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Proceedings of the International Conference on Law, Economics and Health (ICLEH 2020)

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The Faculty of Law of the University of 17 August 1945 Semarang held a second International Call Paper and Seminar called International Conference Law, Economic and Health (ICLEH) 2020 with the theme “Development of Law, Economic and Health Law in Efforts to Protect Human Rights” on January 14-15, 2020 at Rama Shinta Ball Room, Semarang – Indonesia.

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Proceedings Article

Can Input Tax of That Discovered on The Audit Process Be Treated as Value Added Tax (VAT) Credit? A Legal Perspective Analysis

Abdul Basir, Adi Barata

Conceptually, Value Added Tax (VAT) Input Tax on purchase of taxable goods or services that have been paid and collected by VAT Enterpreuner is considered as VAT credit and can be credited with Output Tax in computing the VAT payable on the respective VAT Return period.It is worth noting that Article...

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Suffocation Caused by Plastic Bag Covering the Face Combined with Cotton Wool Containing Premium Gasoline: A Forensic Pathology Case Report

Abigael S. Pagatiku, Muhammad Afiful Jauhani, Ahmad Yudianto, Soekri Ervan Kusuma

Every unwitnessed death should be suspected as unnatural death, mainly if the body was found in unusual conditions. When the investigator found an unnatural death case, the investigator will ask for the help of a forensic pathologist to examine the deceased and to determine the cause of death and the...

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Criminal Law Politics in the Management of Natural Resources: Efforts to Confront the Positivistic Thinking Absolutism

M. Adystia Sunggara, Endra Wijaya

The concept of the Right to Control by the State is the core teachings of the political activities of law in designing, formulating and enacting legislation in the field of Natural Resource management, which is based on Article 33 of the 1945 Constitution of the Republic of Indonesia. This concept gives...

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Importance of Fiduciary Guarantee Registration for Parties Based on Law No. 42 of 1999 on Fiduciary Guarantee

Agnes Maria Janni Widyawati

The emergence of fiduciary guarantees as they are known so far in the form of “Fiduciare Eigendom Overdracht” (surrender of ownership rights in trust) because the provisions of the law governing pawn contain many shortcomings, do not meet the needs of the community and do not follow the development of...

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The Principle of Best Interest and Harm Principle as the Basis for Limitation of the Role of Informed Refusal by Surrogate Consent in Pediatric Patient

Agus Suprpto

This research starts from the problem of ethical dilemma that occurs due to informed refusal by parents or guardians of pediatric patients which has the potential to cause disability or death in children as an implementation of unlimited authority delegation to the family / guardian of pediatric patients...

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DNA Methylation on Bloodstain as a Forensic Age Estimation Method

Ahmad Yudianto, Masniari Novita, Muhammad Afiful Jauhani, Dekha Bagus Binarsa

Forensic identification is an effort to help law enforcement in determining a person's identity. Personal identity is often a problem in criminal cases, civil cases, death without identity, and mass disasters. Age estimation is very important in forensic identification. DNA methylation is a potential...

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Hospital Responsibilities in Blood Transfusion Services as a Patient Protection

Anggraeni Endah Kusumaningrum

The responsibility of the hospital in blood transfusion services is needed to provide protection to patients. Blood transfusion service is a series of activities that start from the planning, mobilization and preservation of blood donors, blood supply, blood distribution, as well as medical treatment...

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Pros and Cons of the Corruption Eradication Commission in the Perspective of Law Politics

Arista Candra Irawati

The Corruption Eradication Commission (KPK) as an independent Special Commission, free from the influence of any authority, was formed on the basis of a solution step over public distrust in eradicating criminal acts of corruption handled by the Police and the Prosecutors' Office previously considered...

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The Importance of Technology Transfer for Indonesia

Bakti Trisnawati

As a developing country, Indonesia is determined to increase the success of development in the industrial sector besides the agricultural sector. So that technology transfer is the most efficient

way in terms of time and cost. Indonesia’s national development was compiled with the Five-Year Development...

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Chop Wound Due to Theft with Violence: Case Report

Desy Martha Panjaitan, Ahmad Yudianto, Renny Sumino

Injury caused by the application of physical force can be divided into two main groups: blunt force and sharp force. One of the wounds caused by sharp violence is chop wounds. Crimes with sharp violence that are quite common in Indonesia are theft with violence. Thieves often injure their victims with...

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Law Protection to Nature Resources Through Indonesian Positive Laws Concerning on Dispute of Water Border

Dian Narwastuty

Through this research, author wants to examine how far the protections to nature resources especially that placed in a place that has a water border’s dispute to other country. Also, author wants to explain another possibilities for Indonesian government to prevent nature resources from negative impact...

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Legal Psychology of Judges to Determine the Defendant’s Ability to Commit a Crime

Dijan Widiowati, Rizky Purnomo Adji

In criminal proceedings, law enforcers are required to be as fair as possible. They are not allowed to discriminate, and everyone is entitled to legal protection. Likewise, the judge is required to make a profile analysis of the defendant, related to evidence and witnesses to explain this case thoroughly....

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Implementation of Bilateral Investment Treaty at Joint Enterprise Agreement

Edi Krisharyanto, Fries Melia Salviana

Bilateral Investment Treaty is an agreement made between two parties, of which both parties are countries. Bilateral Investment Treaty aims to increase support, as well as to provide legal protection to investors from regime changes or changes in political and economic policy from Host State. Joint...

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Non Government Organization and the Authority State of Forcing

Edi Pranoto

In the midst of the tide tendencies of globalization, rapidly developing the idea of civil society as a control device to state power, much done by Non GovernmentOrganisazation (NGO). This idea rests on the assumption that the state is not the sole agent in enforcing human dignity. Human dignity in its...

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The Death Penalty for Drug Offences in Indonesia

Effi M Zulkifli

The rampant drug abuse that occurs lately is not only done by Indonesian citizens (WNI), but also by foreign citizens (foreigners). Narcotics Law No. 35 of 2009 concerning narcotics regulates capital punishment sanctions resulting in a polemic that says that the death penalty is contrary to the 1945...

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Optimization of Wage Payments in PT Unitex Bogor in Efforts to Improve Workers' Welfare

Endeh Suhartini, Ani Yumarni, Eka Suprihatiningsih

Labor's salary payment in a company is important and requires further attention for company's continuous business and ability of the company to improve good Working Relationship between labor and company, entrepreneur in particular. This research has a purpose to check and to analyze the optimization...

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Disputes Settlement on the Village Head Election (A Study on Positive Law and Local Wisdom)

Erga Yuhandra, Gios Adhyaksa

This study aims to find out and analyze disputes settlement on the village head election based on the applicable positive law in Indonesia as well as disputes settlement mechanism on the village head election based on local wisdom values, especially in Kuningan District which is based on Kuningan District...

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Verdict of Military Tribunals on Soldiers Committing Crimes and Fired Disrespectfully from the Military Service

Esron Sinambela

The crucial point in the administration of military justice is the role of a commander as the superior who has the authority to punish (Ankum) and submitter case officer (Papera). Because the subject of offense in military criminal law is a person or individual of the military, or persons who are likened...

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Increasing Economic Performance Through the Rule of Law in Indonesia: Law and Economics Perspective

Fajar Sugianto, Stevinell Mildova, Felicia Christina Simeon

In the globalisation era, laws are forced and challenged to be able to adapt. Not only from economists, but lawyers also are hungry for the primacy of efficiency and start to duplicate the way most economists think, such as, in explicating efficiency and progressiveness of the rule of law. From law and...

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Legal Protection for Whistleblower in Criminal Justice System of Indonesia

Firman Wijaya

The witness’s position in the criminal justice process occupies a key position, as seen in Article 184 of the Criminal Procedure Code. As the primary evidence, of course, the impact is felt if, in a case, the witness is not obtained. The importance of the position of witnesses in the criminal justice...

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Existence of Capitalist Economic System in Indonesia

Sugeng Suprijanto

The purpose of this study was to determine and analyze the framework of the capitalist economic system and how the existence of the capitalist economic system in Indonesia. This research is a normative and empirical jurisdiction. Normative juridical approach is done by clicking examine and interpret...

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Clinical Forensics in Electric Shock Trauma: A Case Study

Galih Endradita, Ahmad Yudianto, Ria Kumala, Muhammad Afiful Jauhani

Electricity needed in all our daily activities. Ranging from household life to low scale low voltage, medium to high scale industrial activities with high voltage. Electric shock trauma is a rare case. Electric shock victims are generally caused by workplace accidents. Electric shock that causes injury...

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Factors Influencing the Implementation of Spatial Planning Policy in the Regions
(A Case Study in Region III Cirebon)

Haris Budiman, Anis Mashdurohatun, Eman Suparman

The implementation of spatial planning aims to realize a safe, comfortable, productive and sustainable space. However, its implementation in the regions still faces serious challenges as it is shown by various problems reflecting that the quality of our living space is still far from the goals of spatial...

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Molestation in a Helpless Woman: A Clinical Forensic Case Report

Hastin Novia, Ahmad Yudianto, Muhammad Afiful Jauhani, Tatit Bimo

Sexual crimes are serious crimes and evidence of violations of Human Rights (HAM). Based on data from the National Commission on Violence Against Women in 2018 in 2019 it appears that violence against women has increased by 406,178 cases, up about 14% compared to the previous year. Sexual crime is an...

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Binding of Fiduciary at Product Named Pegadaian Kredit Angsuran Fidusia at PT Pegadaian (Persero) Post-Applicability of Finance Minister Regulation Number 130/PMK.010/2012

Holilur Rohman

PT PEGADAIAN (Persero) is running its operations from one based lending fiduciary, has issued a product named Pegadaian Kredit Angsuran Fidusia (KREASI) with the mechanism set out in the Standard Operating Procedure (SOP) established by the Board of Directors. In preparing the SOP products with based...

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Efforts to Settle Land Disputes Between the People and the State (Case Study in the PTPN IX Kerjo Arum Land Area, Sambirejo District, Sragen Regency)

Hudi Karno Sabowo

This paper highlights the land disputes that often occurs in the area of PT. Perkebunan Nusantara (PTPN) IX Kerjo Arum Batujamus Afdeling Kepoh Sambirejo District Sragen Regency with local residents who are members of the Sambirejo Truth and Justice Concern Forum (Forum Peduli Kebenaran dan Keadilan...

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Giving Mandatory Wills for Adopted Children as a Legal Protection Based on Justice Value

Indira Hastuti

The position of adopted children who do not inherit in practice raises legal issues regarding the inheritance of adoptive parents. Islamic law provides a solution by giving the mandatory wills to the adopted child. Mandatory wills between adopted children and adoptive parents can prevent or avoid disputes...

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Policy of Nation’s Capital Transfer in the Perspective of Power Separation

Muhammad Junaidi, Muhammad Iqbal, Kadi Sukarna, Soegiato, Bambang Sadono, Diah Sulistyani Ratna Sediati

The government’s policy in conducting the transfer of the National Capital is considered to cause polemic in the community. Because the study of relocating the capital is based on the one-sided policy aspects delivered by the executive. This is certainly very appropriate to be reviewed in the perspective...

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Human Rights Framework on Menstrual Health and Hygiene

Khansadhia Afifah Wardana

A discussion regarding menstruation among girls from an early age still being regarded as a taboo. The stigma that surrounds it held menstruation as something unclean, shameful, and impure. But it cannot be denied that such process is a natural and inextricable part of women’s growth. Therefore, we must...

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Defense Economics Viewpoint of Intellectual Property Rights

Kuncoroadi Prasetyadji, Witri Aulia Maudy, Supandi

Intellectual property Rights (IPR) is a self-esteem appreciation of the human imagination that has produced an intellectual work. Intellectual property that is obtained is things that have more value and huge benefit in terms of economic, social, cultural, and development of a civilization. The appreciation...

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Law Protection for Post Divorced Women Through Law Enforcement with a Gender Perspective

Lelita Dewi

The woman protection has been guaranteed by the state through the principle of equality before the law without discrimination. Women’s access to religious courts has a lot to do with divorce cases that indirect contact with women’s rights after divorce in form of iddah and mut’ah. In reality, law enforcement...

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Juridical Review Appointment of Honorary Consul by the Government of Indonesia

Lynda Asiana, Supanto, Hari Purwadi

Consular relations as a form of inter-state relations are regulated in the 1963 Vienna Convention on Consular Relations and has been ratified by the Government of Indonesia with Law No. 1 of 1982. According to the 1963 Vienna Convention consular officers are divided into two categories, that is career/permanent...

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Enlargement of Penis Ala Mak Erot Between Law, Tourism and Health (Are There Negligence and Malpractice Elements?)

Murry Darmoko

Penis enlargement spreads in millennial times, even the advertisements on Facebook and Instagram are widely spread into daily reading. It has even become controversial with the planning of the Indonesian health minister over the implementation of a traditional Indonesian Health Tourism, one of which...

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Juridical Analysis of Theft in the Family (Article 367 of the Indonesian Penal Code)

Nina Yolanda

The purpose of this research is to find out how the characteristics of the complaint offense theft in the family environment according to Article 367 of The Criminal Code and how the possible consequences of investigating offense complaints of theft in the family environment. Using the normative juridical...

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Legal Protection That Justice the Filariasis Patient in Efforts to Prevent Infectious Diseases

Nurul Ummi Rofiah, Sarsintorini Putra, Anggraeni Endah Kusumaningrum

Legal protection can be interpreted as protection by law or protection by using institutions and legal means. The law in providing protection can be through certain ways, including by making regulations and enforcing. The number of patients with Filariasis in Indonesia is increasing every year due to...

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Forensic Autopsy on a Corpse with Injury Due to Sharp Trauma: a Case Report

Puji Rahayu, Ahmad Yudianto, Deka Bagus Binarsa, Muhammad Afiful Jauhani

Sharp violence is a form of violence using sharp weapons. Sharp violence often leads to death. Crimes against someone lives in Indonesia are still a thousand cases per year. One of this murder that occurred due to sharp violence. a 49-year-old man stabbed with a knife in the left waist. The body arrived...

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Clinical Forensic Aspect of Burn Injury in Domestic Violence: A Case Report

Ria Kumala, Bimo S. Thathit, Ahmad Yudianto, Sudjari Solichin

Domestic violence is one case that increases from year to year. This is universal and can occur regardless of age, profession, economic status or education. Most of the victims are women and the perpetrators are usually her husbands. Domestic violence can be physical, psychological, sexual violence and...

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Omnibus Law in Indonesia: Is That the Right Strategy?

Ricca Anggraeni, Cipta Indra Lestari Rachman

The plan to form a law with the concept of the Omnibus Law continues to roll and color the public policy that will be taken by the Government of Indonesia. The Draft Law with the concept of the Omnibus Law continues to be finalized with the pros and cons in the process of its formation. Whatever it is,...

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Simulacra Law Outside the National Legislation Program

Ricca Anggraeni, Indah Mutiara Sari

Simulacra is usually known in social theory related to consumerism, or capitalist products. But in this research applied in the formation of legislation, especially the Law produced through the formation process outside the National Legislation Program. The people in this research are considered as consumers...

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Distortion of Generic and Patent Medicine in Consumer Protection Law Aspect

Rifkiyati Bachri, Yunan Prasetyo Kurniawan

Medication consumption shall not be based upon its taste nor the needs. Consumers’ ignorance on the ingredients medication consumed (as patient), indirectly lead to a dependency upon the doctor’s suggestion on the medication, which may cause a misleading on clear and fair information. Indeed, in some...

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Initiating a Principle Free from Pressure in the Investigation Process: Tracking the Semiotics of Investigator Communication

Rocky Marbun, Muhammad Imanuddin

Indonesia, as one of the countries adopting a civil law system in its legal system, which has the characteristics of written and administrative. As a result, the overall pattern of the investigator’s oral communication is assumed to be just right. The Criminal Procedure Code, which adheres to the principle...

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Legal Protection on Share Transfer Owned by a Foundation to the Affiliated Company

Rokhmat

The foundation’s management in transferring, transferring and selling the foundation’s wealth is limited in accordance with article 5 paragraph (1) of Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. And also in article 38 paragraph (1) it is stated that foundations...

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Norm Reformulation and Reconstruction of Narcotics Abuser in Indonesia Criminal Justice System

Sahat Maruli T. Situmeang

Mistakes in understanding a legal concept will lead to errors in making an interpretation, so that it will lead to mistakes in making a decision. However, misunderstanding of the concept of law is very dependent on mistakes in understanding the nature of an object in the form of written legal norms....

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Restorative Justice Approach as an Alternative Companion of the Criminal Justice System in Indonesia

Sahuri Lasmadi, Ratna Kumala Sari, Hari Sutra Disemadi

The Criminal Justice System has played a large role in shaping thinking about the concept of crime and how to deal with it through the judiciary. The legal system approach with criminal justice to justice has important strengths. However, there are also significant limitations and fail in certain conditions....

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Evil Constitution: Study on the Interpretation of the Indonesian Constitution

Sanggup Leonard Agustian, Fabian Edbert Iryanto, Julius Fang

The constitution can be interpreted with various perspectives with each individual which is motivated by various factors. Nevertheless, in general, the constitution can be interpreted as a set of principles and rules that govern various principles, norms, and institutions which are all fundamental. A...

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Nurse's Negligance and Criminal Responsibility: Case Study of Health Worker in North Lampung Regency

Slamet Haryadi, Irhammudin

Nursing staff in North Lampung Regency are still far from enough, many have voluntary, honorary, and many do not have independent practice licenses, so access to health is vulnerable. Negligence cases that cause patients to die occur. Actions, mistakes, and accountability are discussed. With normative...

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The Marriage Age Limit According to Indonesian Law No. 16, 2019 as Effort to Child Protection

Sri Murni

In marriage, women will experience a severe psychological process, namely pregnancy and childbirth that requires sacrifice. Marriage Law Nu. 1 of 1974 established a marriage age limit of 16 years for women and 19 years for men. However, in the period of 6 years from 2011 the divorce rate of minors always...

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Reconstruction of Regulation for Government Employees with Employment Agreements on Rights and Obligations as a Value-Based State Civil Apparatus

Sugiyanto

The issue of the rights of Government Employees with Work Agreements that are not the same as the rights of Civil Servants who are both as State Civil Apparatuses who have the same rights, but their rights are different for Government Employees with Work Agreements which indicate that Legislation in...

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Criminal Sanction Policy to Stopping Investigation Suspect is Breach of Human Rights

Suharto

In the process of investigating a suspect, sometimes the treatment is deviated from the provisions of the legislation. This is not only in Indonesia but also in developed countries. If related to Law Number 2 of 2002 concerning the Indonesian National Police which contains the values contained in Pancasila,...

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The Authority of the People’s Consultative Assembly and the Discourse of the Limited Amendment of the Constitution

Sulardi, Fitria Esfandiari

Indonesia is a state of law and is based on popular sovereignty based on the 1945 Constitution, as determined in Article 1 paragraph (2) and paragraph (3). The People’s Consultative Assembly is the executor of people’s sovereignty. The shifting of the position of this institution from the highest institution...

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The Right for Victims and Sexual Offender: A Comparative Study

Sulbadana, AndiIntan Purnamasari

Article 10 of the Indonesian Criminal Code, explains the types of sanctions. However, Article 103 of the Indonesian Criminal Code provides space for regulations governing the types of sanctions outside it. One type of sanctions that is relatively new in Indonesia is the castration chemical sanctions....

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Hospital Responsibilities in Providing Health Services

Sunarto

Doctors as health care workers in hospitals are required to be professional in carrying out their duties and authority in medical services. In medical practice, doctors and patients have interrelated relationships. The object of this agreement is the health services performed by doctors and their nature...

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Regional Government Policy in Environmental-Based Waste Management

Suwari Akhmaddhian, Nulan Sunarsah, Sugiarto, Bias Lintang Dialog

This study aims to find out and analyze the regulations of waste management based on Indonesian legislations as well as the implementation of waste management policies in Kuningan District. The method used in this study was an evaluative analysis method which is a method of collecting and presenting...

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Legal Certainty of Article 1977 BurgerlijkWetboek Implementation Related to Credit Distribution Based on Mortgage Law in Pergadaian Industry

Teja Sukma Gumelar

The nature of moving objects that are easily transferred make material’s mastery difficult to ascertain whether the person who controls the object was the owner or just a holder. In response to the problematic, the legislator has established a principle of “bezitgeltalsvolcomentitel” as stipulated in...

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Juridical Review of the Refugees in Indonesia from the Human Rights Side and the Private Protection

Titi Herwati Soeryabrata

The emergence of conflicts within a country as well as conflicts between countries lead to warfare which results in the occurrence of fear because it causes many casualties and loss of property. This has triggered many people to flee to flee their countries without bringing enough supplies or documents...

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Trade Union: One Aspect of Worker Rights Protection in Company

Totok Tumangkar

The aim of this study is to describe the role of trade unions in protecting workers’ rights. The result of this study shows that Trade Unions in their duties and functions have shown optimal roles through persuasive communication, namely dialogue between workers and companies as a family. Obstacles faced...

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Optimalization for the Development of Ex-Convicts Related to Human Rights in Recidivic Prevention Measures

Umi Enggarsasi, Nur Khalimatus sa’diyah

Ex-convicts are ex-convicts who have lost independence and guidance in prison, The existence of ex-convicts in the community often causes trauma to ex-convicts because the community still has a negative view of it. This condition is one of the causes of ex-convicts to repeat criminal acts (recidivists)....

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Philosophical Criticism of the Betrayal of the Criminal Law Rechtspersoon as a Legal Subject

Wibisono Oedoyo, Rocky Marbun

In every legal case, especially a case that is special in nature, always brings up two side by side. The hegemony of one field of law over other fields of law raises losses for those who experience dominance of the Law Enforcement Officials. The emergence of differences in understanding, in the end will...

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Application of Res Ipsa Loquitur to the Medical Negligence Case in Patient Protection Perspective

Wukir Prayitno

The doctrine of res ipsa loquitur (the things speak for itself) facts that speak for themselves can be applied in cases of medical negligence in court, although this doctrine does not guarantee victory in every case for patients. The formulation of this research problem is: why is the doctrine of res...

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Conceptualizing the Regulation Based on Spiritual Values Toward the LGBT Phenomenon in Indonesia

Zaenal Arifin, Adhi Putra Satria

Lesbian, Gay, Bisexual, and Transgender (LGBT) is a phenomenon that is always interesting to discuss. LGBT actors continue to campaign to get guarantees of recognition, equality, and legal protection for their existence in Indonesia. The existence of LGBT in Indonesia has caused various reactions from...

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Stages of Objections as Irregularities Prevention of Government Goods/Services Procurement

Zaenal Arifin

In an effort to realize the ideals of the Indonesian nation is to carry out the construction of facilities and infrastructure to support and drive the country’s economy. Efforts to implement the construction of one of them carried out through tender for the government procurement of goods /services tenders....

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Legal Responsibilities of Plastic Surgery Specialists Against Patients’ Rights in Health Services

Endang Sri Sarastri

The increasing needs of the community in the field of aesthetics, makes the medical world develop and improve their knowledge and skills in medical services, especially in the aesthetic field. There are times when medical services occur errors/negligence by doctors that cause harm to patients both immaterial...

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Child Diversion Application Policy that has a Conflict with Law to Make a Restorative Justice in Indonesia

Erna Trimartini, Hartiwiningsih, Widodo Tresno Novianto

The inclusion of diversion and restorative justice in the Rules of the Juvenile Justice System in Indonesia is the development of formulation policies in providing legal protection for children in conflict with laws that pay attention to children’s rights as mandated by constitutional law which determines...

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Storage of Functions and Values from Pancasila in Law Enforcement as a Guideline of Life in Community

Ervina Dwi Indriati

Pancasila has become an agreement of the Indonesian people as the basis of the state of the Republic of Indonesia, but in its implementation efforts have experienced various obstacles both internal and external. Pancasila as the nation’s view of life needs to be implemented in real life, this has been...

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Make a Prosperous State Through National Security

Harjono Pamungkas Putro

The ideals of the Indonesian state are to realize a nation that is whole, a just, prosperous, prosperous, orderly and peaceful society. Efforts made in realizing the nation’s goals are

through the national security system, which until now has not produced new regulations that are in line with the expectations...

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The Role of the National Land Agency in the Implementation of Land Registration as an Effort to Make Administration Law Rules Land in Semarang City

Kusworini

In Law No. 5 of 1960 Concerning Agrarian Principles, several basic provisions have been outlined on how the land should be used, controlled and owned in Indonesia. Besides that, in the possession of land required legal certainty, with the legal certainty, it will further increase the use of the land....

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A Model of Authority of the Indonesian Broadcasting Commission in the Imposition of Administration Sanctions Based on Law Number 32 of 2002 Concerning Broadcasting

M. Riyanto

Broadcast media has a strong influence or penetration or is called The Powerful Effect of Media, especially television, which is the imitation process of television shows both direct and delayed effects in the form of an explosive display of images, and misleading of narratives. Therefore, broadcasting...

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Constitutional Court Authority and the Implementation of Democratic Legal Countries in Dispute Settlement General Selection Results

Purwanto

Democracy contains the sacred meaning adopted by most countries in the world. Democracy has become a universal principle that places people’s sovereignty in an honorable position on the stage of state power. The formulation of the problem in this paper is (1.) What is the authority of the Constitutional...

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The Criminal Law of the Consumer Protection on Sale Buy Online Through Mass Media

Rini Retnowinarni

The era of globalization does not rule out opportunities for change and development. By developing technology, it will directly change the pattern of life as well as the culture and

dignity of the nation. In the world of world-scale trading more and more utilizing internet facilities, one of which is...

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Attendance Challenge Peer to Peer Lending Economic Development in Indonesia

Alum Simbolon, Irene Puteri

The big challenge to be aware of the government over the presence of peer to peer lending in the economic development of Indonesia, and even pose many risks for related parties. Risks to the organizers collector (user), to the recipient (borrower) and to the lender (investor), and risk of loss to the...

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Optimization of Autopsy Functions in Evidence Criminal Act

Bintara Sura Priyambada

This paper aims to find out and analyze optimizing the function of outopsis as evidence in criminal acts. Outopsis is an internal and external examination of the body to determine the cause of death of a human being. Death will cause permanent disruption to the central nervous system, cardiovascular...

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The Implementation of the 1998 Rome Statute in Indonesia’s National Law Through Act Number 26 Year 2000 on Human Rights Courts

Eva Arief

Severe human rights violations that occurred in Indonesia such as in Aceh, Papua, Jakarta, Poso and East Timor are included in the category of crime against humanity. Indonesia adopted the principles of international law into the national law, which was adjusted to the ideological values of the Indonesian...

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Limitation of Air Conditioning That Became a Sovereignty of Indonesia’s State

Evert Maximiliaan Tentua

The country of Indonesia is an archipelago and is located at a crossroads between the continents of Asia and the continents of Australia and the Indian Ocean and the Pacific Ocean, and this situation makes the sea in Indonesia become Indonesia’s busiest sea and airspace in the world, and this makes the...

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Strengthening the Implementation of Pancasila Values in Life of Nation and State Private Living in Indonesia’s Legal System

Hadi Karyono

Pancasila as an ideology and the basis of the Unitary State of the Republic of Indonesia, is a political choice of funding fathers in the midst of the choice of a religious or secular state in general. Aside from being an ideology and the foundation of the State, Pancasila is also the source of all sources...

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Contribution of Traditional Cultural Expression on Regional Economic Assets

Chryssantus Kastowo

This paper aims to analyze and evaluate the expression of traditional culture to have real economic value in the area of managing regional economic assets. Traditional cultural expression as communal intellectual property whose existence is recognized internationally. Expectations Traditional culture...

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Prevention of Money Laundering Criminal Act in Overcoming Corruption Criminal Act

Kastubi

With so many criminal acts of corruption occurring in Indonesia today, of course, must be addressed with the aim that the state’s financial losses can be returned to the State to be used for people’s prosperity, so that the State’s finances are not lost so that juxtaposed with the enactment of the Law...

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Defamation and Insults as Criminal Acts Against Trademarks

Brandon A Malvin

The purpose of this study is to determine whether criminal acts of defamation and insults categorized as crimes against trademarks and to find out the legal protection for trademark owners from defamation and insults. This research method use normative juridical as this method examines the concepts,...

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The Reconstruction of Government Policy’s Waste Management for the Rights of Good and Healthy Living Environment

Moh. Sidik

The good and healthy environment of life is the basic right of every Indonesian citizen as mandated in Article 28H of the 1945 Constitution of the Republic of Indonesia. Therefore, the government is obliged to create a good and healthy environment for Indonesian citizens to actualize a prosperous society....

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Dialectics Method in Completion of Notary & PPAT Service Capacity Issues with Lecturers as Social Problems in the Legal Education Scope

Lina Maulidiana, Rendy Renaldy, Muhamad Rusjana

Law colleges or colleges that have law faculties, often found practitioners in the field of law, such as: Notary, PPAT, Advocates and other legal profession bearers who are deemed to be scientifically qualified and get a call in the academic field, namely becoming a lecturer or teaching staff with the...

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Advertisement and Publication Health Service

Sri Retno Widyorini

Advertisement is an effort made by a seller to offer a product. Products can be in the form of goods or service. Advertisement and publication for health service offered can use print or electronic media. Basically advertisement about health service is permitted by the applicable provision to the extent...

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Community Role in the Prevention of Narcotics Abuse Among Teenagers

Sri Wulandari, Sri Hartati

Narcotics are substances or drugs derived from plants/non-plants that can cause a decrease in consciousness to eliminate pain and if abused can cause dependence. In general, narcotics abusers are adolescents, they are those who are in the age 17-24 years are in a transition period or in a looking for...

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Reintegrative Shaming: Strengthening of Punishment in the Criminal Policy of Corruption in Indonesia

Bambang Joyo Supeno

Statute, 20 of 2001 about Amendment of Statute, 31 of 1991 about Eradication of Corruption emphasizes criminal policy in punitive model, as imprisonment, fine, penalties for repayment

of state losses and additional penalties. The punitive model cannot be used as a deterrent and shock therapy factor in...

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Legal Protection of Bank as the Recipient of Warehouse Receipt Security According to Law No. 9 of 2011 Regarding Warehouse Receipt System

Enny Patria

The banking industry has an important and strategic function in economic activity. In distributing funds or credit to borrower, a bank must first conduct a careful assessment toward the character, capacity, capital, condition of economy, and collateral of debtor. Warehouse Receipt is one of instruments...

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Ownership of Land Right for Joint Partnership in Indonesia

Catharina Mulyani Santoso

The Joint partnership (commanditaire vennootschap) or often known by the abbreviation CV is a partnership established by one or several people who entrust money or goods to one or several people who run the company and act as leaders. The limited partnership was established with a notarial deed and is...

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The Process of Granting Permits to Establish Buildings Based on Regional Regulation Number 5 of 2009 in Realizing Good Regional Government

Widayanti

The giving process of IMB (Building Construction Permit) based on Semarang Municipality Regulation No. 5 year 2009 for the good governance in Semarang municipality has done in comprehensive way of Permission Service Board (BPPT). In the regional Regulation that requires every citizen to erect and dismantle...

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Cancellation of Parents' Grants Giving to Children According to the Islamic Law Compilation and the Civil Code

Yulies Tiena Masriani

Grants are gifts given to others while they are still alive, free of charge without any conditions and irrevocable. However, giving of these grants often also causes disputes between heirs who disagree on the grant giving rise to disputes reaching the court. The causes are: 1) How to cancel the grant...

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Ownership Limitation to the Land Rights Based on the Social Justice in Accordance to the Renewal of National Agrarian Rights Act

Widyarini Indriasti Wardani

The limitation to the ownership of land rights in Indonesia is regulated by article 7 and 17 of Land Rights Act, and specifically the agriculture field is regulated by Act No. 56 of 1960 juncto Regulation of Agriculture Minister Number 18 of 2016 concerning Control of Mastery Agricultural Land and Presidential...

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Democratization and Human Rights in Indonesia in the Globalization Era (Legislation Study)

Wijaya

The study of Democratization and Human Rights has the background that democratization and Human Rights are two species that move towards each other (reciprocity), and now as part of global politics, provide the consequences of recognition and protection for countries in the world. In historical records,...

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Legal Harmonization of Red Program in the Protection of Forest Management in Indonesia

Yasminingrum

Southeast Asia is undergoing the expansion and intensification in forest conventions for oil palm plantations. The expansion of oil palm plantations is rapidly becoming a global phenomenon. The environmental impact of large oil palm plantations results in increased greenhouse gas emissions from deforestation...

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The Development of Regionally Owned Enterprises (BUMD) in Indonesia

Agus Wibowo

Regionally Owned Enterprises (BUMD) are companies established and owned by local governments. In general, BUMDs in Indonesia in carrying out their business are charged with three missions, namely as a public servant, as a source of Local Revenue (PAD), and also as an agent for driving regional economic...

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Reconstruction of the Roles of Vice Regional Heads in the Future

Benny Bambang Irawan

According to the fourth paragraph of the Preamble of Indonesian Constitution, the mandate of forming Indonesian government is to protect and to increase the society’s welfare. Normative-empirically, Indonesian government consist of central government and regional government. In many ways, the unity...

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Shariah Compliance on Laws About Alternative Disputes Resolution Institutions for Shariah Financial Institutions: Coverage and Elements

Ro’fah Setyowati, Islamiyati, Aista Wisnu Putra

Shariah compliance is a special feature of Shariah financial institutions. Therefore, the paradigm of Shariah compliance has changed into an instrument for Shariah financial institutions. This article aims to find the coverage and elements of Shariah compliance, in laws about alternative dispute resolution...

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Oral and Health Therapist Transfer of Authority: A Concept of Medical Dispute Solution Through Mediation

Sukini, Puji Lestari, Krismono Irwanto

The main purpose of writing this article is to analyze how legal problems might arise in handling patients, by dental therapists / dental nurses in carrying out abundant tasks, and analyzing about how to resolve disputes medical treatment by dental therapists through mediation channels. The writing of...

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Protection of Legal Rights of Ulayat Peoples in Sumba Timur District, Indonesia.

Sigit Irianto, Adolf Cornelis, Umbu Kundji Hawula

Customary rights are rights owned by indigenous peoples in Indonesia, such as adat land, adat customs, rituals, culture, adat order and life values to respect their environment which arises based on inner and outer relationships. Indonesian legislation has provided protection for indigenous rights and...

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Immaterial Compensation in Tort Law Acts Judge Made Law Through Rechsvinding

Markus Suryoutomo, Sri Purwaningsih

Burgelijk Wetboek (BW) contains two main sources of civilization, namely Binding (verbintennis) and Tort Law (onrechmatige daad) respectively under Article 1320 BW and Article 1365 BW. This can be found in almost all legal events (rechtsgevolg) in the practice of justice sourced from it. As such, a legal...

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Shifting Patterns in Settlement of Land Ownership Right

Sri Puspitaningrum

That the population growth rate is directly opposite so fast with the land inventory, Indonesia’s development paradigm shift that is slowly evolved from an agrarian country into the industrialized countries, as a consequence of the development of coastal development requires land as ingredients. The...

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Government’s Responsibilities in the Use of Discretion for Natural Disaster Management

Mashari

Indonesia as a state of law that aims to achieve public welfare, every activity must be oriented to the goals to be achieved as a rule of state activities, government, and society. The problems in this research are: (1) Why is there an urgency in the implementation of government accountability in the...

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Authentic Deed of Notary That Carries Criminal Charges

Liliana Tedjosaputro

Deed of Notary as evidence of the existence of a legal act. In Indonesia there are two position which is a Notary who makes Deed of Notary and a Land Deed Official who makes Land Deeds (PPAT). PPAT is the only positions that exist in the world, namely in Indonesia. The writing method used is normative...

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Vague Norm on Conditions: Article 60 of Law Number 13 Year 2016 Concerning Patents

Anak Agung Sagung Ngurah Indradewi, I Made Wahyu Chandra Satriana

Revocation of Law Number 14 Year 2001 concerning Patents for the inception of a new patent law namely Law Number 13 Year 2016 concerning Patents automatically brings fundamental

changes to the regulation of patent rights in Indonesia. One of them is the stipulation in Article 60 of Law Number 13 Year...

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Arrangement of Foreign Capital Investment in Industrial Development Based on Social Capital

Budi Purnomo

Indonesia is a developing country that strives to realize social welfare with justice. Investment is a means used in realizing social welfare with justice. This study aims to determine foreign capital investment arrangements in Indonesia. The problems in this study are (1) Why does foreign capital investment...

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Strategies for the Development of Ecotourism Based on the Local Wisdom Intangible Heritage

I Gusti Agung Ayu Gita, Pritayanti Dinar, I Nyoman Putu Budiarta

Ecotourism has positive implications for the improvement of the economy of the local people, a better understanding of natural and cultural phenomena, and the preservation of both the nature and culture themselves, so that Bali tourism which is heavily reliant on culture will not die out. Balinese cultural...

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Preimplantation Genetics Diagnosis: Ethical and Legal Aspects

Novitrian Eka Putra

Preimplantation genetic diagnosis (PGD) is an important method for the identification chromosomal abnormalities and genes responsible for genetic defects in embryos that are created through in vitro fertilization before pregnancy. This technique can screen sex and genetic abnormalities to avoid the implantation...

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AHU-Online as a Means of Notary Performance Assistance and Responsibility of Documents Produced

Vincentius Simon Suyanto

Notaries as public officials who carry out part of the State’s duties in the civil sector have benefited greatly from the development of information technology. The implementation of the use of information technology by notaries includes the registration of companies (legal entities) online through AHU-ONLINE...

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Reformulation of Criminal Law Policies Against Narcotics Abusers Through Medical and Social Rehabilitation

Wachyono

The goal wants to be achieved in criminal law policy through the Law of Indonesian Republic number 35 year 2009 about narcotics is to place the narcotic users as the victims who must be rehabilitated both medical and social, not placed as the criminal and give the punishment and entered in jail or prison,...

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Recruitment and Regeneration Political Party: The Influence on Election of Regional Heads

Ridho Pakina

As a country that upholds democratic values, the Indonesian people periodically, every five years, elect leaders at the central, provincial and district / city levels. The crucial stage in the regional head election is the nomination. Candidate pairs of candidates must vote, through political parties...

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Corruption Eradication Policy Judging from the Politics of Criminal Law (Law Number 19 of 2019 Concerning the Second Amendment to Law Number 30 of 2002 Concerning the Corruption Eradication Commission)

Bambang Hartono

Corruption is not an ordinary crime, but an extraordinary crime, therefore the handling must also be done in extraordinary ways. The public reaction turned out to be the pros and cons of the issuance of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption...

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Registration of Brands in the Directorate General of Intellectual Property as an Effort to Protect the Brand as Assets of the Company

Sentosa Sembiring

Brands as intellectual property rights have very important values for the company. So called, because from a legal perspective, a brand is qualified as a company asset as an intangible object. Therefore, for established companies, pay close attention to how to protect the trademarks used by these companies...

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Construction of Economic Law Development in the Concept of Article 33 of the 1945 Constitution to a Prosperous State

Suroto

The state as an organization of power that has been given the authority to regulate natural resources, must use its authority as well as possible. The 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3) states “The Earth, Space and Natural Resources contained therein are controlled...

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Harmonization of Regulations Related to the Medical Record Retention Period (Paper-Based & Electronic-Based)

Rano Indradi Sudra

Medical record is a file that contains records and documents about patient identity, examination, treatment, actions, other services that have been provided to patients. Health service facilities are required to provide the necessary facilities in the context of organizing medical records, from patients...

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Literature Review: Legal Aspect of Consumer Protection for Cosmetic Users

Anastasia Tri Yuli Susanti

Rapid economic development and technological advancements have led to rapid change in cosmetic products, so that many cosmetic industries establishes. Cosmetic is daily necessities and regularly used for care and beauty purposes. Large city communities who are mostly residents from among the upper classes...

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The Impact of Business Activities on the Fulfillment of Community Rights to a Good and Healthy Environment

Edy Lisdiyono

Fulfillment of the community rights to a good environment has been regulated in the basic constitution of the 1945 Constitution Article 28 letter h and Article 65 of Law No. 32 of 2009, from the provisions of the basic rights of the community cannot be negotiated by anyone. This study will analyze the...

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Legal Protection Model for Forest Preservation of Processed Timber Businesses

Sri Mulyani, Edy Lisdiyono

The purpose of this study is to find a model of legal protection for forest conservation of the processed wood business. The development of the business in the processed wood industry makes the forest a natural wealth that has high economic value. Forest products which have high economic value must be...

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Application of Good Intention on Partnership Agreement of Special Rental Transportation

Siti Mariyam, Zabidin

Globalization era, the use of communication technology, media and information technology has entered into all human activities including business activities, one of which is the utilization in the field of transportation. Special rental transportation services/online taxis are one of the transportation...

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Formulation Policy About Diversion in the System of Juvenile Criminal Justice as an Effort for Criminal Prevention

Krismiarsi

The juvenile justice system law regulates diversion, namely the transfer of settlement of cases of children in conflict with the law from criminal justice processes to processes outside of criminal justice. Diversion is carried out in the case of a crime committed: threatened with imprisonment under...

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Legal Aspects of Environmental Pollution in Space and Land Use Procedures in Bandar Lampung City

A.R Rj.Agung Kusuma, Caropeboka, Ino Susanti, P.K. Restiana Sari

Environmental preservation and management are assets of natural resources, must provide maximum benefits for the welfare of the people and the survival of other living creatures, therefore management must be done wisely, which means that the preservation and management of the surrounding natural environment...

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Bad Faith’s Criteria in the Famous Trademark Dispute Settlement That has an Element of Equality in Principle in the Court

Ismail Rumadan

Cheat or unfair business competition often arises when there is a trademark, either in the form of certain goods or services, which is well known and sold in the market, so it tends to make other producers or entrepreneurs encourage their products to compete with these trademarks. Unfortunately, business...

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Application of Deliminatie Contradictuire Principles in Sporadic Land Registration Based on PP No. 24 of 1997 in Demak District

Untung Leksono

Land registration is a series of activities carried out by the government continuously, continuously and regularly, including measurement, processing, bookkeeping and presentation and maintenance of physical and juridical data, which is set forth in the form of maps and lists of land parcels and apartment...

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Model of Legal Protection of Creative Economics in Obtaining Intellectual Property

Tyaswati W. L. Aniek

In line with existing laws in the field of Intellectual Property and Creative Economy and in order to guarantee and respect the right to enjoy economically the results of an intellectual creativity not only in the form of economic rewards (incentives) but also the need for rewards that are moral and...

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Organ Transplant Agreement Between Donor and Recipient by Notary

Sri Nurdiana Purwaningsih

Transplantation of human organs is one of the rapidly developing alternative treatments. The imbalance in demand with the availability of organs results in the commercialization of human organs. The use of donors from non-related family is one of the considerations in implementing therapy. It is necessary...

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Dispute Resolution of the Consequences of or Errors Done by Health Care Through Penal Mediation

Juhari

Dispute resolution which is considered ideal for the parties is a settlement that involves the parties directly so as to allow open dialogue, thus a joint decision is most likely to be reached. One of the efforts that can be done in solving malpractice in the field of health services is through mediation,...

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Implementation of Income Tax Imposition for Equitable Grant Recipients

Rusdiyono

Tax is a mandatory contribution to the state owed by individuals or entities that are coercive based on the law, with no direct compensation and used for the country's needs for the greatest prosperity of the people. Tax arrangements must be based on Law in accordance with Article 23 of the 1945 Constitution...

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Legal Protection and Control for Child Workers

Mahmuda Pancawisma Febriharini

his study aims to determine the legal protection and control of child labor. Children are the generation who will become the nation’s successors, so they must be prepared and directed early to grow and develop into children who are physically and physically healthy, advanced, independent and prosperous...

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Developing Regional Head Control Models Under Good Governance

Endang Srikartati Handayani

This study aims to find a model of regional head supervision in realizing good governance. The problem in this study is why there is a problem in the implementation of regional head supervision is not effective in realizing good governance in Indonesia. The research method used in this study is empirical...

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The Issues and Tasks of the Guarantee of the Property Rights in the Korean Constitution - Especially, Centered on the Land Property Right-

Kuk Won JEONG

Regard to the guarantee of the property rights, in relation to the land property right, this writing intends to deal with them by being centered on the Constitutional, controversial issues and tasks. There are two problems in this research first, how is the Normative Details Related To The Land Property...

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Economic Development and Freedom of Occupation in Korean Constitution

Hae Cheol Byun

The freedom of occupation, as a part of market economy order, has always faced changes in the political, economic and social environment. There have been also many changes in the traditionally accepted occupations with high economic development and social structure reform. There are two problems in this...

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National Legal Development Regarding Illegal Business Impact Toward Society

Eman Suparman

Illegal business is essentially a legal business that does not have a license. Illegal business is part of the reality of the community so that the existence of illegal business has a direct impact toward society. The existence of illegal business activity needs to be anticipated by using legal mechanisms...

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Why Corporate Social Responsibility Matters & How It Impacts Business

Hasani Mohd Ali

There is a convergence to the meaning of CSR to fall within the corporate governance framework. CSR is where business values society. Since 1997, corporate governance (CG) started to incorporate sustainable development goals (SDGs) along with its traditional role as a monitoring mechanism against corruption...

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Cooperative Law Agency in Development of Tourism Based on Rural Communities

Nur Sulistyo Budi Ambarini, Edra Satmaidi, Rahma Fitri

This study aims to examine and describe conceptually about cooperatives as legal entities in the development of the tourism sector in Indonesia. Cooperative as a legal entity can play a role in the development of tourism, especially in rural areas. Tourism is one of the leading (leading sectors) of national...

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Evolution of Indian Healthcare and Rights

Gautam Kumar Jha

India has been blessed with its medical heritage and knowledge tradition since 5000 BCE from the Vedic times and this was possible because Indian scientists pioneered the nomenclature of the plants (Vanaspati) and the (dhatu; matter and chemicals or rasayana). There are two problems in this research...

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State Sovereignty Versus Non-Refoulement Principle in Providing Refugees with Protection (Case Study: The Australian Government's Policy Over Refugees)

Heribertus Untung Setyardi, I Gusti Ayu Ketut Rachmi Handayani, Emmy Latifah

This paper attempts to re-examine the meaning of state sovereignty in connection with non-refoulement principle. The article is focused on case study related to Australia's Policy over refugee. The writer's argument is based on the concept of jus cogens recognised in internasional law. In addition, the...

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Local Wisdom to International on Aviation Information in Javanese as an Effort of Law Enforcement to Achieve Aviation Safety and Aviation Security According to ICAO Standard (International Civil Aviation Organization) (Study in Adi Sucipto International Airport-Yogyakarta)

Yudi Pratikno, Hartiwiningsih, Emmy Latifah

Information is an important matter of every activity, especially aviation information at the airport. Aviation information at the airport is very important for airport services users. The available aviation information will enable the passengers to get information about aircraft schedule such us the...

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Implementation of Verdict Based on Pancasila Values in Indonesia

Indriati Amarini

The judge’s task is to administer justice in order to uphold law and justice based on Pancasila. The purpose of this paper is to analyze how the judge implements Pancasila in its decisions. Based on research, Pancasila as the legal ideal of the Republic of Indonesia is the source of law for the formation...

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Legal Entities for Baitul Maal Wat Tamwil Based on Sharia Principles in Indonesia

Solikhah, Jamal Wiwoho, Pujiyono, Yudho Taruno Muryanto

The existence of BMT microfinance institutions is legally recognized by Regulation No. 1 of 2013 concerning microfinance institutions, as middle to lower financial institutions that can alleviate poverty. The problem arises when Article 5 paragraph [1] of Regulation number 1 of 2013 stipulates that microfinance...

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Legal Protection of Children’s Rights That Have Sexual Harvest Reviewed from Victimology in Indonesia

Rahmawati, Hartiwiningsih, Muhammad Rustamaji, Sulistiyanta

Under the law, “child sexual abuse” is a general term that describes criminal and civil acts in which adults engage in sexual activity with minors or exploitation of minors for the purpose of sexual satisfaction. The American Psychiatric Association states that “children cannot approve sexual activity...

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Restorative Justice (Diversi): A Harmonization Effort of Legal Protection Against Child Criminal as Offender and Victim

State recognition of human resources is started from the recognition of children as one of the nation’s valuable assets, in perspective of child is entrusted by God Almighty which is inherent in the recognition of dignity recognized in social life. To maintain their dignity as a child, it is necessary...

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Legal Protection “Substantive Rights for Environmental Quality” on Environmental Law Against Human Rights in the Constitution in Indonesia

Fatma Ulfatun Najicha, I Gusti Ayu Ketut Rachmi Handayani, Hartiwiningsih

Environmental law is a field of law called functional law, which is a field of law that contains the provisions of state administrative law. Because if we look at the third, both UULH 1982, UULH 1997 and UUPPLH 2009, contain norms of laws that fall into the field of state administrative law. Therefore,...

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Noken System in Indonesian General Elections

Budi Setyanto, Jamal Wiwoho, Mohammad Jamin, Isharyanto

Local wisdom values prevailing in a customary community have been included in the general election system in Indonesia, in the highland areas of Papua, in which a “noken system” is implemented in the democratic fiesta of the election of leaders of the central government and regional governments, to be...

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Accusing the Existence of Sharia Supervisory Board

HR Muhammad Adam, Jamal Wiwoho, Burhanudin Harahap

The optimalization of the sharia principles application to Islamic Financial Institutions (IFI) is largely determined by the role of the Sharia Supervisory Board (SSB). The Independence, concurrent positions and qualifications of SSB members can affect the optimal performance of its members. In fact,...

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Ius Constituendum of Regulating Institutional Village-Government System

Sri Wahyu Kridasakti

Indonesia ordinary government-village was not born from ‘decentralization-womb’, as that of government-village is State-Corporatism. The legal position of that of ordinary government-village is a ‘Quasy-Government’. The problem is, How is the future regulating of government-village institutions in Indonesia...

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Space Planning Oriented Toward the Realization of Sustainable Food Agriculture Land in Banyumas Regency

Soediro, I Gusti Ayu Ketut Rachmi Handayani, Lego Karjoko

Indonesia is one of the countries that opposes agriculture. This is characterized by agriculture as one of the sectors that form the economic base of a nation. One problem that also arises due to the weak umbrella act of agrarian reform is the rampant conversion of agricultural land to housing. It is...

Advisory Board

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Norm Reformulation and Reconstruction of Narcotics Abuser in Indonesia Criminal Justice System

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ABSTRACT--Mistakes in understanding a legal concept will lead to errors in making an interpretation, so that it will lead to mistakes in making a decision. However, misunderstanding of the concept of law is very dependent on mistakes in understanding the nature of an object in the form of written legal norms. As is the case in Law Number 35 Year 2009 concerning Narcotics, relating to the concept of narcotics abusers and the concept of narcotics victims with the obligation to implement rehabilitation in Article 127 paragraph (3) of Law no. 35/2009. This study aims to show the location of the errors in the formulation of these two concepts and to reconstruct norms that are aligned with the philosophical foundation of Law No. 35/2009. This study uses a normative juridical method by using secondary data consisting of three legal materials, namely primary, secondary and tertiary. This study also uses the method of philosophical approaches, conceptual approaches, and case approaches.

Keywords: narcotics, abuse, victim, antinomy norma, reconstruction

I. INTRODUCTION

Legal studies contributes to the discovery of law, and thus also to the formation of law. One discovers, determines, what in a concrete situation to be elaborated further must be seen as an applicable law that can be applied, and so people also carry out activities in a further determination and formulation, of the law.[1] In an attempt of making a legal discovery, one cannot distinguish between application and interpretation.

An activity in applying the law means establishing what is the legal norm for concrete events. Where basically is formulating a hypothesis about the meaning of a text.

To this, Aulis Aarnio explained that the science of law is the science of meanings/interpretation.[2] Therefore, the application of law in the judicial process is related to the problem of the legal paradigm, and a legal decision itself is a set of processes of interpretation and application based on authoritative / juridical texts,[3] or positive law. Whereas Meuwissen uses another term to describe "legal discovery" which is "rechtsbeoefening" or legal development, which explains that legal discovery or rechtsbeoefening is human activity regarding the existence and the entrance of force of law into society, which includes activities forming, implementing, finding, interpreting systematically, study and to teach the law. Whereas legal development itself is further divided into

practical legal performance and theoretical legal performance.

Practical legal performance includes activities relating to realizing the law in daily life, while the theoretical legal performance includes the activities of legal formation, legal discovery, and legal aid.[4]

In general, people can define legal discovery as a reaction to problematic situations (problematical) that are described by people in the terminology of law. Legal discoveries, in this case, relate to legal questions (rechtsvragen), legal conflicts or juridical disputes. The discovery of the law is directed at providing answers to questions about the law brought about by concrete events. Related to it, questions are asked about explanations (interpretation) and the application of legal rules, and questions about the meaning of the facts to which the law must be applied. Legal discovery, with regard to finding solutions and answers based on legal norms, which are more or less precise (carefully detailed), suggest how certain types of problematic situations should be sanctioned.[5]

Why the positive law requires this further determination, why does it in the application birth questions in it? This question looks simple; but the fact is very complex and involves (bringing in) many philosophical analysis to it. That precisely expressed by Satjipto Rahardjo, that the sophistication of a legal development as a complicated institution (sophisticated). This sophistication must be paid by the community, namely the presence of one system isolated from the community. To create and bring justice in society, the law is more often more a problem of completion instead of a problem of justice.[6]

The science of law is not automatic like casualistic-deterministic law, it waits to be found by the juris and other subjects in interpretation. According to F. Budi Hardiman that the truth inter-subjective, it is not a total objectivism that is excluded from the subject relation or even total subjectivism that is excluded from the object relation, yet it is built between subjects and subjects.[7] The knowledge of truth is intersubjective, is the result of consensus with other subjects. This means that one realizes his limitation when it comes to his knowledge so that the truth can not be achieved solely by a single subject, but is a communicative-intersubjective reciprocity of the recipes with other subjects. In the process of judiciary, the justice as a legal goal, can be

obtained through rational arguments with other subjects.[8]

As a result of the existence of the legal activities, then according to Padmo Wahyono, the revocation / replacement of the old regulations to accelerate the development should be implemented when it comes to existing regulations of the pre-independence that come with the foreign fundamental philosophies that are essentially different, although technically they're adequate. The use of more modern and democratic theory is so we can be able to carry out the principles of countries based on law is one of the things to be really pay attention for, lest it won't cause the impression that the old is still better technically and juridically.[9] Although the context he explains in relation to the transition of colonial law to national law, but, the revocation / replacement of the old regulation, not only transformed into the spirit of decolonialization alone. Because of the treatment and election of the theoretical study based on the level of the theoretical study of the level of relevance of the regulation is vis a vis visa reality.

Thus, according to Paul Scholten, the discovery of law is not a simple job, he demands, the relations that are already slightly compounded, the work of the mind and education (educated expertise), the matter of knowing the contents and abilities merge with the legal structure, which can only be achieved by an expert.[10] Thus, the activities of legal science require academic is not limited to understand the abstraction of a value, but also has a coherent understanding with the understanding of its distillation into the realm of praxis.

The amendment, revocation and replacement of the laws and regulations, of course, get input from the results of the study of Legal Studies regarding anomalous and antinomic conditions, both in the form of values and norms. The emergence of anomalies and antinomies is not a necessity due to the realm of law application. Therefore, every legal norm can be traced to truth through the activities of the minds of every jurist. That is, it is not obligatory to obtain empirical facts. That is, it is not obligatory to obtain empirical facts. Why is that? Because, according to Jimly Asshiddiqie, norms or rules (method) are the institutionalization of good and bad values in the form of rules that contain permissions, suggestions, or orders. Both the advice and the command can contain rules that are positive or negative so that it includes norms of recommendations for doing or recommendations for not doing something, and norms of orders to do or orders not to do something.[11] He further explained, that the rule of law can also be distinguished between general and abstract (general and abstract norms) and those that are concrete and individual (concrete and individual norms). The general rule is always abstract because it is addressed to all related subjects without appointing or linking them to specific concrete subjects, parties or individuals. These general and abstract legal norms are usually the subject of legal regulations that apply to everyone or anyone who is subjected to the formulation of the legal rules contained in the relevant laws and regulations.[12]

However, it has become a legal habitus that the study of the *das sollen* should give rise to a discrepancy with the *das sein*. Therefore, this study tries to raise one side in the context of antinomies and anomalous values in legal norms, especially in Law Number 35 Year 2009 regarding Narcotics (Law No. 35/2009) relating to the chaos in the application of the concept of Abusers and its obligation to rehabilitate them. As a normative study, this research found a legal norm in Law Number 35 Year 2009 concerning Narcotics (Law No. 35/2009) which gave rise to an improper interpretation model as a result of the uncertainty of the formulation of values in legal norms, which is related to the concept of 'abuser'. Where in Article 1 number 15 of Law No. 35/2009 emphasizes "Abusers are those who use narcotics without rights or against the law." However, in Article 54 of Law no. 35/2009 there is the concept of "Narcotics Addicts" and the concept of "Victims of Abuse".

The application of the law to these concepts becomes important for the study material when linked to Article 127 paragraph (3) jo Article 54 of Law No. 35/2009. Therefore, in the deduction step, the law approach is different from the precedent approach in the civil law system. With an authoritative text approach in dealing with legal facts, relevant legal provisions are traced to legal provisions that are in the articles that contain norms. Norms in logic are propositions (normative). Explaining the norm must begin with a conceptual approach, because the norm as a form of proposition is composed of a series of concepts. Thus, misconceptions result in misguided reasoning and misleading conclusions. [13].

Based on the description above, the problem statement that should be raised is "How does the reformulation and reconstruction of legal norms work as a result of the occurrence of antinomies and value anomalies in the concept of abusers and victims of narcotics?"

II. RESEARCH METHOD

This study uses normative juridical research methods (normative law research) that uses normative case studies in the form of legal behavior products, such as reviewing the law. The subject of the study is the law which is conceptualized as a norm or rule that applies in society and serves as a reference for everyone's behavior. So that normative legal research focuses on an inventory of positive law, principles and doctrines of law, legal discovery in concreto cases, systematic law, synchronization levels, comparative law and legal history.[14].

The logical consequence of this type of research is normative legal research or dogmatic law research or doctrinal research. Then as a normative legal research the approach method applied to discuss research problems is through statutory approach, conceptual approach, analytical and conceptual approach, case approach, and philosophical approach using the intersubjective reasoning model.

Legal materials are collected through an inventory procedure and identification of laws and regulations, as well as classification and systematization of legal materials in accordance with the research problem. In legal research, especially normative juridical sources, legal research is obtained from literature rather than from the field, for that the term known is legal material,[15]. namely primary legal material, secondary legal material, and tertiary legal material.

III. FINDINGS AND DISCUSSION

The understanding of Law No. 35/2009 should be constructed from a philosophical foundation and the purpose of the law maker (*der wessenchau*) which is the legitimacy of the legal politics to be applied in the legal system in Indonesia. Strictly considering the letter a of Law No. 35/2009 confirms the following:

"That in order to bring people of Indonesia prosperous, fair and wealthy, and evenly materially and spiritually based on Pancasila and the Constitution of the Republic of Indonesia year 1945, the quality of Indonesian human resources as one of the national development capital, need to be maintained and improved continuously, including the health status;"

The philosophy explained that the preservation of the quality of Indonesian people is a constituent of Indonesian people guaranteed in the context of state life. This is as stated by Jean Jacques Rousseau, where each individual surrenders himself and all his power for the common good, under the highest interest of the public will (*volante generale*) and they accept each of its members as an inseparable part of the whole. That means there has been a change from the natural state to the state.[16]. Then, if so in a country there is no recognition of the will of the individual. Individual inequalities towards the community are not eliminated but are accommodated in the country with a limitation through laws and regulations.

However, the general will (*volante generale*) cannot be equated with 'mass deliberation' or the will of the masses.[17]. Therefore, the public will (*volante generale*) refers to the public interest. Based on this understanding, the state is tasked with organizing the welfare of the people, including creating conditions, facilities and infrastructure that are conducive so that people can live in peace, and prosperity. Therefore, the state must, as far as possible and consistently try to ensure that the rights of its citizens are guaranteed and protected against various violations.[18].

Based on this philosophical basis, self-awareness arises in the minds of legislators who view that the security of Indonesian human health is guarantees the continuity of life as a nation and the state of the availability of human resources as the basic capital of the

existence of the state and nation. Self-awareness is manifested in the legal political foundation contained in the Considering Considering letter b of Law No. 35/2009 which confirms "that in order to improve the health status of Indonesian human resources in order to realize the welfare of the people it is necessary to improve efforts in the field of medicine and health services, among others by seeking the availability of certain types of Narcotics that are urgently needed as medicines and to prevent and eradicate the dangers of abuse and illicit trafficking of Narcotics and Narcotics Precursors.

The philosophical and political basis of the law is still in a form of abstraction, so that the legislators make a distillation as a manifestation of efforts to guarantee the health of Indonesian people by shifting the concept of punishment which is dominated by criminal threats into rehabilitation measures for every drug addict and abuser, as contained in Article 54 UU no. 35/2009 which confirms "Narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation.

The problem of the meaning of the concept becomes an antinomy with the legal concept normalized in Article 1 number 15 of Law No. 35/2009 which confirms "Abusers are people who use Narcotics without rights or against the law." While the concept of 'Narcotics addicts' is regulated in Article 1 number 13 of Law no. 35/2009 which states "Narcotics addicts are people who use or abuse Narcotics and in a state of dependency on Narcotics, both physically and psychologically." So, conceptually, Law No. 35/2009 has a legal concept only on subjects classified as "Abusers" and "Narcotics Addicts", but in reality, Law No. 35/2009 also gave rise to the concept of "Victims of Narcotics Abuse".

Although the concept of "victims of narcotics abuse" is not stated in the General Provisions, it can be found in the Elucidation of Article 54 of Law No. 35/2009 explains that "What is meant by" victims of Narcotics abuse "is someone who unintentionally uses Narcotics because he was persuaded, tricked, deceived, forced, and / or threatened to use Narcotics." That is, Article 54 of Law No. 35/2009 has no explanation of how to interpret the concept of "Narcotics addicts". Of course, the author can construct an argument in interpreting the set of concepts by establishing a presupposition that the "Narcotics addict" comes from someone who has been a victim in an act of narcotics abuse.

As a result of the authoritative text in Article 54 of Law No. 35/2009 becomes an antinomy of the norm when it is associated with Article 127 of Law No. 35/2009, which confirms the following:

- (1). Every abusers:
 - a. Narcotics Category I for themselves shall be punished with imprisonment of 4 (four) years;

- b. Narcotics Category II for themselves shall be punished with imprisonment of 2 (two) years, and
 - c. Narcotics of category III for themselves shall be punished with imprisonment of 1 (one) year.
- (2). In deciding the case referred to in paragraph (1), the judge shall also consider the provisions of Article 54, Article 55, and Article 103.
 - (3). In the case of abusers referred to in paragraph (1) may be proven or proved to be a victim of abuse narcotics, the abusers shall undergo medical rehabilitation and social rehabilitation.

When examined, it can be concluded that the legislators distill the concept of the Abuser as a victim of narcotics abuse (vide Article 127 paragraph (3) of Law No. 35/2009), and not as a 'Narcotics Addict'. That is, the legal subject who becomes the norm addresat (norm address) is someone who is categorized as a 'victim of narcotics abuse', and not for a 'Narcotics addict'.

However, pay attention to Article 103 of Law No. 35/2009 which confirms the following:

- (1). The judge who examined the case of Narcotics Addicts, may:
 - a. decided to ordered the concerned to undergo treatment and/or treatment through rehabilitation, if the Narcotics Addict are proven guilty of a crime of Narcotics, or
 - b. sets out to order the concerned to undergo treatment and/or treatment through rehabilitation, if the Narcotics Addict is not found guilty of a crime of Narcotics.
- (2). The period of treatment and/or care for Narcotics addicts as described in paragraph (1) letter a is calculated as the time serving his sentence.

In the explanation of Article 103 of Law No. 35/2009 explains Article 103 paragraph (1) letter a of Law no. 35/2009 uses the word "decide" which means that the use of the word decides for "Narcotics addicts" who are proven guilty of Narcotics crime means that the judge's decision is a sentence (sentence) for the Narcotics addict concerned. While in Article 127 paragraph (1) jo paragraph (3) of Law no. 35/2009 only has norm addresat only "victims of narcotics abuse" and does not refer to "Narcotics addicts". Therefore, the question of the Judge in implementing Article 103 paragraph (1) letter a of Law no. 35/2009 which secondary legal norms (sanctions) will be used?

Thus, the authoritative text series actually invalidates the Researcher's own assumption that Narcotics Addicts are an extension of a person's process of becoming a 'victim of narcotics abuse' in their use, which in turn becomes routine. Therefore, Article 103 paragraph (1) letter a of Law No. 35/2009 firmly states the existence of

punishment through a judge's ruling on the proof of 'Narcotics addicts' as a narcotics crime.

The word 'addict' itself refers to subjects who use or abuse for themselves. Therefore, the word 'addict' is subject to a state of addiction. That is, someone seen as an addict is someone who has a state of addiction or has an excessive desire for something that only he himself feels the condition of addiction. So, in essence, the phrase "... for oneself ..." in Article 127 paragraph (1) of Law no. 35/2009 is right to become legitimacy for 'Narcotics addicts'.

However, Article 127 paragraph (3) of Law No. 35/2009 raises the norm antinomy which implies that if a person who uses narcotics 'for himself' can prove himself to be a 'victim of narcotics abuse', then he must be rehabilitated. However, if a person charged under Article 127 paragraph (1) is unable to prove himself as a 'victim of narcotics abuse', then starting from the word 'addict' which implies 'for himself' will still be found guilty first, before carrying out the Article 103 paragraph (1) letter a of Law No. 35/2009.

Another anomaly and antinomy of norms is when the Public Prosecutor is unable to prove the arguments of his claim - if he uses Article 127 paragraph (1) of Law No. 35/2009, then Article 127 paragraph (3) of Law No. 35/2009 cannot be applied by Judges. Therefore, the judge will automatically continue to adhere to Article 127 paragraph (1) of Law no. 35/2009. This means, automatically, the meaning is that the 'Abuser' is a 'Narcotics addict', so it must be rehabilitated based on Article 103 paragraph (1) letter a of Law No. 35/2009. If when the Public Prosecutor is also unable to prove Article 127 paragraph (1) of Law No. 35/2009, then referring to Article 191 paragraph (1) of the Criminal Procedure Code, the verdict must be acquitted. However, referring to Article 103 paragraph (1) letter b of Law No. 35/2009, the inability of the Public Prosecutor to prove and the judge's conviction of the innocence, precisely directed to the obligation for the judge to issue his legal product is the determination that orders the addict to carry out rehabilitation.

Another anomaly is how it is possible for a process of hearing against a criminal case that is 'contentiosa' (then there is a dispute), which then ends up - when the Defendant's actions are declared not legally proven and convincingly guilty, to a decision which is of a determination - as in a case of a nature 'voluntair'. In fact, if the whole process of proof is understood by presenting all of the evidence and evidence by the Public Defender to justify his argument, then when the judge gains the conviction that the Defendant has not been legally and convincingly proven, the binding force of the entire evidence and evidence is also nullified.

The foregoing is the result of a cognitive process based on the interpretation of concepts through philosophical and conceptual approaches. Meanwhile, when using the case approach, it will increasingly appear discrepancy between der Wessanchau with praxis. For example in Bangkalan District Court Decision Number 14 / Pid.B / 2014 / PN.Bkl, where the Defendant was charged

under Article 112 paragraph (1) of Law No. 35/2009 in the Primair Indictment and Article 127 paragraph (1) of Law no. 35/2009 in the Subsidair Indictment.

After going through the evidentiary process, the Judge gained the conviction that the Defendant was proven to be legitimate and convincingly guilty based on Article 127 paragraph (1) of Law No. 35/2009 by imprisonment for 6 (six) months. While in the facts of the trial it was revealed that the recommendations from the Surabaya Menur Mental Hospital No. 05 / KM / I / 2014 dated January 16, 2014.

The verdict of Bangkalan District Court Number 14 / Pid.B / 2014 / PN.Bkl is a fallacy phenomenon from the Panel of Judges, due to the inability to understand the values, principles, and norms in Law No. 35/2009. However, the fallacy must also be understood, because the legislators formulated Article 127 of Law No. 35/2009 with unclear concept of Narcotics addicts with the concept of Narcotics Abuse Victims, which imperatively should prioritize rehabilitation (vide Article 127 paragraph (2) of Law No. 35/2009). The anomaly was precisely due to the existence of legal norms that obliged Judges to impose convictions based on Article 127 paragraph (1) of Law No. 35/2009. Meanwhile, the interpretation of a criminal act based on Article 127 paragraph (1) must be interpreted simultaneously with Article 127 paragraph (2) jo paragraph (3) of Law no. 35/2009.

In this case, the obligation to use Article 127 paragraph (2) jo paragraph (3) of Law no. 35/2009 is in conflict with Article 182 paragraph (4) of the Criminal Procedure Code. So, normatively, the judge's decision cannot be blamed absolutely. Although, in the end, it can be classified as an inability to fusion of horizons from various authoritative texts with a systematic interpretation model. Dalam hal ini, kewajiban menggunakan Pasal 127 ayat (2) jo ayat (3) UU No. 35/2009 tersebut berbenturan dengan Pasal 182 ayat (4) KUHAP.

Another consequence of the ambiguity of legal norms, in the context of law enforcement in the realm of pre-adjudication, seems that the law has been revoked from the existing social reality. As explained by Alfiana,¹⁹ researchers from the Indonesian Drug Victims Association (PKNI), where in through PKNI research in 2017 in 10 (ten) cities throughout Indonesia showed data that in the process of assisting drug victims as many as 145 people, but only 17 people obtained rehabilitation right. Furthermore, Alfiana explained through her research, that the rehabilitation assessment process has become a commodity by law enforcement officials. Mostly, the right to rehabilitation is only given to people who have money. So that a different treatment appears, where throughout 2017 there are 7 (seven) artists who are caught in narcotics, all of them can be rehabilitated, but instead it is inversely proportional to ordinary people.

IV. CONCLUSION

Referring back to the formulation of the problem in this research, based on the conceptual disorder that gives

rise to fallacy and creates discrepancies in their praxis, the legislators need to reformulate the primary legal norms relating to the concept of Abusers, the concept of Narcotics Addicts, and the concept of Victims of Narcotics Abuse. Therefore, the formulation of primary legal norms has an impact on the functioning of secondary legal norms. Or at least the formulation of legal norms on the concept of Abuser is someone who is a Narcotics addict and / or a Narcotics Abuse victim who abuses or uses narcotics without rights or against the law.

Therefore, when a Defendant is unable to prove his argument to enter Article 127 paragraph (3) of Law No. 35/2009, it is automatically a Narcotics addict. However, when Article 54 of Law No. 35/2009 ordered that addicts and victims of narcotics abuse must be rehabilitated, so Article 127 of Law No. 35/2009 it's not necessary to distinguishing the two concepts. Therefore, philosophically, providing rehabilitation is an imperative obligation for the interests of the state and nation. This means that as long as there is a legal fact in the process of proving that the abuse is for oneself, then a secondary legal norm in the form of criminal sanctions in Article 127 paragraph (1) of Law no. 35/2009 should be abolished.

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