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Editorial

Thank Allah SWT's, who has bestowed His grace and gifts upon all of us so that the Editors may publish the second edition of JIKH in July 2023.

This edition presents several writings related to legal and human rights policy issues. This edition includes various papers that discuss how to Zero Overtaying: New Hope After the Birth of Law Number 22 of 2022 Concerning Corrections; Economic Reintegration as a Concept of Indonesian Correctional Law Reform; Legal Protection of Sanro Traditional Knowledge; Optimization of Patent Management Through Marketplaces: Formulation of Patent Arrangements in the Form of Non-Fungible Tokens in Indonesia; The Rule Identification Urgency Solution (Rius) Method in Preparation of Regional Regulation Academic Manuscripts; Prevention of Lesbian Cases in Indonesia Correctional Institutions: Sociolegal Approach Optimizing The Protection of Cultural; Expressions of Indigenous Peoples in Indonesia; Efforts to Improve Access to Justice for Legal Aid Recipients in Indonesia Through Paralegals; Protection Strengthening Model of Communal Intellectual Property: Transplanting the Policy Content Including Benefit-Sharing on Act-Based

It is hoped that these writings can contribute to increasing the reader’s knowledge. Finally, we would like to thank The Head of the Law and Human Rights Research and Development Agency of the Ministry of Law and Human Rights of the Republic of Indonesia who has provided support in the publication of this Journal. We also thank the reviewers for their contribution to improving the quality of every paper. We also welcome ideas and suggestions in order to enhance the quality of the Journal.

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JURNAL ILMIAH KEBIJAKAN HUKUM

BALITBANG HUKUM DAN HAK ASASI MANUSIA
KEMENTERIAN HUKUM DAN HAM R.I

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Zero Overtaying: New Hope After the Birth of Law Number 22 of 2022 Concerning Corrections

Rizki Bagus Prasetio, Renny Waskita, Jody Imam Rafsanjani, Zaihan Harmaen Anggayudha

In practice, inadequate allocation of funds for detainees results in overstaying. The authority of the detention center head to release detainees has diminished, leading to administrative procedures and coordination issues among law enforcers. This study addresses and analyzes the problem, exploring improvements following the enactment of Law 22 of 2022 on Corrections. Adopting a normative juridical research approach, it examines the extensive discretion granted by the Criminal Procedure Code to law enforcers, often prioritizing detention without considering alternatives. Inefficient coordination during detainee release, delays in responding to expiration notices, and non-compliant implementing regulations highlight system inefficiency. This causes hesitation in releasing detainees and discomfort with other law enforcement agencies. The Special Prison Planning Team and a stronger correctional system aim to promote collaboration and equal footing. Stricter regulations are necessary to protect detainees' rights during expulsion and provide tailored services.
Keywords: Criminal Procedure Code; Correctional Institution; Detention Center; Overstaying; Prisoner.

Economic Reintegration as a Concept of Indonesian Correctional Law Reform

Mussakir, Andi Armansyah Akbar, Sri Aero Aurora

Correctional has become an integral subsystem of the integrated criminal justice system organized by the government as part of the law enforcement process in the context of service, guidance, and guidance that will lead to social reintegration. However, there is no consensus on the most effective pattern for assisting social reintegration in reducing recidivism levels. Work and recidivist levels have a cybernetic relationship, this can be seen in some research. Therefore, it is necessary to have the concept of proper correctional law renewal in terms of concepts and goals that were previously only oriented toward social reintegration into social and economic reintegration. This economic reintegration can be realized through an economical correctional law system, namely in terms of legal substance, namely constructing correctional law provisions based on legal and economic principles, in terms of legal structure, namely adding vocational education programs and internships. In fostering independence and guiding independence, optimizing the role of cooperatives, MSMEs, and correctional care community groups.
Keywords: Economic Reintegration; Correctional.

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Legal Protection of Sanro Traditional Knowledge

Fitriani Jamaluddin, Muhammad Ashabul Kahfi, Nurul Adliyah, Wawan Haryanto

This study aims to find out about the legal protection of Traditional Knowledge of Sanro in South Sulawesi, and to analyze the concept of benefit sharing as a protection for Sanro traditional knowledge. This research is normative research, with a statue approach, while the data source used is secondary data in the form of laws and regulations related to Traditional Knowledge. The results of this study indicate that laws and regulations relating to traditional knowledge are not sufficient in providing protection. So, one of the concepts that can be applied in the protection of Traditional Knowledge, namely using the concept of benefit sharing. The concept of benefit sharing that is used does not only emphasize the economic aspect, but also the moral aspect, namely the recognition of the existence of the Traditional Knowledge.
Keywords: Traditional Knowledge; Traditional Medicine; Sanro.

Optimization of Patent Management Through Marketplaces: Formulation of Patent Arrangements in the Form of Non-Fungible Tokens in Indonesia

Zaki Priambudi, Sendy Pratama Firdaus, Natasha Intania Sabila, Nuzulia Kumala Sari

This research seeks to examine a Patent regulation in the form of a Non-Fungible Token (NFT-Patent) in Indonesia. The implementation of NFT-Patent is intended to overcome the problems of patent management in Indonesia, namely, the long and expensive patent bureaucracy, the absence of an integrated patent commercialization ecosystem, and the existence of a legal vacuum regarding the valuation mechanism of a patent. The research wants to answer a formulation of the problem, namely what is the NFT-Patent regulatory model through a marketplace in Indonesia? The analysis of the problem formulation will start by comparing Non-Fungible Token (NFT) arrangements in Indonesia with other countries, continue by conceptualizing the transfer of property rights from NFT-Patent carried out through a marketplace, then end by formulating NFT-Patent market arrangements in the laws and regulations in Indonesia. By combining doctrinal research methods and reform-oriented research, this study found that based on Indonesia's positive law, NFT is categorized as a crypto commodity which is a tax object and BKP, on the contrary, the United States sees NFT as conventional IPR in digital form for tax purposes. NFT-Patent is categorized as an intangible movable object whose transaction is considered valid as long as it meets the provisions of Article 1320 of the Civil Code and Article 46 (2) Article 46 paragraph (2) of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems. In its implementation, a transition process is carried out with several stages. The transition stages are regulated in the Regulation of the Minister of Law and Human Rights with DJKI as the manager. If most of the transition process has been running, the government needs to update the 2016 Patent Law by implementing the Separation Principle by separating the purpose of using inventions into 3, namely consumption, production, and innovation. The culmination of this research recommended the government regulate NFTs specifically, synergize with blockchain-based Patent ecosystem development companies, ad encourage college collaboration with industrial companies in Patent development.
Keywords: Non-Fungible Token; Patent; Marketplace.

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The Rule Identification Urgency Solution (Rius) Method in Preparation Of Regional Regulation Academic Manuscripts

I Nyoman Prabu Buana Rumiartha, Ni Luh Gede Astariyani, Ni Kadek Ari Sukma Wedayanti, Kadek Angelina Yasana Putri

The purpose of this research was conducted to offer a new method in the preparation of academic texts on laws and regulations. Academic Manuscripts contain the results of research regarding the contents of the content or proposals submitted to be regulated in a provision of statutory regulations and or regional regulations. Provisions related to the preparation of academic manuscripts have been regulated in laws and regulations, but a special method is needed in preparing academic manuscripts so that they are in accordance with the needs of the community. In this study using normative legal research methods. The findings in this study are that there is a novelty method that can be used in the preparation of academic manuscripts, namely the Rule Identification Urgency Solution (RIUS). With the RIUS method, an academic text can be used as a basis or basis for argumentation in the formation of laws and regulations or regional regulations. In conclusion, the RIUS method is a method that can analyze the rule of law, identify problems, the urgency of why these regulations are needed, and the solutions that can be provided. The RIUS method was first applied by researchers in preparing academic texts for regional regulations in the Badung Regency Government and Jembrana Regency Government, in this case researchers as experts in preparing academic manuscripts. Suggestions that can be given are that in the preparation of academic papers it is best to focus on analyzing what problems occur in society so that a regulation is needed

Keywords: Academic Manuscripts; Methods; Regional Regulations; Rule Identification Urgency Solution.

Prevention of Lesbian Cases in Indonesia Correctional Institutions: Sociolegal Approach

Rachmayanthy, Muhammad Ali Equatora, Cahyoko Edi Tando

The case of lesbians in Correctional Institutions is phenomenal and has already come to the attention of all groups; there are also health impacts that threaten the community's safety if Lesbians are indicated. Lesbian cases, in particular, occur not only in the community but have also penetrated Correctional Institutions (Lapas), so early prevention is needed to maintain security and order in Correctional Institutions. This study will use a Sociolegal Approach; data collection is carried out using interview techniques with prisoners. The data analysis is carried out in the form of a Sociolegal Approach with rules relevant to the topic of discussion. The result is that regulations regarding preventing Lesbians in Correctional Institutions are not found. Still, the researchers found that officers can review granting rights to each prisoner if the prisoner commits an act that disturbs conductivity in the Correctional Institutions. The imposition of a measurable sentence against the prisoner is also enforced. The vision and mission within Correctional Institutions, which focus on coaching, have also been carried out because coaching is the right of convicts. Guidance is generally not only on the religious side but also on positive activities for self-development in line with the assessment of Community Guidance.

Keywords: Correctional Institutions; Guidance; Lesbian; Prevention.

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Optimizing The Protection of Cultural Expressions of Indigenous Peoples in Indonesia

Intan Nevia Cahyana, Ahmad Sabirin

There are approximately 33 types of Indonesian culture that have been claimed as belonging to other countries. Among others, there are Reog Ponorogo and Kuda Lumping Dance; both are from East Java. This proves that the regulation of protection related to TCSe in Indonesia has not provided satisfaction to this nation. Based on this phenomenon, the authors are interested in providing solutions through this research. The type of research is juridical-normative. Furthermore, this research intends to define the TCSe protection mechanisms to assist the Indonesian economy given that legal efforts in developing the "expressions of folklore" will benefit the regional economy. After conducting the research, the authors concluded two major findings. First, so far, the protection of TCSe has not been regulated specifically. As a result, TCSe does not have a strong position concerning its legality. Therefore, it becomes vulnerable and blemishes the occurrence of recognition by other countries which results in losses to the state economy. Second, specific regulations and anti-theft task forces or advocacy groups are urgently needed to help the indigenous people protect the rights of their distinctive intellectual property. Thus, specialized institutions, which control access and benefit-sharing arrangements with foreign users, are required.

Keywords: Indigenous Peoples' Traditional Cultural Expressions; Communal Intellectual Property.

Efforts to Improve Access to Justice for Legal Aid Recipients in Indonesia Through Paralegals

Arya Made Permana, I Putu Rasmadi Arsha Putra

This article aims to examine the development of the role of paralegals in providing legal assistance in Indonesia and to explore the challenges they will face in the practice of providing legal aid in the country. The research method employed is normative legal research, utilizing legislative and conceptual approaches. The results of this study reveal that the development of the paralegal role in providing legal aid in Indonesia can be assessed through Minister of Law and Human Rights Regulation No. 1 of 2018. According to this regulation, paralegals are authorized to provide legal assistance in both litigation and non-litigation matters. However, this is considered contradictory to Law No. 18 of 2003 concerning Advocates, and as a result, the Supreme Court of the Republic of Indonesia issued Ruling No. 22/P/HUM/2018 stating that the provisions of Article 11 and 12 of Minister of Law and Human Rights Regulation No. 1 of 2018 do not apply universally. Therefore, paralegal authority is limited only to providing non-litigation legal aid. Subsequently, the role of paralegals received further clarification through Minister of Law and Human Rights Regulation No. 3 of 2021, wherein paralegals are granted authority to provide legal assistance in litigation matters but not independently. In the practice of providing legal aid by paralegals, there are several challenges that may hinder their effectiveness. One of these challenges is that paralegals are required to have a comprehensive understanding of the legal system, regulations, and legal procedures applicable in the relevant jurisdiction.

Keywords: Paralegal Role; Legal Assistance; Legal System.

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Protection Strengthening Model of Communal Intellectual Property: Transplanting the Policy Content Including Benefit-Sharing on Act-Based

Ni Ketut Supasti Dharmawan, Putu Aras Samsithawrati, Desak Putu Dewi Kasih, Putri Triari Dwijayanti, I Gede Agus Kurniawan

Regulations regarding the protection of communal intellectual property in Indonesia are currently scattered in various regulations that are not explicitly stated in the form of Acts and do not yet regulate benefit-sharing comprehensively. The purpose of this research is to elaborate on a model for strengthening the protection of Communal Intellectual Property based on the transplantation of policy content related to works of tradition, culture, custom, traditional knowledge, genetic resources and potential geographical indications from various existing legal policies and other sources both locally, nationally and internationally to an Act, as well as a benefit-sharing regulatory mechanism related to the commercial use of Communal Intellectual Property. The research method used is normative legal research, with statutory, comparative, conceptual, and analytical approaches. The results of the study show that the current policy regarding Communal Intellectual Property in Indonesia is still in the hierarchy of Minister of Law and Human Rights Regulations and Government Regulations, namely Permenkumham 13/2017 and PP 56 of 2022. Several articles in the provisions of the Intellectual Property laws and regulations have regulated Communal Intellectual Property, however, its nature is still very general. For stronger protection and legal certainty, it is very urgent to regulate the protection policy in the form of an Act through a transplantation model of the substance of existing legal products related to communal intellectual property, as well as strengthening policy materials including benefit sharing in relation to the commercial use of Communal Intellectual Property.

Keywords: Benefit-Sharing; Communal Intellectual Property; Policy Content; Protection Strengthening; Transplantation.