ukraine", confirmed the infrastructure casualties caused by Russian attack is against the international humanitarian law. Using the normative legal library research, it supported that the critical issue of state responsibility is based on international law.

Family Resiliencies

Family resilience is another fundamental method of implementing human rights and environmental preservations. Since families often come off as dysfunctional, resilience has been seen as something that exists only in the individual. The article by Sururie *et al.* advanced the discussion on shared-parenting (*hadhanah*) of child custody disputes. Through the article "Co-Parenting Model in Resolving Child Custody Disputes in Urban Muslim Families", it comes up with the recommendation of comprehensive understanding of Islamic law to deal with litigation process.

While the Quran and Sunna continue to be the primary sources of Sharia law, it is contended that the process of developing an obligation of law primarily from ethical and religious principles has not been without controversy. This demonstrated the rights of children in divorced families. In the article "Children's Rights in A Quasi-Broken Home Family: Islamic Law Versus Child Protection Law", Muharrani *et al.* verified the discrepancies between Islamic law and Law No. 35 of 2014 on Children Protections. By adopting triangulation techniques (observation, interviews and documentations) of qualitative approaches, the authors suggest the fulfilment of disparities between two laws.

The rights of children must be considered. Kids are straightforward targets. Redress would be feasible if they had rights. They would have legal and enforceable claims against others instead of being helpless in the face of abuse, neglect, molestation, and simple ignorance. Aprilian, Farikhah and Krisna accentuated the issue towards flagellation in *jinayat* bylaw. Through the socio-legal approach, the article "Analysis on Flagellation Imposed as a Sanction from the Perspective of Child Protection", bylaw No.16 of 2014 on Islamic criminal law need to be reviewed due to the principal norms of child protection.

Fostering children's rights can help address the public issue that children's lives are not a private matter. Since children are members of the community, the best way to support their positive rights is to make reference to their fundamental rights, which include their parental responsibilities. Syamsuddin *et al.* punctuated the issue of parental roles disfunction, parent-child connection inharmonious and community disengagement are causes of children becoming offenders. The article "The Family Impacts on Minors as Perpetrators of Acts of Terror: Evidence from Indonesia" concluded that there are needs to strengthen family relationship, education and social engagement to address child crime.

The fundamental presumptions, goals, and methods of family law are changing as drastically now as they did when the field transitioned from fault to no-fault divorce years ago. The debate is portrayed in bylaw No.14 of 2019 on positive family law and Law No.1 of 1974 on Marriage and Compilation of Islamic Laws. The authors Jailani and Zulfikar found the potential clashes that are need to be accommodated by the councils and officials in law making process on the article "From Non-Punishment to Being Punished: Istimbath Taqin Analysis of Islamic Family Law in Aceh".

Sophisticated Knowledge and Means on Judiciary

Human rights and justice aspect need to be considered in the regulation and law-making process. This due to the complexity of the process from the initial pleas to dispute settlement. Abbas *et al.* analysed the regional law-making development in Aceh. Their article “Dynamics of Sharia Law Taqin in Aceh 2013-2017: Analysis of Regulative Policies and Social Reality” discovered significant shift on Sharia-based law being implemented. Through conceptual and statutory approach, they found that during four years, there are several sensitive issues have been addressed in seven bylaw produced by Acehese government.

Religious values in regulating the specific circumstances also seem to be effective basic approach. Fathorrahman *et al.* discussed the *fatwa* (legal scholars opinion) during pandemic restriction. In the article “The Role of Religious Fatwas in Indonesia: An Analysis of Self-Government and Biopolitics during the Pandemic” represented the study on religious understanding in supporting government’s health protocol. It clearly showed that fatwa can prompt social and public health scientific knowledge cohesion.

Generating the law and regulations also means the use of advanced procedural steps and formalisation of litigation method. Aceh in particular, as the autonomous province that adopt the customary court system in dispute settlement. However, Mansur *et al.* found the challenges faced by customary court to meet the government’s requirements in formal documentation. This due to the infrequent cases, inadequate legal process knowledge and lack of public awareness about the existence of the court. Through the article “Challenges in Documenting and Formalizing Customary Court System in Aceh, Indonesia” it comes with recommendation on training dan providing effective documentation regulations for the customary court.

In a wider context, the need to adopt sophisticated means to judiciary system gradually rose. Shabalin *et al.* discussed the issue on their study “Use of Digital Technologies in Judicial Proceedings in Some Countries of Europe and the USA”. With application of general scientific methods analysis, special structural and statistical research methods, they came up with the result of the necessity for a careful and balanced approach to various aspects of justice system.

Islamic Economic

In Islamic religious values, *maqashid shariah* (objectives of shariah) become one of the principal bases in determining human rights thought. The objectives carried five preservations of necessities: *hifz al-din* (religion preservation), *hifz al-mal* (wealth preservation), *hifz al-aql* (intelligence preservation), *hifz al-nasl* (offspring preservation) and *hifz al-naf* (soul preservation). In this regard, Yusuf *et al.* observed the role of *maqashid* in evaluating Islamic legal reform in Indonesia by using empirical and normative approach. Within the article “Examining the Basis of Maqashid Syariah in Renewal of Islamic Law in Indonesia”, it found that the role of *maqashid* has been developed during pre and post Indonesian independence.

In a broader framework, the *maqashid* is often to be used as a medium of necessity accomplishment and prevent *mafsadah* (harm) within individuals. By means of wealth preservation (*hifz al-mal*) principle, Fuad *et al.* measuring the ethics and norms of debt as part of necessity. The article “Considering Debt in the Perspective of Maqasid Al-Shariah: Maslahah versus Mafsadah”, it pointed that unless it needs to be regulated, debt is not immoral. Through the analysis of benefit and harmful aspects within the library

research, it concluded that debt need to be classified objectively due to its impact on individuals' conditions.

Violation on wealth preservations (*hifz al-mal*) also violation on human rights. As almost basic needs provided by the wealth extension, thus the unfair practice against this, considered a crime. A simple form of this crime is the act of corruption. Rahman and Husnul evaluated the state losses caused by corruption. It concluded that government failed to deal with loss recovering due to insufficient legal framework of confiscating assets. It has been portrayed through the article "Failure of Criminal Law in Recovering State Losses Due to Criminal Acts of Corruption" by using legislative and literature study approach.

To accommodate the economic settlement disputes, some jurisdictions applied the normative justice practice. In Indonesia, Huda *et al.* questioned whether the religious court able to meet the criteria of certainty and justice, both in normative and implementation. By assessing the theory of legal certainty, justices, *sulh* (negotiation) and judicial power, it resulted that the framework unable to adhere the principles of: refrain difficulties, reduce burdens, ensuring equality and justice. The discussion was provided in the article "Normative Justice and Implementation of Sharia Economic Law Disputes: Questioning Law Certainty and Justice".

Norms and ethics supposed to have impact in realising *maqashid syariah* on the business practice. Islamic economic as an alternative of conventional one, is expected to deliver the values much closer. Nugraheni *et al.* wrote article "A Framework to Improve the Implementation of Business Ethics in Islamic Business Organisations" in this regard. They applied the qualitative approach of Islamic and business ethics discussion. It concluded that business activities and ethical values should implement Islamic Principles and affirm organisation's identity.

Islamic economics indeed the most promising sectors. It has comprehensive business opportunities encompass all real live aspects with high profit. For instance, in the sharia compliance tourism sector. The article "Legal Compliance on Sharia Economics in Halal Tourism Regulations", Solehudin and Ahyani discussed the assurance of sharia compliance application on halal tourism regulations in Bandung regency. Considering juridical approach with descriptive analysis techniques, the study concluded with recommendation to adhere regional development aspects on top of sharia implementations.

Historical and Philosophical Legal Approach

The essence of human rights implementation might be dated back to early days of Indonesian independence. The collective desires showed by entire Indonesian people to live as a free independent nation with the freedom to govern its own state. The article "The Conception of People's Sovereignty in Indonesia: Mohammad Hatta's Thought Approach" by Aulia *et al.* as an example. Through research methods of Hatta's sovereignty concept on doctrinal and legal aspects, it concluded that collectivism is the key to accommodate Indonesian diversity. This due to the sovereignty difference between Indonesian people and West.

Another approach to realising the human rights is through the redefinition of particular terms within the religious values. In doing so, Ishom *et al.* discoursed the meaning of *istita'ah* (capability) in hajj regulations. Through legal approach methods, the authors concluded that health capability not only being a responsibility of individual, but also

the government obligations. Hence, need to expand their understanding to provide health assessment and guidance as a precondition before applying for Hajj, not solely managing hajj transportation only.

Thus far, the introduction has argued Measuring Environmental Impacts and Judiciary Environments: The Critical Analysis, its implementation and indication on environmental, economic, family resiliencies, judiciary and historical approach should be public concern and awareness. The citizen needs to realise that their fundamental rights preserved by the constitution.

On behalf editorial board, we strongly believe that human rights awareness must be a top literacy campaign by the government. All articles published in Volume 9 No. 1 have been thoroughly selected and appraised by the reviewers and experts.

Banda Aceh, 1 April 2024
Muhammad Siddiq Armia
Huwaida Tengku-Armia
Muhammad Syauqi Bin-Armia
Robert K. Home