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## POLITICAL AND LEGAL DEVELOPMENT OF SUSTAINABLE TOURISM VILLAGES

(Study on Flower Villages in Tawangrejeni Village, Turen, Malang Regency)

Joice Soraya<sup>1\*</sup>, Galih Setya Refangga<sup>2</sup>

<sup>1,2</sup>Universitas Wisnuwardhana Malang

E-mail: <sup>1)</sup> [joicewijayas99@gmail.com](mailto:joicewijayas99@gmail.com), <sup>2)</sup> [ranggagalih20@gmail.com](mailto:ranggagalih20@gmail.com)

### *Abstract*

*This study examines the legal politics and initiatives aimed at establishing sustainable tourism villages in Kampung Kembang, Tawangrejeni Tourism Village, Turen District, and Malang Regency. The legal politics focus on developing legislation that promotes sustainable tourism, fosters sustainable management, and ensures social, economic, cultural, and environmental sustainability. The development strategies include improving attractions, accessibility, amenities, community empowerment and entrepreneurship, human resource capacity, stakeholder collaboration, digital technologies, waste management, and financial resources. The establishment of sustainable tourism villages is intended to help achieve the Sustainable Development Goals (SDGs) in economic, ecological, social, and cultural areas. Development activities must be holistic and integrated, engaging multiple sectors. With the appropriate legal politics and comprehensive development initiatives, Kampung Kembang is intended to become a model for a sustainable tourism village that benefits the community while protecting nature and culture.*

**Keywords:** *Politics and Law, Sustainable Tourism Village, Tourism Development*

## 1. INTRODUCTION

Indonesia, known for its numerous tourist attractions, has attracted domestic and international travelers. Natural, cultural, and customary tourism in Bali, marine tourism that introduces the beauty of the underwater nature of the Indonesian archipelago in Wakatobi (South Sulawesi), and cultural heritage tourism in Yogyakarta. However, the tourism business must continue improving amenities, and local products, such as nature tourism, must be produced to increase people's well-being.

Tourism refers to travel taken for recreation or a holiday. Tourism is critical to growth, well-being, and happiness. Many countries rely on the tourism industry to generate taxes and revenue for businesses that provide tourist services. Tourism is frequently regarded as the driving force behind the global economy and has demonstrated the ability to contribute to a country's development. Tourism growth can encourage commercial operations, resulting in significant social, cultural, and economic benefits for a country, including Indonesia (Yuningsih, 2017).

According to Law Number 4 of 2017, tourism is developed with an approach of economic growth and equity for the welfare of the people and development that is oriented toward regional development, relies on the community, and empowers the community, which covers various aspects such as human resources, marketing, destinations, science and technology, cross-sector linkages, cooperation between countries, empowering small businesses. So, when implemented, tourist development can be used to raise awareness of the state's identity.

Tourism has a significant influence on the national and regional economies. Local governments are expected to become regulators by collaborating with the corporate sector

and the community on tourism development. The region's tourism potential can be leveraged to generate local income and professionally manage to satisfy tourists while remaining globally competitive. According to the Law on the National Planning Program and the Presidential Decree on Cultural and Tourism Development Policy, the tourism sector has a new task: to contribute to the acceleration of national economic recovery and the restoration of Indonesia's image in the international world in order to improve the quality and quantity of tourism destinations with the assistance of relevant institutions.

The program aims to enhance tourism's role in promoting global art, traditional culture, and natural attractions, thereby increasing efficiency in these areas. By leveraging tourism activities, the program fosters public awareness and appreciation of diverse arts and cultures, supporting creative initiatives and enhancing tourism's economic contributions through increased foreign exchange and local community welfare. Furthermore, the program actively engages communities and small and medium enterprises (SMEs) in tourism development, thereby improving the management of tourist product development and its integration into marketing strategies.

Tourism is one of the regional original revenue generators (PAD). Article 6 of Law No. 33 of 2004 concerning Financial Balance between the Government and Regional Governments mentions the sources of PAD, which include a) regional taxes, b) regional levies, c) the results of segregated wealth management, and d) other legitimate regional original income. Tourism is subject to the regional levy, which is included in the business service charge (Darise, 2006).

Sustainable tourism is defined as rapidly expanding tourism, resulting in an increase in lodging capacity, local population, and environmental impact. Tourism development and additional investment should not have a negative influence. It can be integrated into the environment by maximizing its excellent influence while minimizing its negative impact. As a result, the public sector has taken numerous steps to manage tourism growth better and prioritize the issue of sustainable tourism since a good business can safeguard resources or assets that are crucial for tourism not only now but also in the future (Arida, n.d.).

Sustainable tourism development refers to initiatives to ensure that future generations benefit from the environmental, social, and cultural resources used in today's tourism development. Tourism development must be founded on sustainability standards, which means it can be environmentally sustainable in the long run while remaining commercially viable, ethically fair, and socially equitable to the community.

Sustainable tourism development, as outlined in the 1995 Sustainable Tourism Charter, is a type of development that considers ecological and economic factors, while also ensuring ethical and social fairness for the community. This indicates that sustainable development involves a comprehensive and coordinated approach to enhancing the quality of life through responsible resource management.

This can only be accomplished through a robust governance system encouraging active and equitable participation from the government, private sector, and community. Therefore, sustainable development is not solely connected to environmental concerns but also encompasses democracy, human rights, and other broader issues. There is no denying that sustainable development has long been regarded as the optimal solution for development, including tourism development.

Tourism development can generate substantial social, cultural, and economic advantages for a country like Indonesia. An essential aspect of tourism development is

that external motives and interests should not drive the initiative and implementation. The community must be actively engaged in every step of the planning and implementation process, including the ownership and control of assets and infrastructure. Preparing human resources for tourism services is a highly competitive endeavor that requires careful attention. The technical, operational, and managerial skills in providing tourism goods and services enhance the community's ability to interact and socialize. The perception of workers in the tourism sector as mere service providers needs to be transformed into that of highly skilled professionals. The community's capacity to enhance its expertise in the tourism industry has the potential to enhance the level of service and travel experience for both foreign and Indonesian tourists.

Furthermore, embracing a new perspective is crucial to fostering tourism as a catalyst for national progress. Tourism is now recognized as having a broader and more essential impact beyond boosting national income. Thus, tourism development must be strongly emphasized and aligned with the overall goals of national tourism development. This should be done through meticulous planning and initiatives to enhance the workforce's skills and expertise.

This tourism sector has the potential to showcase Indonesia's vibrant culture and natural beauty to the global community. Tourism has been undervalued as a secondary sector; thus, its potential for making a substantial contribution is often overlooked. Furthermore, ample resources have been provided to facilitate its growth; the key lies in effectively managing them. In this era of globalization, the nation's economic stability and tourism play a crucial role in ensuring sustainable and equitable development. The high level of competition demands significant capital and great potential. All of this is closely tied to what we understand as capacity-building. Given the limited capacity conditions, such as the challenges local governments face in providing and managing quality services, capacity building becomes an essential and non-negotiable requirement. There are multiple ways to enhance the tourism industry in a particular area, and one of these methods involves improving the industry itself.

Tourism villages are a result of developing tourism products that capitalize on the unique potential of the village, encompassing aspects such as community, nature, and culture which collectively form an identity that appeals to tourists (Sudibya, 2018). The establishment of tourist villages can be seen as a strategic move to enrich Indonesia's tourism offerings, given the distinctiveness and diversity of each village (Atmoko, 2014). Moreover, the preservation of culture and environment is crucial for tourism villages to prioritize, as it not only serves as a means of diversifying products but also aids in safeguarding and upholding local traditions and natural surroundings (Atmoko, 2014).

The concept of sustainability, as outlined in the 2020–2024 RPJMN policy direction, emphasizes the integration of sustainable and environmentally friendly development across all sectors, including tourism, to align with the achievement of SDGs. The Ministry of Tourism and Creative Economy has recently issued Regulation No. 9 of 2021 to support the policy direction of development mainstreaming further. This regulation provides guidelines for sustainable tourism destinations, emphasizing the importance of responsible and sustainable practices in the tourism industry. This regulation serves as a guide for the central government, local governments, and other stakeholders involved in developing sustainable tourism destinations. It focuses on the importance of sustainable management and social, economic, cultural, and environmental sustainability.

Discussing the progress of tourist villages is closely tied to the government's involvement, particularly the tourism office, which plays a significant role in our daily lives. The government plays a crucial role in ensuring the safety and satisfaction of tourists during their travels. The government strictly adheres to all government regulations and applicable laws. Tourism planning should be done comprehensively to ensure that the community can reap maximum benefits in terms of economy, society, and culture. The planning should incorporate tourism development into a comprehensive program for a country's economic, physical, and social development. This study seeks to examine the legal politics and initiatives aimed at establishing sustainable tourism villages in *Kampung Kembang*, Tawangrejeni Tourism Village, Turen District, and Malang Regency.

## **2. LITERATURE REVIEW**

### **2.1. Legal Politics**

The term "policy" originates from the English language, specifically "policy," or in Dutch, "*Politiek*." It generally refers to the guiding principles governing governmental actions, including those of law enforcement officials, in managing, regulating, or resolving public affairs and community problems, as well as in developing and implementing laws and regulations. These policies aim to promote the welfare and prosperity of the community and its citizens.

In contrast to these foreign terms, legal policy can also be referred to as legal politics. Politics and law encompass various terms related to politics and the legal system. According to Sudarto, the term "politics" is used in various contexts, as noted by Soedarto (1983), where in Dutch, "*politiek*" refers to something connected to the state, implying discussions concerning the state or matters associated with it.

Legal politics constitutes a component of legal science, encompassing the study of political science and law. Moh. Mahfud, MD, believes that legal politics is a part of the field of law. The implementation or execution of government policies is commonly referred to as legal politics. This involves the creation and updating of laws to meet societal needs and ensure the proper functioning of institutions and law enforcement agencies (M. D., 1998).

Satjipto Rahardjo, cited by Abdul Hakim, defines legal politics as an activity related to elections and a tool for achieving social and legal objectives (Hakim, 2011). Meanwhile, Mahfud MD, citing Soedarto, explains that legal politics involves state policies through agencies empowered to establish regulations reflecting societal values and aspirations, aimed at achieving desired objectives (M. D., 1998).

Sunaryati Hartono highlights the close connection between legal politics and the social and traditional aspects of our country. The dynamics and politics of international law also impact Indonesian legal politics as Indonesia is a member of the international community (Hartono, 1991). The aspirations and intentions of legislators, theorists, legal professionals, and the constantly evolving landscape of international law all influence the politics of law.

One of the responsibilities of bureaucrats is to develop a public policy widely accepted by all segments of society. Every policy should consider its potential impact on society to ensure it is implemented on time. Therefore, a bureaucrat must maintain independence and be responsive to the aspirations of every community. However, in

reality, various factors can influence bureaucrats when it comes to forming policies, often resulting in policies that primarily serve the interests of a select few while appearing to benefit the broader community.

Padmo Wahjono explains that legal politics plays a crucial role in shaping future laws' direction, structure, and substance. It involves the criteria for determining punishments and is a crucial aspect of state administration policy (Wahyono, 1986).

Legal politics involves a complex mechanism that incorporates various factors. We are familiar with this mechanism as a legal and political process. Based on this understanding, legal politics encompasses two interconnected scopes: the philosophical-theoretical and normative-operational dimensions. Legal politics is crucial in implementing legal development and coaching in the field, serving as a philosophical-theoretical dimension and a value parameter. Legal politics primarily aims to reflect the ruler's desired social order, serving as an operational normative dimension (Wahid, 1985).

Considering the importance of law-making policy, the mechanism for fulfilling these responsibilities and obligations must be reviewed. Recognizing this, government officials must take proactive measures to address this issue conceptually.

The politics surrounding the creation of laws or legislation must also be taken into account. The process of law formation should be guided by the needs of social progress, including in areas such as the economy, agriculture, culture, and more. Thus, the government and the House of Representatives must know many factors influencing the law-making process. It is crucial to carefully craft every law and regulation to ensure fairness and avoid undue harm to specific parties or groups.

According to the definition provided, legal politics is a field of study that encompasses the process of enacting and enforcing laws. Legal politics serves the practical purpose of improving the formulation of favorable legal regulations and providing guidance to lawmakers, courts, and decision-makers. The creation of legal policies is rooted in the principles of the law and the objectives of the state as outlined in the Constitution.

## **2.2. Sustainable Tourism Development**

According to Law No. 10 of 2009 on tourism, the evaluation of tourism development should consider economic growth and the enhancement of people's welfare, cultural development, patriotism, national identity, the improvement of the nation's image, and fostering international unity and friendship. According to the Strategic Plan for Sustainable Tourism and Green Jobs for Indonesia by UNWTO and the Ministry of Tourism and Creative Economy of the Republic of Indonesia, guidelines and practices for sustainable tourism development can be implemented across various types of tourism and destinations. Sustainable tourism must be built upon three key dimensions to be viable in the long run. The concept of sustainable tourism should be defined as follows:

1. Utilizing environmental resources: This element is crucial for achieving optimal tourism development, preserving ecology, and safeguarding biodiversity.
2. It values and honors the host community's socio-cultural authenticity, preserving its rich heritage and contemporary culture, traditional values, and the community's significant contribution to fostering intercultural understanding and tolerance.
3. Ensure sustainable economic benefits: all stakeholders are treated equitably, stable employment opportunities are available, and the host community can access income, social services, and poverty reduction initiatives.

According to the Strategic Plan for Sustainable Tourism and Green Jobs for Indonesia (Ministry of Tourism and Creative Economy of the Republic of Indonesia), there is a strong emphasis on promoting sustainable tourism practices to ensure that tourism is environmentally friendly. Contributing to inclusive development is crucial for the long-term utilization of tourism. The environmental aspect of sustainable tourism is essential and a fundamental pillar of sustainable tourism.

The concept of sustainable development encompasses three pillars that mutually reinforce one another, as outlined in the Earth Summit of 1992:

1. Development that can enhance the economic well-being of the surrounding community.
2. Development that ensures the preservation of the socio-cultural fabric of the surrounding community.
3. Development that prioritizes the long-term well-being of the community's environment.

The principles mentioned in Sustainable Tourism Development are as follows (Burn & Holden, 1997):

1. The environment holds inherent value and can serve as a valuable asset for tourism. Its purpose extends beyond immediate gains, encompassing the welfare of future generations.
2. Tourism should be promoted as a beneficial activity that benefits the community, the environment, and the tourists.
3. Tourism and the environment are closely intertwined and require careful management to ensure long-term sustainability. Tourism should prioritize the preservation of resources to ensure their availability for future generations to enjoy.
4. When developing tourism, it is essential to consider the size, environment, and ambiance of the locations where tourism activities occur.
5. In other locations, it is essential to balance the interests of tourists, the preservation of natural and cultural sites, and the well-being of local communities.
6. In a constantly changing world, there are always advantages that prevent these principles from fading and ensure that adaptation remains dynamic.
7. Environmentalists in the tourism industry, including local governments and non-governmental organizations (NGOs), must prioritize these principles and collaborate to achieve them.

According to Arida and Sunarta (2017), the sustainable tourism development approach necessitates strict adherence to planning principles:

1. The tourism development principle is rooted in preserving natural and cultural resources for the long term.
2. We are highlighting the importance of providing excellent benefits to the local community.
3. Managing resources in an environmentally responsible way.
4. The conditions and character of the developed area influence tourism development.

5. It is essential to ensure that the needs of tourists, the environment, and local communities are aligned with the development of local cultural heritage, the environment, and the nation's identity.
6. It is essential to anticipate and monitor the change process due to cultural arts programs focusing on local potential and community capabilities.

The principles in the strategy are connected to issues, policies for implementation, setting goals to be accomplished, and determining the ways or methods of utilizing infrastructure (Suryono, 2004). Developing a strategy is always intertwined with goals, means, and methods. Regarding tourism development, local governments must put much effort into improving facilities and infrastructure. This will help ensure their strategies align with current capabilities and effectively anticipate future needs. According to Sutiarmo (2018), tourism development can advance through a series of integrated and sensible efforts:

1. Promoting the introduction of tourist attractions and destinations.
2. Efficient transportation.
3. Simplified immigration process.
4. Accommodation that ensures a pleasant stay.
5. An experienced tour guide.
6. We provide goods and services that are guaranteed high quality and offered at reasonable prices.
7. Ensuring excellent environmental hygiene and promoting optimal health conditions.

### **2.3. Tourism Village**

A tourist village is a harmonious blend of accommodations, attractions, and supporting facilities integrated into the fabric of a community's life system, following the relevant rules and traditions. A tourist village is a village with great potential for tourism development. It is known for its unique traditions, culture, and easy accessibility. The village also boasts excellent infrastructure that supports the tourist village program. Visitors can feel safe and enjoy a well-maintained environment. An essential aspect of developing tourist villages is a deep understanding of the village's unique features and resources. These include the environmental conditions, socio-cultural aspects, community economy, layout structure, historical significance, community culture, and buildings. Additionally, incorporating Indigenous knowledge, which is the local knowledge and abilities the community possesses, is crucial (Hilman, 2018).

When developing a tourist village, the surrounding community becomes integral to the experience. The community's environment and social life are transformed into unique tourist destinations. The community also catalyzes tourism promotion and innovation by offering valuable insights for developing tourist villages. In Pitana, the development and growth of tourism will directly impact the local community and influence them in various ways. These influences can be positive or negative, as Nurhayati (2016) discussed. Efficiently organizing the tourism village will positively impact the surrounding community, as it optimizes the use of both human and natural resources. The outcomes achieved through tourism village activities will be reinvested in the local community to enhance their well-being. Furthermore, implementing a tourist village not only enhances

the community's well-being but also serves as a means to safeguard the village's natural surroundings, cultural heritage, and traditional practices.

Developing tourist villages with the involvement of the surrounding community is an empowering activity that allows the community to come together and build the village. The motivation for decentralization is to empower citizens to regulate and manage tourism in their area, fostering a sense of ownership and community involvement (Hilman, 2018). The development of tourist villages aims to protect the natural environment and promote economic growth. By implementing the concept of these tourist villages, we can create a sustainable form of environmentally friendly tourism in the future (Putra, 2013).

The development of tourist villages is intricately connected to the tourism industry. As per Law Number 10 of 2009, the tourism industry comprises a network of interconnected businesses that work together to provide goods and services to cater to the requirements of tourists in the execution of tourism. According to R.S. Darmajadi, the tourism industry encompasses a range of business fields that work together to provide essential products and services for tourists (Putri, 2014). The development of tourist villages will significantly boost the tourism industry in Tawangrejeni Village, Turen District, Malang Regency. In order to cater to the requirements of tourists during their visits to popular destinations, the tourism industry plays a crucial role in providing necessary support for various activities. In a tourist village, the main options for visitors are restaurants, transportation services, hotels, or inns.

Developing the tourism industry in various countries is focused on boosting the country's foreign exchange income. Another objective is to achieve positive economic outcomes, expecting tourism to stimulate economic growth across multiple sectors. In general, the benefits that can be achieved are as follows (A. Yoeti, 1990):

1. Urbanization growth is on the rise thanks to the development of infrastructure and tourist facilities in a region or tourist destination.
2. We are enhancing the growth of the tourism industry by focusing on various aspects such as transportation companies, hotels and lodgings, restaurants, local arts, souvenirs, and more.
3. I am incorporating various cultural products in response to the growing tourist demand. This includes the introduction of new commercial and cultural offerings to cater to their needs.
4. A fair and balanced distribution of income.
5. The government's strategy is to boost the country's foreign exchange reserves.
6. It is having a significant impact on countries that rely on tourism.

#### **2.4. Previous Research**

This research focuses on the problem stated above and the need for previous studies by researchers, specifically at Wisnuwardhana University Malang. The researcher highlights the distinction between the current research and previous studies in this section. Other researchers are still researching the legal politics of sustainable tourism village development, particularly at Wisnuwardhana University in Malang.

Therefore, this research roadmap emphasizes avoiding research on the same subject matter and duplication. Repeating and duplicating research does not add value but goes against laws and academic ethics. The researcher gathered data from various online sources. To their knowledge, the proposed study's primary focus has yet to be previously

explored, particularly in the Flower Village of Tawangrejeni Village, Turen District, Malang Regency. Here, the researchers share some of the data they have collected, including:

**Table 1. Comparison with Other Studies**

No.	Author	Comparison	
1.	Nuri Aliyani (Aliyani, 2021)	This paper focuses on determining strategies to accelerate the development of developing villages towards a sustainable independent village through PESTEL-SOAR analysis and case studies in Pondok Udik Village. It is in the scope of development economics.	The researcher discusses the legal politics of sustainable tourism village development and efforts to develop sustainable tourism villages in Tawangrejeni Village, Turen District, and Malang Regency. This research is within the scope of the law.
2.	Angga Wijaya Holman Fasa, Mahardhika Berliandaldo, & Ari Prasetio (Fasa, Berliandaldo, & Prasetio, 2022)	This paper focuses on understanding the urgency of sustainable tourism village development and compiling an analysis of sustainable tourism village development strategies. Moreover, it is within the scope of strategic studies.	The researcher discusses the legal politics of sustainable tourism village development and efforts to develop sustainable tourism villages in Tawangrejeni Village, Turen District, and Malang Regency. This research is within the scope of the law.
3.	Ni Ketut Sari Adnyani & I Wayan Landrawan (Adnyani & Landrawan, 2023)	This paper focuses on examining the participation of customary villages in the recovery of Balinese tourism and developing an ideal model of customary village participation policy in Bali's tourism recovery.	The researcher focuses on the legal politics of sustainable tourism village development and efforts to develop sustainable tourism villages in Tawangrejeni Village, Turen District, Malang Regency.

### 3. RESEARCH METHODS

This research employs a legal approach, utilizing primary data from interviews, secondary data from regulations, and tertiary data from other research and journals. The approaches employed include statutory, conceptual, and regulatory, utilizing legislation and regulations (Marzuki, 2009). Simultaneously, the conceptual approach aims to establish a framework that can serve as a research reference, drawing from the various perspectives and principles that have evolved within the field of law (Marzuki, 2009).

## 4. RESULTS AND DISCUSSION

### 4.1. Legal Politics of Sustainable Tourism Village Development in *Kampung Kembang*, Tawangrejeni Tourism Village, Turen District, Malang Regency

Legal politics is basically state policy through state bodies that are authorized to set the desired regulations that are expected and used to express what is contained in society and to achieve ideal goals (Soedarto in M. D., 1998). Legal politics includes the making of laws that focus on making and updating legal materials to suit needs and implementing existing legal provisions (M. D., 1998).

In developing sustainable tourism villages in *Kampung Kembang* Tawangrejeni Tourism Village, legal politics is carried out by determining the direction and form of regulations needed to support sustainable tourism development. This aligns with the policy direction of the 2020-2024 RPJMN, which focuses on mainstreaming sustainable development. Regulation of the Minister of Tourism and Creative Economy No. 9 of 2021 concerning Guidelines for Sustainable Tourism Destinations was issued as a reference in the development of sustainable tourism destinations, which emphasizes the creation of sustainable management, socio-economic, cultural, and environmental sustainability (Ministry of Tourism and Creative Economy, 2021).

Sustainable tourism development includes three pillars: development that improves the economic welfare of the community, maintains the socio-cultural sustainability of the community, and maintains the sustainability of the community's environment (Earth Summit, 1992). The sustainable development of tourism villages is expected to contribute to the achievement of the Sustainable Development Goals (SDGs) by ensuring the sustainable use of natural resources, the economy, and local wisdom through economic (prosperity), ecological (planet), and social & cultural (people) aspects.

As a result, *Kampung Kembang* and Tawangrejeni Tourism Village carry out the legal politics of developing sustainable tourism villages by directing the creation of regulations supporting sustainable tourism. Existing regulations must be directed to create sustainable management and maintain social, economic, cultural, and environmental sustainability as the pillars of sustainable development.

The legal politics of sustainable tourism village development in *Kampung Kembang*, Tawangrejeni Tourism Village, Turen District, and Malang Regency aim to realize the development of national tourism that is feasible according to local culture, socially acceptable, prioritizes the local community, is non-discriminatory, and is environmentally friendly. It must also pay attention to the goals and principles of the tourism law. With the political and legal direction of tourism development in Indonesia, while still seeing or paying attention to social, cultural, religious, and other values, the potential for collisions will be minimal when you want to attract the attention of tourists from various foreign countries to travel in Tawangrejeni Tourism Village to increase village income by opening yourself up to various kinds of tourists from various backgrounds with consequences. You must provide various kinds of needs and facilities for tourists with diverse backgrounds.

### 4.2. Efforts to Develop Sustainable Tourism Villages in *Kampung Kembang*, Tawangrejeni Tourism Village, Turen District, Malang Regency

Efforts to promote sustainable tourism villages are evident in three key areas: infrastructure, hygiene and health, and information technology readiness. These areas are addressed through the 3A approach scheme, which focuses on attractions, accessibility,

and amenities. Furthermore, various factors contribute to a village's being classified as a tourist destination. These include appealing tourist attractions, the distance from other locations, the size of the village, the local beliefs and community systems, and the availability of necessary infrastructure. These criteria will be further developed to promote sustainable development in tourism villages. By utilizing the diverse range of village resources, including adventure tourism, agro-tourism, marine tourism, culinary tourism, cultural and historical tourism, and creative tourism, the community and government can work together to foster the development of tourism villages.

These developments can drive sustainable rural development by incorporating beneficial management principles and engaging local communities. Furthermore, developing tourism villages can foster strong connections with local communities and support the creation of rural tourism offerings that leverage local resources. Efforts to develop and manage resources should prioritize meeting the economic, social, and aesthetic aspects that preserve the integrity and sustainability of the village's ecology, biodiversity, culture, and life systems.

In order to achieve the development of self-sustaining tourist villages that can provide a competitive edge to destinations, several steps can be taken:

1. We are significantly improving the attractions, accessibility, and amenities in the *Kampung Kembang* tourist village. Enhancing the development of tourist attractions, improving accessibility, and expanding supporting facilities will significantly boost the competitiveness of tourist villages.
2. We are actively supporting the community and fostering entrepreneurship in developing tourist villages. Emphasizing the importance of community involvement in development can foster a strong sense of belonging and responsibility (Hilman, 2018).
3. Enhancing the skills and expertise of human resources in tourism villages to deliver services and promote sustainable tourism effectively. Developing skilled individuals in the tourism industry will enhance service and overall tourism experiences (Yuningsih, 2017).
4. They are expediting the program to speed up the development of tourism villages through collaboration between stakeholders. Cooperation between the government, private sector, and community is crucial for tourism development (Yuningsih, 2017).
5. They are using digital technology to market and establish tourist villages, which will boost tourism and stimulate the local economy.
6. We specialize in conducting independent and comprehensive waste management practices while working closely with local communities to maximize waste utilization. Effective environmental management is a crucial aspect of promoting sustainable tourism.
7. We are effectively and efficiently utilizing funding sources to support the development of tourism villages.

To ensure the optimal and sustainable development of tourism villages in *Kampung Kembang*, it is crucial to approach these efforts holistically and involve various related sectors. This will provide not only economic benefits to the local community but also have positive impacts on socio-cultural and environmental aspects.

## 5. CONCLUSION

The discussion underscores the intricate intersection of legal considerations and political initiatives in fostering sustainable tourism villages, specifically in *Kampung Kembang*, Tawangrejeni Tourism Village, Turen District, and Malang Regency. From a legal standpoint, the politics surrounding sustainable tourism necessitates establishing regulations that prioritize sustainable management practices aligning with principles of social, economic, cultural, and environmental sustainability crucial for sustainable development. In *Kampung Kembang*, efforts towards sustainable tourism village development encompass various strategic steps: enhancing attractions, accessibility, and amenities; empowering the community and fostering entrepreneurship; enhancing human resource capacity; collaborating with stakeholders; leveraging digital technology for promotion; implementing effective waste management; and optimizing funding sources. It is concluded that these efforts are pivotal for achieving Sustainable Development Goals (SDGs), ensuring sustainable natural resource use, boosting the local economy, and preserving cultural heritage. The comprehensive approach involves coordinated efforts across sectors to maximize local community benefits in economic, socio-cultural, and environmental dimensions. Through adept legal strategies and robust developmental initiatives, *Kampung Kembang* aims to serve as a model for sustainable tourism village development, fostering community prosperity while safeguarding the environment and cultural heritage.

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**LEGAL CONSEQUENCES OF VIOLATION OF NON  
DISCLOSURE AGREEMENT OBLIGATIONS AS  
IMPLEMENTATION OF LEGAL PROTECTION  
AGAINST TRADE SECRETS**

**I Nyoman Sudana<sup>1\*</sup>, I Nyoman Bagiastra<sup>2</sup>**

<sup>1,2</sup> Faculty of Law, Universitas Udayana

E-mail: <sup>1)</sup> [komangsda@gmail.com](mailto:komangsda@gmail.com), <sup>2)</sup> [nyoman\\_bagiastra@unud.ac.id](mailto:nyoman_bagiastra@unud.ac.id)

**Abstract**

*This high percentage of potential leakage of trade secret information that has economic value from a company can occur either from parties within the company or from parties outside the company if there is no commitment to safeguard the information. The purpose of this writing is to analyze the regulations regarding non-disclosure agreements in trade secrets law and to examine the legal consequences of violations of these agreements. The benefit of this writing is to provide a juridical understanding of the regulation of non-disclosure agreements in efforts to protect trade secrets, as well as to offer scientific contributions in the dimension of legal science related to the regulation of non-disclosure agreements. This study is based on the vagueness of norms, utilizing a type of normative legal research through a legislative approach and analyzed using descriptive and argumentative techniques. The research results show that non-disclosure agreements are not specifically regulated but are generally addressed in trade secrets law. In terms of legal consequences arising from non-fulfillment of the agreement, there are criminal sanctions, including a maximum prison sentence of 2 years and/or a fine of Rp. 300,000,000, as well as civil sanctions in the form of compensation imposed on parties who harm the company. It would be better if non-disclosure agreements were explicitly regulated by law to strengthen their legal force and provide legal certainty for the parties involved in the agreement.*

**Keywords:** Trade Secret, Non Disclosure Agreement, Legal Impact

## **1. INTRODUCTION**

Trade secrets are a form of intellectual property that has a high economic value because it can be used to increase the competitiveness of the company. The terms confidential information and unknown information are among the various terms commonly used to allude to the concept of trade secrets (Rizkia & Fardiansyah, 2022). Trade secrets are kept when they have economic value, are kept secret through acceptable means, and are confidential. If an information is not known to the public at large or only known by a few people, then the information is considered confidential. In accordance with the definition of trade secret in Article 1 paragraph 1 of the Law of the Republic of Indonesia Number 30 of 2000, hereinafter referred to as UURD, it is explained that "Trade Secret is information that is not known by the public in the field of technology and/or business, has economic value because it is useful in business activities, and is kept confidential by the owner of the Trade Secret." For example, information about a confidential production process can help businesses to produce effective and superior goods. Therefore, legal protection of trade secrets is crucial. one way to protect trade secrets is to use a Non Disclosure Agreement (NDA).

Non-disclosure agreement or hereinafter referred to as NDA, which is an agreement or agreement that has the binding force of the parties, because the agreement is included

in the underhand deed, where the underhand deed has the same legally binding force as the authentic deed, however, its formation must not conflict with the current law, then in line with Civil Code Article 1338 which states: *"Every agreement made according to law has legal force against its maker."* This agreement cannot be revoked without the consent of both parties or for legally mandated reasons. Contracts must be followed and made in good faith. Therefore, unless it is based on mutual agreement between the parties or on grounds provided by law, it is irrevocable (Rismadewi & Utari, 2015). A legally binding professional working relationship is established based on the NDA. Information collected during the professional employment relationship may not be disclosed to the employee or any other party to the agreement. Employees remain legally obligated to keep information provided to them during employment confidential even after they have ceased employment (Aliya, 2022).

Confidentiality agreements are seen as important in professional engagements as they will serve as the foundation of the working relationship between the parties. This agreement also applies to workers with indefinite status, but there is no restriction on workers with definite status. The purpose of this confidentiality agreement is to highlight the mutual rights and obligations of the parties, just as the rights of workers are the obligations of employers and the rights of employers are the responsibilities of their workers. In addition, employment agreements are basically made as a preventive measure to anticipate problems or stop disputes that may occur (Ramadhani, 2018).

One of the most likely problems arising from this employment agreement is the alleged leakage of company secrets at the next place of work by the former employee. In the absence of a non-competition clause in the employment agreement, this problem can also occur. By signing a non-competition agreement, employees have committed not to work for a competing company after completing work for a company for a certain period of time. This non-competition clause explains the agreement that the resigning employee will not work for a similar or competing company. However, the application of this non-competition clause has the potential to violate Article 32 paragraph 2 of Law Number 39 of 1999 concerning Human Rights which implies *"Everyone has the right to freely choose the job he likes and is also entitled to fair labor conditions"*.

Therefore, it is necessary to solve the problem as a solution to the problem through company policy in order to apply the principle of certainty and create legal certainty regarding the non-disclosure of company information to third parties or anyone who has given permission in the future. if the employee leaves the company. Gustav Radbruch's legal premise states that the law is made certain if it is in written form (Julyano & Sulistyawan, 2019). When working together, whether as company partners or employees and employers, the parties involved must be able to protect and manage sensitive information so that it does not get out of control and harm the parties in the future. Establishing a cooperation agreement with a non-disclosure agreement to safeguard confidential information is one appropriate approach and a good start (Rismawaty & Dagang, 2019).

Referring to the explanation given earlier, the problem formulations that will be raised for discussion in this article are: 1) How is the Regulation of Non Disclosure Agreement in the Trade Secrets Law? 2) What are the legal consequences for workers in the non-fulfillment of obligations agreed upon in the Non Disclosure Agreement? The purpose of this study is to examine how confidentiality agreements, or NDAs, are regulated as a means of legal protection against the possibility of disclosure of trade secret

information. This research also examines and analyzes the legal consequences for employees who fail to keep their promises if the NDA obligations are not fulfilled. The author hopes to contribute to the understanding of the laws relating to the regulation of NDAs from this research.

Before this writing was carried out, previous research had been used as a reference and source of writing in this study including: 1) Article written by Nugroho et al (2022) entitled "Legal Consequences of Refusal to Sign a Cooperation Agreement (Non-Disclosure Agreement) by Resigned Workers" 2) The article was written by Trilaksana & Rudy (2022) with the title "The Urgency of Non-Disclosure Agreements for Workers who Transfer to Competitor Companies". In the first article, the discussion focuses on "The legal consequences arising if a resigned worker refuses to sign a Non-Disclosure Agreement." In the second article, the discussion focuses on "The inclusion of a confidentiality clause in the addendum to the employment agreement as a win-win solution between the employer and the worker who moves to a competing company." While the research made by the author focuses on "the regulation of NDA in Law Number 30 of 2000 concerning Trade Secrets and the legal consequences for workers in the non-fulfillment of obligations agreed upon in the NDA. so that previous legal studies are updated with this paper when compared to what has been written before. Therefore, the author is interested in raising and conducting legal journal research writing with the title "Legal Consequences of Violation of Obligations in Non Disclosure Agreement as Implementation of Legal Protection of Trade Secrets".

The structure of the discussion in this research is developed systematically to address the main problem formulation related to the legal issues discussed earlier. The findings presented in this article are reviewed, expanded, and given detailed explanations to ultimately provide a definitive response. To clarify the answers, suggestions, and originality of the research findings, the topics researched and debated in this article are based on a study of relevant literature, including recent findings. The structure is presented in sub-chapters that discuss the NDA arrangements in the Trade Secrets Act and then the legal consequences for workers in the event of non-fulfillment of the obligations agreed upon in the NDA. The purpose of this writing is to analyze the regulations regarding non-disclosure agreements in trade secrets law and to examine the legal consequences of violations of these agreements.

## **2. RESEARCH METHODS**

Quoting the opinion of Mahmud Marzuki in his book entitled Legal Research, Legal Research is defined as a process of identifying doctrines, norms, and legal guidelines to solve legal problems faced by the parties (Susanti et al., 2022). Normative legal research is used in this essay. Normative legal research uses legislation as its focal point. In addition to using data sources from primary and secondary legal sources as comparative material, this writing uses a statutory approach.

In order to create a systematic writing in the research, the author provides a review of relevant rules along with arguments based on the law. The method for collecting legal materials for this writing is called library research, which means using descriptive, evaluative, and argumentative techniques as well as thorough reading and understanding of the contents of each legal material to support the analysis carried out.

The writing of this research uses a descriptive data analysis approach to provide an objective description of the legal phenomena being discussed, comparative techniques, namely comparing a legal document with other key documents in order to reach an agreement on legal issues that arise, especially those relating to the regulation of confidentiality agreements or NDAs, reasoning and legal argumentation as a form of argumentative technique used in argumentation strategies to support the disclosure of scientific truth about research findings.

### **3. RESULTS AND DISCUSSION**

#### **3.1. Non Disclosure Agreement Arrangement in the Trade Secrets Act**

The regulation of trade secrets in Indonesia has been regulated for the first time in the UURD (Trade Secrets Act). The main objective is to promote industry to be able to compete in the realm of trade both domestically and internationally. To achieve this goal, the Intellectual Property Rights system must create an environment that respects the inventiveness of society through the provision of legal protection. The regulation of the provisions on trade secrets is deemed necessary because Indonesia has also ratified the Agreement on the Establishment of the World Trade Organization which includes the Agreement on Trade-Related Intellectual Aspects. Property Rights, or TRIPs Agreement related to Law Number 7 of 1994. From the discussion, it is deemed necessary to establish this Law on Trade Secrets.

A number of laws and regulations become the legal basis for this draft law including Article 5 paragraph (1), Article 20, and Article 33 of the 1945 Constitution of the Republic of Indonesia, Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization, and Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

In article 1 paragraph 1 of the UURD, "Trade Secret is information that is not known to the public in the field of technology and/or business, has economic value because it is useful in business activities, and is kept or kept secret by the owner of the Trade Secret". The UURD has regulated this trade or company secret. What is meant by such information includes recipes, formulas, production procedures, customer lists, food marketing tactics, manufacturing techniques, processing, sales, or information regarding technology or other industries that have commercial value but are not yet known by the general public. There are several requirements that must be met on the part of the trade secret owner in order to obtain protection for the company's confidential information, among others:

- a. The information therein is confidential
- b. Contains economic value
- c. There is an attempt by the owner of the trade secret to safeguard the confidentiality of this information.

Protection efforts regarding this trade secret can be divided into 2 efforts in it, which include:

- a. Efforts to protect trade secret information from outsiders
- b. Efforts to protect trade secret information from inside the company

In an agreement, there is the principle of freedom of contract which is used as one of the foundations for making the agreement. The meaning of the principle of freedom of contract explains that everyone can basically make an agreement with the substance and type according to the will of the agreement maker, as long as the contents of the agreement do not conflict with the law, decency and public order. The provisions regarding the principle of freedom of contract are stated in Article 1338 of the Civil Code which states that all legal agreements apply as laws for those who make them. If one of the parties breaks the promise of the contents of the agreement, one of the parties who feels harmed from the non-fulfillment of the agreement can file a claim for compensation, in accordance with applicable legal provisions.

The regulation of NDA as a form of effort to protect trade secrets has not been specifically regulated in the Law in the UURD or Law related to employment. Apart from that, if you look at the Law, it has not been regulated or does not allow the preservation of information through this agreement related to the secrets of a business. The principle of freedom of contract can be applied in regulating non-disclosure agreements as long as the agreement does not conflict with applicable laws and regulations.

To provide obligations and responsibilities to employees who have access to the company's trade secrets both those who are still actively working in the company and those who have left, confidentiality agreements are the best way to protect trade secrets, or can be described as the most beneficial effort. To prevent trade secret violations, the confidentiality agreement itself contains provisions regarding the confidentiality of trade secret information in a corporation, which in turn will give rise to rights and obligations and matters that become the responsibility of each party. This effort is considered very important considering that in addition to external parties, internal parties such as employees can also violate company policies by leaking trade information or company secrets in order to gain an advantage over competitors in similar businesses using the company.

Regarding the safeguarding of trade secret information, business owners should be more careful when drafting confidentiality agreements. This includes carefully reviewing Article 1320 of the Civil Code which lists the factors in making an agreement, which states that certain factors must be met for the agreement to be considered valid, the four prerequisites in question are:

- a. Agreement of those who bind themselves
- b. Capacity to enter into an agreement
- c. A certain subject matter
- d. A cause that is not prohibited

The NDA becomes the legal basis if there has been a violation of the trade secret because the NDA has legal force. When one of the parties violates the contents of the previously agreed non-disclosure agreement, it is considered that a default has occurred, where by definition default means not fulfilling something that is required as stipulated in the agreement. In the event of a default or non-performance of what is demanded by the contents of the agreement, a lawsuit for default can be filed with the legal basis of the contractual relationship between the parties that caused the loss and the party who suffered the loss, the violation of the law can be subject to sanctions. The sanction can be in the form of payment of compensation by the party who made the default by the opposing party. The purpose of making this default lawsuit is to put the plaintiff in a

position if the agreement is fulfilled with compensation in the form of loss of expected profits (Safira, 2016).

### **3.2. Legal consequences for workers in the non-fulfillment of obligations agreed in the Non Disclosure Agreement**

A company must have workers or employees who work under the company. Over time, as long as the business is still running, employees will continue to regenerate. Workers who are no longer active in the company have the potential to steal and/or leak company secrets within the company, it is not only inactive employees who have this potential, however, it is possible that current employees will steal trade secrets from the business. Contracting with employees to protect the company's trade secrets should be the first proactive action a company can take. Create and require employees to sign confidentiality agreements, which bind them to keep the company's trade secrets, especially when they leave the company (Sulistyaningsih & Setiawan, 2020).

The creation of a non-disclosure agreement makes workers have an absolute responsibility to fulfill their obligations to maintain the confidentiality of company information in accordance with the non-disclosure agreement that has been agreed upon by both parties bound by the agreement, namely workers both who are still active and who are no longer actively working with business actors as owners of trade secrets. If it is found in the future that the worker does not fulfill his obligations according to the agreement, then the worker is considered to have violated the NDA related to trade secret information. In accordance with what has been regulated in Article 51 paragraph (1) of the Manpower Law states "Work agreements are made in writing or orally," where an agreement is certainly better made in writing to prevent violations or preventive so that there is less potential for violations.

There are types of violations regarding trade business secrets as an unlawful act by using company data or information without permission from the owner. There are 2 types of violations of trade secrets that are expressly stated in the Trade Secrets Act, including:

- a. Intentionally divulging and breaching a written or unwritten agreement or obligation for trade secrets.
- b. Denial of trade secrets that belong to another person who obtains the information or data and holds access to the trade secrets through actions that are considered to deviate from existing regulations (Al-Murtadho, 2023).

One of the parties to the trade secret protection agreement is deemed to have violated the trade secret if the agreed confidentiality agreement responsibilities are not fulfilled. The offending party will receive punishment or sanctions as a form of legal consequences for the worker's mistake in accordance with the agreement agreed between the worker and the owner of the trade secret as outlined in the confidentiality agreement. Especially if the violation is in the form of misuse of information or leakage of information even though the person concerned is still working at the company concerned or has worked at the company. However, regulations prohibiting trade secret violations have some exceptions, which relate to the use or disclosure of trade secrets to protect public safety, health, security, or legal interests. On the other hand, an employee can be sued for breach of contract or tort if the employee fails to perform the duties specified in the confidentiality agreement. If an employee breaches a trade secret, they will be subject to compensation as a civil penalty.

In the event of default or non-fulfillment of obligations on the part of workers either who are still active workers or who are no longer workers under the company concerned in accordance with what has been regulated in the non-disclosure agreement, the owner of trade secrets can take steps to resolve the case in accordance with what has been regulated in the Trade Secrets Act, as for the article in question, among others, Article 11 paragraph 1 of the Trade Secrets Act which reads "The holder of Trade Secret Rights or the licensee may sue anyone who intentionally and without the right to commit the acts referred to in Article 4, in the form of a lawsuit for compensation; and / or cessation of all acts as in Article 4. "To settle claims without going to court or non-litigation, Article 12 of the UURD states, "In addition to resolving the lawsuit as referred to in Article 11, the parties may resolve disputes through arbitration or alternative dispute resolution." or so-called alternative dispute resolution.

Trade secret infringement can also be prosecuted as a criminal offense that gives rise to a complaint, which implies that the complaint of the entitled party will be the basis of the investigation. The party receiving the right in this case is called the entitled party. This is mentioned in the UURD on criminal penalties, which states that any person who violates Article 13 or 14 or willfully and unfairly uses the trade secrets of another party, shall be punished by imprisonment for a term not exceeding two years, as well as a fine in the amount of Rp 300,000,000 (Semaun, 2011).

#### **4. CONCLUSION**

In the law related to non-disclosure agreements in the UURD, the absence of special and specific arrangements regarding this type of NDA confidentiality agreement affects the implementation of legal protection of trade secret information. This is critical to protect the company from potential leakage of trade secret information to competitors or the general public through employees who are either still actively working or no longer working in the related company.

As a legal consequence for workers not fulfilling the obligations agreed upon in the non-disclosure agreement, the workers who cause the leakage of confidential company information can be prosecuted for committing an unlawful act (default) against the non-disclosure agreement previously agreed upon with the company. The sanctions for workers who violate the agreement can include civil sanctions in the form of compensation to the company, as well as criminal sanctions in the form of imprisonment for a maximum of 2 years and/or a fine of up to three hundred million rupiah, depending on the demands of the injured party.

A non-disclosure agreement, as a type of confidentiality agreement made to protect confidential information in a company, should be explicitly regulated in the law with the aim of strengthening legal force and providing legal certainty. This is crucial because problems related to the leakage of confidential information have the potential to expose sensitive information to the public and competitors. For the parties who have bound themselves to a confidentiality agreement, in this case the non-disclosure agreement, it is important to adhere to the contents of the agreement that has been mutually agreed upon from the beginning. This should be done to avoid undesirable outcomes for both parties bound by the agreement, as both have the potential to be harmed if the agreement is violated.

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## LEGAL CERTAINTY OF ECONOMIC RIGHTS FOR UNREGISTERED CREATORS IN COLLECTIVE MANAGEMENT ORGANIZATIONS

Anak Agung Bagus Jaya Adri Putra<sup>1\*</sup>, Nyoman Satyayudha Dananjaya<sup>2</sup>

<sup>1,2</sup> Faculty of Law, Universitas Udayana

E-mail: <sup>1)</sup> [jayaadri82@gmail.com](mailto:jayaadri82@gmail.com), <sup>2)</sup> [satyayudha@unud.ac.id](mailto:satyayudha@unud.ac.id)

### *Abstract*

*This writing aims to analyze, identify, and elaborate on the legal protection of the economic rights of copyrighted works in Indonesia, based on the UUHC (Undang-Undang Hak Cipta or Copyright Law), and the legal certainty of economic rights for creators who are not registered with the Collective Management Institute after the enactment of PP (Peraturan Pemerintah or Government Regulation) Number 56 of 2021 concerning the Management of Copyright and/or Music Royalties. This study employs normative research with a statutory approach and analysis of legal concepts. The results indicate that the protection of creators' economic rights under the UUHC is regulated by Article 9, paragraph 3, which states that "any person without the permission of the creator or copyright holder is prohibited from copying and/or commercial use of the work." Copyright infringement will result in the perpetrator being classified as committing a criminal act in accordance with Article 113, paragraphs (1), (2), (3), and (4) of the UUHC. Additionally, repressive protection can be pursued through litigation and non-litigation means. To address the decarbonization related to exclusive rights between the UUHC and PP No. 56 of 2021, the resolution involves vertical harmonization, which requires the alignment of one law with the provisions of other laws and regulations that occupy different hierarchical positions.*

**Keywords:** *Legal Certainty, Economic Rights, Collective Management Institutions*

### 1. INTRODUCTION

Intellectual property is an inherent right stemming from the intellectual efforts of individuals. This work is the product of creative thinking or human creativity, involving investments of energy, time, and finances, resulting in various creations such as art, literature, and scientific advancements. This right pertains to intangible assets, known as intellectual property, which are created through creative and reasoned use of the mind (Dharmawan, 2018). Intellectual property rights, including copyrights, are exclusive and receive legal protection. Within copyright law, economic rights and moral rights are distinguished. Moral rights encompass two main types: the right of integrity, which protects the work's original form, and the right of attribution, which ensures proper credit is given to the creator

The right concerning the dignity and integrity of a creator is known as the right of integrity. This right prohibits altering, diminishing, or damaging the creation, thereby preserving the creator's integrity. In contrast, the attribution right under moral rights necessitates attaching the creator's personality to the creation, either by name or pseudonym. However, under certain circumstances, the creator may choose to waive their attribution rights, allowing their creation to be anonymous (Ernatudera et al., 2023).

The economic rights contained in IPR are economic rights for a person who creates or discovers according to the law to the results of his creation or work and also his intellectual abilities (Suhartini & Rudy, 2021). The economic right is the property right

of the creator for the benefits of his creation, while the inventor will have an exclusive right to obtain economic benefits from the works created both in the form of art and culture including traditional ones, where this right is known as economic rights (Sapteno et al., 2024). The economic rights are in the form of announcement of the creation and reproduction of the creation. This economic right is in the form of profit that has a value that is obtained because there are parties who use the rights to their creation either used by themselves or used by other parties based on the license given by the creator. The license granted by the creator to the other party is in exercising a right related to the economic rights to the creation and products of related rights with certain conditions given (Suhayati, 2016).

The license agreement is important for the licensor because in the agreement the licensee pays royalties. As a form of administration, the Directorate General of IPR manages royalties and copyright records. In Indonesia, the law governing copyright is Law Number 28 of 2014 concerning Copyright (hereinafter referred to as UUHC). Regarding economic rights, their management is governed by the provisions of the UUHC (*Undang-Undang Hak Cipta* or Copyright Law) stipulated in Articles 87 to 93, which establish the National Collective Management Institute (hereinafter referred to as LMKN). Based on these legal provisions, economic rights or royalties received by users for commercial purposes are overseen by LMKN, which has the authority to collect, manage, and distribute these royalties.

Before the existence of UUHC related to the Collective Management Institution (hereinafter referred to as LMK), there had previously been established by private parties or based on personal civil law subjects, namely parties who wanted to help creators who had difficulty in obtaining their rights. The non-profit legal entities are, Yayasan Karya Cipta Indonesia (YKCI), Wahana Musik Indonesia (WAMI), and others (Sihombing & NPM, 2017). However, the existence of LMK is hampered or not as expected due to differences in understanding between the creator, namely LMK, and the producer, namely LMK (Respati et al., 2016). LMKN, which is the coordinator of LMK, has existed before, and its existence is still recognized in this case as a legal entity that aims at license users for optimal use of information technology.

When it comes to a song creation, the songwriter may not have access at all to the use of his song creation after a sound recording, and may not get an economic return from someone who aims commercially in the context of utilizing his song, then the protection of the songwriter's economic rights is neglected, this is where the important role of the LMK or internationally called, Collective Management Organization (CMO), Performing Right Society (PRS), and Collecting Society (CS) (Respati et al., 2016). LMK aims in an effort to take a reward for the creator, or copyright holder against people who use and utilize the copyright into a public consumption with the aim of getting a profit or commercial, so that the creation created by the creator can be utilized collectively.

In 2021, precisely in March, the government issued Government Regulation No. 56 of 2021 concerning the Management of Copyright and/or Music Royalties (hereinafter referred to as PP No. 56 of 2021), making the Regulation with consideration of its purpose in order to fulfill the legal objectives of providing legal protection and a legal certainty of a creator, holder of a right, namely copyright, as well as the owner of rights which in this case is related to the rights of the creator's economic rights, as well as any party who uses it commercially for his creation. Article 12 paragraph (1) of PP No. 56 of 2021 states that

*"LMKN collects royalties from people who commercially use songs and / or music in the form of commercial public services for creators, copyright holders, and owners of related rights who are already members of LMK." In addition, paragraph (2) provides an explanation that "LMKN will also withdraw royalties for creators, copyright holders, and owners of related rights who are not yet members of the LMK." In other words, LMKN can withdraw a royalty belonging to the creator of the intellectual property, or copyright holders and owners of related rights without the consent of the creator. Things done by the LMKN creates a conflict with the basic concept of Copyright described in the explanation section of Article 4 UUHC which states "copyright as an exclusive right reserved for the creator, so that no other party can make use of these rights without the permission of the copyright owner / creator."*

The study has been conducted in 2023 by Labib Rabbani, who conducted a study namely "The Role of the National Collective Management Institution as a Royalty Manager for Copyright Songs and Music" In this study, the focus of the study is related to the role of LKMN which manages the royalties of a song or music which raises the consequences of the law against someone who uses the song or music but does not pay a royalty, In 2023, research related to LMK was conducted by Wahyu Jati Pramanto (2022) to study "Optimizing the Withdrawal and Distribution of Copyright Royalties by the National Collective Management Institution". In this study, the focus of the author's study is the necessity of paying a royalty, this is because there is a double billing in this case carried out by the National Collective Management Institution or in this case carried out by an individual, namely the LMK, which basically does not have the right to withdraw the royalty.

Comparing this research with several previous studies reveals similarities in the topics discussed, particularly regarding the role of LMK in managing creators' economic rights. However, this study places a distinct emphasis on the exclusive rights outlined in the UUHC and the administration of royalties for creators who have not registered as LMK members following the enactment of Government Regulation 56/2021 (PP 56/2021).

This paper aims to address two main questions: (a) How is the legal protection of the economic rights of copyrighted works in Indonesia based on Law Number 28 of 2014 concerning Copyright? (b) What is the legal certainty of economic rights for creators who are not registered with the Collective Management Institute after the enactment of Government Regulation Number 56 of 2021 concerning the Management of Copyright and/or Music Royalties? The purpose of this paper is to deeply analyze, identify, and elaborate on these issues, focusing on the legal protection of economic rights under the UUHC and the implications for creators not registered with the LMK following the implementation of PP No. 56 of 2021.

## 2. RESEARCH METHODS

Normative research is used as the foundation of the method in this research, with a statutory approach and analysis of legal concepts. Normative research in this case by analyzing and reviewing a document that is carried out based on the collected documents based on data collection, namely using literature studies, with other supporting documents related to journals and then explained descriptively based on a problem that exists or that

occurs in society. This descriptive analysis technique is used in order to analyze the problems of a study to provide answers to these problems (Diantha, 2016).

### 3. RESULTS AND DISCUSSION

#### 3.1. Protection Legal protection of economic rights of copyrighted works in Indonesia Based on Law No. 28 of 2014 on Copyright

Registration of copyrighted works not only has the meaning of an evidence for the creator which is very strong, and gives the right in the form of property rights (Dalimunthe et al., 2022). When an object that is public in nature is registered it will give rise to property rights. If the registration has not been done then the meaning of the object for the private party that is considered not to "know" on the change of legal status of the rights in question (Hatikasari, 2018). The purpose of the registration of copyrighted works in order to get legal protection, if a creation has been registered, registration letters issued by the Directorate General of IPR will be easier to prove who the creator (Jannah, 2018).

Protection of copyrighted works is very important because it has a meaningful economic value for the creator, the protection of copyright in Indonesia ratified through the provisions of the Berne Convention and the TRIPs Agreement. The provisions of the international convention are an important basic principle enforcing copyright, where the link between copyright and the resulting creation is present as a work of creation in real form. In the international convention (Berne Convention) there is a proposition of exclusive rights which is related to the protection of a right in the form of copyright, as Article 6bis (1) Berne Convention:

*“Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation”*

Furthermore, concerning the exclusive rights of copyright, these can be observed in Articles 9(1) and 9(2) of the TRIPs Agreement. These articles stipulate that member states of the TRIPs Agreement must adhere to and enforce the provisions outlined in the Berne Convention. They also recognize the protection afforded to creations that result from the creator's self-expression. In relation to copyright implementation, the TRIPs Agreement upholds principles that include moral rights as part of these exclusive rights.

Copyright is a right that is born automatically granted exclusively to a creator based on a principle that is the principle of declarative to the creation of a real form by reducing restrictions but still in accordance with the provisions of Article 1 number 1 UUHC. The elements that exist in the Copyright, namely:

- a. Exclusive Rights, which means, there is no party who gets the justification for the utilization of a right that in this case is done without the permission of the creator or the person who holds the copyright.
- b. The exclusive right comes automatically after the announcement, with the aim of providing confirmation of the economic rights of the copyright.

- c. The existence of restrictions under the law, which indicates that copyright has a function that is social in nature.

Related to the protection, the UUHC is also given the kinds of creations which are protected by the provisions of Article 40 paragraph (1) of the UUHC is "copyrighted works that are already owned by a person, so it is prohibited when duplicating copyrighted works and the use of such works without the permission of the owner or copyright." Furthermore, the provisions of Article 41 also mentioned "against any copyrighted work that is not protected by copyright, in addition to the work that can be protected by copyright." Any party can make an announcement or in this case do a multiplication of a work regardless of the need, because basically the creation is not in the name of a private individual. Article 41 of the UUHC states that "Unprotected creations include:

- a. Inventions that are not yet tangible;
- b. Any concept, principle, idea, procedure, system, method, invention or data even if it has been expressed, combined, stated, described, or explained in a Creation; and
- c. Tools, objects, or products that have been created only to solve technical problems or whose form is only intended for functional needs

Article 42 UUHC, there is no copyright on works in the form of:

- a. Results at open meetings by state institutions;
- b. Statutory provisions;
- c. State speeches/speeches by government officials;
- d. Court decisions or rulings; and
- e. Holy books or religious symbols

Legal protection is related to protection by statutory provisions that have applied to legal subjects and their implementation has sanctions, in legal provisions that have a preventive nature or that have repressive properties, written or in unwritten form. So with the protection of the law can also be said to be an expectation or image related to the function of the law, which is the existence of a law related to order, certainty, usefulness, and peace that can support the growth of the country's economy, it is necessary to enforce the law on intellectual property, one of which is the protection and enforcement of statutory provisions on copyright (Rahayu & Taufik, 2024).

In addition, the aim of preventing violations before they occur requires preventive protection in this case carried out by the government, which can be seen in the provisions of a law with the intention of preventing and limiting an obligation. With the provisions related to this, it will provide a foundation for the party to realize the ideals of the law.

Against the protection in the UUHC related to economic rights set out in Article 9 paragraph 3 of the UUHC which states that "*any person without the permission of the creator and copyright holder is prohibited from duplicating and commercial use of the work.*" Parties who commit violations can be called perpetrators of criminal offenses in accordance with Article 113 paragraph (1) to paragraph (4) of the UUHC. Organ of an intellectual property is the copyright is intangible, in this case it means that copyright is the result of a human mind or intellectual creation of an abstract nature, so it requires a protection with a limited period of time, if the time period has expired then the copyright belongs to the general public is no longer private ownership.

Registration is considered a fundamental aspect for acquiring copyright, although it is not mandatory for creators, as stipulated in Article 64, paragraph (2) of the UUHC, which states that "registration is not a prerequisite for acquiring Copyright and Related Rights. However, in case of a dispute in court regarding registered and unregistered works, the judge will consider the actual creator based on the evidence." To prepare for potential disputes, creators are advised to register their creations, especially those that are unregistered. This advice was also emphasized by Dientje, a presenter at the socialization event for Government Regulation Number 56 of 2021, as reported on the website of the Ministry of Law and Human Rights Regional Office of East Nusa Tenggara. Dientje noted, "For artists in Kupang and DPC PAPPRI, it is advisable to register copyrighted works with the DJKI to obtain a registration certificate as a legal basis for claiming royalties owed or in case of a copyright dispute."

Legal protection against copyright violations can be pursued through repressive measures including litigation and non-litigation avenues. Litigation involves both criminal and civil paths; criminal law imposes severe sanctions on individuals found guilty of criminal acts. In civil law, cases of piracy can be addressed through the commercial court, which issues decisions related to compensation. The compensation that has been decided arises because there is an irresponsible party who commits an unlawful act. The decision related to the compensation must be fulfilled by the offending party because of the proof of the elements of unlawful acts, the existence of a wrongdoer where the wrongdoing has the effect of harming other people.

### **3.2. Legal Certainty of Economic Rights for Unregistered Creators Post-Government Regulation Number 56 of 2021**

LMK is a body that already exists before the enactment of UUHC, as stated above that there are parties who feel that copyright protection is important, the protection of copyright in Indonesia so that the establishment of LMK, as well as YKCI or KCI which is an institution related to seeking the rights of creators of the song collectively. After the enactment of the UUHC the role of the LMK on the UUHC can be seen in the provisions:

- a. Article 1 paragraph 22 of the UUHC which states "LMK as a non-profit legal entity authorized by creators, copyright holders, and/or owners of related rights to manage their economic rights in the form of collecting and distributing royalties."
- b. Article 23 paragraph 5 of the UUHC which states that any party may commercially use the creation of a performance without the need to seek prior permission from the creator by paying compensation belonging to the creator through the Collective Management Institution.
- c. Furthermore, specifically in Chapter XII, it is discussed about the LMK related to, its authority as Article 87, which is related to the licensing required by the LMK as Article 88, the establishment of a special Copyright LMK in the field of songs and / or music and the determination of the amount of royalties as Article 89, then the obligation to conduct financial audits and performance audits by LMK as Article 90, the allocation of a percentage of operational funds for LMK as Article 91, evaluation of LMK as Article 92, and the mandate for the establishment of Ministerial Regulations as further provisions regarding the procedures for application and issuance of operational licenses, and evaluation of LMK as Article 93.

Furthermore, the establishment of LMKN as the coordinator of LMK, LMKN carries out the withdrawal of royalties further regulated in PP No. 56 of 2021, which explains "LMKN can collect royalties from people who utilize or use songs commercially, the withdrawal of royalties is carried out by LMKN for creators or copyright holders who have joined as members of one of the LMK or who have not become members of the LMK." The wages received by the creator are referred to as royalties. In other words, the LMK will accommodate or represent the creator who registered himself as a member to the LMK with LMKN as the coordinator of the LMK for the withdrawal of royalties from the creator or copyright holder.

In Government Regulation Number 56 of 2021, it is emphasized that royalties can be levied on commercial use of songs and/or music in public services conducted by LMKN. The regulation clearly outlines the types of commercial public services required to pay royalties in Article 3, paragraph (2), including: (a) seminars and commercial conferences; (b) restaurants, cafes, pubs, bars, bistros, nightclubs, and discotheques; (c) music concerts; (d) airplanes, buses, trains, and ships; (e) exhibitions and fairs; (f) cinemas; (g) telephone waiting tones; (h) banks and offices; (i) shops; (j) recreation centers; (k) television broadcasting institutions; (l) radio broadcasting institutions; (m) hotels, hotel rooms, and hotel facilities; (n) karaoke businesses.

In addition to LMKN being able to collect royalties, LMKN also has the task of collecting royalties by coordinating and making a determination on the amount of royalties based on the principle of justice. The royalties are used for matters relating to:

- a. LMK member is a creator or copyright holder.
- b. For funds, namely operations; and
- c. Funds that are reserves.

LMKN receives a report of the use of the song / music data on SILM which is then sent to the creator or in this case the copyright holder. But in practice this has not been implemented properly, because public awareness is still low coupled with the use of copyright is still lacking due to less than optimal socialization conducted by the LMK (Respati et al., 2016).

Regarding the withdrawal of royalties, the DJKI Kemenkumham, together with LMKN, aim to implement a one-stop system, as agreed upon during the Bali Declaration on Friday, April 26, 2019. The Declaration stipulated that "LMKN will be the sole institution authorized to attract, collect, and distribute royalties from commercial users." This policy aims to enhance the management of song royalties, fostering fairness, professionalism, transparency, and efficiency (Siahaya & Asri, 2022).

LMKN is a government agency that is non APBN based on the attribution authority of the UUHC is related to the withdrawal and distribution of royalties for the economic benefit of a creator in the field of songs / music. Related to the management carried out by the LMKN is very important because the concept of collective management of copyright is an important legal and administrative mechanism for the management, protection, and effective enforcement of copyright (Ola & Majekolagbe, 2024). LMKN is the party that withdraws royalties to creators who are members of LMK and Song Creators who in this case are not registered as members of LMK in accordance with Article 12 of PP 56 of 2021. Withdrawal of royalties to members who are not LMK raises

a conflict related to the basic concept of protection of a copyright in accordance with the provisions of the UUHC which in this case is exclusive.

The inequality related to exclusive rights in the UUHC causes the withdrawal of royalties by the LMKN based on PP No. 56 of 2021 to be inappropriate. The exclusive right means that only the owner can perform the provisions of copyright other than others without the consent of the right holder (Ramadhani & Tarina, 2023). In terms of legal expediency, there are principles that must be fulfilled by law according to Lon Fuller in his book *The Morality of Law*, which proposes 8 (eight) principles that must be fulfilled by law, which if not fulfilled, then the law will be considered to have failed to be called law, or in other words, it must have legal certainty, as follows (Maharani, 2022):

- a. A system made up of provisions, not based on perverse rulings on particular matters;
- b. The regulations are made public;
- c. Not apply retroactively, as this may undermine the integrity of the system;
- d. Made in a form that is easily understood by the general public;
- e. There must be no conflicting regulations
- f. Must not demand more than what can be done;
- g. Must not change frequently;
- h. There must be congruence between the rules and their daily implementation.

The lack of registration and the withdrawal of royalties by LMKN for creators who are not registered members under Article 12, paragraph (2) of Government Regulation Number 56 of 2021, undermines the legal certainty of economic rights for these creators. Although Article 15, paragraph (1) of the regulation stipulates a two-year announcement period to inform creators and copyright holders, the essence of the exclusive rights guaranteed by the UUHC may be compromised. This situation results in a legal misalignment between the UUHC and Government Regulation Number 56 of 2021, which serves as a technical regulation under the UUHC. Harmonization efforts are essential to align principles and legal systems, ensuring legal certainty and justice.

Harmonization of a law is a step to form a legislation so that the provisions do not conflict between one legal norm and another legal norm, so that with this, harmonious statutory provisions are formed, still have integrity, are fair, and of course are consistent and obey the principles. The function of harmonizing the law is to prevent and overcome the disharmony of law/norms (Maulana et al., 2023). Due to the disharmony between the UUHC and Government Regulation Number 56 of 2021, the resolution lies in Vertical Harmonization, which involves aligning statutory provisions across different hierarchical levels. Additionally, attention must be paid to principles related to the formation of laws and regulations, known as "*beginselen van behoorlijk regelgeving*."

#### **4. CONCLUSION**

The protection of the economic rights of creators under the UUHC is governed by Article 9, paragraph 3, which prohibits any unauthorized duplication and/or commercial use of creations. Violators of copyright infringement are subject to criminal penalties under Article 113, paragraphs (1), (2), (3), and (4) of the UUHC. Additionally, repressive

measures can be pursued through litigation and non-litigation means. Addressing the disharmony between the UUHC and Government Regulation Number 56 of 2021 involves vertical harmonization, ensuring legislative alignment within a hierarchical framework of differing natures.

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## CRIMINAL LEGAL PROTECTION FOR MEDICAL PERSONNEL IN THE RESOLUTION OF MEDICAL DISPUTES

**Yosef Stefan Sutanto**

Faculty of Law, Universitas Katolik Soegijapranata

E-mail: [yosefstefan@gmail.com](mailto:yosefstefan@gmail.com)

### *Abstract*

*Medical disputes are a prevalent issue in medical practice, significantly affecting trust between medical personnel and patients. Moreover, the fear of legal repercussions often places medical professionals in ethical quandaries when making critical medical decisions. Therefore, ensuring adequate criminal law protections for medical personnel is essential to enable them to work with peace of mind and concentration. This research explores various forms of criminal law protection for medical personnel in managing medical disputes in Indonesia. Employing the judicial normative analysis method, it primarily examines Law No. 17 of 2023 on Health, supplemented by relevant literature and legal documents. Data collection involves analyzing legal texts and pertinent literature, using qualitative data analysis techniques. The study confirms that Law No. 17 of 2023 offers crucial legal safeguards for medical personnel, including the presumption of innocence, liability limitations, and equitable legal procedures. The Indonesian Medical Discipline Honor Council (MKDKI) plays a pivotal role in distinguishing between disciplinary and legal breaches, providing appropriate procedural frameworks. The establishment of the Indonesian Honor Council Mediation and Arbitration Institute (LMA-MKI) proves effective in resolving medical disputes through mediation and arbitration, promoting open communication, mutually beneficial solutions, and safeguarding confidentiality.*

**Keywords:** *Criminal Law Protection, Medical Disputes, Mediation and Arbitration*

### 1. INTRODUCTION

Health is a fundamental aspect of human life that must always be given utmost importance. It plays a crucial role in enabling individuals to lead active, productive, and fulfilling lives. Good health encompasses physical, mental, and social well-being. Physical health is essential for providing the necessary energy, stamina, and capability to engage in daily tasks. Mental health is vital for ensuring clarity of thought, emotional stability, and effective stress management. Furthermore, health influences an individual's social interactions and roles within society. The significance of health extends beyond the individual level, as it contributes to enhancing overall societal productivity and quality of life. Therefore, it is imperative for every person to prioritize their health and well-being. Through maintaining good health, individuals can effectively carry out their responsibilities and meet their basic needs. Given the susceptibility of humans to various illnesses, the presence of quality health facilities is essential for safeguarding and promoting overall well-being.

The 1945 Constitution confirms that every Indonesian citizen has the right to health care as per Article 28H paragraph (1) (Muhtar et al., 2023; Timur et al., 2023). This constitutional provision underscores the fundamental nature of the right to health, emphasizing that the state must ensure the availability of quality and affordable health services for all citizens, without discrimination (Tan & Sinaga, 2023). In addition, legal frameworks in Indonesia, such as Laws No. 36 of 2009 and No. 44 of 2009, reinforce the equal right to health for all individuals and mandate hospitals to provide comprehensive

care to patients, both medically and non-medically, in a non-discriminatory manner (Suhariyanto, 2022). The constitutional rights enshrined in the 1945 Constitution, which are protected by institutions such as the Constitutional Court, play an important role in protecting citizens' rights, including the right to health care.

Patients have rights guaranteed by law to ensure that they receive safe, quality and fair healthcare. However, unfortunately, there are still many cases where these patient rights are ignored or not fully granted. Many patients are unaware that they are entitled to clear and complete information about their health condition, a right that is often overlooked. Patients have the right to know their diagnosis, the treatment options available, the risks and benefits of each medical procedure, as well as possible alternatives. However, sometimes doctors or hospitals do not provide adequate information or even hide important information from patients.

In addition to other rights, patients have the right to give consent or refuse certain medical measures, known as the right to patient autonomy. However, there are cases where patients are not given enough options or information to make an informed decision, clouding their right to autonomy. Some patients may even be forced to accept medical measures that they do not agree with. Another patient right that is often overlooked is the right to privacy and confidentiality. Patients have the right to keep their medical information confidential and to determine who can access that information. However, sometimes patients' medical information is disclosed without their permission or used for unauthorized purposes.

In addition to this, patients also have the right to file a complaint or protest if they are dissatisfied with the care they receive, ensuring that their voices are heard and respected. However, patients are often faced with administrative barriers or even intimidation when trying to file their complaints. In some cases, patients also experience medical conflicts with doctors, dentists, or hospitals. However, patients' rights in this regard are often not fully recognized or protected.

Doctors or dentists will get legal protection when performing their duties in accordance with the professional standards and operational procedures stipulated in Law Number 29 of 2004 on Medical Practice. This provision guarantees that they will not face administrative, civil, or criminal charges if they provide medical services in accordance with applicable rules, ensuring that they can work without worrying about unfair legal consequences. With this legal protection, doctors or dentists have the certainty to focus on providing quality and safe medical services to patients, provided they comply with established professional standards and operational procedures. Despite legal protection, violating these provisions will still make them vulnerable to lawsuits and liable for their actions.

Medical conflicts often arise due to disagreements between doctors and patients regarding diagnosis, treatment, or medical outcomes. In medicine, the relationship between doctors and patients is often illustrated as a biomedical relationship, where doctors play an active role in providing health care, while patients are expected to be passive by accepting and following the doctor's instructions. This model, as explained by (Wiradharma, 1996), It reflects an imbalance of power and knowledge between the two parties, which can sometimes be a source of conflict if the patient's expectations are not met or there is an error in the medical procedure. So, to reduce the possibility of medical

disputes, it is important for doctors and patients to communicate openly and honestly and understand each other's rights and obligations in the healing process.

In the period 2017-2021, there were 182 malpractice cases in Indonesia that have been processed by MKDKI. Of these, 60 cases were committed by general practitioners, 49 cases by surgeons, 33 cases by obstetricians, 16 cases by pediatricians, and 10 cases by other specialists (Purwoko, 2023). In addition, the number of lawsuits against doctors also continues to increase every year, indicating public awareness of their rights as patients. This increase should serve as a warning for doctors to provide quality and standardized medical services. MKDKI and PB IDI have an important role in resolving these cases. This increase in the number of malpractice cases and lawsuits reflects the growing challenges in the practice of medicine in Indonesia, as well as the urgent need to improve standards of professionalism and adherence to the medical code of ethics.

According to the 1945 Constitution Article 1 paragraph (3), Indonesia is a country based on law. However, the development of law in Indonesia still lags behind when compared to the progress of human civilization. This also applies to health regulations in the country, which have not provided adequate legal protection for medical personnel. Medical personnel are often victimized in the performance of their duties and faced with lawsuits.

In emergency or complex medical situations, doctors have to make difficult and complicated decisions. These circumstances need to be the focus of urgent attention quickly (Susanto, 2013). In maintaining fairness, the legal system and society must understand that the outcome of medical practice cannot always be predicted, so objective and fair decisions are important. In such a situation, adequate legal protection for doctors is crucial to maintain the continuity of safe and effective medical practice. Doctors try to make the best decision to save the patient's life, but the outcome cannot always be predicted. Therefore, doctors need to have the opportunity to defend themselves to explain the reasoning behind their medical decisions to the general public. It is imperative to strengthen the public's trust in the medical profession by providing equal justice to doctors and patients. In dealing with this issue, a system that facilitates transparency, open communication, and objective assessment of medical actions can provide better assistance.

In these situations, the presence of medical experts in the assessment is key to providing deeper and contextualized insights to the medical decision, keeping the decision based on a comprehensive and detailed understanding. This makes doctors feel valued and patients can understand the complex challenges faced by doctors. This research will involve an analysis of Law No. 17 of 2023 on Health and Article 310 which provides for out-of-court dispute resolution through alternative dispute resolution. In addition, this research will also refer to Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution.

In the context of medical dispute resolution, criminal law protection for medical personnel is important. Article 310 of Law No. 17 of 2023 on Health requires out-of-court dispute resolution through alternative dispute resolution first. This aims to provide an opportunity for parties involved in medical disputes, including patients and medical personnel, to reach a fair and effective settlement without having to go through a lengthy and expensive court process.

However, in the context of criminal law protection, there are still concerns for medical personnel who may face accusations of wrongdoing that harm patients.

Therefore, this study will evaluate the extent of criminal law protection that can be provided to medical personnel in medical dispute resolution in Indonesia. In this study, Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution will be analyzed. This law regulates the process of dispute resolution through arbitration and other alternative dispute resolution, including mediation and negotiation. In the context of medical dispute resolution, this research will evaluate.

This research has high significance in the context of legal protection for medical personnel in Indonesia. With the existence of Law No. 17 of 2023, this research highlights the importance of the presumption of innocence, limitation of liability, and fair legal procedures in protecting medical personnel from the negative impact of unproven accusations. In addition, this study also emphasizes the important role of the Indonesian Medical Discipline Honor Council (MKDKI) in distinguishing between disciplinary violations and legal violations, and providing appropriate handling procedures. The establishment of the Indonesian Medical Honor Mediation and Arbitration Institute (LMA-MKI) is also considered effective in resolving medical disputes through mediation and arbitration, which encourages open communication, mutually beneficial solutions, and maintaining confidentiality.

This research uses a juridical normative analysis approach in legal studies. The main legal sources used as references are Law No. 17 of 2023 on Health, as well as various other regulations as a basis for developing legal analysis. Data collection is conducted through analysis of legal documents and relevant literature, with qualitative data analysis techniques that assist in identifying legal issues and potential solutions that can be applied. The results of this research are expected to provide a deeper insight into legal protection for medical personnel and a more efficient and fair dispute resolution mechanism. With a clear structure and significance, this research is expected to make a meaningful contribution in improving legal protection for medical personnel in Indonesia and strengthening public trust in the medical profession.

## **2. RESEARCH METHODS**

This research uses a judicial normative analysis approach in juridical studies. The primary legal source used as a reference is Law Number 17 of 2023 concerning Health, as well as various other regulations as a basis for developing legal analysis. Data collection is done through analysis of legal documents and relevant literature. The data analysis method used is qualitative analysis, which helps in identifying legal problems and potential solutions that can be applied.

## **3. RESULTS AND DISCUSSION**

Medical disputes between healthcare professionals and patients or their families are a common occurrence, often stemming from conflicts in therapeutic contract-based relationships and the dynamics of socio-moral oriented relationships evolving into materially oriented relationships (Kusworo & Fauzi, 2023; Ortega Villa et al., 2022; Sulistini et al., 2023). These disputes can lead to legal and ethical violations, including issues relating to professional ethics and health law violations (Limijadi & Purwanto, 2022). The prevalence of medical negligence has increased, with cases involving surgery

and obstetrics and gynecology being the most common (Sukumar, 2023). Efforts to resolve such disputes can be made through litigation or non-litigation mediation, emphasizing the importance of alternative dispute resolution methods to minimize concerns for doctors and stimulate improvements in the health system.

Health workers in Indonesia face several challenges due to societal misconceptions about their obligations. First, great moral responsibility and psychological pressure is often placed entirely on health workers, without considering their limitations. This creates significant psychological and emotional stress, potentially affecting their performance and well-being. Secondly, there is a risk of criminalization of medical decisions taken during patient care. This fear of legal repercussions may hinder their ability to perform their duties effectively and fearlessly. Third, while there are clear regulations regarding the duties of health workers, there is still a lack of understanding among the public regarding these roles.

This misunderstanding often leads to unrealistic expectations and the blaming of responsibility for patient health solely on medical staff. Fourth, health workers are often faced with ethical and legal dilemmas due to a lack of public awareness of the legal framework governing medical practice. This can result in undue moral burden and potential legal conflicts. These challenges point to the need for better public education on the roles and responsibilities of health workers, as well as legal protections to ensure they can perform their duties without undue pressure or fear of criminalization (Prayuni et al., 2023).

Criminal law protection for medical personnel in medical dispute resolution, as outlined in Law No. 17 of 2023, is crucial in ensuring the safety and legal rights of healthcare workers. Over the years, there have been significant developments in providing enhanced criminal protection to healthcare workers, especially those facing attacks or legal challenges (Minkó-Miskovics & Ács, 2023). In addition, there is a growing interest in trade union participation to protect the rights of medical workers, highlighting the need for institutional and legal mechanisms to support medical personnel facing legal issues (Handini, 2021).

Law No. 17 of 2023 on Health contributes significantly to the regulation of medical and health dispute resolution by stipulating that disputes arising from alleged professional misconduct by medical personnel must first be resolved through out-of-court alternative dispute resolution. This is expressly stated in Article 310, which reads:

*“In the event that a Medical or Health Worker is suspected of committing an error in carrying out his/her profession that causes harm to the Patient, disputes arising from the error shall first be resolved through alternative dispute resolution outside the court.”*

The three main forms of protection for medical personnel under Law No. 17 of 2023 on Health include the principle of not being immediately presumed guilty, limitation of liability, and due process. A more in-depth analysis of each of these forms of protection follows:

- a. Principle of Indirect Presumption of Guilt
  - a) Article 310 of Law No. 17 of 2023

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*“Medical personnel should not be immediately assumed to have made a mistake if a report comes in. They have the right to be treated fairly and considered as suspects until there is evidence to the contrary.”*

- b) Article 8 paragraph 1 of Judiciary Law No. 48 of 2009  
*“All suspected criminals are presumed innocent until proven otherwise.”*

Article 310 of Law No. 17 of 2023 on Health and Article 8 paragraph 1 of Judiciary Law No. 48 of 2009 explain the importance of principles in law enforcement and protection of human rights in Indonesia, including the right to fair treatment and presumption of innocence until proven otherwise for medical personnel and suspected perpetrators. This presumption of innocence emphasizes that in the context of medical disputes, medical personnel should be treated as suspects until proven guilty. This is important to protect the reputation and professional career of medical personnel from the negative impact of unproven accusations. It also aims to safeguard human rights by ensuring that all persons, including medical personnel, are treated fairly and objectively in legal proceedings. Thus, these two articles together strengthen Indonesia's legal foundation based on the protection of human rights and justice.

- b. Limitation of Liability

Law No. 17 of 2023 on Health explicitly emphasizes that the obligations of health workers have been clearly detailed in accordance with applicable laws and regulations. This limitation of liability reflects the need for balance between the professional responsibilities of medical personnel and legal protection for them. While medical personnel have a great moral responsibility, it is important to always pay attention to humanitarian principles and maintain a balance in carrying out these responsibilities. This means that medical personnel can only be held liable to the extent that their duties and obligations are set out in law. This restriction prevents excessive and unfair lawsuits that could arise from unrealistic expectations from the public or patients. As such, it seeks to protect healthcare workers from disproportionate legal risks while still ensuring that they perform their duties professionally and ethically.

- c. Due Process of Law

Health-related legislation, Law No. 17 of 2023, strongly emphasizes the importance of providing fundamental rights to medical personnel. With this, the right to due process is important and should not be overlooked. The importance of due process cannot be overlooked, as it is a key basis in protecting medical personnel in the performance of their duties. This right ensures that in any case or dispute involving medical personnel, the legal process must proceed in accordance with established principles of fairness. Measures such as investigations and trials should be conducted in the

absence of undue external pressure, so that there is no outright criminalization without due process. This protection is crucial as it not only ensures that medical personnel can work with peace of mind and focus on healthcare, but also maintains their trust in the legal system. As such, the Act not only protects the rights of medical personnel, but also maintains the integrity and trust of the profession in carrying out their duties in the interest of overall public health.

The Health Law No. 17 of 2023 which came into effect on August 8, 2023 replaces 11 previous laws, creating many significant changes. It is vital to pay attention to legal protection for medical personnel, especially through the involvement of the Assembly which has a crucial role in enforcing discipline and law. According to Article 304, before medical personnel are criminally prosecuted for alleged violations of the law in healthcare, they must seek recommendations from the Disciplinary Tribunal. This aims to ensure that any alleged violation of the law is first screened and evaluated by the competent authority before legal action is taken, following the principle of fairness (Hutabarat et al., 2022). This approach is not only to uphold justice, but also to ensure that criminal sanctions are only applied to eligible cases and after careful evaluation has been conducted, reducing the possibility of abuse or unfair use of criminal sanctions against medical personnel who are innocent or involved in non-serious misconduct. Therefore, with these measures, the principles of justice and legal protection for medical personnel are effectively safeguarded.

The Tribunal, as outlined in Articles 304-310 of Law No. 17 of 2023 on Health, serves two primary functions: evaluating disciplinary infractions by medical and healthcare personnel and offering recommendations regarding legal violations committed by them. It is crucial to differentiate between disciplinary violations and legal offenses, as articulated in Article 3 of the Indonesian Medical Council Regulation Number 4 of 2011 concerning Professional Discipline of Doctors and Dentists. Disciplinary violations pertain to breaches of professional ethics rather than violations of the law.

Despite the existence of dedicated forums like the Indonesian Medical Disciplinary Honor Council (MKDKI) to address disciplinary issues, Article 66(3) of Law No. 29/2004 on Medical Practice clarifies that submitting a written complaint to the MKDKI does not preclude individuals from pursuing civil legal action through the courts for damages incurred. This underscores the importance of discerning between disciplinary and legal infractions and adhering to appropriate procedures in handling each case.

However, when the MKDKI Decision was implemented, concerns were raised amongst the Trial Judges, resulting in a variety of different Court Decisions, as will be explained below:

- a) The court requires an examination and decision of MKDKI prior to the filing of a lawsuit.
- b) The court does not require the examination and decision of MKDKI prior to the filing of the lawsuit.
- c) The court rejects the lawsuit because there has been no examination and MKDKI Decision prior to the filing of the lawsuit.
- d) The court uses the examination and decision of MKDKI as a consideration in processing and deciding the lawsuit.

- e) The court does not use the examination and decision of MKDKI as a consideration in processing and deciding the lawsuit.
- f) Dissenting opinion in the Court Decision due to the Judge's difference of opinion regarding the MKDKI Decision.

Doctors often encounter situations where emergency patients require complex and risky medical procedures. They involve the use of sophisticated equipment to treat life-threatening conditions, carry significant risks associated with treatment, and may result in harm or dangerous side effects from the medications used (Baroto & Mangesti, 2023). Meanwhile, Article 293 paragraph (5) of Law Number 17 of 2023 concerning Health mandates that written consent must be obtained in advance before performing invasive procedures or actions that contain high risks.

In emergency situations, doctors often face a dilemma. On the one hand, they must perform high-risk medical actions to save the patient's life, but on the other hand, they are worried about lawsuits related to the risk of death that may arise. However, Article 275 paragraph (1) of Law No. 17 of 2023 on Health emphasizes the obligation for medical personnel to provide first aid to patients in emergency conditions.

Article 273 of Law No. 17 of 2023 on Health protects health and medical personnel who perform medical actions. If proven negligent, they can be sanctioned according to Article 440. However, the matter must be resolved non-judicially before criminal sanctions are imposed. This article also guarantees that medical personnel will not be penalized if their actions are in accordance with professional standards and patient requirements. This demonstrates the commitment to protect the rights and interests of health workers and patients, and improve the quality of health services.

The establishment of the Indonesian Medical and Health Arbitration Mediation Institute (LMA-MKI) in 2023 is in line with efforts to address medical disputes in Indonesia through alternative dispute resolution methods (Kusworo & Fauzi, 2023; Sukumar, 2023). LMA-MKI complements existing mechanisms such as the Indonesian Medical Discipline Honor Council (MKDKI) to handle complaints and resolve disputes between patients, medical personnel, and health institutions (Alawiya et al., 2023). Indonesia has witnessed a growing trend in utilizing both court-annexed and out-of-court mediation to resolve disputes, with out-of-court mediation showing higher success rates (Atmoko, 2022).

By establishing the LMA-MKI, Indonesia aims to provide a dedicated platform to address health-related conflicts, emphasizing the importance of an efficient and fair dispute resolution process in the medical field. The mediation and arbitration process at LMA-MKI is designed to be faster compared to traditional court proceedings, providing a more efficient solution. Its simplified and uncomplicated procedures make it easier for parties to go through the dispute resolution process. In addition, the fees required to resolve disputes through LMA-MKI are generally lower compared to litigation, making it a more cost-effective solution.

The communicative mediation process at LMA-MKI encourages open communication between the parties, which can foster better understanding and lead to more amicable settlements. It also emphasizes on achieving win-win solutions, which are more satisfying for both parties involved. Confidentiality is also well maintained as mediation sessions are conducted in private, ensuring that sensitive information remains

confidential. In addition, LMA-MKI prioritizes neutrality and integrity in its processes, ensuring fair treatment of all parties involved. With these advantages, LMA-MKI is an attractive option for resolving disputes in the medical and health sector.

Criminal law protection for medical personnel in resolving medical disputes is crucial for promoting fairness and enhancing professionalism in medicine. Law No. 17 of 2023, along with dispute resolution mechanisms like MKDKI and LMA-MKI, establishes a robust framework to shield medical professionals from unjust criminalization and offers efficient, equitable avenues for dispute resolution.

Based on these findings, the first policy recommendation to effectively address identified challenges is to strengthen the principle of presumption of innocence in law enforcement related to medical disputes. Consistent application of this principle ensures that medical personnel are presumed innocent until proven otherwise, safeguarding their reputations and professional careers from unfounded allegations. Secondly, prioritizing the enhancement of medical professionalism and ethics is crucial. Given the rise in malpractice cases, ongoing training and stricter supervision by bodies like MKDKI and PB IDI are essential to uphold adherence to medical codes of ethics.

Furthermore, policies should ensure adequate legal protection for medical personnel, particularly in high-risk medical scenarios, through fair and transparent legal procedures. Strengthening mediation and arbitration, facilitated by institutions like the Indonesian Medical Honor Mediation and Arbitration Institute (LMA-MKI), offers faster and more cost-effective alternatives to traditional litigation, thereby enhancing dispute resolution efficiency.

Lastly, raising public awareness of patient rights and medical responsibilities through educational campaigns is pivotal. This initiative aims to mitigate baseless lawsuits and foster trust between patients and medical practitioners. Implementation of these policy recommendations aims to address challenges in Indonesian medical practice more effectively and equitably.

#### **4. CONCLUSION**

The protection of medical personnel under criminal law in the resolution of medical disputes is paramount for ensuring justice for both healthcare providers and patients. It serves to prevent premature culpability of medical professionals, thereby safeguarding decisions made in good faith from unwarranted criminal allegations. Law No. 17 of 2023 on Health establishes a robust legal framework that includes liability limitations and ensures fair procedural safeguards for medical personnel. The Indonesian Medical Discipline Honor Council (MKDKI) assumes a crucial role in enforcing disciplinary standards and legal compliance, distinguishing between disciplinary infractions and criminal offenses while ensuring procedural fairness.

Mediation, facilitated through institutions such as the Indonesian Honor Council Mediation and Arbitration Institute (LMA-MKI), offers a viable alternative for resolving disputes outside of conventional litigation. It fosters transparent communication, promotes mutually beneficial resolutions, and upholds confidentiality. Nevertheless, medical professionals continue to face ethical dilemmas in emergency scenarios, balancing high-risk medical decisions with apprehensions about legal repercussions. The objective of criminal law protection is to mitigate such concerns, provided medical actions adhere to established professional standards.

These legal protections are indispensable in enabling medical personnel to execute their duties without undue apprehension of unjust legal ramifications, thereby advancing standards of professionalism and equity within the medical profession. Recommendations include the consistent application of the presumption of innocence in law enforcement pertaining to medical disputes, continuous enhancement of professionalism through rigorous training and oversight by bodies like the MKDKI, and the enactment of comprehensive legal safeguards to support medical personnel in high-stakes medical contexts. Strengthening the institutional capacity of the LMA-MKI to ensure expedient and equitable dispute resolution, alongside efforts to educate the public on patient rights and medical ethics, are critical endeavors to curtail unfounded litigations and foster trust between healthcare providers and the community.

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**PERFORMANCE ANALYSIS OF INVESTIGATORS  
IN UNCOVERING CYBER FRAUD  
(Case Study at the West Jakarta Metro Police)**

Joshua Oktavianus Siagian<sup>1\*</sup>, Surya Nita<sup>2</sup>, Aldika Martua Sitorus<sup>3</sup>, Riska Sri Handayani<sup>4</sup>

<sup>1,3</sup> Police Academy of the Republic of Indonesia, Semarang, Indonesia

<sup>2,4</sup> Police Science Studies Program, School of Strategic and Global Studies,  
Universitas Indonesia

E-mail: <sup>1)</sup> [joshuaoktavianus7@gmail.com](mailto:joshuaoktavianus7@gmail.com)

**Abstract**

*The aim of this study is to evaluate the performance of investigators in handling cybercrime cases in the jurisdiction of West Jakarta Metro Police. The research method used is literature review and secondary data analysis from various reliable sources regarding the development of information technology and cybercrime in Indonesia. The research results show that Investigators in the Cybercrime Subunit of West Jakarta Metro Police have shown significant efforts in handling cybercrime cases, especially cyber fraud. They have utilized various investigation methods and techniques in accordance with the applicable laws in Indonesia, including the ITE Law and other related regulations. However, investigators face several challenges, including limited facilities and infrastructure such as inadequate computers and other devices. Budget constraints are also a major obstacle, especially in funding investigative operations outside Jakarta. In addition, poorly organized SOPs and lack of consistency in their implementation also hinder the effectiveness of investigations. This includes inconsistencies in delivering SP2HP in accordance with Perkap Number 14 of 2012. The implementation of information technology, such as Smart Policing and E-SP2HP programs, has helped improve personnel capacity and real-time reporting. However, further evaluation is needed to ensure the effectiveness and integration of this technology with the coordination of relevant institutions. Success in handling cybercrime also depends on cooperation among law enforcement agencies and increased training for cyber police officers. This includes establishing guidelines for handling cybercrime cases and adopting effective digital forensic methods.*

**Keywords:** Cybercrime, Cyber Fraud, Investigator Performance, Information Technology, Digital Forensics

**1. INTRODUCTION**

Indonesia, as a developing nation, has long fallen behind on technological innovations due to inadequate development strategies, in particular due to an undervalued research agenda, leading to technology transfers from advanced industrial nations without sufficient technology mastery being transferred back; ultimately resulting in Indonesia lacking a firm technological basis against cybercrimes.

Digital technology's rapid progress has had a great effect on information access, social interaction and economic expansion - yet also presents potential dangers like fake information spreading or becoming too dependent upon technological platforms. Based on APJII survey data, internet usage among Indonesian citizens reached 215.63 million between 2022-2023; an increase of 2.67% since the previous period (210.03 million users). Indonesia currently boasts 78.19% internet users out of its total population of 275.77 Million individuals. Digital technology has dramatically heightened cybercrime threats, such as malware attacks, hacking and personal data theft, leading to identity theft,

job loss and disruption of critical infrastructure. Unfortunately, most members of society remain ignorant to these dangers while regulations continue to evolve in response to them (Hapsari & Pambayun, 2023).

Cybercrime, particularly actions carried out by black hat hackers or crackers, has been a major concern in recent years (Dioza, 2019). The police play a crucial role in maintaining security and public order, as well as protecting, nurturing, and serving the community in accordance with the Law Number 2 of 2002 regarding the State Police of the Republic of Indonesia. The delegation of authority between government agencies is regulated in this law, where governmental powers can be transferred from one government agency to another. Article 2 of the Law explains that the police function includes maintaining public security and order, law enforcement, protection, nurturing, and serving the community (Melisa & Anggraini, 2021).

The Digital Forensic Unit of the IT & Cyber Crime Subdirector of the Criminal Investigation Department of the Indonesian National Police plays a crucial role in collecting digital evidence to uncover criminal activities and identify perpetrators. This unit has been accredited as a testing laboratory according to ISO 17025:2005 standards by the National Accreditation Committee and is also a member of the Asia Pacific Accreditation Committee (APAC).

According to data released by the e-MP Robinopsnal of the Indonesian National Police, cybercrime has seen a significant increase in 2022 compared to the previous year. The number of cybercrime cases has even increased by 14 times. From January 1 to December 22, 2022, the police have handled 8,831 cybercrime cases. All units within the Indonesian National Police and regional police departments are actively involved in addressing these cases. The Jakarta Metropolitan Police Department has been the most active in handling cybercrime cases, with a total of 3,709 cases. In contrast, during the same period in 2021, only 612 cybercrime cases were addressed nationwide, with the involvement of just 26 units.

Cybercrime is a different type of crime compared to conventional street crimes. It emerged alongside the information technology revolution. As stated by Nitibaskara (2006), "Social interactions that minimize physical presence are another characteristic of the information technology revolution. Social deviance adapts to new forms and characters in crime."

The regulation of cybercrime in Indonesia is governed by Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), which was later amended by Law Number 19 of 2016. This ITE Law serves as an important legal basis in addressing various forms of cybercrime, including defamation, dissemination of false information, and hacking. The changes in Law Number 19 of 2016 further strengthen certain articles and provide more clarity regarding the definition and types of criminal acts that can be sanctioned. With this regulation in place, it is hoped to provide stronger legal protection for the public and encourage the more secure and responsible use of information technology.

The SEC (Securities and Exchange Commission) guidelines on cybersecurity disclosure obligations underscore the increasing concerns about the impact of cyber incidents on financial performance, with a significant rise in companies referencing cybersecurity risks in their post-guidance disclosures (Cereola & Dynowska, 2019). The emergence of cyber fraud as a significant threat, exploiting the internet for personal gain and manipulation, further emphasizes the need for enhanced investigative techniques and

countermeasures to disrupt underground fraud (Howard, 2009). Evaluating the performance of investigators in obtaining information, gathering evidence, utilizing investigative techniques, understanding the law, and ensuring personal safety is crucial in effectively combating cyber fraud (Brown & Veneziano, 1992).

Given the background information provided, the objective of this research is to evaluate the performance of investigators in dealing with cybercrime cases in the jurisdiction of West Jakarta Metro Police.

## **2. RESEARCH METHODS**

This study utilized a qualitative research methodology with a field study research design, emphasizing observation and in-depth examination of events at one location - specifically within West Jakarta Metro Police's jurisdiction. Data were collected through primary, secondary, and tertiary sources derived through interviews techniques, observation methods, document studies, document analyses, document triangulation techniques as well as triangulating various sources and collection techniques to ensure data validity. Data analysis involves various stages, such as data reduction, presentation, interpretation and verification. Assessing the performance of investigators requires using several theories as an analytical framework, such as performance theory to measure work effectiveness; law enforcement theory to examine specific practices; resource theory to measure availability and utilization; and information technology theory which examines its effect on performance. Moreover, this analysis takes into account both Chief of Police Regulations as legal foundation as well as relevant legislation as part of this evaluation process (Soekanto, 2004).

## **3. RESULTS AND DISCUSSION**

The investigation of cyber fraud crimes by the Cyber Crime Sat Resrim of the West Jakarta Metro Police is guided by various legal references. The process involves adherence to Law Number 8 of 1981 concerning the Criminal Code, the Chief Regulation of the Republic of Indonesia Criminal Investigation Body Number 3 of 2014 concerning the Standard Operational Procedures for Criminal Investigation Implementation (Perkaba No. 3 of 2014), Police Regulation Number 6 of 2019 concerning Criminal Investigation (Polres No. 6 of 2019), and Law of the Republic of Indonesia Number 19 of 2016 concerning the Amendment of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) (Dewi & Fahrial, 2021; Rahutomo, 2019). This rule establishes a framework for investigators to effectively address cyber fraud cases, ensuring that the investigation process is in line with legal requirements and standards outlined in Indonesian law (Dekawati & Marbun, 2022).

Based on an interview with the Criminal Investigation Unit of the West Jakarta Metro Police, we discuss the types of cybercrimes they deal with,

*“The most commonly reported type of crime is cyber fraud, which includes scams through websites, blogs, forums, and social media. Additionally, they also handle cases such as cyber pornography, cyber terrorism, data theft and forgery, hacking, and illegal access. During the period from 2018 to 2020, data from the West Jakarta Metro Police recorded an increase in the number of cyber fraud cases from 105*

*cases in 2018 to 132 cases in 2020, with a total of 319 cases over the three-year period.”*

The interview revealed an increase in the number of cyber fraud cases from year to year, highlighting the expansion of the scope and intensity of criminal activities in the digital realm. This indicates that cybercrime is not only a local threat but also a global phenomenon that requires cooperation between law enforcement agencies and comprehensive efforts to strengthen cyber security in order to protect the public from the increasing risks of digital attacks.

The rise of cybercrime presents a major challenge on both local and global scales, highlighting the importance of cooperation between law enforcement agencies and robust cybersecurity measures to safeguard the public from escalating digital threats. The interconnected nature of the cyber realm enables cybercriminals to operate across borders, underscoring the necessity of international collaboration in addressing cyber threats (Sumadinata, 2023). The law enforcement authorities encounter various challenges in overseeing the virtual world, such as the difficulty of tracing anonymous violators and the technical complexity of digital crime investigations (Baraz & Montasari, 2023). To address this challenge, a framework such as the Cyber Resilience and Law Enforcement Collaboration (CyrLEC) framework has been proposed, emphasizing proactive prevention, early detection, rapid response, and close collaboration with law enforcement to effectively prosecute cyber criminals (Schiliro, 2023). By improving cybersecurity resilience and fostering efficient collaboration with law enforcement, organizations can enhance their ability to safeguard themselves and their communities from the expanding threats of cybercrime.

Interview with the Cyber Crime Subunit I of West Jakarta Metro Police, the investigation stage is considered crucial in handling cybercrime cases. According to the Cyber Crime Subunit I of West Jakarta Metro Police, *“... this stage is often faced with significant challenges. One of the main problems is the high number of reports that are canceled for various reasons. For example, the perpetrator's data is often fake and difficult to trace because of fake IP addresses, changed phone numbers, or inactive accounts. In addition, the slow provision of data from banking institutions is also a barrier, due to reluctance to provide information from customers related to transactions. Another challenge is that perpetrators often come from outside the area, while the budget available for handling such cases is limited.”* In the analysis of Cyber Fraud cases, the Cyber Crime Subunit I of West Jakarta Metro Police uses several investigation methods that have proven to be effective. *“... usually tracking using phone numbers, bank account numbers, and through social media. Data collected from 2018 to 2020 shows that tracking phone numbers was done in 102 cases, tracking bank account numbers in 95 cases, and tracking through social media in 85 cases. However, there are also cases that have not been fully uncovered, reaching 181 cases during that period.”* This provides an overview of the intensive efforts made by investigators in handling cybercrime in the West Jakarta Metro Police area.

Intensive efforts by investigators in tackling cybercrime involve recognizing the complex and sophisticated nature of cyber threats, demanding specialized responses. Investigators must possess core competencies such as decision-making, problem-solving, and embracing innovation to effectively track cybercriminals and bring them to justice. (Staniforth, 2014). With the increasing reliance on decentralized information technology,

tracking cybercriminals has become a challenge for law enforcement agencies due to the borderless and multi-jurisdictional nature of cybercrime (Kader & Minnaar, 2015). Specialized knowledge of the law and expertise in cyber investigations is essential due to the unique challenges and privacy laws associated with cybercrime (Curtis, 2011). As cybercrime evolves with various forms such as virus attacks, phishing, and identity theft, investigators face the task of keeping up with the changing modus operandi of cybercriminals in order to secure successful prosecutions (Kader & Minnaar, 2015).

The West Jakarta Metro Police Department has encountered difficulties in solving most of the 181 cases that occurred between 2018 and 2020. Nevertheless, the strategy of integrating mobile phone tracking, bank account numbers, and social media has demonstrated its effectiveness by increasing the number of successfully solved cases. The West Jakarta Metro Police Department emphasizes that mobile phone tracking has been the most successful method with a significant number of cases being uncovered. Meanwhile, the lack of success through social media is attributed to the cyber-fraud perpetrators' tendency to use fake identities or not leaving a trace that can be effectively traced after their crimes are committed.

In line with this, (Gupta et al., 2022) stated that the lack of success in combating online fraud through social media can be attributed to the sophisticated tactics used by cybercriminals, such as the use of fake identities and the difficulty in tracking their activities. Cybercriminals exploit social media platforms for various fraudulent activities such as online scams, cyberbullying, and hacking, making it challenging to effectively identify and track them (Gupta et al., 2022). Furthermore, an increase in fraud on social media platforms has been noted, with criminals using unethical social engineering techniques to deceive users and steal data (Hussien & Mohialden, 2023). Efforts to detect and prevent identity fraud on social networks have been made through clustering and classification techniques, but the effectiveness of existing strategies remains uncertain (Borkar et al., 2022).

The Cyber Crime Unit of West Jakarta Metro Police highlights the importance of human factors in the performance of an institution, which is in line with the theory of resource factors. According to this theory, human factors are the main assets that play a key role in achieving organizational goals. However, as mentioned, the lack of quantity and inadequate skills of human resources can be a serious obstacle to the performance of the institution. The problems faced, such as difficulties in recruiting and retaining quality human resources, reflect the real impact of the imbalance between organizational needs and the availability of suitable workforce. This not only affects internal productivity but also reduces the institution's ability to provide adequate services to the public.

The Cybercrime Subunit I at the West Jakarta Metro Police Department has uncovered several major challenges. Firstly, the limitation of facilities and infrastructure is a critical issue. Despite having 36 computers for investigation, some of them are severely damaged, and only one laptop is available. This is clearly insufficient considering the complexity of cyber-based cases that require sophisticated technological devices. Moreover, the lack of printers and scanners can hinder the efficient process of evidence collection. Secondly, budget constraints are a serious problem. Data shows that there is no specific budget allocation for the Cybercrime Subunit I, which may result in a lack of funds for training, equipment, or technological infrastructure needed to effectively handle these cases. Furthermore, many cyber fraud cases occur outside Jakarta, but there is no budget allocation for investigations outside the area, making cross-border law

enforcement difficult. Thirdly, the lack of integrated and comprehensive Standard Operating Procedures (SOP) is also an issue. The existing SOPs are not fully organized or well-integrated, making it difficult to socialize and understand thoroughly by all investigators. A lack of deep understanding of SOPs can hinder the effectiveness of investigations, slow down the process, and increase the risk of procedural errors. Overall, these challenges indicate the need for significant improvements in terms of investment in facilities and infrastructure, better budget allocation, and enhancement in the development and implementation of comprehensive SOPs. It is crucial to enhance the capabilities of the Cybercrime Subunit I in handling cybercrime cases more effectively and efficiently in the future.

The investigation process in handling cyber fraud cases by the Cyber Crime Subunit I of West Jakarta Metro Police revealed several inconsistencies with existing regulations. Although National Police Regulation Number 14 of 2012 stipulates that SP2HP reports must be submitted every 15 days for complex cyber fraud cases, in reality, updates on the investigation are only provided once or delayed. Data from questionnaires show that 78% of complainants receive SP2HP reports more than 21 days after the scheduled deadline, highlighting the inconsistency with the proper procedures. These delays not only hinder transparency and public trust in the legal process but also do not align with the principle of timeliness in organizational performance theory. Furthermore, challenges in summoning witnesses and suspects also act as hindrances to the investigation. The majority of complainants, such as housewives and entrepreneurs, face difficulties in providing testimonies due to time constraints and other reasons like reluctance and logistical constraints. This indicates the need for a more effective time management strategy and a more sensitive approach to various professions and social conditions of complainants to ensure a more efficient and fair investigative process.

The West Jakarta Metro Police's initiatives in addressing challenges in investigations at Cyber Crime Subunit I highlight several aspects that require thorough evaluation. Initially, the lack of approved budget for investigations outside of DKI Jakarta, particularly beyond Java Island, poses a significant obstacle. This is concerning given the cybercrime's nature, which frequently involves locations beyond Jakarta. The limited budget for specialized equipment and operations may restrict investigators' performance in uncovering crimes.

Secondly, the implementation of Profession, Procedural, Discipline, Practice, and Piety (PPDLT) shows that despite the basic principles such as professionalism and discipline being applied, there are still weaknesses in the consistent implementation of SOP. This is reflected in the low percentage of members who answered that activity SOPs are always available or well-organized. The lack of consistency in implementing PPDLT can hinder efforts to improve the quality of investigation and overall unit performance. Foeh & Papote (2021) demonstrates the positive impact of well-structured SOPs in reducing errors and operational incidents, emphasizing the importance of standard procedures in enhancing quality management.

Thirdly, through the adoption of the Smart Policing program, the West Jakarta Metro Police Department is striving to modernize their approach to cybercrime law enforcement. However, despite the increase in personnel capacity and the implementation of technologies such as E-SP2HP for real-time reporting, there is still a need for evaluation of the effectiveness of this newly developed SOP. The success of the program

will depend on how well it can integrate coordination with relevant institutions and ensure that all members are skilled in relevant soft and hard skills.

The implementation of cybercrime prevention policies, as seen in the Central Jakarta Metro Jaya Police, emphasizes the importance of communication, resources, and training for cyber police officers (Damayanti & Ismowati, 2021). Furthermore, the urgency of establishing guidelines for handling cybercrime cases within the Indonesian National Police Department highlights the need for digital forensic methods and effective evidence collection strategies (Anggraeny et al., 2022). By integrating predictive policing strategies, enhancing cybercrime prevention policies, and establishing digital forensic guidelines, the West Jakarta Metro Police take significant steps to modernize their approach in combating cybercrime.

Overall, West Jakarta Metro Police's response to cybercrime requires further strengthening budget support, improving implementation consistency of SOPs, and developing smart policing approaches with continuous evaluation in order to be efficient and effective against digital crime in their region. By doing so, this approach should increase efficiency and effectiveness against digital crimes that threaten its community.

#### 4. CONCLUSION

Based on the findings, it can be concluded that West Jakarta Metro Police investigators in Subunit I Cybercrime demonstrate significant efforts when handling cyber fraud cases, using various investigative techniques in accordance with Indonesian laws such as ITE Law or other relevant regulations. Unfortunately, however, investigators face several barriers such as limited facilities/infrastructure such as inadequate computers/devices as well as budget limitations which restrict their investigations outside Jakarta.

Moreover, poorly organized SOPs and lack of consistency in their implementation also impede the effectiveness of investigations, including discrepancies in delivering SP2HP in accordance with National Police Chief Regulation Number 14 of 2012. The implementation of information technology, such as the Smart Policing program and E-SP2HP, has helped enhance personnel capacity and real-time reporting, but further evaluation is still needed to ensure the effectiveness and integration of this technology with the coordination of relevant agencies.

Success in combating cybercrime also depends on cooperation among law enforcement agencies and enhancing training for cyber police officers, including the establishment of guidelines for handling cybercrime cases and the adoption of effective digital forensic methods. Overall, this research indicates that despite significant efforts in combating cybercrime by investigators at West Jakarta Metro Police, there are still many aspects that need to be improved and enhanced to achieve higher effectiveness in investigating cyber cases in the future.

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## UNILATERAL TERMINATION OF EMPLOYMENT BY EMPLOYEES AT MOREST RESTAURANT

Ni Putu Ika Candra Dewi<sup>1\*</sup>, I Made Dedy Priyanto<sup>2</sup>

<sup>1,2</sup> Faculty of Law, Universitas Udayana

E-mail: <sup>1)</sup> [ikadewi011@gmail.com](mailto:ikadewi011@gmail.com), <sup>2)</sup> [dedy\\_priyanto@unud.ac.id](mailto:dedy_priyanto@unud.ac.id)

### *Abstract*

*Getting a job and achieving a decent living is a fundamental right of every citizen. In practice, however, various issues arise in the realm of employment, one of which is related to wages. This wage issue emerges due to a fundamental gap between the regulations aspired to and their implementation in society, often described as the gap between *das Sollen* and *das Sein*. This discrepancy is evident in the ineffective enforcement of the law within the community, particularly regarding the Bali Governor's Decree Number 2235/03-G/HK/2019, which pertains to the provision of minimum wages for workers, and the factors that hinder the realization of these minimum wages. The aim of this journal is to analyze and understand the implementation of legal arrangements related to the provision of minimum wages for workers, as well as the factors that impede this implementation. The method employed in this journal is empirical legal research, which is conceptualized as an empirical phenomenon that compares existing rules with their actual implementation or reality in society (*das Sollen* and *das Sein*). The findings suggest that the implementation of legal arrangements related to the provision of minimum wages for workers in the *Commanditaire Vennootschap (CV) Raka Bali* has not been effective. The factors contributing to the ineffectiveness of wage implementation are primarily internal to the company itself.*

**Keywords:** Labor, Wage, Proper Living Components

### 1. INTRODUCTION

Employment is something that relates to workers/laborers and the time before, during, and after the working period. Currently, reality has proven that the employment factor is a human resource. In the current period of national development, it is a very important factor for the implementation of national development in our country "Republic of Indonesia". Even the labor factor is a very dominant means in the life of a nation, therefore labor is a determining factor for the life and death of a nation (Giri & Wiryawan, 2019). The 1945 Constitution of the Republic of Indonesia has regulated the fundamental needs of citizens, one of which is to obtain employment in Article 27 paragraph (2). This is also in line with the objectives of national development, which aims to promote the general welfare of all Indonesian people in a just and prosperous manner.

Problems in the field of employment have now become a daily sight in various countries, both in developed countries and in developing countries. Problems related to labor occur because employment opportunities are getting narrower, while the population continues to increase. Various labor problems can also arise because basic rights and normative rights of workers are not guaranteed and discrimination in the workplace occurs, resulting in conflicts that include low wage levels, health insurance, occupational safety insurance, old age insurance, facilities provided by the company, and usually end in termination of employment (PHK) (Perdana, 2001).

The employer is the party that fully regulates the acceptance and termination of employment. If the employer has the will to terminate the employment relationship, often

the workforce can do nothing but accept the decision. Workers always experience injustice when dealing with employers who are more concerned with the interests of the company than the rights of workers (Perdana, 2008).

- a. Termination of employment
- b. Key points because it is important to terminate employment in accordance with the rules
- c. Rights and obligations violated if termination of employment is not carried out in accordance with the rules

Morest Restaurant located on the beach in Sanur, Bali is a business that is not incorporated and is owned by an individual who is managed by the owner directly by employing 10 employees. Morest restaurant is a business that targets foreign guests as consumers by providing western food or western food. Based on the results of my interview with the owner of Morest Restaurant, the acceptance of labor at Morest Restaurant is carried out without company management (Ghufron et al., 2018). Employees who are accepted to work are only based on verbal agreements, while employees who leave work are often decided unilaterally by both employees and owners. From the description above, the author determines the basis of the problems that occur at Morest Restaurant and decides to further examine the unilateral termination of employment by employees and the factors inhibiting termination of employment at Morest restaurant which is not in accordance with legal arrangements (Udiana, 2013).

Based on the explanation of the background above, two problem formulations are identified. First, how is the implementation of legal arrangements related to termination of employment by employees at Morest restaurant? Second, what are the inhibiting factors for termination of employment by employees at Morest restaurants that are not in accordance with legal arrangements. The purpose of writing this scientific work is to find out the legal arrangements for termination of employment and factors that hinder termination of employment at Morest restaurants that are not in accordance with applicable legal arrangements.

## **2. RESEARCH METHODS**

Basically, research is "a search effort". Sunggono (2015) argues that the research method is how the steps that must be taken in a study are systematic and logical, so that they can be accounted for (Hadi, 2010). The research method used in writing this research is empirical legal research method. Empirical legal research is a law conceptualized as an empirical symptom that compares existing rules with their implementation or reality in society, namely *dasollen* and *dassein* (Nasution, 2008). This research is conducted by examining through observations in the field and then comparing with the concepts contained in the library materials used and legislation as a legal basis in solving problems (Sunggono, 2015).

### 3. RESULTS AND DISCUSSION

#### 3.1. Implementation of Legal Arrangements Related to Unilateral Termination of Employment by Employees at Morest Restaurant

In general, workers are accepted into a company based on a work agreement that signifies the establishment of a working relationship between the worker and the employer that contains the rights and obligations of the worker and the employer. Termination of employment has been regulated by the Manpower Law, which includes provisions regarding termination of employment in accordance with the law. The importance of terminating employment in accordance with the Manpower Law is so that workers can get the severance pay they should receive.

Based on the results of the author's interview with the owner of Morest Restaurant, the implementation of work termination is often carried out unilaterally by employees. There are many factors that cause employees to terminate their employment unilaterally, including the desire to gain experience with a different job or workplace, not feeling at home at work, conflicts between employees, and personal problems owned by employees, so that employees are reluctant to negotiate with business voters and terminate their employment unilaterally, in other words running away from work.

As a result of unilateral termination of employment carried out by Morest restaurant employees, the impact is that the rights that workers should get are not fulfilled in accordance with applicable laws and regulations. However, so far, unilateral termination of employment by employees at Morest Restaurant has not caused legal problems because it has been resolved in a family manner.

#### 3.2. Factors Inhibiting Termination of Employment by Employees at Morest Restaurant That Are Not in Accordance with Legal Arrangements

From the results of interviews with Mr. Putu Raka as the owner of Morest Restaurant, it is known that the inhibiting factors for termination of employment are not in accordance with legal arrangements because:

a. Restaurant managed without company management

In order to increase buying interest from consumers, the credit system is chosen by entrepreneurs as a way of payment, so that consumers dare to place orders. However, in reality, the payments received by CV Raka Bali are not in accordance with the agreement. In order to continue to carry out production, the victims are suppressing the wages of the workers so that the company can continue to produce. Delays in payments made by consumers / subscriptions are unable to withstand the company's high production costs.

b. Oral Employment Agreement

Due to the frequent turnover of employees at Morest Restaurant, the owner accepts employees without proper procedures, so that if employees want to leave their jobs, it is done without procedures as well. Employees who leave their jobs of their own accord will terminate their employment unilaterally, causing conflict. Production costs are the main factor in a company to keep running its business. Production costs are increasing every day due to inflation or an increase in raw materials needed to produce finished goods to be sold by the company. With uncertain income and receivables from clients but increasing production costs, the company is unable to provide minimum wages for its workers (Aulia & Mahartayasa, 2018).

c. Erratic Tourism Conditions

One of the factors or problems faced by CV Raka Bali is that sales or product orders are not steady and tend to decline, this is due to a lack of buying interest from previous clients due to economic factors. This is also an obstacle to not fulfilling the provision of minimum wages for workers at CV. Raka Bali (Wijaya et al., 2019).

d. Behavior of employees who want to try out jobs

One way to reduce high production costs, CV Raka Bali determines the down payment that must be paid by consumers so that work can proceed. However, the customers themselves often do not provide an advance payment, this makes CV Raka Bali forced to prioritize production costs, and this also has an impact on the workers themselves who do not get the minimum wage in accordance with applicable regulations (Billy & Ibrahim, 2019). Based on the results of interviews with the owner of CV Raka Bali, Mr. Putu Raka Vica, he said that he was very forced to reduce the cost of wages / salaries for workers because the company's condition was still unstable while the company had to keep producing to fulfill orders (Interview conducted on January 10, 2019).

#### **4. CONCLUSION**

The implementation of legal arrangements related to the provision of minimum wages for workers at CV. Raka Bali has not been effective. This can be seen from the employers themselves still providing wages below the stipulated Badung Regency Minimum Wage, which is regulated in Governor Decree Number 2235/03-G / HK / 2019 concerning the 2020 City Regency Minimum Wage. This is due to the company's ability to pay its employees in accordance with the minimum wage set and the workers themselves do not know about the Governor's Decree Number 2235/03-G / HK / 2019. The inhibiting factors for the non-realization of the minimum wage at CV. Raka Bali are from the company itself, such as high production costs, projects undertaken by CV. Raka Bali is uncertain, the consumer is negligent about the responsibility for payment, many consumers / clients do not provide an advance payment.

In providing wages to workers, business actors must pay attention to statutory provisions. This is very basic, because everything in a state of law must be implemented based on existing rules. As for employers, in law there is the principle of Legal Fiction which states that everyone is considered to know the law. In this regard, it is hoped that the government through the relevant agencies and the implementing apparatus, will be more intensive in conducting socialization and guidance to entrepreneurs so that giving minimum wages to workers / laborers can be implemented, because wages are a right that must be received from a worker.

Employers who employ workers by providing wages below the minimum wage should fulfill the requirements in accordance with the applicable law, then from the company in making agreements with consumers in written form so that the fulfillment of agreements with consumers in terms of payment can be collected and proven.

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### The structure of manuscripts

- Research Article (Featured Research/Practitioner Research): (a) Title Page, (b) Authors' Names, Affiliations, and contact, (c) Abstract, (d) Keyword(s), (e) Recommended Cite, (f) Introduction, (g) Method, (h) Results and Discussion, (i) Conclusions, (j) Acknowledgements, and (k) References.
- Article/extensive book reviews/reports review/literature review/conceptual paper: (a) Title Page, (b) Authors' Names, Affiliations, and contact, (c) Abstract, (d) Keyword(s), (e) Recommended Cite, (f) Introduction, (g) Discussion, (h) Conclusions, (i) Acknowledgements, and (j) References.

## **Title**

A title should be the fewest possible words that accurately describe the content of the paper (Center, Bold, 14pt)

Author(s) and Affiliation(s)

Author Name 1\*, Author Name 2, Author Name 3 (11 pt)

1 Affiliation1 (11 pt), 2 Affiliation 2 (11 pt)

## **Abstract**

A well-prepared abstract enables the reader to identify the basic content of a document quickly and accurately, to determine its relevance to their interests, and thus to decide whether to read the document in its entirety. The Abstract should be informative and completely self-explanatory, provide a clear statement of the problem, the proposed approach or solution, and point out major findings and conclusions. The Abstract should be 150 to 250 words in length. The abstract should be written in the past tense. Standard nomenclature should be used and abbreviations should be avoided. No literature should be cited. The keyword list provides the opportunity to add keywords, used by the indexing and abstracting services, in addition to those already present in the title. Judicious use of keywords may increase the ease with which interested parties can locate our article (11 pt).

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## **Introduction**

The introduction is a little different from the short and concise abstract. The reader needs to know the background to your research and, most importantly, why your research is important in this context. What critical question does your research address? Why should the reader be interested?

The purpose of the Introduction is to stimulate the reader's interest and to provide pertinent background information necessary to understand the rest of the paper. You must summarize the problem to be addressed, give background on the subject, discuss previous research on the topic, and explain *exactly* what the paper will address, why, and how. A good thing to avoid is making your introduction into a mini review. There is a huge amount of literature out there, but as a scientist you should be able to pick out the things that are most relevant to your work and explain why. This shows an editor/reviewer/reader that you really understand your area of research and that you can get straight to the most important issues.

Keep your Introduction to be very concise, well structured, and inclusive of all the information needed to follow the development of your findings. Do not over-burden the reader by making the introduction too long. Get to the key parts other paper sooner rather than later.

Be concise and aware of who will be reading your manuscript and make sure the Introduction is directed to that audience. Move from general to specific; from the problem in the real world to the literature to your research. Last, please avoid to make a sub section in Introduction.

Example of novelty statement or the gap analysis statement in the end of Introduction section (after state of the art of previous research survey):

*"..... (short summary of background)..... A few researchers focused on ..... There have been limited studies concerned on ..... Therefore, this research intends to ..... The objectives of this research are ....."*

## **Literature Review**

In the *Literature Review* section, should demonstrate the author's understanding of the existing literature or theory used, their ability to critically analyze previous research, and their capacity to situate the current study within the broader scholarly discourse.

## **Method**

In the *Method* section, you explain *clearly* how you conducted your research order to: (1) enable readers to evaluate the work performed and (2) permit others to replicate your research. You must describe exactly what you did: what and how experiments were run, what, how much, how often, where, when, and why equipment and materials were used. The main consideration is to ensure that enough detail is provided to verify your findings and to enable the replication of the research. You should maintain a balance between brevity (you cannot describe every technical issue) and completeness (you need to give adequate detail so that readers know what happened).

In the social and behavioral sciences, it is important to always provide sufficient information to allow other researchers to adopt or replicate your methodology. This information is particularly important when a new method has been developed or an innovative use of an existing method is utilized. Last, please avoid to make a sub section in Method.

## **Results and Discussions**

The purpose of the Results and Discussion is to state your findings and make a interpretations and/or opinions, explain the implications of your findings, and make suggestions for future research. Its main function is to answer the questions posed in the Introduction, explain how the results support the answers and, how the answers fit in with existing knowledge on the topic. The Discussion is considered the heart of the paper and usually requires several writing attempts.

The discussion will always connect to the introduction by way of the research questions or hypotheses you posed and the literature you reviewed, but it does not simply repeat or rearrange the introduction; the discussion should always explain how your study has moved the reader's understanding of the research problem forward from where you left them at the end of the introduction.

To make your message clear, the discussion should be kept as short as possible while clearly and fully stating, supporting, explaining, and defending your answers and discussing other important and directly relevant issues. Care must be taken to provide commentary and not a reiteration of the results. Side issues should not be included, as these tend to obscure the message.

It is easy to inflate the interpretation of the results. Be careful that your interpretation of the results does not go beyond what is supported by the data. The data are the data: nothing more, nothing less. Please avoid and make over interpretation of the results, unwarranted speculation, inflating the importance of the findings, tangential issues or over-emphasize the impact of your research.

The following components should be covered in discussion: How do your results relate to the original question or objectives outlined in the Introduction section (what/how)? Do you provide interpretation scientifically for each of your results or findings presented (why)? Are your results consistent with what other investigators have reported (what else)? Or are there any differences?

### *Work with Graphic:*

Figures and tables are the most effective way to present results. Captions should be able to stand alone, such that the figures and tables are understandable without the need to read the entire manuscript. Besides that, the data represented should be easy to interpret.

Last, please avoid to make a sub section in Results and Discussion.

### **Conclusions**

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Conclusions should answer the objectives of the research. Tells how your work advances the field from the present state of knowledge. Without clear Conclusions, reviewers and readers will find it difficult to judge the work, and whether or not it merits publication in the journal. Do not repeat the Abstract, or just list experimental results. Provide a clear scientific justification for your work, and indicate possible applications and extensions. You should also suggest future experiments and/or point out those that are underway.

For most essays, one well-developed paragraph is sufficient for a conclusion, although in some cases, a two or three paragraph conclusion may be required. The another of important things about this section is (1) do not rewrite the abstract; (2) statements with “investigated” or “studied” are not conclusions; (3) do not introduce new arguments, evidence, new ideas, or information unrelated to the topic; (4) do not include evidence (quotations, statistics, etc.) that should be in the body of the paper.

### **Acknowledgments (if any)**

Acknowledge anyone who has helped you with the study, including: Researchers who supplied materials, reagents, or computer programs; anyone who helped with the writing or English, or offered critical comments about the content, or anyone who provided technical help. State why people have been acknowledged and ask their permission. Acknowledge sources of funding, including any grant or reference numbers. Please avoid apologize for doing a poor job of presenting the manuscript. Do not acknowledge one of the authors names.

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References should follow the style detailed in the APA 7<sup>th</sup> Publication Manual. Make sure that all references mentioned in the text are listed in the reference section and vice versa and that the spelling of author names and years are consistent. Please to not be used footnote or endnote in any format.

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