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Advances in  
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# Proceedings of the First International Conference on Progressive Civil Society (ICONPROCS 2019)

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## [Additional Implications of Injury Costs of Health BPJS Patients as Community Empowerment Efforts](#)

Sri Suatmiati, Edi Kastro, M. Idrus, Viky Candra

Based on data released by BPJS Kesehatan at the beginning of February 2018, the current population of Indonesia who became BPJS participants amounted to 192,029,645 people with the highest number of participants using central government funds, which amounted to 48.07%. The classification based on BPJS...

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## Spin-off and Social Funds' Productivity of Islamic Banking Industry in Indonesia

Zulfikar Bagus Pambuko, Nurodin Usman, Lilik Andriyani

Islamic banking Act in Indonesia requires to manage the financial funds and social funds simultaneously. In the case of spin-off Islamic Banks, the fund manager is separate from the parent company, including in managing social funds, e.g. zakah, infaq, and sadaqah. This study is going to investigate...

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**Proceedings Article**

## The Development of Ludo Media to Improve Social Studies Learning Outcomes of Fifth Grade Elementary School Students

Vera Erviana, Fajar Pambudi

The purpose of this research was to determine the steps of the development, also to determine the feasibility of Ludo learning media for 5th-grade Social Studies learning the material. This research was Research and Development. The subjects of the testing were the 5th grade students as many as 28 students...

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## In-Service Teacher's Response to The Professional Development Training and Workshop in Indonesia

Dwi Sulisworo, Dian Kusumaningtyas

Teacher professionalism is an essential factor in managing quality education, a critical factor in the civil society movement. The Indonesian government has been improving teacher professionalism through the teacher certification program. The implementation of teacher certification has been carried...

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### The Analysis of Parent Satisfaction with the School Service Using Kano Methods: The Case Study at The Private School in Yogyakarta, Indonesia

Dwi Sulisworo, Lisanti Siswanto

Many factors are determining the parent decides to send their children to a particular school. The purpose of this study is to obtain the satisfaction level of educational quality experienced by the parent. The type of this research is descriptive, explorative analysis with qualitative and quantitative...

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#### Proceedings Article

### Community Rights in Taking the Legal Effort of the Accidents of Government Infrastructure

Sugeng Riyanta, Hartiwiningsih Hartiwiningsih, I.G. Rachmi

This paper aims to describe and analysis on community rights in taking the legal effort of the accidents of government infrastructure. There are two points from that topic that will be describe and analysis, firts on The Importance of Monitoring the Implementation of Infrastructure Projects and second...

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#### Proceedings Article

## The Implementation of Child- Friendly Schools: Challenges and Obstacles in the Era of Technological and Information Advancement

M. Arifin, Sudarmo Sudarmo, Desiderius Sudiby

Nowadays, the problem of education in Indonesia becomes interesting to discuss related to multidisciplinary science. Of course, this is because education is closely related to children as the next generation of the nation who have a strategic position in the development of Indonesia. Therefore, children...

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#### Proceedings Article

## Teacher Pedagogic Communication for Effective Learning

Suyatno Suyatno, Siti Urbayatun, Ika Maryani, Caraka Bhakti, Dwi Sulisworo

The primary objective of this research is to find a strategy in building pedagogic communication between teachers and students in North Maluku Senior High Schools for which to improve the effectiveness of learning in the classroom. Pedagogic communication is the communication between teachers and students...

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#### Proceedings Article

Correlational study between learning style and reading

# Correlational Study Between Learning Style and Reading Comprehension at University Level Students

Muhammad Rujani



Each learner in the classroom receives and processes information in a unique way which makes the students distinct from one to the others, some learners may have a combination of learning styles. So for a teacher it is really important to identify the learning style of his/her students so that the teacher...

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### The Behavioral Concept and Practice Moderate in Islam on The Effect of Strengthening Character Values in Traditional Islamic Boarding School: The explanation of Social Learning Theory

Nur Hamidah

Research on character education has been a subject of intellectual studies. The character becomes an important thing to note in line with the times and threat of terrorism. Previous research found many facts on the ground with various character values. The question that needs to be investigated is how...

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### Mobile Application with 3D to Improve Self- Determined Learning Interest : Student's Response and Challenge in Biology Class

Dian Septiana, Gunarhadi Gunarhadi, Muhammad Akhyar

The limited choice of media to increase the learning interest of affordable middle school students encourages the importance of developing interactive learning media that are suitable for the needs of students. Gadgets technology that is increasingly developing becomes a benchmark for developing more...

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#### Proceedings Article

### Challenges to accountability and transparency in implementing discretion in public services in Indonesia

Jemi Jemi, Desiderius Sudibyoy, Rutiana Wahyuengeseh

Talking about the implementation of public policies cannot be separated from the implementation or application of public policy through programs, activities, actions, and doings in a mechanism that is bound to a particular system. In addition, actors have a major role in implementing public policies...

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#### Proceedings Article

### Global Citizens Awareness Through Digital Literacy In the Fourth Industrial Revolution: A Riview of the Literature

Hermy Yanzi, Obby Hidayat, Ana Mentari, Dasim Budimansyah

This article aims to report on the current state of research on the various alternative solutions in increasing global citizen awareness by utilizing digital literacy as an ability to use digital media (Internet of things, big data, and robotical feature). This research used a critical study method by...

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### The Unique Explanations of Cognitive Hierarchy of needs theory on the Phenomena of Cohabitation, Young Marriage and Divorce: Qualitative study of young marriage to Banjar tribes in Paluh Manan Village

Purnama Sari, Setyabudi Indartono

Research related to cohabitation or more commonly referred to as "kawin kebo", which became one of the triggers of a young marriage and ultimately caused divorce which is still rarely done in Indonesia. Even though cohabitation is a new phenomenon, it is still considered to be controversial. Indonesia...

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## Proceedings Article

### Teacher Readiness Level Facing Technology Demands, Pedagogical Skills and Development of School Culture in the 21st Century

Moh Ulinnuha, Setyabudi Indartono

Teachers in the 21st century face more complex challenges and difficult work for them, for example: increasing diversity students and parents, higher demands for quality education, standards of teaching and learning processes with higher outcomes and others. This article aims to explain the importance...

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## Strengthening Civic Literacy through Media Literacy in Jabar Saber Hoaks

Ari Febrian, Iim Masyitoh

Today Indonesia is facing an abundance of fake news circulating on social media. This condition is exacerbated by the lack of digital media literacy accepted by the people. The existence of Jabar Saber Hoaks serves as an excellent step to strengthen civic literacy among the citizens against fake news...

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## Student Learning Outcomes and Learning Evaluation in the Implementation of Physic Worksheet Base on Technological Excellence and Added With Islamic Values: Case Study For Male Students (Santri Putra)

Eko Nursulistiyono, Ariati Puspitasari, Yoga Prabowo, Dian Kusumaningtyas

Research has been carried out to study the student learning outcomes and learning evaluation in the implementation of student worksheets (LKS) based on technological excellence and imbued with Islamic values for grade X high school male students. This research used a pretest-posttest control group design...

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## Inclusive Growth in Bengkulu Province: Multidimensional

## Approach

Ahmad Soleh, Ketut Sukiyono, Ridwan Nurazi

The development of the concept of inclusive growth in the past decade has become important in research studies. Increased economic growth is expected to provide benefits for reducing poverty, reduce income inequality, increase employment opportunities and improve environmental sustainability. The purpose...

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## Strategies of The English Teachers in Islamic Boarding School (IBS)

Asrikah Lestari, Bambang Pratolo

Nowadays, learning English becomes a necessity to support the progress of a nation. Finding the best learning strategy becomes a challenge that needs to be answered by English researchers and teachers. Investigating English language teaching and learning in regular schools is very common. This study...

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### Proceedings Article

## Interactive Game: A Step To Reduce Science Learning Difficulties of Elementary School Students

Ika Maryani, Nurdin Hidayat

Natural Science is one of the complex material in elementary school learning. This makes many students experience learning difficulties. Learning media must be able to simplify this complexity and also reduce the dual perception of

must be able to simplify this complexity, and also reduce the user perception of abstract concepts by making it concrete. This research aims to develop...

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### The Post-Placement Empowerment of Nurse Returnees in Indonesia

Mujiati Mujiati, Harimat Hendarwan

A large number of health workers especially nurses (79%) who work abroad raises new problems when they return to their homeland, for examples the difficulty of finding work with appropriate income or rewards. On the other hand, the potential possessed by post-placement overseas nurses such as language...

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### Learners' Perspectives on English as a Learning Media in Maritime English Classes

Marsitah Marsitah, Bambang Pratolo

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### The Obstacles of Copyright Protection against Traditional Cultural Expression in Indonesia



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## Forecasting the Number of Tourist Arrivals to Batam by applying the Singular Spectrum Analysis and the Arima Method

Agustinus Ete, Meita Fitriawanawati, Muhammad Arifin

Singular Spectrum Analysis (SSA) is a time series method used to decompose the original time series into a sum of a small number of components that can be interpreted such as trends, oscillatory components, and noise. The purpose of this study is to compare the accuracy of the forecast between the SSA...

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## The Role of Job Satisfaction on Employee Work Productivity

Fatwa Tentama, Subardjo Subardjo, Surahma Mulasari, Eka Meilani

Job satisfaction has a role of influencing work productivity. This study aims to empirically examine the role of job satisfaction on employee work productivity at the University of X Yogyakarta. The research sample is permanent and active employees who have worked for at least one year. The selection...

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## Proceedings Article

# Design Analysis of Mathematics Teacher Lesson Plans Based on Higher Order Thinking

Yuni Kartika, Budi Usodo, Ikrar Pramudya

The quality of lesson plans are one of the factor determining success of the learning process in schools. One element of the 2013 curriculum transformation is 21st century skills, namely higher order thinking skills integration in mathematics learning. Basically, to get HOTS thoroughly mastered by the...

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## Proceedings Article

# Factors Causing the Increase of Suicide in Gunungkidul Regency

Kurnia Anggraeny

This study aims to find the factors causing the increase of suicide in Gunungkidul Regency (case study in Wonosari Subdistrict and Semanu sub-district) and find out the efforts made by the police or local authorities in dealing with the problem of increasing suicides. The research applied sociological...

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## Proceedings Article

# Digital Philanthropy in Indonesia: Strengthening Civic Virtue for Digital Citizens

Aina Nurdiyanti, Karim Suryadi

This article aims to report the results of a study of a model of digital-based

social movements that can strengthen civic virtue. In this study social movement is seen as citizenship education in the socio-cultural domain. The study used a qualitative approach with case study design. The focus of the...

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### Musyawah and Meaning of Sovereign People in People's Democracy Perspective Pancasila Values

Megawati Megawati

People's sovereignty or modern democracy is a democracy with a representation system, people choose someone from themselves to represent it. The Indonesian state, which has known the order of democratic life since before the Indonesian state was born, namely people's sovereignty or democracy based on...

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### The Impact Of Over Capacity On Fulfilling The Basic Rights Of The Assisted Citizen In Prison In The Perspective Of Human Right

Henny Nuraeny, Tanti Utami

Prison is actually a place for people who have obtained a fixed decision from the Judge, with the aim of providing guidance to criminal offenders to realize their mistakes, improve themselves, and cause deterrent effects, so that they do not commit criminal offenses and can fulfill their life needs....

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## Policy Guidance for Prisoners in Perspective of Law Number 12 of 1995 concerning Prisons: Comparative Study of Cianjur Prison and Magelang Prison

Dedi Mulyadi, M. Aridhayandi

The paradigm shift of the prison system to correctional institutions replaces the term prisoner to be a Citizen. One form of guidance for the Guided Citizens is spiritual formation as practiced by Cianjur Class II B Prison and other forms of life skills training in accordance with the policy in Magelang...

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## Fostering Prisoners Through A Religious Approach: Case Study in Class II-A Prison in Magelang, Central Java and Prison Class II B Cianjur, West Java

Kuswandi Kuswandi, Cucu Solihah

Prison is a place for fostering prisoners who have problems with the law with the aim of preparing prisoners to be able to integrate healthily and be accepted in society well. In addition to the skill abilities of prisoners, prisons also have the responsibility to nurture the mental and spiritual prisoners,...

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## A Systematic Review on Sustainable Human Resource Management: A Framework for Managing Training in The Indonesian Police Force

Zidni Husnurofik, Fitri Nurmahmudah, Husaini Usman

This study aims to analyze the state-of-the-art of sustainable human resources management in police and to identify key elements, trends, and research gap. A systematic literature review was carried out using the JSTOR database, covering the period from 2013-2018, which resulted in a corpus of 11 scientific...

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## Active Learner Strategies in Era of Disruption: a Literature Review

Aminatul Syakdiyah, Fitri Nurmahmudah, Wiwik Wijayanti

In this transformation era, that humans be able to become competitive subjects to innovate in every single area. The disruption era that grows along with the industrial revolution 4.0 were called digitalization was brought many effects for its changing. As the agent of change, the learner should be able...

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### Proceedings Article

## Migraine Prevalence and Treatment in Students of Yogyakarta State University

Qisthihana Mazaya, Wara Kushartanti

This research is the preliminary research of the development of a Self Massage Therapy Model for migraine healing. In Indonesia, research on the migraine

therapy model for migraine heading. In Indonesia, research on the migraine prevalence in large populations has not been widely carried out, so that valid data about migraine prevalence have not been widely known. The peak...

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### Strengthening Morality And Character of Madrasah Tsanawiyah's Students in Kulon Progo by Developing Good Habits and Effective Communication With Parents

Sutipyo Ru'iya

Children's morality and akhlak have been in the spotlight lately, and teachers are often suspected of this problem. The teacher as an agent of change has a heavy responsibility to keep the moral and moral character of the child well-maintained. Based on the phenomenon, the decline in moral and akhlak...

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#### Proceedings Article

### Consumer Protection of Drug in Indonesian Law: Examining The Paternalism Theory

Norma Sari

Strengthening progressive civil society among Southeast Asia in consumer protection, based on a long history of consumer protection movement which was initiated by civil society. This research focuses on paternalism theory; the development; the needs and applied model in Indonesian Law. This normative...

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## Increasing Student Capacity in Disaster Preparedness through Psychosocial Training

Irvan Handaka, Zela Septikasari

Psychosocial knowledge and skills are very important considering guidance and counseling services are also needed in crisis counseling during disaster response. This refers to the Minister of Education and Culture number 23 of 2008 concerning Indonesian Counselor Competency Standards (SKKI), counselors...

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**Proceedings Article**

## Correlation Between Teaching Readiness with Math Anxiety of Primary Pre-Service Teacher

Mukti Sintawati, Ginanjar Abdurrahman

The purpose of this study was to find out: 1) Readiness to teach mathematics of primary pre-service teacher in semester 6 of the academic year 2017/2018, 2) level of math anxiety of primary pre-service teacher in semester 6 of the academic year 2017/2018, and 3) is there a relationship between student...

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**Proceedings Article**

## Teacher Competence in Developing Motor Skills of Elementary School Students

Akhmad Rizqi, Panggung Sutapa

One of the development aspects that must be developed is physical or motor development. Learning while playing can be used as a way to apply kinesthetic based motor skills learning by actively involving physical activities or using parts of the body in a happy and fun atmosphere. This research aimed...

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### The Effect of Transformational Leadership Style and Human Relations on Work Satisfaction

Subardjo Subardjo, Fatwa Tentama, Desta Kusuma, Rellin Ayudya, Surahma Mulasari

Transformational and human relations leadership style are two factors which are capable of influencing work satisfaction. This research aims to empirically examine the role of such leadership style and their influence towards work satisfaction in X University. The subjects of this research are permanent...

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### Relationship Between Work Satisfaction with Employee Engagement

Fatwa Tentama, Subardjo Subardjo, Surahma Mulasari, Novi Ningrum

Job satisfaction is a factor capable of increasing the level of employee engagement. This study aims to empirically examine the relationship between job satisfaction and employee engagement. The subjects in this study are the lecturers at the University of X. The selection of subjects was randomized...

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## The Magic of Creation Philosophy: Building the 21st Spiritual Literacy through Seven Learning Pathways

Unik Salsabila

To address the potential disclosure pace of information technology and the reality of eroding Islamic character values, mastery of spiritual literacy is essential for students in the 21st century. This study aims to find useful learning models that can be developing in the process of planting religious...

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## The Curriculum Model of Study Program-based Muhammadiyah Form of Cadre

Zalik Nuryana, Arif Rahman, Farid Setiawan

Islamic education should quickly adapt itself with era development. The study program in university has an important role in delivering the students' success. Islamic Education Study Program of Ahmad Dahlan University (PAI UAD) develops study program-based form of cadre curriculum called ORNAMI the Orientation...

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## Historiography of the Arabic Grammar in Europe: The Legacy of

# Historiography of the Arabic Grammar in Europe: The Legacy of Wright's Arabic Grammar

Yoyo Yoyo, Abdul Mukhlis



Arabic Grammar is a branch of science that emerged in the early Islamic era. Nevertheless, grammatical works compiled by the Arab scholars such as Sibawaih with his al-Kitāb considered difficult to understand by those who are not Arabic speakers (especially for Europeans) in terms of paradigm and its...

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### Participatory Development Communication: A Strategy in Climate Change Adaptation in Southeast Asia

Mohummad Hassan, Estrella Arroyo

Climate change is a global apprehension impacting the lives of millions from all spheres of the world. Most hard-hit are the less-developed nations whose livelihood depend much on agriculture with low-level technology, poor information system, and weak grassroots institutions. This is now a significant...

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### Teaching Material Development Among Higher Education Teachers: A Qualitative Study in Indonesian Context

I'in Irliana, Bambang Pratolo

This study is intended to investigate the ways the teachers of higher education

This study is intended to investigate the ways the teachers of higher education develop teaching material which include how to select, modify and develop own teaching materials. This study applies the qualitative research method with in-depth interview and observation as the data collecting techniques....

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### Empowerment of Small and Medium Enterprise (SME) Traders Through Insurance

Mulhadi Mulhadi, Syaiful Azam

This study aims to find an empowerment model for SME traders who are considered ideal in the future with an empirical juridical approach through distributing questionnaires to 95 trader's respondents in 4 main markets in Medan city, where samples are determined by purposive sampling technique were measured...

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### Students' Generic Science Skills in Chemistry Learning Using Inquiry-Based Learning

Retno Utami, Eli Rohaeti

Generic skills are skills needed for various fields of work and life. In this research, the generic skills discussed are generic skills in the field of science, called generic science skills. This research aims to analyze the effect of inquiry-based learning on students' generic science skills in chemistry...

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## Framework of the Blended Learning in Vocational Study to Achieve Hot Skills

Sukatiman Sukatiman, Muhammad Akhyar, Roemintoyo Roemintoyo, Siswandari Siswandari

This study aims to find and test learning frameworks that are suitable to be applied in Geomatics material at the university level. The method used was descriptive qualitative, with the participation of 32 students who were given mixed learning through a model, method, and evaluation. Data collection...

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## Dispute Settlements of Oil Spills in the Sea Towards Sea Environment Pollution

Elly Kristiani Purwendah, Dewa Gede Sudika Mangku, Aniek Periani

Environmental pollution often occurs not only in parts of the environment that are on land, but environmental pollution often also occurs in the sea. The sea is a part of the environment that has enormous benefits and roles for human life. In history, the sea has proven to have various functions, including...

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Juridical Review of Islamic Law: Surrogacy Phenomenon in



# Judicial Review of Islamic Law: Surrogacy and Feticide in Southeast Asia Countries

Syariful Alam, Nur Hidayah

Rent womb or commonly called surrogacy arises because of the modernization process, the process of modernization here is the development of science and technology in the field of medicine, namely genetic engineering. The purpose of rent womb is to help a married couple who are unable to have offspring...

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### Urgency of the Ombudsman in the District in monitoring the Operation of Public Services

Iskatrinah Iskatrinah, Doni Supriyo

This study was based on the background of the condition of public services in Indonesia which is still considered poor by the public using public services. Many complaints and criticisms have been expressed by the public to government institutions, service providers, both at the central and regional...

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### Investigating the Effectiveness of Inquiry Learning and Direct Learning Models Toward Physics Learning

Fatmawati Fatmawati, Luh Sukariasih, Suritno Fayanto, Heri Retnawati

This research proposes to determine the effectiveness of physics learning by comparing physics learning models, namely inquiry learning and direct

Comparing physics learning models, namely inquiry learning and direct learning models. This research limited to a review of student learning outcomes taught by using inquiry learning and direct learning. The research instrument

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### ASEAN Civil Society In The Digital Era; Are We Moving Backwards?

Sholahuddin Al-Fatih, Zaka Aditya, Haris Haris, Wahyudi Kurniawan

One of the impacts of technological development is the shifting of people's interaction from offline to online and borderless, from the citizen to the netizen. There is a negative side to the interaction change, which is the potential for malicious activity in the virtual world by state and non-state...

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### High Fertility Rates for the Education Infrastructure Crisis in Developing Countries: The Case of Malawi

Manfred Ndovi, Xin Miao

School infrastructure is one of the important factors that contribute to quality education. However, school infrastructure continues to be a serious challenge for most developing countries in the World. The ever-growing population coupled with high fertility levels has given most developing countries...

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## Wanprestasi of Mudharabah Financing in Sharia Banking

Wwin Wiyono, Eti Erowati

This study aims to determine the completion of wanprestasi on mudharabah financing in sharia banking. To achieve these objectives, the normative juridical approach method is used. Conclusion, the existence of sharia banking in Indonesia is a bank which operates in line with Islamic sharia provisions,...

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## Moral Panic and Online Prostitution: Study of Social Reactions

Arif Awaludin, Ikama Triana

The increasing progress in information and communication technology has an impact on the mode of crime. Online prostitution is one mode of crime that utilizes this technological advancement. The ease of access obtained, the maintenance of the confidentiality of the perpetrators and the lack of law enforcement...

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## Natural Science Learning Based on Technology For Students to Prepare For 4.0-Era Education

Siwi Purwanti

College Students of Primary School Teacher Education, Ahmad Dahlan University are the younger generation who will contribute in building

civilization in education, especially after they graduate and apply knowledge in the elementary school world. For this reason, lecturers need to provide knowledge in...

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## Policy for Formulating Criminal Law in the Indonesian Criminal Justice System

Sukmareni Sukmareni, Aria Zurneti, Syaiful Munandar

This study aims to analyze the policy of reformulating corruption law in Law No. 20 of 2001 concerning changes and additions to Law No. 31 of 1999 concerning the eradication of Corruption in Indonesia, and the policy on the formulation of corruption law needed to accelerate the eradication of Corruption...

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## Implementation of the Employment Social Security for Informal Workers or Labors with No Employment Contract in Purbalingga Regency

Susilo Wardani

Social security is the right of every citizen protected by law. Every citizen, including informal workers, including workers outside of employment, is also entitled to the social security. In Purbalingga Regency, the participants of employment social security from informal workers are very low. This...

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## Progressive Law Implementation in the Southeast Asian Country Environment

Suyatno Suyatno

Southeast Asian countries still face challenges collectively in resolving regional and international security issues. Progressive law is very necessary. The community currently agrees that handling legal issues is not enough in the hands of their own countries to require cooperation from Southeast Asian...

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## The Simulations of Energy based on the Building Masterplan of RSUD Pandan Arang Boyolali

Isra' Darmawan, Basuki Basuki, Priyono Yulianto, Susatyo Pramono, Novi SP, Iwan Rustendi

Safe and comfortable are important factors which can affect to the patient's healing process. However, the patient room designed up to standard requires to creating healthy, safety, and comfortable for inpatient room. This study aims to simulate energy consumption based on Masterplan of the local government...

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# The Obstacles of Copyright Protection Against Traditional Cultural Expression in Indonesia

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**Abstract -- The special protection of traditional cultural expressions is governed by Berne Convention 1886 and also in its revision (Paris Convention) in 1971, which is mentioned in Article 15 paragraph (4). The traditional cultural expression or Folklore is one of the protected parts for its existence because it is one of the characteristics and identity of a nation. This identity shows the level of cultural nobility of a nation thus its existence must be maintained. The Law recognized by the world community as a place to maintain the expression of traditional culture into the identity of a nation is by giving Copyright to it. As part of Copyright, the protection of traditional cultural expressions is obtained automatically; it means that traditional cultural expressions are protected directly by the law since it was first announced. In principle, intellectual property rights have been attached to the community without having to register. The protection of copyright against traditional cultural expressions in Indonesia is a hereditary culture. Therefore, it has become the common property of the Indonesian nation. And Indonesia has synchronized the legal arrangements in its national law mentioned in articles 38 and 39 of Law No. 28 of 2014 on Copyright. The barrier in protecting traditional cultural expressions in Indonesia is mostly due to the understanding of the traditional ownership of traditional cultural expressions over communal ownership. So in order to hit the cultural barriers, socialization and inure of Copyright are needed to be socialized to the public.**

**Keywords:** *Copyright, Folklore, International law.*

## I. INTRODUCTION

The Berne Convention underwent several revisions, the first revision made in Paris on 4 May 1896, and then it was revised again in Berlin on 13 November 1908. Revision continued on 24 March 1914 in Berne, then revised in Rome on June 2, 1928, in Brussels on June 26, 1948, at Stockholm on June 14, 1967 and the last revision was in Paris on June 24, 1971.

And the revision of Berne Convention 1971 resulted in a potentially Folklore arrangement which is mentioned in Article 15 paragraph (4):

"Right to enforce Protected Rights: (a) In the case of unpublished works where there the identity of the author is unknown, but where there is every ground to presume that he is national of a country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of

the union. (b) Countries Of The Union which make such designation under the terms of his provision shall notify the Director-General by means of a written declaration giving full information concerning the authority thus designated. The Director-General shall at once communicate this declaration to all other countries of the union<sup>1</sup>."

This Article regulates the protection for the anonymous and pseudonymous works. There is much Folklore in Indonesia that the authors are unknown, so this rule is the closest rule for Folklore protection stated in the Berne Convention.

Folklore is a copyrighted work of a nation which has the exclusive right of the author or copyright holder to govern the use of particular idea or information. Basically, Copyright is the right to copy a work. Copyright can also allow the holder of that right to restrict the multiplication legitimate upon a creation. Copyright has a limited term. Folklore has huge cultural value as heritages that would always develop even in modern society.<sup>3</sup>

Copyright is a type of intellectual property right, but Copyright is very different from other intellectual property rights such as patents, which grants a monopoly on the use of the invention. Because Copyright is not a monopoly to do something, it is a right to prevent others from doing it<sup>4</sup>.

Copyright does not protect an idea or concept, but protects how the idea or concept is appreciated and worked on<sup>5</sup>. It recognizes the concept of economic rights and moral rights. Economic rights are the right to economic benefits to creation, whereas a moral right is an inherent right of the author or creator (art, record, broadcast) which cannot be removed for any reason, even if Copyright or related rights have been transferred. An example of the

<sup>1</sup> Arif Lutviansori, 2010, *Hak Cipta dan Perlindungan folklore di Indonesia Dilengkapi dengan Bern Convention For The Protection of Literary and artistic Works*, Yogyakarta : Graha Ilmu, p. 192

<sup>2</sup> Syafrinaldi, 2007, *teaching materials Hak Milik Intelektual*, Faculty of Law, Universitas Islam Riau, PPS.

<sup>3</sup> Kholis Roisah, 2014, *Perlindungan Ekspresi Budaya Tradisional dalam Sistem Hukum Kekayaan Intelektual*, Semarang : Jurnal Masalah-Masalah Hukum, pg. 372

<sup>4</sup> A. Tenripadang Chairan, 2011, *Analisis Yuridis Perlindungan Hukum Terhadap Hak Cipta*, Parepare : Jurnal Hukum Diktum, pg. 173

<sup>5</sup> Devi Rahayu, 2011, *Perlindungan Hukum Terhadap Hak Cipta Motif Batik Tanjung Bumi Madura*, Yogyakarta : Jurnal Mimbar Hukum, pg. 123



moral right is the inclusion of the creator's name on the creation, even though the Copyright on the creation has been sold for the benefit of others.

Traditional Cultural Expressions is an integral part of forming a nation's identity. Unfortunately, the collective ownership of it is not being accommodated in Conventional Intellectual Property Rights logically.<sup>6</sup>

Therefore, a common understanding of the existence of Folklore within the scope of Copyright in the national law is required in Law No. 28 of 2014 on Copyright. The Indonesian government should be more assertive in responding to various copyright infringements, especially on traditional cultural expressions (Folklore). There is no excuse for not knowing the creator of folklore (because it has been available for centuries) since if the creator is unknown then it should be the country that acts as its creator.

Article 10 Paragraph 2 of Law No. 28 Year 2014 on Copyright state "The state holds the Copyright on folklore and the products of common people's culture, such as stories, saga, dong-eng, legend, chronicle, song, crafts, choreography, dance, calligraphy, and other works of art ". There are so many kinds of products of common people's culture.<sup>7</sup>

Indonesia is a country which is rich in culture. Especially traditional culture. It is an obligation to protect Indonesian folklore from threats recognition from other countries.<sup>8</sup>

**Based on what has been described in the background above, the author conducted research entitled:**

**a. Copyright Protection against Traditional Cultural Expression in Indonesia According to International Law.**

**b. Problem Formulation**

- How is the harmonization of Copyright protection regulation over traditional cultural expressions in Indonesia based on International Law and Law Number 28 Year 2004 on Copyright?
- What are the obstacles to protecting copyright over traditional cultural expressions in Indonesia?

**c. Discussion**

**II. THE HARMONIZATION OF COPYRIGHT PROTECTION REGULATION OVER TRADITIONAL CULTURAL EXPRESSIONS IN INDONESIA BASED ON INTERNATIONAL LAW AND LAW NUMBER 28 YEAR 2004 ON COPYRIGHT.**

Regarding the protection of Copyright, there are two very important international treaties in the history of law development on intellectual property protection in the world:

- The Berne Convention is an international treaty on the protection of literary and artistic works. The Berne convention is the oldest copyright treaty in the world, approved on 9 September 1886, and is open to all States to ratify it. There are 133 countries participating in signing this convention, and Indonesia has ratified it on 5 September 1997. This convention provides more concern about material protection to the author for their creations<sup>9</sup>.
- General Agreements on Tariffs and Trade (GATT) which includes the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)<sup>10</sup>

The Berne Convention in giving protection to Copyright has three main principles:

- The national treatment of works originating from one of the Berne Convention States must be given the same protection in each of the other Contracting States.
- National treatment is independent of formalities, which means that protection is automatically provided and does not require registration, deposit or formal notice in connection with the publication.
- The protection of the copyrighted work is independent of the existence of protection in the country of origin of the work.

The exclusive rights set forth in the Berne Convention are:

- the right to translate
- the right to perform in public dramatic, dramatico-musical and musical works
- the right to broadcast
- the right to make reproductions in any manner or form
- the right to use the work as a basis for an audiovisual work
- the right to make adaptations and arrangements of the work
- the right to recite literary works in public

<sup>6</sup> Laina Rafiani, Qoliqina Zolla Sabrina ,2014, *Perlindungan bagi 'Kustodian' Ekspresi Budaya Tradisional Nadran Menurut Hukum Internasional dan Implementasinya dalam Hukum Hak Kekayaan Intelektual di Indonesia*, Bandung : Padjajaran Jurnal Ilmu Hukum, p. 499

<sup>7</sup> Emma Valentina Teresha Senewe, 2015, *Jurnal LPPMBidang EkoSosBudKum, Volume 2 Nomor 2*, , hlm. 2

<sup>8</sup> Ayu, Pemata, dan Rafianti, 2017, *Sistem Perlindungan Sumber Daya Budaya Tak Benda di Palembang*, Yogyakarta : Jurnal Mimbar Hukum. P. 206

<sup>9</sup> Ni Ketut Supasti Dharmawan,2014, *Relevansi Hak Kekayaan Intelektual Dengan Hak Asasi Manusia Generasi Kedua*, Semarang : Jurnal Dinamika Hukum, p. 524.

<sup>10</sup> Syafrinaldi, Op.Cit.p.18



World Intellectual Property Organization (WIPO) is a specialized UN agency dealing with Intellectual Property issues. WIPO was created in 1967 aimed to encourage creativity and introducing intellectual property protection throughout the world<sup>11</sup>. This is in line with the purpose of the establishment of WIPO which is a recommendation of TRIPs Agreement that states,

"The WIPO has been established to promote the protection of Intellectual Property throughout the world through co-operation among states and, where appropriate, in collaboration with other international organization."<sup>12</sup>

WIPO was formally established by the Convention Establishing the World Intellectual Property Organization signed in Stockholm on July 14, 1967 and amended on 28 September 1979. In one of its Articles, WIPO states that the objective of WIPO is to promote the protection of intellectual property rights throughout the world. WIPO currently consists of approximately 184 countries and its headquarters in Geneva, Switzerland. And almost all UN member states are members of WIPO<sup>13</sup>. WIPO as a particular entity of United Nations who has authority on Intellectual Property Rights, giving the definition of IPR itself : "very broadly, Intellectual Property means the legal rights which result from intellectual activity in the industrial, scientific, literary, and artistic fields".<sup>14</sup>

#### A. *Copyright and Neighborhood Right.*

WIPO provides the meaning of Copyright as follows:

"*Copyright is a legal form describing right given to creator for their literary and artistic works*" or Copyright is legal terminology that describes the rights granted to the author for their works in art and literature<sup>15</sup>. Based on this, system which is formed state that anybody could not use the creation result of technology, art, science, and others without the author's consent<sup>16</sup>. The definition of Copyright is also mentioned in the Copyright, Designs and Patents Act 1988 which states, "Copyright is a property right that subsists in certain specified types of works."<sup>17</sup> In another sense David Vaver in his article entitled *Some Agnostic Observations on Intellectual property* defines that "Copyright is if one creates a literary, musical, dramatic or artistic work, one automatically has a copyright on it."<sup>18</sup>

The terms from the definition above can be explained as follows:<sup>19</sup>

#### 1) *Literary works.*

The expression literary work is expressed in print or writing, irrespective of the question whether the quality or style is high. The word literary seems to be used in a sense somewhat similar to the use of word literature in political or electioneering literature, and refers to written or printed matter. As well as works embodying the fruits of considerable creative or intellectual endeavour, copyright has been allowed in such mundane compilation of information as a timetable index, trade catalogues, examination service and the listing of programmes to the broadcast. The principle that there must be sufficient skill, judgment and labour" accordingly cases where the degree of literary composition is slight.

The requirement that a literary work is "original" was only added to stator copyright law in the Act of 1911. The adjective has been read in a limited sense. It is treated as bringing out one characteristic of the requirement of skill, labour and judgment- that the work must originate from the author and not be copied by him from another source.

#### 2) *Dramatic works.*

These are divined as including a work of dance or mime. They include the scenario or script for the film, the copyright in the film itself being separate. The general principles concerning literary works apply to this closely analogous category. Nice questions can arise over the copyright entitlement of those who provide secondary contributions to scripts written by other playwrights.

#### 3) *Musical works : type and quality*

The term musical works is defined in the act only as a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with it.

#### 4) *Artistic works.*

- General. Here the tension between different conceptions of copyright becomes market. Some types of work are treated as artistic only if they bear a distinctive element of aesthetic creativity others gain protection simply because labour and capital ought not to be freely appropriable.
- Architectural works and models. An architect's plans fall within category above. It is an actual structure or a model of it which is separately treated in the second category. By implication, some consideration must be given to artistic quality. It may well be enough to show something apart from the common stock of ideas.
- Works of artistic craftsmanship. Considerable miscellanies of artefacts jewelry, furniture, cutlery, toys, educational aids and so on.

Meanwhile, according to the latest Indonesian National Law on Copyright provides the definition that Copyright is an exclusive right for the creator or recipient of the right to announce or reproduce his work or give permission to it

<sup>11</sup> [http://id.wikipedia.org/wiki/Organisasi\\_Hak\\_Kekayaan\\_Intelektual\\_Dunia](http://id.wikipedia.org/wiki/Organisasi_Hak_Kekayaan_Intelektual_Dunia), accessed in August 2008.

<sup>12</sup> Ashok Kumar, *Op. Cit.*, p.4.

<sup>13</sup> *Ibid.*, Hak Cipta.

<sup>14</sup> Sri Mulyani, 2012, *Pengembangan Hak Kekayaan Intelektual sebagai Collateral (Agunan) Untuk Mendapatkan Kredit Perbankan di Indonesia*, Semarang : Jurnal Dinamika Hukum , p.569

<sup>15</sup> Suyud Margono, *Op.Cit.*, p.27.

<sup>16</sup> Suyud Margono, 2012, *Prinsip Deklaratif Pendaftaran Hak Ciptaan dengan Asas Kepemilikan Publikasi Pertama Kali*, Jakarta : Jurnal Rechtsvinding, p.237

<sup>17</sup> David I Bainbridge, 1992, *Intellectual Property*, London: Pitman Publishing, p. 27.

<sup>18</sup> Ashok Kumar, *Op.Cit.*, p. 240.

<sup>19</sup> W.R. Cornish, 1989, *Intellectual Property : Patents, Copyright, Trade Marks and Allied Rights*, Sweet And Maxwell Limited, Second Edition, London:, p.268.

without prejudice to restrictions under applicable laws and regulations.<sup>20</sup>

The Copyright Act gives the understanding that Copyright is a special right. That means that the understanding of the law comes from attaching certain attributes to the creator or the owner of that right related to the idea of the need for recognition and respect for the work of the creator, efforts and sacrifices so that intellectual work can be born / created.<sup>21</sup>

And in the General Explanation of Law Number 19 Year 2002 says that Copyright consists of economic rights and moral rights. Economic rights are the inherent right of the creator who cannot be eliminated or removed for any reason, even though Copyright or neighboring rights have been transferred.<sup>22</sup>

The value of Intellectual Property Rights' substance contains individualistic, monopolistic, materialistic, and capitalistic.<sup>23</sup>

Economic rights are the exclusive right of the creator to obtain economic benefits. Economic rights include rights to reproduce, distribution rights, performance and demonstration rights<sup>24</sup> while the moral rights are the inherent right of the creator who cannot be eliminated or removed without any reason even if Copyright or related rights have been transferred<sup>25</sup>. The existence of economic benefits on unmanaged copyright works might cause a dispute between the author and the party who manage the creations<sup>26</sup>.

The provisions of this moral right can be found in The Copyright, Designs and Patents Act 1988, which states that<sup>27</sup>. There are four rights within the moral right designation, being:

- the right to be identified as the author or director of work, the paternity right (section 77-79);
- the right of an author or director of work to object to derogatory treatment of that work, the integrity (section 80-83);
- a general right that every person has not to have a work falsely attributed to him(section 84)
- The commissioner's right to privacy in respect of a photograph or film made for private and domestic purposes (section 85)."

<sup>20</sup> Law of the Republic of Indonesia No. 28 Year 2014 on Copyright, Article 8

<sup>21</sup> Syafrinaldi, *Op.Cit.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Kholis Roisah, 2012, *Prismatika Hukum Sebagai Dasar Pembangunan Hukum Di Indonesia Berdasarkan Pancasila (Kajian terhadap Hukum Kekayaan Intelektual)*, Semarang : Jurnal Masalah-Masalah Hukum, p. 625

<sup>24</sup> R.Saliman, Hermansyah, Ahmad Jalis, *Hukum Bisnis Untuk Perusahaan Teori dan Contoh Kasus, Jakarta: Kencana Prenada Media Group*, p.185.

<sup>25</sup> *Ibid.*

<sup>26</sup> Niken Prasetyawati,2011, *Perlindungan Hak Cipta dalam Transaksi Dagang Internasional*,Surabaya : Jurnal Sosial Humaniora, p. 68

<sup>27</sup> David I Bainbridge, *Op. Cit.*, p.75.

### III. THE OBSTACLES OF TRADITIONAL CULTURAL EXPRESSION PROTECTION IN INDONESIA

There is an inaccurate concepts placement between traditional works that can be protected by the Copyright Act and Folklore which is not included in the category of copyrighted works that are protected by the Copyright Act. Some of the conceptual inaccuracies that are the fundamental characters required in copyright protection are:

- Requirements of authenticity.
- Its creator should be known.
- Ideas or ideas that must be transformed into material or physical form.
- Its limited protection period is a lifetime plus 50 years after its author/creator dies.

As a result, the normative characteristic required in this Copyright Protection is not appropriate with the fundamental character attached to the traditional work of the nation because it can be a justification that this Folklore cannot be said to be genuine because this traditional cultural expression is made by its creator (who has died), then inherited and developed (reproduced and used) for thousands of years, even from generation to generation.

The conceptual distinction between creation in Copyright concept and cultural rights concept is a normative barrier in providing protection to the Folklore owned by this nation. Therefore the government should be more creative in optimizing the legal and non-legal resources to regulate and protect Folklore.<sup>28</sup>

In the case of Malaysian claims against traditional cultural expression some time ago, the government's actions only addressed the claims by forming experts who are in charge of studying traditional art. This step was taken apart to respond to claims for Reyog Ponorogo, Tor-tor dance and Pendet, as well in the case of Rasa Sayange song by the Malaysian Government. According to the former Minister of Culture and Tourism of the Republic of Indonesia Jero Wacik (who served at that time), the government will form a team of experts to study and sort the traditional arts of Indonesia and Malaysia so that there is no mutual claims, especially those including areas such as songs that have been around and developing since time immemorial in both countries and it is not clear who composed it. This cultural and artistic similarity is very reasonable because a lot of Malaysian residents come from Indonesia (who has lived there for a very long time). Nevertheless, the Government promised to continue to improve the protection of traditional art and culture so that it is no longer claimed by other countries<sup>29</sup>.

The Government should take a big role related to the protection of the Copyright on this Folklore, or any cultural assets of Indonesia. It would be great if

<sup>28</sup> *Ibid*

<sup>29</sup> <http://haki.depperin.gi.id/advokasi-hukum>, *Perlindungan HAKI Tradisional Indonesia Dalam Perdagangan Dunia*, accessed on 18 October 2016.

Government does not wait from the region concerned in managing the Copyright of the local cultural heritage, but the government through various relevant agencies can facilitate or be proactive toward it (copyright of the local heritage). There is an understanding that taking care of Copyright is so complicated and the perception of local cultural wealth should have become a cultural property of Indonesia. But now the author also does not know whether the Government realized that Indonesia has great and valuable cultural treasures, does the data already exist / available or not? Therefore, the database of cultural richness of each region is needed as well as to see the status of the Copyright of the culture. The author realizes that the current indigenous culture of Indonesia began to disappear due to globalization where many foreign cultures are able to shift the local culture. And unfortunately the condition is still the same until now. In the end, the local culture including Folklore could disappear from the understanding and knowledge of the young generation. Who is actually really in charge of preserving the local culture? Of course it is not wise if we simply blame on the young generation or the local authorities, yet the Government also has to realize its mistakes. Television, mass media and other information sources have forgotten or even almost never showed / shared about the cultural richness of the region. Therefore, once again, the Government with its agencies must begin to protect the culture of the region and always introduce the culture to the young generation, one of them is by using formal education path as the author discussed above.

The role of international law, both bilateral and multilateral agreements, in the development of the law on the protection of intellectual property rights cannot be denied<sup>30</sup>. Law enforcement on intellectual property is becoming more important since the trade in goods and services cannot be separated from the industrial property aspects attached to it<sup>31</sup>.

In such societies the governing law also reflects the transitional period (described as the face of law on one leg stepping on modern legal patterns while the other leg is still tackling traditional law). Similar to the law that regulates copyright issues, although normatively it does not have many problems to be applied in Indonesia, culturally it will face many problems. This is due to the philosophy underlying the legal community is different. Copyright appears in the western countries along with the emergence of a society that prioritizes the interests or rights of individuals (private rights) with the capitalistic character, while the people of Indonesia with the pattern of eastern put more values of togetherness (communal). This value affects the way they think that if they work and the results are beneficial to many people, they will be proud of it and do not feel troubled when it turns out other people imitate / copy their work. They even feel benefited because their work has been widely disseminated and known by many people<sup>32</sup>.

<sup>30</sup> Syafrinaldi, 2003, *Hukum tentang Perlindungan Hak Milik Intelektual, dalam menghadapi era globalisasi*, Pekanbaru: UIR Press, p : 9

<sup>31</sup> Ade Maman Suherman, 2004, *Penegakan Hukum atas Hak Kekayaan Intelektual di Indonesia*, Jurnal Hukum Bisnis, Vol. 23.No.1. p : 86.

<sup>32</sup> Ibid.

A large number of traditional cultural expressions that are not listed when referring to the above opinion indicates that there are still some communities who own traditional cultural works who feel happy when their inheritance creations are copied, reproduced or displayed by others to the public. Such acts do not harm their interests because their supposition is more to popularize the expression of their traditional culture among the community. They see that Folklore is not merely a matter of material value, but has social and religious value. They believe in the value of rewards that they will get from God as their knowledge used/applied by other people.

The culture of traditional society in Indonesia generally does not recognize Copyright. The cultural values of Indonesian society do not recognize the individual ownership of Folklore in the field of science, literature and art. The only institutionalized system of ownership in the lives of traditional societies is a land ownership<sup>33</sup>. But the ownership is communal which means it belongs to the family or the customary law community. This is seen from the appreciation of creativity and artwork in traditional society.

Thus in traditional society the expression of traditional culture that has been announced to the public will automatically become public property (public domain). Anyone can imitate or copy the creation without questioning who the creator is. Characteristic of traditional society is togetherness or collective. Copyright has no cultural roots/basis in traditional society. The value of the philosophy underlying individual ownership of human creative work (e.g. in the field of science, literature and art) is the value of western culture which appears in its legal system.

This is the reason why the protection of copyright against traditional cultural expressions (Folklore) encounters many obstacles, especially cultural barriers. So in order to hit the cultural barriers, socialization on Copyright to society is needed aiming to educate society to be positive and respect the Copyright.

#### IV. CONCLUSION

As part of Copyright, the protection of traditional cultural expressions is obtained automatically; it means that traditional cultural expressions are protected directly by law since it was first announced without having to go through registration. In principle, intellectual property rights have been attached to the community. The protection of copyright against the expression of traditional culture in Indonesia according to international law that stated in the Berne Convention and its revision is a hereditary culture. It has therefore become the common property of the Indonesian nation. And Indonesia has synchronized the regulation in its national law stated in articles 38 and 39 of Law Number 28 Year 2014 concerning Copyright.

The constraints in protecting traditional cultural expressions in Indonesia are mostly due to the understanding of the traditional ownership of traditional cultural expressions in Indonesia over communal

<sup>33</sup> Haryati Soebadio, *Aspek Sosial Budaya Hak Milik Perindustrian*, p.5



ownership. So in order to hit the cultural barriers, the socialization and the culture of Copyright are required to be conducted / socialized to the public. The dispute between nations over the recognition of the ownership of traditional cultural expressions is largely due to the neglect of moral rights and the "first to use" principle inherent in traditional cultural expressions

## V. SUGGESTION

International law including the laws governing copyright provisions is basically a good moral invitation, as John Austin said that: The International law is not a real law, but just positive morality. Thus sanctions for violators in the level of enforcement are also difficult, considering that this is related to a nation's moral consciousness, for example the awareness of not claiming the folklore of other States. The International agency that is in charge of that matter (e.g: WIPO) should be more thorough in conducting historical tracing to assess the authenticity of folklore.

Law No. 28 Year 2014 is a national law on copyright that is subject to the provisions of international law on copyright. In the Law on Copyright (UUHC) the protection against the expression of traditional culture (folklore) has been set. The effort to preserve Folklore in order not to be extinct can be done through formal education channels by including traditional cultural expressions of each region in the local curriculum, thus the young the future generation not only hear about ancestral and cultural heritage but also know and love them. It is true that saving the culture of a nation is Government responsibility, but it would be better if the community involved in implementing the program.

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**INTERNATIONAL CONFERENCE ON PROGRESSIVE CIVIL SOCIETY  
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