The Digest: Journal of Jurisprudence and Legisprudence

A peer-reviewed journal published by Faculty of Law Universitas Negeri Semarang, Indonesia. The title has been indexed by SINTA, GARUDA.
ISSN 2746-2110 (Print) 2746-0371 (Online)
Online at https://journal.unnes.ac.id/sju/index.php/digest

The Judge's Perspective on Material Unlawfulness in Cases of Illegal State House Control

(Case of Decision Number 2002/Pid.B/2011/PN.Jkt.Pst)

Emmilia Rusdiana[1*], Rena Arya Febrianti[2], Dandi Akbar Putra[3]
[1, 2] Faculty of Law, Universitas Negeri Surabaya, Indonesia
[3] National Cheng Kung University, Taiwan

*Correspondence author: emmiliarusdiana@unesa.ac.id

Abstract

This study explores the legal issues arising from housing and settlements, where individuals may assume defendant status when occupying a house without ownership, a status valid only with the owner's approval. The enactment of Law Number 1 of 2011, which revokes Law Number 4 of 1992, prompts judges to ponder its implications, especially in relation to Article 1 paragraph (2) of Law Number 1 of 1946 concerning the Indonesian Criminal Code (KUHP). The judge's decision, linked to the unlawfulness of the case, raises significant concerns. This paper seeks to underscore the inaccuracies in the judge's interpretation of Criminal Code Article 1 paragraph (2) and the disregard for material law in the decision-making process. The research findings unveil a disparity in perspectives between Law Number 4 of 1992 and Law Number 1 of 2011 concerning case handling, leading to the conclusion that the case fails to satisfy the elements of Criminal Code Article 1 paragraph (2). The judge's misinterpretation is rooted in prioritizing the principle of legality (Article 1 paragraph 1) while overlooking the violation of material law. Importantly, this research contributes a nuanced understanding of the legal landscape, shedding light on the implications of housing laws and their intersection with criminal statutes.

Keywords

Judge's interpretation; Housing and settlement law; Article 1 paragraph (2) of the Criminal Code; Against material law.

Introduction

The issue of judicial interpretation consistently permeates the fabric of legal decisions, extending to the methods employed.[1] It is customary to afford judges substantial leeway, avoiding the imposition of a rigid interpretative framework. Criticism is also directed at the judge's application of regulations in Indonesia.[2] Interpretation, far from a mechanical process, endows the judge with a degree of discretion in deciphering word meanings and shaping subsequent outcomes.[3] The Realist Vision of statutory interpretation bears a striking resemblance to microeconomics teachings. Advocates of the Realist Vision align with economists, asserting that the court's interpretation of legal language is inherently laden with values.[4]

The intricacies of judicial interpretation come to the fore when exploring regulations, specifically exemplified in Law Number 4 of 1992 concerning Housing and Settlements, hereafter referred to as The Law Number 4 of 1992. In Article 12, paragraph (1), the law stipulates that the occupancy of a house by a non-owner holds validity only in the presence of explicit consent or permission from the rightful owner. Adding a layer of complexity, Article 36, paragraph (4) of the same law deems Article 12, paragraph (1) as a prohibited provision, entailing potential criminal sanctions.[5]

This legal framework not only delves into the intricacies of property occupancy but also presents a fascinating study on the interplay between consent and legality. The dual perspectives within the law, wherein consent is a prerequisite for validity, yet its absence invites criminal consequences,

---

1 Maurice Sheldon Amos, "The Interpretation of Statutes." *The Cambridge Law Journal* 5, no. 2 (1934): 163-175.

2 Muslim Andi Yusuf, and Dharma Fidyansari. "Interpretation of Judges in Supreme Court Decision Number: 46 P/HUM/2018." *Substantive Justice International Journal of Law* 2, no. 2 (2019): 147-160.

3 Lillian Corbin, "The role of statutory interpretation in law-making through the courts." *Legaldate* 19, no. 2 (2007): 1-3.

4 Randal NM. Graham, "What judges want: judicial self-interest and statutory interpretation." *Statute Law Review* 30, no. 1 (2009): 38-72.

5 *See* Ratri Novita Erdianti, Said Noor Prasetyo, and Kukuh Dwi Kurniawan. "Criminal Acts of Refusing Housing Organizations and Settlement Companies in Indonesia." *2nd International Conference on Law Reform (INCLAR 2021)*. Atlantis Press, 2021; Sufirman Rahman, Hardianto Djanggih, and Futri Patrisia. "Implementasi Hukum Terhadap Alih Fungsi Lahan Pertanian Menjadi Lahar Perumahan di Kabupaten Jeneponto." *Indonesian Journal of Criminal Law* 4, no. 1 (2022): 94-111. *See also* Empire Hechime Nyekwere, et al. "Constitutional and judicial interpretation of environmental laws in Nigeria, India and Canada." *Lex Scientia Law Review* 7, no. 2 (2023): 905-958; Ridwan Arifin, "Translating the Meaning of Justice and Legal Protection: What exactly is justice?." *Journal of Indonesian Legal Studies* 7, no. 1 (2022): i-iv.

raise thought-provoking questions about the balance between individual rights and legal prohibitions. This multifaceted examination sheds light on the broader implications of judicial interpretation within the context of housing and settlements, offering insights into the delicate dance between legal principles and societal norms.[6]

Furthermore, in a recent judicial pronouncement, the Central Jakarta District Court, as delineated in Decision Number 2002/Pid.B/20011/PN.Jkt.Pst, adjudicated that the defendant, H. Danas Dalimunthe, held an employment position with PT Angkasa Pura I (Persero) and had been conferred with residential privileges from 1999. However, the court concluded that commencing in 2001, the defendant was duty-bound to relinquish the provided accommodations. The judicial rationale emanated from the formulation of the defendant's actions, invoking the stipulations of Article 12, paragraph (1) in conjunction with Article 36, paragraph (4) of Law Number 4 Year 1992. The court explicitly delineated that the transgression of this statutory provision transpired between December 1, 2001, and December 7, 2011.

The judicial decree asserted that the defendant, occupying an official residence without ownership rights, had legally committed a criminal offense under Article 12, paragraph (1), in conjunction with Article 36, paragraph (4) of Law Number 4 Year 1992. Notably, Law Number 1 Year 2011 on Housing and Settlements superseded and replaced Law Number 4 Year 1992, hereinafter referred to as Law Number 1 Year 2011. In accordance with Article 166, Law Number 1 Year 2011 explicitly annulled and invalidated Law Number 4 Year 1992, and as outlined in Article 167, this revocation took effect on January 12, 2011.

The judge scrutinized the prosecutor's indictment, highlighting a discrepancy where, as of the indictment's drafting, Law Number 1 Year 2011 was already in effect, contrary to the assertion that Law Number 4 Year 1992 still prevailed on August 1, 2011. In response, the prosecutor contested the judge's position, arguing against the infringement of the principle of *nullum delictum nulla poena sine praevia lege poenali* and contending that Law Number 1 Year 2011 could not retroactively apply.[7]

---

6 *See* Joseph Raz, "Legal Principles and the Limits of Law." *The Yale Law Journal* 81, no. 5 (1972): 823-854; Nagel, Thomas. "Personal rights and public space." *Philosophy & Public Affairs* (1995): 83-107.

7 Dani Muhtada, and Ridwan Arifin. "Penal Policy and the Complexity of Criminal Law Enforcement: Introducing JILS 4 (1) May 2019 Edition." *Journal of Indonesian Legal Studies* 4, no. 1 (2019): 1-6; Indah Sri Utari, and Ridwan Arifin. "Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?." *Journal of Law and Legal Reform* 1, no. 1 (2020): 1-4. *See also* Marisa Kurnianingsi, and Andria Luhur Prakosa. "Humanity values on reconciliation in

The judge, however, approached the legal transition by invoking Article 1, paragraph (2) of the Criminal Code, which dictates that if legislative changes occur after an act is committed, the most lenient rule for the defendant is to be applied. Drawing from the rationale presented in the book *'Some thoughts towards the development of law*,' the judge concluded that the provisions outlined in Article 12, paragraph (1) in conjunction with Article 36, paragraph (4) of Law Number 4 Year 1992 were either absent, unregulated, or lacked equivalence in Law Number 1 Year 2011.[8]

The judge's findings emphasized that, under Law Number 4 Year 1992, the occupation of a house by a non-owner was deemed a criminal offense. However, Law Number 1 Year 2011, in effect since 2011, no longer classifies this as a criminal offense. Consequently, applying the principle outlined in Article 1, paragraph (2) of the Criminal Code, the defendant cannot be prosecuted, as the actions no longer qualify as a criminal offense. Hence, the defendant was exonerated from all legal charges.

This case holds particular interest due to the judge's interpretation of Article 1, paragraph (2) of Law Number 1 Year 1946, pertaining to the Indonesian Criminal Law Regulations, commonly known as the Criminal Code. This interpretation led to the reclassification of Article 12 of Law Number 4 Year 1992 as non-criminal, a status in effect since 2011.

Given the aforementioned context, this study aims to assess the precision of the judge's interpretation regarding the application of Article 1, paragraph (2) of the Criminal Code to Law Number 4 of 1992. Additionally, it seeks to scrutinize the judge's interpretation in Decision Number 2002/Pid.B/20011/PN.Jkt.Pst in connection with the inherent characteristics of material law.

Method

This research, adopting a normative juridical approach with a doctrinal perspective, centers on a meticulous examination of applicable laws and regulations. Specifically, it delves into the accuracy of the judge's

criminal law: Indonesian criminal law renewal perspective." *Halu Oleo Law Review* 6, no. 2 (2022): 137-150.

8 *See* Abd. Hakim G. Nusantara and Nasroen Yasabari (eds). *Beberapa Pemikiran Pembangunan Hukum di Indonesia*. (Bandung: Alumni, 1980). *See also* Satjipto Rahardjo, "Pembangunan Hukum Di Indonesia Dalam Konteks Global." *Perspektif* 2, no. 2 (1997): 1-10; Azmi Fendri, "Perbaikan sistem hukum dalam pembangunan hukum di indonesia." *Jurnal Ilmu Hukum* 1, no. 2 (2011); Ilham Yuli Isdiyanto, "Menakar "Gen" Hukum Indonesia Sebagai Dasar Pembangunan Hukum Nasional." *Jurnal Hukum & Pembangunan* 48, no. 3 (2018): 589-611.

interpretation concerning the application of Article 1, paragraph (2) of the Criminal Code to Law Number 4 Year 1992, as well as scrutinizes the judge's reasoning in Decision Number 2002/Pid.B/20011/PN.Jkt.Pst in light of the material law's nature.

The primary legal materials under consideration include Law Number 1 Year 1946 on criminal law regulations in Indonesia, Law Number 4 Year 1992 on Housing and Settlements, and Law Number 1 Year 2011 on housing and settlements. In tandem, secondary legal materials, comprising relevant books, articles, and reports, supplement the research focus by providing nuanced insights into the intricacies surrounding the interpretation and application of these legal provisions.

This research employs a dual-pronged methodology, integrating both a statutory approach and a conceptual approach. The statutory approach involves a meticulous examination of the material and content of relevant legislation and regulations, specifically those pertaining to the theme under investigation. The focus is on scrutinizing and analyzing the statutes associated with the judge's interpretation, particularly Article 1, paragraph (2) of the Criminal Code, and laws such as Law Number 4 Year 1992 on Housing and Settlements, and Law Number 1 Year 2011 on housing and settlements.

In tandem, the conceptual approach involves a broader exploration of legal doctrines, theories, and scholarly perspectives related to the research problem. This includes engaging in literature studies to collect data, utilizing primary legal materials and regulations as foundational resources. The literature studies encompass not only the statutory aspects but also extend to secondary legal materials, such as books, articles, and reports, providing a comprehensive understanding of the legal landscape surrounding the accuracy of the judge's interpretation.[9]

Unlawfulness in Indonesian Criminal Law: The Judge's Interpretation on Decision Number 2002/Pid.B/20011/PN.Jkt.Pst

The first and foremost principle in discussing criminal offenses is the principle of legality. There are three meanings of the principle of legality, namely as follows: that the law must be formulated in detail and carefully,

[9] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta.: PT Raja Grafindo Persada, 2001).

or known as *the lex certa* principle. The principle of *lex certa* is the principle that requires the formulation to be precise and careful and not cause multiple interpretations[10]. This principle is also known as *bestimmtheitsgebot*, that the formulation of legal provisions that are unclear and too complicated will only lead to legal uncertainty and hinder the success of criminal prosecution efforts because citizens will always be able to defend themselves that such provisions are not helpful as guidelines for behavior[11].

Machteld Boot's statement means that every legal norm requires interpretation, as well as Van Bemmelen and Van Hattum that every written statutory rule requires interpretation, and it is also impossible to apply legislation without using interpretation[12], and the law will only work with interpretation because the law requires further interpretation in order to become fairer and more grounded. Making law is a right, and interpreting the law that has been made is the next necessity[13].

Efforts to apply legal regulations to concrete events require interpretation in criminal law. The general principles in interpretation are as follows: Two main principles in the principle of regulation are closely interrelated, namely the principle of proportionality and the principle of subsidiarity. The principle of proportionality is a balance between the means and ends of a law. Meanwhile, the principle of subsidiarity is used when facing a complex problem that raises several alternative solutions, so the solution that causes the least harm is chosen.[14]

---

[10] Didik Endro Purwoleksono, *Hukum Pidana Untaian Pemikiran*. (Surabaya: Airlangga University Press, 2019).

[11] Jan Remmelink. *Hukum Pidana. Komentar Atas Pasal-Pasal Terpenting Dalam Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*. (Jakarta: Gramedia Pustaka Utama, 2003).

[12] Eddy O.S. Hiariej, *Teori & Hukum Pembuktian* (Jakarta: Erlangga, 2012). *See also* J. M. Van Bemmelen, "Pioneers in Criminology VIII--Willem Adriaan Bonger (1876-1940)." *Journal of Criminal Law and Criminology* 46, no. 3 (1955): 293-302; Nur Ainiyah Rahmawati, "Hukum Pidana Indonesia: Ultimum Remedium Atau Primum Remedium." *Recidive* 2, no. 1 (2013): 39-44; Ketut Ardika, "The Role of Ultimum Remedium Principles as a Basis for Thinking of the Implementation of Criminal Law in Resolving Legal Problems." *Proceedings of the 2nd International Conference on Law, Social Sciences and Education, ICLSSE 2020, 10 November, Singaraja, Bali, Indonesia*. 2021.

[13] Satjipto Rahardjo, *Penegakan Hukum, Suatu Tinjauan Sosiologi* (Yogyakarta: Genta Publishing, 2009).

[14] Eddy OS Hiariej. *Prinsip-Prinsip Hukum Pidana*. (Yogyakarta: Atmajaya University, 2014). *See also* Gusti Ayu Ketut Rachmi Handayani, et al. "Retributive Justice Theory and the Application of the Principle of Sentencing Proportionality in Indonesia." *Journal of Legal, Ethical and Regulatory Issues* 21, no. 4 (2018): 1-8; Achmad Bustomi, "The Legality Principle Application in Indonesian Criminal Law System." *Nurani Hukum* 4, no. 2 (2021): 29-37; Rifqi Sjarief, "Criminal Sentencing in

A. Unlawfulness in criminal law

Every criminal act is against the law. The law in the phrase against the law includes first, written law or *objective recht*, second *subjective recht* or a person's right. Third, without power or authority[15]. Whether the criminal act is in the formulation of the offense or not.

There are four types of unlawfulness. First, general unlawful nature, namely against the law as an element of criminal acts can be said to be general unlawful nature (*generale wedeterrechtelijkheid*), because the elements of criminal acts consist of fulfilling the offense against the law and can be reproached[16].

Second, the nature of the particular law (*speciale wedeterrechtelijkheid*). Usually, the word against the law is included in the formulation of the offense. Thus, unlawfulness is a written requirement for the criminalization of an act. However, according to Schraffmeizer, that against the law should not be mentioned in the offense formulation[17].

Third, the nature of being against the formal law (*formeel wederrechtelijkheid*) means that all parts (elements) of the offense formulation have been fulfilled. That it violates formal law is clear because it contradicts the law. However, not in harmony with formal law and is also against material law, among the accurate understanding of the law, not only based on written positive law, but also based on general principles of law, also rooted in unwritten norms. As stipulated in Article 1 paragraph (1) of the Criminal Code, the punishment of every act adheres to the nature of formal law against the law[18].

Fourth, there are two views on the nature of material law (*materieel wederrechtelijkheid*). First, the material unlawfulness is seen from the point of view of the act. It implies that the act violates or endangers the legal interests that the legislator intends to protect in formulating certain offenses. Second, from the point of view of the source of law, this means that it is contrary to unwritten law or the law that lives in society, the principles of decency, or the values of justice and social life in society[19].

Indonesia: Disparity, Disproportionality and Biases". *PhD Dissertation* (Melbourne: Melbourne University, 2020).

15 Hiariej, *Prinsip-Prinsip Hukum Pidana*.

16 D. Schraffmeister. N. Keijzer. E.PH. Sutoris., translatted by J.E. Sahetapy. *Hukum Pidana*. (Yogyakarta: Liberty, 1995).

17 Komariah Emong Supardjaja. *Ajaran Sifat Melawan Hukum Materiel Dalam Hukum Pidana Indonesia (Studi Kasus Tentang Penerapan Dan Perkembangannya Dalam Yurisprudensi*. (Bandung: Alumni, 2002).

18 J.E. Jonker, *Dutch East Indies Criminal Law Manual* (Jakarta: Literacy Development, 1987).

19 Hiariej. *Prinsip-Prinsip Hukum Pidana*.

In its development, there are two characteristics against material law, namely the nature against material law in its negative function and its positive function. The nature against material law in its negative function means that even though the act fulfills the elements of the offense but is not contrary to the sense of justice in society, the act cannot be punished. In contrast, the nature against material law in its positive function means that even though the act is not regulated in the legislation, if the act is considered contrary to the sense of justice and the norms of social life in society, the act can be punished[20]. Judges' interpretation of the enactment of Article 1 paragraph (2) of the Criminal Code on legislative changes associated with Law Number 4 Year 1992 regarding unauthorized control of state land.

The role of judges is following Article 5 of Law Number 48 Year 2009 concerning Judicial Power. Judges must explore, follow, and understand the values of law and a sense of justice in society. Another duty of judges is as agents of legal literacy, namely realizing the essential knowledge and skills needed by citizens and the foundation for mastering other life skills. In order to achieve the goals of law in the form of legal certainty, expediency, and justice, the public must be introduced to the law.

Providing understanding to the public is not only the duty of judges but also the duty of society in general. Especially with the legal fiction that "everyone is deemed to know (the rules) of the law" and also associated with Jeremy Bentham's statement that "through this publicity alone justice becomes the mother of security."

Discussion of changes in legislation based on Article 1 paragraph (2) of the Criminal Code That if after the act is committed, there is a change in the legislation, the most lenient rule for the defendant is used. The application of this rule in criminal law enforcement is significant.

The judge's consideration of a case is a criminal offense and fulfills the elements in Article 12 paragraph (1) of Law Number 4 Year 1992. When this case was processed, it turned out that Law Number 1/2011 was issued, which stated that Law Number 4 Year 1992 had been revoked and could not be applied. Judges should not necessarily state that something cannot be determined in general (in abstract) but rather in each case (*in concreto*). It means that each case has different characteristics, and judges view a case from a different perspective.

Based on the tempus delicti (time of the criminal offense), the case fulfills the elements of Article 36 Paragraph (4) of Law Number 4 Year 1992 concerning Housing and Settlements. It is based on when the criminal offense occurred, from 1999 to 2001. The criminal provisions applied in that

[20] Hiariej.

period are UURI Number 4 Year 1992, complemented by Government Regulation Number 40 Year 1994 concerning State Houses.

Moeljatno states that it must be seen first what encourages the legislator to make changes.[21] It is what is meant by someone who uses another perspective in deciding cases. In the academic paper on the 2011 Housing and Settlement Bill, it is stated that the reason for the drafting of the 2011 Housing and Settlement Bill is the interest in regulating the use and management, as well as supervision and control, and aims to regulate all aspects of housing and settlement substance. So, the conclusion that can be drawn is that Law Number 4 Year 1992 and Law Number 1 Year 2011 have different perspectives and have never been equated, so the case is not classified as fulfilling the elements of Article 1 paragraph (2) of the Criminal Code.

B. The Judge's interpretation in Decision Number 2002/Pid.B/20011/PN.Jkt.Pst is associated with the nature of the material law.

The principle of legality stated in Article 1 paragraph (1) of the Criminal Code can direct the discussion to Article 12 paragraph (1) of Law Number 4 Year 1992, which reads, "Occupancy of a house by a non-owner is only legal if there is consent or permission of the owner," containing elements against the law. The elements against the law are against one's rights (*subjective recht*) and without power or authority. Meanwhile, based on the division of the four characteristics of unlawfulness. Therefore, the article fulfills the elements of a criminal offense and contains the general unlawful nature after there is no inclusion of the unlawful element.

The facts in the decision were that the defendant, as an employee of PT Angkasa Pura I (Persero), had repeatedly received three warning letters to hand over the state house in his possession, and he also knew that there was a prohibition to occupy the house. In the presence or absence of such rules, the occupancy of a house by a non-owner without the consent or permission of the owner is an act that does not reflect the personality of the nation, as well as a despicable act that tore the conscience of the Indonesian people in general. A house is a primary need of a human being, which includes the universality of the right to own something. This right must be respected and appreciated by others.

The reason for the conviction of the defendant is reasonable. The basis for this conviction is that the act is against material law, namely against material law in its positive function. It means that even though the act is not

[21] Moeljatno, *Asas-Asas Hukum Pidana*, 9th ed. (Jakarta: Rineka Cipta, 2018).

regulated in the legislation, if it is considered contrary to the sense of justice and the norms of social life in society, the act can be punished.

It is also contained in the decision of the Supreme Court of the Republic of Indonesia in its decision number 275K/Penal/1982, which gives the meaning of material lawlessness, namely according to the propriety in society, if a civil servant receives excessive facilities and other benefits from another person with the intention that the civil servant uses his power or authority attached to his position in a deviant manner, it is already an act against the law, because according to propriety, the act is a reprehensible act or an act that pierces the feelings of many people[22]. Thus, the material tort that functions positively is fundamentally contrary to the principle of legality.

Conclusion

In scrutinizing the judge's interpretation concerning the enactment of Article 1, paragraph (2) of the Criminal Code in the context of the amendment to Law Number 4 of 1992 concerning unauthorized control of state land, it becomes evident that Law Number 4 of 1992 and Law Number 1 of 2011 harbor disparate perspectives in interpretation. The analyzed case does not align with the criteria for fulfilling the elements of Article 1, paragraph (2) of the Criminal Code. The judge's misinterpretation of the applicability of Article 1, paragraph (2) is thereby underscored.

Furthermore, an examination of the judge's interpretation in Decision Number 2002/Pid.B/20011/PN.Jkt.Pst, specifically regarding the nature of the law against the law, reveals a prioritization of the principle of legality outlined in Article 1, paragraph (1) of the Criminal Code. Unfortunately, this emphasis overshadows the crucial consideration of material law against the law, thereby compromising the sense of justice and societal norms.

These findings underscore the necessity for heightened internal and external supervision over judicial decisions. Judges, in accordance with Article 5, paragraph (1) of Law Number 48 of 2009 concerning Basic Judicial Powers, are mandated to delve into, comprehend, and uphold the values of law and the prevailing sense of justice within society. The imperative for greater scrutiny arises as judges play a pivotal role in shaping

[22] Komariah Emong Supardjaja. *Ajaran Sifat Melawan Hukum Materiel Dalam Hukum Pidana Indonesia (Studi Kasus Tentang Penerapan Dan Perkembangannya Dalam Yurisprudensi*. (Bandung: Alumni, 2022).

and reflecting the legal landscape, ensuring adherence to both legal principles and societal expectations.

References

Abd. Hakim G. Nusantara and Nasroen Yasabari (eds). *Beberapa Pemikiran Pembangunan Hukum di Indonesia*. (Bandung: Alumni, 1980).

Amos, Maurice Sheldon. "The Interpretation of Statutes." *The Cambridge Law Journal* 5, no. 2 (1934): 163-175.

Ardika, Ketut. "The Role of Ultimum Remedium Principles as a Basis for Thinking of the Implementation of Criminal Law in Resolving Legal Problems." *Proceedings of the 2nd International Conference on Law, Social Sciences and Education, ICLSSE 2020, 10 November, Singaraja, Bali, Indonesia*. 2021.

Arifin, Ridwan. "Translating the Meaning of Justice and Legal Protection: What exactly is justice?." *Journal of Indonesian Legal Studies* 7, no. 1 (2022): i-iv.

Bustomi, Achmad. "The Legality Principle Application in Indonesian Criminal Law System." *Nurani Hukum* 4, no. 2 (2021): 29-37.

Corbin, Lillian. "The role of statutory interpretation in law-making through the courts." *Legaldate* 19, no. 2 (2007): 1-3.

Erdianti, Ratri Novita, Said Noor Prasetyo, and Kukuh Dwi Kurniawan. "Criminal Acts of Refusing Housing Organizations and Settlement Companies in Indonesia." *2nd International Conference on Law Reform (INCLAR 2021)*. Atlantis Press, 2021.

Fendri, Azmi. "Perbaikan sistem hukum dalam pembangunan hukum di indonesia." *Jurnal Ilmu Hukum* 1, no. 2 (2011).

Graham, Randal NM. "What judges want: judicial self-interest and statutory interpretation." *Statute Law Review* 30, no. 1 (2009): 38-72.

Handayani, Gusti Ayu Ketut Rachmi, et al. "Retributive Justice Theory and the Application of the Principle of Sentencing Proportionality in Indonesia." *Journal of Legal, Ethical and Regulatory Issues* 21, no. 4 (2018): 1-8.

Hiariej, Eddy O.S. *Teori & Hukum Pembuktian* (Jakarta: Erlangga, 2012).

Isdiyanto, Ilham Yuli. "Menakar "Gen" Hukum Indonesia Sebagai Dasar Pembangunan Hukum Nasional." *Jurnal Hukum & Pembangunan* 48, no. 3 (2018): 589-611.

Jonker, J.E. *Dutch East Indies Criminal Law Manual* (Jakarta: Literacy Development, 1987).

Kurnianingsi, Marisa, and Andria Luhur Prakosa. "Humanity values on reconciliation in criminal law: Indonesian criminal law renewal perspective." *Halu Oleo Law Review* 6, no. 2 (2022): 137-150.

Moeljatno, Moeljatno. *Asas-Asas Hukum Pidana*, 9th ed. (Jakarta: Rineka Cipta, 2018).
Muhtada, Dani, and Ridwan Arifin. "Penal Policy and the Complexity of Criminal Law Enforcement: Introducing JILS 4 (1) May 2019 Edition." *Journal of Indonesian Legal Studies* 4, no. 1 (2019): 1-6.
Nagel, Thomas. "Personal rights and public space." *Philosophy & Public Affairs* (1995): 83-107.
Nyekwere, Empire Hechime, et al. "Constitutional and judicial interpretation of environmental laws in Nigeria, India and Canada." *Lex Scientia Law Review* 7, no. 2 (2023): 905-958.
Purwoleksono, Didik Endro. *Hukum Pidana Untaian Pemikiran*. (Surabaya: Airlangga University Press, 2019).
Rahardjo, Satjipto. "Pembangunan Hukum di Indonesia dalam Konteks Global." *Perspektif* 2, no. 2 (1997): 1-10.
Rahardjo, Satjipto. *Penegakan Hukum, Suatu Tinjauan Sosiologi* (Yogyakarta: Genta Publishing, 2009).
Rahman, Sufirman, Hardianto Djanggih, and Futri Patrisia. "Implementasi Hukum Terhadap Alih Fungsi Lahan Pertanian Menjadi Lahar Perumahan di Kabupaten Jeneponto." *Indonesian Journal of Criminal Law* 4, no. 1 (2022): 94-111.
Rahmawati, Nur Ainiyah. "Hukum Pidana Indonesia: Ultimum Remedium Atau Primum Remedium." *Recidive* 2, no. 1 (2013): 39-44.
Raz, Joseph. "Legal Principles and the Limits of Law." *The Yale Law Journal* 81, no. 5 (1972): 823-854.
Remmelink, Jan. *Hukum Pidana. Komentar Atas Pasal-Pasal Terpenting Dalam Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia*. (Jakarta: Gramedia Pustaka Utama, 2003).
Schraffmeister., D., N. Keijzer, and E.PH. Sutoris., translatted by J.E. Sahetapy. *Hukum Pidana*. (Yogyakarta: Liberty, 1995).
Sjarief, Rifqi. "Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases". *PhD Dissertation* (Melbourne: Melbourne University, 2020).
Soekanto, Soerjono and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta.: PT Raja Grafindo Persada, 2001).
Supardjaja, Komariah Emong. *Ajaran Sifat Melawan Hukum Materiel Dalam Hukum Pidana Indonesia (Studi Kasus Tentang Penerapan Dan Perkembangannya Dalam Yurisprudensi*. (Bandung: Alumni, 2002).
Utari, Indah Sri, and Ridwan Arifin. "Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?." *Journal of Law and Legal Reform* 1, no. 1 (2020): 1-4.
Van Bemmelen, J. M. "Pioneers in Criminology VIII--Willem Adriaan Bonger (1876-1940)." *Journal of Criminal Law and Criminology* 46, no. 3 (1955): 293-302.

Yusuf, Muslim Andi, and Dharma Fidyansari. "Interpretation of Judges in Supreme Court Decision Number: 46 P/HUM/2018." *Substantive Justice International Journal of Law* 2, no. 2 (2019): 147-160.

Punishment is justice for the unjust.

Saint Augustine

***

DECLARATION OF CONFLICTING INTERESTS
The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION
None.

ACKNOWLEDGMENT
None.

HISTORY OF ARTICLE
Submitted : February 25, 2023
Revised : April 17, 2023; August 29, 2023
Accepted : November 21, 2023
Published : December 31, 2023