Program Book
International Conference on Law, Technology, Spirituality and Society (ICOLESS)
Saturday, November 14th, 2020

Sharia Faculty
Universitas Islam Negeri Maulana Malik Ibrahim
Malang Indonesia
icoless.uin-malang.ac.id
PROGRAM BOOK

International Conference on Law, Technology, Spirituality and Society (ICOLESS)

Saturday, November 14\textsuperscript{th}, 2020

Islamic Law Reform In The Context Of Religious Moderation

Sharia Faculty
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FOREWORD

Assalamualaikum Warahmatullahi wa Barakatuh

The World is facing a new pandemic in 2020 that causes many changes in people’s life. Almost all fields have been affected by it. That is why the integration of multidisciplinary studies is needed to solve the problem so that humans can continue to live well by adapting to the new normal. Acceleration and expansion offered by information technology have developed in such a way that it affects human existence and how to do things in ways that were not thought of before. The progress implies that many of the existing understandings, social practices and norms are in a position of necessity to contest, adapt, and even change. If not, then we will miss many things both opportunities and roles.

Furthermore, if this development is not adequately anticipated, we may not only fail to anticipate contemporary challenges but also fail to understand the complexity of reality. In the field of scientific studies, the above phenomena have received numerous and varied responses from many circles. In relation to the relationship between religion, science, and technology, many scientific studies have been conducted as richly as possible, and have produced interesting findings. In acknowledgement of the pressures between science and religion, and as an inquiry about progressively enters value-laden areas, propositions have been made for researchers to lock in with other communities on the moral, lawful, and social suggestions of science and innovations and for the ‘public voice’ to be brought into the developmental stages of decision-making.

Sharia Faculty UIN Maulana Malik Ibrahim Malang is pleased to announce that it will be hosting The 3rd International Conference on Law, Technology, Spirituality and Society (ICOLESS) 2020 at November 14, 2020 via online video conference.

International Conference on Law, Technology, Spirituality and Society (ICOLES) will provides opportunities to bring together scholars, researchers, social scientists and practitioners of different disciplines from all around the world, to discuss and exchange new ideas, and discover the most recent researches in all fields on Law, Technology, Spirituality and Society in a diverse atmosphere. Moreover, it also gives the ideal chances for the delegates to share best practices and application experiences, to establish research relations and to find international partners for future collaboration among them. To support the Ministry of Religious Affairs program, i.e. religious moderation, the theme ICOLESS 2020 is Islamic Law Reform in the Context of Religious Moderation.

Ultimately, allow me as Rector of UIN MAULANA MALIK IBRAHIM MALANG, officially opened THE 3rd International Conference on Law, technology, Spirituality and Society (ICOLESS) in 2020. And also personly, I would like to welcoming all the Honourable distinguished Speakers, all the Presenters and participants to UIN Maulana Malik Ibrahim Malang virtually.

Wassalamualaikum Warrahmatullahi wa Barakatuh

Prof. Dr. Abdul Haris
CONFERENCE SUB-THEME

Alternative Dispute Resolution
Business and Financial Law
Courts and Procedural Law
Constitutional Law
Culture, Law and Society
Cyberlaw and Data Protection
Family Law
International Law
Islamic Law
Land Law
Law and Ethics
Law and Philosophy
Law Enforcement
Law, Human Rights, Politics and Justice
Law and Technology
Local Wisdom and Legal Histories
Maritime Law
Socio-legal Issues
Taxation Law
KEYNOTE SPEAKERS

Prof. Dr. Syaifullah, S.H, M.Hum
Professor of Law UIN Maulana Malik Ibrahim Malang

Dr. Badruddin
Assoc. Professor of Islamic Law
UIN Maulana Malik Ibrahim Malang

Prof. F.J.S. Wijsen (Frans)
Professor of practical religious studies
Radboud University

Ahmed Al-Dawoody
Legal Advisor of IHL and Islamic Jurisprudence ICRC in Geneva
RUNDOWN

THE 3rd INTERNATIONAL CONFERENCE ON LAW, TECHNOLOGY, SPIRITUALITY AND SOCIETY (ICOLESS) ON ISLAMIC LAW REFORM IN THE CONTEXT OF RELIGIOUS MODERATION
NOVEMBER 14, 2020

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| Saturday, November 14, 2020 | 08.00-09.00 (GMT+7) | Opening Ceremony  
MC: Yayuk Whindari, M.H. | Zoom Meeting  
https://us02web.zoom.us/j/7490544633?pwd=Z0hGdXJ1TmJtSDhnTTM2V2F4bWp4dz09  
Meeting ID: 749 054 4633  
Passcode: syariah |
|                  | 09.00-10.00 (GMT+7) | Keynote Speech  
Moderator: Jamilah, MA | Zoom Meeting |
|                  | 10.15-11.45 (GMT+7) | Parallel Session  
Zoom Host/Moderator: Yayuk Whindari, M.H. | Room 1 Meeting id:  
https://us02web.zoom.us/j/7490544633?pwd=Z0hGdXJ1TmJtSDhnTTM2V2F4bWp4dz09  
Meeting ID: 749 054 4633 |

1. Opening  
2. Speech:刘 Rector of UIN Maulana Malik Ibrahim Malang, Indonesia  
3. Closing

1. Prof. Saifullah, SH. M. Hum.  
Title: Moderation of Religion in Indonesian Legal System
2. Dr. Badruddin, M.H.I.  
Title: Al-Islãm al-Wasatiy: Bayn al-Mafhum wa al-'Amal

Presenters  
Nur Lailatul Musyafaah, Athifatul Wafirah, dan Sagita Destia Ramadhan (UIN Sunan Ampel Surabaya)
Arini, Satia Nur Maharani, dan Dodik

Paper Title  
Moderation of Fatwa: Worship During The Covid-19 Pandemi in Maqasid Shariah Perspective
The Practice of Disclosing Sustainability Reports
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<td>Juliardi (Universitas Negeri Malang)</td>
<td>on Bank Performance: Maqashid Shariah Perspective</td>
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<td>Muthoifin dan Pristila Putri (Universitas Muhammadiyah Surakarta)</td>
<td>Social Level paramtere of Banjar Society in The Tradition of Jujuran Islamic Law Perspective</td>
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<td>Muthoifin dan Muhammad Mukti Nugroho (Universitas Muhammadiyah Surakarta)</td>
<td>Outsourcing System in View of Islamic Law: Study on Employees at Universitas Muhammadiyah Surakarta</td>
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<td>Ahmad Wahidi, Noer Yasin, Abdul Kadir and Abd. Rouf (UIN Maulana Malik Ibrahim Malang)</td>
<td>Implementation of the Mabims Criteria in Determining the Beginning of Islamic Month in Indonesia and Brunei Darussalam</td>
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<td><strong>Parallel Session</strong>&lt;br&gt;<strong>Zoom Host/Moderator: Syabbul Bachri, MHI.</strong></td>
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<td>Nurul Istimomah, Yayuk Whindari, Siti Zulaicha (UIN Maulana Malik Ibrahim Malang)</td>
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<td>Kusuma Dewi Nur Aini (Universitas Darussalam Gontor)</td>
<td>Problematics Political Secular Perspective Ismail Raji Al-Faruq</td>
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**Break**

1.45-13.00 (GMT+7)

**Plenary Speaker Presentation**

**Moderator:** Jamilah, MA.

13.00-15.00 (GMT+7)

1. **Prof. Dr. Frans Wijsen** (Professor-Empirical and Practical Religious Studies, Radboud University, Nijmegen, The Netherlands)

   **Title:** “Wealthy Welang: Religious Moderation, Law Reform and Ecological Challenges”

   **Zoom Meeting**
   
   [https://us02web.zoom.us/j/7490544633?pwd=Z0hGdXJ1TmJtSDhnTTM2V2F4bWp4dz09](https://us02web.zoom.us/j/7490544633?pwd=Z0hGdXJ1TmJtSDhnTTM2V2F4bWp4dz09)
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<td>2. Dr. Ahmed Al-Dawoody (Legal Adviser for Islamic Law And Jurisprudence At The International Committee Of The Red Cross (ICRC))</td>
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Abtraction

The 3rd International Conference on Law, Technology, Spirituality and Society (ICOLESS)

Virtual, November 14th, 2020
icoless.uin-malang.ac.id
MODERATION OF FATWA: WORSHIP DURING THE COVID 19 PANDEMIC IN MAQASID SHARIAH PERSPECTIVE

NurLailatul Musyafaah¹, Athifatul Wafirah², Sagita Destia Ramadhan³

¹ UIN Sunan Ampel Surabaya, nurlailatul@uinsby.ac.id
² UIN Sunan Ampel Surabaya, wapingoh@gmail.com
³ UIN Sunan Ampel Surabaya, sagitadestia12@gmail.com

Abstract:
Coronavirus disease, also known as Covid-19, is a virus that originates from animals and can spread through humans and cause respiratory infections. The very fast spread of Covid-19 has made the government resolutely minimize its efforts to disperse the crowd so that close contact does not occur which creates a potential for the spread of the Covid-19 virus. That is one of the government's decisions regarding the recommendation to close mosques, so that it is urged for the public to pray at home. The focus of this research is to examine fatwas from the Council of Indonesian Ulama, LBM PWNU and Muhammadiyah regarding worship at home and to examine how the perspective of maqasid shariah during the pandemic so that hifz din and hifz nafs can be implemented properly and correctly without harming the surrounding environment. Because Islam is a religion that is “sholih li kulli zaman wa makan”. Before the corona virus pandemic occurred, in carrying out congregational prayer services, Muslims in Indonesia were already accustomed to rectifying, closing the rows and congregating at home. However, with the Covid-19 pandemic in order to keep hifd nafsh healthy and hifdz din as it should be, it is necessary to maintain distance when praying, use masks and worship at home, in order to break the chain of Covid spread. -19. This fatwa indicates that Islamic law is moderate and can adapt to situations and conditions based on the prevailing ijtihad principles, such as worship during the Covid-19 pandemic.

Keyword: moderation of the fatwas of worship, Covid-19 pandemic, maqhasid shariah
THE PRACTICE OF DISCLOSING SUSTAINABILITY REPORTS ON BANK PERFORMANCE: MAQASHID SHARIAH PERSPECTIVE

Arini¹*, Satia Nur Maharani², Dodik Juliardi³

¹, ², ³ Department of Accounting, Faculty of Economics and Business, State University of Malang, Indonesia

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Abstract:

This study evaluated the correlation between the disclosure of sustainability report towards bank’s performance from the perspective of maqashid Syariah. Islamic Bank in Indonesia and Malaysia in the period of 2014-2018 was used as the sample in this study. The method used was Generalized Method Moments (GMM) with 4 model of research. As a result, this study showed that on model 1 (Diin) the variable of economic sustainability, social sustainability, and debt ratio have a significant positive impact toward Islamic banking perspective on religious maintenance. On the model 2 (Maal) the variable of economic sustainability has a significant positive impact towards Islamic bank’s performance and the perspective of preserving property. On the model 3 (Nafs & ‘Aqil) the variable of sustainability general standards and social sustainability have significant positive impact toward the preservation of main and soul. This finding implies that sustainability report was used as horizontal accountability (employee, community, and society). Further, on the model 4 (Nasl) only the variable of social sustainability has significant positive impact toward perspective performance of raising descendent. In brief, the result of this study shows that in the presentation of Islamic bank accountability implements Islamic objectives, namely rahmatan lil'alamin

Keywords: Islamic bank’s performance, maqashid syariah, sustainability report
Abstract

Politics in the global era has ignored human values that have an effect on morals, which is far from being a religious ideology. Such political paradigm in historical fact emerged from the Western world from the time of ancient Greece and develops until today. The main effects of Malaise are one of them in politics, the ummah is fragmented, the colonial powers have succeeded in dividing the ummah into approximately 50 independent states, and clashing among them. Secular society believes that the ultimate truth no longer belongs to religion, but has become part of the natural human power. So that from this raises problems in life, especially the spread of the ideology of maxrism. Marxism teaches human awareness of how humans socialize which affects the economic attitude which is very materialistic. By using the analytical descriptive method, this study produces several important conclusions, namely: First, to overcome scientific problems that have been penetrated by secular Western civilization, Al-Faruqi recommends that the development of knowledge be based on tauhid. Second, according to him, the tendency of civilization which is dominated by secular Western civilization has hegemonized other civilizations to give birth to secular ideas. Third, the secular hegemony of civilization has implications for the political sphere that gave birth to maxrism. The politics of the enemy always exploits border friction and creates the causes for alienation and enmity. Internally, each Islamic State was further divided by colonial tyrants.

Keywords: Science, Politic, Secularisme, Maxrisme, Ismail Raji Al-Faruqi
Paper ID: 4

Social Level Parameters of Banjar Society in the Tradition of Jujuran
Islamic Law Perspective

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2 Department of Islamic Economic Law Universitas Muhammadiyah Surakarta Indonesia.
*Corresponding author. Email: mut122@ums.ac.id

Abstract
This study aims to analyze the foundation used by the people of Tanah Bumbu Regency in determining jujuran, to understand the perspective of the Banjar people in Tanah Bumbu Regency about the philosophical values contained in jujuran customs, and to explain the correlation of Islamic views on dowry and jujuran in understanding. Banjar community in Tanah Bumbu Regency. This research is classified as field research. This research is analytical in nature, which is a continuation of descriptive research which aims not only to describe certain characteristics. But it also analyzes and explains why or how it happened, regardless of the approach used by anthropologists. The data criteria obtained are primary and secondary data. Data collection techniques used were in-depth interviews, observation, and literature study. The results of this study indicate that the dowry and jujuran in Tanah spice Regency are different, the number of jujuran can be influenced by several factors such as the social status of the parents, the beauty of the scientific material possessed by the prospective bride. But it still depends on the agreement of the two parties. Behind that, there is an inherent meaning, namely helping.

Keywords: Marriage, Jujuran, Banjar Customs, Islamic Law
Outsourcing System in View of Islamic Law:

Study on Employees at Universitas Muhammadiyah Surakarta

Muthoifin 1,* Muhamad Mukti Nugroho 2

1 Department of Islamic Studies Universitas Muhammadiyah Surakarta Indonesia.
2 Department of Islamic Economic Law Universitas Muhammadiyah Surakarta Indonesia.
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Abstract

Research with the aim of Implementing the Outsourcing System in the Perspective of Sharia Law. Case Studies at the Employee and Human Resources Agency (BPSDM) of Muhammadiyah University of Surakarta to better know how the outsourcing agreement system in the perspective of sharia law is then used for the welfare of an outsourcing employee. This type of research is included in qualitative research that comes from interviews and data observations. The data source of this research consists of primary data sources, namely researchers directly conducting interviews with the parties concerned in the outsourcing agreement system and aspects of the outsourcing system in the perspective of sharia law, researchers also use secondary data sources, namely books, articles and reference materials. other. The results of the study explain that in an effort to prosper employees, outsourcing workers are in accordance with existing agreements and according to the primary, secondary, and tertiary needs of outsourced employees with the provisions according to fiqh science, namely ijarah and wakalah.

Keywords: Outsourcing, Employment, Wages, Islamic Law, Representative Contract.
Abstract

The inheritance law in Indonesia is one of the areas that has a plurality of concepts and applications. Tribe communities with their teachings and laws can create justice and eliminate conflicts in the field of inheritance. Using a sociolegal approach with in-depth interviews and FGDs conducted, this study selected the Baduy Tribe in Desa Kanekes, Kec. Leuwidamar Kab. Lebak Prov. Banten. by qualitative approach, this research describes the concept and meaning of inheritance in the teachings of indigenous peoples and the correlation between the realization of justice in the field of inheritance. The Baduy indigenous people view heritage as a mandate that must be kept sacred. Receiving an inheritance is not only about transferring property rights; it is also a burden of responsibility to preserve the family legacy. With value and teach never found any conflict between heirs because of the respect and compliance of indigenous people to customary rules.

Keywords: justice, Law inheritance, pikukuh karuhun
Islam And Democracy:


Imam Sukadi¹*, Mila Rahayu Ningsih²

¹ Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang
² Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang
* Corresponding author. Email: imam.sukadi@gmail.com

Abstract

The principle of democracy upholds the rights of every citizen in terms of freedom of expression. Muslim has rights and even has to think and argue. The right to freedom of expression should not violate the rights of other people because basically, every citizen has the right to freedom of opinion which has the same position. Freedom of opinion must also prioritize unity because the Indonesian nation is a nation that is diverse and rich in culture. This freedom of opinion must be used to spread good, and not for spreading evil and injustice. A person may express their opinion freely, as long as they do not violate the law, such as blasphemy, slander, against the truth, insulting other people's beliefs, or by following their own will. The understanding of freedom of opinion in religious moderation must be understood contextually because Indonesia has many cultures, and customs. Moderate in Islamic thought is to promote a tolerant attitude towards differences and openness to accept diversity.

Keywords: Rights, Freedom, Opinion, Moderation, Religious
Abstract

Technology is increasingly being used by humans with the aim of making life easier. In a man-made technology, there may be shortages. In this research, the technology to be studied is the Learn Qur'an Tafsir application. The reason why researchers choose this application is because the features in the Learn Qur'an Tafsir cover several themes that use references to the verses of the Qur'an along with their interpretation. Researchers will focus on one of the themes in this application, that is Private Law, which more specific to for the family sustenance law. This theme is important to discuss because sustenance is very crucial in a family. This research is a type of field research. The method used is a qualitative method. Researchers use epistemology to reveal the sources, methods, and validation of the Learn Quran application. The results of this research are first, the source of the Tafsir used is Ibn Katsir's Tafsir, Jalalin's Tafsir, the Indonesian Ministry of Religion's concise & complete interpretation, Tafsir Al-Azhar and Yusuf Ali Quran Translation from tanzil.net. These commentary books are credible interpretations to be used as references. Second, this application starts with 14 major themes, then divides it into the most specific sub-themes, then includes the verse. There is a repetition of verses with different themes in this application. Discussion of the theme with the steps taken by this application makes the resulting discussion less comprehensive. Third, this application does not provide information about the things that are contained in the verse and an explanation of the theme being researched. Apart from that, the connection between the verses that erase the big theme is also not found in this application. In terms of validity, this application is suitable for beginner users who need a description of the interpretation of the Qur'an on a particular theme.

Keyword: Technology, Epistemology, Learn Qur’an Tafsir; Private Law;
Implementation of The Mabims Criteria in Determining The Beginning of Islamic Month in Indonesia and Brunei Darussalam

Ahmad Wahidi¹ Noer Yasin² Abdul Kadir³ Abd. Rouf⁴*
¹,²,³,⁴ Universitas Islam Negeri Maulana Malik Ibrahim Malang, Indonesia
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Abstract
The emergence of criteria made by the Minister of Religion of Brunei, Indonesia, Malaysia and Singapore (MABIMS) in the determination of the beginning of the Islamic month which was the result of the meeting of the Southeast Asian ministers of religion, namely Brunei Darussalam, Indonesia, Malaysia and Singapore which was first held in 1989 in Brunei. The meeting discussed cooperation in the field of hisab ru'yat between the four countries. In Indonesia, the MABIMS criterion is better known as the hisab imkān al-ru'yah method and was discussed for the first time in 1998 in March by hisab and ru'yat experts and representatives of Islamic social organizations - such as Muhammadiyah, NU, Persis, Al- Ershad and others. The deliberation that took place on September 28, 1998 resulted in a decision on 8 criteria for MABIMS in Indonesia. However, in reality the Indonesian government is considered inconsistent with the application of the MABIMS Criteria. According to the initial assumption, Indonesian researchers sometimes prefer the use of rukyat rather than using the MABIMS criteria reckoning. Meanwhile, Brunei Darussalam was impressed with Indonesia when it applied the MABIMS criteria inconsistently, because Brunei Darussalam only applied the MABIMS Criteria reckoning in the determination of the beginning of the Islamic month apart from Ramadan, Shawwal and Dzulhijjah. This research is a normative type of research using a qualitative approach, using primary and secondary data in the study. This research resulted in: First, the two countries only apply in the months other than Ramadan, Syawal and Dzulhijjah, while the determination of the first three months of Islam uses the guidelines of rukyatul hilal. Second, in terms of the validity of the application of the MABIMS Criteria in Indonesia and Brunei Darusslam according to fiqh and astronomy, it is permissible to use the approach of observational data or rukyatul hilal in the field.

Keywords: MABIMS, Determination of the Beginning of the Islamic Month, Indonesia and Brunei Darussalam.
Maqashid Sharia Study on The Restructuring Policy of Sharia Banking Financing Toward UMKM Affected By The Covid-19 Pandemic

Dwi Fidhayanti¹, Risma Nur Arifah², Lutfi Ardhani³

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Abstract:

One of the efforts that can be made to improve the UMKM class is to provide easy access to capital through Islamic banking institutions. However, currently, UMKM in Indonesia are facing a crisis due to the Covid-19 pandemic and also the economic recession. This study aims to determine the Sharia Banking Financing Restructuring Policy Against UMKM Affected by the Covid-19 Pandemic and Maqashid Sharia Study of Sharia Banking Financing Restructuring Policies on UMKM Affected by the Covid-19 Pandemic. The type of research used in this research is normative juridical research. The approach used is in the form of a statue approach and a conceptual approach. Legal materials obtained through literature study are then analyzed by means of descriptive qualitative. The Research Results Show that Restructuring does not mean eliminating the debtor's obligations but there are new adjustments in paying debt installments. The restructuring policy of UMKM has the aim of providing legal protection in an effort to maintain economic stability and the health of banks in Indonesia during the Covid-19 pandemic. These efforts contain wisdom and good causes (al-'illah), namely saving banks and UMKM. meanwhile, its maqsid, namely avoiding economic downturns. From al-'illah, it can be seen that the existence of maqashid sharia, which aims to maintain economic stability and bank health because the essence of the maqasid concept is to realize goodness.

Keywords: maqhasid sharia; sharia banking; covid-19
Potential Criminal Action in Shadow Banking Practices in Non-Bank Financial Institutions

Iffaty Nasyiah

Abstract:
The industrial revolution 4.0 has a lot of influence, both socially, culturally, aspects of technology-information and others. Examples, in the information and technology aspects, such as trends in automation and data exchange. This includes cyber-physical systems, internet of things (IoT), cloud computing, and cognitive computing. In case, for examples are computational data storage, digital money, virtual money, ride-sharing transportation systems such as Go-Jek and Grab, shadow banking which includes financial technology and others. These benefits are also accompanied by negative aspects that urge to make clearer, firm and comprehensive rules. The most phenomenal thing in this industrial revolution is financial technology through shadow banking. The practice of shadow banking is felt to be strong enough that several parties have urged the government to enact regulations and legislation on shadow banking practices. Apart from the potential for an economic crisis, the practice of shadow banking can also lead to the potential for several criminal acts. This further strengthens the reasons for the formation of regulations regarding shadow banking, including its criminal aspect. The purpose of this paper is to describe the potential for criminal acts that occur due to the spread of shadow banking, especially illegal ones. This type of research is normative juridical with a statutory approach. The results of the study found the potential for criminal acts in banking, money laundering, double pledge, opening personal data (crackers), extortion and threats via the internet and insulting and defamation through the internet.

Keyword: shadow banking; criminal law; technology.
Abstract:

The constitutional question mechanism in the constitutional review authority in the Constitutional Court (MK) has not been adapted so that it can result in the constitutional rights of citizens not being comprehensively protected. Substantive justice based on the One God (transcendent justice) has not been accommodated properly. The focus of this paper is to look at the constitutional question mechanism in the judicial review practice in the Constitutional Court based on the perspective of the Prophetic Law Paradigm. This type of research is a normative juridical study using a statutory approach and a conceptual approach. The method of collecting legal materials was carried out through literature study and analyzed using qualitative juridical analysis methods. The results and findings of the study indicate that the institutionalization of the constitutional question mechanism can be realized by expanding the constitutional review authority in the Constitutional Court. This expansion of authority can be carried out by changing the Constitutional Court Law, without making changes to the 1945 Constitution. The prophetic law paradigm can be used as an alternative perspective to revive the spirit of justice based on One God (transcendent justice) in the practice of constitutional testing in the Constitutional Court, especially in implementing mechanisms constitutional question.

Keywords: Mechanism, Constitutional Court, Constitutional Review, Constitutional Question, Prophetic Law Paradigm