

December 9<sup>th</sup> 2016



# The 2nd Proceeding "Indonesia Clean of Corruption in 2020"



"Comparative Law System of Procurement of Goods and Services around Countries in Asia, Australia and Europe"



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

**UNISSULA PRESS**

ISBN. 978-602-1145-41-8

## TABLE OF CONTENTS

---

Front Page .....	i
Information of the International Seminar .....	ii
Committee Composition .....	iii
Preface.....	iv
Greeting From The Dean Faculty of Law .....	vi
<b>INDONESIA’S KPK AND NSW’S ICAC: COMPARISONS AND CONTRASTS</b>	
Prof. Simon Butt .....	1
<b>CAN INDONESIA FREE ITSELF FROM CORRUPTION IN 2020?</b>	
Prof. Dr. Hikmahanto.,S.H.,LLM .....	4
<b>AN ACT TO ESTABLISH THE ANTI-CORRUPTION AGENCY, TO VEST POWERS ON OFFICERS OF THE AGENCY AND TO MAKE PROVISIONS CONNECTED THEREWITH.</b>	
Rohimi Shapiee.....	7
<b>STRATEGY TO CREATE INDONESIA FREE CORRUPTION IN 2020</b>	
Dr. Jawade Hafidz, S.H., M.H .....	11
<b>THE NETHERLANDS INGLOBAL CORRUPTION</b>	
Siti Malifah Marlou Feer, M.A. ....	28
<b>ROBUST YET FRAGILE: EFFORTS IN COMBATING CORRUPTION IN INDONESIA</b>	
Laras Susanti.,S.H., LLM.....	33
<b>LEGAL STATUS OF AKTOR’S FOR CORRUPTION (In the Perspective of Islamic Law)</b>	
Sumarwoto Umar .....	37
<b>THE ROLE OF LAW IN THE POVERTY REDUCTION STRATEGY</b>	
Lantik Kusuma Aji .....	46
<b>THE INDEPENDENCY OF THE INSTITUTION FOR THE PROTECTION AND THE ESTABLISHMENT OF HUMAN RIGHTS TOWARDS THE GLOBALIZATION ERA 2020</b>	
Khalid .....	55
<b>THE URGENCY OF ANTI CORRUPTION EDUCATION FOR COLLEGES IN INDONESIA</b>	
Siska Diana Sari.....	62
<b>THE PROBLEMS OF DIVORCE IN CUMULATION AT THE RELIGIOUS COURTS BASED ON THE PRINCIPLES OF SIMPLE, FAST AND LOW COST</b>	
Elis Rahmahwati.....	78
<b>DISPARITIES DECISION RELATED TO INTERPRETATION OF ARTICLE 2 AND 3 CORRUPTION ERADICATION ACT</b>	
Agung Widodo.....	87
<b>DIVERSITY ADULT AGE LIMITS POSITIVE LAW IN INDONESIA (Studies in Multidisciplinary Perspective)</b>	
Muhammad Andri .....	102

<b>THE APPLICATION OF BALANCE IDEA IN SETTLEMENT OF DOCTOR MALPRACTICE CASE THROUGH PENAL MEDIATION</b> Yati Nurhayati.....	111
<b>MODERNIZATION LAW AS A CRIME CORRUPTION VERY EXCEPTIONAL THROUGH ENFORCEMENT OF ETHICS</b> Dr. Sukresno, SH, M.Hum .....	118
<b>CORRUPTION POTENCIES IN LAND USE POLICY (A Case Study in Kuningan Regency)</b> Haris Budiman .....	126
<b>CORRUPTION PREVENTION AND CONTROLS</b> INP Budiarta .....	133
<b>ISLAMIC LAW VALUES TRANSFORMATION IN THE RECONSTRUCTION OF THE LEGALITY PRINCIPLE OF INDONESIAN CRIMINAL CODE</b> Sri EndahWahyuningsih .....	145
<b>JUSTICE AND CHARITY IN JAKARTA’S NORTH COAST RECLAMATION PROCESS THAT WILL LEAD TO INDONESIA CLEAN OF CORRUPTION</b> Untoro .....	155
<b>CORRUPTION CRIMINAL SANCTIONS WITH VALUES OF JUSTICE-BASED</b> Zulfiani.....	162
<b>THE REFLECTION OF ISLAMIC BANKING IN THEORY AND PRACTICE</b> Anis Mashdurohatun .....	171
<b>THE IMPLEMENTATION OF LOCAL WISDOM SIRI’NA PACCE AS AN EFFORT OF CORRUPTION ERADICATION IN INDONESIA</b> Muh. Afif Mahfud.....	181
<b>DISCOURSE POLITICAL LAW IN INDONESIA ON A COMPLETION OF PLATO PHILOSOPHY</b> Adrianus M. Nggoro,SH.,M.Pd.....	189
<b>STUDY OF INDONESIA’S PARTICIPATION IN ICSID</b> Agus Saiful Abib.....	202
<b>NOTARY ROLE IN THE IMPLEMENTATION OF EXECUTION PROCUREMENT OF GOODS AND SERVICES ARE FREE OF CORRUPTION BASED ON THE PRINCIPLE OF GOOD GOVERNANCE</b> Aris Yulia .....	211
<b>ANALYSIS WIRETAPPING AUTHORITY UPPER KPK LAW ENFORCEMENT IN THE PERSPECTIVE OF HUMAN RIGHTS</b> Ariyanto,SH.,MH.....	221
<b>SOCIAL WORKING PENALTY AS SOLUTION IN ERADICATING CORRUPTION IN INDONESIA</b> Desy Maryani.....	232
<b>LEGAL POLITICSOF EMPLOYMENT IN TERM OF PART OF TASK HANDOVER TO OTHER COMPANIES IN INDONESIA</b> Endah Pujiastuti.....	244

<b>RESOLUTION OF DISPUTES OF OUTSOURCING WORK FORCE IN THE COMPANY EMPLOYING OUTSOURCING SERVICE</b> Pupu Sriwulan Sumaya .....	256
<b>THE APPLICATION OF CORRUPTION LAW TO WARD CRIMINAL ACT IN THE FIELD OF FORESTRY</b> Ifrani .....	267
<b>THE EFFORTS OF ERADICATION OF CORRUPTION THROUGH INSTRUMENTS OF MONEY LAUNDERING LAW AND RETURN ACTORS' ASSETS</b> Yasmirah Mandasari Saragih.....	276
<b>AFFIRM ROLE OF EXISTENCE <i>RECHTSVERWERKING</i> TO ACHIEVING LEGAL CERTAINTY IN LAND REGISTRATION</b> Rofiq Iakamana, Setiono, I Gusti Ayu Ketut Rachmi Handayani, Oloan Sitorus.....	287
<b>ANTI-CORRUPTION EDUCATION AT AN EARLY AGE AS A STRATEGIC MOVE TO PREVENT CORRUPTION IN INDONESIA</b> Ida Musofiana.....	304
<b>FREED INDONESIA'S CORRUPTION BETWEEN HOPE AND REALITY</b> Dr. Tongat, SH., M.Hum., Said Noor Prasetyo, SH., MH.....	313
<b>UTILIZATION OF INDONESIA MARINE RESOURCES IN AN EFFORT TO REALIZE INDONESIA TOWARDS THE SHAFT OF THE MARITIME WORLD</b> Dr.Lathifah Hanim, SH.M.Hum., M.Kn. and Letkol (mar) MS.Noorman, S. Sos., M.Opsla.....	319
<b>POTENTIAL CORRUPTION IN THE VALIDATION POLICIES ON ACQUISITION TAX OF LAND AND OR BUILDING</b> Lilik Warsito.....	325
<b>THE EFFORT OF LAW ENFORCEMENT IN COMBATING CORRUPTION IN SOUTH SUMATERA</b> Sri Suatmiati.....	334
<b>ETHICAL PERSPECTIVE AND THE MAPPING OF NORM IN CORRUPTION ACT</b> Siti Zulaekha.....	344
<b>AN EXPANSION OF CONCEPT THE STATE ECONOMIC LOSS IN CORRUPTION IN INDONESIA</b> Supriyanto, Hartiwiningsih, Supanto.....	354
<b>JURIDICAL STUDIES ON SUBSTANCE AND PROCEDURE OF THE DISMISSAL OF THE PRESIDENT AND/OR VICE-PRESIDENT AFTER THE REFORMATION</b> Siti Rodhiyah Dwi Istinah.....	364
<b>THE ROLE OF THE SHARIA SUPERVISORY BOARD IN THE FRAMEWORK ENFORCING SHARIA PRINCIPLES AT THE INSTITUTE OF ISLAMIC BANKING IN SEMARANG</b> Aryani Witasari.....	376
<b>SEMARANG CITY GOVERNMENT ROLE IN CONSERVATION AND ENVIRONMENTAL PROTECTION TO THE CAPITAL OF THE NATIONAL HERITAGE IN INDONESIA</b> Achmad J Pamungkas ( <i>Indonesia</i> ), Carlito Da Costa ( <i>Timor Leste</i> ) .....	390

<b>STUDYING THE WISDOM OF ZAKAT</b> Moch. Gatot Koco (Indonesia), Basuki R Suratno (Australia) .....	398
<b>HOMOLOGATION RECONSTRUCTION IN BANKRUPTCY THAT IS BASED ON DIGNIFIED JUSTICE</b> Agus Winoto .....	410
<b>RECONSTRUCTION OF EXECUTIVE AND LEGISLATIVE AUTHORITY IN MAKING GOOD GOVERNANCE (GOOD GOVERNANCE) VALUES BASED ON WELFARE</b> Mohamad Khamim .....	420
<b>THE TASK RECONSTRUCTION AND BPKP'S AUTHORITY IN THE CASE OF JUSTICE VAUE BASED CORRUPTION</b> Sarbudin Panjaitan .....	429
<b>THE RECONSTRUCTION OF MADLIYAH AND IDDAH MAINTENANCE AND MUT'AH IN DIVORCE CASE FOR JUSTICE AND WELFARE</b> Mustar .....	438
<b>JURIDICAL ANALYSIS OF THE ALLEGED CRIMINAL OFFENSE TO MANUFACTURE A NOTARY DEED</b> Subiyanto .....	446
<b>REVITALIZATION DEAL IN AKAD HYBRIDS IN SHARIA BANKING VALUE BASED ISLAMIC JUSTICE</b> Masduqi .....	452
<b>RECONSTRUCTION OF LEGAL PROTECTION DISTRICT HEAD IN THE ELECTION IMPLEMENTATION OF VALUE-BASED JUSTICE</b> Kukuh Sudarmanto Alugoro .....	462
<b>ABUSE OF AUTHORITY OFFENSE THEOLOGICAL RECONSTRUCTION LAW ERADICATION OF CORRUPTION (LAW NUMBER 31 OF 1999 JO. LAW NUMBER 20 OF 2001) BASED ON VALUE OF JUSTICE</b> As'adi M. Al-ma'ruf .....	472
<b>RECONSTRUCTION OF THE DAILY PAID WORK AGREEMENT IN THE EMPLOYMENT LAW BASED ON JUSTICE</b> Christina N M Tobing .....	479
<b>THE LAW AND THE IMPACT OF MARRIAGE SIRRI</b> Sahal Afhami .....	489
<b>CRIMES AGAINST CHILDREN AS ACTORS</b> Muhammad Cholil .....	503
<b>RECONSTRUCTION OF CRIMINAL PROCEDURAL LAW (KUHP) ABOUT THE DETENTION</b> Muhammad Khambali .....	512

<b>BASED ON JUSTICE PROBLEMS OF DISPUTE RESOLUTION REGIONAL CHIEF ELECTION (GOVERNOR, REGENTS AND MAYOR)</b>	
Esti Ningrum .....	520
<b>RECONSTRUCTION REGIONAL MINIMUM WAGE (UMR) IN RENEWAL OF EMPLOYMENT LEGAL REMEDIES BASED INDONESIA THE VALUE JUSTICE PANCASILA</b>	
Urip Giyono .....	531
<b>IMPLEMENTATION OF LAW AS TO MAINTAIN SECURITY IN THE CONTEXT OF PROFESSIONAL POLICE POLMAS (CASE STUDY IN LAMPUNG POLICE)</b>	
Muhammad Yaman .....	539
<b>RECONSTRUCTION OF CRIMINAL SANCTIONS PENAL CODE ACTORS ON ABORTION CRIME BASED ON THE VALUE OF JUSTICE</b>	
Hanuring Ayu Ardhani Putri .....	549
<b>REGISTRATION FIDUCIARY GUARANTEE REALIZE LEGAL PROTECTION OF CREDITORS AND DEBTOR</b>	
Ansharullah Ida .....	556
<b>RECONSTRUCTION OF LEGAL DISPUTES MEDIATION IN HEALTH CARE FOR PATIENTS HOSPITAL BASED ON THE VALUE OF JUSTICE</b>	
Teguh Anindito .....	569
<b>RECONSTRUCTION OF CRIMINAL SANCTIONS AGAINST CRIME OF ACTORS AND MURDER MURDER IN PLAN BASED ON VALUE OF JUSTICE CRIMINAL CODE</b>	
Maria Marghareta Titiek Pudji Angesti Rahayu Teguh Anindito .....	579
<b>IMPLEMENTATION OF PENAL MEDIATION IN CRIMINAL LAW</b>	
Aji Sudarmaji .....	587
<b>FAIR SETTLEMENT RECONSTRUCTION OF PROBLEMATIC CREDIT DISPUTE AT BANK RAKYAT INDONESIA (STUDY CASE AT MEDAN-SINGAMANGARAJA BRI BRANCH OFFICE)</b>	
Bachtiar Simatupang .....	594
<b>RECONSTRUCTION OF THE WASTE MANAGEMENT LAW BASED ON WELFARE VALUE</b>	
M. Hasyim Muallim .....	616
<b>RECONSTRUCTION LAW OF PUNISHMENT AGAINST CHILDREN NARCOTICS ABUSE-BASED PROGRESSIVE LAW</b>	
Salomo Ginting .....	625
<b>LEGAL PROTECTION PROBLEM OF WIFE AND CHILDREN OF POLYGAMY SIRRI IN INDONESIA</b>	
Muhlas .....	639

<b>IDEAL RECONSTRUCTION OF REHABILITATION PUNISHMENT FOR NARCOTICS ADDICTS AND ABUSER'S VICTIMS JUSTIFIED BASED ON THE LAW OF THE REPUBLIC OF INDONESIA NO. 35 YEAR 2009 (CASE STUDY IN SUMATERA UTARA PROVINCE)</b> Ahmad Zaini .....	648
<b>IMPLEMENTATION OF ACCELERATION SYSTEMATIC LAND REGISTRATION FULL IN HUMBANG HASUNDUTAN DISTRICT</b> Ruslan .....	658
<b>RECONSTRUCTION OF STATUS AND AUTHORITY OF THE SHARIA COURT IN THE NATIONAL JUDICIAL SYSTEM BASED ON JUSTICE</b> Jufri Ghalib .....	667
<b>RECONSTRUCTION OF LIABILITY NOTARY PUBLIC OFFICERS TO ACT AS A VALUE-BASED JUSTICE</b> Elpina .....	679
<b>RECONSTRUCTION OF CONSUMER PROTECTION LAW IN MAKING THE BALANCE BUSINESS BASED BUSINESS AND CONSUMER VALUE OF JUSTICE</b> Ramon Nofrial .....	693
<b>RECONSTRUCTION OF LAND USED RIGHT EIGENDOM VALUES BASED ON JUSTICE AND LEGAL CERTAINTY</b> Hakim Tua Harahap .....	706
<b>RECONSTRUCTION OF DIVERSION CONCEPT IN CHILD PROTECTION OF CONFLICT WITH THE LAWS BASED ON THE VALUE OF JUSTICE</b> Ulina Marbun .....	726
<b>RECONSTRUCTION OF PARATE EXECUTION MORTGAGE RIGHTS TO LAND BASED ON THE VALUE OF JUSTICE</b> Zaenal Arifin .....	740
<b>THE RECONSTRUCTION OF DIVORCE DUE TO MARITAL STATUS UNDER THE UNAUTHORIZED GUARDIAN AS VALUE OF JUSTICE</b> Abdul Kholiq .....	751
<b>THE RECONSTRUCTION OF LEGAL AID LAW FOR CHILDREN WHO GET CONFLICT WITH LAW IN PROCESS OF JUSTIFICATION FOR CHILDREN BASED ON THE VALUE OF PANCASILA</b> Adi Mansar .....	767
<b>MEDIATION RECONSTRUCTION AS ONE OF THE ALTERNATIVE SETTLEMENT OF DECLINE IN THE COURTS BASED ON THE VALUE OF JUSTICE (Study at the Simalungun District Court)</b> Mariah S.M. Purba .....	778
<b>POLYGAMIC POLICY IN INDONESIA (Analysis of Polygamic Arrangements and Practices 1959-2015)</b> Warman .....	790

<b>LAW ENFORCEMENT AGAINST CORRUPTION IN PERSPECTIVE OF HUMAN RIGHTS IN INDONESIA</b> Sekhroni .....	798
<b>THE PRINCIPLE OF NATURAL JUSTICE AND HUMAN'S RIGHT PROTECTION FOR CITIZENS IN ERADICATION OF CORRUPTION IN INDONESIA</b> Indriyana Dwi Mustikarini .....	809
<b>PREVENTING LAND MAFIA USING POSITIVE LAND REGISTRY SYSTEM</b> Bambang Sulistyowati .....	816
<b>UNRULY PASSENGER IN AVIATION: THE REGULATIONS AND CASES IN INDONESIA</b> Adya Paramita Prabandari .....	826
<b>EDUCATION ANTI-CORRUPTION IN INDONESIA: PROBLEMS, CHALLENGES AND SOLUTIONS</b> Alwan Hadiyanto .....	839
<b>SPIRITUAL URGENCY OF RELIGIOUS AND EXPENSES OF EVIDENCE IN COMBATING CORRUPTION IN INDONESIA</b> Sulistyowati .....	852
<b>SUE FOR THE STATE ADMINISTRATION OF JUSTICE IN INDONESIA</b> Sarjiyati .....	863
<b>CONSISTENCY MODEL OF COURT DESIGNATION TO FOSTER PARENT RIGHTS AUTHORITY DUE TO DIVORCE ON CHILDREN</b> Erna Trimartini .....	873
<b>AN INVESTIGATION AUTHORITY OF CRIMINAL ACT ON CORRUPTION IN CRIMINAL JUSTICE SYSTEM IN INDONESIA</b> Sukmareni .....	885
<b>PRO CONS THE EXISTENCE OF DEATH PENALTY IN CORRUPTION ACT OF 1999 IN INDONESIA</b> Anis Rifai .....	903
<b>PENAL MEDIATION IN SOLVING MEDICAL MALPRACTICE CASES AS AN ALTERNATIVE OF PENAL SANCTIONS BASED ON LOCAL WISDOM</b> Sri Setiawati .....	913
<b>SPECIAL PROTECTION OF CHILDREN IN CRIMINAL JUSTICE SYSTEM</b> Achmad Sulchan .....	922
<b>MORAL REFORM BUREAUCRACY AS PREVENTION OF ILLEGAL PAYMENTS TO INDONESIA CLEAN OF CORRUPTION</b> Herwin Sulistyowati .....	932
<b>STANCE AND AUTHORITY OF PEOPLE'S CONSULTATIVE ASSEMBLY DURING REFORMATION ERA 1945</b> Ahmad Mujib Rohmat .....	944



<b>TAXES AND ALMS SEEN FROM ISLAMIC LAW</b>	
Mohammad Solekhan .....	954
<b>DIVERSION IN COURT (Case Studies in Karanganyar District Court)</b>	
Anita Zulfiani .....	964
International Seminar	
Photos.....	971

## RECONSTRUCTION OF THE WASTE MANAGEMENT LAW BASED ON WELFARE VALUE

**M. Hasyim Muallim**

Student of Doctoral Program Faculty of Law Sultan Agung Islamic University  
Email : [ir.mhasyim@yahoo.com](mailto:ir.mhasyim@yahoo.com)

**Gunarto**

Doctoral Program Faculty of Law Sultan Agung Islamic University  
Email : [gunarto@unissula.ac.id](mailto:gunarto@unissula.ac.id)

**Anis Mashdurohatun**

Doctoral Program Faculty of Law Sultan Agung Islamic University  
Email : [anism@unissula.ac.id](mailto:anism@unissula.ac.id)

### Background of The Problems

To achieve the condition of society who live healthy and prosperous in the future, it will be necessary to have a healthy living environment. From the aspect of waste management, the healthy word would mean a condition that would be achieved if the waste can be managed well so that the living environment where human activity there will be clean (Permen PU number: 21 / PRT / M / 2006).

Vision of the development of waste management systems of Departemen Pekerjaan Umum dan Perumahan is " Permukiman Sehat Yang Bersih Dari Sampah", it is reflects to achieve of a good condition and healthy environment. In general, according to the Peraturan Menteri PU nomor: 21/PRT/M/2006, the areas that get solid waste services will either be shown to have the following conditions: a.) The society has access to handle the waste that are produced from daily activities, either in living environment, commerce, offices, and other public places, b). The society has a clean living environment because the waste that are produced can be handled properly. c). The society are able to maintain their health because there is no waste that could potentially be material transmission of diseases such as diarrhea, typhoid, dysentery, and others; and environmental disturbances from pollution of air, water or soil. d.) The society and the business / private sector have the opportunity to participate in waste management so as to obtain benefits for welfare.

Until now, waste management paradigm used is: GATHERING-TAKING and REMOVING, and the mainstay of a city in resolving problems of waste is landfilling in TPA. The city manager is less likely to give serious attention to the TPA, so came the failure cases of TPA. The city manager seems to assume that their TPA can solve all waste problems,

without having to give proportionate attention to these facilities. TPA can be time bomb for the city manager.

To achieve optimal waste services, it's time for a paradigm change municipal waste management. Transformative paradigm is the concept of municipal waste management to prevent or minimize the generation of pollution and other negative impacts that are detrimental to society and the environment. According to Witoelar (2006: 2) takes pioneers to change the paradigm of waste management from the approach end of the pipe (end of pipes) that dispose of waste directly to TPA towards waste management with the principles of 3R is Reduce, Reuse and Recycle.

In the case of this paradigm change is far behind the other countries. For example, according to Buclet and Olivier waste management paradigm change in most European countries has been started since 1970. The waste management policy emphasis on waste reduction at source, sorting and recycling. A very important starting point in this paradigm change is a change of policy toward the minimization of garbage at the source, rather than on disposal.

According to Law No.18 of 2008 on Waste Management, there are two main groups of waste management are: a.) Reduction of waste (waste minimization) consisting of restrictions on the trash, reuse, and recycling, b) Waste management (waste handling ). This condition is emphasized that the main priorities that should be done by all parties is how to reduce waste as much as possible. Part of waste or residue from waste reduction activities remaining is then performed processing (treatment) and heaping (landrilling).

Waste management is an important issue in the problems of city environment that is faced in line with population growth and an increase in construction activity. The increase in waste volume grows exponentially which has not been accompanied by an increase in local government revenue equivalent to the management of municipal solid waste (Puslitbang Permukiman, Bandung 2014). This relates to the increasingly difficult and expensive to get the location of the final disposal (TPA), also are located farther away has extended transport and increase the cost of transportation.

## **Problems**

Waste management has not reflected the value of welfare, it is necessary to research by addressing the following:

1. Why waste management is not currently based on welfare value?

2. What are the weaknesses arising in waste management?
3. How is the reconstruction of the waste management law based on welfare value?

### **Research Method**

The method used in this study is sociological juridical approach and qualitative. Sociological juridical approach (socio-legal approach) is a legal approach that relies on empirical observation, and interviews intended to study and examine the interrelationships between law and other social institutions. Qualitative approach is a procedure of research that produces descriptive data in the form of written words or spoken of people and offenders can be observed. This approach is directed at the individual data and the holistic (whole).

### **Research Result**

Cause of waste management has not based on welfare value is the absence of institutional and participation of society. Before Law No. 18 of 2008 was issued, urban waste management policy (issued by Departemen Pekerjaan Umum) in Indonesia positioning that urban waste management is a system that consists of 5 sub-system components, namely: a) Regulatory/law, b). Institutional and organisasic). Operational technique, d). Financing, e) The society participation. The result of of waste management has not been based on welfare value as follows:

1. Waste management has not based on welfare value is a manifestation of the implementation of waste management, the current was still using the old paradigm is Gathering – Taking-Removing and do not take waste management to a new paradigm that Sorting - Gathering - Taking- Processing- End processing, while the current waste reduction also has not used the concept of 3R (Reuse, Reduse, Recycle), so that the existing waste management has not provide economic value for the society and waste manager. It is caused by several problems as follows:
  - a. Increasing population density demands also increase methods / patterns waste management well.
  - b. The heterogenity of socio-cultural level of the urban population adds to the complex problems;
  - c. Situation of funds as well as handling the relatively low priorities of local governments is a common problem in nasonal scale;
  - d. Limited human resources are appropriate and available in the area to handle the waste;

e. Society participation, which are generally less focused and well-organized.

The constraints that are faced in waste management between government, private and society are manifestation of the lack of effective government role in fostering a society in terms of waste management.

The efforts are done by the government through socialization to the society and guidance for waste management are still perceived by the society together to create a clean environment, healthy and welfare.

2. The weaknesses of waste management at this point between the society, private and government of law substance aspect, law structure and law culture.

a. The weakness of the law substance in waste management is the lack of law regulations are made by the central and local governments are not able to provide welfare value for society, particularly in implementing waste management with the 3R concept that can provide economic value for waste management, and as a guide in the implementation of waste management among the society, private and government, supported by the active role of the society is done by self-management through waste reduction and waste management in a sustainable manner; some weaknesses substance as follows:

1. Lack of dissemination to the society of the regulations or local decisions issued by the local government, so that the society is less aware of the correct waste management.
2. Lack of SDM capable of understanding the regulations or the decisions made by Satuan Kerja Perangkat Daerah who deal directly and not providing guidance and referrals directly to the public by referring to the existing regulations.
3. The lack of substance contents of the legislation or decrees issued by local governments that directly solve the waste problem as a whole in the effort to improve the welfare of society.

b. The weakness of the legal structure for waste management can be realized by weak law enforcement by the government to the society by not applying sanctions in accordance that have been listed in the regulations by statutory or local regulations, this is evidenced by the lack of organization or institution in charge of enforcing the law clerk Satpol PP as local government officials in enforcing local regulations, but quite the local regulations have been listed in the sanctions that have been established.

Waste management community chaos resulting waste that should have economic

value will be discarded directly into the TPA, so there is no guarantee of prosperity for the waste management in a sustainable manner, it is needed of coaching as well as a management of solid waste management,

- c. The weakness of the culture of the society in waste management is the lack of values or culture of the society in participating in waste management for customs / culture society who do not have the desire to be together government and the private sector to manage waste by utilizing the economic value of waste that is, by processing into finished goods which can provide a welfare value for the society, it is caused by cultural or social custom that has been done for generations especially who live along the riverbanks always throw garbage into the river, so the need to manage waste from the garbage stream, household. offices, housing, and the market will lead to the environment becomes unhealthy and environmentally friendly.

### 3. Reconstruction of waste management law based on welfare values.

Reconstruction of the Law No.18 of 2008 on waste management is based on welfare value is providing an opportunity for government, society and private as waste management to benefit economically from the waste in order to realize the welfare of the whole society and to make the environment that is clean, healthy and comfortable.

Economically waste management mainly inorganic trash, especially plastic waste can provide economic benefits of the enumeration process until it becomes plastic pulp mill that still require pulp processing waste plastic into finished goods that could be used by the community. Therefore it is necessary reconstruction of the law against Law No. 18 of 2008 in order to better provide opportunities for society and private in obtaining economic security.

While the welfare of every citizen can be obtained with the State guarantee provides freedom in empowering the community is not able to process natural resources such as in Article 34 of the Constitution of the Republic of Indonesia Year 1945.

#### Article 34

- (2) The State shall develop social security system for all citizens and empower the weak and incapable in accordance with human dignity.
- (3) The State is responsible for the provision of health care facilities and public service facilities are decent

The Mandate of the Basic Law gives consistence to government provides public services in waste management. It carries legal consequences that the government is responsible authorities in waste management area although its management operations to

partnering with business entities. Besides the organization of waste, and community groups engaged in the waste can also be included in the waste management activities.

In order to carry out waste management in an integrated and comprehensive, right and fulfillment obligation of the society, as well as the duties and authority of government and local government for the implementation of public services, necessary legal basis in the form of legislation.

Settings waste management law in this Act is based on the principle of responsibility, sustainable principles, the principle of the benefit, the principle of justice, the principle of consciousness, the principle of solidarity, the principles of safety, security principle, and the principle of economic value.

Based on the description above legal reconstruction based waste management is to realize the value of welfare waste management is beneficial economically to society, and is safe for environment. While the law reconstruction to Law No. 18 Article 9 paragraph (1) point (e), Article 11 (1) point (f) and Article 27, paragraph 4, as well as the reconstruction of Peraturan Daerah Kabupaten Kotawaringin Barat No. 3 In 2015 in Article 31, paragraph 2 point (c) and (d), Article 32 Paragraph (2) and Article 60 paragraph (2) ideally in the future may be formulated as follows, namely the Government of the district / city via BUMD or partnerships with parties establish private industrial waste processing plant into finished goods, raw materials of plastic waste (inorganic), so as to accommodate waste collection and sorting of results by the community, both individually and self-managed, so from the result of sale, the society get benefit and welfare from the government for waste management community managed in a sustainable manner, while for final processing (TPA) in long-term government helps to build incinerators to burn the waste with waste products into electrical energy. While, the final waste processing site (TPA) is required to conduct monitoring and evaluation every 3 (three) months in 20 (twenty) years as we get per day of solid waste that goes into TPA.

## BIBLIOGRAPHY

- Abdul Hakim G. Nusantara, 1988 *Politik Hukum Indonesia*, Yayasan Lembaga Bantuan Hukum Indonesia, Jakarta
- Achmad Ali, *Menguak Tabir Hukum*, 1996, Chandra Pratama, Jakarta
- Ahmad Rifai, *Penemuan Hukum oleh Hakim dalam Perspektif Hukum Progresif*, : Sinar Grafika, Jakarta
- Andi Hamzah, 1989 *Kamus Hukum*, Ghalia Indonesia, Jakarta
- Aziz Dahlan, et.al., 1996 *Ensiklopedi Hukum Islam*, Ichtiar Baru van Hoeve, Jakarta
- Badan Pembinaan Hukum Nasional, 1997 *Simposium Pola Umum Perencanaan Hukum dan Perundang-undangan*, Bina Cipta, Bandung.
- Badan Pembinaan Hukum Nasional dan Hak Asasi Manusia RI, 2008 *Tiga Dekade Prolegnas dan Peran BPHN*, Jakarta
- Bambang Sunggono, 2006 *Metodologi Penelitian Hukum*, Raja Grafindo Persada, Jakarta.
- J. Landis, 1934 “Statutes and the Sources of Law”, dalam “*Harvard Legal Essays Written in Honor and Presented to Joseph Hendri Beale and Samuel Williston*”, Cambridge, Mass: Harvard University Press,
- Marlina, 2010 *Pengantar Konsep Diversi dan Restorative Justice dalam Hukum Pidana*, USU Press, Medan
- Marwan Effendy, 2012 *Diskresi, Penemuan Hukum, Korporasi dan Tax Amnesty Dalam Penegakan Hukum*, Referensi, Jakarta
- Mien Rukmini, 2003 *Perlindungan HAM melalui Asas Praduga Tidak Bersalah dan Atas Persamaan Kedudukan dalam Hukum*, Alumni, Bandung
- Moeljatno, 1993 *Asas-Asas Hukum Pidana*, Rineka Cipta, Jakarta.
- Moh. Hatta, 2008 *Menyongsong Penegakan Hukum Responsif; Sistem Peradilan Terpadu (Dalam Konsepsi dan Implementasi) Kapita Selekta*. Galangpress, Yogyakarta
- Mohammad Muslih, 2005 *Filsafat Ilmu : Kajian Atas Asumsi Dasar Paradigma dan Kerangka Teori Ilmu Pengetahuan*, Belukar, Yogyakarta
- Muladi dan Barda Nawawi Arief, 1992 *Teori-Teori dan Kebijakan Pidana*, Alumni, Bandung 1992
- Munawar Kholil, et.al.1988 , *Silabus dan Teaching Material Pilihan Penyelesaian Sengketa(PPS)/Alternative Dispute Resolution (ADR)*, FHUI-Proyek ELIPS, Jakarta
- Nanda Agung Dewantara, 1987 *Masalah Kebebasan Hakim dalam Menangani Suatu Perkara Pidana*, Penerbit Aksara Persada Indonesia, Jakarta.
- Notoatmodjo, Soekidjo, 2003, *Pendidikan Dan Perilaku Kesehatan*, Rineka Cipta. Jakarta
- Nurcholis Madjid, 1992 *Islam Kemanusiaan dan Kemoderenan, Doktrin dan Peradaban, Sebuah Telaah Kritis tentang Masalah Keimanan*, Yayasan Wakaf Paramadina, Cetakan kedua, Jakarta
- Nomensen Sinamo, 2010 *Hukum Lingkungan Indonesia*, Pustaka Mandiri , Cetakan kedua, Tangerang



- Nomensen Sinamo, 2014 *Filsafat Hukum, Tangerang* : Permata Aksara, Jakarta
- Peter Mahmud, 2008 Marzuki, *Penelitian Hukum*, Kencana, Jakarta
- Peter Noll, 1973 *Gesetsgebungslehre*, Reinbek: Rohwohlt,
- Philippe Nonet & Philip Selznick, 2011 *Hukum Responsif*, Nusamedia, Bandung
- Philipus Mandiri Hadjon, 1987 *Perlindungan Hukum Bagi Rakyat di Indonesia*, Surabaya: PT Bina Ilmu, Surabaya
- Pudi Rahardi, 2007 *Hukum Kepolisian (Profesionalisme dan Reformasi POLRI)*, Laksbang Mediatama, Surabaya
- Pande Made Kutanegara dkk, 2014 *Membangun Masyarakat Indonesia Peduli Lingkungan*, Gajah Mada University Press, Yogyakarta
- R. Subekti dan R. Citro Sudibyo, 2005 *Kitab Undang-Undang Hukum Perdata*, . Pradnya Paramitra, Jakarta.
- Raikhan Rashyd, 1991 *Hukum Acara Peradilan Agama*, Cet I, Jakarta: CV. Rajawali, 1991
- Ricardo Simartana, 2007 *Pluralisme Hukum, Mengapa Perlu?* dalam Donny Donardono (Ed), *Wacana Pembaharuan Hukum di Indonesia*, Jakarta: HuMa.
- Ridwan HR, 2006 *Hukum Administrasi Negara*, Raja Grafindo, Jakarta.
- Yan Pramadya Puspa, 1997 *Kamus Hukum*, Aneka Ilmu, Semarang
- Zainal Abidin Fareid, HA, 2007 *Hukum Pidana I*, Sinar Grafika, Jakarta
- Zainuddin Ali, 2014 *Metode Penelitian Hukum*, Sinar Grafika. Jakarta

## **Legislation**

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
- Undang – Undang Nomor 18 Tahun 2008 tentang Pengelolaan Sampah
- Undang - Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup
- Undang - Undang Nomor 36 Tahun 2009 tentang Kesehatan
- Undang – Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah
- Undang – Undang Nomor 26 Tahun 2007 tentang Penataan Ruang
- Undang – Undang No. 8 Tahun 1981 tentang Kitab Undang-undang Hukum Acara Pidana
- Undang-Undang No. 8 Tahun 2002 tentang Sistem Nasional Penelitian, Pengembangan dan Penerapan Ilmu Pengetahuan dan Teknologi
- Peraturan Pemerintah Republik Indonesia Nomor 74 Tahun 2001 tentang Pengelolaan Bahan Berbahaya dan Beracun
- Peraturan Pemerintah Republik Indonesia Nomor 81 Tahun 2012 tentang Pengelolaan Sampah Rumah Tangga dan Sampah Sejenis Rumah Tangga
- Peraturan Menteri Dalam Negeri Nomor 33 Tahun 2010 tentang Pedoman Pengelolaan Sampah

Peraturan Menteri Pekerjaan Umum Nomor 03 Tahun 2013 tentang Penyelenggaraan Prasarana dan Sarana Persampahan dalam Penanganan Sampah Rumah Tangga dan Sampah Sejenis Rumah Tangga

### Internet

Edi Suharto, 2016 “*Reinventing Depsos*”, dikutip dari <http://www.policy.hu/suharto/Naskah%20PDF/ReinventingDepsos.pdf>, hal 8.

<http://ugun-guntari.blogspot.com/2011/02/teori-keadilan-perspektif-hukum.html>, diakses pada 14 April 2016

<http://diqa-butar-butar.blogspot.com/2011/09/teori-teori-keadilan.html>

<http://kartikarahmah2406.wordpress.com/2012/12/02/teori-keadilan-sosial>

<http://ugun-guntari.blogspot.com/2011/02/teori-keadilan-perspektif-hukum.html>

<http://diqa-butar-butar.blogspot.com/2011/09/teori-teori-keadilan.html>, diakses pada 14 Nopember 2016.

Mu'in Abdul Kadir, *Rekonstruksi Hukum*, dalam [www.fatkhulmuin1983's. weblog.com](http://www.fatkhulmuin1983s.blogspot.com)

<http://m.liputan6.com/health/read/831503/sampah-di-indonesia-paling-banyak-berasal-dari-rumah-tangga>, diakses tanggal 20 Juli 2016).

<http://id.wikipedia.org/wiki/Pancasila> diakses pada tanggal 13 maret 2016

<http://joglosemar.co/2013/07/minim-sosialisasi-penegakan-perda-sampah-masih-lemah.html> diakses 20 November 2015

<http://joglosemar.co/2013/07/minim-sosialisasi-penegakan-perda-sampah-masih-lemah.html> (diakses 20 Juli 2016).