

The Position of the Principle of Legality in Law No. 1 of 2023 for the Development of Criminal Law in Indonesia

Rani Oslina Nainggolan¹

University of North Sumatra, Medan, Indonesia
Raninainggolannainggolan@gmail.com

Alvi Syahrin

University of North Sumatra, Medan, Indonesia
alviprofdr@gmail.com

Mahmud Mulyadi

University of North Sumatra, Medan, Indonesia
mulyadi_mahmud@yahoo.com

Submission	Accepted	Published
Jun 17, 2024	Aug 20, 2024	Aug 30, 2024

Abstract

*Ideally, the Principle of Legality serves as the fundamental basis in criminal law to ensure legal certainty and justice. However, in reality, with the enactment of Law No. 1 of 2023, there has been controversy regarding the evolving application of the law in Indonesia. The issue that arises is how this change impacts the application of criminal law, particularly in the context of protecting collective and individual interests. This study aims to analyze the position and consequences of the Principle of Legality in the development of criminal law in Indonesia. The method used is normative juridical research with a descriptive qualitative approach. The results of the study show that the Principle of Legality in Law No. 1 of 2023 emphasizes the principles of *lex scripta*, *lex stricta*, *lex certa*, and *lex praevia*, which reinforce legal certainty. The consequence of its application for the future of criminal law is the creation of a principle that is more adaptive and relevant to the diverse needs and culture of Indonesian society.*

Keywords: Principle of Legality, Criminal Law, Customary Law

¹ Corresponding Author

Abstrak

Idealnya, Asas Legalitas berfungsi sebagai landasan utama dalam hukum pidana untuk menjamin kepastian hukum dan keadilan. Namun, realitasnya, dengan lahirnya UU Nomor 1 Tahun 2023, muncul kontroversi terhadap penerapan hukum yang berkembang di Indonesia. Masalah yang timbul adalah bagaimana perubahan ini mempengaruhi penerapan hukum pidana, terutama dalam konteks perlindungan kepentingan kolektivitas dan individu. Penelitian ini bertujuan untuk menganalisis kedudukan dan konsekuensi Asas Legalitas dalam perkembangan hukum pidana di Indonesia. Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan deskriptif kualitatif. Hasil penelitian menunjukkan bahwa Asas Legalitas dalam UU Nomor 1 Tahun 2023 menekankan prinsip *lex scripta*, *lex stricta*, *lex certa*, dan *lex praevia*, yang memperkuat kepastian hukum. Konsekuensi penerapannya bagi hukum pidana ke depan adalah terciptanya asas yang lebih adaptif dan relevan dengan kebutuhan serta budaya masyarakat Indonesia yang beragam.

Kata Kunci: Asas Legalitas, Hukum Pidana, Hukum Adat

Introduction

Criminal law is one of the main pillars in a country's legal system, functioning to maintain order, justice, and security within society. In Indonesia, the development of criminal law cannot be separated from the ever-changing social, political, and cultural dynamics. Every social development and historical change has a direct impact on the evolution of law, including criminal law. This reflects that law does not stand alone but is always connected to the culture, history, and context of the time (Elta & Yoserwan, 2023). In other words, fundamental social changes will influence the direction of legal development, including how criminal law is regulated and applied.

As a product of legal-political processes, the Indonesian Criminal Code (KUHP) has undergone various changes and adjustments since its first adoption. However, despite many adjustments, these efforts do not always reflect the actual reform of criminal law within the national context of Indonesia. Pancasila, as the nation's philosophical foundation, should be the primary basis for any effort to reform criminal law (Hafizah et al., 2022). Pancasila, with its five interrelated principles, embodies fundamental values that must be preserved and implemented in every legal regulation in Indonesia, including criminal law.

However, in reality, not all criminal law regulations in Indonesia fully reflect the values contained in Pancasila. Although there have been efforts to incorporate national and local cultural elements, there remains a gap between the legal idealism and its implementation in practice. For example, customary law is often neglected or only partially recognized within existing criminal law regulations. Yet, customary law still plays an important role in the daily lives of people in various regions of Indonesia. The discrepancy between the legal idealism that seeks to accommodate Pancasila's values and the reality on the ground creates various problems in the enforcement of criminal law (Anwar, 2023).

One of the main issues that arise is the lack of legal certainty and the potential for arbitrariness in the application of criminal law. This occurs because there is no alignment between the principle of legality recognized in criminal law and its application, which is sometimes influenced by political interests or differing legal interpretations. The principle of legality, as regulated in Article 1, paragraph 1 of Law No. 1 of 2023 concerning the Criminal Code, emphasizes that no act can be subjected to criminal sanctions unless it has been stipulated in the prevailing laws before the act was committed (Gregorio et al., 2024). This principle aims to uphold legal certainty and prevent arbitrariness in law enforcement. However, the addition of provisions in Article 2 that recognize the living law in society (customary law) shows an effort to better accommodate local values within Indonesia's criminal law system.

This development is interesting to analyze, especially in the context of how the principle of legality is maintained while accommodating customary law in the new criminal law system. The recognition of customary law in the new Criminal Code is an important step that demonstrates a desire to be more inclusive and responsive to the needs of society. However, it also raises questions about how the principle of legality can be preserved without sacrificing the principles of justice and legal certainty. The issue arising from this development is how to integrate customary law into the national criminal law system without violating the principles of legality (Gregorio et al., 2024). Additionally, consideration must be given to how the application of customary law can be implemented consistently across various regions, given the diversity of customs and traditions in Indonesia. Another challenge is ensuring that the recognized customary law truly aligns with the values of Pancasila and does not conflict with human rights and internationally recognized laws.

The aim of this research is to analyze the position of the principle of legality in Law No. 1 of 2023 concerning the Criminal Code and its implications for the development of criminal law in Indonesia. This study will discuss how the principle of legality is upheld in the context of the recognition of customary law and how this may influence the enforcement of criminal law in Indonesia in the future. Furthermore, this research also aims to identify the challenges and opportunities arising from the integration of customary law into the national criminal law system, as well as how the principles of Pancasila can remain the main foundation in every development of criminal law in Indonesia.

Literature Review

Talking about the principle of legality in the context of criminal law is not a new discourse; many researchers have published on it using various methods and approaches. Roby and Christina, in their article titled; "*Pembaharuan Berlakunya Asas Legalitas Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana,*" have very well described the significant changes in the principle of legality in the 2023 Criminal Code (KUHP), which expands the scope of criminalization by accommodating living laws within society, even if they are not formally regulated in written law. Nevertheless, this change still sparks debates regarding legal certainty, particularly concerning the limitations of customary law

not explicitly regulated in the Criminal Code (Nugraha & Silalahi, 2024). The article above shares similarities with the author's study in the context of the principle of legality in Law No. 1 of 2023. The difference is that while Roby and Christina focus on the renewal of the validity of this principle, the author is more focused on highlighting how this principle will impact the development of criminal law in the future.

Warih Anjari, in his publication titled; "*Kedudukan Asas Legalitas Pasca Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006 dan 025/PUU-XIV/2016*," has formulated very constructive findings on how the Constitutional Court's decisions strengthen the position of the formal legality principle, which serves as a barrier against potential arbitrariness in law enforcement, particularly in cases of corruption. On the other hand, the development of jurisprudence that leads to the application of the material legality principle allows unwritten laws recognized in customary communities to be accommodated within the national legal system. The Constitutional Court, through its decisions, contributes significantly by ensuring that law enforcement in Indonesia remains consistent with the principle of legality while also being flexible in accommodating customary norms, ultimately supporting the achievement of substantive justice (Anjari, 2019). The publication above is significant to the author's study in the context of the position of the legality principle. The difference is that while Warih Anjari focuses on the Constitutional Court's decisions, the author is more intent on exploring Law No. 1 of 2023.

Johari et al., in their work titled; "*Kedudukan Asas Legalitas dalam Pembaharuan Hukum Pidana di Indonesia*," have systematically mapped out how the principle of legality, initially absolute in protecting citizens from the arbitrariness of authorities, is no longer absolute, especially in the context of special offenses such as corruption, narcotics, terrorism, and gross human rights violations. This development reflects the flexibility of criminal law in addressing criminal acts that are not yet regulated in written law, allowing exceptions to the principle of legality through the retroactive principle for certain reasons to achieve more substantive justice (Johari et al., 2023). The work above shares similarities with the author's study in the context of the position of the legality principle and the development of criminal law. The difference is that while Johari focuses on the dimension of *lex preavia*, the author examines *lex scripta*, *lex stricta*, *lex certa*, and *lex praevia*.

Some of the literature reviews above represent the most relevant publications to the author's study. After further observation and analysis of dozens of other relevant works, the author has not yet found any work that focuses and coherently examines; "*Kedudukan Asas Legalitas dalam UU No. 1 Tahun 2023 Bagi Perkembangan Hukum Pidana di Indonesia*" as the author does. This indicates that this research has originality and is still unique. The 'state of the art' or position of this research in relation to previous works (novelty) is how the principle of legality contributes to the future development of Indonesian criminal law.

Research Method

This article falls into the category of qualitative library research. The methodology used is a normative juridical approach, which is often referred to as doctrinal legal research. This approach views the law as something written and bound by legislation, with the main focus of this research being the analysis of legal texts, including statutes, court decisions, and relevant legal literature. In the context of studying the principle of legality in Law No. 1 of 2023, this research aims to explore and understand how the legal principles outlined in this regulation interact with the living and evolving legal norms within society, particularly in relation to the development of criminal law in Indonesia.

The primary data used includes Law No. 1 of 2023 and other relevant regulations. Secondary sources are scholarly journals published in the last 10 years. The focus of the research is to explore legal principles, with special attention to how the principle of legality is interpreted and applied in criminal law practice. In presenting the data, the author uses a descriptive-analytical pattern, aiming to provide a comprehensive overview of the position and role of the principle of legality within the new criminal law framework. The collected data will be analyzed qualitatively, by examining, interpreting, and connecting various legal sources to draw in-depth conclusions about the changes and implications brought by Law No. 1 of 2023 on the principle of legality and criminal law in Indonesia as a whole.

History of the Principle of Legality

The principle of legality has a long and influential history in the development of law across various parts of the world, including Indonesia. Generally, the principle of legality is a fundamental principle that states that an act can only be considered a crime if it has been prescribed by law before the act occurs. This principle is crucial in providing legal protection to citizens against arbitrary actions by authorities. Historical records show that the oldest known legal system, such as Babylonian Law with the Code of Hammurabi, already applied the concept of written law, which is the precursor to the principle of legality (Hazard, 1958). The Code of Hammurabi itself is one of the earliest written laws that recorded various rules and legal sanctions and became a crucial foundation in the development of criminal law worldwide.

In the traditions of major religions, the principle of legality also holds an important place. For instance, in the Quran, there is an implication of the principle of legality in Surah Al-Isra' verse 15, which states that a person cannot be punished until a prophet has delivered the law. Similarly, in the Bible, specifically in Romans 5:13, it is mentioned that sin is not accounted for if there is no law regulating it. This concept shows that the principle of legality was recognized long before the emergence of modern legal systems and has been an integral part of moral and legal teachings in various religious traditions (Malekian, 2011).

In the context of European history, the principle of legality is often associated with the French Revolution of 1789. This revolution marked an important moment when the principle of legality was widely adopted as part of the effort to oppose the arbitrary power of kings and to fight for human rights (Ayuni

et al., 2022). However, long before the French Revolution, the concept of legality had already started to develop in Ancient Rome. At that time, there was the term *criminal extra ordinaria*, which referred to crimes not regulated by law. This term later allowed Western European kings to act arbitrarily against acts deemed immoral but not yet regulated in written law.

Further development of the principle of legality in Western Europe is particularly evident in England, where the idea began to be articulated from the Magna Carta of 1215 to the Habeas Corpus Act of 1679. These documents reinforced legal protection for citizens by limiting the power of the king and the authority of judges. On the other hand, in the same century, France still practiced criminal justice with the principle of *arbitrium iudicis*, which granted significant power to judges to determine the qualification of an act as a crime (Komnatnaya et al., 2023). This condition later inspired French thinkers to develop a stronger and more rooted concept of the principle of legality.

After Indonesia gained independence, the principle of legality was adopted into the national criminal law through Article 1(1) of Law No. 1 of 1946 concerning the Criminal Code (KUHP). This article states that an act cannot be punished except based on the criminal legislation that has been in force. The principle of legality in the *KUHP* is a legacy of the continental or civil law system used by the Dutch, Indonesia's former colonizers. This principle then became the foundation for criminal law enforcement in Indonesia, providing legal certainty and preventing arbitrary actions by the government. In its development, the principle of legality is no longer absolute, especially when dealing with specific crimes such as corruption, narcotics, terrorism, and gross human rights violations (Hafizhah et al., 2024). In these cases, the principle of legality can be set aside for certain reasons, particularly when written law does not yet exist or is insufficient.

These exceptions are allowed to ensure substantive justice, which is a priority in modern law enforcement. The principle of legality has thus evolved to be more flexible, allowing law enforcement to adapt the law to dynamic societal situations and needs. In the new *KUHP* in Indonesia, the principle of legality has expanded to include two types of principles: formal legality and material legality. Formal legality refers to written law that exists before an act is committed, while material legality refers to the law that lives within society, or what is known as *living law*. Both forms of the principle of legality are adopted to balance between legal certainty and substantive justice, and to maintain the relevance of positive law with the evolving legal traditions in society (Utari & Saputri, 2024). This expansion of the principle of legality shows an effort to preserve customary law that has long existed in Indonesia. With the principle of material legality, unwritten customary law that is widely recognized by society can still be acknowledged and applied within the Indonesian criminal justice system.

This provides room for a more inclusive and responsive justice system that addresses the needs of indigenous communities without compromising the legal certainty guaranteed by formal legality. Overall, the development of the principle of legality in Indonesia reflects an effort to integrate local legal traditions with more universal modern legal principles. By accommodating both written law and unwritten customary law, the Indonesian legal system seeks to achieve a balance between legal certainty and substantive justice (Gearty, 2005). This development

demonstrates that the principle of legality, although rooted in a long history, continues to evolve and adapt to the diverse needs and contexts of Indonesian society.

The principle of legality, with all its complexities and developments, remains a fundamental basis for criminal law enforcement in Indonesia. Although it is no longer absolute, this principle continues to serve as an important guide in ensuring that all law enforcement actions are based on clear and fair rules, and provide adequate protection for citizens' rights. The long history and development of the principle of legality in Indonesia highlight the importance of this principle in maintaining justice and public trust in the legal system.

Kedudukan Asas Legalitas dalam Hukum Pidana

The principle of legality holds a critical position in criminal law, serving as a fundamental foundation for maintaining justice and legal certainty in Indonesia. As a rule-of-law state, Indonesia must ensure that every legal action taken by the government or law enforcement is based on existing legislation. This principle functions as a safeguard for individual rights against potential abuses of power, ensuring that every action taken by law enforcement adheres to pre-established rules and preventing legal uncertainty that could harm society (Puspito & Masyhar, 2023). The principle of legality, as regulated in Law No. 1 of 2023 concerning the new Criminal Code (KUHP) in Indonesia, reflects an effort to balance the protection of collective and individual interests. This principle is based on several key concepts, including *lex scripta*, *lex stricta*, *lex certa*, and *lex praevia*. Each of these principles plays a crucial role in ensuring that criminal law is applied fairly and accurately.

The principle of *lex scripta* emphasizes that criminal law must be based on written laws that are legislative products. In this context, criminal law cannot be applied based on unwritten rules or norms that exist only in customs or traditions. The legislative process that produces criminal laws is a strategic stage in law enforcement, as it serves as the foundation for concrete legal actions in practice. Thus, the principle of legality based on *lex scripta* ensures that only written laws enacted by legislative bodies can be used to prosecute individuals (Sitorus et al., 2024).

The principle of *lex stricta* ensures that criminal law must be applied strictly and cannot be subject to multiple interpretations. In criminal law, the use of analogies—interpreting laws to extend their scope to acts not explicitly covered by the law—is prohibited (Truu, 2022). This prevents potential abuse of power by judges who might want to expand the scope of criminal law beyond what is explicitly provided. In the new KUHP, the prohibition of analogies is explicitly regulated, providing clearer legal certainty compared to the old KUHP, where this prohibition was still debated among legal scholars.

The principle of *lex certa* asserts that criminal law must provide legal certainty. Legal certainty means that everyone should clearly understand what is prohibited and the legal consequences of such actions. This is crucial to prevent abuse of power and to ensure that everyone is treated fairly under the law. In the context of the new KUHP, the principle of legality ensures that criminal law applies

not only to acts regulated by written laws but also encompasses unwritten laws that live in society (Soa, 2023). This means that criminal law in Indonesia functions not only as a tool for punishment but also as an instrument to maintain social order while respecting existing traditions and values.

The principle of *lex praevia*, which dictates that criminal laws cannot be applied retroactively, is also an essential element of the principle of legality. This principle protects individuals from being punished based on rules that did not exist at the time the act was committed. In the new KUHP, this principle is detailed, ensuring that if changes occur in the law after an act has been committed, the more favorable regulation for the defendant should apply (Nugraha & Silalahi, 2024). This provides better legal protection for individuals and prevents injustices in the application of criminal law.

With the enactment of Law No. 1 of 2023, Indonesia has made significant updates to its criminal justice system, reflecting the dynamics of social life and the need for more adaptive justice. This update not only reaffirms the importance of the principle of legality but also expands the scope of criminal law to include living law within society, ensuring that criminal law can adapt to changing times while maintaining its foundational principles. These changes also demonstrate Indonesia's movement towards a more inclusive and responsive criminal justice system (Jamaludin, 2023). By incorporating provisions about living law within the new KUHP, Indonesia acknowledges the cultural diversity and local values present in various regions and provides a legal framework that allows indigenous communities to address their issues according to their local laws.

However, the application of customary law must still be based on mutual agreement and cannot conflict with the fundamental principles of national criminal law. Overall, the position of the principle of legality in Indonesian criminal law, as outlined in the new KUHP, represents a strong foundation for maintaining justice, legal certainty, and individual rights protection (Bustomi, 2021). With the reaffirmation and updates made through Law No. 1 of 2023, Indonesia aims to create a criminal justice system that is fairer, more transparent, and responsive to societal needs while preserving the core principles underlying criminal law itself. This reform is expected to provide clarity in the future application of criminal law and strengthen public trust in the Indonesian legal system.

Consequences for the Development of Criminal Law

The application of the principle of legality in Law Number 1 of 2023 has significant implications for the development of criminal law in Indonesia. Originally, the principle of legality was purely formal, but it has now expanded to encompass a material legality principle. This expansion not only brings fundamental changes to the criminal law system but also creates new dynamics that may result in various consequences for the future development of the law. Mahmud Mulyadi states that crime has a detrimental impact on society, particularly in disrupting the established social order (Riono & Haris, 2021). This highlights the importance of crime prevention policies that ensure public safety and order.

In this context, the principle of legality is a crucial pillar in criminal law, as it guarantees legal certainty by ensuring that no one can be punished for an act that is not stipulated by law. However, with the implementation of the material legality principle, a paradigm shift occurs, allowing customary law or living law within the community to serve as the basis for criminal prosecution. Article 18B of the 1945 Constitution recognizes and respects the existence of customary law communities and their traditional rights (Hafizah et al., 2022). This serves as the foundation for the existence of customary law in Indonesia, provided that it aligns with societal progress and the principles of the Unitary State of the Republic of Indonesia. In the new Criminal Code (KUHP), Article 2, Paragraph 1, stipulates that customary law may be applied as a basis for criminal prosecution if it meets certain criteria. These restrictions are intended to prevent broad interpretations that could create legal uncertainty.

The institutionalization of customary law through the establishment of customary law communities is a crucial step in maintaining legal certainty. According to Satjipto Rahardjo, living law should be integrated into the new legal order to pursue substantive justice and utility. However, this institutionalization must be carried out while maintaining the principle of legality as a primary pillar in criminal law. Although the institutionalization of customary law has not been fully realized, the presence of Article 2, Paragraph 1, in the new Criminal Code is expected to provide direction for the formulation of clearer regulations (Satria, 2017). The main consequence of the implementation of the material legality principle is the potential controversy surrounding the formal legality principle.

One controversy is that the codification of customary law into regional regulations may undermine the original meaning of living law within the community. Additionally, the application of the material legality principle may lead to legal uncertainty if there is no clear mechanism for its enforcement, such as whether cases related to customary law will be handled by state courts or customary courts. With the expansion of the legality principle from formal to material, living law within the community can serve as the basis for criminal prosecution, but only if such customary law is not already regulated by legislation.

The expansion of this legality principle aims to maintain a balance between positive law and customary law that has long existed within society. However, this also presents challenges in avoiding ambiguity in its implementation. The application of the material legality principle also has consequences for providing protection to crime victims (Fadilah & Ahmad, 2024). On one hand, it places greater emphasis on the values of justice and substantive utility, rather than merely on the certainty of the law. On the other hand, the material legality principle also offers an alternative, where codified customary law can be used as the basis for criminal prosecution if the act in question is not regulated by law.

In terms of implementation, the material legality principle serves as a balance between the protection of criminals and victims. Thus, it is hoped that a fair balance will be created between positive law and the values that exist within society. However, there remains a risk that the codification of customary law into regional regulations may result in rigidity in the application of living law. Article 2, Paragraph 1, of the new Criminal Code also emphasizes that the application of customary criminal law must first be regulated by Government Regulation. This

provides guidance for local governments in incorporating living law into Regional Regulations (Perda). Therefore, the scope of the applicability of customary criminal law will be limited to the regions where such customary law is in effect (Mallarangan, 2021).

The enactment of the new Criminal Code at the beginning of 2023, replacing the old Criminal Code, which was a product of the Weetboek van Strafrecht voor Netherland Indie, is seen as an important step in unifying Indonesia's criminal law norms. However, the application of the material legality principle also presents challenges in maintaining a balance between living law within the community and the prevailing positive law. Another consequence of the implementation of the material legality principle is that living law within the community will be preserved while providing more substantial justice and legal certainty for society. In the long term, the application of this principle is expected to create a harmonious balance between positive law and the values existing within society, so that the development of criminal law in Indonesia can progress in line with the evolving social dynamics.

Conclusion

The Principle of Legality as stipulated in Law No. 1 of 2023 concerning the new Criminal Code (KUHP) emphasizes four main principles in Indonesia's criminal law: *lex scripta* (based on written law), *lex stricta* (strict and unambiguous), *lex certa* (ensuring legal certainty), and *lex praevia* (non-retroactivity). These principles function to provide balanced legal protection between collective interests and individual rights, ensuring that any criminal act must be clearly defined in law before sanctions can be imposed. A key consequence of the application of the Principle of Legality in the new Criminal Code is the explicit prohibition against the use of analogy in establishing criminal offenses.

This prohibition is a response to the longstanding debate among legal scholars regarding the limits of using analogy in criminal law. By banning analogical interpretation, the new Criminal Code ensures that only existing written law prior to the act can be used as a basis for criminal prosecution, thereby reducing the potential for legal uncertainty and excessive interpretation. Moving forward, the role of the Principle of Legality will become increasingly crucial in maintaining the balance between law enforcement and social dynamics. In addition to reinforcing the position of written law as the primary basis for criminal prosecution, the new Criminal Code also recognizes living law in society through the material legality principle. This means that Indonesian criminal law not only adheres to written provisions but also respects the legal values evolving within the community, making criminal law more relevant and just in addressing contemporary challenges.

References

- Anjari, W. (2019). Kedudukan Asas Legalitas Pasca Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006 dan 025/PUU-XIV/2016. *Jurnal Konstitusi*, 16(1), Article 1. <https://doi.org/10.31078/jk1611>
- Anwar, R. (2023). Eksistensi Asas Legalitas Formil dan Materil pada KUHP Nasional. *Jurnal Fakta Hukum (JFH)*, 2(2), Article 2. [https://doi.org/10.58819/jurnalfaktahukum\(jfh\).v2i2.106](https://doi.org/10.58819/jurnalfaktahukum(jfh).v2i2.106)
- Ayuni, M. S., Dion, D., Zulviah, R. C., & Nurtresna, R. (2022). The Principle of Legality in the Perspective of Human Rights. *JURNAL RUANG HUKUM*, 1(2), Article 2. <https://doi.org/10.58222/juruh.v1i2.264>
- Bustomi, A. (2021). The Legality Principle Application in Indonesian Criminal Law System. *Nurani Hukum*, 4(2), 29–37. <https://doi.org/10.51825/nhk.v4i2.12239>
- Elta, Y. H. T., & Yoserwan, Y. (2023). Paradigma Critical Legal Studies Terhadap Asas Legalitas di dalam Sistem Hukum Pidana di Indonesia. *UNES Law Review*, 6(1), Article 1. <https://doi.org/10.31933/unesrev.v6i1.1036>
- Fadilah, A. A., & Ahmad, D. N. F. (2024). Analysis of the Expansion of The Principle of Legality in Renewing Criminal Law. *Domus Legalis Cogitatio*, 1(1), Article 1.
- Gearty, C. (2005). The Principle of Legality. In C. Gearty (Ed.), *Principles of Human Rights Adjudication* (pp. 60–83). Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287222.003.0004>
- Gregorio, E., Kusumastuti, D. A., & Kesuma, I. G. K. W. (2024). Implikasi Pelunakan Pengaturan Asas Legalitas dalam KUHPN Terhadap Konsep ‘Hukum Yang Hidup Dalam Masyarakat’. *Jurist-Diction*, 7(2), Article 2. <https://doi.org/10.20473/jd.v7i2.56124>
- Hafizah, A., Ablisar, M., & Lubis, R. (2022). Asas Legalitas dalam Hukum Pidana Indonesia dan Hukum Pidana Islam. *Mahadi: Indonesia Journal of Law*, 1(1), Article 1. <https://doi.org/10.32734/mah.v1i1.8311>
- Hafizhah, A., Leviza, J., & Mulhadi, M. (2024). An Overview of the Principle of Legality: Common Law VS Civil Law. *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal*, 4(1), Article 1. <https://doi.org/10.15294/ipmhi.v4i1.76875>
- Hazard, J. N. (1958). The General Principles of Law. *The American Journal of International Law*, 52(1), 91–96. <https://doi.org/10.2307/2195672>
- Jamaludin, A. (2023). De-Regulation of Criminal Law Provisions in Regional Regulations after the Criminal Codes Enactment. *Jurnal Akta*, 10(4), Article 4. <https://doi.org/10.30659/akta.v10i4.33476>
- Johari, Subaidi, J., Afrizal, T. Y., & Fatahillah. (2023). Kedudukan Asas Legalitas dalam Pembaharuan Hukum Pidana di Indonesia. *Cendekia: Jurnal Hukum, Sosial Dan Humaniora*, 1(1), Article 1.
- Komnatnaya, Y., Miroshnikov, E., Saveleva, I., Bidova, B., & Boltenkova, Y. (2023). Role of the doctrine of legal customs in the formation of European law in the Middle Ages. *Jurnal Cita Hukum*, 11(3), Article 3. <https://doi.org/10.15408/jch.v11i3.36084>
- Malekian, F. (2011). *Principles of Islamic International Criminal Law: A Comparative Search*. Brill. <https://www.jstor.org/stable/10.1163/j.ctt1w8h3dt>

- Mallarangan, K. (2021). Reconstruction of the Legality Principle: The Essence of the Pancasila Spirit in Criminal Law Reform. *Rechtsidee*, 8, 10.21070/jihr.v8i0.782-10.21070/jihr.v8i0.782. <https://doi.org/10.21070/jihr.v8i0.782>
- Nugraha, R. S., & Silalahi, C. F. (2024). Pembaharuan Berlakunya Asas Legalitas Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana. *PALAR; Pakuan Law Review*, 10(1), Article 1. <https://doi.org/10.33751/palar.v10i1.10164>
- Puspito, B., & Masyhar, A. (2023). Dynamics of Legality Principles in Indonesian National Criminal Law Reform. *Journal of Law and Legal Reform*, 4(1), Article 1. <https://doi.org/10.15294/jllr.v4i1.64078>
- Riono, S., & Haris. (2021). Analisis Yuridis Implementasi Asas Legalitas Dan Equality Before the Law Dalam Undang-Undang Narkotika. *Audito Comparative Law Journal (ACLJ)*, 2(1), Article 1. <https://doi.org/10.22219/aclj.v2i1.15473>
- Satria, H. (2017). The Principle of Legality in Criminal Act of Terrorism. *Jurnal Cita Hukum*, 5(2), Article 2. <https://doi.org/10.15408/jch.v5i2.4959>
- Sitorus, T., Harahap, M. R., Sembiring, F., & Hasibuan, S. A. (2024). Development of the Principle of Legality in Indonesian Criminal Law. *International Journal of Multidisciplinary Approach Research and Science*, 2(01), Article 01. <https://doi.org/10.59653/ijmars.v2i01.418>
- Soa, A. H. (2023). Pergeseran Paradigma Asas Legalitas Dalam Implementasi Kitab Undang-Undang Hukum Pidana. *Journal Justiciabelen (JJ)*, 3(02), Article 02. <https://doi.org/10.35194/jj.v3i2.3077>
- Truu, M. (2022). The European Court of Human Rights and the Principle of Foreseeability (Lex Certa and Stricta): How to Determine Whether an Offence Is Clearly Defined in Criminal Law. *Juridica International*, 31, 98–110. <https://doi.org/10.12697/JI.2022.31.07>
- Utari, P., & Saputri, G. P. W. (2024). Fungsi Asas Legalitas dalam Kekuasaan Kehakiman untuk Melakukan Penemuan Hukum. *Jurnal Fundamental Justice*, 5(1), Article 1. <https://doi.org/10.30812/fundamental.v5i1.3603>