The Legal Research Landscape in Indonesia: Limitations and Possibilities

by Rheny Pulungan

Indonesian Collection in Australia

- Asian Law Online database
  http://law.unimelb.edu.au/centres/alo/research/resources/alo

- Publications from Centre for Islamic Law, Islam and Society (CILIS)
  http://law.unimelb.edu.au/centres/cilis/research/publications
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Fun facts about Indonesia

• How many Islands?
• What is the population?
• What are the 6 religions recognized by the state?
• Where is the legal system derived from?
• Is sharia law applied?
This presentation will cover:

- History of Indonesian legal information system
- Overview of Indonesian legal and court system
- How to locate primary sources of law (codes and legislation) and court decisions
- How to locate secondary sources
- How to find good quality translations of legal materials
- Indonesian collections in Australia
Access to Legal Information

- Doctrine: “ignorantia juris non excusat”
- Lack of knowledge of the law will generally not provide an excuse for any person charged with a criminal offence
- Precondition: such laws have been properly published and distributed
Indonesian Legal Information System

- 1970s: Legal Documentation Center was established by the National Legal Development Agency
- 1990: Legal Document Network was established by a presidential decree
- 2004: statutes and regulations to be published in the State official gazettes and government websites
Civil Law System

- Three strands of Dutch colonial law, national and customary law
- Do not adopt stare decisis principle
- Courts are not bound by decisions of other courts
- Little need for law reporting
- Limited collections judgments are published (Yurisprudensi, Varia Peradilan)
- Practice notes for judges by the Supreme Court (Surat Edaran MA) are more influential
Court Hierarchy (Criminal Trial)

Constitutional Court

Clemency

Supreme Court PK

Supreme Court cassation

High Court appeal

District Court trial
Court Decisions

- SC publishes small number of decisions in print copies (landmark decisions)

- (Increasingly) Publish a large number of decisions online

- District, high and supreme courts are obligated to upload decisions online
Supreme Court Database
http://putusan.mahkamahhagung.go.id/

Search by case number or party names. Browse by type of courts and year.

Includes judgments from Supreme, High and District courts, Industrial Relations Court, Religious Courts, Administrative Courts, Fishery Courts and Military Courts.
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### Lembaga

Case Tracking System
(Sistem Informasi Penelusuran Perkara or SIPP)

- Began in 2012
- Supreme Court and the USAID Changes for Justice (C4J) program
- Modernizing court administration and case management
- Automating paper-based system
- Improving access to justice
- Improving court transparency
### LIST OF CASES

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<th>No</th>
<th>Case Number</th>
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<th>Parties</th>
<th>Case Status</th>
<th>Case Duration</th>
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<tr>
<td>1</td>
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<td>26/08/2014</td>
<td>Theft</td>
<td>Prosecutor Achmad Taufik Hidayat, Sh</td>
<td>Appointment of Acting Registrar</td>
<td>3 Days</td>
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<td>Defendant Lina Marianna Binti M. Suraji (alm)</td>
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<td>25/08/2014</td>
<td>Theft</td>
<td>Prosecutor Noita Arjunto, sh</td>
<td>Appointment of Acting Registrar</td>
<td>4 Days</td>
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<td>Defendant Kusnan Bin Tamin</td>
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<td>Defendant</td>
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# National Statistics

## DISTRICT COURT CASE STATISTICS WITHIN HIGH COURT

### Case Type

| No | Court Name | Pending | Filed | Disposed | Clearance rate | Ending total | Appeals | Cancellation | Civil Review | Executed | Pending
---|------------|---------|-------|----------|----------------|--------------|-----------|--------------|-------------|----------|---------
| 1  | PENGADILAN TINGGI | 1,703   | 208   | 4        | 2%             | 1,907       | 13        | 0            | 0           | 0        | 0
| 2  | PENGADILAN TINGGI | 7,899   | 658   | 42       | 4%             | 8,515       | 11        | 0            | 0           | 0        | 0
| 3  | PENGADILAN TINGGI | 1,802   | 123   | 4        | 3%             | 1,921       | 11        | 0            | 0           | 0        | 0
| 4  | PENGADILAN TINGGI | 4,702   | 273   | 4        | 1%             | 4,976       | 0         | 1            | 0           | 0        | 0
| 5  | PENGADILAN TINGGI | 746     | 56    | 0        | 0%             | 702         | 3         | 1            | 0           | 0        | 0
| 6  | PENGADILAN TINGGI | 1,839   | 283   | 3        | 2%             | 2,117       | 8         | 2            | 0           | 0        | 0
| 7  | PENGADILAN TINGGI | 894     | 71    | 5        | 7%             | 940         | 0         | 0            | 0           | 0        | 0
| 8  | PENGADILAN TINGGI | 2,147   | 149   | 0        | 0%             | 2,296       | 1         | 0            | 0           | 0        | 0
| 9  | PENGADILAN TINGGI | 697     | 101   | 1        | 1%             | 797         | 0         | 0            | 0           | 0        | 0
| 10 | PENGADILAN TINGGI | 11,701  | 482   | 2        | 0%             | 12,181      | 1         | 1            | 0           | 0        | 0
| 11 | PENGADILAN TINGGI | 8,005   | 851   | 16       | 2%             | 8,840       | 7         | 3            | 0           | 0        | 0
| 12 | PENGADILAN TINGGI | 8,702   | 1,063 | 60       | 6%             | 9,787       | 15        | 0            | 0           | 0        | 0
| 13 | PENGADILAN TINGGI | 1,440   | 111   | 1        | 1%             | 1,570       | 3         | 1            | 0           | 0        | 0
| 14 | PENGADILAN TINGGI | 13,144  | 976   | 80       | 0%             | 14,040      | 11        | 4            | 0           | 0        | 0
| 15 | PENGADILAN TINGGI | 7,103   | 199   | 2        | 1%             | 7,300       | 2         | 0            | 0           | 0        | 0
| 16 | PENGADILAN TINGGI | 2,314   | 585   | 17       | 8%             | 2,583       | 10        | 0            | 0           | 0        | 0
| 17 | PENGADILAN TINGGI | 1,100   | 20    | 1        | 5%             | 1,119       | 1         | 0            | 0           | 0        | 0
| 18 | PENGADILAN TINGGI | 1,293   | 182   | 16       | 3%             | 1,429       | 13        | 0            | 0           | 0        | 0
| 19 | PENGADILAN TINGGI | 1,984   | 63    | 0        | 0%             | 1,984       | 1         | 0            | 0           | 0        | 0
| 20 | PENGADILAN TINGGI | 801     | 121   | 4        | 3%             | 918         | 0         | 2            | 0           | 0        | 0
| 21 | PENGADILAN TINGGI | 1,880   | 217   | 11       | 5%             | 2,086       | 0         | 0            | 0           | 0        | 0
| 22 | PENGADILAN TINGGI | 2,986   | 36    | 0        | 0%             | 3,022       | 0         | 0            | 0           | 0        | 0
| 23 | PENGADILAN TINGGI | 1,693   | 120   | 1        | 1%             | 1,817       | 0         | 0            | 0           | 0        | 0
| 24 | PENGADILAN TINGGI | 1,317   | 120   | 2        | 2%             | 1,435       | 2         | 0            | 0           | 0        | 0
| 25 | PENGADILAN TINGGI | 4,815   | 82    | 1        | 3%             | 4,897       | 8         | 2            | 0           | 0        | 0
| 26 | PENGADILAN TINGGI | 1,161   |       |          |                |             |           |              |             |          | 0

### Notes
- The data is for the period from August 2014 to September 2014.
- The table includes statistics for pending, filed, disposed, clearance rate, ending total, appeals, cancellation, civil review, executed, and pending cases.
Individual Judge Performance Reports

Denpasar High Court
Semarapura District Court

Disposed 584
Not Yet Disposed 28
Exceeds 5 months 12

Job History

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<th>District Court</th>
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Case Type

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Constitutional Court

- established in 2001 (3rd amendment to the Constitution)
- not an appellate court
- decisions are final and binding
- jurisdiction: to review the law made against the Constitution, election result disputes, etc
Constitutional Court Database

- Decisions available in Indonesian and English
- Can be searched by case number, title, applicants, decision date and keywords.
CONSTITUTIONAL COURT DECISION

Number : 49/PUU-X/2012
Case Title : Judicial Review of Law Number 30 Year 2004 concerning Notary Position against the 1945 Constitution of the State of the Republic of Indonesia
Applicant : Kant Kamal Kuasa Pemohon: Tomson Situmeang, S.H. dll
Decision Date : Tomson Situmeang
Keyword : Kant Kamal; Tomson Situmeang; Undang-Undang Nomor 30 Tahun 2004; Notaris; Majelis pengawas daerah; Kode etik notaris; Keterangan Palsu
Decision : granted in its entirety
Downloaded : 2324
File Support : Click Here
Case Number : 98/PUU-X/2012
Finding Legislation

- The Law/Act (Undang-Undang) is drafted and passed by the parliament with the President’s consent
- Can be obtained through government websites
- Finding official English translations is difficult
Legislation Databases

- UN Agencies websites, such as UNODC: http://www.unodc.org/enl/browse_countries.jsp
- Hukum Online (subscription): http://en.hukumonline.com/
Codes

- Civil, Civil Procedure, Criminal, Criminal Procedure, Commercial Codes

- Online: Foreign Law Guide, REfworld, Lexadin
Journals, Newspapers & Blogs

General Publications
  • ‘Indonesia’ Cornell University’s Southeast Asia Program
  • ‘Inside Indonesia’ quarterly online magazine

Law journal
  • ‘Indonesia Law Review’ (ILREV): Faculty of Law University of Indonesia (open access)
    http://ilrev.ui.ac.id/index.php/home
  • Australian Journal of Asian Law (access from SSRN)

Legal news and development
  • ‘Jakarta Post’ largest English-language newspaper in Indonesia
  • ‘Indonesia at Melbourne’ blog: Centre for Indonesian Law, Islam and Society
Periodical Databases

• Hukum Online (Indonesian and English)
• Index to Foreign Legal Periodicals
• Index to Legal Periodicals & Books Full Text
• ProQuest Central (Include Indonesia, Indonesia Gov News)
• Legaltrac
6. Educators are educators who qualified as a teacher, lecturer, counselor, tutors, lecturers, tutors, instructors, facilitators, and other appropriate designation with its own peculiarities, and participate in education.

7. Hiking education is a vehicle through which the learners to develop the potential in an education process in accordance with the purpose of education.

6. Educators mean teaching staff who have the qualification to be teachers, lecturers, counselors, learning guides (pamong belajar), senior instructors (widyais-wara), tutors, instructors, facilitators, and other titles in accordance with their specialization, and who participate in the provision of education.

7. Educational streaming means a vehicle for learners to develop their own potential in an education process in line with the pre-determined educational objectives.
Indonesian Collection in Australia

- Asian Law Online database
  http://law.unimelb.edu.au/centres/alc/research/resources/alo

- Publications from Centre for Indonesian Law, Islam and Society MLS
  http://law.unimelb.edu.au/centres/cilis/research/publications
Contact person
Rheny Pulungan (Liaison Support Librarian)
Melbourne Law School Library
The University of Melbourne
pulungan.r@unimelb.edu.au
Thank you