



UNIVERSITI  
TEKNOLOGI  
MARA

Faculty of Law

## e-Book of Extended Abstract

# UiTM i-CLaS 2022

2ND UiTM INTERNATIONAL CONFERENCE ON LAW & SOCIETY 2022

*Dynamism of Law in the Race within the 21st Century Society*

1 - 2 November 2022,  
Shah Alam, Selangor, MALAYSIA



**IN COLLABORATION WITH:**

جامعة المالديف الإسلامية  
ISLAMIC UNIVERSITY OF MALDIVES



UNIVERSITAS  
WARMADewa



UNIVERSITAS TRISAKTI



UNIVERSITAS  
GADJAH MADA



UNIVERSITAS  
AIRLANGGA



UNIVERSITI TEKNOLOGI MARA

SUSTAINABLE DEVELOPMENT GOALS



# **E-BOOK OF EXTENDED ABSTRACT**

## **i-CLaS 2022**

UiTM International Conference on Law & Society 2022  
1-2 November 2022  
Shah Alam, Selangor Malaysia

### **Editor**

Ibtisam @ Ilyana Illias  
Anida Mahmood  
Fazlin Mohamed Zain  
Siti Sarah Sulaiman  
Su'aida Safei  
Ain-Maryam Binti Zolkipli@Zulkifli  
Nurul Shuhada Suhaimi

### Disclaimer

The views and recommendations expressed by the authors are entirely their own and do not reflect the views of the Faculty or the University. While every attempt has been made to ensure consistency of the format and the layout of the book, the faculty and the university are not responsible for the content of the papers appearing in the e-book of extended abstract.

Publisher

Faculty of Law, Universiti Teknologi MARA, Shah Alam, Malaysia.

Tel: +603-55444122

Fax: +603-55435950

Copyright@ i-CLaS 2022

All Rights Reserved.

Perpustakaan Negara Malaysia

e ISBN 978-967-26191-1-6

Perpustakaan Negara Malaysia Cataloging-in Publication Data



i-CLaS 2022 UiTM International Conference on Law & Society 2022 E-Book of Extended Abstract

## **PREFACE**

---



All praise be to Allah for our second year in organising the International Conference on Law & Society (UiTM i-CLaS 2022). The successful event last year is evidence of strong collaborations and supports received from multiple parties. This year, the conference will continue to be organised virtually as the world is transitioning into the endemic phase of COVID-19. The gatherings of academicians and professionals in conferences, as well as other academic meetings, will assist in the development of their careers and knowledge. It also helps the attendees to keep abreast with the latest global developments and ways of adapting to these changes.

UiTM i-CLaS 2022 serves as a platform to foster collaborations of national and international partnerships and to aid the integration of the legal education system with the legal industry. It is indeed a great honour for me to undertake the trust of organising the second series of this virtual international conference, which aims at providing an international forum for all to share experiences, knowledge, and innovation while encouraging the flourishing of intellectual development through opportunities for networking and collaboration in a multi-disciplinary platform. The nucleus of all research papers presented at this conference is based on the theme of “Dynamism of Law in the Race of the 21st Century Society”, which suits the present-day scenarios.

The organising of this conference puts together the outstanding commitments of the 2nd UiTM i-CLaS 2022 committee members under the patronage of our remarkable Dean, Associate Professor Dr Hartini Saripan, and the Management of the UiTM Faculty of Law. The commitments offered by our partners have also contributed extensively to the success of this conference. I would like to earnestly thank our collaborators, namely, Universitas Gadjah Mada, Indonesia; Universitas Pelita Harapan, Indonesia; Universitas Airlangga, Indonesia; Universitas Islam Bandung, Indonesia; Universitas Trisakti, Indonesia; and Islamic University Maldives. It is also a great pleasure for me to welcome all presenters, participants, industry members, and guests to i-CLaS 2022. I hope that the compilation of the extended abstracts will be helpful in the ongoing as well as future research works and that our virtual gathering at the conference will be a pleasant and enriching experience.

***Dr. Norazlina Abdul Aziz***  
***Director, UiTM i-CLaS 2022***

## FOREWORD

---



Alhamdulillah, all praise to Allah S.W.T for His blessings that enables us to organise once again the annual UiTM International Conference on Law & Society 2022, or UiTM i-CLaS 2022. On behalf of the Faculty of Law, Universiti Teknologi MARA (UiTMLaw), it is my utmost honour to welcome all speakers, presenters, participants and guests to UiTM i-CLaS 2022. I wish to extend my heartfelt gratitude to all.

UiTM i-CLaS 2022 focuses on conducting meaningful intellectual discourses to facilitate positive changes to the law. The central theme for this year's conference is "Dynamism of Law in the Race within the 21st Century Society", a fitting concept to be pondered upon in the modern and ever-shifting legal landscape. The developments in the legal field are calling for newer interpretations of long-established legal principles while maintaining consistency in their applications when need be; and, at the same time welcoming newly emerging principles. Therein lies the need for continuous discussions that look into the intricacies of the law in meeting the needs of 21st-century society. The conference seeks to provide a platform for in-depth and extensive discussions among experts from various disciplines of law for this very purpose. UiTM i-CLaS 2022 will be hosted online to maximise opportunities for international participation, networking and knowledge transfers between experts and academia across the globe.

This conference would not have come to fruition without the relentless efforts of the organising committee, led by the Programme Director, Dr Norazlina Abd Aziz. I would like to also extend my gratitude to our strategic partners for the conference - Universitas Gadjah Mada, Indonesia; Universitas Pelita Harapan, Indonesia; Universitas Airlangga, Indonesia; Universitas Islam Bandung, Indonesia; Universitas Trisakti, Indonesia; and the Islamic University of Maldives, for their endless support and assistance in this endeavour. Most importantly, my heartfelt gratitude to Universiti Teknologi MARA for the continuous support and help in organising the conference. We hope that the compilation of the extended abstracts will contribute to shining the light on our collective pursuits for legal excellence.

***Associate Professor Dr Hartini Saripan***  
***Dean,***  
***Faculty of Law,***  
***Universiti Teknologi MARA***

## TABLE OF CONTENTS

---

<b>LEGAL CERTAINTY IN THE TRADE SECTOR ESPECIALLY SERVICE STORE IN INDONESIA THROUGH JOB CREATION ACT .....</b>	<b>1</b>
Rocky Julias Sugiarto <sup>1*</sup> .....	1
<b>MOVING TOWARD A LESS RESTRICTIVE FRAMEWORK? INDONESIA'S OPPORTUNITIES AND CHALLENGES IN REGULATING DATA FLOW.....</b>	<b>5</b>
Faiz Rahman <sup>1*</sup> & Cora Kristin Mulyani <sup>2</sup> .....	5
<b>CYBER SECURITY CHALLENGES IN 3D BIOPRINTING: LEGAL ANALYSIS .....</b>	<b>9</b>
Siti Suraya Abd Razak <sup>1*</sup> .....	9
<b>LEGAL PROTECTION FOR BLOCK CHAIN CONSUMERS .....</b>	<b>12</b>
Ario Setra Setiadi <sup>1*</sup> & Henry Soelistyo Budi <sup>2</sup> .....	12
<b>PROPOSAL FOR TRANSPARENCY OBLIGATION IN INDONESIAN PEER TO PEER LENDING (P2PL) REGULATION: PREVENTING MARKET MELTDOWNS.....</b>	<b>15</b>
Ardianto Budi Rahmawan <sup>1*</sup> & Jonathan Abram Dewanto <sup>2</sup> .....	15
<b>THE DILEMMA OF NOMINEE AGREEMENT ON MINERAL MININGENTERPRISES .....</b>	<b>19</b>
Ida Sumarsih <sup>1*</sup> .....	19
<b>SOCIAL CAPITAL APPROACH TO INDONESIAN MIGRANT WORKERS PROTECTION: EMPIRICAL STUDY OF WEST JAVA,INDONESIA .....</b>	<b>22</b>
Hemasari Dharmabumi <sup>1*</sup> , Muhamad Rizal <sup>2</sup> & Achmad Fajri Febrian <sup>3</sup> .....	22
<b>THIRD WORLD, CRITICAL METHOD, AND INTERNATIONAL LAW TEACHING IN INDONESIA.....</b>	<b>3</b>
Eka An Aqimuddin <sup>1*</sup> , Syahrul Fauzul Kabir <sup>2</sup> .....	3
<b>JUS COGENS NORMS AS THE BASIS OF PROTECTION SYSTEM FOR REFUGEES IN INDONESIA .....</b>	<b>7</b>
Jun Justinar <sup>1*</sup> .....	7
<b>THE DYNAMICS AND CHALLENGES OF HUMANITARIAN LAW IN INDONESIA IN THE CONTEXT OF CYBER WARFARE.....</b>	<b>11</b>
Arlina Permanasari <sup>1*</sup> .....	11
<b>PERSONAL DATA PROTECTION IN INDONESIA:HUMAN RIGHTS PERSPECTIVE.....</b>	<b>15</b>
Andrey Sujatmoko <sup>1*</sup> , Wildani Angkasari <sup>2</sup> .....	15
<b>THE EFFECTIVITY OF ACCESS AND BENEFIT SHARING TO PREVENT BIOPIRACY IN DEVELOPING COUNTRIES: PAST, PRESENT, AND FUTURE .....</b>	<b>19</b>
Amalia Zuhra <sup>1*</sup> .....	19
<b>IMPLEMENTATION OF DYNAMIC LAW IN INTERNATIONAL TAX DISPUTE SETTLEMENT.....</b>	<b>23</b>
L.Y. Hari Sih Advianto <sup>1*</sup> .....	23
<b>THE NECESSARY OF EXECUTION INSTITUTION IN INDONESIA INDUSTRIAL RELATION COURT .....</b>	<b>27</b>
Andari Yurikosari <sup>1*</sup> , Amriyati <sup>2</sup> .....	27
<b>IMPLEMENTATION OF MUTUAL AGREEMENT PROCEDURE IN INDONESIA AND SELECTED ASIAN COUNTRIES: RETROSPECT AND PROSPECT .....</b>	<b>31</b>
Andik Kusbiantoro <sup>1*</sup> .....	31
<b>MEDIATION AS A NON LITIGATION ALTERNATIVE FOR TAX DISPUTE SETTLEMENT IN INDONESIA. 35</b>	
Daniel Adhi Prastowo <sup>1*</sup> .....	35
<b>APPOINTMENT OF AN OMBUDSMAN IN MALAYSIA: LESSON FROM OTHER ADR MECHANISMS ...</b>	<b>38</b>
Muhamad Ikhwan Mohd Zain <sup>1*</sup> , Nur Ezan Rahmat <sup>2</sup> & Ibtisam@Ilyana Ilias <sup>3</sup> .....	38

<b>CHOICE OF FORUM IN THE INTERNATIONAL BUSINESS CONTRACTS COMPLYING WITH THE INDONESIAN CULTURE: AN INTERCULTURAL COMMUNICATION THEORY-BASED STUDY .....</b>	<b>41</b>
Natasya Yunita Sugiastuti <sup>1*</sup> .....	41
<b>EXPLORING INFODEMIC LAWS DURING THE RECENT PANDEMIC IN MALAYSIA: BETWEEN THE PROTECTION OF PUBLIC ORDER, PUBLIC HEALTH, AND FREEDOM OF SPEECH .....</b>	<b>44</b>
Hafidz Hakimi Haron <sup>1*</sup> , & Nor Akhmal Abdul Wahab <sup>2</sup> .....	44
<b>JUDICIAL REVIEW IN MALAYSIA: THE REFLECTION .....</b>	<b>47</b>
Norazlina Abdul Aziz <sup>1</sup> , Mazlina Mansoor <sup>2</sup> , Nur Ezan Rahmat <sup>3</sup> & Mastika Nasrun <sup>4*</sup> .....	47
<b>FIGHTING ADMINISTRATIVE CORRUPTION IN AFGHANISTAN .....</b>	<b>50</b>
Mahdi Abolfazly <sup>1*</sup> .....	50
<b>POLITICIZATION OF JUDICIARY: INDONESIA CONSTITUTIONAL COURT IN THE MIDDLE OF BACKSLIDING DEMOCRACY .....</b>	<b>54</b>
Efik Yusdiansyah <sup>1</sup> , Wicaksana Dramanda <sup>2*</sup> , & Rusli K Iskandar <sup>3</sup> .....	54
<b>LEGAL AID IN INDONESIA: THE CHALLENGE OF FULFILLMENT OF JUSTICE FOR ALL.....</b>	<b>57</b>
Rosmalinda <sup>1*</sup> , Ningrum Natasya Sirait <sup>2</sup> , Siti Khairunnisa <sup>3</sup> & Liza HY Rangkuti <sup>4</sup> .....	57
<b>RIGHT TO EDUCATION IN MALAYSIA FOR CHILDREN WITH DISABILITIES .....</b>	<b>60</b>
Muhammad Fikri Othman <sup>1*</sup> , Nur Ezan Rahmat <sup>2</sup> , Norazlina Abdul Aziz <sup>3</sup> , Nora Abdul Hak <sup>4</sup> , Diyana Kamarudin <sup>5</sup> .....	60
<b>WORKING FROM HOME ARRANGEMENTS: ANALYSIS OF NEWLY INTRODUCED STATUTORY PROVISIONS.....</b>	<b>63</b>
Nazruzila Razniza Mohd Nadzri <sup>1*</sup> , Rohaida Nordin <sup>2</sup> , Dihlvinder Kaur Mohkam Singh <sup>3</sup> , Kalaveny Kanagasingam <sup>4</sup> & Mary Mathews K.A. Mathew <sup>5</sup> .....	63
<b>IMPLICATIONS OF TOURISM INDUSTRY DEVELOPMENT ON THE GROWTH OF CHILD WORKERS IN THE INFORMAL SECTOR IN THE PERSPECTIVE OF CHILDREN'S RIGHTS TO HEALTH AND EDUCATION .....</b>	<b>66</b>
Rini Irianti Sundry <sup>1*</sup> , Deddy Effendy <sup>2</sup> , Fabian Fadhly Jambak <sup>3</sup> .....	66
<b>PREVENTION AND PROSECUTION OF DOMESTIC VIOLENCE THROUGH MENTAL HEALTH LAW .....</b>	<b>69</b>
Anastasia F. Loui Lim (Lim Keong Loui) <sup>1*</sup> .....	69
<b>LAND TENURE FOR SPECIAL ECONOMIC ZONE IN PERSPECTIVE OF INDONESIAN LAND LAW.....</b>	<b>72</b>
Endang Pandamdari <sup>1*</sup> .....	72
<b>LEGAL DIMENSION OF ISSUANCE OF RIGHTS OF USE CERTIFICATE FOR THE OUTERMOST SMALL ISLANDS IN INDONESIA .....</b>	<b>75</b>
Ignatius Pradipa Probondaru <sup>1*</sup> .....	75
<b>RELIGIOUS COMMUNALISTIC CONCEPT AS THE BASIS OF OWNERSHIP IN INDONESIA .....</b>	<b>78</b>
Irene Eka Sihombing <sup>1*</sup> .....	78
<b>A REVIEW OF LAND CONFLICTS BETWEEN OIL PALM PLANTATIONS VERSUS TRADITIONAL/CUSTOMARY LAND RIGHTS IN PAPUA .....</b>	<b>81</b>
Erni Rohaini <sup>1*</sup> .....	81

<b>STRENGTHENING THE FUTURE OF AGRARIAN REFORM POLICIES IN INDONESIA.....</b>	<b>84</b>
Listiyowati Sumanto <sup>1*</sup> .....	84
<b>DYNAMIC ASPECT OF LAND RECLAMATION: A ‘THREAT’ TO THE ENVIRONMENT .....</b>	<b>88</b>
Rohani Binti Md Shah <sup>1*</sup> .....	88
<b>DEFINITION OF CHILD ABUSE WITH SPECIAL REFERENCE TO CHILD SEXUAL ABUSE AND LEGAL PREVENTIVE MECHANISMS IN MALAYSIA .....</b>	<b>91</b>
Atifah Othman <sup>1*</sup> & Nor Fadzlina Nawi <sup>2</sup> .....	91
<b>FULFILLMENT OF WOMEN WORKERS WELFARE AND CHILDREN IN PALM OIL PLANTATIONS BATU NANTA VILLAGE, MELAWI REGENCY, WEST KALIMANTAN.....</b>	<b>94</b>
Wahyuni Retnowulandari <sup>1*</sup> , Maya Indrasti Notoprayitno <sup>2</sup> , Petra Gunawan <sup>3</sup> .....	94
<b>THE INDONESIAN MARRIAGE LAW: RECONCILING CONFLICTING RIGHTS THROUGH CONSTITUTIONAL INTERPRETATION .....</b>	<b>98</b>
Mahaarum Kusuma Pertiwi <sup>1*</sup> & Praditya Janu Wisaksono <sup>2</sup> .....	98
<b>THE REASONABLENESS IN FAMILY COURT’ POST-DIVORCE DECISIONS ON CHILD MAINTENANCE IN MALAYSIA, MALDIVES AND PAKISTAN: A COMPARATIVE METHODOLOGY ANALYSIS .....</b>	<b>101</b>
Faridah Hussain <sup>1</sup> , Ghulam Dastagir <sup>2*</sup> , Mausooma Farooq <sup>3</sup> & Nur Izzati Ariffin <sup>4</sup> .....	101
<b>JOINT PARENTAL RESPONSIBILITY FOR THE CHILD AND THE SHARED RESIDENCE OF THE CHILD IN MALAYSIA: PARENT AND CHILD’S PERSPECTIVE .....</b>	<b>104</b>
Akbar Kamarudin @ Abdul Shukor <sup>1*</sup> .....	104
<b>ENSURING TRADITIONAL &amp; COMPLIMENTARY MEDICINE AS RIGHTS TO HEALTH FOR THE POOR IN MALAYSIA .....</b>	<b>107</b>
Norazlina Abdul Aziz <sup>1</sup> , Nurruhuda Ahmad <sup>2*</sup> , Izuan Izzaidi Azmi <sup>3</sup> , Irini Ibrahim <sup>4</sup> , Che Natheera Abd Aziz <sup>5</sup> .....	107
<b>REGULATING ISLAMIC HEALING PRACTICE (TCM): THE CONSTITUTIONAL ISSUES .....</b>	<b>111</b>
Norazlina Abdul Aziz <sup>1</sup> , Nurruhuda Ahmad <sup>2</sup> , Izuan Izzaidi Azmi <sup>3</sup> , Irini Ibrahim <sup>4</sup> .....	111
<b>SINERGICITY BETWEEN LAW AND MEDICINE IN THE FRAMEWORK OF DEVELOPING MEDICAL LAW IN INDONESIA .....</b>	<b>115</b>
Sri Ratna Suminar <sup>1*</sup> , Frency Siska <sup>2</sup> , Asep Hakim Zakiran <sup>3</sup> & Rimba Supriatna <sup>4</sup> .....	115
<b>SMALL ESTATE (DISTRIBUTION) ACT 1955: ANALYSIS ON THE .....</b>	<b>118</b>
Nurin Athirah binti Mohd Alam Shah <sup>1</sup> , Muhammad Amrullah bin Drs Nasrul <sup>2*</sup> .....	118
<b>ENVIRONMENTAL POLICIES AND GOVERNANCE: REVIEWS ON MEDICAL WASTE MANAGEMENT IN INDONESIA DURING THE COVID-19 PANDEMIC .....</b>	<b>121</b>
Noor Annisa Ditya Sari <sup>1</sup> , Magdalena Yossi Dian Madani <sup>2</sup> .....	121
<b>A LEGAL PERSPECTIVE TOWARDS A STATE-OWNED GREEN INSURANCE COMPANY .....</b>	<b>124</b>
Ardianto Budi Rahmawan, S.H., LL.M <sup>1*</sup> , Jonathan Abram Dewanto <sup>2</sup> .....	124
<b>THE ROLE OF SHAREHOLDER ACTIVISM IN MALAYSIA AND INDONESIA IN RELATED-PARTY TRANSACTIONS APPROVAL PROCESS: A WAY FORWARD .....</b>	<b>127</b>
Muhammad Umar bin Abdul Razak <sup>1*</sup> , Mazlina Mahali <sup>2</sup> , .....	127



<b>REGULATING LAND RECLAMATION ACTIVITIES IN MALAYSIA: A QUEST FOR A PRISTINE BEACH!</b>	<b>131</b>
Noraziah Abu Bakar <sup>1*</sup> , Hariati Mansor <sup>2</sup> , Mazlifah Mansoor <sup>3</sup> .....	131
<b>ENFORCEMENT OF SPATIAL LAW THROUGH STATE ADMINISTRATIVE DISPUTE CLAIMS (STUDY OF UTILIZATION OF JAKARTA NORTH COASTAL WATERS)</b> .....	<b>134</b>
Untoro <sup>1*</sup> , Hamdan Azhar Siregar <sup>2</sup> , Taufik Abdul Hamid <sup>3</sup> .....	134
<b>LIMITATIONS FOR WELL-KNOWN TRADEMARKS PROTECTION FOR NON-USED GOOD AND/OR SERVICES TO AVOID MONOPOLY PRACTICES AND UNFAIR BUSINESS COMPETITION</b> .....	<b>138</b>
Arimansyah <sup>1*</sup> .....	138
<b>COPYRIGHT INFRINGEMENT IN VIRTUAL CONCERTS</b> .....	<b>142</b>
R. Gratikana Ningrat <sup>1*</sup> , Henry Soelistyo Budi <sup>2</sup> .....	142
<b>THE INTERPLAY BETWEEN SOCIETAL PRIORITIES AND PERSONAL LIABILITY OF DIRECTORS IN CORPORATE INSOLVENCY: COMPARATIVE PERSPECTIVES.</b> .....	<b>145</b>
Yusuf Usman Liman <sup>1*</sup> , Zuryati Bt Mohamed Yusoff <sup>2</sup> & Rohana Bt Abdul Rahman <sup>3</sup> .....	145
<b>FIGHTING PRICE UPSURGE: THE ROLE OF THE LAW, THE REGULATORS AND THE CONSUMERS ...</b>	<b>149</b>
Ibtisam @ Ilyana Ilias <sup>1*</sup> , Shariz Admal Adnan <sup>2</sup> .....	149
<b>IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDOENSIA</b> .....	<b>153</b>
Ning Adiasih <sup>1*</sup> .....	153
<b>THE LAWS CONCERNING THE RIGHTS AND LIABILITIES OF TENANT-OWNER RELATIONSHIP INVOLVING HOUSE RENTING IN MALAYSIA: A COMPARATIVE STUDY WITH AUSTRALIA AND NEW ZEALAND LAWS</b> .....	<b>156</b>
Mohd Fadzri Azham bin Zainudin <sup>1</sup> , Cinderaylia Raymond <sup>2</sup> , Dannero Onell Anjum <sup>3</sup> , Elhanan James <sup>4</sup> , Rozlinda Abdullah* .....	156
<b>BETWEEN THE LAW AND ECONOMIC PRACTICES: REVISITING INDONESIAN LAWS ON PRIVACY POLICY AND CONSUMER PROTECTION IN GETPLUS APPLICATION'S PUBLIC USAGE ANDREWARD OFFERINGS</b> .....	<b>160</b>
Ramadhana Anindyajati Bachry, S.H., M.H. <sup>1</sup> , Noor Annisa Ditya Sari <sup>2*</sup> .....	160
<b>THE OBLIGATION OF A NOTARIAL DEED FOR THE ESTABLISHMENT OF A LIMITED LIABILITIES COMPANY IN INDONESIA</b> .....	<b>163</b>
Noviana Tansari <sup>1*</sup> .....	163
<b>LEGAL CERTAINTY ON PARATE EXECUTION AFTER THE CONSTITUTIONAL COURT'S DECISION ON THE JUDICIAL REVIEW OF THE LAW OF FIDUCIARY COLLATERAL AND THE LAW OF MORTGAGE</b> .....	<b>167</b>
Kusuma Wardani <sup>1*</sup> .....	167
<b>JURIDICAL ANALYSIS ON VENTURE FUNDS: COMPARISON ON LIMITED PARTICIPATION MUTUAL FUNDS</b> .....	<b>171</b>
Michael Widyaputra <sup>1*</sup> .....	171
<b>THE EXISTENCE AND CHALLENGES OF CONSUMER DISPUTE SETTLEMENT AGENCY IN INDONESIA IN THE ERA OF GLOBALIZATION</b> .....	<b>175</b>
Renti Maharaini Kerti <sup>1*</sup> .....	175

<b>THE LIMITATION FOR FREEDOM OF CONTRACT PRINCIPLE ON ONLINE MARKETPLACE RESPONSIBILITY TOWARDS PRODUCT LIABILITY INFRINGEMENT .....</b>	<b>179</b>
Reggiannie Christy Natalia <sup>1</sup> , Henry Soelistyo Budi <sup>2</sup> .....	179
<b>THE ROLE OF STATUTORY MANAGERS IN RESCUING .....</b>	<b>183</b>
Uttari Pritha Rani <sup>1*</sup> .....	183
<b>LEGAL PROTECTION FOR CREDITORS HOLDING MORTGAGES IN THE EXECUTION OF BANKRUPT ASSETS (BOEDEL) AGAINST CONFISCATION OF CRIMINAL CASES.....</b>	<b>186</b>
Nurma Candrayani Sadikin <sup>1*</sup> .....	186
<b>IMPLEMENTATION OF FINTECH LENDING IN INDONESIA .....</b>	<b>190</b>
Fera Puspita Rianto <sup>1*</sup> .....	190
<b>LEGAL PROTECTION ON THE FULFILLMENT OF CREDITORS' RIGHTS AGAINST THE ASSETS OF BANKRUPT DEBTORS PERFORMED CRIMINATELY ENFORCED .....</b>	<b>193</b>
Suci Hati Handayani <sup>1*</sup> .....	193
<b>UPGRADING INDONESIA AS A DEVELOPED COUNTRY IN WTO: POTENTIAL LEGAL CONSEQUENCES .....</b>	<b>196</b>
Ratna Ayu Widadswari <sup>1*</sup> , Anak Agung Sagung Laksmi Dewi <sup>2</sup> .....	196
<b>THE WORLD TRADE ORGANIZATION (WTO) REFORM AND THE MULTILATERAL TRADE SYSTEM IN THE GLOBAL ECONOMIC RECOVERY TO ACHIEVE SDGs.....</b>	<b>199</b>
Ahmad Sabirin <sup>1*</sup> , Sabila Ridwan <sup>2</sup> , Raafid Haidar Herfian <sup>3</sup> .....	199
<b>CONTROL OF POTENTIAL MERGERS RESULTING IN THE ABUSE OF THE DOMINANT POSITION IN THE BUSINESS SECTOR WITH A DIGITAL PLATFORM .....</b>	<b>203</b>
Anna Maria Tri Anggraini <sup>1*</sup> .....	203
<b>LIABILITY OF TRAFFIC ACCIDENT BY PUBLIC TRANSPORT DRIVER: VICARIOUS OR STRICT LIABILITY? PERSPECTIVE FROM INDONESIAN LAW .....</b>	<b>207</b>
I Nyoman Aji Duranegara Payuse, S.H., LL.M <sup>1*</sup> , I Made Minggu Widyantara, S.H., M.H. <sup>2</sup> .....	207
<b>WHEN THE SPYING STOP: RECENT CRIMINALISATION OF CYBERSTALKING IN MALAYSIA .....</b>	<b>210</b>
Zaiton Hamin <sup>1</sup> , Saslina Kamaruddin <sup>2</sup> , Ahmad Ridhwan Abd Rani* <sup>3</sup> & Wan Rosalili Wan Rosli <sup>4</sup> ....	210
<b>LAW ENFORCEMENT AND REGULATION MODEL ON CONTEMPT OF COURT IN INDONESIA COMPARE WITH SOUTH KOREA .....</b>	<b>212</b>
Lukman Ilman Nurhakim <sup>1*</sup> , Neni Sri Imaniyati <sup>2</sup> & Sri Ratna Suminar <sup>3</sup> .....	212
<b>THE STRENGTHENING OF THE INDONESIAN POLICE INVESTIGATOR AUTHORITY ON CONFISCATING CORRUPTION ASSETS .....</b>	<b>215</b>
Nona Pricillia Ohei <sup>1*</sup> .....	215

# IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDONESIA

Ning Adiasih<sup>1\*</sup>

<sup>1</sup>*Faculty of Law, Trisakti University, Indonesia.*

*Email: <sup>1</sup> ning.a@trisakti.ac.id*

*\*Corresponding author*

## ABSTRACT

One form of agreement that is known in practice in Indonesian society is a profit-sharing agreement, including profit-sharing agreements for land management, trade, and fisheries or fishing. This study will discuss the practice of fishing profit-sharing agreements in communities in the coastal areas of Jakarta, especially Muara Angke based on customary law and how the position of the fish-catching sharing agreements which are carried out traditionally in the Muara Angke area, Jakarta in Law Number 16 of 1964 concerning Fishery Product Sharing. This research is descriptive analytical using a socio-legal approach that aims to provide a comprehensive, systematic, and accurate picture through an analytical process using legal regulations, legal principles and legal understanding. The results of this study indicate that the practice of profit sharing agreements between owner fishermen and fishing fishermen in Muara Angke Jakarta is carried out verbally or not in writing. An agreement occurs when there is an agreement to carry out a marine fishing business based on the type of vessel and the type of fishing gear used. The position of the agreement for the production of fish caught in a traditional manner in Muara Angke Jakarta, if viewed based on the provisions of Law Number 16 of 1964 concerning Fishery Revenue Sharing, then the pattern of sharing the results of traditional fishing in Muara Angke Jakarta is in accordance with the provisions of Article 3 paragraph (1) Fishery Revenue Sharing Law because the minimum profit sharing limit for fishing fishermen (cultivating fishermen) is 40%, while the practice of fishing profit sharing carried out in Muara Angke Jakarta is the profit sharing for fishing fishermen (cultivating fishermen). is 50% to 72% depending on the type of vessel and fishing gear used.

**Keywords:** *Customary Law, Profit Sharing Agreement*

**Themes:** Commercial Law

## INTRODUCTION

Indonesia as a maritime and archipelagic country (archipelago state) is the largest in the world which contains biological wealth of fish resources, which if the potential is managed properly, it should be able to prosper the fishing community, especially fishermen as the main actors in fishery development. But what happens is the opposite, the fishing community is trapped in a vicious cycle of poverty. The factors that cause fishermen's poverty can be classified into two groups, namely (Kusnadi, 2004): First, internal factors are factors related to the internal conditions of fishermen's human resources and their work activities. Internal factors include problems including: (1) limited quality of fisherman's human resources; (2) limited capability of business capital and fishing technology; (3) working relationship (owner of fishing boats) in fishing organizations that are considered less profitable for labor fishermen; (4) difficulties in diversifying fishing business; (5) high dependence on fishing occupations; and (6) a lifestyle that is seen as "wasteful" so that it is less oriented towards the future.

Second, external factors are factors related to conditions outside of themselves and the work activities of fishermen. External factors include problems including: (1) fisheries development policies that are more

productivity-oriented to support national economic growth, partial and impartial to traditional fishermen; (2) a marketing system for fishery products that is more profitable for intermediary traders; (3) damage to coastal and marine ecosystems due to pollution from land areas, fishing practices with chemicals, destruction of coral reefs, and conversion of mangrove forests in coastal areas; (4) the use of fishing gear that is not environmentally friendly; (5) weak law enforcement against environmental destruction; (6) limited post-catch processing technology; (7) limited employment opportunities in the non-fishing sector available in fishing villages; (8) natural conditions and seasonal fluctuations that do not allow fishermen to go to sea throughout the year; and (9) geographic isolation of fishing villages that interferes with the mobility of goods, services, capital and people.

## LITERATURE REVIEW

Based on the foregoing, the causes of fishermen's poverty above, it is clear that the working relationship between boat owners and labor fishermen in fishing organizations, especially regarding the profit-sharing system is very influential on the level of income earned by fishermen. The profit-sharing system itself was formed as a consequence of the high risk of fishing effort (Satria, 2002). The profit sharing system that has occurred so far, the proportion of fishermen's share is always fixed and tends to be very small compared to the income of the skipper. More than that, the skipper as the owner of the ship has always positioned that fishermen must bear the investment costs of owning a ship (PKSPL, 2002). This means that skipper never notices that every year the ship has a decrease in investment value which will result in increased operational costs. This should be the responsibility of the ship owner, not delegated to the fishermen.

The weak regulation of the profit-sharing system, it is necessary to make changes to Law (UU) no. 16 of 1964 concerning Fishery Revenue Sharing. This is because, this law is no longer in accordance with the current conditions of fishery problems, especially regarding fisheries, so it must refer to the new provisions. However, in the preparation of the new Law for Fishery Products, the formulators must be able to think ahead about the possibilities that will occur by being willing to look at various things that exist around coastal communities, such as customary law and community habits in carrying out the system. profit sharing. Bearing in mind, the profit-sharing system is very diverse along with differences in fishing gear, vessel size, number of crew members (ABK) and social characteristics of coastal communities.

## METHODOLOGY

This research is descriptive analytical using a socio-legal approach that aims to provide a comprehensive, systematic, and accurate picture through an analytical process using legal regulations, legal principles and legal understanding.

## FINDINGS AND DISCUSSION

Profit Sharing Pattern in Muara Angke, Jakarta

The pattern of profit sharing that occurs in Muara Angke is different, both for the type of fishing gear and for the position of the fishermen themselves. For more details can be seen in Table 7 below.

Table 7. How to share the results of each fishing gear owned by fishermen in Muara Angke

Type of Fishing Gear	Motorboat (KM) /Outboard Motor (MT)	Owner	Cultivator
Gill nets	KM	50%	50%
Gill nets	MT	50%	50%
Lifting Net	MT	25%	75%
Fishing rod	KM	45%	55%
Fishing rod			

	MT	27,5%	72,5%
Circular gill nets	MT	45%	55%
Bloating Nets	KM	50%	50%
Shrimp Net	MT	50%	50%

Source: Herwening, 1983

## CONCLUSION AND RECOMMENDATIONS

### Profit Sharing System for Welfare

There are several factors that influence the different patterns of profit sharing in fishing communities, including: *First*, the unit or type of fishing gear. The distribution of the share or percentage of fishery product sharing depends on the unit or type of fishing gear. The difference in the share or percentage of fishery business results is due to the large capacity of the ship or boat, the type and size of the machine used, and the nature or resistance of the fishing gear used. *Second*, the ability and position of the workforce. *Third*, customs. Generally, this customary profit sharing has been going on for generations so it is often said to be customary law.

Meanwhile, the factors that hinder the implementation of Law no. 16 of 1964 concerning Fishery Revenue Sharing, among which are: *First*, the ignorance of the fishing community to the Fishery Revenue Sharing Law. Public ignorance of the existence of the Fishery Product Sharing Law is caused by weak or lack of socialization or counseling by the government to fishing communities and fish cultivators. *Second*, the level of education is low. *Third*, the strength of customs. *Fourth*, the ability of the workforce.

In the midst of searching for a sense of fairness in the profit-sharing pattern between owners and tenants, the alternative revenue-sharing system found by PKSPL (2002) and Muhartono (2004) seems to be a reference. Given, the alternative profit sharing system includes depreciation costs. The existence of an alternative revenue-sharing system is based on the existence of injustice in the customary profit-sharing process

## ACKNOWLEDGEMENT

This research is an independent research in the context of carrying out the 2020/2021 university tridharma activities at the Faculty of Law, Trisakti University. The results of the research are used to develop the field of Customary/Traditional Law.

## REFERENCES

- Kusnadi (ed). 2004. Fishermen's Poverty Polemic. Educational Pondok and Renewal Working Group. Bantul.
- Masyhuri (ed). 1999. Empowerment of Underdeveloped Fishermen in Overcoming the Economic Crisis: A Study of an Approach. Research and Development Center for Economics and Development-LIPI.
- PSKPL-IPB. 2002. Evaluation of the Wage and Profit Sharing System for Fishing Businesses on the North Coast (Pantura). Bogor
- Satria, Arif. 2002. Introduction to the Sociology of Coastal Society. Cidesindo. Jakarta.
- Soekanto, Soerjono. 2001. Indonesian Customary Law. Edition 1 Printing 4. Jakarta. PT. The Raja Grafindo Perkasa.
- Wignjodipoero, Soerojo. 1967. Introduction and Principles of Customary Law. Jakarta. PT. Gunung Agung.
- Law No. 16 of 1964 concerning Fishery Revenue Sharing
- Law No. 31 of 2004 concerning Fisheries

# IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDOENSIA

*by Ning Adiasih*

---

**Submission date:** 05-Jan-2023 09:49AM (UTC+0700)

**Submission ID:** 1988703278

**File name:** FINAL-E-BOOK-OF-EXTENDED-ABSTRACT-2022-\_ning.pdf (3.33M)

**Word count:** 1542

**Character count:** 8501

## IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDONESIA

Ning Adiasih<sup>1\*</sup>

<sup>1</sup>Faculty of Law, Trisakti University, Indonesia.

Email: <sup>1</sup>ning.a@trisakti.ac.id

\*Corresponding author

### ABSTRACT

One form of agreement that is known in practice in Indonesian society is a profit-sharing agreement, including profit-sharing agreements for land management, trade, and fisheries or fishing. This study will discuss the practice of fishing profit-sharing agreements in communities in the coastal areas of Jakarta, especially Muara Angke based on customary law and how the position of the fish-catching sharing agreements which are carried out traditionally in the Muara Angke area, Jakarta in Law Number 16 of 1964 concerning Fishery Product Sharing. This research is descriptive analytical using a socio-legal approach that aims to provide a comprehensive, systematic, and accurate picture through an analytical process using legal regulations, legal principles and legal understanding. The results of this study indicate that the practice of profit sharing agreements between owner fishermen and fishing fishermen in Muara Angke Jakarta is carried out verbally or not in writing. An agreement occurs when there is an agreement to carry out a marine fishing business based on the type of vessel and the type of fishing gear used. The position of the agreement for the production of fish caught in a traditional manner in Muara Angke Jakarta, if viewed based on the provisions of Law Number 16 of 1964 concerning Fishery Revenue Sharing, then the pattern of sharing the results of traditional fishing in Muara Angke Jakarta is in accordance with the provisions of Article 3 paragraph (1) Fishery Revenue Sharing Law because the minimum profit sharing limit for fishing fishermen (cultivating fishermen) is 40%, while the practice of fishing profit sharing carried out in Muara Angke Jakarta is the profit sharing for fishing fishermen (cultivating fishermen), is 50% to 72% depending on the type of vessel and fishing gear used.

**Keywords:** Customary Law, Profit Sharing Agreement

**Themes:** Commercial Law

### INTRODUCTION

Indonesia as a maritime and archipelagic country (archipelago state) is the largest in the world which contains biological wealth of fish resources, which if the potential is managed properly, it should be able to prosper the fishing community, especially fishermen as the main actors in fishery development. But what happens is the opposite, the fishing community is trapped in a vicious cycle of poverty. The factors that cause fishermen's poverty can be classified into two groups, namely (Kusnadi, 2004): First, internal factors are factors related to the internal conditions of fishermen's human resources and their work activities. Internal factors include problems including: (1) limited quality of fisherman's human resources; (2) limited capability of business capital and fishing technology; (3) working relationship (owner of fishing boats) in fishing organizations that are considered less profitable for labor fishermen; (4) difficulties in diversifying fishing business; (5) high dependence on fishing occupations; and (6) a lifestyle that is seen as "wasteful" so that it is less oriented towards the future.

Second, external factors are factors related to conditions outside of themselves and the work activities of fishermen. External factors include problems including: (1) fisheries development policies that are more

productivity-oriented to support national economic growth, partial and impartial to traditional fishermen; (2) a marketing system for fishery products that is more profitable for intermediary traders; (3) damage to coastal and marine ecosystems due to pollution from land areas, fishing practices with chemicals, destruction of coral reefs, and conversion of mangrove forests in coastal areas; (4) the use of fishing gear that is not environmentally friendly; (5) weak law enforcement against environmental destruction; (6) limited post-catch processing technology; (7) limited employment opportunities in the non-fishing sector available in fishing villages; (8) natural conditions and seasonal fluctuations that do not allow fishermen to go to sea throughout the year; and (9) geographic isolation of fishing villages that interferes with the mobility of goods, services, capital and people.

## LITERATURE REVIEW

Based on the foregoing, the causes of fishermen's poverty above, it is clear that the working relationship between boat owners and labor fishermen in fishing organizations, especially regarding the profit-sharing system is very influential on the level of income earned by fishermen. The profit-sharing system itself was formed as a consequence of the high risk of fishing effort (Satria, 2002). The profit sharing system that has occurred so far, the proportion of fishermen's share is always fixed and tends to be very small compared to the income of the skipper. More than that, the skipper as the owner of the ship has always positioned that fishermen must bear the investment costs of owning a ship (PKSPL, 2002). This means that skipper never notices that every year the ship has a decrease in investment value which will result in increased operational costs. This should be the responsibility of the ship owner, not delegated to the fishermen.

The weak regulation of the profit-sharing system, it is necessary to make changes to Law (UU) no. 16 of 1964 concerning Fishery Revenue Sharing. This is because, this law is no longer in accordance with the current conditions of fishery problems, especially regarding fisheries, so it must refer to the new provisions. However, in the preparation of the new Law for Fishery Products, the formulators must be able to think ahead about the possibilities that will occur by being willing to look at various things that exist around coastal communities, such as customary law and community habits in carrying out the system. profit sharing. Bearing in mind, the profit-sharing system is very diverse along with differences in fishing gear, vessel size, number of crew members (ABK) and social characteristics of coastal communities.

## METHODOLOGY

This research is descriptive analytical using a socio-legal approach that aims to provide a comprehensive, systematic, and accurate picture through an analytical process using legal regulations, legal principles and legal understanding.

## FINDINGS AND DISCUSSION

Profit Sharing Pattern in Muara Angke, Jakarta

The pattern of profit sharing that occurs in Muara Angke is different, both for the type of fishing gear and for the position of the fishermen themselves. For more details can be seen in Table 7 below.

Table 7. How to share the results of each fishing gear owned by fishermen in Muara Angke

Type of Fishing Gear	Motorboat (KM) /Outboard Motor (MT)	Owner	Cultivator
Gill nets	KM	50%	50%
Gill nets	MT	50%	50%
Lifting Net	MT	25%	75%
Fishing rod	KM	45%	55%
Fishing rod			



	MT	27,5%	72,5%
Circular gill nets	MT	45%	55%
Bloating Nets	KM	50%	50%
Shrimp Net	MT	50%	50%

Source: Herwening, 1983

## CONCLUSION AND RECOMMENDATIONS

### Profit Sharing System for Welfare

There are several factors that influence the different patterns of profit sharing in fishing communities, including: *First*, the unit or type of fishing gear. The distribution of the share or percentage of fishery product sharing depends on the unit or type of fishing gear. The difference in the share or percentage of fishery business results is due to the large capacity of the ship or boat, the type and size of the machine used, and the nature or resistance of the fishing gear used. *Second*, the ability and position of the workforce. *Third*, customs. Generally, this customary profit sharing has been going on for generations so it is often said to be customary law.

Meanwhile, the factors that hinder the implementation of Law no. 16 of 1964 concerning Fishery Revenue Sharing, among which are: *First*, the ignorance of the fishing community to the Fishery Revenue Sharing Law. Public ignorance of the existence of the Fishery Product Sharing Law is caused by weak or lack of socialization or counseling by the government to fishing communities and fish cultivators. *Second*, the level of education is low. *Third*, the strength of customs. *Fourth*, the ability of the workforce.

In the midst of searching for a sense of fairness in the profit-sharing pattern between owners and tenants, the alternative revenue-sharing system found by PKSPL (2002) and Muhartono (2004) seems to be a reference. Given, the alternative profit sharing system includes depreciation costs. The existence of an alternative revenue-sharing system is based on the existence of injustice in the customary profit-sharing process

## ACKNOWLEDGEMENT

This research is an independent research in the context of carrying out the 2020/2021 university tridharma activities at the Faculty of Law, Trisakti University. The results of the research are used to develop the field of Customary/Traditional Law.

## REFERENCES

- Kusnadi (ed). 2004. Fishermen's Poverty Polemic. Educational Pondok and Renewal Working Group. Bantul.
- Masyhuri (ed). 1999. Empowerment of Underdeveloped Fishermen in Overcoming the Economic Crisis: A Study of an Approach. Research and Development Center for Economics and Development-LIPI.
- PSKPL-IPB. 2002. Evaluation of the Wage and Profit Sharing System for Fishing Businesses on the North Coast (Pantura). Bogor
- Satria, Arif. 2002. Introduction to the Sociology of Coastal Society. Cidesindo. Jakarta.
- Soekanto, Soerjono. 2001. Indonesian Customary Law. Edition 1 Printing 4. Jakarta. PT. The Raja Grafindo Perkasa.
- Wignjodipero, Soerojo. 1967. Introduction and Principles of Customary Law. Jakarta. PT. Gunung Agung.
- Law No. 16 of 1964 concerning Fishery Revenue Sharing
- Law No. 31 of 2004 concerning Fisheries

# IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDONESIA

## ORIGINALITY REPORT

20%

SIMILARITY INDEX

12%

INTERNET SOURCES

7%

PUBLICATIONS

2%

STUDENT PAPERS

## PRIMARY SOURCES

1	<a href="http://www.atlantis-press.com">www.atlantis-press.com</a> Internet Source	12%
2	H Hendrik, H Hamid, D Alvionita, A Alfrendo. "Wage System and Profit Sharing in Fish Catching Business Using Lift Net in Ocean Fishing Port of Belawan", IOP Conference Series: Earth and Environmental Science, 2020 Publication	3%
3	Nun Harrieti. "Legal Implications On The Establishment Of Alternative Institution Of Dispute Resolution Of Indonesian Banking (LAPSPI) On Sharia Banking Dispute Settlement In Indonesia", FIAT JUSTISIA, 2018 Publication	2%
4	Rilus A. Kinseng. "Class and Conflict in the Fishers' Community in Indonesia", Springer Science and Business Media LLC, 2020 Publication	2%

---

Exclude quotes      On

Exclude matches      < 15 words

Exclude bibliography      On

# IMPLEMENTATION OF FISHING PROFIT SHARING AGREEMENTS IN THE COASTAL FISHING COMMUNITY OF JAKARTA, INDONESIA

---

GRADEMARK REPORT

---

FINAL GRADE

**/100**

GENERAL COMMENTS

**Instructor**

---

PAGE 1

---

PAGE 2

---

PAGE 3

---