

BIBLIOGRAPHY

LEGAL INSTRUMENT AND COURT DECISIONS

1945 Indonesian Constitution (*Undang – Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945*).

Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*)

Charter of Fundamental Rights of the European Union.

Constitutional Court Decision No. 6-13-20/PUU-VII/2010

Constitutional Court Decision Number 14/PUU-VI/2008

Constitutional Court Decision No. 49/PUU-XV/2017.

Constitutional Court Decision No. 82/PUU-XI/2013.

Constitutional Court Decision Number 94/PUU-XV/2017

Decree of People’s Consultative Assembly No. 11/MPR/1983 on State Policy Guidelines.

European Convention on Human Rights (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms)

European Court of Human Rights Decision on *Hizb Ut-Tahrir v. Germany*, No. 31098/08

European Court of Human Rights Decision *Kalifatstaat v. Germany*, No. 13828/04

European Court of Human Rights Decision on *Lawless v. Ireland*, No. 3.

Government Regulation in the Lieu of Law No. 2 of 2017 on the amendments of Law No. 17 of 2013 on *Organisasi Kemasyarakatan* (Civil Society Organization).

Governmental Regulation No. 18 of 1986 on the Implementation of Law No. 8 of 1985 concerning Civil Society Organization.

Human Rights Committee General Comments No. 31 of 2004 adopted in 18th United Nations Session.

International Covenant on Civil and Political Rights.

Law No. 1 of 1974 on Marriage.

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

Law No. 16 of 2017 on Civil Society Organization.

Law No. 17 of 2013 on Civil Society Organization.

Law No. 30 of 2014 on Government Administration

Law No. 39 of 1999 on Human Rights.

Law No. 8 of 1985 on the Civil Society Organization

MPR Decree No. XVII/MPR/1998 on Human Rights

Original 1945 Indonesian Constitution (*Undang – Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945 Sebelum Amandemen*)

Sentencia del Tribunal Constitucional (S.T.C) No. 66 of 1995.

Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights of 1985 by American Association for the International Commission of Jurist

Surat Keputusan Bersama No. 220-4780 of 2020 No. M.Hh-14.Hh.05.05 of 2020 No. 690 of 2020 No 264 of 2020 No. Kb/3/Xii/2020 No. 320 of 2020 on the ban of activities, the use of symbols and attribute, and the dissolution of *Front Pembela Islam*.

Supreme Court Decision Number 27 K/TUN/2019

Universal Declaration of Human Rights 1948.

BOOKS

Ali, Z. 2009. *Metode Penelitian Hukum*, Sinar Grafika, Jakarta.

Asshiddiqie, Jimly. *Cita Negara Hukum Indonesia Kontermporer*, 2004. Simbur Cahaya.

Asshiddiqie, Jimly. 2006, *Kemerdekaan Berserikat, Pembubaran Partai Politik dan Mahkamah Konstitusi*, Konstitusi Press, Jakarta.

Asshiddiqie, Jimly. 2011. *Konstitusi dan Konstitusionalisme Indonesia*. Sinar Grafika, Jakarta

Asshiddiqie, Jimly. (2006). *Kemerdekaan Berserikat, Pembubaran Partai Politik dan Mahkamah Konstitusi*, Konstitusi Press, Jakarta.

B. Mayo, Hendry. 1960. *An Introduction to Democratic Theory*, Oxford University Press, New York.

Baran, Zeyno. 2004. *Hizb ut-Tahrir: Islam's Political Insurgency*. The Nixon Center. Washington, D.C.

Bellamy, Richard. 2007. *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy*. Cambridge University Press. Cambridge.

Bellamy, Richard. 2010. *Constitutionalism*. International Encyclopedia of Political Science, B. Badie, D. Berg-Schlosser and L. Morlino, eds., IPSA/Sage.

Butt, Simon. 2015. *The Constitutional Court and Democracy in Indonesia*. Martinus Nijhoff. Leiden.

Dicey, A. V. 2018. *Introduction to the Study of the Law of the Constitution*. Liberty Fund. Indianapolis.

El-Muhtaj, M. 2015. *Hak Asasi Manusia dalam Konstitusi Indonesia: Dari UUD 1945 sampai dengan Amandemen UUD 1945 tahun 2002*. Kencana. Rawamangun, Jakarta.

Elion, V. Claudia. 2017. *The Three-Fold Paradox Concerning Salafism in Europe, ECtHR-Case Law, and Counter-Terrorism Measures*. Université de Strasbourg.

Gordon, Scott. 2002. *Controlling the State: Constitutionalism from Ancient Athens to Today*. Harvard Univ. Press. Cambridge, MA.

Hakim, Abdul Aziz. 2011 *Negara Hukum dan Demokrasi di Indonesia*. Pustaka Pelajar. Yogyakarta.

Hoecke, M.V. 2011. *Legal Doctrine: Which Method(s) for What Kind of Discipline?*. Hart Publishing. London.

Ishaq, H. 2017. *Metode Penelitian Hukum dan Penulisan Skripsi Tesis Serta Disertasi*. Alfabeta. Bandung.

Kauffman, Craig M., Democratization, in Bevir, M. 2010. *Encyclopedia of Political Theory*. Sage Publications. Thousand Oaks, CA.

Kiai, Maina. 2012. Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association in Rapporteur UNHRCS. New York, *United Nation General Assembly 2012*. 2012.

Lindsey, Tim. Indonesia: Devaluing Asian Values, Rewriting Rule of Law. 2004. In Peerenboom, R. P. 2004. *Asian Discourses of Rule of Law*. Routledge Curzon.

McIlwain, Charles, H. 1983. *Constitutionalism: Ancient and Modern*. Cornell University Press. Ithaca, NY.

MD, Moh. Mahfud. 2003. *Demokrasi dan Konstitusi di Indonesia*. Rineka Cipta. Jakarta.

Pandoyo, S. Toto. 1981. *Ulasan Terhadap Beberapa Ketentuan Undang-Undang Dasar Sistem Politik dan Perkembangan Kehidupan Demokrasi*. Liberty. Yogyakarta.

Riyadi, E. 2015. *Bahan Ajar Mata Kuliah Hukum Hak Asasi Manusia*, Yoyakarta.

Sekretariat Jenderal dan Kepaniteraan, Mahkamah Konstitusi, Republik Indonesia. 2010. *Naskah Komprehensif Perubahan Undang - Undang Dasar Negara Republik Indonesia Tahun 1945: Latar belakang, Proses, Dan Hasil Pembahasan, 1999-2002* (Revised Edition, Vol. 8)

Soekanto, S. and Mamuji, S. 2007. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Raja Grafindo, Jakarta.

Sumitro, R.H. 1985. *Metodologi Penelitian Hukum*, Ghalia Indonesia, Jakarta.

Sutpo, A. H., Arief, A. 2010. *Terampil Mengolah Data Kualitatif dengan NVIVO*, Prenada Media Group, Jakarta.

Tocqueville, A. D. 1963. *Democracy in America*. New American Library. New York, NY.

Van Hoecke, M. 2015. *Methodology of Comparative Legal Research*. *Law and Method*.

Waluchow, Wil. 2001. *Constitutionalism*, The Stanford Encyclopedia of Philosophy (Spring 2018 Edition).

Wilson, I. 2014. *Morality Racketeering: Vigilantism and Populist Islamic Militancy in Indonesia*. In Khoo, B. T., Nakanishi, Y., & Hadiz, V. R. 2014. *Between Dissent and Power: The Transformation of Islamic Politics in the Middle East and Asia*. Houndmills. Palgrave Macmillan. Basingstoke, Hampshire.

JOURNALS AND PAPERS

Aina. Amandemen Undang - Undang Dasar 1945: Upaya Penegakan HAM di Indonesia. *Jurnal Demokrasi*. Vol. 1. No. 1. 2002.

Alexander, L. What is Freedom of Association, And What is its Denial?, *Social Philosophy and Policy*, 25(2), 2008.

Azis, M. H. *Hak Berserikat dan Berkumpul Warga Negara Asing Dalam Pendirian Organisasi Kemasyarakatan di Indonesia*. *Jurist-Diction*, 1(2). 627-644. 2018.

American Association for the International Commission of Jurist, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights. *Human Rights Quarterly* 7, No. 1. 1985.

Balachandran V, Prabakaran and Saravanakumar, Ar. Difference Between Human Rights and Fundamental Rights. Conference Paper at Human Rights Education 2017. Alagappa University College of Education. 2020.

Brownlee, K. Jenkins, D. Freedom of Association, *The Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), Edward N. Zalta (ed.) 2019.

Brickman, Harry. Freedom of Association in Eight European Countries. *Monthly Labour Review*. Vol 86, No. 9. 1963.

Casper, Gerhard. Constitutionalism, University of Chicago Law Occasional Paper, No. 22. 1987.

Chinchilla Imbett, C. A. 'Contrarius Consensus': Termination of Contract by Mutual Consent in Roman Law. *Revista De Derecho Privado*, (28), 79. 2015.

Cianciardo, J. The Principle of Proportionality: The Challenges of Human Rights. *Journal of Civil Law Studies*, 3. 2010.

Craiutu, A. From the Social Contract to the Art of Association: A Tocquevillian Perspective. *Social Philosophy and Policy*, 25(2). 2008.

Eric Hiarij. Aksi dan Identitas Kolektif Gerakan Islam Radikal di Indonesia. *Jurnal Ilmu Sosial Dan Ilmu Politik*. 14 (2). 2010.

Elsby, Charlene. "The Paradox of Tolerance." *Asses, Arrows and Undead Cats: An Introduction to Philosophy through Paradox*. 2019.

Faiz, Pan Mohamad. The Protection of Civil and Political Rights by the Constitutional Court of Indonesia. *Indonesia Law Review*, vol. 6, no. 2. 2016.

Firosa, M. A. Pembubaran Organisasi Kemasyarakatan dalam Perspektif Hak Kebebasan Berserikat Berdasarkan Konstitusi Negara Republik Indonesia. *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2(2). 2019.

Gaffar, Janedjri. Peran Putusan Mahkamah Konstitusi dalam Perlindungan Hak Asasi Manusia terkait Penyelenggaraan Pemilu. *Jurnal Konstitusi*, Volume 10, Nomor 1. 2013.

Gee, Graham, and Webber, Grégoire C. N. What is a Political Constitution?, *Oxford Journal of Legal Studies*, 30 (2). 2010.

Giri Ahmad Taufik. Proportionality Test in the 1945 Constitution: Limiting Hizbut Tahrir Freedom of Assembly. *Constitutional Review* 45, 4(1). 2018.

Huntington, Samuel. Democracy's Third Wave. *Journal of Democracy*, 2(2), 1991.

Isra, Saldi. *Peran Mahkamah Konstitusi dalam Penguatan Hak Asasi Manusia di Indonesia*. *Jurnal Konstitusi*, Vol. 11, No. 3. 2014.

Kurniawan, Beni. Konstitusionalitas Perppu Nomor 2 Tahun 2017 tentang Ormas Ditinjau dari UUD 1945. *Jurnal Konstitusi*, 15, 3rd ser. 2018.

Kurniawan, I. D. *Pembubaran Hizbut Tahrir Indonesia Ditinjau dari Perspektif Kewarganegaraan Liberal dan Kewarganegaraan Republik*. *Jurnal Global Citizen: Jurnal Ilmiah Kajian Pendidikan Kewarganegaraan*, 6 (2). 2019.

Latifah, Marfuatul. Pelindungan HAM dalam Mekanisme Pembubaran Ormas Berbadan Hukum Berdasarkan Undang-Undang No. 16 Tahun 2017. *Negara Hukum*, 11, 1st ser. 2020.

Loughlin, M. The Contemporary Crisis of Constitutional Democracy. *Oxford Journal of Legal Studies*, 39(2). 2019.

Nassaji, H. Qualitative and Descriptive Research: Data Type Versus Data Analysis. *Language Teaching Research*, 19(2). 2015.

Nasution, Adnan, Buyung. Towards Constitutional Democracy in Indonesia. Adnan Buyung Nasution Papers on Southeast Asian Constitutionalism - Asian Law Centre, University of Melbourne, 1(1), 1st ser. 2011.

Neuman, G. Human Rights and Constitutional Rights: Harmony and Dissonance. *Stanford Law Review*, 55(5), 2003.

Nugroho, E. Bill on Societal Organizations (RUU Ormas) and Freedom of Association in Indonesia. Indonesian Centre for Law and Policy Studies. 2011.

Nugroho, H. *Demokrasi Dan Demokratisasi: Sebuah Kerangka Konseptual untuk Memahami Dinamika Sosial-Politik di Indonesia*. *Jurnal Pemikiran Sosiologi*, 1(1), 1. 2015.

Rizal, F. *Analisis Yuridis Tentang Pembubatan Organisasi Kemasyarakatan Hizbut Tahrir Indonesia Yang Diatur Dalam Undang – Undang Nomor 16 Tahun 2017 Tentang Penetapan Peraturan Pemerintah Pengganti Undang – Undang Nomor 2 Tahun 2017 Tentang Perubahan Atas Undang – Undang Nomor 17 Tahun 2013 Tentang Organisasi Kemasyarakatan Menjadi Undang – Undang*. *Dinamika: Jurnal Ilmiah Ilmu Hukum*. Vol. 25 (6). 2019.

Sieckmann, J. *Proportionality as a Universal Human Rights Principle. Proportionality in Law*. 2018.

Sun, Nina. *Applying Siracusa: A Call for a General Comment on Public Health Emergencies*. *Health and Human Rights Journal*. 22. 2020.

Tibaka, L., & Rosdian, R. *The Protection of Human Rights in Indonesian Constitutional Law after the Amendment of the 1945 Constitution of the Republic of Indonesia*. *Fiat Justisia: Jurnal Ilmu Hukum*, 11(3), 266. 2018.

Victor Imanuel W. Nalle. *Asas Contrarius Actus pada Perpu Ormas: Kritik dalam Perspektif Hukum Administrasi Negara dan Hak Asasi Manusia*, *Padjajaran Jurnal Ilmu Hukum*, Vol. 4, No. 2 Tahun 2017, 2017.

Woodward, M., Yahya, M., Rohmaniyah, I., Coleman, D. M., Lundry, C., & Amin, A. *The Islamic Defenders Front: Demonization, Violence and the State in Indonesia*. *Contemporary Islam*, 8(2). 2013.

ONLINE REFERENCES

Amnesty Indonesia. (2020, December 30), *Pelarangan Kegiatan FPI secara Sepihak Semakin Menggerus Kebebasan Sipil*. from <https://www.amnesty.id/pelarangan-kegiatan-fpi-secara-sepihak-semakin-menggerus-kebebasan-sipil/>. Retrieved March 03, 2021.

BBC. (n.d.). *Kasasi ditolak Mahkamah Agung, HTI tetap dibubarkan*. BBC News Indonesia. <https://www.bbc.com/indonesia/indonesia-47250801>. Retrieved: 28 June 2021.

CNN Indonesia. (2020, December 31). *FPI Batal Gugat SKB Pembubatan Ke PTUN* from <https://www.cnnindonesia.com/nasional/20201231162334-20-588286/fpi-batal-gugat-skb-pembubaran-ke-ptun>. Retrieved March 03, 2021

Constitutionalism. (n.d.). from <https://www.britannica.com/topic/constitutionalism>. Retrieved March 23, 2021.

Contrarius Consensus. Oxford Reference. (n.d.). <https://www.oxfordreference.com/view/10.1093/acref/9780195369380.001.0001/acref-9780195369380-e-438>. Retrieved: 17 Jun. 2021

Cornell Law School Legal Information Institute, (n.d.). *Fundamental Right*. From: law.cornell.edu/wex/fundamental_right#:~:text=Fundamental%20rights%20are%20a%20group,been%20found%20under%20Due%20Process. Retrieved March, 2021.

Dharmastuti, H. (n.d.). *Detik-detik Kepulangan Habib Rizieq*. detiknews. <https://news.detik.com/berita/d-5248423/detik-detik-kepulangan-habib-rizieq>. Retrieved June 23, 2021.

Hidayat, F. (n.d.). *Perjalanan Kasus HTI Hingga ke Tingkat Banding*. detiknews. <https://news.detik.com/berita/d-4230868/perjalanan-kasus-hti-hingga-ke-tingkat-banding>. Retrieved: 28 June 2021.

Koalisi Kebebasan Pers dan Kebebasan Berekspresi, *Kebebasan Berkumpul, Berekspresi, Berpendapat, dan Hak Informasi Masih dalam Ancaman*, <http://icjr.or.id/kebebasan-berkumpul-berekspresi-berpendapat-dan-hak-informasi-masih-dalam-ancaman/>, Accessed: 5 April 2021

Kumparan. Sejarah FPI, dari Awal Kemunculannya Hingga Jadi Organisasi Terlarang. (2020). from <https://kumparan.com/berita-hari-ini/sejarah-fpi-dari-awal-kemunculannya-hingga-jadi-organisasi-terlarang-1usfK0mR1Ia/full>. Retrieved April 09, 2021.

Louisiana, Law Library. Basics of Legal Research: Primary sources. from <https://lasc.libguides.com/c.php?g=436789&p=2980672#:~:text=Primary%20sources%20are%20the%20actual,statutes%2C%20cases%2C%20and%20regulations>. Retrieved March 09, 2021.

Maulia, E. (2021, May 27). Firebrand Indonesian cleric Habib Rizieq gets 8-month sentence. Nikkei Asia. <https://asia.nikkei.com/Politics/Firebrand-Indonesian-cleric-Habib-Rizieq-gets-8-month-sentence>. Retrieved June 23, 2021.

Putri, B. U. (2019, November 28). *Soal Izin FPI, Tito Sebut Pasal 6 AD/ART FPI Bahasanya Agak Kabur*. Tempo. <https://nasional.tempo.co/read/1277718/soal-izin-fpi-tito-sebut-pasal-6-adart-fpi-bahasanya-agak-kabur>. Retrived: 26 Jul. 21.

The Jakarta Post. (2020). FPI Calls for Transparency, Justice as Bodies of Slain Supporters Laid to Rest. from <https://www.thejakartapost.com/news/2020/12/10/fpi-calls-for-transparency-justice-as-bodies-of-slain-supporters-laid-to-rest.html>. Retrieved April 09, 2021.

The Jakarta Post. (2021, January 1). FPI Officials Form New Organization After Govt Bans Group. from <https://www.thejakartapost.com/news/2021/01/01/fpi-officials-form-new-organization-after-govt-bans-group.html>. Retrieved March 03, 2021.

The Social Contract. (n.d.). from <https://www.britannica.com/topic/constitution-politics-and-law/The-social-contract>. Retrieved March 23, 2021.

Tirto. Handayani, M., & Indra, P. (2016). *FPI dalam Lintasan Sejarah*. from <https://tirto.id/fpi-dalam-lintasan-sejarah-b1NT>. Retrieved April 08, 2021.

Wiwoho, B. (2018). *Gugatan Ditolak Hakim, HTI Ormas Terlarang di Indonesia*. nasional. <https://www.cnnindonesia.com/nasional/20180507072957-12-296162/gugatan-ditolak-hakim-hti-ormas-terlarang-di-indonesia>. Retrieved: 28 June 2021.

OTHER RELEVANT DOCUMENTS

Letter to Bishop Mandell Creighton, April 5, 1887. Transcript of, published in *Historical Essays and Studies*, edited by J. N. Figgis and R. V. Laurence (London: Macmillan, 1907)

Schmitz, Thomas. (2019) On the terms “Human Rights”, “Fundamental Rights”, and “Constitutional Rights”. Human Rights Law, Universitas Gadjah Mada. Retrieved from: http://www.thomas-schmitz-yogyakarta.id/Downloads/Schmitz_HRLaw-UGM_terminology.pdf

Office of the High Commissioner for Human Rights (2013), *Core Human Rights in the Two Covenants*. Palais des Nations, Geneva, Switzerland. P 1.

Office of the High Commissioner for Human Rights. (2012). *Germany Questionnaire Freedom of Assembly and Association*. Report 2012.

Human Rights Law Presentation (2019), Universitas Gadjah Mada, Devita Kartika Putri, LL.M.

Tim Evaluasi dan Analisis Undang-Undang Nomor 8 Tahun 1985, *Rancangan Analisis dan Evaluasi Hukum tentang Organisasi Kemasyarakatan*, Jakarta.

Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS), (2019). *Menemukan Pola Pembatasan Terhadap Kebebasan Berkumpul di Indonesia (Studi Terhadap Kasus – Kasus Pelanggaran Kebebasan Berkumpul (2015 – 2018))*.

Koalisi Masyarakat Sipil, (2020). *Melawan Kekerasan Berbasis Agama Dengan Tetap Memperhatikan Prinsip Negara Hukum: Pernyataan Koalisi Masyarakat*

Sipil akan SKB Larangan Kegiatan, Penggunaan Simbol dan Atribut serta Penghentian Kegiatan FPI. Jakarta.