



DOI: <https://doi.org/10.38035/gijlss.v3i3>
<https://creativecommons.org/licenses/by/4.0/>

Limitations on The Right to Legal Counsel for Criminal Defendants in Light of The Principle of Equality Before The Law

Sarman¹, MS. Tumanggor², Lukman Hakim³, Septi Ayu Wulandari⁴, Trias Saputra⁵

¹Universitas Bhayangkara Jakarta Raya, Jakarta, Indonesia, sarmansh@gmail.com

²Universitas Bhayangkara Jakarta Raya, Jakarta, Indonesia

³Universitas Bhayangkara Jakarta Raya, Jakarta, Indonesia

⁴Universitas Pelita Bangsa, Cikarang, Indonesia.

⁵Universitas Pelita Bangsa, Cikarang, Indonesia.

Corresponding Author: sarmansh@gmail.com¹

Abstract: The principle of equality before the law is a fundamental principle in a democratic state governed by the rule of law. This principle guarantees that every individual, regardless of their background, is treated equally under the law. In the context of the criminal justice process, the application of this principle is closely linked to the right to legal assistance for criminal offenders. This journal aims to analyze the juridical and practical limitations on the right to legal assistance and their impact on the enforcement of the principle of equality before the law in Indonesia. The research method used is normative-empirical, which involves examining relevant legislation (the Indonesian Criminal Procedure Code and the Legal Aid Law) and empirical data from the field. The findings indicate that although the right to legal assistance is guaranteed by the constitution, its implementation still faces serious challenges, especially for indigent criminal offenders. These limitations create procedural and substantive inequality, which ultimately reduces justice. The journal recommends the need for legal and policy reforms to strengthen access to legal aid, so that the principle of equality before the law can be fully realized.

Keyword: Legal Assistance, Principle of Equality, Criminal Offender, Legal Aid

INTRODUCTION

Indonesia is a state of law, as stipulated in Article 1, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia¹⁰. As a consequence, the state has an obligation to protect and recognize the human rights of every citizen, including the right to equal protection and treatment before the law. The history of the international struggle for human rights began with key documents such as the Magna Carta in 1215, which taught that laws and regulations hold a higher position than the power of a king. This principle was later reinforced by international instruments like the Universal Declaration of Human Rights (UDHR) of 1948, which explicitly states that "All are equal before the law and are entitled without any discrimination to equal protection of the law". This fundamental principle is

enshrined in Article 27, Paragraph (1) of the 1945 Constitution, which states that all citizens are equal in their position before the law and government.

This principle of equality before the law not only guarantees equal treatment without discrimination but also includes the fundamental right to be accompanied by legal counsel. The right to legal counsel is crucial for ensuring a just and fair trial. Legal counsel acts as a counterbalance to the power between the individual (*suspect/defendant*) and the state, ensuring that legal proceedings are fair, transparent, and that the client's constitutional rights are protected. The right to legal aid is a concrete manifestation of the protection of human rights and access to justice, which is one of the efforts to uphold human rights. Legal aid is a humanitarian social service provided free of charge to the public, especially to those who are poor or legally illiterate, without regard to race, religion, political beliefs, descent, or social and cultural background.

Historically, the legal aid movement in Indonesia began with the establishment of the Jakarta Legal Aid Institute (LBH) in 1970, on the initiative of Adnan Buyung Nasution, who was supported by the then Governor of Jakarta, Ali Sadikin. The LBH was founded to provide legal assistance to the poor, victims of evictions, layoffs, and human rights violations in general. Over time, LBH/YLBHI became an important organization in Indonesia's pro-democracy movement and fought for the rights of the poor and victims of human rights violations, which are often caused by structural poverty.

In line with this principle, Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP), Article 56, Paragraph (1) mandates officials at all levels of examination to appoint legal counsel for suspects or defendants facing the threat of capital punishment, a prison sentence of 15 years or more, or for those who are indigent and facing a sentence of 5 years or more. This provision is reinforced by Law No. 16 of 2011 on Legal Aid, which ensures legal aid for poor groups (Hamzah, 2006: 103). However, a normative dissonance and substantive discrimination arise from the phrase "shall" in Article 56 of the KUHAP. This article implicitly limits the right to legal assistance for criminal offenders facing a sentence of less than 5 years who are not classified as indigent.

This limitation creates a disharmony between the universal constitutional guarantee and the conditional limitation in the KUHAP. In practice, this results in many criminal offenders facing sentences of less than five years often not being accompanied by legal counsel. This phenomenon is clearly visible from court decision data at the South Jakarta District Court, where many cases with sentences of less than five years are processed without mandatory legal assistance, illustrating how this normative disharmony is realized in daily judicial practice. The following is court decision data that strengthens the argument above:

South Jakarta District Court

No.	Case Number	Devendant's Name	Imprisonment Sentence
1	714/Crim. B/2024/PN.Jkt.Sel	Hary Satrio Nugroho	3 (three) years and 6 (six) months
2	584/Crim. B/2024/PN.Jkt.Sel	Rendra Saputra Niagara	3 (three) years
3	647/Crim. B/2024/PN.Jkt.Sel	Septi Susanti als Septi	2 (two) years and 6 (six) months
4	537/Crim. B/2024/PN.Jkt.Sel	1) Deva fais laikqstur Bin zainal Abidin 2) Harno Bin Parno	2 (two) years and 6 (six) months
5	622/Crim. B/2024/PN.Jkt.Sel	1) Sunarya als Abeng Bin Supendi 2) Suryanto Alias Yanto	2 (two) years and 6 (six) months

More critically, the lack of clear legal consequences in the Criminal Procedure Code (KUHAP) itself causes the phrase "shall" to lose its imperative nature. The disregard for the obligation of legal assistance, especially at the investigation stage, can lead to very serious legal consequences, such as the public prosecutor's indictment being declared inadmissible, and even the Investigation Report (BAP) and the indictment being rendered null and void by law. Supreme Court jurisprudence, such as Supreme Court Decision No. 1565 K/Pid/1991 and Supreme Court Decision No. 367 K/Pid/1998, has affirmed this cancellation. This is not merely an issue of the non-realization of a legal objective, but an indication of severe legal uncertainty that can threaten the validity and legitimacy of the entire criminal justice process. Based on these problems, this research is very relevant and urgent to be studied (Subekti, 2022: 412).

Based on the description above, this research will examine and be directed at the following questions:

1. How does the normative disharmony between Article 56 of Law No. 8 of 1981 on the Criminal Procedure Code and Law No. 16 of 2011 on Legal Aid limit the right to legal assistance for criminal offenders from the perspective of the principle of equality before the law?
2. What should be the concept of an ideal reformulation of laws and regulations regarding the right to legal assistance for criminal offenders to be in line with the principle of equality before the law?

METHOD

This research employs a normative legal research (doctrinal legal research) method, as its primary focus lies in analyzing legal principles and normative guarantees concerning the right of criminal defendants to obtain legal counsel within the framework of the principle of equality before the law. In this context, the study does not rely on empirical field data, but rather emphasizes the exploration, interpretation, and construction of law derived from legislation, international instruments, legal doctrines, and court decisions. The approach adopted is multidimensional. First, the statutory approach, by examining both national and international legal instruments such as the 1945 Constitution, the Indonesian Code of Criminal Procedure (KUHAP), Law No. 16 of 2011 on Legal Aid, and global instruments including the ICCPR, UDHR, and ECHR. Second, the conceptual approach, to deepen the philosophical and juridical understanding of the principle of equality before the law and the guarantee of a fair trial.

The analysis of legal materials is conducted qualitatively, emphasizing the interpretation of legal norms and relevant doctrines. The interpretative techniques used include: grammatical interpretation, to construe legal provisions textually; systematic interpretation, to place legal provisions within the broader legal system; and teleological interpretation, to uncover the underlying objectives and spirit of protecting defendants' rights. In addition, a comparative analysis is applied to assess whether limitations on the right to counsel in various jurisdictions are consistent with the principle of equality before the law. With its descriptive-analytical specification, this study not only describes the various forms of limitations on the right to legal counsel but also analyzes their implications for the principle of equality before the law. The expected outcome is to provide both normative and practical contributions for policy formulation and improvement of the criminal justice system, ensuring that the right of defendants to legal assistance is genuinely and equally guaranteed for everyone without discrimination.

RESULT AND DISCUSSION

1. The Paradigm of the State of Law (Grand Theory): Philosophical Roots and Constitutional Principles

a. The Concept of a State of Law and its Implementation in Indonesia

The concept of a state of law is the fundamental foundation in the order of a nation that upholds justice and human rights. Historically, this idea developed in two great traditions: Rechtsstaat from the Continental European tradition and Rule of Law from the Anglo-Saxon tradition. Although both were born from different historical backgrounds Rechtsstaat as a struggle against absolutism, and Rule of Law developing evolutionarily both fundamentally lead to one main goal, namely the recognition and protection of human rights.

The English philosopher, A.V. Dicey, proposed three main elements of the concept of the rule of law: first, the supremacy of law, which places law as the highest authority above human or institutional power. Second, equality before the law, which affirms that all citizens have the same position before the law without exception. Third, constitution based on individual rights, which means that the constitution is not merely a source of human rights, but that these rights must have a real aspect of protection. These three pillars serve as the foundation for a legal system that is not based on power, but on justice and accountability.

Indonesia, as a state of law as stipulated in Article 1, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, adopts and develops this concept. In the Indonesian context, the concept of a state of law does not only refer to the Rechtsstaat or Rule of Law traditions but is also integrated with the values of Pancasila, thus being known as a “Pancasila State of Law”. This ideal explicitly requires a state that does not just regulate but is also responsible for realizing the welfare of all its citizens, which is known as a welfare state. In this paradigm, all government policies and programs are directed toward achieving the main goal of improving the standard of living and building a just and prosperous society.

b. Human Rights Protection as a Pillar of a State of Law

One of the essential features of a state of law is its commitment to protecting and respecting the human rights of every individual. This protection is not merely limited to the inclusion of rights in the constitution, but it demands that the state guarantees that these rights can be actualized in real practice. The right to recognition, guarantee, protection, and just legal certainty is a constitutional right inherent in every person, as guaranteed in Article 28D, Paragraph (1) of the 1945 Constitution (Hadzon, 1987: 25).

Within this framework, the right to legal aid is a concrete manifestation of the protection of human rights and access to justice. Legal aid is not merely a facility, but a state obligation to ensure that every citizen, especially the indigent, receives equal and effective legal protection. This is tangible proof that a state of law that is oriented toward the welfare of society does not only function as a regulator, but also as a service provider aimed at improving the quality of life and justice for all.

2. The Principle of Equality Before the Law: From Doctrine to Reality

a. The Position and Meaning of the Principle of Equality Before the Law

The principle of equality before the law is one of the most important principles in law and serves as the main benchmark for justice. This principle demands that every citizen be treated fairly and equally before the law, without discrimination based on race, religion, ethnicity, social status, or other backgrounds. In Indonesia, this principle holds a very strong position because it is explicitly guaranteed in the constitution, namely Article 27, Paragraph (1) of the 1945 Constitution, which states, "All citizens are equal in their

position before the law and government and are obliged to uphold the law and government without exception". Furthermore, Article 28D, Paragraph (1) of the 1945 Constitution reinforces the right of every person to receive just legal recognition, guarantee, protection, and certainty, as well as equal treatment before the law.

In the context of criminal law enforcement, this principle demands that every individual who deals with the law, whether as a suspect or a defendant, has the same right to defend their interests. The right to be accompanied by legal counsel is a concrete embodiment of this principle. Legal counsel, in the confrontation between the individual and state power, functions as a "counterbalance of power" that ensures both parties are in an equal position, so that the legal process runs fairly and transparently.

b. Implementation and Challenges in the Criminal Justice System

Although the principle of equality before the law is constitutionally guaranteed, its implementation in the criminal justice system still faces serious challenges. Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP), Article 56, Paragraph (1) limits the state's obligation to provide free legal counsel only to criminal offenders who are threatened with capital punishment, a prison sentence of fifteen years or more, or a prison sentence of five years or more for those who are indigent. This limitation creates a veiled discriminatory pattern. Although Law No. 16 of 2011 on Legal Aid (UUBH) attempts to overcome this limitation by providing legal aid for "poor people or groups of people," field practice shows that the system still tends to prioritize the "threat of punishment" criterion rather than "economic status". The court decision data attached to this research strengthens this finding, where many criminal offenders with a threatened sentence of less than five years, who should be entitled to equal treatment, are not accompanied by legal counsel.

This gap is a fundamental problem. The limitation in Article 56 of the KUHAP directly creates legal inequality, where defendants with a threatened sentence of more than five years have a greater right to legal assistance *de jure* than those with a threatened sentence of less than five years. Analysis of the empirical data from court cases proves that this discrimination is not just theoretical but is also a widespread practical reality. The absence of legal assistance for minor criminal offenders not only violates their rights but also creates a significant imbalance in the legal process, which ultimately damages the principle of a fair trial. If the principle that guarantees every person equal treatment before the law is not consistently enforced, it can erode public trust in the integrity of the entire justice system.

3. The Theory of Legal Certainty (Middle Theory): Between Proclamation and Actualization

a. The Nature and Urgency of Legal Certainty in the Indonesian Legal System

Legal certainty is one of the main goals of the law itself. According to Gustav Radbruch, positive law, as embodied in legislation, must be formulated in a clear way to avoid errors in meaning and interpretation, and should not be easily changed. Legal certainty ensures that the law can operate as it should and that every individual can anticipate the consequences of their actions, without ambiguity or discrimination.

Sudikno Mertokusumo also stated that legal certainty is a guarantee that the law can be implemented in accordance with the text or norms contained within it. Although legal certainty is often associated with justice, they are different concepts. Law has general, binding, and equalizing characteristics, while justice can be subjective and individualistic. Thus, legal certainty is the implementation of law in accordance with its text, so that society can be sure that the provisions contained in laws and regulations will be

implemented consistently. The value of legal certainty is very closely related to positive legal instruments and the state's role in actualizing them.

b. The Dysfunction of Legal Certainty in the Provisions of Article 56 of the Criminal Procedure Code (KUHP).

At the practical level, Article 56 of the KUHP, which limits the obligation of legal assistance, shows a dysfunction in realizing legal certainty. Although the article uses the word "shall" to appoint legal counsel, the absence of clear sanctions or legal consequences for a violation of this provision causes its imperative nature to be lost. The KUHP does not explicitly regulate the legal consequences if a defendant who should have the right to be accompanied by a lawyer does not receive that right.

This lack of clear consequences creates a legal loophole that leads to inconsistent interpretations and practices in the field. Analysis shows that the implementation of Article 56 of the KUHP is highly dependent on the discretion of law enforcement officials and judges, not on the certainty of the norm. There is Supreme Court jurisprudence that states that a violation of Article 56 of the KUHP can invalidate the public prosecutor's indictment, but on the other hand, legal practice also shows cases where the trial process continues despite a violation of the right to legal assistance.

This ambiguity directly erodes the legal certainty that the law should guarantee. Instead of acting as a certain guideline, Article 56 of the KUHP becomes a norm whose implementation varies, creating uncertainty and inconsistency. This situation shows that the formal legal logic that should serve as a guide is defeated by a practical logic based on efficiency or other considerations. If a key rule does not have consistent binding power, then the resulting justice becomes unpredictable and uneven, which damages the integrity of the entire criminal justice system.

4. The Theory of Citizens' Rights (Applied Theory): Legal Aid as a Guarantee of a Fair Process

a. The Right to Legal Aid as a Manifestation of Constitutional Protection

The rights of citizens guaranteed in the constitution and laws are a manifestation of the commitment of a state of law to protect individuals from the arbitrariness of power. The right to legal aid is one of the fundamental rights guaranteed in the 1945 Constitution and is more specifically regulated in Law No. 16 of 2011 on Legal Aid. The purpose of this law is to guarantee and fulfill the right of every person to obtain access to justice, to realize the constitutional rights of every citizen in accordance with the principle of equality before the law, and to guarantee an effective, efficient, and accountable judiciary.

This right, as an inseparable part of the right to obtain a fair trial, serves to ensure that the legal process runs fairly and transparently. Legal aid plays an important role in giving clients an understanding of the charges against them, formulating a defense strategy, and ensuring that the client's rights are protected.

b. Analysis of the Criminal Justice Model

The three theoretical frameworks that have been described the Theory of the State of Law, the Theory of Legal Certainty, and the Theory of Citizens' Rights cannot be understood in isolation. Instead, they form a coherent and interconnected analytical hierarchy, which serves as an analytical tool to identify the root cause of the issue of limiting the right to legal assistance

- 1) The Theory of the State of Law serves as the philosophical umbrella that provides the noble ideals of justice, equality, and the protection of human rights as the main goals of the state. This is the macro foundation that provides the ideal vision of how a state should operate.

- 2) The Theory of Legal Certainty acts as a bridge that connects this philosophical vision with the formulation of positive law. This theory demands that the ideals of a state of law must be realized in regulations that are clear, certain, and can be actualized consistently.
- 3) The Theory of Citizens' Rights (specifically with the analysis of the Crime Control Model and the Due Process Model) provides a more specific and applicable analytical tool to evaluate whether the practice of the criminal justice system has met the standard of a fair process.

Thus, the main problem identified is not only in the discriminatory formulation of Article 56 of the KUHAP but in the systemic failure to fully adopt a criminal justice model that is oriented toward due process. This failure in turn creates legal uncertainty, which is ultimately a failure to realize the idealized paradigm of a welfare state of law. This chain of logic from the failure to implement the justice model, to the dysfunction of legal certainty, and culminating in the philosophical contradiction with the ideals of a state of law is the basis for the main argument in this research.

5. Normative Disharmony and the Limitation of the Right to Legal Assistance

a. Analysis of Normative Disharmony in the Criminal Procedure Code (KUHAP) and the Legal Aid Law

The research results show a deep normative disharmony between the Criminal Procedure Code (KUHAP), as the main law of criminal procedure, and the Legal Aid Law (UUBH). KUHAP Article 56, Paragraph (1) explicitly limits the state's obligation to provide legal counsel only for crimes threatened with capital punishment, a prison sentence of 15 years or more, or a prison sentence of 5 years or more for those who are indigent. This limitation implicitly excludes criminal offenders with a threatened sentence of less than five years who do not fall into the indigent category.

On the other hand, Article 3 of the Legal Aid Law (UUBH) has a broader and more transformative purpose, which is to "guarantee and fulfill the right of every person to obtain access to justice" and "to realize the constitutional rights of every citizen in accordance with the principle of equality before the law". This gap creates a legal paradox: a newer and more progressive law (UUBH) guarantees the universal right to legal aid, while an older and more specific law (KUHAP) limits the scope of that right. The impact of this disharmony is clearly visible in judicial practice. The analysis of court decision data, as presented in Chapter III, confirms that many criminal cases with sentences of less than five years are processed without legal assistance. This proves that the normative limitation in Article 56 of the KUHAP is not just a theoretical issue but has real consequences that substantively damage the principle of equality before the law.

b. Absence of Legal Assistance and Dysfunction of Legal Certainty

The absence of legal assistance for perpetrators of minor crimes not only creates discrimination but also points to a dysfunction in achieving legal certainty. Although the Criminal Procedure Code (KUHAP) uses the word 'mandatory' to designate legal counsel, the lack of clear sanctions or legal consequences when this obligation is ignored strips the phrase of its imperative nature. Inconsistency in court rulings, such as those seen in the Case of E.W. Bin Supeno (where the proceedings were halted) and the Case of Hasan Basri and Fazza (where the proceedings were continued) despite similar violations occurring, is clear evidence of this legal uncertainty.

This condition can be analyzed through the framework of the Crime Control Model put forward by Herbert L. Packer. Article 56 of the Criminal Procedure Code (KUHAP), with the restrictions it imposes, reflects the logic of the Crime Control Model which

prioritizes efficiency and speed in handling cases, especially minor cases. In this model, procedural rights, such as legal assistance, are regarded as 'obstacles' that can slow down the judicial process. This logic directly contradicts the principle of the Due Process Model, which emphasizes justice and the protection of every individual's constitutional rights, regardless of the severity of the alleged crime. Consequently, the Indonesian criminal justice system, in certain cases, fails to fulfill its constitutional obligation to guarantee equal treatment before the law and a fair trial.

6. The Concept of Ideal Legislative Reformulation

a. The Paradigm Shift Towards the Due Process Model

To address the normative disharmony and dysfunction of legal certainty that have been identified, this research argues that a radical legal reformulation is necessary, based on a comprehensive paradigm shift from the Crime Control Model to the Due Process Model. This reformulation must aim to realize a criminal justice system that prioritizes the protection of every individual's fundamental rights, rather than efficiency and speed. In this context, the concept of 'legal reformulation' does not merely mean changing the wording of the legislative article, but rather the re-establishment of the ratio legis (the philosophical basis) behind the provision. The ideal reformulation is one that is capable of bridging the nation's noble ideals of a rule of law (such as equality and social justice) with legal enforcement practices that are consistent and non-discriminatory.

b. Proposal for Concrete Legal Reformulation

Based on the theoretical analysis and empirical findings, the following is the proposed concept for the ideal reformulation concerning the right to legal assistance for criminal perpetrators (offenders):

- 1) Amendment of Article 56 of the Criminal Procedure Code (KUHP): Article 56 of the KUHP must be amended to eliminate limitations on criminal threat (maximum sentence) and financial capacity criteria as mandatory prerequisites for obtaining legal assistance. Legal aid must become a universal right for every suspect and defendant, regardless of the type of criminal offense alleged. This will directly abolish the current discrimination and align the KUHP with the spirit of the 1945 Constitution and the Legal Aid Law (UUBH).
- 2) Imposition of Strict Sanctions: The reformulation must include the addition of provisions concerning clear and definite legal consequences if the obligation of legal assistance is not fulfilled. The absence of legal assistance starting from the investigation stage must result in the invalidation (nullification) of the official investigation report (BAP) and the indictment, as has been affirmed in several Supreme Court jurisprudence (precedents). This sanction will give a genuine imperative nature to the 'mandatory' provision and prevent inconsistent practices in the field.
- 3) Strengthening Structural Legal Aid: The State must take full responsibility for providing universal legal aid to all citizens who require it. This aligns with the concept of the welfare state, where the state not only promises to protect rights but also provides adequate instruments and mechanisms to realize them.

By implementing this reformulation, the criminal justice system in Indonesia will move closer toward realizing the ideals of a rule of law, where every individual, without exception, receives protection, legal certainty, and equal treatment before the law. This step constitutes a concrete contribution to building a judicial system that is effective, efficient, and accountable, while also delivering justice for the entire community

CONCLUSION

The conclusion should relate to the title and answer the research formulation or objectives. Do not make statements that are not adequately supported by your findings. Mention the improvements made to the field of industrial engineering or science in general. Do not create further discussion, repeat the abstract, or simply list the results of the research results. Do not use bullet points, use paragraph sentences instead. Based on a comprehensive theoretical analysis and empirical findings, this research concludes the following key points related to the problematics of regulating the right to legal assistance for criminal perpetrators in Indonesia.

Normative Disharmony and Substantive Discrimination: There is a significant misalignment between the Criminal Procedure Code (KUHAP) and the Legal Aid Law (UUBH). Article 56 of the KUHAP explicitly limits the obligation of legal assistance based on the threshold of the criminal threat (maximum sentence), which substantively creates discriminatory treatment against criminal offenders facing a maximum sentence of under five years. Analysis of court ruling data confirms that this discrimination is not merely theoretical but is a detrimental reality in day-to-day judicial practice. **Dysfunction of Legal Certainty:** Although Article 56 of the Criminal Procedure Code (KUHAP) uses the word 'mandatory,' the absence of strict sanctions or legal consequences for violating this provision has caused its imperative nature to be lost. Consequently, implementation in the field becomes inconsistent, as demonstrated by differing court rulings in similar cases. This condition directly erodes the principle of legal certainty which should be a central pillar in a state governed by the rule of law.

Paradigmatic Conflict: This gap is rooted in the conflict between two models of criminal justice, namely the Crime Control Model and the Due Process Model. The Indonesian legal system, which constitutionally adheres to the Due Process Model—upholding individual rights—in its implementation, actually adopts the logic of the Crime Control Model, prioritizing efficiency, especially for minor criminal cases. This conflict fundamentally compromises the principle of equality before the law and the right to a fair trial. Overall, this research concludes that the restriction of the right to legal assistance for criminal perpetrators constitutes a systemic failure to realize the ideals of a just rule of law, where every citizen must receive equal treatment and adequate protection from the state

REFERENCES

- Adnan Buyung Nasution, *Bantuan Hukum Di Indonesia*, Jakarta, LP3ES, Tahun 1981.
- Andi Hamzah, *Hukum Acara Pidana Indonesia*, Jakarta, Sinar Grafika, Tahun 2008.
- Bunyi dan Makna amandemen ke tiga Undang-Undang Dasar R.I. Tahun 1945 Pasal 1 ayat (3)
- Dicey AV, *Pengantar Sudi Hukum Tata Negara*, London: Macmillan, Tahun 1885
- Dina Susiani, *Hukum Dan Hak Asasi Manusia*, Tahta Media Grup, Tahun 2022.
- MaHFud MD,M. *Konstitusi dan Hukum Dalam Kontroversi Isu*, Jakarta, Rajawali Press, Tahun 2009.
- Philipus M, *Hak Asasi Manusia (Perlindungan Hukum Bagi Rakyat Indonesia)*, Bina Ilmu, Tahun 1987.
- R. Subekti & Tjitrosudibyo, *Kompilasi Yurisprudensi Mahkamah Agung*, Jakarta, Pradnya Paramita, Tahun 2022.
- Yahya Harahap M, *Pembahasan Permasalahan KUHP : Penyidikan Dan Penuntutan*, Jakarta, Sinar Grafika Tahun 2012.
- Yahya Harahap M., *Pembahasan Permasalahan dan Penerapan KUHAP Penyidikan dan Penuntutan Edisi kedua*, Jakarta, Sinar Grafika 2008.