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# 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"



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## TABLE OF CONTENTS

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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 laksamana, 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., MHum., 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 Zulaekhah.....	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 LAW OF PUNISHMENT AGAINST CHILDREN NARCOTICS ABUSE-BASED PROGRESSIVE LAW**

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## **ABSTRACT**

Children who do not abuse drugs merely as criminals, but as victims. Second, starting from the thought that children who abuse drugs are also victims, efforts to provide protection for children who abuse drugs is also a priority.

This study aims to determine the legal construction of the criminal prosecution against perpetrators of child abusers of narcotics, criminal prosecution against perpetrators of child abusers of narcotics, as well as the reconstruction of criminal law against perpetrators of child abusers of narcotic-based progressive law.

This study is normative, ie methods that describe or explain a fact systematically later analysis done legally with the linking of the data and facts obtained convictions related to child abusers of narcotics and associated with the legislation.

Reconstruction of sentencing child abusers of narcotics with the principle of diversion and restorative justice with due regard to the principle of the best interests of the child that is no crime to children, through the reconstruction of Article 127 paragraph (1) of Law No. 35 of 2009 by adding provisions stated in Article 127 paragraph ( 1) a, b, and c does not apply to child abusers of narcotics, and every child abusers of narcotics required to undergo medical rehabilitation. it can realize the decision imposing the rehabilitation of child abusers of narcotics as a punishment-based progressive law in realizing the restorative justice.

Law enforcement officials must work together and build a shared perception of the protection against child abusers of narcotics. The concept of diversion and restorative justice are two concepts which aims to find an alternative solution to the child offender drug abuse. The concept of diversion undertaken by maximizing the discretion possessed by law enforcement officials who handles children with problems with the law. The concept of restorative justice should be carried out with an understanding of the victim, the perpetrator, the victim's family and the family of the perpetrator and the community to work together to determine appropriate action against the medical rehabilitation of drug abusers of children.

**Keywords:** Punishment, the Child Abuse To Narcotics and Law Progressive

## A. Background

Act No. 11 of 2012 on the Criminal Justice System Child is a form of protection of children in conflict with the law. These laws regulate explicitly about restorative justice (restorative justice) and versioned, which is intended to avoid and keep children out of the judicial process so as to avoid the stigmatization of children in conflict with the law and expected that children can get back into a natural social environment. Therefore it is very necessary participation of all parties in achieving these goals, which in turn can create a good restorative justice for children.

The use of criminal law as a means of tackling child abusers of narcotics by essence a selection dilemma. Given the criminal justice often displays itself only as a legal machinery that would only result in procedural justice (procedural justice). So the results are often unsatisfactory and ignore the interests of the welfare of children. Relating the treatment of children abusing drugs, the problem of juvenile criminal justice process or the criminal verdict is a stigma attached after completion of criminal proceedings. The increasing trend of drug abusers of children, encouraging efforts to address specifically in the field of criminal law children both formal and substantive.

In the perspective of criminal policy, crime prevention essentially a rational effort in tackling crime. As a rational effort included prevention abusers of narcotics, must start from a proper diagnosis in handling. Conceptually, crime prevention can be done either using the criminal justice (judicial) and outside the criminal justice (non-judicial). Efforts to shift from judicial process towards non-judicial process in the prevention of drug abusers of children, basically an effort to avoid child of the application of criminal law.

Narkotika child abusers can not be viewed solely as a criminal, but also to be seen as victims. This paradigmatic approach is intrinsically contradictory and thought that (the crime) drug abusers can be qualified as a crime victim without. Victims of crimes are drug abusers perpetrator himself, not others. Therefore, it is not in place when in the case of drug abusers is concerned only seen as perpetrators and are not seen as victims. The assertion of these issues relate considered very urgent measures to be taken in handling. The treatment of the offender to the treatment of victims is not the same. Understanding the position of the child in a criminal act is a measure of the accuracy see the treatment given to him. Affirmation of this issue is important to determine which drug should be administered. Whether it should be convicted, therefore only be regarded as perpetrators or even get rehabilitation because it is seen as a victim. With the accuracy of diagnosis, then the drug should be given to it will also be appropriate and effective.

Combating drug abusers by children by means of criminal law are found to be in place for the following reasons: First, as a means of crime prevention, criminal law is a drug that is oriented at tackling the aftermath of the crime. Thus, the criminal law is merely corrective and repressive. Such an approach can be tolerated when only oriented towards the offender. In fact, child abusers of narcotics not only as a criminal, but also the victims. Second, starting from ideas, child drug abusers are victims of child protection efforts is also a priority.

Handling of child abusers of drugs should be used in alternative ways of punishment with the principles of restorative justice. This principle aims to position the criminalization of children so that children can escape or heal a child from drug addiction by applying the principle of the best interests of the child (the best interest of the child) when he was dealing with the law. Criminalization narkotikan child abusers is not the only tool in order to improve the situation in the handling of child abusers of narcotics is through medical rehabilitation measures.

Punishment in the form of rehabilitation in Article 103 of Law No. 35 of 2009: Judges who hear cases addict can decide to order the treatment and / or treatment through

rehabilitation if the addict is proven guilty of narcotics, and the judge may set for order the treatment and / or treatment through rehabilitation if the addict is not proven ber

**B. Justice Legal Perspective Progressive**

In the legal system anywhere in the world, justice has always been the object of hunting, especially through the institution trial. Fairness is fundamental to the operation of a legal system. The legal system is in fact a structure or completeness to achieve the concept of justice that has been agreed.

Formulate the concept of justice in progressive legal thought is how to create substantive justice and not justice procedure. As a result of modern law that gives great attention to the aspects of the procedure, the law in Indonesia are faced with two choices between courts which emphasize a procedure or substance. Progressive justice is not justice but pressing on substantive justice procedures.

In order to make substantive justice as the core run in Indonesian courts, the Supreme Court plays a very important. As the pinnacle of the judiciary, he has the power to push (encourage) the courts and judges in this country to realize the progressive justice.

The statement that the law is for a man, in the sense that the law merely as a means to achieve a life that is fair, prosperous and happy, for humans. Therefore, according to the progressive legal thought, is not the purpose of human law, but the law is just a tool. So that justice will take precedence substantive than procedural justice, it is merely in order to show the law becomes a solution for the problems of humanity.

Satjipto Rahardjo quoted Taverne, Give me a good prosecutor and judge, then the regulation is bad though I could make a good decision. Prioritizes behavior (human) rather than legislation as a starting point the paradigm of law enforcement, will lead us to understand the law as a process and humanitarian projects.

**C. The Value-Based Law Enforcement Fairness**

The enforcement issue is a problem faced by every community. Although later every community with its own characteristics, may provide its own style of the problem within the framework of law enforcement. But every community has the same purpose, in order to achieve peace in society as a result of formal law enforcement.

Law enforcement should in principle benefit (utility) for society, but in addition, people also expect their law enforcement to achieve justice. Judge in adjusting legislation with concrete atmosphere for justice, truth and the rule of law should be able to make sense of the contents of the law and seek clarity in interpreting adapted to the reality, so that the law can apply concrete if faced with the event.

**D. Approach Progressive Law Criminal Justice System In Children**

Progressive Approach In Law Enforcement

No	Identification	Progressive Approach outlook In Law Enforcement
1	Assumption	The law for man, not man for the law; Law is not absolute and final institution but always in the process of becoming (law as a process, law in the making)
2	Purpose	Law enforcement to welfare and happiness of humankind
3	Spirit	Liberation of the types, ways of thinking, principles and theories that have been used in law enforcement; Liberation of the culture of the rule of law (administration of justice) felt to hamper the ruling and solve legal problems.



4	Progressivity	Law enforcement aimed at the welfare and happiness of humankind and therefore regard the law is always in the process of becoming (law in the making); Sensitive to changes that occur in the community at local, national and global; Rejecting the status quo when the cause of decadence, the atmosphere corps. and very detrimental to the interests of the people, giving rise to resistance and rebellion that led to the progressive interpretation of the law.
5	Character	Progressive law seeks to divert the focus of the study which was originally used to get to the behavior of optical laws; Consciously progressive legal presence in close association with humans and society, (the law responsive); Law is not viewed from the glass eyes of the law itself but viewed and judged by the social goals to be achieved and the effect of lead on the working of the law (the law of progressive sharing familiar with legal realism and sociological jurisprudente) Progressive law has a closeness with the theory of natural law because it cares for the things that meta Juridical, and has proximity to critical legal studies, but broader scope

Law enforcement criminal justice juvenile criminal law enforcement believes that juvenile justice is stressed in the interests of the child and not solely for the benefit of the juvenile justice law. Legislations juvenile justice system and not as an absolute and final law, but always in the process of becoming (law as a process, law in the making). Law enforcement juvenile justice system with a progressive approach aimed at the welfare and happiness of children.

Law enforcement in each time step examination process of children given the power to decide to stop the examination by the authority of its discretion, in the interests of child protection. Thus law enforcement action in accordance with the rule of law with a progressive approach, which saw law enforcement and social goals to be achieved and the effect of lead on the working of the law.

#### **E. Children As Narcotics Abuse Victims**

In this study, children as drug users, namely those who are victims for crimes they have committed themselves that the typology of victims identified by the state and status of the victim.

Drug users on the one hand be regarded as criminals who should be punished for behaving contrary to the morals of humanity, acts or behavior that is strongly opposed by the public on the other hand, drug users as well as victims of a crime has the rights that have been mentioned above, despite the crimes they have committed themselves. Therefore, the users / addicts as victims are also eligible for protection in the form of medication and / or treatment through rehabilitation center facility.

#### **F. Comparison of Punishment Against Children in Different Countries**

Restorative justice as an approach in solving the case of children are also being vigorous practiced by some countries such as New Zealand, Australia, which has included the concept of diversion into legislation juvenile justice in the country. Comparison of the implementation of diversion in the country of Indonesia, New Zealand, and Australia:

Indonesia	New Zealand/ Selandia Baru	Australia
Diversion in the juvenile criminal justice process: <ul style="list-style-type: none"> <li>- Investigation</li> <li>- Prosecution</li> <li>- Courts</li> </ul>	Diversion Outside the juvenile criminal justice process. Family Group Conferencing, which is negotiations between the victim and the perpetrator in the settlement of criminal acts in the community	The concept of diversion of children is not an alternative program, but a diversion to pull out of the justice system. Police Diversion, the Police as the first gate who deal with children in conflict with the law be followed to determine whether the judicial process or other informal actions.

**G. Diversion and Restorative Justice For Protection Of Children Who in conflict with the Law In Juvenile Justice in Indonesia**

Juvenile justice is a special court that handles juvenile criminal cases. Investigators Children, the Public Prosecutor of the Child, Judge Child, clerk of Correctional Kids is a unity that is included in a system called the Criminal Justice System Child (The Juneville Justice System), aims to tackle delinquency, is also expected to provide protection to children who have problems with the law.

One solution in the treatment of children is a criminal offense justice restorative approach, implemented by means of Divert (diversion). Restorative justice is a process of settlement is done outside the criminal justice system (Criminal Justice System) involving victims, offenders, families of victims and perpetrators, the public and the parties concerned with a crime that happened to reach an agreement and settlement. Restorative justice is considered a way of thinking / new paradigm of looking at a crime committed by one. Restorative justice is a theory of justice that emphasizes the recovery of damages caused by a criminal act. The solution is considered the most good by bringing the parties together cooperatively to decide how to solve the problem.

**H. Rehabilitation As Alternative Sanctions**

Judging from the aspect maatregel (action) against the perpetrators of drug abusers is a way to secure the society and improve maker (abusers of narcotics), by way of forced treatment. Which means in the Act No. 35 of 2009 is rehabilitation. Performers abusers of narcotics for themselves in this regard is a narcotic addict is included self-victimizing victims are victims of crimes committed themselves (apparent victim) or a victimless crime. Victims of drug abuse is mutual victimization, namely the perpetrators of the victim is the perpetrator himself.

Treatment and care of drug addicts is done through a rehabilitation facility. Rehabilitation for drug addicts carried out with a view to restore and develop the physical, mental and social patient concerned. Rehabilitation is divided into two types, namely, medical rehabilitation and social rehabilitation. Medical rehabilitation of drug addicts held in the hospital held either by the government or the private sector appointed by the health minister. Nonetheless, shrimp legislation provides an opportunity for specific rehabilitation institution established by the community can do a medical rehabilitation drug addicts, the condition that an agreement with the Minister of Health.

## I. Reconstruction of Article 127 of Law Number 35 Year 2009 Rehabilitation of Children Against Abuse of Narcotics Guna For Punishment Based Progressive Law

Act No. 35 of 2009 was a criminal law reform because more attention to the condition of the perpetrator abusers of narcotics addicts more precise sentenced to undergo rehabilitation of the prison sentence. Then issued SEMA Number 04 Year 2010 regarding the Placement Abuse Guna, Guna Abuse Victims and Narcotic Addicts in Rehabilitation Institute of Medical and Social Rehabilitation. SEMA issuing No. 07 of 2009 and No. 04 of 2010 SEMA is a technical guidance in applying the provisions of the law governing the sentencing terms of rehabilitation of drug addicts and victims of drug abusers.

Based on the reviews victimology, classifies drug addicts as self-victimizing the victims of his crime victims themselves, then, the most appropriate judge sentenced rehabilitation. Because addicts need to get treatment and / or care, and because he is a party who also suffered the loss of an evil that is evil abusers of narcotics. It is known in fact, judges in handling cases drug addicts have difficulty determining that a person is experiencing addiction / drug dependence because in the case files often are not accompanied by documentary evidence that states a person experiencing drug dependence. The difficulty is what makes the judges tend to impose a prison sentence instead of rehabilitation.

Based on the above, in order to realize the imposition verdict rehabilitation of child abusers of narcotics as a punishment-based progressive law in bringing about restorative justice and the application of criminal provisions as a measure of last resort, which has been a difficulty for judges, then the provisions of Article 127 of Law No. 35 of 2009 needs to do the reconstruction, which states:

### Article 127

- (1) Setiap Penyalah Guna:
  - a. Narkotika golongan I bagi diri sendiri dipidana dengan pidana penjara paling lama 4 (empat) tahun;
  - b. Narkotika golongan II bagi diri sendiri dipidana dengan pidana penjara paling lama 2 (dua) tahun; dan
  - c. Narkotika golongan III bagi diri sendiri dipidana dengan pidana penjara paling lama 1 (satu) tahun.
  - d. **Ketentuan sebagaimana tersebut pada huruf a, b, dan c di atas tidak berlaku terhadap anak penyalah guna narkotika.**
- (2) Setiap anak penyalah guna narkotika wajib menjalani rehabilitasi medis:
  - a. Narkotika golongan I bagi diri sendiri menjalani rehabilitasi paling singkat 1 (satu) tahun;
  - b. Narkotika golongan II bagi diri sendiri menjalani rehabilitasi paling singkat 9 (sembilan) tahun;
  - c. Narkotika golongan III bagi diri sendiri menjalani rehabilitasi paling cepat 6 (enam) tahun: atau
  - d. **Ketentuan sebagaimana tersebut pada huruf a, b, dan c di atas wajib memperhatikan keterangan ahli.**
- (3) Dalam memutus perkara sebagaimana dimaksud pada ayat (1) **huruf a, b, dan c**, hakim wajib memperhatikan ketentuan sebagaimana dimaksud dalam Pasal 54, Pasal 55, dan Pasal 103.
- (4) Dalam hal penyalah guna sebagaimana dimaksud pada ayat (1) **huruf a, b, dan c**, dapat dibuktikan atau terbukti sebagai korban penyalah guna narkotika, penyalahguna tersebut wajib menjalani rehabilitasi medis dan rehabilitasi sosial.

**Reconstruction of Article 127 of Law Number 35 Year 2009  
Rehabilitation of Children Against Abuse of Narcotics Guna  
As Punishment Yang Based Progressive Law**

<b>Sebelum Rekostruksi</b>	<b>Hasil Rekonstruksi</b>
<p>1. Setiap Penyalah Guna:</p> <p>a. Narkotika golongan I bagi diri sendiri dipidana dengan pidana penjara paling lama 4 (empat) tahun;</p> <p>b. Narkotika golongan II bagi diri sendiri dipidana dengan pidana penjara paling lama 2 (dua) tahun; dan</p> <p>c. Narkotika golongan III bagi diri sendiri dipidana dengan pidana penjara paling lama 1 (satu) tahun.</p> <p>2. Dalam memutus perkara sebagaimana dimaksud pada ayat (1), hakim wajib memperhatikan ketentuan sebagaimana dimaksud dalam Pasal 54, Pasal 55, dan Pasal 103.</p> <p>3. Dalam hal penyalah guna sebagaimana dimaksud pada ayat (1) dapat dibuktikan atau terbukti sebagai korban penyalah guna narkotika, penyalahguna tersebut wajib menjalani rehabilitasi medis dan rehabilitasi sosial.</p>	<p>1. Setiap Penyalah Guna:</p> <p>a. Narkotika golongan I bagi diri sendiri dipidana dengan pidana penjara paling lama 4 (empat) tahun;</p> <p>b. Narkotika golongan II bagi diri sendiri dipidana dengan pidana penjara paling lama 2 (dua) tahun; dan</p> <p>c. Narkotika golongan III bagi diri sendiri dipidana dengan pidana penjara paling lama 1 (satu) tahun.</p> <p>d. <b>Ketentuan sebagaimana tersebut pada huruf a, b, dan c di atas tidak berlaku terhadap anak penyalah guna narkotika.</b></p> <p>2. <b>Setiap anak penyalah guna narkotika wajib menjalani rehabilitasi medis:</b></p> <p>a. <b>Narkotika golongan I bagi diri sendiri menjalani rehabilitasi paling singkat 1 (satu) tahun;</b></p> <p>b. <b>Narkotika golongan II bagi diri sendiri menjalani rehabilitasi paling singkat 9 (sembilan) tahun;</b></p> <p>c. <b>Narkotika golongan III bagi diri sendiri menjalani rehabilitasi paling cepat 6 (enam) tahun: atau</b></p> <p>d. <b>Ketentuan sebagaimana tersebut pada huruf a, b, dan c di atas wajib memperhatikan keterangan ahli.</b></p> <p>3. Dalam memutus perkara sebagaimana dimaksud pada ayat (1) <b>huruf a, b, dan c</b>, hakim wajib memperhatikan ketentuan sebagaimana dimaksud dalam Pasal 54, Pasal 55, dan Pasal 103.</p> <p>4. Dalam hal penyalah guna sebagaimana dimaksud pada ayat (1) <b>huruf a, b, dan c</b>, dapat dibuktikan atau terbukti sebagai korban penyalah guna narkotika, penyalahguna tersebut wajib menjalani rehabilitasi medis dan rehabilitasi sosial.</p>

**J. Conclusion**

Reconstruction of sentencing child abusers of narcotics with the principle of diversion and restorative justice with due regard to the principle of the best interests of the child that is no crime to children, through the reconstruction of Article 127 paragraph (1) of Law No. 35 of 2009 by adding provisions stated in Article 127 paragraph (1) letter a, b, and c does not



apply to child abusers of narcotics, and every child abusers of narcotics required to undergo medical rehabilitation. it can realize the decision imposing the rehabilitation of child abusers of narcotics as a punishment-based progressive law in realizing the restorative justice.

Through the theory of restorative rehabilitif (returns to its original state through rehabilitation) with due regard to the principle of the best interests of the child are not criminal for children, researchers conducted a reconstruction of Article 127 paragraph (1) of Law No. 35 of 2009 by adding provisions stated in Article 127 paragraph (1) a, b, and c does not apply to child abusers of narcotics, and every child abusers of narcotics required to undergo medical rehabilitation. it can realize the decision imposing the rehabilitation of child abusers of narcotics as a punishment-based progressive law in realizing the restorative justice.

## BIBLIOGRAFY

- Abdul Hakim Garuda Nusantara, *Prospek Perlindungan Anak*, Rajawali, Jakarta, 2006.
- Ahmad Kamil, *Filsafat Kebebasan Hakim*, Kencana, Jakarta, 2012
- Ahmad Kamil dan M Fauzan, *Kaidah-Kaidah Hukum Yurisprudensi*, Kencana, Jakarta, 2008.
- Ahmad Rifai, *Penemuan Hukum oleh Hakim Dalam Perspektif Hukum Progresif*, Sinar Grafika, Jakarta, 2011.
- Aminah Azis, *Aspek Hukum Perlindungan Anak*, USU Press, Medan, 1998.
- Ansyahrul, *Pemuliaan Peradilan: dari Dimensi Integritas Hakim, Pengawasan, dan Hukum Acara*, Mahkamah Agung, Jakarta, 2011.
- Apong Herlina, *Perlindungan Terhadap Anak Yang Berhadapan Dengan Hukum, Buku Saku Untuk Polisi*, Unicef, Jakarta, 2004
- Ari Wibowo, *Mewujudkan Keadilan Melalui Penerapan Hukum Progresif*, Aswaja Pressindo, Yogyakarta, 2013.
- A R Sujono dan Bony Daniel, *Komentar dan Pembahasan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika*, Sinar Grafika, Jakarta, 2011
- Boy Nurdin, *Kedudukan dan Fungsi Hakim Dalam Penegakan Hukum di Indonesia*, Alumni, Bandung, 2012.
- Djisman Samosir, *Fungsi Pidana Penjara dalam Pemidanaan di Indonesia*, Binacipta, Bandung, 1992.
- Dikdik, M. Arif Mansur, dan Elisatris Gultom, *Urgensi Perlindungan Kejahatan*, Raja Grafindo Persada, Jakarta, 2007.
- Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Refika Aditama, Bandung, 2006
- Gatot Supramono, *Hukum Narkoba Indonesia*, Djambatan, Jakarta, 2004.
- Hari Sasangka, *Narkotika dan Psikotropika Dalam Hukum Pidana Untuk Mahasiswa dan Praktisi Serta Penyuluh Masalah Narkoba*, Mandar Maju, Bandung, 2003
- Irma Setyowati, *Aspek Hukum Perlindungan Anak*, Bumi Aksara, Jakarta, 1990
- Maidin Gultom, *Perlindungan Terhadap Anak Dalam Sistem Peradilan Pidana Anak di Indonesia*, Refika Aditama, Bandung, 2008.
- Marlina, *Pengantar Konsep Diversi dan Restoratif Justice Dalam Hukum Pidana Anak*, USU Press, Medan, 2010
- , *Peradilan Pidana Anak di Indonesia, Pengembangan Konsep Diversi dan Restorative Justice*, Refika Aditama, Bandung, 2009.
- Maulana Hasan Wadong, *Advokasi dan Hukum Perlindungan Anak*, Grasindo, Jakarta, 2000.
- M. Nasir Djamil, *Anak Bukan Untuk Dihukum*, Sinar Grafika, Jakarta, 2013.
- Nandang Sambas, *Peradilan Pidana Anak di Indonesia dan Instrumen Internasional Perlindungan Anak serta Penerapannya*, Graha Ilmu, Yogyakarta, 2013.

Nashriana, *Perlindungan Hukum Pidana bagi Anak di Indonesia*, Raja Grafindo Persada, Jakarta, 2011

Wagiati Soetodjo, *Hukum Pidana Anak*, Refika Aditama, Bandung, 2006.

Wahyu Afandi, *Hakim dan Penegakan Hukum*, Penerbit Alumni, Bandung, 1991

Undang Undang Dasar Negara Republik Indonesia Tahun 1945

Kitab Undang-Undang Hukum Pidana

Undang-Undang Nomor 8 Tahun 1976 tentang Pengesahan Konvensi Tunggal Narkotika beserta protokol yang mengubahnya

Undang-Undang Nomor 9 Tahun 1976 tentang Narkotika

Undang-Undang Nomor 4 Tahun 1979 tentang kesejahteraan Anak

Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana

Undang-Undang Nomor 23 Tahun 1992 tentang Kesehatan

Undang-Undang Nomor 8 Tahun 1996 tentang Pengesahan Convention on Psychotropic substances 1971(Konvensi Psikotropika 1971)

Undang-Undang Nomor 3 Tahun 1997 tentang Pengadilan Anak

Undang-Undang Nomor 5 Tahun 1997 tentang Psikotropika

Undang-Undang Nomor 7 Tahun 1997 tentang Pengesahan *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1988 (Konvensi Perserikatan Bangsa-bangsa tentang Pemberantasan Peredaran Gelap Narkotika dan Psikotropika,1988)

Undang-Undang Nomor 22 Tahun 1997 tentang Narkotika

Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia

Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

Undang-Undang Nomor 4 Tahun 2004 tentang Kekuasaan Kehakiman

Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia

Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika

Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan

Undang-Undang Nomor 48 Tahun 2009 tentang kekuasaan kehakiman

Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak

Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

Peraturan Pemerintah Nomor 25 Tahun 2011 tentang Wajib Laport Pecandu Narkotik

Peraturan Bersama Ketua Mahkamah Agung, Menteri Hukum dan Hak Asasi Manusia, Menteri Kesehatan, Menteri Sosial, Jaksa Agung, Kepala Kepolisian, Kepala Badan Narkotika Nasional. Nomor 01/PB/MA/III/2014, Nomor 03 Tahun 2014, Nomor 11 Tahun 2014, Nomor 03 Tahun 2014, Nomor PER-005/A/JA/03/2014, Nomor 1 Tahun 2014, Nomor PERBER/01/III/2014/BNN tentang Penanganan Pecandu Narkotika dan Korban Penyalahgunaan Narkotika ke dalam Lembaga Rehabilitasi.

- Surat Edaran Mahkamah Agung Nomor 4 Tahun 2010 tentang Batasan Barang Bukti Yang Dapat Dimintakan Rehab ataupun Dapat Dinyatakannya Seseorang Tersangka atau Terdakwa Sebagai Penyalahguna
- Surat Edaran Jaksa Agung Nomor SE-004/J.A/11/1993 tentang Pembuatan Surat Dakwaan
- Adolf Heuken, *Teladan Hakim yang Bijaksana, Tegas, dan Memperhatikan Situasi*, Jurnal Keadilan, Volume 2 Nomor 1 Tahun 2002.
- Anang Iskandar (Kepala BNN), *Roger, Layak ditahan atau di rehab*, ILC di TV One, 25 Februari 2014.
- Andi Hamzah, *Kemandirian dan Kemerdekaan Kekuasaan Kehakiman*, Makalah Disampaikan Pada Seminat Pembangunan Hukum Nasional VIII Badan Pembinaan Hukum Nasional, Departemen Kehakiman dan Hak Asasi Manusia, Denpasar, 14-18 Juli 2003.
- Aswandi, *Kajian Terhadap Putusan Perkara Nomor 325/Pid.B/2002/PN.PTK tentang Tindak Pidana Penggelapan Terhadap Modal Kerjasama Usaha*, Jurnal Yudisial; Kajian Kehormatan, Keluhuran Martabat dan Perilaku Hakim, Komisi Yudisial Republik Indonesia, Volume I Nomor 1, Agustus 2007.
- Bambang Kesowo, *Negara Hukum, Program Legislasi Nasional, dan Kebutuhan Desain Besar Bagi Perencanaannya*, Makalah disampaikan pada Rapat Senat Terbuka dalam rangka Dies Natalis ke-66 Fakultas Hukum Universitas Gadjah Mada, Yogyakarta, 17 Februari 2012.
- Bambang Sutiyoso, *Mencari Format Ideal Keadilan Putusan Dalam Peradilan*, Jurnal Hukum Nomor 2 Volume 17 April 2010.
- Barda Nawawi Arief, *Masalah Pidana Perampasan Kemerdekaan dalam KUHP Baru*, Masalah-masalah Hukum Nomor Edisi Khusus, Universitas Diponegoro, Semarang, 1997.
- Chairul Akhmad, *Polisi Tangkap Pengedar Narkoba di Kalangan Pelajar*, <http://www.republika.co.id/berita/nasional/hukum/11/10/14>.
- Dodo S D W, *Asas Negara Hukum Menurut Paham Pancasila*, Jurnal Keadilan Volume 2 Nomor 1 Tahun 2002.
- Esmi Warassih, *Hukum Progresif Jawaban Alternatif Menuju Pembangunan Hukum Indonesia Menghadapi Mafia Peradilan*, Makalah disampaikan pada Seminar Nasional Menembus Kebuntuan Legal Formal Menuju Pembangunan Hukum dengan Pendekatan Hukum Progresif, Fakultas Hukum Universitas Diponegoro 19 Desember 2009.
- Erlyn Indarti, *Diskresi dan Paradigma Sebuah Telaah Filsafat Hukum*, Pidato Pengukuhan Jabatan Guru Besar dalam Filsafat Hukum pada Fakultas Hukum Universitas Diponegoro, Semarang, 2010.
- Erlyn Indarti, *Legal Constructivism: Paradigma Baru Pendidikan Dalam Rangka Pembangunan Masyarakat Madani*, dalam Majalah Ilmiah Masalah-Masalah Hukum, Volume XXX, Nomor 3 Juli – September 2001.
- Fabian Januarius Kuwando, *Sambil Pesta Sabu, Hakim Puji Bahas Kasus PTUN*, <http://megapolitan.kompas.com/2012/10/23/11212281>.



- Faisal A. Rani, *Hakim Sebagai Quasi Legislator*, Jurnal Hukum Pro Justitia, Tahun ke XX Nomor 2 April 2002.
- Frans H. Winata, *Pencapaian Supremasi Hukum yang Beretika dan Bermoral*, Jurnal Hukum Pro Justitia, Tahun XX Nomor 1 Januari 2003.
- Harkristuti Harkrisnowo, *Rekonstruksi Konsep Pidanaan: Suatu Gugatan Terhadap Proses Legislasi dan Pidanaan di Indonesia*, Orasi pada Upacara Pengukuhan Guru Besar Tetap dalam Ilmu Hukum Pidana Fakultas Hukum Universitas Indonesia di Balai Sidang Universitas Indonesia, Depok, 8 Maret 2003.
- Idris, *Penemuan Hukum Nasional dan Internasional (dalam rangka Purna Bakti Prof. Dr. Yudha Bhakti, SH., MH)*. Fikahati Aneska, Bandung, 2012.
- Lihat Kompas, 27 Pebruari 2004. Saat ini lembaga pemasyarakatan anak di ndonesia kewalahan karena isinya melebihi kapasitas dalam pembinaan anak nakal.
- Mahrus Ali, *Sistem Peradilan Pidana Progresif: Alternatif dalam Penegakkan Hukum Pidana*, Jurnal Hukum, Volume 14 Nomor 2 Edisi April 2007, Universitas Islam Indonesia, Yogyakarta .
- Majallah SINAR edisi II – 2014 Badan Narkotika Nasional Republik indonesia, Sinergitas BNN dan POLRI dalam P4GN.
- Malik, *Telaah Makna Hukum Putusan Mahkamah Konstitusi yang Final dan Mengikat*, Jurnal Konstitusi, Volume 6 Nomor 1 Tahun 2009.
- Marjanne Termorshuizen Arts, *Asas Legalitas Dalam Hukum Pidana Indonesia dan Belanda*, Makalah disampaikan pada Ceramah Hukum Pidana *Same Root, Different Development*, Fakultas Hukum Universitas Indonesia, Depok, 3-4 April, 2006.
- Marlina, *Penerapan Konsep Diversi Terhadap Anak Pelaku Tindak Pidana dalam Sistem Peradilan Pidana Anak*, Jurnal Equality, Volume 13 Nomor 1 Februari 2008
- Masdar F Mas'udi, *Meletakkan Kembali Masalah Sebagai Acuan Syari'ah*, Jurnal Ilmu dan Kebudayaan Ulumul Qur'an Nomor 3 Volume VI Tahun 1995.
- M Dawam Raharjo, *Zalim*, Jurnal Ulumul Qur'an, Nomor 4 Volume V, 1994.
- Moh. Koesnoe. *Apa Artinya Yuridis itu? Kajian Ukuran dan Persoalannya Dewasa ini, Varia Peradilan* Nomor 118 Edisi Juli 1995.
- Moh Koesnoe, *Kedudukan dan Tugas Hakim Menurut Undang-Undang Dasar 1945*, Ubhara Press, Surabaya, 1998.
- M. Syamsudin, *Kecenderungan Paradigma Berpikir Hakim Dalam Memutuskan Korupsi*, Jurnal Media Hukum Fakultas Hukum Universitas Muhammadiyah Yogyakarta, Volume 15 Nomor 2, Desember 2008.
- M. Syamsudin, *Pemaknaan Hakim tentang Korupsi dan Implikasinya terhadap Putusan: Studi Perspektif Hermeneutika Hukum*, Jurnal Mimbar Hukum, Fakultas Hukum Universitas Gajah Mada,, Volume 22 Nomor 4 Oktober 2010.
- Muladi, *Pidana Mati Ditinjau Dari Sudut Tujuan Pidanaan*, Makalah Pada Simposium Nasional Tentang Relevansi Pidana Mati di Indonesia, yang diselenggarakan oleh Fakultas Hukum Universitas Muhammadiyah Surakarta, 15 Juni 1989

- Nasaruddin Umar, *Peran Departemen Agama Dalam Pelaksanaan Terapi dan Rehabilitasi Bagi Korban Penyalahgunaan Narkoba*, disajikan dalam Lokakarya Peran Institut Agama dalam Penanganan Korban Penyalahgunaan Narkoba, Badan Narkotika Nasional, Jakarta, 15 Agustus 2007.
- Niken Savitri, *Tugas Hakim dan Penafsiran Atas KUHP*, Jurnal Hukum Pro Justitia, Volume 25 Nomor 4 Oktober 2007.
- Nurul Qamar, *Percikan Pemikiran Tentang Hukum*, Pustaka Refleksi, Makassar, 2011.
- Parsudi Suparlan, *Paradigma Naturalistik dalam Penelitian Pendidikan: Pendekatan Kualitatif dan Penggunaannya*, Majalah Antropologi Indonesia Nomor 53, Volume 21 Tahun 1997, Fakultas Ilmu Sosial dan Ilmu Politik Universitas Indonesia, Jakarta.
- Paulus Effendie Lotulong, *Kebebasan Hakim Dalam Sistem Penegakan Hukum*, <http://www.Ifip.Org/english/pdf/Kebebasan%20Hakim%20-%20paulus%20lotulong.pdf>.
- Paulus Hadisuprpto, *Pemberian Malu Reintegratif sebagai Sarana Nonpenal Penanggulangan Perilaku Delinkuen Anak ( Studi kasus di Semarang dan Surakarta)*, Disertasi Program Doktor Ilmu Hukum Universitas Diponegoro, Semarang, 2003.
- Redaktur Koran Tempo, *Tahun Darurat Narkotik*, Koran Tempo Edisi 22 September 2011.
- Ridwan, *Kebijakan Penegakan Hukum Pidana Dalam Pemberantasan Tindak Pidana Korupsi di Indonesia*, Jurnal Jure Humano, Volume Nomor 1, 2009.
- Ridwan, *Memunculkan Karakter Hukum Progresif dari Asas-asas Umum Pemerintahan yang Baik Solusi Pencarian dan Penemuan Keadilan Substantif*, Jurnal Hukum Pro Justitia, Volume 27 Nomor 1 April 2009.
- Ronny R Nitibaskara, *Hukum sebagai Alat Kejahatan*, Kompas, 16 Oktober, 2000.
- Ruben Achmad, *Upaya Penyelesaian Masalah Anak yang Berkonflik Dengan Hukum di Kota Palembang*, dalam Jurnal Simbur Cahaya Nomor 27 Tahun X, Januari, 2005.
- Saifur Rohman, *Menembus Batas Hukum*, Opini Kompas, 22 Januari 2010..
- Satjipto Rahardjo, *Bersatulah Hukum Progresif*, Kompas, 6 September 2004.
- , *Hukum Progresif: Hukum Yang Membebaskan*, Jurnal Hukum Progresif Volume 1 Nomor 1 April 2005.
- , *Konstitusional dari Dua Sudut Pandang*, Kompas, 7 September 1998.
- , *Biarkan Hukum Mengalir Catatan Kritis tentang Pergulatan Manusia dan Hukum*, Kompas, Jakarta, 2007.
- , *Kemanusiaan, Hukum dan Teknokrasi*, Makalah pada Program Doktor Ilmu Hukum Universitas Diponegoro, Semarang, 2005.
- , *Mengejar Keteraturan Menemukan Ketidakteraturan, (Teaching Order Finding Disorder)*, Pidato mengakhiri Masa Jabatan sebagai Guru Besar Tetap pada Fakultas Hukum Universitas Diponegoro Semarang, 15 Desember 2000.
- Shidarta, *Filosofi Penalaran Hukum Hakim Konstitusi dalam Masa Transisi Konstitusionalitas*, Jurnal Hukum Jentera, Edisi 11 Tahun III, Januari-Maret 2006.
- Sri Murdijati, *Kenakalan Anak, Penyebab dan Penanggulangannya*, makalah, Semiloka tentang Anak Yang Berkonflik Dengan Hukum, PKPM Unika Atma Jaya Jakarta

berkerjasama dengan Catholic University of Nijmegen Belanda, Jakarta, 5-6 Agustus 1998 di Aula Gedung D Unika Atma Jaya

- Suadamara Ananda, *Hukum dan Moralitas*, Jurnal Hukum Pro Justitia, Volume 24 Nomor 3 Juli 2006.
- Sutanto, *Independensi Lembaga Peradilan di Indonesia*, (Makalah disampaikan dalam Diskusi Panel Pembangunan Hukum Arah Pengembangan Sistem Peradilan Indonesia, diselenggarakan oleh Badan Pembinaan Hukum Nasional Departemen Hukum dan Hak Asasi Manusia dan Fakultas Hukum Universitas Gajah Mada, Yogyakarta, tanggal 24-27 April 2007.
- Theresia Anita Christiani, *Studi Hukum Berdasarkan Perkembangan Paradigma Pemikiran Hukum Menujur Metode Holistik*, Jurnal Hukum Pro Justitia, Volume 26 Nomor 4 Oktober 2008,.
- Turiman, *Memahami Hukum Progresif Prof. Satjipto Rahardjo Dalam Paradigma Thawaf (Sebuah Kontemplasi Bagaimana Mewujudkan Teori Hukum yang Membumi/Grounded Theory Meng-Indonesia)*, <http://eprint.undip.ac.id>.
- Wisnubroto, *Upaya Mengembalikan Kemandirian Hakim Melalui Pemahaman Realitas Sosialnya*, Jurnal Hukum Pro Justitia, Tahun Ke XX Nomor 1 Januari 2003.
- Yanuar Sadewa, *Bimbingan dan Penyuluhan Islam Terhadap Bahaya Narkoba*, makalah Badan Narkotika Nasional 21 Agustus 2007.
- Yohanes Suhardin, *Paradigma Rule Breaking dalam Penegakan Hukum yang Berkeadilan*, Jurnal Hukum Pro Justitia, Volume 26 Nomor 3 Juli 2008.
- Yudi Kristiana, *Rekonstruksi Birokrasi Kejaksaan dengan Pendekatan Hukum Progresif (Studi Penyelidikan, Penyidikan dan Penuntutan Tindak Pidana Korupsi)*, dalam *Jurnal Hukum Progresif*, Volume 3 Nomor 1 April 2007, Program Doktor Ilmu Hukum Universitas Diponegoro, Semarang, halaman 26.
- Yutirsa Yunus, *Analisis Konsep Restorative Justice Melalui Sistem Diversi Dalam Sistem Peradilan Pidana Anak Di Indonesia*, Dalam *Jurnal Rechtsvinding*, Volume 2 Nomor 2, Agustus 2013.