



## BIBLIOGRAPHY

### BOOKS

- Alexander, Larry. 2005. *Is There a Right of Freedom of Expression?* Cambridge University Press. New York.
- Ashworth, Andrew & Wasik, Martin. 1998. *Fundamentals of Sentencing Theory*. Oxford University Press. New York.
- Ashworth, Andrew. 2015. *Sentencing and Criminal Justice (Law in Context)*. Cambridge University Press. New York.
- Barkan, Steven E. 2018. *Criminology: A Sociological Understanding*. Pearson. Boston.
- Bluntschli, Johann Kaspar. 2000. *The Theory of The State*. Batoche Books. Kitchener.
- Budiardjo, Miriam. 2008. *Dasar-Dasar Ilmu Politik*. PT Gramedia Pustaka. Jakarta.
- Chazawi, Adami. 2002. *Kejahatan Terhadap Keamanan dan Keselamatan Negara*. RajaGrafindo Persada. Jakarta.
- Chazawi, Adami. & Ferdian, Ardi. 2018. *Kejahatan Terhadap Negara Kesatuan Republik Indonesia*. Sinar Grafika. Jakarta.
- Diantha, I Made Pasek. 2016. *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. Kencana. Jakarta Timur.
- Garner, Bryan A. 1999. *Black's Law Dictionary Seventh Edition*. West Group. St. Paul.
- Ishaq, H. 2017. *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, Serta Disertasi*. Alfabeta, Bandung.
- Istanto, F. Sugeng. 2007. *Penelitian Hukum*. CV Ganda. Yogyakarta.
- Kingsbury, Damien & Leach, Michael. 2007. *East Timor: beyond independence*. Monash University Press. Clayton.
- Lamintang, P.A.F & Lamintang, Theo. 2010. *Delik-Delik Khusus: kejahatan terhadap Kepentingan Hukum Negara*. Sinar Grafika. Jakarta.



- Lear, Floyd Seyward. 2013. *Treason in Roman and Germanic Law*. University of Texas Press for Rice University. Houston.
- Loqman, Loebby. 1993. *Delik Politik di Indonesia*. IND-HILL-CO. Jakarta.
- Marzuki, Peter Mahmud. 2011. *Penelitian Hukum*. Kencana. Jakarta.
- Moon, Richard. 2000. *The Constitutional Protection of Freedom of Speech*. University of Toronto Press. Toronto.
- Prakoso, Djoko. 1986. *Tindak Pidana Makar Menurut KUHP*. Ghalia Indonesia. Jakarta.
- Reksodiputro, Mardjono. 2009. *Menyelaraskan Pembaruan Hukum*. Komisi Hukum Nasional. Jakarta
- Ross, Jeffrey Ian. 2012. *An Introduction to Political Crime*. The Policy Press. Portland
- Salim & Syahrums. 2012. *Metodologi Penelitian Kualitatif*. Citapustaka Media. Bandung.
- Smolla, Rodney. 1992. *Free Speech in an Open Society*. Knopf. New York.
- Suksi, Markku. 1993. *Bringing in the People. A Comparison of Constitutional Forms and Practices of the Referendum*. Martinus Nijhoff Publishers, Dordrecht-Boston-London.
- Sumitro, Ronny Hanitijo. 1985. *Metodologi Penelitian Hukum*. Ghalia Indonesia, Jakarta.
- Wolff, Jonathan. 2015. *An Introduction to Political Philosophy*. Oxford University Press. Oxford.

## **JOURNALS**

- Anshari. "Delik Terhadap Keamanan Negara (Makar) di Indonesia (Suatu Analisis Yuridis Normatif pada Studi Kasus Sultan Hamid II)." *Jurnal Hukum & Pembangunan*, Vol (48) 3, 2018.
- Barak, Aharak. "Freedom of Expression and Its Limitations" *Kesher*, No. 8, 1990.
- Brantingham, Patricia L. "Sentencing Disparity: An Analysis of Judicial Consistency" *Journal of Qualitative Criminology*, Vol 1 (3), 1985.



- D'Esposito, Julian C. "Sentencing Disparity: Causes and Cures" *The Journal of Criminal Law, Criminology, and Police Science*, Vol 60 (2), 1969.
- Fadilah, Irfan & Adirespati, Parusa Seno. "Self-determination and Territorial Integrity Revisited: Reflecting Chagos Advisory Opinion and Its Comparison with West Papua" *Indonesian Journal of International Law*, Vol 17 (1), 2019.
- Fiona, Sehrenneta Bella & Kusniati, Retno. "Status Hukum Papua Barat: The Right to Self Determination atau National Integrity?" *Uti Possidetis: Journal of International Law*, Vol 1 (1), 2020.
- Gudeleviciute, Vita. "Does The Principle of Self-Determination Prevail over The Principle of Territorial Integrity?" *International Journal of Baltic Law*, Vol 2(2), 2005.
- Juanda, Enju. "Konstruksi Hukum dan Interpretasi Hukum." *Jurnal Ilmiah Galuh Justisi*, Vol 4(2), 2016.
- Julyano, Mario & Sulistyawan, Aditya Yuli. "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum" *Jurnal Crepido*. Vol 1 (1), 2019.
- Kamruzzaman & Parvez, Rana. "Political Crime in South Asia: A Theoretical Explanation" *Journal of Political Science and International Relations*. Vol 1 (1), 2018.
- Khalid, Afif. "Penafsiran Hukum oleh Hakim dalam Peradilan di Indonesia." *Journal Al' Adl*, Vol VI (11), 2014.
- Mangowal, Mario. "Permufakatan Jahat dalam Kitab Undang-Undang Hukum Pidana" *Lex Et Societas*, Vol. VI (7).
- Marxsen, Christian. "Territorial Integrity in International Law – Its Concept and Implications for Crimea." *Heidelberg Journal of International Law*, Vol 75, 2015.
- McCorquodale, Robert. "Self-Determination: A Human Rights Approach" *Cambridge University Press*, Vol 43 (4), 1994.
- Sadeghi, Hossein Mir Mohammad. "A Glance at Political Crime" *Islamic Studies on Human Rights and Democracy*, Vol II (2), 2019.
- Sonata, Depri Liber. "Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas dari Metode Meneliti Hukum" *Fiat Justitia Jurnal Ilmu Hukum*, Vol.8 (1), 2014.
- Subarsyah. "Law Enforcement against Criminal Acts in Politics in Indonesia Connected with Positive Law" *Journal of Politics and Law*, Vol. 10 (3), 2017.



- Panjaitan, Lani Sujiagnes, Syahrin, Alvi, Marlina & Leviza, Jelly. "Penerapan Hukum Pidana terhadap Tindak Pidana Makar oleh Organisasi Papua Merdeka (OPM) di Kabupaten Jayawijaya." *USU Law Journal*, Vol 4 (3), 2016.
- Setyowati, Sulis. "Meminimalisir Disparitas Pidanaan Pada Putusan Perkara Tindak Pidana Makar dalam Penegakan Hukum Pidana di Indonesia", *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan*, Vol 7 (2), 2020.
- Vidmar, Jure. "Territorial Integrity and the Law of Statehood." *George Washington International Law Review*, Vol. 44, 2013.
- Widyati, Lidya Suryani. "Pidana Tutupan dalam RUU KUHP: dari Perspektif Tujuan Pidanaan, Dapatkah Tercapai?." *Negara Hukum*, Vol.10 (2), 2019.
- Wirataman, Herlambang P. "Rasisme dan Penerapan Pasal Makar terhadap Kebebasan Ekspresi Politik Papua" *Undang: Jurnal Hukum*, Vol. 4 (1), 2021.
- Wulandari, Widati & Moeliono, Tristam P. "Problematika Pengertian Aanslag-Aanslag tot en feit: Perbandingan Makar dalam KUHP, WvSNI dan Sr." *Padjajaran Jurnal Ilmu Hukum*, Vol.4 (3), 2017.

#### **LEGAL RESEARCH/THESIS/DISSERTATION**

- Mandagi, Sofia B. 2008. *Pembuktian Tindak Pidana Makar di dalam Era Negara Memberi Perlindungan Hak Asasi Manusia (Studi Kasus Putusan PN Ambon No. 245/Pid.B/2007/ PN. AB Mengenai Tindak Pidana Makar Atas Nama Terdakwa Ruben Saiya*. Fakultas Hukum Universitas Indonesia. Depok.
- Nasir, Anwar. 2008. *Analisis Yuridis tentang Tindak Pidana Makar dan Terorisme oleh Terdakwa Selaku Juru Runding Gerakan Aceh Merdeka (GAM) (Putusan Nomor 406 K/PID/2004)*. Fakultas Hukum Universitas Jember. Jember.
- Svahn, Andreas. 2006. *Freedom of Political Expression*. The University of Lund. Lund.

#### **ONLINE REFERENCES**

- Abdi, Alfian Putra. "Kisah Penangkapan 42 Orang di Asrama Papua Surabaya Versi Mahasiswa." <https://tirto.id/kisah-penangkapan-42-orang-di-asrama-papua-surabaya-versi-mahasiswa-eguq/>, March 8, 2021.
- Abdi, Alfian Putra. "Mahasiswa Pendemo Rasisme Hengki Hilapok Divonis 10 Bulan Penjara" <https://tirto.id/mahasiswa-pendemo-rasisme-hengki-hilapok-divonis-10-bulan-penjara-fJjk>, May 24, 2021.



- Al Jazeera. "*Indonesian police arrest Victor Yeimo for suspected treason*" <https://www.aljazeera.com/news/2021/5/10/indonesia-police-arrest-victor-yeimo-for-suspected-treason>, June 10, 2021.
- Amali, Zaki. "*Kejanggalan Vonis 7 Tapol Papua: Kala Protes Rasisme Dipidana Makar*" <https://tirto.id/kejanggalan-vonis-7-tapol-papua-kala-protes-rasisme-dipidana-makar-fJly>, May 24, 2021.
- Amnesty International. "*Johan Teterissa – Tahanan Nurani dari Maluku*" <https://www.amnesty.id/johan-teterissa-tahanan-nurani-dari-maluku/>, May 29, 2021
- Amnesty International. "*Surat Terbuka tentang Meningkatnya Penggunaan Penetapan Tersangka berdasarkan Pasal Makar terhadap Aktivis Papua untuk Membungkam Kebebasan Berekspresi*" <https://www.amnesty.id/surat-terbuka-tentang-meningkatnya-penggunaan-penetapan-tersangka-berdasarkan-pasal-makar-terhadap-aktivis-papua-untuk-membungkam-kebebasan-berekspresi/>, June 10, 2021.
- Bawano & Kusumasari. "*Kapan dan Bagaimana Hakim Melakukan Penemuan Hukum?*" <https://www.hukumonline.com/klinik/detail/ulasan/lt4f0aa8449485b/kapan-dan-bagaimana-hakim-melakukan-penemuan-hukum-/>, May 18, 2021.
- BBC News. "*Asrama Papua: Cek fakta kasus bendera merah putih dan makian rasialisme di Surabaya*" <https://www.bbc.com/indonesia/indonesia-49446765>, May 24, 2021.
- BBC News. "*Jayapura rusuh, diwarnai aksi pembakaran dan penjarahan: 'Ada yang mau mengacaukan Papua' kata Wiranto*" <https://www.bbc.com/indonesia/indonesia-49506881>, May 24, 2021.
- Briantika. Adi. "*Biak Berdarah 6 Juli 1998: Jalan Damai Berbuntut Kematian*" <https://tirto.id/biak-berdarah-6-juli-1998-jalan-damai-berbuntut-kematian-fPbV>, July 9, 2021
- Briantika, Adi. "*Kejanggalan Kasus Sayang Mandabayan, Pembawa Sampari Dituding Makar*" <https://tirto.id/kejanggalan-kasus-sayang-mandabayan-pembawa-sampari-dituding-makar-fF4D>, May 31, 2021.
- Budianto, Lilian. "*'Nonsense' life sentence for separatist*" <https://www.thejakartapost.com/news/2008/04/05/039nonsense039-life-sentence-separatist.html>, May 30, 2021



- CNN Indonesia. "*13 Aktivis RMS Ditahan Saat Corona, Amnesty Sebut Langgar HAM*"  
<https://www.cnnindonesia.com/nasional/20200427134253-12-497644/13-aktivis-rms-ditahan-saat-corona-amnesty-sebut-langgar-ham>, June 9, 2021.
- CNN Indonesia. "*Kronik Protes Rasialisme, Berujung Sidang Makar Tapol Papua*"  
<https://www.cnnindonesia.com/nasional/20200617094021-20-514157/kronik-protes-rasialisme-berujung-sidang-makar-tapol-papua>, May 24, 2021.
- CNN Indonesia. "*Pemindahan 7 Tahanan Papua ke Kaltim Disinyalir Langgar KUHP*"  
<https://www.cnnindonesia.com/nasional/20191004141702-12-436739/pemindahan-7-tahanan-papua-ke-kaltim-disinyalir-langgar-kuhp>, May 24, 2021.
- Firman, Tony. "*Referendum Timor Leste: Jalan Panjang Kemerdekaan Sebuah Bangsa*"  
<https://tirto.id/referendum-timor-leste-jalan-panjang-kemerdekaan-sebuah-bangsa-bFyB>, June 3, 2021.
- Hamid, Usman. "*UU ITE dan merosotnya kebebasan berekspresi individu di Indonesia*"  
<https://theconversation.com/uu-ite-dan-merosotnya-kebebasan-berekspresi-individu-di-indonesia-126043>, June 4, 2021.
- Hukumonline.com. "*Kisah Contra Legem Pasal 244 KUHP*"  
<https://www.hukumonline.com/berita/baca/lt54a1d82fe8974/kisah-icontra-legem-i-pasal-244-kuhp/>, May 29, 2021
- Huzaini, Moh. Dani Pratama. "*Ada Kekeliruan Pemahaman tentang Makar*"  
<https://www.hukumonline.com/berita/baca/lt5cdcd93351aa6/ada-kekeliruan-pemahaman-tentang-makar/>, June 1, 2021.
- ICJR. "*Kembalikan Pengertian Makar kepada Makna Aslinya*"  
<https://icjr.or.id/kembalikan-pengertian-makar-kepada-makna-aslinya/>, June 10, 2021.
- ICJR. "*Ketentuan Hukum Yang Hidup Dalam Masyarakat di RKUHP Ancam Hak Warga Negara*"  
<https://icjr.or.id/ketentuan-hukum-yang-hidup-dalam-masyarakat-di-rkuhp-ancam-hak-warga-negara/>, July 1, 2019.
- ICJR. "*Melihat Potensi Ancaman Kebebasan Bereksresi Dalam Pasal-Pasal Makar di RKUHP 2017.*" <https://icjr.or.id/melihat-potensi-ancaman-kebebasan-berkespresi-dalam-pasal-pasal-makar-di-rkuhp-2017/>, March 8, 2021.



- ICJR. "*Mengembalikan Makna "Makar" dalam Hukum Pidana Indonesia*" <https://icjr.or.id/mengembalikan-makna-makar-dalam-hukum-pidana-indonesia/>, June 10, 2021.
- Jubi. "*Pledoi 7 Tapol Papua: Pledoi lengkap Stevanus Itlay*" <https://jubi.co.id/pledoi-7-tapol-papua-pledoi-lengkap-stevanus-itlay/>, June 10, 2021.
- KontraS. "*6 Aktivis Papua Di Vonis 8 dan 9 Bulan Penjara, Kuasa Hukum : Putusan Hakim Keliru & Hakim Gagal Menghadirkan Cinta dan Damai Bagi Masyarakat Papua*" <https://kontras.org/2020/04/25/6-aktivis-papua-di-vonis-8-dan-9-bulan-penjara-kuasa-hukum-putusan-hakim-keeliru-hakim-gagal-menghadirkan-cinta-dan-damai-bagi-masyarakat-papua/>, June 10, 2021.
- KontraS. "*Hentikan Kriminalisasi Atas Ekspresi Keyakinan dan Politik Ke-5 (lima) Orang Warga Pulau Haruku, Maluku*" <https://kontras.org/2019/11/28/hentikan-kriminalisasi-atas-ekspresi-keyakinan-dan-politik-ke-5-lima-orang-warga-pulau-haruku-maluku/>, May 25, 2021.
- LBH Jakarta. "*DEMONSTRASI TIDAK MEMERLUKAN IZIN, CUKUP MEMBERITAHU KEPOLISIAN*" <https://bantuanhukum.or.id/demonstrasi-tidak-memerlukan-izin-cukup-memberitahu-kepolisian/>, May 28, 2021.
- Liputan6, "*Pengibar Bendera RMS di Depan Presiden Divonis*" <https://www.liputan6.com/news/read/158409/pengibar-bendera-rms-di-depan-presiden-divonis>, May 28, 2021.
- Matanasi, Petrik. "*Pepera, Cara Indonesia Siasati Potensi Keok Saat Referendum*" <https://tirto.id/pepera-cara-indonesia-siasati-potensi-keok-saat-referendum-b6eH>, June 4, 2021.
- Nurbaiti, Alya. "*Stop confusing freedom of expression with treason in Papua: Activists*" <https://www.thejakartapost.com/news/2020/06/24/stop-confusing-freedom-of-expression-with-treason-in-papua-activists.html>, June 10, 2021.
- Persada, Syailendra. "*YLBHI Minta Polisi Tak Sembarangan Gunakan Pasal Makar*" <https://nasional.tempo.co/read/1205292/yldbhi-minta-polisi-tak-sembarangan-gunakan-pasal-makar>, June 10, 2021.
- Prinada, Yuda. "*Sejarah Pemberontakan Republik Maluku Selatan (RMS) & Aksi Tokohnya*" <https://tirto.id/sejarah-pemberontakan-republik-maluku-selatan-rms-aksi-tokohnya-gaJN>, May 28, 2021



- Reuters. "*Indonesian police arrest Papuan independence figure for suspected treason*" <https://www.reuters.com/world/asia-pacific/indonesian-police-arrest-papuan-independence-figure-suspected-treason-2021-05-10/>, June 10, 2021.
- Sukoco, Manik. "*Menafsirkan Makar*" <https://kumparan.com/manik-sukoco/menafsirkan-makar-1491111328883>, May 27, 2021.
- Titastory.id, "*Pemidanaan Lima Tapol Maluku, Bentuk Pelanggaran HAM*" <https://titastory.id/pemidanaan-lima-tapol-maluku-bentuk-pelanggaran-ham/>, May 25, 2021.
- Utama, Abraham. "*Papua: Tujuh tapol Papua divonis hukuman penjara - 'Kamni demo tolak rasisme, kenapa dijadikan seperti teroris?'*" <https://www.bbc.com/indonesia/indonesia-53074109>, May 24, 2021.
- Wadrianto, Glori K. "*Dua Tersangka Kasus Makar Mulai Disidang*" <https://regional.kompas.com/read/2011/03/29/1231096/NaN.>, May 27, 2021.
- Yasin, M. "*Kisah Pengacara dan Gugurnya Pasal Penghinaan Presiden*" <https://www.hukumonline.com/berita/baca/lt543d10a8cc7a0/kisah-pengacara-dan-gugurnya-pasal-penghinaan-presiden>, June 5, 2021.
- Yeimo, Hengky. "*Dianggap makar, Assa Asso dituntut 1 tahun penjara*" <https://jubi.co.id/papua-dianggap-makar-assa-asso-dituntut-1-tahun-penjara/>, May 30, 2021
- Yeimo, Hengky. "*Diperiksa sebagai terdakwa, Assa Asso jelaskan aktivitasnya sebagai sineas dan fotografer*" <https://jubi.co.id/diperiksa-sebagai-terdakwa-assa-asso-jelaskan-aktivitasnya-sebagai-sineas-dan-fotografer-di-papua/>, May 30, 2021

## REPORTS AND OTHER SOURCES

- Amnesty International. 2008. *Indonesia: Dipenjara Karena Membentangkan Bendera - Tahanan Hati Nurani di Maluku*. Amnesty International Publication. London.
- Callamard, Agnes. 2008. *Expert Meeting on the Links Between Articles 19 and 20 of the ICCPR: Freedom of Expression and Advocacy of Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence*. UN HCRH. Geneva
- Human Rights Watch. 2007. *Protest and Punishment - Political Prisoners in Papua*. Human Rights Watch. New York.



ICJR. 2017. *Mengembalikan Makna "Makar" dalam Hukum Pidana Indonesia*. Institute Criminal Justice Reform. Jakarta Selatan.

Mendel, Toby. 2010. *Restricting Freedom of Expression: Standard and Principles, Background Paper for Meetings Hosted by The UN Special Rapporteur on Freedom of Opinion and Expression*. Centre for Law and Democracy. Halifax.

UN General Assembly (31st sess.: 1976). 1976. *Question of Timor - A/RES/31/53*. UN General Assembly

UN General Assembly (24th sess). 1969. *Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian): Report by the Secretary-General regarding the Act of Self-determination in West Irian. A/7723*. UN General Assembly.

## **LAW**

1945 Constitution of Republic of Indonesia

2019 Bill of Indonesia Criminal Codec (September Version)

Indonesia Criminal Code

Indonesia Criminal Procedure Code

Indonesia Journalism Code of Ethics

International Covenant on Civil and Political Rights

Human Rights Committee General Commentary No. 34 - Article 19: Freedoms of Opinion and Expression

The Johannesburg Principle National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information, U.N. Doc. E/CN.4/1996/39 (1996)

Law No. 12 of 2005 on Ratification of International Covenant on Civil and Political Rights

Law No. 39 of 1999 on Human Rights

Law Number 48 of 2009 on Judicial Power



Universal Declaration of Human Rights

Siracusa Principles on the Limitation and Derogation of Provisions in the International  
Covenant on Civil and Political Rights

## **JURIDICAL DECISIONS**

Mahkamah Agung Verdict Number 574 K/Pid/2012

Mahkamah Agung Verdict Number 1889 K/PID/2009

PN Ambon Verdict Number 454/Pid.B/2019/PN Amb

PN Balikpapan Verdict Number 30/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 31/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 32/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 33/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 34/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 35/Pid.B/2020/PN Bpp

PN Balikpapan Verdict Number 36/Pid.B/2020/PN Bpp

PN Biak Verdict Number 3/Pid.B/2014/PN. Bik

PN Jakarta Pusat Verdict Number 1303/PID.B/2019/PN.JKT.PST

PN Jakarta Pusat Verdict Number 1304/PID.B/2019/PN.JKT.PST

PN Jakarta Pusat Verdict Number 1305/PID.B/2019/PN.JKT.PST

PN Jayapura Verdict Number 58/Pid/2014/PT JAP

PT Jayapura Verdict Number 58/Pid/2014/PT JAP