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The Crucial Role of Court Proceedings Reports in Criminal Case Proceedings and the Dilemma of Judicial Decision-Making

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Abstract

The impact of legal positivism on law enforcement has been substantial. Judges, when deciding a case, consistently adhere to the indictment presented by the public prosecutor, even though at times the indictment may conflict with the facts presented during the trial. In such instances, the role of the court session report in the trial process seems to be merely that of a record rather than a factual account. This research aims to examine the position of the court session report in criminal case proceedings and whether it can serve as a basis for a judge's decision outside the scope of the indictment, particularly when the contents of the indictment differ from the proven facts in court. This article finds out that the status of the court session report as a basis for evidence is deemed equally significant as the position of the indictment prepared by the public prosecutor. For this reason, the judge may consider the court session report as a source for deciding a criminal case brought before them.

Keywords: *Court Proceedings Reports, criminal procedure law, judge's verdict, legal positivism*

Introduction

The influence of legal positivism in the realm of law needs to be acknowledged for its significant impact on various aspects of law enforcement. Despite being approximately two centuries old, this legal positivism perspective has endured over time. Legal positivism, with its emphasis on the separation of law and morality, and the focus on law as it is written, has shaped

the approach to interpreting and applying laws in many jurisdictions (Campbell, 2016; Chacha, 2020; Nelson, 2023; Tuori, 2017).

This school of thought advocates for adherence to the letter of the law, rather than moral or ethical considerations, thereby influencing judicial decisions and legislative processes. Furthermore, legal positivism's impact is evident in the development of codified legal systems, where the precision and clarity of written statutes are prioritized, often shaping the legal framework within which judges and lawmakers operate. Legal positivism persists and seems unwilling to fade away. One of the easiest ways to observe the influence of legal positivism is by examining the procedural legal mechanisms that determine and guide judges in making decisions (Plunkett, 2019; Stone, 2011; Fernando, 2023).

Ramadhan (2022) elucidated that it is a challenging task for a judge to adjudicate a case, given that they frequently face legal regulations that are either incomplete or ambiguous when dealing with specific issues. A Court Decision, as mentioned in Article 1, item 11 of the Indonesian Criminal Procedure Code (KUHAP), is a declaration made by the judge in an open session that can result in conviction, acquittal, or release from all legal charges. The process of decision-making by a judge in a criminal case under their examination, before it becomes a court verdict, is carried out through preliminary deliberation. Manthovani (2023) concluded that this deliberation eventually leads to a unanimous decision among the judges in the panel regarding the fate of the defendant. The basis for determining this decision, or the matters under deliberation, as referred to in Article 182, paragraph (4) of the KUHAP, are the indictment letter and everything proven during the trial proceedings.

Juridically, according to Article 143 of the Criminal Procedure Code (KUHAP), the indictment contains both formal and material requirements regarding something accused against the suspect (later becoming the defendant). The formal requirements of the indictment include providing a date and being signed by the Public Prosecutor, as well as specifying the suspect's full name, place of birth, age or date of birth, gender, nationality, residence, religion, and occupation. Meanwhile, the material requirements involve a precise, clear, and complete description of the alleged criminal act, mentioning the time (temporal) and place (locus) where the crime occurred. Both must be fulfilled accurately, as any errors can lead to the legal invalidity of the indictment (Lamchek, 2019).

In addition to the aforementioned indictment, as stipulated in Article 182 paragraph (4) of the Criminal Procedure Code (KUHAP), the panel of judges, in rendering a verdict, must consider everything proven during the trial. The phrase "everything proven during the trial," also known as trial facts, encompasses the details recorded in the Session Report (BAS) written and prepared by the court clerk. According to Article 202 paragraph (2) of the KUHAP, the Session Report

includes crucial aspects from witness testimonies, defendant statements, and expert opinions, highlighting significant differences among them.

The alignment between the indictment and all proven facts in the trial leads to a verdict. If the panel of judges determines the defendant is proven guilty, in accordance with Article 193 paragraph (1) of the KUHAP, the defendant is sentenced. Conversely, if the allegations are not proven, as per Article 191 paragraph (1) of the KUHAP, the defendant is acquitted. Furthermore, considering Article 191 paragraph (2) of the KUHAP, the defendant may also be acquitted of all legal charges if their actions are proven but do not constitute a criminal offense.

The procedural law pattern above appears to align with Fuller's assertion that legal positivism merely positions judges as conduits of the law. Legal positivism is perceived to limit the judge's capacity for interpretation. On the other hand, Plunkett (Plunkett, 2019) and Hart (1958) responds to Fuller's arguments, suggesting a potential miscommunication between rules and the factual reality. For instance, a rule prohibiting public vehicles from entering a park might carry ambiguity in its meaning. The core meaning, the essence of the law (core law), might refer to automobiles, leaving questions about whether bicycles, scooters, or planes fall within the public vehicle category as matters of penumbra. In this position, a judge, following the positivist approach, is allowed to interpret based on legal arguments and decisions that must be rational, devoid of moral considerations.

This rationality must be grounded in something other than the logical relationship between antecedents and consequences. For Fuller (1958), not every mandate with the power to compel societal compliance can be regarded as law, especially if it lacks a focus on the welfare of society. Fuller's concept of penumbra itself is deemed ambiguous. This is because, in addition to the core of the law, words also carry meanings distinct from that core. Words undergo varied interpretations depending on the context (Machado, 2023).

The challenge arising in the implementation of the Criminal Procedure Code (KUHAP) by judges occurs when facts emerge during the trial, documented in the Trial Report, indicating that the defendant has been convincingly and legitimately proven to have committed an offense (schuld), yet the nature of the offense differs from what is stated in the indictment. The constrained interpretation of the law solely based on words, particularly within legal positivism, limits judges who, as decision-makers, find themselves confined. They may possess a sense of morality towards their duty, an aspirational morality about what is best, but are compelled to adhere strictly to the text (Montgomery, 2004; Zipursky, 2008).

Certainly, the interpretation of these facts must not align with the established procedural law but rather prioritize the substance of justice. This inevitably creates internal conflicts for a judge when deciding a case. On one hand, the judge must adhere to the rules, while on the other hand, they must strive to achieve justice in their verdict and uphold the *ultimum remidium*

principle – the principle of criminal law as a last resort to rectify human behaviour (Abidin, 1987; Saleh & Gunawan, 2021; Yee, 2010).

Based on the above exposition, the author is intrigued to delve deeper into the issue concerning a judge's considerations when deciding a case, particularly when the defendant is indeed guilty, but the allegations do not align with the indictment. This thesis will be utilized to analyze the impact of legal positivism in the field of criminal law in Indonesia, considering whether a judge is authorized to deviate from the applicable procedural legal rules on grounds of justice (Frederick & J. Wise, 1997).

This study aims to address at least two questions regarding the role of the Court Session Report in criminal case proceedings. Additionally, the research seeks to answer whether the Court Session Report can serve as a basis for a judge's decision outside the scope of the indictment, especially when the allegations in the indictment differ from what is proven during the trial. To address these questions, the research adopts a juridical-normative approach, meaning the facts presented here are drawn from a literature review. This study takes the form of evaluative research, involving an assessment of something that has already been executed. It is revealed in this research that the use of the Court Session Report as a reference point compared to the Indictment, especially when judges decide beyond the indictment, has been practiced in several District Courts.

Methods

This research employs a descriptive-analytical approach. The descriptive-analytical approach is a research method that intricately describes specific phenomena or events, and subsequently analyzes data to comprehend the emerging relationships and patterns (Soekanto, 2014). The data utilized consists of secondary data encompassing three legal sources. Primary legal materials include books, journals, and articles. Secondary legal materials constitute supporting data that can be used as references related to the author's research, such as normatively applicable legislative regulations. Lastly, tertiary legal materials, obtained from language dictionaries or legal dictionaries, are also included. The processing is carried out through the method of interpretation.

In the context of the Kamus Besar Bahasa Indonesia (KBBI), the term "interpretation" refers to the act of providing impressions, opinions, or theoretical perspectives on something; it can be understood as a form of analysis or explanation. Theoretically, according to Martin Heidegger's understanding in his book "Sein und Zeit" (Being and Time), as cited by F. Budi Hardiman, interpretation involves "three big" elements: *vorhabe*, *vorsicht*, and *vorgriff*. "Vorhabe," a German term meaning "to have beforehand," suggests that an interpreter should

initially possess knowledge about the subject of interpretation, both historically and based on normative rules. This foundational understanding is crucial for a meaningful interpretation. "Vorsicht," translated by Heidegger as "foreseeing," implies that the interpreter should be able to foresee the benefits of what is being interpreted. This forward-looking vision enables the interpreter to understand the potential implications and applications of the subject matter. Lastly, "vorgriff" refers to a stance of 'anticipation.' It suggests that interpreters should be able to develop useful and meaningful concepts that will remain relevant and significant in the future. This anticipatory approach ensures that interpretations remain dynamic and adaptable to changing contexts and times

Through these three concepts, Heidegger aims to lead us not towards an a priori understanding, but rather towards a projection of the future. Consequently, this perspective is not merely a discourse that reviews existing issues; it also addresses what needs to be done moving forward. This approach emphasizes the importance of forward-thinking and proactive planning in interpretation, underscoring the dynamic and evolving nature of understanding and responding to various subjects and situations (Hardiman, 2005).

This research aims to provide comprehensive information to the public about the role of judges in making decisions. The goal is to ensure that, possibly in addition to the government, ordinary citizens, who live in a modern and democratic environment yet are woefully uninformed or misinformed about policy and legal issues, can gain accurate and thorough understanding. This initiative emphasizes the importance of informed awareness in a democratic society, particularly regarding the judicial process and its implications on law and policy (Friedman, 2005).

Additionally, this research is hoped to assist law enforcers in understanding the law substantively, not merely as a matter of formality. By doing so, due to the needs of society—or in Rousseau's terms, law based on the general will—and the imperative of law culminating in justice, as Saint Augustine stated, it can be concluded that 'lex iniusta non est lex' (an unjust law is not a law) (Campos, 2014). This highlights the critical view that the essence and legitimacy of law are grounded in its justice and fairness, aligning legal practice with ethical and moral principles.

Results and Discussion

The Position of Court Session Report

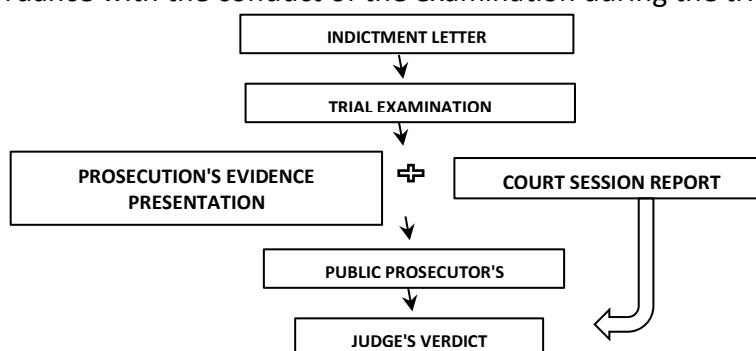
To uphold and realize legal certainty, the actions of law enforcement officers must be formally regulated to ensure they are not contradictory to the law. This means that their actions should not only adhere to the substantive criminal law provisions but also to the formal criminal law, commonly referred to as Criminal Procedure Law (Cepeda-Espinoza, 2011; Daipon, 2020).

Criminal Procedure Law, among other things, governs the process of evidence presentation in court proceedings, which aims to uncover facts so that a judge can make a fair and wise decision in a case. A judge can pass a sentence on the defendant only after all the elements of proof have been fulfilled (Farikhah, 2021; Yanto, 2022).

Evidence presentation refers to the provisions containing outlines and guidelines on legally permitted methods for proving the guilt alleged against the defendant (Priyana et al., 2021; Sitompul, 2019). Traditionally, the presentation of evidence in criminal law has always involved witnesses. However, the involvement of witnesses has proven to have limitations over time, as it tends to be subjective in nature (Airout, 2023; Ilg, 2017). Consequently, in Indonesian criminal procedure law, evidence is not limited to just witness testimony but is also supplemented by documentary evidence, expert testimony, defendant's statements, and indications or circumstantial evidence. Everything that transpires in the court proceedings is then recorded in Court Session Report.

In the process of court examinations, The Court Session Report hold a crucial position (Walsh, 1999). The Court Session Report serve as an official record and an authentic document, crafted by authorized officials, particularly the Court Clerk. Apart from being created by authorized personnel, The Court Session Report is signed by the Judge and the Substitute Court Clerk. The veracity of the information within the Court Session Report, being an authentic document, is irrefutable except when proven otherwise through legally binding criminal decisions. The Court Session Report serve as a primary source and reference for the Panel of Judges in formulating legal considerations and their rulings (Hurst, 2003).

Before being signed by the Substitute Registrar and Judge, the Court Session Report must first be meticulously examined. The Registrar is one of the parties responsible for reviewing and ensuring that the Court Session Report are consistent with the facts of the trial. The Registrar's responsibility is explicitly stated in Article 3, paragraph (2) of the Registrar and Bailiff Code of Ethics, which mandates that the Registrar must prepare the court minutes carefully and attentively in accordance with the conduct of the examination during the trial.



Picture 1. Flow And Position of Court Minutes

Within the context of a trial, considering the aforementioned flow, the position of the Court Session Report as an account of what is proven in court is equally crucial as the Public Prosecutor's evidence presentation against the indictment (Kurniawan, 2023). The Court Session Report, which contains a detailed account of the main facts related to the testimonies of witnesses, the accused, and experts, serves as a benchmark against the efforts of the Public Prosecutor in proving their indictment. Therefore, in every consideration of the Judge's decision, before proceeding to the evidence of the elements in the accused article towards the Defendant and to realize the principle of impartiality, the Judge first reviews everything proven in court by reading the Court Session Report.

Court Session Report as The Basis for Judicial Decisions Beyond The Prosecutor's Indictment

The issue of whether the Court Session Report can be used as the basis for a judge's decision outside of the Public Prosecutor's indictment remains contentious in practice. Some argue that this is not permissible because the Criminal Procedure Code stipulates that judges, in making decisions, must consider not only the Court Session Report but also the indictment (Prakoso & Murtika, 1987). On the other hand, there are opinions that the Court Session Report can serve as the basis for judges to issue decisions beyond the indictment. The rationale for allowing the Court Session Report to underpin a judge's decision outside of the Public Prosecutor's indictment is if the indictment turns out to be *obscuur libel* or unclear, provided that the different article charged against the defendant's wrongdoing is still related and less severe.

The first perspective, or the view that the Court Session Report is not stronger than the indictment, typically arises from the interpretation of Article 182 paragraph (4) of the Criminal Procedure Code. Beyond the interpretation of Article 182 paragraph (4) of the Criminal Procedure Code, this view is also reinforced by the Supreme Court Circular Letter Number 7 of 2012 on Legal Formulations from the Plenary Meeting of the Supreme Court Chamber as Guidelines for Court Implementation. Supreme Court Circular Letter Number 7 of 2012 states, in common criminal issue number 3, if *the judex facti* (fact-finding judge) receives a case from the Public Prosecutor with the application of inappropriate articles and laws, then the solution is "The judge, in examining and deciding the case, must adhere to the indictment." The solution from Supreme Court Circular Letter 7 of 2012 explicitly makes the position of the Court Session Report merely evidence that a trial has been conducted, not as a basis for the judge in deciding a case.

The principles supporting the judge in deciding criminal cases while adhering to the indictment include the principles of *equality before the law* and *actore non probante reus absolvitur*. The principle of equality before the law is based on the premise that both the Public Prosecutor and the Defendant have equal rights to prove their innocence. Furthermore, with the principle

of *actore non probante reus absolvitur*, the Defendant, whose guilt is not proven in the indictment, must be acquitted (Kusumaningrum, 2017).

For judges who adhere to the principle that decisions must be based on the indictment, the application of the rules found in the Criminal Code (KUHP) is essential. The issue of discovering new legal facts allows these facts to serve as the basis for new charges by the Public Prosecutor. Theoretically, this is not incorrect, considering that crime prevention efforts do not always rely on judicial decisions. According to G.P. Hoefnagels in Arief crime prevention efforts can be undertaken through three elements, including criminal law application, prevention without punishment and influencing views of society on crime and punishment / mass media.

The perspective that the indictment serves as the judge's definitive guide in deciding a case is considered by some experts to potentially limit the judge's authority (Saputra, 2023). This view also results in a bias in the judge's duties and independence in upholding the law. In reality, quoting the opinion of Prof. Satjipto Rahardjo, a court is not only a place for examination and adjudication but also an integral part of society. Within it, various interaction processes occur among litigation actors, contributing to law enforcement and the convergence of conflicting interests (Rahardjo, 2006). Judges, as members of the community, must be able to fully comprehend the facts of the trial and render decisions that adhere to the trias politica of certainty, propriety, and justice, in the spirit of *a la* Gustav Radbuch (Loh, 2023).

If we refer to the regulations, as stipulated in Article 182 paragraph (4) of the Criminal Procedure Code (KUHP), the indictment is not actually the primary reason for a judge to make a decision in criminal cases. According to Article 183 of the KUHP, a judge can convict an individual if, with at least two valid pieces of evidence, the judge is convinced that a criminal act truly occurred and that the accused is guilty of committing it. This means that if the judge's conviction is not found in the indictment, it can be derived from something that occurs during the trial, as recorded in the Court Session Report.

The second viewpoint, as mentioned in the previous paragraph, which allows judges to decide criminal cases beyond the indictment, is supported by Supreme Court jurisprudence. This jurisprudence is derived from Decision Regno: 818 K/Pid/1984 concerning the defendant Timbul Omar Simarmata. In the *judex facti* process, defendant Timbul Omar Simarmata was not proven to have violated Article 310 paragraph (1) of the Criminal Procedure Code, as charged by the Public Prosecutor. During the trial, defendant Timbul Omar Simarmata was actually proven to have violated Article 315 of the Criminal Procedure Code. The Court of Cassation also expressed the opinion that since the article used by the First Instance Judges is similar and less severe, the considerations of the First Instance Judges are permissible.

The decision of the Judges' Panel to set aside the indictment was based on the testimony of witnesses, the defendant's statements, and documentary evidence, all recorded in the Court

Session Report No.17 /Pid.Sus/TPK/2014/PN.Jkt.Pst dated June 23, 2014, clearly contains facts different from those alleged by the Public Prosecutor. The Court Session Report clearly contains facts that differ from the Public Prosecutor's charges. These facts conclude that the defendant, Susi Tur Andayani, was the giver of a bribe, not the recipient. The considerations of the First Instance Judges, according to the Appeals Court Judges (Case Number 47/PID/TPK/2014/PT.DKI), are justified as long as the criminal threat in the article used by the First Instance Judges in their evidence is lower or the punishment is lighter than the criminal threat in the article of the Public Prosecutor's indictment. The considerations of the First Instance Judges were further reinforced by the Cassation Decision case number 2262/K-Pid.Sus/2014.

The principles and theories that allow judges to decide beyond the indictment of the Public Prosecutor are the principle of *in dubio pro reo* and the primary goal of criminal law according to absolute theory. These two principles complement each other in creating a fair and wise judicial system. The principle of *in dubio pro reo* ensures that judges do not convict someone based on doubt, thereby protecting the rights of the defendant from unjust punishment (Butarbutar, 2011). Meanwhile, the absolute theory emphasizes the importance of punishment that satisfies the demands of justice, both for society and the individuals involved in the case (Muladi & Nawawi Arif, 1992). Therefore, the application of these two principles in criminal justice practice can help avoid errors in court and ensure that justice is administered accurately and proportionally. Secondly, the absolute theory is utilized to satisfy the claims of justice (Ramadhani, 2019).

Conclusion

The standing of the Court Session Report as a basis for evidence is as strong as the position of the Indictment prepared by the Public Prosecutor. The strength of this standing gives rise to two viewpoints regarding the authority of judges in deciding a case. The first opinion posits that judges must adhere strictly to the indictment of the Public Prosecutor. The second viewpoint, prioritizing the fulfilment of substantive justice, allows judges to use the Court Session Minutes as a basis in deciding the cases before them. Additionally, this highlights the judicial discretion in interpreting evidence and underscores the need for a balanced approach between procedural formalities and the pursuit of justice. Ultimately, the decision-making process should aim to uphold both the integrity of the legal process and the rights of all parties involved.

References

- Abidin, A. Z. (1987). *Asas-Asas Hukum Pidana*. Penerbit Alumni.
- Airout, M. (2023). Criminal Evidence With Modern Technology And Its Impact On Basic Freedoms In Jordanian Legislation. *Russian Law Journal, Volume XI*(Issue 5).

- Butarbutar, N. (2011). Asas Praduga Tak Bersalah : Penerapan dan Pengaturannya dalam Hukum Acara Perdata. *Jurnal Dinamika Hukum*, 11(No. 3).
- Campbell, T. (2016). The Point of Legal Positivism. In *Legal Positivism* (pp. 323–348).
- Campos, A. S. (2014). Aquinas’s “lex iniusta non est lex”: a Test of Legal Validity. *ARSP: Archiv Für Rechts- Und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy*, 100(3), 366–378. <http://www.jstor.org/stable/24756744>
- Cepeda-Espinoza, M. J. (2011). Transcript: Social and economic rights and the Colombian constitutional court. In *Texas Law Review* (Vol. 89, Number 7, pp. 1699–1705).
- Chacha, K. A. G. (2020). Positivism and Legal Positivism. *Universidad y Sociedad*, 12(4), 265–269.
- Daipon, D. (2020). Komparatif Hukum Acara Pidana Positif dan Hukum Acara Pidana Islam (jinayah) Aceh dalam Proses Penyidikan. *El-Mashlahah*, 10(1), 47–63.
- Farikhah, M. (2021). The Judicial Pardon Arrangement as a Method of Court Decision in the Reform of Indonesian Criminal Law Procedure. *PADJADJARAN Journal of Law*, 8(1), 1–25.
- Frederick, S., & J. Wise, V. (1997). Legal Positivism as a Legal Information. *Cornell Law Review*, Volume 82(Artikel 7).
- Friedman, L. M. (2005). Coming Age: Law and Society Enters an Exclusive Club. In *Annual Review Law Social Science*.
- Fuller, L. L. (1958). Positivism and Fidelity to Law: A Reply to Professor Hart. *Harvard Law Review*, Vol 71, no.
- Hardiman, F. B. (2005). *Seni Memahami*. Penerbit Kanisius.
- Hart, H. L. . (1958). Positivism and The Separation of Law and Morals. *Harvard Law Review*, Vol 71, no.
- Hurst, A. (2003). An Analysis of Court Transcripts Pertaining to the Defence of Stewart Wilken in Die Staat Teen Stewart Wilken. *South African Journal of Philosophy*, 22(4), 289–305. <https://doi.org/10.4314/sajpem.v22i4.31375>
- Ilg, M. (2017). Profit, Persuasion, and Fidelity: Why People Follow the Rule of Law. In *Law and Development Review* (Vol. 10, Number 2, pp. 275–303). <https://doi.org/10.1515/ldr-2017-0015>
- Kurniawan, A. (2023). Penitentiary Legal Management: Perceptions of Criminal Law. *Croatian International Relations Review*, 29(92), 50–65. <https://doi.org/10.2478/CIRR-2023-0004>
- Kusumaningrum, R. D. (2017). Putusan Ultra Petita Dalam Perkara Pidana,. *Jurnal Fakultas Hukum Universitas Atma Jaya*.
- Lamchek, J. (2019). Arresting a due process revolution: The reform of indonesia’s code of criminal procedure and the persistence of history. In *Criminal Legalities in the Global South: Cultural Dynamics, Political Tensions, and Institutional Practices* (pp. 166–181). <https://doi.org/10.4324/9780429459764-14>
- Loh, W. (2023). Anonymity, fidelity to law, and digital Civil disobedience. *Philosophy and Social Criticism*, 49(4), 448–476. <https://doi.org/10.1177/01914537211072886>
- Machado, A. S. (2023). The “Standard” Definition of Civil Disobedience Between the Fidelity-to-Law Requirement and the Rule-of-Law Ideal. In *Contributions to Political Science* (pp. 39–51). https://doi.org/10.1007/978-3-031-44049-6_4

- Manthovani, R. (2023). The Enforcement of Criminal Law: Examining the Validity and Human Rights Foundation of Online Criminal Trials in Indonesia. *International Journal of Criminal Justice Sciences*, 18(2), 27–39. <https://doi.org/10.5281/zenodo.4756303>
- Montgomery, B. P. (2004). Source Material: Sequestered from the Court of History: The Kissinger Transcripts. *Presidential Studies Quarterly*, 34(4), 867–890. <https://doi.org/10.1111/j.1741-5705.2004.00229.x>
- Muladi, M., & Nawawi Arif, B. (1992). *Teori-Teori dan Kebijakan Pidana*. Penerbit Alumni.
- Nelson, F. M. (2023). Finding the Truth in A Virtual Courtroom: Criminal Trials in Indonesia during the COVID-19. *Sriwijaya Law Review*, 7(2), 228–243. <https://doi.org/10.28946/slrev.Vol7.Iss2.2465.pp228-243>
- Plunkett, D. (2019). Robust Normativity, Morality, and Legal Positivism. In *Dimensions of Normativity: New Essays on Metaethics and Jurisprudence* (pp. 105–136). <https://doi.org/10.1093/oso/9780190640408.003.0006>
- Prakoso, D., & Murtika, I. K. (1987). *Mengenal Lembaga Kejaksaan di Indonesia* (Bina Aksar).
- Priyana, P., Baluqia, S. H., & Darmawan, W. (2021). Alat Bukti Informasi Elektronik Tindak Pidana Penipuan Online Dalam Perspektif Hukum Acara Pidana di Indonesia. *Jurnal IUS Kajian Hukum Dan Keadilan*, 9(1), 2021.
- Rahardjo, S. (2006). *Sisi-sisi Lain Dari Hukum di Indonesia*. Kompas.
- Ramadhan, S., & Muslimin, J. (2022). Indonesian Religious Court Decisions on Child Custody Cases: Between Positivism and Progressive Legal. *Jurnal Ilmiah Syari'Ah*, 2(1). <https://doi.org/https://doi.org/10.31958/juris.v21i1.5723>
- Ramadhani, D. W. (2019). A juridical review on the role of civil servant investigators in directorate general of customs and excise in narcotic smuggling crime eradication. *Journal of South India Medicolegal Association*, 11(2), 63–70.
- Saleh, G., & Gunawan, T. J. (2021). Designing a Just, Definite, Deterrent, Restorative, and Responsive Criminal Justice System through Sentencing Economic Value. *Journal of Legal, Ethical and Regulatory Issues*, 24(2), 1–11.
- Saputra, R. (2023). Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States). *Journal of Indonesian Legal Studies*, 8(1), 243–288. <https://doi.org/10.15294/jils.v8i1.67632>
- Sitompul, J. (2019). Developing A Legal Framework of Personal Data Protection in The Indonesian Criminal Procedure Law. *Indonesia Law Review*, 9(3), 201–221. <https://doi.org/10.15742/ilrev.v9n3.582>
- Soekanto, S. (2014). *Pengantar Penelitian Hukum*. UI Press.
- Stone, M. (2011). Legal positivism as an idea about morality. *University of Toronto Law Journal*, 61(2), 313–341. <https://doi.org/10.3138/utlj.61.2.313>
- Tuori, K. (2017). Critical Legal Positivism. In *Critical Legal Positivism*. <https://doi.org/10.4324/9781315258867>
- Walsh, M. (1999). Interpreting for the transcript: Problems in recording Aboriginal land claim proceedings in northern Australia. *Speech, Language and the Law*, 6(1), 161–195. <https://doi.org/10.1558/sll.1999.6.1.161>
- Yanto, O. (2022). Can Judges Ignore Justifying and Forgiveness Reasons for Justice and Human

- Rights? In *Sriwijaya Law Review* (Vol. 6, Number 1, pp. 122–142).
<https://doi.org/10.28946/slrev.Vol6.Iss1.1054.pp122-142>
- Yee, E. L. (2010). Forfeiture of the confrontation right in Giles: Justice Scalia's faint-hearted fidelity to the common law. *Journal of Criminal Law and Criminology*, 100(4), 1495–1548.
- Zipursky, B. C. (2008). Practical Positivism versus Practical Perfectionism: the Hart Fuller Debate at fifty. *New York University Law Review*, Vol 83(83), 4.