



THE 3rd INTERNATIONAL CONFERENCE AND CALL FOR PAPER

"Legal Development in Various Countries"



IMAM AS SYAFEI BUILDING
 Faculty of Law, Sultan Agung Islamic University
 Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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INFORMATION OF THE CONFERENCE AND CALL PAPER

WORLD ISLAMIC UNIVERSITY
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Welcome to Participants on International Conference

"LEGAL DEVELOPMENT IN VARIOUS COUNTRIES"

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.

KEYNOTE SPEAKER:
Prof. Henning Glaser
Thammasat University, Thailand

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

SPEAKERS :

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2. Prof. Dr. Ruzian Markom
Universitas Kebangsaan Malaysia, Malaysia
3. Prof. Dr. I Gusti Ayu Rachmi, S.H., M.M
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Sultan Agung Islamic University, Indonesia

Indonesia, September 05th 2017

WORLD ISLAMIC UNIVERSITY
UNISSULA
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Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : **Faculty of Law UNISSULA**
Semarang-Indonesia

5
September
2017

FACULTY OF LAW
Sultan Agung Islamic University

SPEAKERS :

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This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5th 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3rd Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

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AND CALL FOR PAPER
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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PREFACE

Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5th 2017

Chairman of the Committee,



Dr. Anis Mashdurohatun, S.H., M.Hum
NIDN : 06-02105-7002

GREETING FROM THE DEAN OF FACULTY OF LAW

As-salamu'alaikum Wr. Wb.

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5th 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.


Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

Wassalamu'alaikum Wr. Wb.

Semarang, September 5th 2017

Dean,



Prof. Dr. Gunarto, SH, SE, Akt, M.Hum
NIDN.062004670

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RECONSTRUCTION OF PATIENT LEGAL PROTECTION
HOSPITAL IN USE OF X-RAY IN THE HEALTH
BASED FIELD OF JUSTICE

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ABSTRACT

Patient is a consumer who must be protected legally, especially when it comes to the health of patients at stake. Hospitals providing health services using X-rays to patients should be subject to the legal rules governing their use to avoid the harmful effects of X-ray use. The purpose of this research is as follows: To analyze the legal protection of hospital patients on the use of x-rays in the field of health that have not been based on fairness values, To analyze the patient's legal protection flaws on the use of x-rays in the current health field, To find Reconstruction of legal hospital patient protection On the use of x-rays in the field of health based on justice values. The research paradigm in this study uses a constructivism paradigm that the individual interprets and acts according to the conceptual categories of the mind. Research approach in this research use socio legal research category where to see how far the protection of hospital patient on x-ray use in the field of health based on the value of justice.

The results showed that the uncontrolled practice of X-ray use is not based on health and humanitarian limits. In general, patients who want to go to the hospital for a diagnosis will not be rejected and not given an appeal to delay the use of X-ray method because it has a history that has more than one time using X-rays for examination methods within a period of one year. This raises the commercial nature of the hospital and the malpractice of a doctor because the patient is harmed in terms of material and health. It is also included in the criminal offense which is included in the omission of the Criminal Code and the criminal provisions in the Medical Practice Act.

The conclusions of this study are the protection of patient law on the use of X-rays in the field of health to realize the safety and cure of illness patients and quality health services by revising some articles consisting of three laws and regulations covering Law Number 36 Year 2009 on Health, Law Number 29 Year 2009 on Medical Practice, Law No. 44 of 2009 on Hospitals and Regulation of Minister of Health Number 269 / Menkes / Per / III / 2008 About Medical Record. A medical record information system that includes patient radiation records in the use of X-rays in the nationally integrated health field can be established in order to realize a quality service in patient protection on the use of x-rays. It is necessary to socialize the system both in public and private hospitals throughout Indonesia even if necessary every health facility that uses x-rays.

Keywords:

Reconstruction of Legal Protection, The use of X-ray Health Sector.

Background The Problem

Indonesia as a state law strongly upholds the importance of health for the community from its environment until the right to obtain health services. Utilization of health services is the use of service facilities provided either in the form of outpatient, inpatient, home visits by health workers or other forms of service utilization based on the availability and continuity of services, acceptance of society and fairness, accessible to the community, affordable And quality.

Hospitals as a place that has health services with a variety of methods complete. Regarding the completeness of health care facilities, not a few hospitals that many have sophisticated tools followed by the development of the era is required to continue to follow the breakthroughs, especially the increasingly sophisticated medical devices that it means to support quality health services. Modern developments are evident from the use of x-ray methods in the world of health. In its utilization, must be under strict supervision and maximum security, one of its efforts is with Radiation Protection is the action taken to reduce the influence of radiation damage caused by radiation exposure.

Given that it is impossible to eliminate overall radiation exposure, radiation exposure is cultivated at an optimal level according to humanitarian needs and benefits. In all existing legislation in Indonesia it has not been well regulated regarding the legal protection of patients against the use of x-ray radiation dosage and legal protection for radiation workers who daily deal with tools that use high-risk x-rays. One of them is that it can damage tissues and cells even in causing death and permanent disability.

This study focuses on the form of legal protection for x-ray patients in which hospitals as providers of health services use x-ray methods to misuse the use of x-rays for commercial purposes that harm the patient in terms of material, health, and even loss in terms of Law because of the lack of rules relating to the abuse of x-rays by health services where the

legal path taken does not provide justice for the disadvantaged patients. Seeing the existing rules regarding disputes between patients and health practitioners is only resolved through an independent professional body connected with health workers. In this case vulnerable to a one-sided decision because an independent institution dominated the health professional implementation itself. The need for a new patient medical records system is also to combat the misuse of x-ray use in high-risk areas of health.

Formulation Of The Problem

- 1) Why is the hospital patient's legal protection on the use of x-rays in the field of health not yet based on justice?,
- 2) What are the disadvantages of legal protection of hospital patients on the use of x-rays in the field of health now?,
- 3) How does the patient's legal protection reconstruction work on the use of x-rays in the health-based justice sector?

Purposes

- 1) Aanalyze the legal protection of hospital patients on the use of x-rays in the health field that have not been based on the value of justice;
- 2) Analyze the patient's legal protection flaws in the current use of x-rays in the health field;
- 3) Find a reconstruction of patient hospital legal protection on the use of x-rays in health based on fairness value.

Methodology

This research is expected to have a good use in the theoretical findings of new theories that can be useful to be a reference for future studies, and can be used as reference material for the implementation of the actualized assessment activities of teaching activities, discussions and seminars that will be Implemented in the academic and practical world. Then

useful in practical terms to be thought inputs for the stakeholders, the wider community and policy makers and later can be used as guidance in the preparation of regulations or regulations in the Health Law of Indonesia so as to maximize in encouraging the protection of patient law on the use X-rays in the field of health by accommodating the value of justice for the community.

Discussion

The use of x-rays in the field of health is very helpful and very beneficial to humankind, but if not in strict supervision in the utilization it will also cause other genetic disorders in other words that in the use of x-rays for health should be limited dose, ie The radiation value of the radiation workers in accordance with Article 31 of the Regulation of the Head of Bapeten Number 08 Year 2011.

What happens so far is when a patient needs treatment or irradiation using X-rays, the patient's protection is only about technical radiation protection standard only or standard operational procedures only. In the Law of the Republic of Indonesia Number 29 Year 2004 concerning Medical Practice concerning Medical Record only contains notes on patient identity, patient examination, diagnosis, medication, action and other services either performed by the doctor along with the completeness of the note, among others x-rays, Laboratory results and other information in accordance with their scientific competence. In the Indonesian legal system there is no legislation that regulates the record or medical record of a patient has been exposed to dose or X-ray radiation within one year. Including the society around the radiology room that is unconsciously exposed to x-ray radiation. This is very detrimental to the patient and society, because if the x-ray radiation is not visible but the effect is very unusual that will cause other diseases.

In the development of health laws that occur in the world today has undergone much progress, Indonesia should also be so. So far, the health status or quality of health of the State of Indonesia is still lagging far behind other developed countries. Technological advances in rapidly growing healthcare should also be followed by a clear legal protection of patients and medical workers, as both are particularly at risk in terms of the use of x-rays in health that will have a fatal impact.

In the field of health services in hospitals there are 3 (three) main actors who play a role, each of which has rights and obligations. The three main actors are Patient, Doctor and Hospital. The regulation of these rights and obligations has been determined in various laws and regulations, including the Medical Practice Act, Health Law, Hospital Act, Permenkes No. 159 b / 1988 on Hospital and Circular Letter of the Director General of Medical Service. YM.01.04.3.5.2504 on Guidelines for the Rights and Obligations of Patients, Physicians and Hospitals. In the legal relationship between physician and patient in the therapeutic agreement automatically arises the rights and duties of the physician to the patient as a legal consequence of the legal relationship of the health service.

Article 1370 and Article 1371 are declared to be Article 1370 In the event that the murder (causing death of another person) is intentional or inadvertent of a person, the abandoned husband and wife, the child or the victim's parents who usually receive a living from the work of the victim, have the right to demand A compensation, which must be judged according to the status and wealth of both parties and according to circumstances. Article 1371 The cause of a wound or defect of a limb intentionally or inadvertently, granting the victim rights, other than reimbursement of healing expenses, also demands compensation for damages or injuries. The demands of loss other than to be filed to the doctor as an individual, may also be made to the hospital or other health service.

Health services for patients, especially in the hospital environment as an implementation of the performance of doctors in practice. Patient recovery is the primary goal for doctors who are particularly hospitalized. Thus the practice of medicine should be observed by a regulation for its own protection for hospital patients. Because no denying a malpractice can happen to patients in the hospital. Based on Article 1 paragraph (1) Permenkes. 2052 / MenKes / Per / X / 2011 on Practice License and Implementation of Medical Practice, "Medical Practice is a series of activities undertaken by physicians on patients in carrying out health efforts". In the practice of medicine, doctors who open medical or healthcare practices must meet the requirements set by the government. The doctor has a Registration Certificate (STR) or has been officially certified as a doctor, dentist, specialist, dentist specialist. After having STR a doctor who wants to conduct medical practice must have a Practice License (SIP). The obligation to have SIP contained in Permenkes. 2052 / Menkes / Per / X / 2011 on Practice License and Implementation of Medical Practice.

The United States Nuclear Regulatory Commission (NRC) is one of the official sources of information that is standardized in several countries for the determination of guidelines on radiation protection. NRC has stated that the individual dose exposed to maximum radiation is 0.05 Sv or 5 rem / year. Although the NRC is the official body with respect to radiation ionizing lighting limits, there are other groups who recommend similar things. One such group is the National Council on Radiation Protection (NCRP), which is a group of government scientists who regularly hold meetings to discuss recent radiation research and update recommendations on radiation safety. According to NCRP, the goal of radiation protection is to prevent important clinical radiation, by following the minimum dose limits, limiting the risks to cancer and the effect of derivatives on the community.

Improved development of health science and technology rapidly, causing the Hospital can not escape from the responsibilities of work that his subordinates do. The

doctrine of "Charitable Immunity" in the field of law can no longer be used against the legal responsibility of the Hospital. The role of hospitals that do not seek profit, changes rapidly. The institution is no longer a building with health workers working individually to treat patients. Hospital becomes a hospital institution that acts as an organization which is a health service center or health care unit. The task is to plan and coordinate health services in an integrated manner.

What happens so far is when a patient needs treatment or irradiation using X-rays, the patient's protection is only about technical radiation protection standard only or standard operational procedures only. In relation to the hospital-accepting attitudes toward patients who will be examined using X-rays, the commercial side of hospitals today, whose term only pursues deposits, does not take into account the long-term effects of patients. The attitude of the hospital with the commercial practice alone has also violated from what the actual function and purpose of the hospital is also based on the values of Pancasila in Article 2 of Law No.44 of 2009 on the hospital that is "Hospital held based on Pancasila and based To the values of humanity, ethics and professionalism, benefits, justice, equality of rights and anti-discrimination, equity, protection and patient safety, and social functions ".

However, if a patient suffering loss from an unreasonable doctor's action in providing information regarding the safety of X-ray wearing a lawsuit, and dragging one of the physician professions in this case MKEK (Ethical Council of Honor of Medicine) will surely take part in the trial process at The court. Because it will always involve expert witnesses who are also taken from members of MKEK and even then something is wrong that impressed the exclusiveness of doctors, causing the lawsuit of patients through legal channels always run aground in court. As the cause is because members of MKEK themselves in the alignment of expert witnesses, which incidentally drawn from his own colleagues also composed of doctors. Moreover, if the lawsuit is submitted to the definite MKEK in case of

case phenomenon as well as the patient of X-ray users who experience the effects of radiation in the long term because there is no recommendation from the doctor when the patient is still in the process of checking with X-rays to delay the use of the method, surely In the trial the ethics will provide victory in the trial for the doctor who became the defendant. Because the views of the doctors who are members of MKEK will view the defendant's view on the basis of the case as an unexpected event not as a malpractice or medical practice's negligence.

It can also be concluded that X-ray equipment when purchased by a hospital is not as a new item in the sense that the hospital has owned these tools for years and for the purpose of returning capital, it does not take long to return the amount of purchasing capital X-ray medical devices because hospital admissions let alone hospitals that have commercial attitudes do not take long years if only just return the capital and the term to pursue deposits with hospital policy ordered the doctors to target patients who will use the services of rays -X does not need to go on as long as the hospital is still standing. But still there is no human side if you see such hospital action. Seeing the function of hospitals that have rules wherever has the function to prioritize the interests of humanity is not for commercial especially as a business field to serve the patients as the general public.

Conclusion

From the background of research that the legal protection of hospital patients the use of X-ray based values of justice which is manifested when a rule of the three primary rules are the Law of Undnag on health, the Law on Medical Practice and the Hospital Law which becomes the umbrella the law for patients to be given the addition of the article for more strict supervision of the elements that provide services the use of X-ray methods for patients, namely the profession of doctors and hospitals. Reconstruction of values is legal protection of patients on the use of X-rays in the field of health to realize the safety and cure of disease patients and

quality health services. Society as a user of medical services, which is certainly layman about the problem of medicine should be protected interests and rights.

Recommendation

The study of this study resulted in recommendations, matters which then underlies the thought of the need to be compiled Regulation of the Minister of Health Number 269 / Menkes / Per / III / 2008 on Medical Record, Law of the Republic of Indonesia Number 29 Year 2004 About Medical Practice, Number 44 of 2009 on Hospitals that are more integrated and comprehensive, further clarify the aspects of guidance and supervision, further reinforce the aspect of certainty and protection of the law especially to the patients as the weak party that is weak knowledge about health as well as about the rules about health as well.

Reference

- Ali Mudhofir, 1996, **Kamus Teori dan Aliran dalam Filsafat dan Teologi**, Gajahmada University Press, Yogyakarta.
- Appeldorn, **Pengantar Ilmu Hukum**, Pradnya Paramita, Jakarta, 2009.
- Alexandra indriyanti Dewi, 2008, **Etika dan Hukum Kesehatan**, Yogyakarta, Pustaka Book Publisher.
- Amirudin dan Zaenal Asikin, 2004, **Pengantar Metode Penelitian Hukum**, Jakarta, PT Raja Grafindo Persada.
- Arlene Adler and Richard Carlton, **Introduction To:Radiologic Sciences and Patient Care**, Elsevier Saunders, St.Louis, Missouri.
- Atamimi,A, Hamid S, **Peranan Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara; Suatu Studi Analisis Mengenai Keputusan Presiden yang Berfungsi Pengaturan dalam Kurun Waktu Pelita I–Pelita IV**, Disertasi Ilmu Hukum Fakultas Pascasarjana Universitas Indonesia, Jakarta, 1990.
- Azrul Azwar, 1996, **Menjaga Mutu Pelayanan Kesehatan**, Jakarta, Sinar Harapan.

- B.Arief Sidharta, 2007, terjemahan Meuwissen tentang Pengembangan Hukum, Ilmu Hukum, **Teori Hukum dan Filsafat Hukum**, PT Refika Aditama, Bandung.
- B.N. Marbun, 1996, **Kamus Politik**, Pustaka Sinar Harapan, Jakarta.
- Bernard Arief Sidharta, 1999, “**Refleksi tentang Struktur Ilmu Hukum**”, Mandar Maju, Bandung.
- Bahder Johan Nasution, 2005, **Hukum Kesehatan Pertanggungjawaban Dokter**, Jakarta: Rineka Cipta.
- Cal. Bus. & Prof. Code § 4826. Cited In: **California Veterinary Medicine Practice Act**, Charlottesville (VA), USA: LexisNexis, Matthew Bender & Company, Inc, 2010.
- Cecep Triwibowo, 2014, **Etika dan Hukum Kesehatan**, Yogyakarta, Nuha medika.
- Charles Siregar, 2004, **Farmasi Rumah Sakit Teori dan Penerapan**, Cetakan I, Penerbit EGC, Jakarta.
- Chrisdiono M. Achadiat, **Pernik-pernik hukum kedokteran melindungi pasien dan dokter**, Jakarta, Widya Medika , 1996.
- Danny Wiradharma, **Penuntun Kuliah Hukum Kedokteran**, Binarupa Aksara, 1996.
- Deborah ter Meulen, **Crash Course: Imaging**, Mosby Elsevier, Philadelphia, 2007.
- Deliar Noer, **Pemikiran Politik Di Negeri Barat**, Cetakan II Edisi Revisi, Bandung, Pustaka Mizan, 1997.
- Djauhari, 2008, **Politik Hukum Negara kesejahteraan Indonesia**, Unissula Press, Disertasi, Semarang.
- Endang Kusumah Astuti, **Hubungan Hukum Antara Dokter Dan Pasien Dalam Upaya Pelayanan Medis**, Semarang, 2003.
- Faisal, 2010, **Menerobos Positivisme Hukum**, Yogyakarta, Rangkang Education.
- Gunawan Setiardja, **Hak-hak Asasi Manusia Berdasarkan Ideologi Pancasila**, Yogyakarta: Kanisius, 1993.
- Hans Kelsen, **General Theory of Law and State**, diterjemahkan oleh Rasisul Muttaqien, Bandung, Nusa Media, 2011.
-, **Teori hukum murni-dasar-dasar ilmu hukum normative terjemahan The fure of teory** : Barkely University of California press :1978 : Nusa Media, Bandung, 2010.

- James P. Chaplin, 1997, **Kamus Lengkap Psikologi**, Raja Grafindo Persada, Jakarta.
- Jawade Hafizh, 2014, **Reformasi Kebijakan hukum Birokrasi Pengadaan Barang Dan Jasa Pemerintah Dalam Mencegah Terjadinya Tindak Pidana Korupsi di Indonesia**, Disertasi, Semarang.
- Jimly Asshiddiqie, 2005, **Hukum Tata Negara dan Pilar-Pilar Demokrasi**, Konstitusi Press, Jakarta.
- John Rawls, **A Theory of Justice**, London: Oxford University press, 1973, yang sudah diterjemahkan dalam bahasa indonesia oleh Uzair Fauzan dan Heru Prasetyo, **Teori Keadilan**, Yogyakarta, Pustaka Pelajar, 2006.
- Lawrence M.Friedman, 2009, **System Hukum Dalam Perspektif Ilmu Sosial,The Legal System:A social Science Perspektive**, Nusa Media Bandung.
- Lon L. Fuller, 1971, **The Morality of Law**, Edisi Revisi, Yale University Press, New Haven & London, dalam Satjipto Rahardjo, 1991, **Ilmu Hukum**, Citra Aditya Bakti, Bandung.
- M Evalisa dan Zubaidah Alatas, **Pemeriksaan Kesehatan Pekerja Radiasi di PTKMR**, Alara Volume 7 Nomor 3, 2006.
- Mahmud Kusuma, 2009, **Menyelami Semangat Hukum Progresif; Terapi Paradigmatik Atas Lemahnya Penegakan Hukum Indonesia**,Yogyakarta: Antony Lib bekerjasama LSHP.
- Morris R, C, Morizt, A, R, **Doctor and Patient and The Law**, The CV Mosby Comp, Saint Louis, 1971.
- Mukti Fajar N.D dan Yulianto Achmad, 2010, **Dualisme Penelitian Hukum, Normatif dan Empiris**, Pustaka Pelajar, Yogyakarta.
- Pangeran Alhaj S.T.S Drs., Surya Partia Usman Drs, **Materi Pokok Pendekatan Pancasila**, Jakarta, Universitas Terbuka Depdikbud, 1995.
- P.A.F. Lamintang, **Dasar-Dasar Hukum Pidana Indonesia**, PT. Citra Aditya Bakti, Bandung, 1996.
- Paulus E. Lotulung, 1993, **Beberapa Sistem Tentang Kontrol Segi Hukum Terhadap Pemerintah**, Bandung, Citra Aditya Bakti.
- Peter Beilharz (ed), 2002, **Teori-teori Sosial : Observasi Kritis Terhadap Para Filosof Terkemuka**, Pustaka Pelajar, Yogyakarta,
- Philipus M. Hadjon, 1987, **Perlindungan Hukum bagi Rakyat Indonesia**, Surabaya, Bina Ilmu.
- Purnadi Purbacaraka, **Perihal Kaidah Hukum**, Bandung, Opset Alumni, 1979.

- Ronny Hanitijo Soemitro, 1989, **Perspektif Sosial dalam Pemahaman Masalah-Masalah Hukum**, CN. Agung, Semarang.
- R.O Siahaan, 2009, **Hukum Pidana 1**, R.A.O. Press, Cibubur.
- Satjipto Rahardjo, 2007, **Biarkan Hukum Mengalir Catatan Kritis Tentang Pergulatan Manusia dan Hukum**, Jakarta, Penerbit Buku Kompas.
-, 2009, **Penegakan Hukum Suatu Tinjauan Sosiologis**, Yogyakarta, Genta Publishing.
- Sabian Usman, 2009, **Dasar-Dasar Sosiologi Hukum**, Yogyakarta, Pustaka Belajar.
- Satish K. Bhargava, **Textbook of Radiology for Residents and Technicians**, CBS, New Delhi, 2007.
- Sjahriar Rasad, 2005, **Radiologi Diagnostik**, Gaya Baru, Jakarta.
-, **Radiologi Diagnostik**, Departemen Radiologi Fakultas Kedokteran UI, Jakarta, 2005.
- Soetandyo Wignjosoebroto, **Silabus Metode Penelitian Hukum**, Program Pascasarjana Universitas Airlangga, Surabaya.
- Soekidjo Notoatmodjo, 2010, **Etika dan Hukum Kesehatan**, Jakarta, Rineka Cipta.
- Subekti, **Pokok-pokok Hukum Perdata**, Jakarta, PT Intermasa, 1994.
- Sudikno Mertokusumo, **Mengenal Hukum Suatu Pengantar**, Yogyakarta, Liberty Yogyakarta, 1985.
-, **Penemuan Hukum**, Citra Aditya Bakti, Bandung, 2009.
- Suteki, 2008, **Rekonstruksi Politik Hukum tentang Hak Menguasai Negara Atas Sumber Daya Air Berbasis Nilai Keadilan Sosial (Studi Terhadap Privatisasi Pengelolaan Sumber Daya Air)**, Disertasi pada Program Doktor Ilmu Hukum Universitas Diponegoro, Semarang.
- Sri Siswati, 2013, **Etika dan Hukum Kesehatan dalam Perspektif Undang-undang Kesehatan**, Jakarta, Rajawali Pers.
- Ta'adi, 2013, **Hukum Kesehatan : Sanksi dan Motivasi Bagi Perawat**, Jakarta, Buku Kedokteran EGC.