

VICARIOUS LIABILITY IN TRAFFIC ACCIDENT THAT LEAD TO DEATH COMMITTED BY CHILDREN (Reconstruction of Juvenile Justice System within the Frame of *Pancasila*)

Made Sugi Hartono

ABSTRACT

This study aims to construct Pancasila legal paradigm, especially within the criminal law realm related to vicarious liability in traffic accident that lead to death committed by children. Pancasila is Filosofische Grondslag; therefore laws must be built based on the values enshrined within Pancasila. Consequently, juvenile justice system should also be built based upon the Pancasila values. This is solely to create a law that suits the personality of the nation which shall bring benefit and justice for all Indonesian people. This writing shall be categorized as a normative legal study on the basis of secondary data. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials. In order to obtain comprehensive results, this study utilize three approaches namely statutory approach, conceptual approach and cases approach, respectively. Furthermore, collected data was processed qualitatively and descriptive-prescriptively analyzed. Vicarious liability concept which is known in the Western legal construction, had actually been actualized within the legal life of Indonesian society. Specifically, within the Islamic and Adat law which recognize the liability charged to parents in the circumstances where a child is committing a crime. The condition is that the child is still in the care of the elderly, while such concept is not well recognized in Western legal constructions that often use individual liability. Based on the concept of individual responsibility originated from Western legal regime, any individual are just responsible to what they had committed themselves. At this point, the visible differences between the legal paradigms of Pancasila compared to that of Western law shall be Pancasila legal paradigm has its own distinct characteristics with other laws.

Keywords: vicarious liability, juvenile justice system, *Pancasila*.

INTRODUCTION

Globalization and modernization had hampered the values enshrined within the way of life of Indonesian society. Such alteration occurred due to the cultural pollution which later bring Indonesians to consumerism (Januar Heryanto; 2004). Consumerism shall be identified in focusing more to hedonistic and social status instead of its efficacy of any goods. Motor vehicles deemed to be popular object of consumption by the Indonesian people.

Indonesia is regarded as one of the highest consumer of motor vehicles. Aligned to such fact, it is followed with the occurrences of traffic accident equivalently high. Among those incidents, several had involved juvenile. One particular case which had drawn the attention of the public shall be the traffic accident which involve Abdul Qadir Jaelani alias Dul on Sunday early morning, at 8th of September 2013 in Jagorawi Toll.

Legal construction within Indonesia legal framework pursuant to Law Number 11 of 2012 concerning Juvenile Court System had regulated that juvenile shall be held criminally responsible should any conviction of any crime committed is proven. Referring to this law, the minimum age threshold of shall be 12 (twelve) years old and not exceeding 18 (eighteen) years old. Should the act committed by juvenile below 12 (twelve) years, it shall be later returned to their parents, guided by the government, or cease its due process of law.

Legal paradigm upon such aforementioned law is heavily influenced by the doctrine of law from the Western School of criminal laws which solely focuses on individual responsibility. In conclusion, current construction of criminal law, ius constitutum had stated that any person may only held liable upon his actions only. In prior to discussing the responsibility, it must be well established that one person had conducted any acts that breach the criminal laws stipulation.

The concept of individual responsibility which is formed upon the western legal construction is based upon values enshrined within the value of Western society. Law as the concretization of any values living and enshrined within the society. Value shall serve as parameter in weighing truth and justice applicable within a society. Thus, individual responsibility which erected from individual-liberalistic value shall serve as the truth accepted within the western society.

Indonesia as a nation reserve its own characteristic which remain distinctive compared to other nations. Within its society, communal-religious values thrive as the daily value of life. As an example, should any incident befall upon any person, may it be as the committing individual or the victim, the feeling of tragic shall be shared among them. Thus, legal construction revolving within Indonesia shall reserve the character of communalistic which focuses on social solidarity on religious basis which heavily relied on godly principles.

Traffic accidents which involve juvenile shall reserve a problem of its own. A problem arises when there is a gap among the expectation (*das sollen*) and reality (*das sein*), among its ideal and ground fact, among theory and its practice (legal gap) between one societies to another society perspective. This also include the gap existed between set of values of individual-liberalistic derived Western schools and communal-religious derived from the values of Indonesian society. Thus, a question risen from aforementioned background shall be whether the legal construction of traffic accidents by juvenile which led to death be feasible upon the framework of *Pancasila* as the ground philosophy of Indonesia as a nation.

This review is important in order to contribute thoughts related to legal issues, especially regarding traffic accidents by children resulting in death. The existence of this study is expected to provide answers to the existing law polemic. Moreover, the polemic has touched on a basic level of value. This study, in turn, is expected to provide an overview of the legal construction of the paradigm of *Pancasila* in accordance with the personality of the Indonesian nation.

In this study there are several approaches and theories used. The balance of monodualism as the embodiment of *Pancasila* value is the concept that underlies the framework related to the topic of discussion. The balance of monodualism in the perspective of renewal of criminal law is an attempt to realize a fair equality between the perpetrator and the victim and the individual with society. Harmony in the life of society, between countries with individuals, individuals with other individuals and individuals with their Lord is a necessity when the balance of monodualism is achieved.

This study places child protection as an approach so that the analytical point of view becomes clear. It has become an international concern with the existence of the Convention on the Rights of the Child. Children should have legal protection including in this case within the scope of criminal law. As the next generation of nation, the backbone of development and civilization of a nation of children deserves serious attention related to the fulfillment of their rights. It is unfortunate that the legal building loses its role so that it no longer brings to *kemaslahatan* but as a *pengancam* which in turn brings a setback for the civilization of the nation.

Pancasila is positioned as the foundation of Indonesian law building which brings to life full of prosper and happiness for the people of Indonesia. This is solely to position *Pancasila* within the place of honor as *Philosophische Grondslag*. *Pancasila* as a value system is formed based on cultural values, religion and custom of Indonesian society. At this point, the law is based on the value of *Pancasila* is a law that reflects the Indonesian nation and is the contextual truth of the Indonesian nation.

This paper is a normative legal study or literature review by using three approaches. First, the statutory approach. Second, the case approach. Third, the conceptual approach. Normative legal research uses data base in the form of secondary data consisting of primary law material, secondary law material and tertiary legal material.

In this normative study, data were collected by document study of legal materials, both primary, secondary, and tertiary legal materials. Search is conducted by reading, sorting, and reviewing relevant legal materials. The data obtained are then processed by qualitative methods by selecting, classifying and systematizing logically the data and legal materials collected into classes of the same or similar symptoms. Finally, the results of the selection, classification and systematization logically data and legal materials are analyzed descriptively-prescriptive in the aim of providing an overview or exposure of the subject and object of research as the results of the study conducted and provide arguments for the results of research.

DISCUSSION

Constructing a criminal law concept in this case Criminal Justice System is closely related to the renewal of criminal law (penal reform). Basically, penal reform is included in penal policy which is a part and closely related to the law enforcement policy, criminal policy and social policy. Penal reform according to Barda contention essentially (Nawawi Arief, 2011) :

- a. It is part of policy (rational effort) to reform the legal substantiation in order to make the law enforcement more effective.
- b. It is part of policy (rational effort) to combat a crime in order to protect the society.
- c. It is part of policy (rational effort) to overcome social problem and humanitarian problem in order to achieve the national goals of social defense and social welfare.
- d. It is an reorientation and reevaluation of ground reasoning, of socio-philosophical value, socio-political and socio cultural that become the basis of criminal policy and criminal law enforcement policy all this time. It shall not be regarded as penal reform should the proposed value share the similar orientation compared to that various oppressing predecessors'.

Simply put, it is understood that penal reform should be pursued in a policy-oriented and value-oriented approaches.

Sudarto (Sudarto, 1983) said that there are three reasons of penal reform which are, Firstly political reason which is regarding to the existence of an independent state of Republic Indonesia, it is normal to have a penal code (*KUHP*) that made by their own creations. The Indonesian Penal Code (*KUHP*) is seen as a symbol and is a pride of a country that has been independent and out of the political colonial system. The penal code of a country that imposed to enforce in another country is seen as a symbol of colonization by the state that bill those penal code.

Secondly, a sociological reason which is, conformity to the criminal law regulations of a country and the values developed within Indonesian society. The threshold to criminalize an action depends on the values and the collective views contained in the society about what is good, righteous, useful or otherwise. The society perspective of morality and religion is very influential on the establishment of law especially the criminal law. The arrangement in criminal law is a reflection of the political ideology in the nation in which the law develops. The society perspective also concern to criminal responsibility of the criminal offender and his own penalties.

Thirdly, practical reason which is, related to Indonesian Penal Code (*KUHP*) application in daily life. The official text of Indonesian Penal Code (*KUHP*) is written in Dutch. The text that arranged by Moeljatno, R. Soesilo etc is a mere translation. This translation is unofficial translation by the affirmation of a law. In order to apply the law well shall require the ability to speak Dutch. This is unlikely to be expected of an independent country which has its own national language. Therefore, penal reform serves as an essential matter to this time.

According to Muladi (2008) contention, penal reform carrying out several missions, namely as following: decolonization mission, democratization mission, consolidation mission and harmonization mission. Decolonization mission related to the abolition of explorations in the criminal law after the enactment of the principle of concordance, legal education, doctrinal understanding or through the application of jurisprudence. Using Indonesian Penal Code (*KUHP*) of inheritance of the colonial government indirectly constitutes the colonial rule in particular to the criminal law. The mission of democratization is the effort to maintain a balance between institutional morality, social morality and civil morality. The consolidation mission is an attempt to establish the criminal law as a more solid and integral part in the control of the similar criminal principles. This is related to the extraordinary growth of criminal law both inside and outside the criminal code which often deviates from the general principles of penal code. The harmonization mission is an attempt to adjust to the development of international criminal law. Harmonization is necessary in the framework of international cooperation on the basis of the principal of "dual criminality" as a condition of extradition, mutual legal assistance in criminal matters, transfer of sentenced person, transfer of proceedings and joint investigation.

Drafting a new code could not be separated from the idea/policy of the development of National Legal System based on *Pancasila* as the idealized nationality values. This means that the penal reform should also be based and oriented to the basic ideas of *Pancasila* which contain the balance of value/ ideas/paradigm such as religious morality, humanity, nationality, democracy and social justice (Nawawi Arief,;4) The balance of the five precepts can be compacted in to a balance of three pillars namely, the divine pillars (religious), the humanitarian pillars and the pillars of society (nationalism, democracy, social justice).

Penal reform in addition to departing from the balance of *Pancasila*, is motivated by the idea that penal reform and criminal law enforcement should be undertaken by exploring the sources of unwritten law and legal values living in the society which are: in religious law and customary law (Nawawi Arief;5).

Making religion as a source of motivation, source of inspiration, and a source of creative evaluation in building human beings of noble morality so that must be developed a concrete efforts in the content of the development of national law policy has significance in three things. Firstly, it reinforces the foundation of a religious culture that has developed in society. Secondly, facilitate the development of diversity in society with the progress of the nation. Thirdly, prevent social conflicts between religious communities and promote harmony among the peoples (Nawawi Arief;5).

The material of penal code concept (criminal law system of material and its principles) is expected to be formulated with a various principal thoughts basic ideas of balance. Barda states in general can be called the idea of balance, which include (Nawawi Arief;11) :

1. Mono-dualistic balance between public/private interest and individual interests;
2. A balance between the protection/interest of the perpetrator of crime (the idea of criminal individualization) and the victim of a crime;
3. Balance between the elements/objective factors (acts/physical) and subjective (person/mental);
4. The balance between formal and material criteria;
5. Balance between legal certainty, flexibility/elasticity/flexibility, and fairness;
6. Balance of national values and global/international/universal values;

The basic idea of equilibrium is embodied in the three basic issues of criminal law, namely in criminal matters, criminal / criminal liability, and criminal and criminalization matters. The problem of criminal liability, the implementation of the balance idea, are as follows (Nawawi Arief;17) :

1. The principle of "no crime without error" (principle of culpability) which is the principle of humanity, is formulated explicitly in the concept as a pair of legality principles which is the principle of society.
2. The concept does not regard both principles as rigid and absolute terms. In some instances, the concept gives the possibility to apply the principle of strict liability, vicarious liability principle, and the principle of "forgiveness/mercy by judges" (*rechterlijk pardon* or judicial pardon).
3. Within the principle of "judicial pardon", shall be enshrined the main idea/main point as follows:
 - a. Avoiding rigidness/absolutism of punishment;

- b. Provide "valve/safety valve";
- c. Form of judicial correction on principle of legality;
- d. Implementation/integration of the value or paradigm of "wisdom" in *Pancasila*;
- e. Implementation/integration of the purposes of punishment into the penalty conditions (because in giving forgiveness/mercy, the judge must consider the purposes of punishment); so the term or justification of punishment is not only based on the existence of criminal acts (principle of legality) and fault (principle of culpability), but also on the purposes of punishment.

The authority of judges to apologize by not imposing any criminal punishment/action shall also be followed by the principle of *culpa in causa* (*actio libera in causa*) which authorizes judges to remain punishing the offender even if there is a criminal offense, if the offender is worth blamed (denounced) for the occurrence of the circumstances under which the criminal offenses were dismissed. In other simple words, the judge's authority to forgive (to not punish) is counter balanced by the authority to continue the conviction in respect of the dismissing ground to be present within a criminal offense.

A substitution criminal liability is defined as a person's legal liability for wrongdoing done by another person (Barda Nawawi Arif, 2008;33). Theoretically, the conception of substitution criminal liability is known in the western criminal law of the Anglo-Saxon system both in common law and in statute law. However, essentially similar concepts with substitution liabilities are found in Islamic and customary law in Indonesia. The theory of substitution criminal liability according to the western law is based on two principles; those are delegation principle and the principle that states that an employee's deed is said as an employer's deed. In this case, if the employee is the material/physical offender (*auctor fisicus*) while the employer is the intellectualist offender (*auctor intellectualis*) (Barda Nawawi Arif, 2008). While in Islamic law and customary law in the context of murder committed by the child by accident, the parent or family of the perpetrator can simply replace the liability that should be charged to the perpetrator.

The concept of criminal liability in Indonesia, are listed in the Draft of the Indonesian Criminal Code Year 2013. Article 38 (2) stipulates "*In terms defined by the Code, every person can be held liable for criminal acts committed by others.*" This condition is reinforced in the part of the explanation as follows:

The provisions of this paragraph are exceptions to the principle of no crime without fault. The birth of this exception is a refinement and deepening of the regulative principle of the moral juridical that in certain respects a person's liabilities are deemed worth extending to the actions of his subordinates performing work or deeds for him or within the limits of his command. Therefore, even if a person does not physically commit a crime but in the framework of criminal liability, it is deemed to have fault if the actions of another person in such a position constitute a crime. As an exception, so this provision's use shall be limited to certain events which are explicitly provided by law in order not to be used arbitrarily. This principle of exceptional liability is known as the "vicarious liability" principle.

The existence of such a provision opens the possibility of applying the vicarious liability doctrine at a later date on condition that it is explicitly regulated in a law.

The idea of substitution criminal liability in traffic accidents committed by children resulting in death is born out of the spirit of children protection. Children have an important meaning in the struggle to achieve the ideals of the nation. Therefore, it is necessary to protect children to achieve their welfare. In general, the welfare of children is the fulfillment of the entire rights of children from the womb until the age of 18 years old. These rights include the right to survival, growth, protection and the right to participate. These rights are fundamental rights and in accordance with the Convention on the Rights of the Child that Indonesia has ratified through Presidential Decree No. 36 of 1990. The consequences for States that ratify the Convention on the Rights of the Child are to implement consistently and sustainably towards the perfect fulfillment of the rights of the child in that country (Ikawati, 2008;1).

The conception of substitution criminal liability in traffic accidents committed by a child resulting in death, besides as an effort to provide protection to the child, is also based on the spirit of the establishment of *Pancasila* legal paradigm. Paradigm of *Pancasila* shall meant to put The One and Only God as the source as well as the direction and purpose of law education activities. This is because the first principle (*sila*) is The One and Only God, and further the first principle (*sila*) includes and animates other principles under it as a whole (Sudjito, 2012;10).

In constructing a law it becomes important to pay attention to the justice. Therefore, justice gets serious attention in law based on *Pancasila*. Referring to the principle found in *Pancasila* there are at least two principles containing the word of "justice", those are in the second principle of "just and civilized humanity" and the fifth principle "social justice for all Indonesians".

The meaning of a just and civilized humanity in the second principle according to Notonagoro (Notonagoro, 1983;100), that humanity includes the three things that are justice for themselves, justice for fellow human beings and the God. While civilized means the embodiment of the elements of human nature, body and soul, the sense of will and the nature of natural individuals and social beings. While the fifth principle of *Pancasila*, social justice for all Indonesians contains the meaning of triangular justice. The triangular justice is the justice between the state to the citizens (distributive justice), justice between citizens to the state (justice to obey), and justice between citizens (commutative justice) (Kaelan, 2013). Justice prevails in society in all

spheres of life, both material and spiritual. Furthermore, justice is not a formal justice that was born because of legislation, but justice that associated with its social habitat, the Indonesian society in a frame of justice based on the One and Only God (Sudjito).

Pancasila as *Philosophische Grondslag* or as the foundation of Indonesian state philosophy, its essence is all implementation and organization of state based on *Pancasila* values. So that, in this context *Pancasila* is the source of the entire system of legislation (Sudjito.). Actualization of *Pancasila* can be done through two ways; those are the Subjective Actualization of *Pancasila*, that is the realization in every individual; and Objective Actualization of *Pancasila*, that is the realization in all aspect of state and law (Sudjito).

Realizing the law of *Pancasila* character can be pursued by conducting legal politics in this case is criminal law politics. Sudarto states that implementing criminal law politics means holding elections to achieve the best results of criminal legislation in the sense of meeting the requirements of justice and efficiency. Still according to Sudarto, that the implementation of criminal law policy means the effort to realize the rules of criminal legislation in accordance with the circumstances and situations at a time and for the future

Sudarto argues that the politics of criminal law is part of legal politics, then in the formation of the law must know the value system prevailing in society in this case is *Pancasila*, which relates to the situation in the proposed ways and with the goals that want achieved so that these things can be taken into account and to be respected.

The effort to establish the law is done by exploring the values that are derived from the religious law and customary law which is the requirement of cultural, moral and religious values. Law enforcement is a follow-up to the crisis of confidence in the legal system and the existing legal policies. The existing criminal law system of the countries of the world in international congresses one of the UN Congress on The Prevention of Crime and The Treatment of Offenders is declared obsolete and unjust and outdated and inconsistent with reality.

In an effort to implement a criminal justice policy based on *Pancasila* values, further attention is focused on customary law as well as Islamic law as a form of cultural and religious values. The spirit of vicarious liability is actually known and recognized under customary law. Customary offenses committed by individuals in turn are borne by the family or customary groups. Iman Sudiart said:

It is found that the village of the villain or village where a murder or theft occurred upon a foreigner shall be incurred or required to pay a fine or compensation to a group of relatives killed or stolen (Gayo, Batak, Nias, Minangkabau, Dayak, Gorontalo, Ambon, Bali, Lombok, Timor). Similarly, relatives of criminals are required to bear the criminal sanction imposed on a crime committed by one of its citizens.

Among the customary law of customs with national criminal law which share similarities in the case of criminal liability. Underage age in both national criminal law and customary law is an excuse for dismissing mistakes. That is, there is no mistake for a child who commits a crime so that the concerned should not be sentenced to criminal.

Hilman Hadikusuma declares that according to customary law other than wrong can be imposed on others, so others can share the wrong act. Therefore, sometimes if a person dies or killed and there in a corpse lying dead, so while the killer can not be found, then the village concerned should be responsible and compensate the family of the patient.

Soepomo with reference to Van Vollenhoven stated that in various regions of Indonesia enabling criminal liability is charged to the village or even the families of the perpetrators of the crime. Errors from the village or family need not be proven in this case. A father must bear the consequences of unlawful acts committed by his child who is not old enough or not yet considered mature or liable.

Islamic criminal law in principle embraces individual accountability. This refer to one of the principles enshrined in Islamic criminal law that governs the prohibition of transferring errors to others. Against the provisions of individual criminal liability in Islamic law, there are exceptions. In the context of this exception apply vicarious liability. Vicarious liability may apply to the *jarimah qishash* of murder because of its negligence. Murder occurred not by will, but because of the negligence of the perpetrator. In this context, the type of criminal sanction imposed is in the form of a principal punishment consisting of customs and *kifarat* and additional criminal punishment which consists of the abolition of inheritance and will. There is a possibility that the perpetrator of the *jarimah* can not afford to pay or *diat* (compensation) should be given to the victim or the victim's family This is where the concept of vicarious liability has significance. *Diat* used in this case is *diat mukhaffafah* or lightened *diat*. The relief in the fulfillment of one of them is in the form of payment obligations imposed on the *aqilah* (family).

In relation with a traffic accident by a child resulting in death, the concept of substitute criminal liability present itself as a solution. Vicarious criminal liability would be able to create a balance of monodualism that is to integrate the interests of the perpetrator, victims or the community or accommodate the interests of the child, the victim's family, as well as society in general. There are several things that underlie the statement

First, vicarious criminal liability exists as a solution to prevent the child from the negative effects of criminal prosecution. It is based on child protection approach as the future predecessor of the generation of nation which shall be provided protection deemed necessary. In the case of traffic accidents basically parents have a vital role. Parents should pay attention to the child in the form of supervision of the child's behavior including in the use of motor vehicles. The obligation of parents to carry out the function of care and supervision is governed by the rule of law. Thus, the concept of vicarious criminal responsibility becomes a warning for parents to be able to carry out their duties as best as possible so as to create a preventive function against accidents cases that cause casualties. This corresponds to the adageum "*nemo prudens punit, quia peccatum, sed ne peccatur*" (wise men do not punish for being committed sin, but in order to avoid sin) as Seneca refers to the teachings of the Greek philosopher, Plato. The doctrine is the philosophical basis of criminal purposes as a general prevention effort.

Second, vicarious criminal responsibility as a solution to accommodate the interests of the victim's family. The death of the victim gives rise to immaterial and material losses. In the context of immaterial losses, the payment of damages can be made by the perpetrator's parent such as the cost of education security, health or even a living. Third, that the vicarious criminal responsibility, as a form of concrete value that resides in the community in the form of cultural and religious values. As the previous explanation, that in both customary law and Islamic law is known the concept of vicarious criminal liability. Therefore, by accommodating the value of existing criminal liability in society, the law can carry out its functions to create justice and bring benefits to society

CONCLUSION

Pancasila as the basis of state philosophy is the soul in the life of the state and also the rule of law. The law is established on the basis of *Pancasila* values including the criminal law. the implementation of the concept of balance of monodualism in the penal reform the criminal law means to practice the value of *Pancasila* especially in relation to the second principle of fair and civilized humanity because fair in this context means creating a just relationship to oneself, others, country and God Almighty.

The vicarious criminal liability in a traffic accident committed by a child resulting in death is the conclusion of *Pancasila's* value as the nation's personality. Such a conception of criminal responsibility is well known in both customary law and Islamic law. The objective is to create a balance of monodualism between the interests of the perpetrators in this case the child who must be protected as an asset of the nation with the interests of the victim's family. In order to create a just legal solution and bring benefits to the community, vicarious criminal liability in traffic accidents committed by a child resulting in death is required in future legal construction arrangements. As a suggestion, for the legislators should consider this conception to be further formulated in the rule of law, especially the law on traffic and road transport.

BIBLIOGRAPHY

- Ali, Mahrus, 2008, *Kejahatan Korporasi : Kajian Relevansi Sanksi Tindakan Bagi Penanggulangan kejahatan Korporasi*, Arti Bumi Intaran, Yogyakarta.
- Amrullah, M. Arief, 2010, *Politik Hukum Pidana dalam Perlindungan Korban Kejahatan Ekonomi DI Bidang Perbankan*, Bayu Media Publishing, Malang.
- Arief, Barda Nawawi, 2011, *Pembaharuan Hukum Pidana Dalam Perspektif Kajian Perbandingan*, Citra Aditya Bakti, Bandung, hlm.
- _____, 2008, *Perbandingan Hukum Pidana*, Raja Grafindo Persada, Jakarta.
- _____, 2011, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru*, Kencana, Jakarta.
- Eddy O.S. Hiariej, "Kontroversi Vonis Gayus", *Kompas cetak*, Januari 2011.
- H. Zainuddin, 2007, *Hukum Pidana Islam*, Sinar Grafika, Jakarta.
- Hadikusuma, Hilman, 1984, *Hukum Pidana Adat*, Alumni, Bandung.
- Ikawati, 2008, *Uji Coba Model Pemberdayaan Lembaga Perlindungan Anak Dalam Pelayanan Kesejahteraan Anak*, Departemen Sosial RI Badan Pendidikan dan Penelitian Kesejahteraan Sosial Balai Besar Penelitian dan Pengembangan Pelayanan Kesejahteraan Sosial, Yogyakarta.
- Januar Heryanto, "Pergeseran Nilai dan Konsumerisme Di Tengah Krisis Ekonomi Di Indonesia", *Nirmana*, Jurusan Desain Komunikasi Visual Fakultas Seni dan Desain Universitas Kristen Petra, Vol. 6 No. 1, Januari 2004.
- Kaelan, 2013, *Negara Kebangsaan Pancasila: Kultural, Historis, Filosofis, Yuridis Dan Aktualisasinya*, Paradigma, Yogyakarta.
- Muhammad, Bushar, 2006, *Pokok-Pokok Hukum Adat*, Pradnya Paramita, Jakarta.
- Muladi, "Pembaharuan Hukum Pidana Materiil Indonesia", Makalah disampaikan pada seminar pengaruh globalisasi terhadap hukum pidana dan kriminologi menghadapi kejahatan transnasional diselenggarakan oleh ASPEHUPIKI, Bandung, Maret, 2008.
- Muslich, Ahmad Wardi, 2005, *Hukum Pidana Islam*, Sinar Grafika, Jakarta.

- Notonagoro, 1983, *Pancasila Secara Ilmiah Populer*, Bina Aksara, Jakarta.
- Soepomo, 2007, *Bab-Bab Tentang Hukum Adat*, Pradnya Pramita, Jakarta.
- Sudarto, 1983, *Hukum Pidana Dan Perkembangan Masyarakat: Kajian Terhadap Pembaharuan Hukum Pidana*, Sinar Baru, Bandung.
- Sudiat, Iman, 1981, *Hukum Adat Sketsa Asas*, Liberty, Yogyakarta.
- Sudjito, 2012, *Hukum Progresif Untuk Mewujudkan Keadilan Substantif Dalam Bingkai Nilai-Nilai Pancasila*, Pusat Studi Pancasila UGM, Yogyakarta.

Made Sugi Hartono
Lecture Faculty of Law
University of Udayana, Denpasar, Bali, Indonesia