

# CHAPTER 1.

## IDENTIFYING AND ANALYZING SOCIAL PROBLEMS: THE WHO AND WHAT OF PROBLEMATIC BEHAVIOR

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## 2. Chapter objectives

By the end of this chapter, students will understand the terms (1) social problem, (2) social institution, (3) law, (4) legal order, (5) lawmaking institution, (6) implementing agency, and (7) role occupant (or stakeholder).

Students will also be able (1) to identify and analyze social problems in their own communities, and (2) to identify (A) the problem, (B) the repeated behavior, (C) the role occupants (or stakeholders), and (D) possible implementing agencies.

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### Teaching Notes

#### Recommended Instructional Outline:

Lesson 1 consists of an interactive lecture session lasting about 1 hour and 30 minutes, with one in-class assignment. There is a homework assignment at the end of the lesson.

The lecture portion of the lesson is as follows:

**1. Preview of Lesson 1 (15 minutes).** Preview the lesson, using the chapter outline above.

**2. Lecture (45 minutes).** The main lecture portion will address identification of social problems and determination of who and what behavior plays a role in creating social problems. Specifically the lesson will address the following questions:

- (a) What is a social problem?

(b) What is a social institution and what role does it play in social problems?

(c) Why is it important to identify who causes, or contributes to, problematic social behavior?

(d) How does one identify whose behavior causes or contributes to the social problem?

(e) Why is it important to identify the agency responsible for implementing the policy or law?

(f) What role can the law and legal institutions play in dealing with social problems?

**3. In-Class Assignment (30 minutes).** The in-class assignment will deal with the problem of traffic jams.

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### **3. Introduction**

On your way to class, you may confront several situations that concern you. Maybe it is the heavy traffic making you worry that you will miss class. Maybe it is the amount of garbage in the streets or in the waterways. Maybe you are unfortunate enough to witness some type of crime, corruption, or abject poverty.

You may have even wondered, “What or who caused the traffic jam or the corruption?”, “Can anything be done to stop it?”, “Who is responsible for stopping it?”, or “How can the problem be solved?”

In this chapter, we will explore social problems like the ones you see every day as well as others that are not so obvious. We will discuss what drives society to seek a solution to these problems and how public policy or laws can be an effective tool in dealing with social problems. We will also show how to identify who may be responsible for the behavior that contributes to the social problem and what exactly the behavior is. Finally, we will show how to identify appropriate government agencies or officials to implement the policies or laws intended to ameliorate the problem.

### **4. What is a social problem?**

Think about the situations mentioned above. The traffic jams, the garbage, the crime, the corruption, and the poverty. They all have at least one thing in common — each factual situation falls short of society’s (normative) concept of what should be (that is, the societal “norm”). The traffic should flow smoothly to ensure that citizens can efficiently attend classes or travel to work. The streets and waterways should be free of garbage to prevent offensive odors and the threat of

disease. And so on. The gap between what is and what should be very often is what drives a society to take action to correct a social problem.

Only in the rare, and often dramatic or tragic, case does society formally respond to social problems that occur only infrequently. In the situations mentioned above, and in so many others, society is faced with an ongoing problem. Traffic jams happen more often than once in a while, there is more than a small amount of garbage in the stream, there is more than one corrupt official, and there are, unfortunately, too many people living in poverty. These more frequent problems are what we will focus on in this course.

### **(a) Definition of “social institution”**

In this course, the term “social institution” must be understood in the context of social problems. Perhaps the most important common feature of the social problems mentioned in this chapter is that they are not caused simply by human behavior, but by repeated human behavior. (Certainly, there are problems that plague societies that are not caused by human behavior, such as a volcano eruption or torrential rains. Understanding and preventing such purely natural phenomenon are beyond the scope of this course.)

These repeated behaviors can be identified as patterns of behavior. For purposes of this course, people acting in these repetitive patterns (that is, repetitive human or social behavior) constitute **social institutions**.

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#### **Teaching Note**

1. Discuss with the students how the definition of social institutions corresponds to traditional institutions, such as hospitals and schools. Without the buildings and uniforms they are simply repetitive behaviors — social institutions.
  2. Use the example of driving on the right/left side of the road to illustrate how institutions vary from society to society.
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### **(b) Definition of a “social problem”**

The term “**social problem**” means a social situation caused by repetitive patterns of social behavior that result in negative consequences and fall short of the affected society’s normative ideal.

## 5. What has law got to with it?

Society can, of course, respond to a social problem in many ways. For instance, society may choose to ignore the problem or appeal to a higher metaphysical power to intervene. Society often looks to the law and the legal order to deal with the problem. It is this type of response that we will focus on in this course. In order to discuss how to make such a societal response effective, we must have common definitions of the concepts of **law** and the **legal order**.

### (a) Definition of “law”

For purposes of this course, the term “**law**” means a regulation made by Government to be implemented by Government officials. Such laws include national laws, regional laws, other administrative regulations, and governmental agency procedures.

### (b) Definition of “legal order”

The term “**legal order**” means all the normative systems in a state, which includes both the laws and the institutions that create and implement the laws. Traditionally, the purposes of the legal order was to make rules, enforce rules, stipulate fundamental values, and determine rights and duties. The institutions included in the legal order include the following:

- The Parliament or other legislative bodies that make the laws.
- The ministries or other executive agencies that make regulations to carry out the law and that enforce the laws.
- The courts or other judicial resources that interpret the law and provide a check on the other parts of the Government.
- The law enforcement system that actually polices society to ensure conformity with the laws and regulations.

A less-traditional view holds that the primary role of the legal order is to **induce desired social behaviors**. To design laws likely to induce such change, one must know how to answer the question, “Why do people behave the way they do in the face of rule of law?”

## 6. Why do people behave the way they do in the face of rule of law?

In order to answer the question, “Why do people behave the way they do in the face of rule of law?”, this important question we have to examine whether law has anything at all to do with influencing behavior. Some argue that the law is merely a prescription for how people should behave and that those who draft the laws should not be concerned about whether anyone obeys the law. Others argue that the law is a creature of the society that produced it and thus cannot serve to bring about change in its creator. A related theory holds that in order to be successful, a law must be in accordance with already existing social patterns. Finally, “post-modernists” argue that even if law influences behavior, there are so many other factors involved that law’s influence cannot be isolated from those other influences. **A basic tenet of this course is that the law does influence behavior** — although, as we will see, traditionally the resulting behavior rarely conforms with the law’s prescriptions.

A graphic model helps illustrate why people behave as they do in the face of the law. In order to understand the model, three terms used in the illustration must be defined.

### **(a) Definition of a “lawmaking institution”**

The term “**lawmaking institution**” means an institution that makes laws. This may include the legislative bodies, ministries, and executive agencies at any level of the Government.

### **(b) Definition of an “implementing agency”**

The term “**implementing agency**” means an organization or individual assigned the duty to implement a given rule. Usually, the implementing agency is one or more governmental organizations or officials, but sometimes a nongovernmental entity is included or given this responsibility.

When addressing a social problem through legislation, it is essential to choose an appropriate implementing agency (or agencies) to carry out the solution to the problem. It is also important not to exclude a potential implementing agency before an appropriate legislative solution has been chosen. Sometimes, the choice of implementing agency will depend on what solution is chosen, and solutions are not chosen until a thorough analysis of the problem is completed, as set out in the rest of this book.

**(c) Definition of a “role occupant” (or “stakeholder”)**

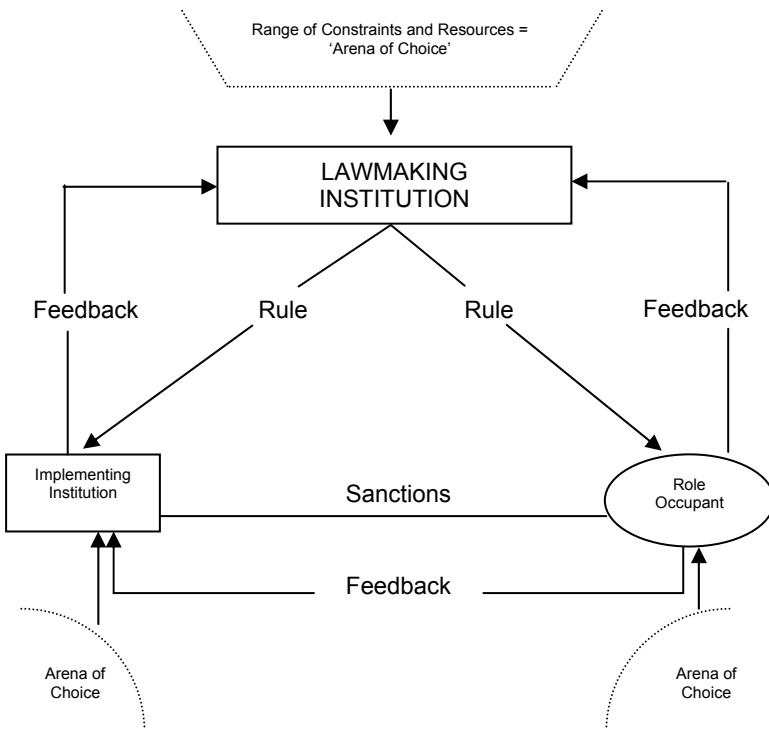
The term “**role occupant**” (or “**stakeholder**”) means a person who engages in repetitive behavior related to a social problem. After a solution or rule is decided on, the term refers to a person affected or directed by the primary directions of the rule.

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**Teaching Note**

1. Lead a discussion on how social problems are dealt with in Indonesia. What do the students believe is the role of the legal order?
  2. Ask the students for examples of behaviors that happen only because of law. What about paying taxes? Voting?
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**Figure 1.1. Why people behave as they do in the face of a law. (Adapted from “A model of the legal system”, by Professors Ann and Robert Seidman.)**



The model illustrates how a role occupant (or stakeholder) is influenced directly by a lawmaking institution, primarily by (1) the text of the rule itself, (2) the behavior of the implementing agency, and (3) the non-legal constraints and resources of the role occupant's (or stakeholder's) environment.

Now that we have given you the conceptual framework we will discuss the practical matter of determining what the problematic behavior is and who the role occupant (or stakeholder) and the implementing agency are.

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### Teaching Note

Walk through a given law with students. What kind of feedback do lawmaking institutions and the implementing agency get? Ask the students what other factors influence behavior. They will probably identify ROCCIPI factors, which will be useful later in the course.

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## 7. Determining what is the problematic behavior and who is responsible

The first step in determining what social problem exists is to separate symptoms from actual problem behavior. For instance, the traffic jam mentioned earlier is a symptom of underlying problematic behaviors. So too is the garbage in the streets, unexplainably wealthy public officials, and poor families. This is not to say that you should disregard the symptoms. Later in the process, when you advocate for a change in the law, or for a new law altogether, you will likely need to use the symptoms to demonstrate that the status quo is undesirable. However, in order best to begin at this stage, we must move past the symptoms and search for the problematic behavior. When we find the problematic behavior we will also discover the role occupant (or stakeholder). The implementing agency may take a bit more consideration.

### Questions for Discussion

1. Who would be the lawmaking institution, likely implementing agency, and role occupant (or stakeholder) be in the case of an antilittering law?
2. What kind of feedback would you envision?



## 8. What is the underlying problematic behavior?

Once you have identified a social problem, how do you go about isolating the problematic behaviors? If the problem you are investigating is local and observable (for example, traffic jams, garbage on the streets), the next logical step is to visit the site or otherwise observe the problem directly. Direct observation can help you understand the problem better and help to identify individuals who could provide more in-depth information regarding the problem. If the problem is not directly observable (for example, tax or electrical regulations), indirect observation through interviews with probable experts is a good first step. In either case, it will likely become apparent that each social problem is caused by more than one problematic social behavior. As we will see later, it is initially important to identify each of the problematic behaviors, even though the ultimate policy or law will likely deal with only one of them.

The following are examples of questions you could ask in order to identify the problematic behaviors associated with the problem of garbage on the streets.

(Note that the basic assumption is that garbage on the roads is the result of human behavior — garbage does not grow on the streets or migrate there by itself.)

1. *What* are the overt manifestations of the problem? Possible answer: Litter and food wrappers on the streets and sidewalks.

2. *Who* is directly affected by the manifestations? Possible answer: Business owners and residents in the neighborhood.

3. *Where* is it happening? Possible answer: On the streets and sidewalks around fast food restaurants.

4. *When* is it happening? Possible answer: Most often around lunchtime.

5. *Whose behavior* causes or contributes to the problem *directly*? Possible answer: Restaurant patrons who buy the food and discard the wrappers on the streets and sidewalks.

6. *Whose behavior* causes, contributes to, or permits the problem *indirectly*? Possible answer: Restaurant owners who do not provide enough trash receptacles for collecting the garbage. Note that there may be others that fall into this category. Can you think of any others?

**Checklist of questions for identifying problematic behaviors**

1. *What* are the overt manifestations of the problem?
2. *Who* is directly affected by the manifestations?
3. *Where* is it happening?
4. *When* is it happening?
5. *Whose behavior* causes or contributes to the problem *directly*?
6. *Whose behavior* causes, contributes to, or permits the problem *indirectly*?

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**Teaching Note**

Emphasize to the students that this checklist is not comprehensive. These are examples of the most basic types of questions that are generally applicable. Moreover, not all of the questions above may always be applicable in the investigation of every social problem. Students should ask whatever questions are appropriate.

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**Example:  
The Problem of Traffic Jams**

We will use the problem of traffic jams throughout the remainder of the course to allow you to practice the techniques taught in the course. The problem is based on actual circumstances in Makassar. The supporting materials are not necessarily authentic, but should give you enough material to begin analyzing the social problem and, later, to propose a solution.

In order to simulate an actual case, you will be given the role of an eager staff member employed by the Mayor's office in Makassar. The Mayor calls you in and expresses concern about the traffic problem and gives you three letters received from town residents. The Mayor asks you to start thinking about a policy she might propose in order to alleviate the traffic problem.

**Figure 1.2. Traffic jam in Makassar.**



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### **Teaching Note**

We will be using the traffic jam situation for the remainder of the course to walk the students through a complete problem-solving exercise. Use the materials for a 30-minute in-class assignment. After reading the materials, students should be able to write a clear problem statement, identify a role occupant (or stakeholder) and implementing agency, and write a strong statement identifying the problem behaviors for both. At this stage, it is important to stress the importance of community input in prompting rule development. It is also a good opportunity to foreshadow the later discussion on alternative problem-solving techniques. For instance, the writer of this letter may be prompting the Mayor to take an “ends/means” approach (that is, ‘write me a law that will prohibit parking’). Also discuss with the students who they might turn to for answers to the problem.

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**Figure 1.3. First letter to traffic agency.**

To: Head of Traffic Agency, Makassar

Dear Sir or Madam:

I am writing to complain and ask you to organize the traffic in front of my shop. Allowing the minibuses and private cars to park all over the place causes disarray and traffic jams. Because of this, no one can get to my shop and my business is suffering. Can't you install traffic signs that prohibit parking on both sides of the road? Please also get some police to start patrolling regularly.

I hope you can do something.

Sincerely,

IWyan Wenagama

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**Teaching Note**

The first letter provides the potential rule drafter with human interest story to use in advocating the eventual solution. It is also an excellent example of a request for the problem-solving technique taught in this course. The writer is impacted by a problem and wants some kind of solution.

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**Figure 1.4. Second letter to traffic agency.**

To: Mr/Ms Head of the Traffic Agency, Makassar

Cc: Subdivision of Land Transportation

I am a citizen of Makassar who is very dissatisfied by the current condition of Makassar, in which I personally have been directly disadvantaged.

Last week, my daughter, who is 4 years old, had fallen from our staircase, which had caused her head to bleed. We called the ambulance immediately, but the ambulance could not reach our house quickly because it was stuck in a traffic jam. Therefore our daughter was delayed so long in getting to the hospital that she needed to be put in intensive care and is still under medical treatment today. We have spent so much money and energy that would actually be unnecessary if our daughter had been taken to the hospital quickly enough.

We really hope the government will take the concerns and awareness of the problem seriously and take responsibility for overcoming the traffic problems. We want to see more police officers on duty on the main roads so emergency vehicles, such as ambulance and fire brigade cars, will be prioritized on the roads.

Currently, the traffic condition is very unorganized. We very frequently witness traffic jams and accidents. Pedestrians cross roads improperly and public transports take and drop off passengers without paying attention to other drivers. The number of public transports operating in the town is not proportional to the road capacity. Therefore traffic jams frequently occur.

I am probably just one example of hundreds of cases of unfortunate incidents. That is why I feel very strongly that the government should be willing to take this problem seriously.

Makassar, 23 February 2003

Ahmad Subair

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### Teaching Note

The second letter starts pointing to a possible solution. Again prompt the students to consider alternative sources of information and ask who the implementing agency could be.

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**Figure 1.5. Letter to traffic police.**

To: The Head of Traffic Police, Makassar

Dear Sir or Madam,

I am writing this letter to express my disappointment about the traffic condition in Makassar, which is becoming worse by the day. Especially I am disappointed after the accident I had recently. Two days ago, I was driving around Makassar Mall when the angkot in front of me suddenly stepped on the brake and instantly stopped to pick up a passenger on the side of the road. At that time, I was driving right behind the angkot and was unable to make swerve to avoid an accident because the road was very crowded, making an accident inevitable. Unfortunately, also at that time there were no police officers around that should have been able to solve the problem. That also caused disadvantages to myself (damages to my car) because of the action of the angkot driver, who refused to take responsibility and even threatened me with a sharp weapon.

The area around Makassar Mall is very unorganized, crowded, and many angkots stop at places where they are not suppose to. I really hope that more police officers can patrol more often around the area and really sanction those who are violating the rules. If not, we will certainly see more accidents on those streets. I also think that perhaps a special lane should be designated for public transports around the market and also a special lane should be designated only for private cars (prohibiting public transports on that lane). I really hope that the police will really take notice of this problem in our town.

Makassar, 24 February 2003

Suryani

**Figure 1.6. Article: “Integrated Team Needed” (CITATION FOR ARTICLE).**

**NOTE: Insert copy of “Integrated Team Needed” article.**

[Insert article HERE.]

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### Teaching Note

This article gets right to the point and identifies a role occupant (or stakeholder). It may be important to stress to the students that it is not always this easy and they will need to investigate further, by conducting interviews, etc.

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**Figure 1.7. Article: “Need Firm Action” ([CITATION FOR ARTICLE]).**

**NOTE: Insert “Need Firm Action” article.**

[Insert article HERE.]

**Figure 1.8. Article: “Government Must Think First and Shadow  
Terminals” ([CITATION FOR ARTICLE]).**

**NOTE: Insert “Government Must Think First and Shadow  
Terminals” article.**

[Insert article HERE.]

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### Teaching Note

Students will refer back to these articles to find ROCCIPI factors, so you may want to foreshadow the ROCCIPI discussion by prompting the students to look to explanations of behavior.

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**Figure 1.9. Article: “Transport Agency is the Troublemaker”.**

**NOTE: Insert “Transport Agency is the Troublemaker” article.**

[Insert article HERE.]

**Figure 1.10 Article: “Land Transport Organization Accused”  
([CITATION FOR ARTICLE]).**

**NOTE: Insert “land transport organization accused” article.**

[Insert article HERE.]

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### Teaching Note

The final two articles point to an implementing agency.

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## 9. Possible implementing agencies

There are a number of agencies to consider when choosing the appropriate implementing agency (or agencies). These include agencies or officials at various levels of government, as well as nongovernmental entities. In dealing with our traffic jam example, some of the possible implementing agencies are listed below.

**(a) Mayor**

The Mayor of Makassar is the person who has ultimate responsibility for execution of the municipal laws in Makassar.

**(b) Makassar Town Government**

The Mayor of Makassar, along with other municipal and technical institution officials, have the authority (based on the Regional Regulation and the townspeople's desires) to organize and perform official duties for Makassar.

**(c) Makassar Traffic Department**

The Makassar Traffic Department is the technical institution of the town government that has been given the authority by the regional government (based on the Regional Regulation) to manage land and sea transportation, the post, and telecommunications in Makassar.

**(d) Makassar Traffic Department, Subdivision of Land Transportation**

The Subdivision of Land Transportation is the division (or unit) within the Traffic Department that has been given the authority by the regional government (based on the Regional Regulation) to assist and manage traffic and public transport in Makassar.

**(e) Makassar Tourism Department**

The Makassar Tourism Department is the technical institution of the town government that has been given the authority (based on the Regional Regulation) to assist and manage tourism issues, development and tourism production, tourist activities, and tourism businesses.

**(f) Land transportation organization**

The land transportation organization in Makassar is a nongovernmental organization made up of a number of land transportation entrepreneurs whose the goal is to articulate the organization's interests, for the welfare and livelihoods of its members.

**(g) Angkot drivers association**

The angkot drivers association is a nongovernmental organization made up of a number of angkot drivers whose goal is to accommodate and articulate the interests of angkot drivers for the welfare and livelihoods of the organization's members.



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### Teaching Note

#### In-Class Assignment

Break the class into groups. Each group should (1) read the letters and articles and write a problem statement, (2) identify the role occupant (or stakeholder) and implementing agency, and (3) write a clear and concise statement of the problem behavior. Groups should present work in front of the class. Discussion should follow.

Note that it is important not to jump to conclusions too soon about the implementing agency. If the drafter decides on the police as the appropriate implementing agency at this stage, that choice may influence the drafter's ROCCIPI-based hypothesis. (That is, deciding on the police as the implementing agency at this point may lead the student to disregard a solution based on educational, as the police may be inappropriate as a community education agency.)

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**Figure 1.11. Progress chart.**

**NOTE: Insert progress chart.**

[Insert chart HERE.]

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### Teaching Note

Use the progress chart above to let the students know where they have been and where they stand in the problem-solving process. Also make sure the students understand the terminology introduced in this chapter and the basic concepts.

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## 10. Homework Assignment

Identify two social problems that you experience regularly. Then do the following exercises:

1. Observe the problem and identify a problematic behavior. Write one paragraph describing the behavior.
2. Identify the role occupant and propose two possible implementing agencies.

## 11. Further Reading

The following materials provide further information about the issues discussed in this chapter and may be referred to for additional information.

Ann Seidman, Robert B. Seidman, and Nalin Abeysekere, *Legislative Drafting for Democratic Social Change* (Indonesian version, 2d ed.), ELIPS II National Library, Jakarta, 2002. Pages \_\_\_–\_\_\_.

**NOTE (MGH): The appropriate pages for the above reference should be the pages in the Indonesian version that correspond with pages 5–20 in the English version.**

Ann Seidman, Robert B. Seidman, and Nalin Abeysekere, *Assessing Legislation: A Manual for Legislators*, online at <http://www.bu.edu/law/lawdrafting/manual/>, 2003. Chapters 1–3.

M. Irfan Islamy, *Prinsip-Prinsip Perumusan Kebijaksanaan Negara*, Ed. 2, print 10, Bumi Aksara, Jakarta, 2001. Pages 1–33.

Ronny Hanitiyo Soemitro, *Studi Hukum dan Masyarakat*, Alumni, Bandung, 1985. Pages 1–54 and 118–165.

Satjipto Rahardjo, *Masalah Penegakan Hukum Suatu Tinjauan Sosiologis*, Sinar Baru, Bandung, [\[CLICK HERE TO FINISH THIS CITATION\]](#). Pages 15–29.

Sedarmayanti, *Good Governance* (Kepemerintahan yang Baik) Dalam Rangka Otonomi Daerah, Mandar Maju, Bandung, 2003. Pages 1–29.

Solichin Abdul Wahab, Analisis Kebijakan, *Dari Formulasi ke Implementasi Kebijakan Negara*, Ed.2, Bumi aksara, Jakarta, 2002. Pages 1–15.

**NOTE: All these citations should be double-checked for accuracy with respect to (1) the precise author(s), book title, etc., (2) consistency in form among the citations, (3) consistency among the citations that are repeated in other chapters, and (4) actual chapter or page references.**