

# PHENOMENON OF WAITING PERIOD FOR THE EXECUTION OF DEATH ROW INMATES OF NARCOTICS CRIME IN INDONESIA

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## ABSTRACT

*Indonesia still applies death penalty in the criminal law system. In practice, the implementation of death penalty, especially convicts sentenced to death in narcotic cases, having permanent legal forces, is caught in dilemma. This dilemma becomes a legal phenomenon when the execution of death row inmates has a “waiting period”. It is because the death row inmates seek to ordinary and extraordinary legal remedies with no limited time. Then, this is used by the death row inmates to delay the execution. This normative juridical research collected data by studying literature, reviewing court decision, and performing concept test using focus group discussion, with office of Attorney General, Supreme Court, National Narcotics Agency, the State Police of the Republic of Indonesia, and National Commission on Human Rights. The results of the research showed that the waiting period creates a sense of “distrust” between judicial institutions. Decision of Constitutional Court No. 34/PUU-XI/2013 and SEMA No. 7 of 2014, which contradict to each other is also one of uncertainties of criminal system in this country and it also loopholes for the death row inmates to apply for unlimited legal remedies leading to the delay of the execution of the death penalty. Therefore, they are served to have two sentences, which are criminal imprisonment and death penalty. Government policy (political will) in the legal field is yet adequate due to political effects or international pressure. In addition, it is also because Indonesia, until today, still does not have comprehensive and integral Indonesian National Legal System and it is not in accordance with the character, philosophy, as well as culture and customs of Indonesia. As a consequence, the implementation of death penalty in Indonesia is surrounded by controversy leading to unlimited delay, especially for death row inmates in narcotic cases because they have violated Human Rights and killed many young generation in Indonesia every year. Besides, this theory is like “pendulum”, so it creates pros and cons in the community and it is not in accordance with the legal objectives, which are Legal Certainty and Justice.*

**Keywords:** Death Penalty, Waiting Period and Legal Phenomenon, Human Rights Violation

## INTRODUCTION

One of functions of the law is to guide human behavior. As guidance, law has role in controlling behaviors and attitudes. Besides, law is also supported by negative sanction in the form of punishment in order to demand obedience. Therefore, law is a means of social control. In this case, law is also a means of coercion that protects citizens from threats and actions endanger the citizens themselves and their properties. So, whoever violates the law, he will get a penalty (criminal). The law regulating which actions to be sanctioned to criminal and where the criminal rules are incarnated is called criminal law. That is why criminal law is

also called as Special Sanction Law. The imposition of a crime as a punishment to violators is only the ultimate remedy (Ultimate Remedium) which is only carried out if other measures, such as prevention, cannot be performed. One of the most severe forms of punishment is the death penalty.

The death penalty is the heaviest sanction among all types of criminals and is also the oldest, toughest and often considered to be the cruelest and most controversial type of criminals in all criminal systems, both in countries that adhere to Common Law, and in countries that adhere to civil law. There are two main opinions regarding the death penalty; first is a group who likes to maintain the death penalty according to the applicable provision, and second is a group who want to abolish the death penalty in its entirety. The current trend is the abolition of the death penalty, as has been done by United States and European Union countries. Indonesia is a country that still maintains the death penalty as its positive legal system. This can be found in the Criminal Code. Indonesia executed the last death penalty in 2016 on 4 death row inmates. Previously in 2015, there were 14 death row inmates sentenced to death. In 2017, Office of Attorney General of the Republic of Indonesia still has a plan to carry out execution of death penalty. Today, there are still 165 convicts on the death row .

One of the most important phenomena of death penalty is condition of waiting period. In this condition, the convicts are in the uncertain position because they are waiting for the execution of death penalty. Basically, government does not have a definite formula for who will be executed. Based on the data below, the waiting period for the death row inmates varies. There were 87 death row inmates having waiting period of 5 years, and this number was the most time span, then there were 31 and 30 death row inmates having waiting period of 6 years to 10 years and 11 years to 15 years. Ten (10) death row inmates have waited for 16 to 20 years in prison. Interestingly, there were also 2 death row inmates that have waited for a long time, in which one of them have waited for 21 to 25 years and the other have waited for 36 to 40 years.

According to BNN research , marijuana is strictly regulated by UN Drug Control Treaties . Narcotics abusers were mainly young people who were in their productive age, namely 50% of young people who were already working, and 27.29% who were still students. Unfortunately, the remaining 22% were young people who did not go to school and are jobless. So the statement delivered by the President of the Republic of Indonesia that Indonesia is in Narcotics Emergency , Meanwhile, according to 2018 data, narcotics abusers among students in 2018 (from 13 provincial capitals in Indonesia) reached 2.29 million people. One of the groups of people who are prone to being exposed to drug abuse is those who are in the age range of 15-35 years or the millennial generation. The projected number of drug abusers in 2015 was 5.8 million people (2.8%) while in 2019 it was 7.4 million people (4.9%) , so until now the level of narcotic abuse and illicit trafficking in Indonesia has increased from year to year . The high level of narcotics abuse causes the death penalty for the perpetrators of these abusers to be stipulated in the law.

This research specifically discussed the reason the execution process is not carried out immediately after they arrive at the verdict. It can be seen that there is a clear link between the law and law enforcement coordination. This long waiting period happened because the death row inmates seek to ordinary and extraordinary legal remedies with no limited time. This becomes a loophole for the death row inmates to apply for unlimited legal remedies leading to the delay of the execution of the death penalty. The Indonesian legal system, which is currently still adopting the Dutch colonial legal system, seems to be no longer "up to date" and unable to accommodate narcotics crimes that have entered the "drug emergency" phase, so they are no longer relevant to this era of globalization.

Based on this background, the delay of executions raises the question of why it was delayed and what can be done so that there will no longer be delays in the execution of

narcotics convicts. The purpose of this research is to find out why the execution of death row inmates for narcotics crimes is delayed and what efforts can be made to overcome the causes of delays in the execution of death row inmates for narcotics crimes. The research methodology used a normative juridical research type with secondary data and a concept test using a focus group discussion technique with state institutions that have competence in carrying out executions in Indonesia.

## DISCUSSION

### Pros and Cons of Death Penalty

In general, there are two legal views in society about the problem of delaying the execution of death penalty including for death row inmates of narcotics cases that have already permanent legal force. First is society who agrees with the implementation of death penalty for Narcotic convicts because their crime can cause substantial damage and loss to the life, property, social life, as well as the resilience of Indonesia. Death penalty can also be functioned as deterrent effect for those who have not committed crime.

The second is societies who disagree with the implementation of death penalty on the basis of Human Rights consideration. In their opinion, the objective of punishment is to provide deterrent effect and retaliation for drug abusers causing substantial damage. However, this implementation is proven to not achieve the objective and not provide deterrent effect because drug crime currently still can be found and the number is getting higher with more advanced operating modes.

No matter how, death penalty can injure someone and it takes the right of life from the convicts. According to the International Covenant on Civil and Political Rights in article 6 paragraph (1), it stated that every human being has a right to live . This right must be protected by law and this law also considers it wrong to take a life of someone recklessly. Besides, as explained in Article 3 of DUHAM that the implementation of death penalty violate article 6 paragraph (1) because death penalty can injure and take someone's life, and this is contrary to Article 6 paragraph (1) of ICCPR and Article 3 of DUHAM. Even though there are still many countries that do not abolish the death penalty including Indonesia, China, and Iraq, the fulfillment and regulation on the implementation of the death penalty both in the arrest process and the examination process in the court are still unclear. Therefore, this is contrary to the concept of the rule of law where the regulation is clear, both equality before the law and also the existence of an independent and impartial judiciary which has implications for an independent judicial power.

Article 6 paragraph (2) of the International Covenant on Civil and Political Rights states that in the countries that do not abolish death penalty, the judgment can only be given to the most serious crime, according to the applicable law when the crime was committed, and without violating a provision of the present Covenant and the Convention on the Prevention and Punishment of the Crime of Extermination of (ethnic) Nations. This sentence can only be executed with the final decision from the authorized court. Furthermore, Article 6 paragraph (4) of the International Covenant on Civil and Political Rights stipulates that a person who has sentenced to death must reserve the right to seek pardon or commutation of sentence. Amnesty, pardon, or commutation of the death penalty may be granted in all cases. In addition to the regulation on basic rights, such as the right to life as regulated in the UDHR which in this case is related to the death penalty, there are exceptions to the exercise of this right. So it is important to have a deep understanding of the existence of derogable rights , in which in the first case "a public emergency which threatens the life of the nation" can be used as a basis for limiting the implementation of the rights of basic freedoms with a requirement

that the public emergency must be officially proclaimed, and is limited and should not be discriminatory.

This is regulated in a limited manner in the International Covenant on Civil and Political Rights in Article 4 paragraph (1) of the ICCPR that states, in a general emergency that threatens the life of the nation and the existence of such an emergency has been officially proclaimed, the countries supporting this covenant may take derogate measures from their obligations under the present Covenant, to the extent required by the emergency situation, provided that such measures do not conflict with the obligations of the state's parties under international law. In addition, it also does not involve discrimination on the basis of race, color, gender, language, religion, and social origin. Therefore, the death penalty given to Saddam does not conflict with Article 3 of the UDHR because the crime committed is a serious human rights crime and complies with the provisions of Article 4 of the ICCPR.

Unfortunately, the public's view of the death penalty is only divided into two groups, namely those who agree and support the death penalty and those who disagree and want to abolish the death penalty (abolishment), and there is no alternative choice of views other than the two groups above

### **The Influence of Political Policy on the Dynamics of the Criminal Justice System Prevailing in Indonesia**

The view in the legal context in Indonesia that the uncertainty of the implementation of the death penalty for drug convicts is influenced by the dynamics of the criminal justice system prevailing in Indonesia. The existence of the distrust of the constitutional court towards the criminal justice system (prosecutors, law enforcers, etc.) becomes evidence that the legal system in this country is no longer normal. Legal decisions are no longer seen as pure legal remedies, because they have been influenced by politics.

In relation to the criminal justice system prevailing in Indonesia, the Criminal Procedure is a procedure that must be completed in carrying out executions. There are several stages of legal rights owned by a convict ranging from Appeal, Cassation, Review of Court Decision to Commutation. As a country that has a legal system, all relevant stakeholders must be able to respect it. In the scope of international relations, several countries such as France , Brazil and China openly highlight the practice of the death penalty carried out by Indonesia against its citizens, so Indonesia must be careful in its implementation. Back to politics, it is important to have political firmness to show its sovereignty.

In addition to the legal rights of death row inmates, there are also several regulations that hinder the execution of death penalty, for example, the existence of Law no. 5 of 2010 on Commutation, followed by the issuance of the Constitutional Court's decision Number 107/PUU-XIII/2015. Execution of court decisions with permanent legal force in criminal cases is the duty and authority of the Prosecutor at the Prosecutor's Office of the Republic of Indonesia, as mandated by the Criminal Procedure Code and Law no. 16 of 2004 on the Prosecutor's Office. The implementation of the duties and authority to execute decisions often gets the public's attention, especially with regard to the execution of death penalty. Controversy regarding the death penalty seems to escalate to its execution, and not solely in the realm of legislative and judicial policy.

### **The Role of the Prosecutor in the Execution Process**

In the Indonesian criminal justice system, the implementation of court decisions that have permanent legal force is the full authority of the Prosecutor at the Prosecutor's Office of the Republic of Indonesia. Prosecutors at the KPK are not Executors because Law no. 30 of

2002 on the KPK does not authorize the institution, including its officials/employees, to carry out the execution of decisions. The authority to execute decisions that have permanent legal force is attributively affirmed in the Criminal Procedure to be a monopoly of the Prosecutor in the Prosecutor's Office. It is because there is no other official, including other apparatus of the criminal justice system given the same authority. This is reflected in several provisions governing the prosecutor's authority in carrying out court decisions, including:

- 1) Article 1 paragraph 6 letter a of the Criminal Code which stipulates that the Prosecutor is an official authorized by this law to act as a public prosecutor and to carry out court decisions that have permanent legal force;
- 2) Article 270 of the Criminal Code which stipulates that the execution of a court decision that has obtained legal force is still carried out by the Prosecutor, for which the court clerk sends a copy of the decision letter to him.

The authority to execute a decision that has permanent legal force is given by the Criminal Code to the Prosecutor, which is further embodied in Law no. 16 of 2004 on the Prosecutor's Office. In this case, definition of "prosecutor" is a functional official who is authorized by law to act as a public prosecutor and implementer of court decisions who have obtained permanent legal force and other powers based on the law (Article 1 point 1 of Law No. 2004). In Article 30 paragraph (1) letter b of Law no. 16 of 2004 on the Prosecutor's Office, the Prosecutor "implements judges' decisions and court decisions that have permanent legal force" and it becomes the duty and authority of the prosecutor in the criminal field.

To sum up, the implementation of court decisions that have legal force remains the authority of the Prosecutor and the Prosecutor's Office, which are basically "subordinated" from the judicial power. However, this does not mean that there is absolutely no discretionary space regarding this matter, considering that the Prosecutor in carrying out his duties and authorities must heed religious norms, decency and morality and must explore and uphold human values that live in society, as emphasized in Article 8 paragraph (4) of Law no. 16 of 2004 on the Prosecutor's Office. This is also applicable in carrying out the duties and authority to control the implementation of the death penalty.

According to Jampidum, technically, the Prosecutor cannot carry out executions even though the convict has exceeded the time limit for taking legal action. However, legally, as long as the convict has used all his legal rights, then the execution can be carried out immediately. Regarding the function of the prosecutor, in the criminal justice system, it is the public prosecutor who carries out court decisions. If there is no execution decision from the public prosecutor, in this case the Attorney General's Office, then the execution cannot be carried out.

As the executor to implement the sentence against the court verdict which has permanent legal force, the Prosecutor as the Public Prosecutor and the executor of the decision carry out their duties under the provisions of the legislation. This includes the execution of decisions against death row inmates in narcotics cases. Regarding the uncertain timing of executions, especially for death row inmates in narcotics cases, the prosecutor as the executor in addition to carrying out according to the provisions of the law, must also consider carefully that the death penalty is very sensitive to human rights. If the execution has been implemented to the convicts and then problems arise, further information or accountability cannot be obtained from the convicts.

In addition, the Prosecutor, as the executor of the death penalty decision, is also a government apparatus in the field of law enforcement. Therefore, all actions taken, including executing the death penalty for convicts in narcotics cases must consider and pay attention to government policies. Moreover, those who are sentenced to death for narcotics cases consist of various nationalities/nationalities.

## Solutions for Implementing the Death Penalty for Narcotics Convicts

According to Hans Kelsen, legal certainty refers to the application of a clear, permanent, consistent and consequent law in which its implementation cannot be influenced by subjective circumstances. The legal certainty of judges is in accordance with the theory of judge freedom in Law Number 48 of 2009 on Judicial Power in Article 5 paragraph (1) where Judges and constitutional judges are required to dig out, follow, and understand legal values and a sense of justice that are applicable in public, paragraph (2) where judges and constitutional judges are required to have integrity and personality that is beyond reproach, honest, fair, professional, and experienced in the field of law, paragraph (3) where judges and constitutional judges are required to comply with the Code of Ethics and Code of Conduct for Judges. Therefore, the judge decided differently from jurisprudence, this is related to the Indonesian civil law legal system, where judges are obliged to dig out the values of justice in society.

The solution to the execution of the death penalty in narcotics crime cases in the future, namely:

1. Regarding legal certainty, the researchers applied Hans Kelsen's legal theory which states that in the legal process, there should be no political interference from certain authorities. So the enforcement of legal certainty rests on two main components, namely; First, certainty in orientation for society (the principle of certainty orientation) that people understand, what behavior is expected by others from them, and what response they can expect from other people for their behavior. Second, certainty in the application of law by law enforcers. The principle of certainty in the realization of the law that allows people to rely on calculations, that the applicable norms are respected and implemented, that the decisions of the Court are truly implemented and obeyed. Therefore, the most important factors that serve as a reference for a legal certainty for the community are:
  - a. Norms that clearly define what is required and what is prohibited. As a legal instrument, it tends to be interpreted differently both among law enforcers and between parties who are subject to sanctions according to their own interests and benefits.
  - b. Legal transparency that prevents the public from normative confusion. Consistency in the actions and speech of state officials and law enforcement is a defining part of legal transparency. Contradictions between their actions and speech will further deepen the "normative confusion" among the people because in any country, people see (and often remember) the speech and behavior of state officials and law enforcement as a reference.
  - c. The continuity of the rule of law that provides a reference for future behavior. If a state official at one time stated that the government would not intervene in the legal process, but in reality the government did in the contrary, then people will not trust the continuity of the rule of law.
2. In addition to these three factors, the resolution of various special cases through court decisions that reaffirm the principles of justice, as well as broad individual adherence to generally accepted legal principles such as "the presumption of innocence principles" and "the fair legal process principle" also play an important role important as a guide for legal certainty. The application of reference factors for the orientation of community legal certainty as well as the application of generally accepted legal principles must be carried out based on two principles of justice, so as not to injure the community's sense of justice. Therefore, with the principle of legal certainty, it can create certainty for death row inmates so that double criminality does not occur. It means that the convicts do not serve the sentence twice; being imprisoned and waiting for years for the execution of the death penalty.
3. Decision can be made directly at the first level, which is in District Court level. It decides whether it is appropriate or not and it is declared in the form of a Circular Letter or a Joint Decree. Therefore, the death row inmates do not have to wait for uncertain times for their sentence. So, the imposition of the death penalty should not be imposed by the criminal court from the first level to the Supreme Court and the Judicial Review, but the implementation of the death penalty should be carried out by the District

Court (first level court). Executions are carried out by the District Court if the Prosecutor's Office is not qualified to carry out the execution of the death penalty. The Head of the District Court may order the Prosecutor's Office to work together with the Indonesian Police to execute the death penalty against the death row inmates. Meanwhile, the application for Judicial Review by including evidence such as a novum must still be tested in the district court. A death row inmate may file for Judicial Review twice with the condition that the novum cannot be the same as the previous judicial process.

4. In the Draft of Criminal Code, the death penalty process must be following the principle of legal certainty, it must also contain clear criteria, definite stages, waiting period and the person in charge of implementing it at each stage. The death penalty must be enforced with an appropriate legal process, especially in terms of legal certainty and justice. Why is the death penalty necessary? Because those convicted of drug cases are producers/suppliers/distributors who poison the community which can cause fatality to the loss of the nation's generation, self-destruction and harm to family members, as well as material losses of tens of trillions rupiah per year and also violate the human rights of the community, such as the loss of the right to a decent and healthy life due to drugs. That is why drugs are an extra ordinary crime.

Based on the result of this research, it can be concluded that the law that is stipulated in the form of a Law does not always succeed in creating law as a tool of social engineering. The law should be bottom-up and vice versa and the law should be progressive but it must also be able to engineer the society.

### **Sentencing with the Death Penalty can still be Applied in Indonesia for Narcotics Crime Cases**

The death penalty is the heaviest criminal sanction. As stated in Article 10 of the Criminal Code, the death penalty is placed at the top of the list. Therefore the death penalty is not applied to all crimes, but only to certain crimes that are considered quite serious, such as premeditated murder, treason, theft with violence, and others. In addition to the Criminal Code, the death penalty is also stated in several laws and regulations in Indonesia, including Law Number 35 of 2009 on Narcotics, this means that legally the implementation of the death penalty is justified, in other words, in the national law, the implementation of the death penalty is guaranteed to exist.

The existence of the implementation of the death penalty is also strengthened after the rejection of the judicial review of the previous narcotics law, which is Law No. 22 of 1997 on Narcotics, as stated by Harison Citrawan, "The right to life is guaranteed in the Indonesian constitution, but this right can be limited by statutory instruments. The constitutionality of the death penalty which is regulated by a number of laws, one of which is the narcotics law, has also been strengthened by the decision of the Constitutional Court".

According to applicants for judicial review, Article 80 paragraph (1) letter (a), paragraph (2) letter a and paragraph (3) letter a, Article 81 paragraph (3) letter a, and Article 82 paragraph (1) letter a, paragraph (2) letter a, and paragraph (3) letter a of Law Number 22 of 1997 on Narcotics are deemed to be contrary to the 1945 Constitution of the Republic of Indonesia (UUD 1945), including Article 28A of the 1945 Constitution, where Article 28I paragraph (1) of the 1945 Constitution states that the right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive law is a human right that cannot be reduced under any circumstances.

Based on the considerations of the Constitutional Court, the death penalty is appropriate to be implemented in Indonesia, especially for narcotics crimes. In giving consideration, the Court looks at various points of view in order to obtain the fairest justice, not only from the point of view of the perpetrator, but also from the point of view of the

victim. It is because in fact, the victim is the party who experience disadvantage. This is following the fifth principle of Pancasila, namely social justice for all Indonesian people, where justice must be equal for all levels of society, including justice in the field of law. In addition to victims who specifically experience disadvantage, the general public also experiences disadvantage. It is caused by the disruption of social harmony due to crime. So, the role of the death penalty is to restore social harmony in society. It is undeniable that as humans, we cannot escape from making mistakes, including in carrying out the criminal justice system that possibly imposes criminal sanctions on innocent people. However, in fact, the possibility is very small because judges are always careful in considering a decision. The view that considers the death penalty fails to provide a deterrent effect should not use it as a reason for the abolishment of the death penalty. It is because the heaviest sanction, which is the death penalty, is still needed. In contrast, the abolishment of the death penalty cannot guarantee that the crime rates will be decreased.

Narcotics crime as an extraordinary crime certainly requires extraordinary handling, including in terms of punishment that is different from ordinary crimes. The philosophy of punishment in Indonesia, which is the rehabilitation and social reintegration of perpetrators of criminal acts is a general principle, therefore the punishment imposed to convicts committed special or certain crimes must be different. If it is seen from the arguments of the Petitioners stating that the death penalty is contrary to the 1945 Constitution, then based on the opinion of the Constitutional Court, it can be concluded that both national law and in international legal instruments guarantee the protection of human rights, such as the right to life, is not absolute and have certain restrictions. With this limitation, the deprivation of the right to life can be justified if it is in accordance with existing regulations. So, it can be considered that a person's actions greatly affect the rights he has.

## CONCLUSION

Based on the research data analyzed, it can be concluded that:

1. The delay of the death penalty for narcotics cases happens because there are unlimited legal remedies and there are no regulations specifically regulating the time limit for executions. This creates a sense of "distrust" between the judiciary. Decision of Constitutional Court No. 34/PUU-XI/2013 and SEMA No. 7 of 2014, which is contradictory, is also a form of uncertainty in the criminal system in this country. Besides, it is also a legal loophole for convicts to apply for unlimited legal remedies, resulting in an indefinite delay of executing the death penalty. As a consequence, the convict serves two sentences, which are imprisonment and death penalty
2. Government policy (political will) in the legal field is yet adequate due to political effects or international pressure. In addition, it is also because Indonesia until today still does not have comprehensive and integral Indonesian National Legal System and it is not in accordance with the character, philosophy, as well as culture and customs of Indonesia. As a consequence, the implementation of death penalty in Indonesia is surrounded by controversy leading to unlimited delay, especially for death row inmates in narcotic cases because they have violated Human Rights and killed many young generation in Indonesia every year. Besides, this theory is like "pendulum", so it creates pros and cons in the community and it is not in accordance with the legal objectives, which are LEGAL CERTAINTY and JUSTICE.



3. The role of the Public Prosecutor as the executioner of the death penalty is not yet optimal. It is caused by the two above (legal remedies and political will). This makes the executor hesitate because there are no standard rules, they tend to wait for instructions from 'above' and they also worry about being considered to violate human rights. Whereas the death penalty based on the laws and regulations in Indonesia is justified, including the main punishment and the state apparatus prosecutor in the field of law enforcement should carry out his main duties (executors) properly, not take a decision by his own.
4. Based on the explanation above, the researcher suggest: 1) Government policy to form a National Legal System Drafting Team coordinated by the Ministry of Law and Human Rights of the Republic of Indonesia through the National Law Development Agency (BPHN); 2) Drafting laws and regulations that specifically regulate the mechanism, stages, and time limit for extraordinary legal remedies for death row inmates for narcotics cases; 3) Fighting for the revision of the Narcotics Law while still including the death penalty; 4) The Criminal Code Bill to continue to include the death penalty as the main punishment.

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### REFERENCES

- Bentham, J. (1831). To his fellow citizen of France on death punishment, (London: Robert Heward).
- Bertae, S. (2008). "Toward a new paradigm of legal certainty", *Legisprudence Journal*, 2(2).
- Budianto, A. (2020). "Legal research methodology reposition in research on social science", *International Journal of Criminology and Sociology*, 9.
- Budianto, A. (2020). "The Path of peace as a conflict resolution of ordinary crimes in criminology perspective In Indonesia", *International Journal of Criminology and Sociology*, 9.
- Chazawi, A. (2002). Criminal law lessons Part I, (Jakarta: Raja Grafindo Persada).
- Carlsmith, K.M., Wilson, T.D., & Gilbert, D.T. (2008). "The paradoxical consequences of revenge". *Journal of Personality and Social Psychology*, 95(6),1316–1324.
- Citrawan, H. (2014). "The right to life VS the death penalty in legal and human rights perspective, *Humanist Journal, Human Rights Research and Development Agency*, 2.
- Data on Death Penalty Convicts throughout Indonesia, Directorate General of Corrections (Ditjenpas) Ministry of Law and Human Rights, SDP (Penitentiary Database System) October 12, 2017
- Dietze, G. (2006). Two concepts of rule of law, (Germany: Liberty Fund,)
- Evans, K. (2008). Capital punishment: Cruel and unusual?, (Pennsylvania State University)
- Focus Group Discussion, Fadil Zumhana, Deputy Attorney General for General Crimes, held on October 16, 2021, Serpong, Banten.
- Focus Group Discussion, Surya Jaya, Supreme Court Justice of the Supreme Court of the Republic of Indonesia, held on October 16, 2021, Serpong, Banten.
- Focus Group Discussion, Suryambodo Asmoro, Head of the Legal Division of the Indonesian National Police, was held on October 16, 2021, Serpong, Banten.
- Harum, M. (2019). "Philosophical study of Hans Kelsen's Thoughts on Law and Satjipto Rahardjo's Ideas on Progressive Law", *Walisongo Law Review (Walrev)*, 1(2).

- <https://bnn.go.id/gunakan-narkotika-kalangan-remaja-meningkat/> Accessed on October 16, 2021
- <https://fh.umj.ac.id/eksekusi-pidana-mati-pasca-ujungan-mahkamah-konstitusi-nomor-107puu-xiii2015/> Chairul Huda
- <https://www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIIndex.aspx>
- Martono, L., & Joewana, S. (2006). *Combating drugs and violence: Learning to live responsible*, (Jakarta: Balai Pustaka).
- Muladi, (2005). *The development of human rights (HAM) Dimensions and the dynamics of the drafting of human rights laws*. (Bogor: Ghalia Indonesia)
- Oraa, J. (2008). *Human rights in state of emergency in international law*, (University of Michigan, Clarendon Press).
- “One Unity Destroys Marijuana Fields, National Narcotics Agency”. (2021).
- Palmer, J. (1977). “Economic analyses of the deterrent effect of punishment: *A Review*”, *Journal of Research in Crime and Delinquency*, 14(1).
- Purwoto, I., & Rozah, U. (2017). “The role of the prosecutor's office as executors of the death penalty in Indonesia”, *Diponegoro Law Journal*, 6(2).
- Sting, M. (2015). *China and the death penalty: Historical and current development*, (GRIN Publisher)
- Suyatna, U. (2018). “Evaluation of narcotics policy in 34 provinces in Indonesia”, *Journal*, 20(2).
- Ulum, D. (2017). “Child protection in narcotics policy: Narcotics crimes perpetrated by children”, *Indonesian Judicial Journal*, 5.
- Wardiono, K., Surbakti, N., & Widi F.R. (2020). *Death penalty execution for narcotics crime*, (Surakarta: Muhammadiyah University Press).