

Published by the decision of the Scientific Council
of Khachatur Abovyan
Armenian State Pedagogical University



Department of Philosophy and Logic
named after Academician Georg Brutian



W I S D O M

1(25), 2023



*WISDOM is covered in Clarivate Analytics' Emerging Sources
Citation Index service*

ASPU Publication

YEREVAN – 2023

DOI: 10.24234/wisdom.v25i1.977

MUHAMMADIYAH ORGANIZATION'S ADVOCACY IN INDONESIA: PERSPECTIVE OF TRANSCENDENTAL JUSTICE

Fanny Dian SANJAYA ¹  | Absori ABSORI ¹  | Khudzaifah DIMYATI ^{1,*}  |

Kelik WARDIONO ¹ 

¹ Universitas Muhammadiyah Surakarta, Surakarta, Indonesia

* *Correspondence*

Fanny Dian SANJAYA, Universitas Muhammadiyah Surakarta, Pabelan Street, Kartasura, Surakarta, Indonesia
E-mail: fannydiansanjaya@gmail.com,

Abstract: Legal advocacy in the form of legal aid is crucial for all people as the bad application of law enforcement ironically leads to a condition where the law spoils some groups while simultaneously marginalizing others in society. Muhammadiyah, one of the largest Islamic organizations in Indonesia provides legal aid based on transcendental values to enforce one of its pillars, which is obeying all of Indonesia's laws and regulations. Methods: This research was carried out using the normative empirical method by combining the normative and empirical legal research methods through a judicial case study. This legal aids on the philosophical thought to help the citizen without violates the rule of law. Result and Discussion: The laws applied for judicial review include laws on Oil and Gas, Hospitals, Social Organizations, and Water Resources. This legal aid emphasizes divine values sourced from religious teachings and philosophies to became a base of action. Legal aid etymologically means the effort to achieve virtues without violation, this means no need a vandalism at al. Conclusion: Transcendental justice-based legal aid is also a basis on how the positive law on legal aid applies with the basis of the values of ethics, morals, and transcendence.

Keywords: advocacy, legal aid, transcendental justice, muhammadiyah, Indonesia.

Introduction

Access to justice is emerging as an important contemporary legal topic, both in national and international law. In international law, access to justice norms provided rights to individuals both within the context of but also (and arguably even

more notably) outside the classical human rights regimes of the famous multilateral treaties such as the International Convention on Civil and Political Rights (ICCPR) or the European Convention on Human Rights (ECHR) (Grudyte & Kirchner, 2012). Advocacy means defense that is carried out in various sectors, including the polit-

ical, social, economic, cultural, health, and legal sectors. In law, advocacy is known as legal aid.

The Republic of Indonesia's 1945 Constitution Article 1 clause (3) states, "Indonesia is a legal state". This means that it acknowledges protection of the human rights. Legal aid is a human right that is universally stipulated in IC-CPR Article 16, which states, "Everyone shall have the right to recognition everywhere as a person before the law". Legal acknowledgement and protection are manifested by the legal state in the form of access to justice and equality before the law.

Advocacy concerns politics and change; values and beliefs; as well as awareness and knowledge. It influences authorities on issues concerning the people, especially the marginalized ones. Advocacy builds a strong democratic organization to make authorities liable. It increases people's skills and knowledge of how power works (Miller & Covey, 2005, pp. 11-12). Legal advocacy or legal aid is more than advocacy on criminal, civil, or state administrative cases, as these cases are an excess of the legal regulation formation that ignores justice values, leading to bad law enforcement.

In the Indonesian positive law, there are three legal aids with different definitions, legal protection, and sources of funding. These legal aids are: (1) legal aid for the poor, regulated in the Law on Legal Aid (LLA), funded by the State Budget through the Ministry of Law and Human Rights and allocated for the poor and the needy; (2) pro bono legal aid, regulated in the Law on Advocacy (LA), funded by advocates for those who require legal aid; and (3) pro deo legal aid, regulated in the Law on Judicial Power (LJP), funded by the State Budget through the Supreme Court. The LLA Article 1 number 1 defines legal aid as a legal service given freely by legal aid providers to legal aid recipients. LA Article 1 number 2 states that legal services are provided by advocates by providing legal consultation, legal aid, representing, accompanying, advocating, and carrying out other legal actions for clients. LJP regulates legal aid in Article 56 clause (1), which states that everyone involved in a case has the right to legal aid. These three legal aids help people obtain their rights to be assisted by an advocate freely.

The government tried to handle the issue of advocates' unwillingness to help the poor due to

a lack of economic profit by issuing Law No. 16 of 2011 on Legal Aid. Through this law, the state provides funds for the advocate that provide legal aid for the poor. Unfortunately, this creates new issues as the requirements are difficult to fulfill (Raharjo et al., 2016). For instance, the aid beneficiaries must attach a document which states that they are poor, issued by the Head of the Village, the Police Investigators, the Attorney, the Court, and the State Corrective Institution. In reality, many people with legal issues are not poor, but they have no money to pay for the advocates' honorariums. Thus, they cannot obtain letters stating that they are poor. The legal aid regulated in the positive law cannot reach people with no legal awareness.

The state does not maximally organize the application of legal aid for poor people and it is not evenly distributed to the regions. This is because many poor people do not understand their access to legal aid (Kusumah & Wijaya, 2019). In many poorer countries, justice is inaccessible to a large number of people simply because they are unaware of laws and legal institutions, not to mention specific legal rights. In such situations, it is not just a question of having access to legal representation; access to justice initiatives must first address this lack of knowledge by bringing basic legal awareness or legal literacy to the general population (Arifin, 2016).

Legal aid policy and its practices in Indonesia are not optimally conducted, both economically and structurally, to provide equitable access to justice for the poor. Some proposals may be submitted to guarantee the fulfillment of equal access to justice, namely:

1. Extending the scope of legal aid to not only be for those who are economically poor, but even to those who are structurally poor.
2. Sufficient budget allocation. The average number of cases that need to be assisted by a legal aid scheme in any court can annually be estimated. The number of appropriate incentives for lawyers who provide legal assistance can be calculated. The amount of budget allocation to support the achievement of equitable access to justice can be determined then by these two things. The right to access justice is a part of human rights, so local governments are responsible to allocate the budget to fulfill that human right in their regions.
3. Organization management of legal aid that

supports the achievement of the objectives. Legal aid should be obliged, not only to legal aid institutions but also to professional advocates when they are appointed.

4. The formalistic requirements to obtain a legal aid scheme should be directed to the terms that substantively support the achievement of the goals or the objectives to provide legal aid, such as only the institution or professional advocate who has applied legal aid program activities would have an incentive of legal aid fund. Terms of legal incorporation, accreditation, and permanent office, can become facultative requirements.
5. The quality of legal aid services and the implementation of the performance should be evaluated based on the client or recipient's investigation. Unused legal aid funds can be prevented by implementing the proposal principle, where there is a case, there is the incentive
6. Coordinative and facilitative institutional support. Since legal assistance is also given in the judicial process, the role of law enforcement institutions in the implementation of legal assistance should also be provided in the legal aid provision to support the more comprehensive and coordinative implementation (Sundari, 2014).

The failure to provide adequate legal aid takes an enormous toll not only on the poor but also on the public as a whole. The absence of adequate representation and the subsequent denial of access to public resources imposes significant social and economic costs on society (Young, 1991). Institutionally, legal aid organizations aim to guarantee legal aid recipients' constitutional right to access justice according to the principle of the same position in the face of the law. Article 2 of the LLA states that it aims to create an effective, efficient, and liable justice. But LLA states that legal aid is only given to the poor, which unfortunately fails to touch all incompetent, legally blind, marginalized, and *mustad'afin* (weak) people. The current legal aid is incapable of creating justice for all justice-seekers. The current LLA does not regulate legal aid mechanisms to examine regulations under the law or the constitution, even though the issued legal products are discriminative and they violate the nation's ideals.

Even though legal aid organizations have organizationally been accredited and verified by the government, legal aid is still applied by the advocates under them. The advocate profession has a core role in the application of the LLA. Thus, legal issues in this profession influence the application of legal aid. The nobility of legal aid organizations depends on the advocates' nobility. Law No. 18 of 2003 on Advocates (LA) Article 1 number 1 defines advocates as people that professionally provide legal services, within or outside of trials. All litigation and non-litigation legal aid of legal aid organizations are carried out by advocates.

However, some advocates violated their oaths and code of ethics. Indonesia Corruption Watch (ICW) released 22 advocates that were involved in corruption cases from 2005 to 2018 (Saputra, 2018). Legal violations by advocates influence the provision of legal aid. It also decreases people's trust to access legal aid.

These issues happened due to moral degradation. Morals or ethics are the basis of law. The lack of them can result in bad actions of individuals, groups, or state officials (Rahardjo, 2008, p. 227). The next phenomenon is the arrival of legal practitioners along with large capital, following the development of globalization and modern capitalism. Megalawyring started in the US, which colored that country's modern corporative legal practice with strong organizational segments. With their great organization, structure, and capabilities, some mega lawyers, legal firms, and colleagues expanded their geographic reach through the information access and network of contacts that allowed the seeking of suitable local partners. Thus, mega law firms build national and international organizations.

Marc Galanter states that mega lawyering is no less than capitalism in the lawyering practice. Legal practice is no longer a purely legal job, but it opened doors for services towards the capitalist economy. The law and business sectors combined to form a new lawyering model (Jackson, 2021). Galanter states, "The legal profession emphasizes business facilities rather than striving to ease the suffering of humans and help people." Therefore, Indonesia is clearly facing a great challenge as it strives for "Pancasila legalism" (legal practice based on Indonesia's five pillars) that is filled with moral contents, rather than

“liberal legalism” that supports capitalism and liberalism (Rahardjo, 2003, p. 52).

Neutral and objective legal aid is crucial to face liberalism and capitalism-based paradigms in the legal formulation. There is no guarantee of the legal aid’s quality even though it is based on the positive law. Even so, as implementers of legal aid, advocates should stay true to their oath, with states that they will not carry out corruption, collusion, and nepotism in their work. They will act honestly, fairly, and responsibly based on law and justice. They will provide advocacy or legal aid to cases that are part of their profession’s responsibility as an advocate.

The profession of an advocate is based on the spirit of helping people seek justice. Artidjo Alkostar states that so that advocates’ *officium nobile* is guaranteed, advocates should be honest, brave, intelligent, persistent, and patient in their work (Yuwono, 2011, p. 33). In carrying out their profession, advocates need organizations, associations, teams, or alliances with the same goals to provide legal aid. The legal aid provided is based on transcendental justice sourced from the advocates’ oath (religious values), advocates’ code of ethics (moral values) and organizational vision and missions. It aims to balance out corporate legal practices based on modern capitalism. One of these advocate associations is the Law and Human Rights Assembly of Muhammadiyah which strive for the interests of fellow Muslims to access justice (*Pimpinan Pusat Muhammadiyah*, 2019, p. 7).

Methods

This research was carried out using the normative empirical method by combining the normative and empirical legal research methods through a judicial case study. Researchers collected data from surveys, observations, and interviews. The data included regulations that govern legal aid. These data were then analyzed using the philosophical approach. The researchers analyzed data on Muhammadiyah’s legal aid in the form of applications for judicial review on laws that were deemed to violate the 1945 Constitution by Indonesia’s Constitutional Court. It is hoped that this article can provide an alternative legal aid from the perspective of transcendental justice.

Results

Muhammadiyah was born with three identities, namely *tajdid* (reform), *da’wa amr ma’rūf* (promoting good), and *nahy munkar* (preventing evil) movements. *Tajdid* movement was inspired by the teachings of Prophet Muhammad on the importance of having a reformist to revitalize religion at every course of history and civilization. The *amr ma’rūf* and *nahy munkar* movement is a commitment to implement the Qur’anic teachings on the responsibility of groups of the *umma* (community). It aims to promote good and prevent evil to attain happiness and welfare (Baidhaw, 2015a). Muhammadiyah is a socio-religious organization focusing on the importance of employing a modern and rational understanding of Islam (Baidhaw, 2015b). In this case, legal aid essentially is a committed struggle against injustice for peaceful and prosperity (Al-Hamdi, 2013). It is a way of striving (*jihād*) with all efforts, based on the Qur’an, Chapter Al-Ankabut (The Spider) verse 69: “As for those who struggle in Our cause, We will surely guide them along Our Way. And Allah is certainly with the good-doers”.

Such aid is based on transcendental values that are in line with the norms of the constitution. Legal aid contains the struggle to aid the weak, where the state must prioritize their protection to manifest justice (Arizona & Chandranegara, 2017). Such programs were pioneered in Muhammadiyah during the leadership of Prof. Muhammad Sirajuddin Syamsuddin as the General Manager of the Head of Muhammadiyah Center from 2005 to 2015. In 2009, experts of various disciplines found that in reality, some legal regulations violated the ideals written in the Preamble of the 1945 Constitution. Inspired by the actions of Kyai Haji Ahmad Dahlan (the founder of Muhammadiyah) in fixing the direction of prayer in mosques, these experts wanted to fix the nation’s direction so that it is according to the 1945 Constitution. An effort to this is striving to achieve justice for the people through legal aid.

For Muhammadiyah, the followers and or members of this organization must revive the spirit of reform as its branding image since the beginning to formulate a theologically more firmed basis for Islamic moderatism (Hilmy, 2013). Muhammadiyah strived to increase the spirit of reform through efforts of law and human

rights enforcement (*Pimpinan Pusat Muhammadiyah*, 2019, p. 27). Syaiful Bakhri, Head of the Muhammadiyah Legal Assembly as well as the head of the material review team stated that his team found 115 laws that violated the constitution. Most of those problematic laws are Post-Reformation legislative products. But it was impossible to review the whole material (The Republic of Indonesia's Constitutional Court, 2015b).

Muhammadiyah keeps on reviewing laws that are deemed to violate the 1945 Constitution to uphold sovereignty, justice, and welfare (Syamsudin, 2014, p. 134). Departing from that review, in Muhammadiyah's One Century *Muktamar* (Great Meeting) in Yogyakarta, Muhammadiyah established "Constitutional Jihad" to review laws that violate the 1945 Constitution. Constitutional Jihad is a legal aid from Muhammadiyah for Indonesians to achieve sovereignty, justice, and welfare.

The Muhammadiyah legal aid was carried out based on the power of the Head of the Muhammadiyah Center to the Assembly Team of Law and Human Rights to test laws against the 1945 Constitution at the Republic of Indonesia's Constitutional Court. These were the legal aid carried out by Muhammadiyah that were granted by the Constitutional Court from 2010 to 2020:

1. *Number 36/PUU-X/2012 (Judicial Review of Law No. 22 of 2001 on Oil and Gas (Republic of Indonesia's State Fascicle of 2001 No. 136, Republic of Indonesia's Additional State Fascicle No. 4152).*

One of the Applicant's Legal Standing was that Applicants I to IX incorporated legal subjects in Indonesia that generally aimed to form a civilized societal order or the true Islamic society (*al-mujtama' al-madani*) through various efforts in assisting, developing, advocating, and renewing society in the sectors education, health, social services, societal empowerment, national political roles, etc. The demand for review on *a quo* articles in the Law on Oil and Gas was the organization's mandate to create a truly Islamic society through the enforcement of the constitution, as reflected in the Articles of Association and/or Deed of Establishment (Syamsudin, 2014, p. 11). The Basis and Core of the Application were that the Indonesian nation has legal ideals (*rechtsidee*) in the life of the society, nation, and state, which is the Preamble of the 1945 Consti-

tion. It directs the life of the Indonesian nation to build an independent, sovereign, just, and prosperous state.

The Preamble of the 1945 Constitution contains Pancasila, which is the source of all legal sources in Indonesia. Its five pillars are: (1) Belief in the one and only God, (2) Just and civilized humanity, (3) The unity of Indonesia, (4) Democracy guided by the inner wisdom in the unanimity arising out of deliberations among representatives, (5) Social justice for all people of Indonesia. Indonesia's 1945 Constitution is inspired by Pancasila which is the foundation of the constitution. From the perspective of Indonesia, the formation of law is the explanation of the Pancasila into legal regulations. Thus, any law that violates Pancasila has betrayed the values of religion, nationality, plurality, social justice, and the one-ness of law. From the start, the Law on Oil and Gas caused controversies as it was not inspired by Pancasila.

The formation of the Law on Oil and Gas was based on the international demand to reform the energy sector. This reformation included reforming the price of energy and the institutional reformation of energy management. Energy reformation does not only focus on the efforts to revoke subsidies on gasoline but also to permit international corporations to expand their oil and gas businesses in Indonesia.

A form of international demand was carried out through the Memorandum of Economic and Finance Policies (IMF Letter of Intent) on January 20th, 2000. It concerned the monopoly of the oil and gas industry that was deemed to cause rampant inefficiency and corruption at that time. Thus, the Law on Oil and Gas was issued in 2001 to accommodate foreign pressures and interests. Thus, the monopoly of oil and gas management through the State-Owned Business Enterprise in Law No. 8 of 1971 which was a symbol of state enterprise in oil and gas management shifted. It changed into the corporate oligopoly concept due to the formation of the Law on Oil and Gas.

International interests that infiltrate all political considerations taken in the Law on Oil and Gas made its formation possibly deformed as it aimed to violate the mandate of Article 33 of the 1945 Constitution, even though it went through formal procedures. Thus, the state control of production branches that had power over the inter-

ests of many people's lives is merely a constitutional illusion (Syamsudin, 2014, pp. 17-18).

2. *No. 38/PUU-XI/2013 (Judicial Review of Law No. 44 of 2009 on Hospitals (Republic of Indonesia's State Fascicle of 2001 No. 153, Republic of Indonesia's Additional State Fascicle No. 5072) (The Republic of Indonesia's Constitutional Court, 2014a).*

One of the applicant's legal standings was that the Muhammadiyah Organization was established in Yogyakarta, on November 18th, 1912 has an identity of an Islamic Movement and its slogan was *Da'wah Amar Ma'ruf Nahi Munkar* (inviting people to the command to do good deeds and preventing evil) with Islamic principles, sourced from the Holy Qur'an and Sunnah (sayings of Prophet Muhammad) to uphold Islam to create the true Islamic society. Based on the Muhammadiyah's legal basis as an incorporated institution, identity, and goals, it established various businesses in the education, economic, social, and health sectors (The Republic of Indonesia's Constitutional Court, 2014a).

The Basis and Core of the Application were that stipulations in the Law on Hospitals do not protect to create harmony in society. They do not reflect the principle of humanity that protect the human rights of citizens, as this law opens the chance for the occurrence of different treatments to citizens. It violates the principle of togetherness as it does not see all national elements as an integral part of the Indonesian state and nation. It does not reflect the *bhinneka tunggal* (together but one) principle as it uses a class-based approach. It violates the justice principle as it does not provide proportional services to all citizens. It violates the principle of the same position in the law and government as it differentiates between government-based and private-based statuses. It violates the principle of legal order and certainty as it emphasizes the principle of discrimination and nullifies private ownership. It violates the principle of balance and harmony as its substances violate the constitution.

The Law on Hospitals violate the principle of protection as it does not provide protection because Muhammadiyah has tried to establish hospitals to protect people's constitutional rights, but ironically, it was threatened with legal sanctions. It violates the principle of humanity as it does not respect the rights of the Muhammadiyah people and does not acknowledge the Applicant's con-

stitutional rights to collectively develop public welfare in the health service sector. It violates the principle of nationality as it is far from the pluralistic character of the Indonesian nation. It violates the principle of togetherness as it does not see the Applicant as an element of the nation that participates in providing health services. It does not reflect the *bhinneka tunggal* principle as it discriminates against Muhammadiyah in establishing a hospital to provide health services. It violates the principle of justice as it does not provide proportional services towards the administrative needs of the Muhammadiyah hospital.

In the Law on Hospitals, only state-owned hospitals have their legal status acknowledged even though they are managed by similar institutions. Meanwhile, Muhammadiyah which already has an incorporated status did not have its constitutional rights guaranteed. The law failed to reflect the principle of legal order and certainty as it discriminates and nullifies the ownership of Muhammadiyah of the Muhammadiyah Hospital under the harborage of the Muhammadiyah Organization, as a manifestation of collective rights to strive for the nation and the state in the health sector (The Republic of Indonesia's Constitutional Court, 2014a, pp. 32-34).

3. *No. 82/PUU-XI/2013 (Judicial Review of Law No. 17 of 2013 on Societal Organization (Republic of Indonesia's State Fascicle of 2013 No. 115, Republic of Indonesia's Additional State Fascicle No. 5430) (The Republic of Indonesia's Constitutional Court, 2014b).*

One of the applicant's legal standings was that the Muhammadiyah Organization is based on Islamic values, to uphold the Islamic religion to create an ideal Islamic society. Based on its legal basis as an incorporated organization, identity and goals, Muhammadiyah established various businesses in the education, economic, social, and health sectors (The Republic of Indonesia's Constitutional Court, 2014b, p. 4).

The Basis and Core of the Application was the narrow interpretation of Law No. 17 of 2013 on Societal Organization which is supposed to give the freedom to make associations. The state should provide legal guarantees and protection to the freedom of making associations, rather than making limitations that lead to disintegration. This law limits societal organization that has a national scope, although it is guaranteed by the 1945 Constitution. It regulated the administrative

format and the number of administrators, which is the lawmakers' misconception in understanding what societal organizations are, as such regulations are suitable for political parties. Meanwhile, societal organizations are not political parties.

The registration mechanism of societal organizations without an incorporated status should not be at the regulation level. Instead, the sectoral ministry's regulatory regulations are enough. That should also apply only to the organizations that seek to manage some of the Central or Regional State Budgets. The law also determines that social organizations should manage member fees according to the accounting standard although such is unnecessary, as anything the societal organizations carried out is its own prerogative right (The Republic of Indonesia's Constitutional Court, 2014b, pp. 16-22).

4. No. 85/PUU-XI/2013 (Judicial Review No. 7 of 2004 on Water Resources (Republic of Indonesia's State Fascicle of 2004 No. 32, Republic of Indonesia's Additional State Fascicle No. 4473) (The Republic of Indonesia's Constitutional Court, 2015a).

One of the applicant's legal standings was that the Muhammadiyah Organization is based on Islamic values, to uphold the Islamic religion to create an ideal Islamic society. Based on its legal basis as an incorporated organization, identity and goals, Muhammadiyah established various businesses in the education, economic, social, and health sectors (The Republic of Indonesia's Constitutional Court, 2015a, pp. 5-6).

The Basis and Core of the Application were that water is a vital need of all creatures. Thus, it must just be regulated to provide maximum benefit. Islamic teachings have determined the importance of water as a source of life. Many verses of the Qur'an mention water. There are 63 verses and other words that are directly related to water. Rain was mentioned in 44 verses, rivers were discussed in 54 verses, seas were discussed in 28 verses, water springs were mentioned in 23 verses, clouds and cloudy weather was discussed in 21 verses, the wind was mentioned in 33 verses, and ice was stated in 1 verse.

The Qur'an views water as a crucial essence for the life of all creatures on earth, as stated in Chapter An-Nahl (The Bee) verse 65, "And Allah sends down rain from the sky, giving life to the earth after its death. Surely, in this is a sign

for those who listen". A similar phrase where water is "giving life to the earth after its death" was also mentioned in Chapters Al-Baqarah (The She-Cow): 164, Al-Ankabut (The Spider): 63, and Ar-Ruum (The Romans): 24. Even, when talking about the early creation of the world and the universe the Qur'an, all creatures were said to start from water.

The Indonesian law gives loose regulations on foreign capital in managing water resources. This cannot be separated from the historical fact of how the law was created. It started from the government's need towards donor institutions that will give funding to aid the crises faced by Indonesians, where one of the requirements in the agreement between the government and the International Monetary Fund (IMF) was the presence of a structural adjustment. Thus, when the memorandum of understanding between Indonesia and IMF was signed, there were some requirements related to water resources and the environment, some directly associated with conglomeration and trade regulations.

Apart from that, the World Bank also gave a requirement for loans directly related to forest and natural resource management. This shifted the definition of water, from a public facility into an economic commodity to gain profits. This shift can be seen in regulations on the usage permit of water businesses given to private companies. The usage permit that was a basic instrument in Law No. 7 of 2004 adopted the water rights instrument in the water sector policies of the World Bank.

The usage permit that had similar principles and regulations as the water rights instruments became a basis for the application of water commercialization. It limited water usage for daily needs and agricultural irrigation. People's activities outside of that and private businesses are categorized as commercial activities and are demanded to obtain business permits. Water usage in the category of business usage permit is imposed with fees.

The fewer forms and amount of water usage by society in the non-business category means that there is a greater allocation of water for commercial needs. Thus, water sources will be monopolized by capital owners for commercial objectives. People's efforts to increase their life quality are inhibited by those limitations. The law can cause conflicts between river regions,

especially those with proximate administrative areas.

This leads governments of certain administrative areas to argue the importance of exploiting water for certain business needs, such as mineral water companies, packaged water companies, and water-powered plants. This law makes water a state asset that can be used for the maximum benefit of individuals or private companies from the local area or from foreign countries. The law also stated the phrase, “organizations that are active in the water resource sector” that violated the core principle of law enforcement, namely legal acknowledgement, legal guarantee, legal protection, and legal certainty, as well as the same treatment in the face of law (The Republic of Indonesia’s Constitutional Court, 2015a, pp. 14-34).

Discussion

Muhammadiyah, through its supporting element, the Law and Human Rights Assembly, provided advocacy in the legal aid sector by forming the Law and Human Rights Assembly Team of the Head of the Muhammadiyah Center. It consisted of Muhammadiyah advocates that are part of the Muhammadiyah Advocate Association, legal academicians/researchers that are part of the Dean Forum of the Muhammadiyah Faculties of Law and Law Schools, advocates under the harborage of legal aid consultation/institutions under Muhammadiyah universities, up to advocates that are part of the Muhammadiyah Legal Aid Service.

Apart from being Muhammadiyah’s effort to enforce the law, legal aid is a manifestation of the ten characteristics of Muhammadiyah, including obeying all valid laws, regulations, stipulations, as well as state foundations and philosophies. Another characteristic is acting justly and being wisely corrective to the inside and outside of the organization. The legal aid given based on Muhammadiyah’s analysis and research was carried out when there were laws that violate the constitution or that are unjust as they only benefited certain parties and bring loss to society. Such legal aid was not given based on the application of legal aid recipients or seekers of justice. Legal aid in the constitution is the struggle in achieving a main idea that complies with all val-

id laws, regulations, stipulations, as well as state foundations and philosophies. It is also a manifestation of being just and corrective.

The legal aid carried out was sourced from Islamic teachings as stipulated in the Muhammadiyah Preamble to the Articles of Association. This legal aid emphasizes divine values sourced from religious teachings and their philosophies that inspire the application of legal aid. Legal aid etymologically means the effort to achieve virtues. Thus, Muhammadiyah’s advocacy aimed to achieve virtue.

The struggle to reach this main idea can only succeed through the organization. The organization is the only instrument or the best method of struggle (Nashir, 2013, pp. 28-29). This main idea was formulated in the Preamble to the Articles of Association as follows, “To achieve the creation of a civilized society, with the blessings and mercy of God, encouraged by God’s words in the Qur’an:

الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ
عَنِ الْمُنْكَرِ أُولَئِكَ هُمُ الْمُفْلِحُونَ ط عَنْ الْمُنْكَرِ

“Let there be a group among you who call ‘others’ to goodness, encourage what is good, and forbid what is evil-it is they who will be successful”.

Then, the meaning of transcendence in legal morality is the placement of religion and divine values as an axis for the creation of law and the development of the legal system. Values in the legal system do not depend on humans and their rationality, but on God through transcendentalism. By placing support on the highest value in that realm, the legal system built upon it will never lose its direction nor falter from its foothold (Rahardjo, 2016).

In this perspective, the law is the result of human objectification and interpretation towards the revelation and spirit that come with it (Wardiono, 2014, pp. 143-145). According to Kuntowijoyo, transcendence is based on three things, i.e., humanization (*amar ma'ruf* or encouraging good deeds), liberation (*nahi munkar* or preventing evil), and transcendence (faith). These three bases are requirements for the arrival of human choice. If it is contextualized in law enforcement in Indonesia, it is the arrival of law enforcers with good morals that are responsive and progressive. It is hoped that in the future,

they can improve the ongoing crises in law enforcement (Riyanti, 2018).

In Islam, the Qur'an and hadeeth have the highest authority (Kim, 2010). For Muhammadiyah, the effort to enforce the law and the constitution is an absolute obligation for all citizens. Constitutional Jihad is an effort to realign the nation's direction that has so far deviated from its original stipulations during the reformation era (Syamsudin, 2014, p. 137). Such legal help is an effort to realign laws that do not support the people (Sustiwi & Syamsudin, 2017, pp. 214-215). This aims to achieve justice, as justice is the end goal of the law. Therefore, the aim of providing legal help is justice, which has been ordered by God.

قُلْ أَمَرَ رَبِّي بِالْقِسْطِ

“My Lord has commanded uprightness” (The Qur'an Chapter Al-A'raf (The Heights): 29).

Thomas Aquinas stated that the Holy Scriptures are God's written laws (the part of eternal law revealed in scriptures) that are full of transcendental legal materials placed above the constitution as a Human Law. This transcendental aspect is visible when policymakers base their decisions on these transcendental norms. As a precept, Pancasila obtains transcendental norms, especially the first two pillars: (1) Belief in the one and only God and (2) Just and civilized humanity. These two transcendental values must become the main consideration in determining decisions in the legal sector (Suteki, 2018, p. 22). Seeing from the philosophical perspective, the first pillar regards the vertical dimension (*hablumminallah* or the relationship with God) while the second pillar regards the horizontal dimension (*hablumminnas* or the relationship with humans) (Huda & Dimiyati, 2018).

In providing legal help, Muhammadiyah always makes arguments based on Islamic arguments on transcendental justice (Nurul Hakim, 2018). Such is written with the aim of judicial review application and legal standing. Muhammadiyah feels the obligation to fix regulations that hurt justice and that violate the constitution, not with violence but with a constitutional route by applying for judicial reviews to the Constitutional Court (Nashir, 2013, p. 35).

The Qur'an's basis for justice is that societies do not need a separate theory of justice, such as

those espoused by Bentham, Marx, Rawls, and others, but that compliance with rules of behavior handed down in the Qur'an and interpreted by the Prophet assures the emergence of justice as a natural outcome of the practice of a rule-compliant society. Justice and a just social and political system are thus the essential outcomes of the Islamic system if Muslims individually comply with Divine rules (Askari & Mirakhor, 2020). The central goals of Islam for society are the welfare of all its members and socio-economic justice. All members of society must be given the same opportunities to advance; in other words, a level playing field, including equal access for each member of society in every generation to the natural resources provided by Allah. For those for whom there is no work and for those that cannot work, society must afford the minimum required for a dignified life: shelter, food, healthcare, and education. For those who cannot access the natural resources provided by Allah, society must preserve their rights and the rights of future generations. Islam advocates an environment where behavior is molded to support the goals of Islamic society: societal welfare and socioeconomic justice, to make humankind one, supporting the Unity of Allah's creation (Askari & Mirakhor, 2020, p. 6). So how is distributive justice defined in Islam? Justice is achieved when everything is put in its right place. And what is the right place? Follow the rules laid down by the Creator (Askari & Mirakhor, 2020, p. 7).

The thought on law enforcement with the aim of justice that is represented by Muhammadiyah through the constitutional jihad legal aid is transcendental as it is an obligation from God. Transcendental justice-based constitutional jihad legal aid is not mere help from the legal side or laws that merely regulate legal aid. But it is also a basis on how the positive law on legal aid applies with the basis of the values of ethics, morals, and transcendence.

Conclusion

The legal aid from Muhammadiyah that is based on transcendental justice is manifested in the form of applications for judicial review of laws against the 1945 Constitution in the Constitutional Court. This is because Muhammadiyah

has the characteristic of following all laws, regulations, and stipulations, as well as state foundations and philosophies that are valid and just. Muhammadiyah is also wisely corrective to its own organization as well as outside of it. This legal aid stems from Muhammadiyah's characteristic to comply with the law, do good, and act justly. Muhammadiyah applies these legal aids using the transcendental basis that is sourced from Islam's transcendental identity. It aims to encourage good and prevent harm to achieve an ideal, just, and prosperous society.

References

- Al-Hamdi, R. (2013). Islam and politics: Political attitudes of the elites in Muhammadiyah 1998-2010. *Indonesian Journal of Islam and Muslim Societies*, 3(2), 267-290. <https://doi.org/10.18326/ijims.v3i2.267-290>
- Arifin, S. (2016). Commitment of local government in providing legal aid for the poor society. *Jurnal Dinamika Hukum*, 16(1), 8-16. <https://doi.org/10.20884/1.jdh.2016.16.1.403>
- Arizona, Y., & Chandranegara, I. S. (2017). *Jihad Berkonstitusi: Muhammadiyah dan Perjuangan Konstitusional Melawan Komodifikasi Air* (Jihad under the constitution: Muhammadiyah and the constitutional struggle against water commodification, in Indonesian). *Wacana: Jurnal Transformasi Sosial*, 11(2), 84-91.
- Askari, H., & Mirakhor, A. (2020). Conception of justice from Rawls to Sen to the present. In *Conceptions of Justice from Islam to the Present*. https://doi.org/10.1007/978-3-030-16084-5_5
- Baidhaw, Z. (2015a). Lazismu and remaking the Muhammadiyah's new way of philanthropy. *Al-Jami'ah*, 53(2), 387-412. <https://doi.org/10.14421/ajis.2015.532.387-412>
- Baidhaw, Z. (2015b). The role of faith-based organization in coping with disaster management and mitigation Muhammadiyah's experience. *Journal of Indonesian Islam*, 9(2), 167-194. <https://doi.org/10.15642/JIIS.2015.9.2.167-194>
- Grudyte, E., & Kirchner, S. (2012). Pro bono work vs. Legal aid: Approaches to ensuring access to justice and the social responsibility of the attorney. *Baltic Journal of Law and Politics*, 5(2), 43-64. <https://doi.org/10.2478/v10076-012-0010-2>
- Hakim, N., & Sumawaty, I. (2018). *Implementasi Hukum Transendental dalam Bentuk Aturan Perundang-Undangan di Indonesia* (Implementation of transcendental laws in the form of Indonesian legal regulations, in Indonesian). In *Hukum Transendental, Pengembangan Dan Penegakan Hukum Di Indonesia (Trancendental, Development and Law Enforcement)*, in Indonesian (pp. 51-52). Surakarta: UMS Press.
- Hilmy, M. (2013). Whither Indonesia's Islamic moderatism?: A reexamination on the moderate vision of Muhammadiyah and NU. *Journal of Indonesian Islam*, 7(1), 24-48. <https://doi.org/10.15642/-JIIS.2013.7.1.24-48>
- Huda, N., & Dimyati, K. (2018). Base transcendental value on judge's decision (Study of basic perspective of Pancasila State). *Jurnal Dinamika Hukum*, 18(2), 139-148. <https://doi.org/10.20884/1.jdh.2018.18.2.2076>
- Jackson, S. D. (2021). General agreement on trade in services. *International Trade in Services*, 1, 155-170. <https://doi.org/10.4324/9781003028208-13>
- Kim, H.-J. (2010). Praxis and religious authority in Islam: The case of Ahmad Dahlan, founder of Muhammadiyah. *Studia Islamika*, 17(1), 69-92. <https://doi.org/10.15408/sdi.v17i1.468>
- Kusumah, H. A., & Wijaya, A. R. C. (2019). Optimisation of the Application of legal aid for the poor people in Sukabumi City. *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 13(1), 87-100. <https://doi.org/10.25041/flatjustisia.v13no1.1564>
- Miller, V., & Covey, J. (2005). *Pedoman Advokasi Perencanaan, Tindakan, dan Refleksi* (Guidelines to the advocacy of planning, action, and reflection, in Indonesian). Jakarta: Yayasan Obor Indonesia.
- Nashir, H. (2013). *Manhaj Gerakan Muhammadiyah*

- diyah, Ideologi, Khitah, dan Langkah* (Manhaj of the Muhammadiyah movement, ideology, outline, and steps, in Indonesian). Yogyakarta: Gramasurya.
- Pimpinan Pusat Muhammadiyah (Head of muhammadiyah center, in Indonesian). (2019). *Anggaran Dasar dan Anggaran Rumah Tangga Muhammadiyah (Muhammadiyah Statutes and Bylaws, in Indonesian)*. Yogyakarta: Head of Muhammadiyah Center.
- Rahardjo, S. (2003). *Sisi-Sisi Lain dari Hukum di Indonesia* (Other aspects of the law in Indonesia, in Indonesian). Jakarta: Kompas Media Nusantara.
- Rahardjo, S. (2008). *Membedah Hukum Progresif* (Uncovering progressive law, in Indonesian). Jakarta: Kompas Media Nusantara.
- Rahardjo, S. (2016). Hukum Progresif (Progressive law, in Indonesian). *Academi. AEdU*, 4(1), 64-75.
- Raharjo, A., Angkasa, A., & Bintoro, R. W. (2016). Akses Keadilan Bagi Rakyat Miskin (Dilema Dalam Pemberian Bantuan Hukum Oleh Advokat) (The access of justice for poor people: Advocates' dilemma in providing legal help, in Indonesian). *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 27(3), 432. <https://doi.org/10.2-2146/jmh.15881>
- Riyanti, R. (2018). Tinjauan Filsafat Ilmu Tentang Penegakan Hukum Yang Berbasis Transendental (Analysis of the philosophy of science on transcendental-based law enforcement, in Indonesian). *HERMENEUTIKA: Jurnal Ilmu Hukum*, 2(2), 217-230. <https://doi.org/10.-33603/hermeneutika.v2i2.1566>
- Saputra, M. G. (2018). Daftar Panjang Para Advokat Terjaring Perkara Korupsi (The long list of advocates involved in corruption cases, in Indonesian). Retrieved February 15, 2023, from <https://www.merdeka.com/peristiwa/daftar-panjang-para-advokat-terjaring-perkara-korupsi.html>
- Sundari, E. (2014). Legal aid scheme in Indonesia: Between the policy and the implementation. *Jurnal Hukum Ius Quia Iustum*, 20(4), 545-562. <https://doi.org/10.-20885/iustum.vol20.iss4.art3>
- Sustiwi, F., & Syamsudin, D. (2017). *Dari Sumbawa Untuk Dunia* (From Sumbawa to the World, in Indonesian). Bandung: Mizan.
- Suteki. (2018). *Hukum Progresif, Hukum Berdimensi Transendental dalam Konteks Keindonesiaan* (Progressive law, the law with the transcendental dimension in the Indonesian context, in Indonesian). Surakarta: Sekolah Pasca Sarjana Program Doktor Ilmu Hukum Universitas Muhammadiyah Surakarta.
- Syamsudin, D. (2014). *Muhammadiyah Untuk Semua* (Muhammadiyah for all, in Indonesian). Yogyakarta: Suara Muhammadiyah.
- The Republic of Indonesia's Constitutional Court*. (2015a). *Decision of the the Republic of Indonesia's Constitutional Court No. 85/PUU-XI/2013*. Jakarta.
- The Republic of Indonesia's Constitutional Court*. (2015b). Jihad Konstitusi, Jihad Baru Muhammadiyah (Constitutional Jihad, the New Jihad of Muhammadiyah, in Indonesian). Retrieved November 4, 2021, from <https://www.mkri.id/index.php?page=web.Berita&id=11501>
- The Republic of Indonesia's Constitutional Court*. Decision of the the Republic of Indonesia's Constitutional Court No. 38/PUU-XI/2013. (2014a). Jakarta.
- The Republic of Indonesia's Constitutional Court*. Decision of the the Republic of Indonesia's Constitutional Court No. 82/PUU-XI/2013. (2014b). Jakarta.
- Wardiono, K. (2014). *Paradigma Profetik: Pembaruan basis Epistemologi Dalam Ilmu Hukum* (The Prophetic Paradigm: Renewal of Epistemological Basis in Legal Studies, in Indonesian). Yogyakarta: Genta Publishing.
- Young, M. W. (1991). The need for legal-aid reform - a comparison of English and American legal-aid. *Cornell International Law Journal*, 24(2), 379-405.
- Yuwono, I. D. (2011). *Memahami Berbagai Etika Profesi dan Pekerjaan* (Understanding various ethics of profession and work, in Indonesian). Yogyakarta: Pustaka Yustisia.