

**LEGAL ANALYSIS OF HUMAN RIGHTS VIOLATION IN NOVEL
BASWEDAN CASE**

UNDERGRADUATE THESIS



Written by:

Andi Muhammad Anshar

NIM. 20160610461

Faculty of Law

International Program for Law and Sharia

Universitas Muhammadiyah Yogyakarta

2021

DECLARATION PAGE

I am the undersigned :

Name : Andi Muhammad Anshar

Student Number : 20160610461

Title of Thesis : **LEGAL ANALYSIS OF HUMAN RIGHTS VIOLATION IN NOVEL BASWEDAN CASE**

I hereby declare that this Undergraduate Thesis, is truly the work of my own and I did not do a plagiarism or quotation in ways that are inconsistent with the prevailing ethics in the scientific community. By this declaration, I am ready to bear the risk/any sanctions imposed to me in accordance with the applicable regulations. If a breach of scientific ethics is found in the future, I am willing to accept the sanctions.

Yogyakarta, July 15, 2021



Andi Muhammad Anshar
NIM. 20160610461

DEDICATION PAGE

Alhamdulillahirabbal'alamin,

With praise to Allah SWT, the Most Merciful and the Most Gracious, who has given me His blessing and opportunity to accomplish my Undergraduate Thesis, I dedicated this undergraduate thesis to:

My Lord, Allah SWT

Prophet Muhammad SAW

My Parents

Andi Mappilewa Abubakar & Andi Farida Gulega

My Sisters

Kak Ana, Kak Rahma, Adek Ina.

My Wife

Nanda Rinadi Istiqomah

Also

Thank to myself who through these struggle things after 7 years ☺

FOREWORD

Assalamualaikum Wr. Wb.

Alhamdulillahirobbil'alamin, thank you Allah SWT, The Most Merciful and Most Gracious who has given me His blessing and an opportunity to accomplish my Undergraduate Thesis entitled **LEGAL ANALYSIS OF HUMAN RIGHTS VIOLATION IN NOVEL BASWEDAN CASE** as my final work to fulfil the requirement to obtain the degree of Bachelor of Law at International Program for Law and Sharia, Fakultas Hukum, Universitas Muhammadiyah Yogyakarta.

I realizes that in writing this thesis there were many parties who have helped and guided me, thus on this occasion I would like to thank the people who have a big involvement during my journey to finish this thesis. My eternal grateful is specially expressed towards:

1. My parents, My Sisters, and My Wife.
2. Iwan Satriawan, S.H., MCL, Phd. as a Dean of Faculty of Law Universitas Muhammadiyah Yogyakarta
3. Endrio Susila, S.H, MCL, Phd as a Director of IPOLS
4. Bapak Dr. Martinus Sardi, Bapak Yordan Gunawan S.H, MBA, M.H, Bapak Bapak Nasrullah, S.H., S.Ag., MCL. and all those lecturer in IPOLS that I cant write one by one.
5. All of my friends who accept and recognize me as a truly friend.
6. All my fellow of HMI FH UMY, IPOLIANS, BEM FH UMY, METRO HARMONI SQUAD, JOGJEY, and Thank to myself who through these struggle things after 7 years ☺

Therefore, I do expect this thesis will benefit the future readers and researchers as it shall be used properly.

Wassalamu'alaikum Wr. Wb.

Yogyakarta, July 15, 2021.



Andi Muhammad Anshar

NIM. 20160610461

TABLE OF CONTENTS

TITLE PAGE.....	i
APPROVAL PAGE	ii
ENDORSEMENT PAGE	iii
DECLARATION PAGE.....	iv
MOTTO	v
DEDICATION PAGE.....	vi
FOREWORD.....	vii
TABLE OF CONTENTS.....	viii
LIST OF STATUTES	x
LIST OF ABBREVIATION.....	xii
ABSTRACT	xiv
CHAPTER ONE: INTRODUCTION	
A. Background.....	1
B. Statement of Problems.....	4
C. Objectives of Research	4
D. Benefit of Research	4
CHAPTER TWO: LITERATURE REVIEW	
A. Human Rights	5
B. Human Rights Court of Indonesia.....	10
C. Obstruction of Justice	16
D. Legal Protection.....	18
CHAPTER THREE: RESEARCH METHOD	
A. Type of Research	23
B. Type of Data	23
C. Method of Collecting Data	25
D. Data Analysis.....	25
CHAPTER FOUR: FINDING AND ANALYSIS	
A. The Case Analysis of Novel Baswedan	26
1. The critical analysis of persecution under the Criminal Code and Public Prosecutor indictment on Novel Baswedan.....	32
2. Judge's <i>ratio decidendi</i>	38
B. The Plausibility of Novel Baswedan Case to be Adjudicated in Human Rights Court.....	46
1. Authority to examine and adjudicate.....	49
2. Types of adjudicated cases.....	51
3. Human Rights Court Mechanism.....	55

4. The possibility of adjudicating the Baswedan’s case.....	57
CHAPTER FIVE: CONCLUSION AND RECOMMENDATION	
A. Conclusion	64
B. Recommendation	65
BIBLIOGRAPHY	

LIST OF STATUTE

International Law

The Rome Statute.

The Milan Declaration.

United Nations Declaration of Human Rights.

The International Covenant on Civil and Political Rights .

National Law

Undang-Undang Dasar Republik Indonesia Tahun 1945 (The 1945 Constitution).

Undang-Undang Nomor 1 Tahun 1946 tentang Kitab Undang-Undang Hukum Pidana (Law Number 1 of 1946 on The Criminal Code).

Undang-Undang Nomor 8 Tahun 1981 tentang Kitab Undang-Undang Hukum Acara Pidana (Law Number 8 of 1981 on Criminal Code Procedure).

Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia (Law Number 39 of 1999 on Human Rights).

Undang-Undang Nomor 26 Tahun 2000 tentang Pengadilan Hak Asasi Manusia (Law Number 26 of 2000 on Human Rights Court).

Undang-Undang Nomor 13 Tahun 2006 tentang Perlindungan Saksi dan Korban (Law Number 13 of 2006 on Witness and Victim Protection).

Undang-Undang Nomor 49 Tahun 2009 tentang Kekuasaan Kehakiman (Law Number 49 of 2009 on Judicial Power).

Undang-Undang Nomor 19 Tahun 2019 tentang Perubahan Kedua atas

Undang-Undang Nomor 30 Tahun 2002 tentang Komisi Pemberantasan

Tindak Pidana Korupsi (Law Number 19 of 2019 on The Second Amendment of Law Number 30 of 2002 on the Commission of Corruption Erradication).

Court Verdict

Putusan Pengadilan Negeri Semarang Nomor No. 66/Pid.B/2016/PN (District Court Verdict Number No. 66/Pid.B/2016/PN).

Putusan Pengadilan Negeri Jakarta Utara Nomor 371/Pid.B/ 2020/PN. Jkt.Utr (District Court of North Jakarta Verdict Number 371/Pid.B/ 2020/PN. Jkt.Utr).

Putusan Pengadilan Negeri Jakarta Utara Nomor 372/Pid.B/ 2020/PN. Jkt.Utr (District Court of North Jakarta Verdict Number 371/Pid.B/ 2020/PN. Jkt.Utr).

LIST OF ABBREVIATION

AFP	The Australian Federal Police
AKPOL	<i>Akademik Kepolisian</i> (National Police Academy)
Bank BI	<i>Bank Indonesia</i> (Indonesia Bank)
CCTV	Closed-Circuit Television
DPR	<i>Dewan Perwakilan Rakyat</i> (House of Representatives)
E-KTP	<i>Elektronik Kartu Tanda Penduduk</i> (Identity Card)
ICCPR	The International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
KEPRES	<i>Keputusan Presiden</i> (Presidential Decree)
Komnas Ham	<i>Komisi Nasional Hak Asasi Manusia</i> (National Human Rights Commission)
KPK	<i>Komisi Pemberantasan Korupsi</i> (Corruption Eradication Commission)
KUHAP	<i>Kitab Undang-Undang Hukum Acara Pidana</i> (Criminal Procedural Code)
KUHP	<i>Kitab Undang-Undang Hukum Pidana</i> (Criminal Code)
MACC	Malaysia Anti-Corruption Commission
MPR	<i>Majelis Permusyawaratan Rakyat</i> (People's Consultative Assembly)
PERPU	<i>Peraturan Pemerintah Pengganti Undang-Undang</i> (Government Regulation in Lieu of Law)

TGPF	<i>Tim Gabungan Pencari Fakta</i> (Joint Fact-Finding Team)
TPF	<i>Tim Pencari Fakta</i> (Fact-Finding Team)
UDHR	Universal Declaration of Human Rights
UN	United Nation

ATTACHMENT

Turnitin Certificate

Publication Manuscript Certificate

Proofreading Certificate