

Copyright Transfer of Inheritance Based on Justice Value

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This study aims to assess and scrutinise factors that affect the transfer of copyright through inheritance according to the positive law that has not been based on values of justice, and reconstructing the transition copyright law through the inheritance of a value-based justice. This study uses normative juridical approach. The data used is secondary data, which consists of primary, secondary and tertiary legal materials. The collection of data taken with the research literature and document research. The collected data will be analysed qualitatively. Research found that Transitional copyright through inheritance in accordance with the positive law in Indonesia has not been based on values of justice because there is confusion between moral rights and economic rights. Reconstruction Transitional Copyright Law through Inheritance Based on Justice Value reinforces and clarifies the provisions of Article 16 paragraph (2), Article 18 and Article 19 paragraph (2) UUHC.

Key words: *Copyright, Inheritance, Justice.*

Introduction

The basic values of property rights are regulated in Article 570 the Book of the Law of Civil Law (Burgerlijk wetboek) (Susilo and Pramudjir, 2007), Property Rights is the right to enjoy the usefulness of a material freely, and to act freely, ..". Copyright law gives exclusive rights to the copyrighted work creator. Natural law asks individuals to oversee the works and equitably compensate for their contributions to the community (Hendra, 2003).

Protection of copyright law in general, in the underlying idea of natural law theory by Ricketson, (1984) in his writings, expressed as follows:

... it was been popular to argue, particularly subject in continental jurisdictions, that a person has a natural property rights in the creation of his mind. Thus, it is said, a

person has a natural right to the product of his labour and this should be recognized as their property, whether tangible or intangible. With respect to copyright, it has been said that this theory sees the foundation of the right of an author in the very nature of things.

Humans have rights that the nature of the products of the human mind, both material and non-material derived from intellectual work and should be recognised ownership. (Eddy, 1999) This is confirmed by the opinion that the provision of public good sense to be made by people who take care of people and disseminating (Thomas, 1990).

Copyright is a right granted to the creator of the work where, according to Act No. 28 of 2014 on copyright in Article 1 paragraph 1 states that, "copyright is the exclusive right for the author arising out automatically based on the principle of declarative after a work embodied in the form of real without prejudice to the restrictions in accordance with the provisions of the legislation in force".

Copyright protection for an invention comes into force automatically from the existing creation or it has been long published. Even legal protection for a given period varies based on the invention type. The copyright protection for an invention can be viewed from two sources, namely according to the international conventions governing copyright and from the Copyright Act (Elyta Ras, 2012).

If copyright is a personal property, then copyrights can be equated with a form of wealth (property). In the Article 16 paragraph (1) of Act No. 28 of 2014 there is a provision "monumental" stated that: "Copyright is an intangible moving objects". Because of copyright is considered as chattels that intangible that copyright can be transferred to the person or party through inheritance.

Article 16 (2) of the Copyright Act states that copyright may be transferred in whole or in part, one of them due to inheritance. But the problem that arises from the inheritance of copyright could happen in the midst of the family of the creator, this is the case if the copyright is falling into the hands of people who are not responsible for the rights it receives by way of abusing the creation of the creator who has died. Where it experienced by the family of the late singer Bob Marley for the rights to the famous recordings of several albums, one of the greatest hits amongst these is no woman no cry. Bob Marley's heirs sue for damages worth billions of dollars of Universal Music Group (UMG) because the company was accused of exploiting the dreadlocked singer's recording. The same thing is true for the children of the late Jack Kirby, known as the author of the superhero Captain America comic publisher Marvel movie studio at the same time. Kirby's heirs alone has seen conflict with Marvel since 2009 when the film studio was bought by Disney for \$ 4 billion.

They are trying to reclaim copyrights to the superhero comic legend, this was to be done under the provisions of applicable law.

Based on the explanation above it's interesting to examine in depth studies with respect to factors that affect the transfer of copyright through inheritance according to the positive law that has not been based on values of justice, and reconstructing the transition copyright law through the inheritance based justice value.

Research Methods

The approach in this study is a normative juridical study using secondary data (Winarni, 1997). Normative juridical approach is used to determine the extent to which the principles of the law, the synchronisation vertical / horizontal, and systemic law is applied, which is based on secondary data. Secondary data in the field of law can be divided into three, namely primary, secondary, and tertiary legal materials (Soerjono and Sri, 2009). Specifications of this research is descriptive analysis, which is to describe all the symptoms and the facts and analysing the problems that exist in the present (Winarni, 1997). Data analysis is the process of organizing and sorting data in a pattern, category, and description of the base, so it will match the theme and can be formulated as working hypotheses suggested by the data (Lexy, 2000). The data analysis was conducted on data of primary, secondary and tertiary legal materials. Data analysis used is qualitative technique based on assumptions about reality or complex phenomenon (Burhan, 2003).

Results and Discussion

Transitional Copyright through Inheritance in Accordance With the Positive Law is Not Based on Justice

The Barne Convention does not define as to who is called the creator/author. Because of that, who is known as the creator or the author rests entirely on the law system policy of each member state. French law and civil law of the countries generally, including Indonesia, formulate the creator in the form of individuals, such as writers, composers, painters, choreographers, architects and so on. While countries tend to formulate, in common law, the creator in the form of a legal subject in the form of a legal entity, such as film producers, broadcasting organizations, publishing company and record label (record company or publishing company). Juridicly, a legal entity is considered to be the creator as well as the copyright holder on a work (Henry, 2001).

Copyright Law No. 28 of 2014 (hereinafter referred to as UUHC), distinguishes between the notion of the creator and the copyright holder. Creator according to Article 1 number 2

UUHC some people produce unique and personal creations. Copyright is an intangible object that has a value. Therefore, copyright can be transferred in various ways. Some UUHC following article (Article 16 to Article 19) governs the Copyright Instead of the material, the transfer, and the transfer of the associated copyright restrictions.

All intellectual work created by an author based on their intellectual ability needs to sacrifice of time, energy, thoughts, and cost. All the sacrifices given by the creator is actually none other than the creator's investment and that must be recognized, respected, and given legal protection. Based on the attitude of view, , the creations are product of human's thought that becomes into value. A created object is an intangible value. Therefore, intangible object may further lead to economic benefits and raises also the concept of wealth. These two things, namely the economic benefits and the concept of wealth, make intellectual creations intangible objects become a company's assets in business world.

Intellectual property is a form of wealth even if the shape intangible. Regarding the wealth of intangible, in Black's Law Dictionary the definition is formulated as follows: As used chiefly in the law of taxation, the term means such property as has not intrinsic and marketable value, but is merely the representative or evidence of value, such as certificates of stock, bonds, notes promiary, copyrights and franchises.

Seen in legislation, in particular the Civil Code, we will find that the material is called for each item and each right, which can be controlled by property rights (Article 499 of the Civil Code). Thus, the notion of objects is limited to anything that can be owned by a subject of law. Understanding object is thus a comprehensive understanding of the objects, whereas in the narrow sense, it is limited to tangible goods or stature alone. In the Civil Code, it turns out the object is not only limited to tangible objects or stature, but also includes objects that are not tangible in the form of rights over tangible objects as part of one's wealth and property.

What is meant by "may be transferred 'in Article 16 (2) UUHC is only economic rights, moral rights while still attached to the creator. Transfer of Copyrights must be made clearly and in writing either with or without a notarial deed. The diversion of Economic Rights Creator can be done in various ways, as referred to in Article 16 paragraph (2), namely by:

- 1) inheritance;
- 2) grant;
- 3) endowments;
- 4) will;
- 5) written agreement; or
- 6) any other causes which are justified in accordance with the provisions of the legislation.

What is meant by "other reasons that justified in accordance with the provisions of the legislation" among other things, diversion caused by a court ruling that has obtained permanent legal force, merger, acquisition, dissolution of the company or legal entity since the merger or separation of the company's assets. Copyright as objects that are intangible and economic value makes it possible to serve as the object fiduciary. Provisions regarding Copyright as an object of fiduciary referred to in Article 16 (3) UUHC carried out in accordance with the provisions of the legislation.

Article 17 states that UUHC

- 1) The economic rights to the work remain with the creator or copyright holder for the creator or copyright holder does not transfer all economic rights and the creator or copyright holder to the assignee of the rights of Creation.
- 2) Economic rights are transferred creator or copyright holder for all or a portion cannot be diverted for the second time by the creator or copyright holder of the same.

Article 17 confirms UUHC two (2) things: First, the Economic Flak Creator can be transferred in part or entirely. In terms of economic rights are transferred only partially, the economic rights remain with the creator or copyright holder.

The formulation of the provision of Article 17 paragraph (1) above is actually somewhat confusing. Because of the economic rights consist of various rights (such as rights of publishing, copyright, rights of translation, adaptation rights, and so on), then when it transferred in part, is no longer appropriate to say economic rights remain with the creator or holder Flak Notices, The second case referred to under Article 17 UUHC is that the Economic transferred cannot be transferred for a second time, impending provisions in terms of transfer of copyright. For example, if an author has submitted creations published books to a publishing company, the creator is no longer allowed to hand over the publishing rights to the company's other publishers.

Article 18 UUHC stated that, "Creation of books, and/or all of the results of other writings, songs and/or music with or without text are transferred in agreement true sale and/or transfer indefinitely, Copyrighted switch back to the Creator at the time of the agreement reached a period of 25 years".

The provisions of Article 18 UUHC lists different types of novelties in the regulation of copyright in Indonesia. That is, if there is a transfer of economic rights of creators, although the true sale or diversion indefinitely, after 25 years, economic rights are transferred back to the creator or copyright holder.

Article 19 states that

- 1) Copyright owned by the Creator as yet, have, or do not have Announcements, distribution, or communication after the Author passed ownership to the heirs or the recipient of the will.
- 2) The provisions referred to in paragraph (1) shall not apply if the rights were acquired against the law.

The provisions of Article 19 UUHC is slightly ambiguous because of the mixed word: yet, already or not done Announcements, distribution, or communication after the Author passed. If it happens announcement, distribution, or communication rather than creation, then it's done copyright exploitation and it may be partly already Economic transferred Creator.

Transitional copyright through inheritance according to the current positive law is based on UUHC is governed by Article 16 (2) and Article 19 paragraph (2). Switch or transfer of copyright can not be made orally, but must be done in writing, either with or without a notarial deed. Copyright may be transferred, in whole or in part due to inheritance, grants, endowments, wills, a written agreement or any other reason justified in accordance with the provisions of the legislation. The transfer of copyright carried out by an authentic certificate or certificate under the hand of an attempt to provide clarification of the rights and obligations of the parties. But in practice there is still a transfer of copyright if it's done orally however the transfer of rights orally is not recognized by UUHC. The transfer of rights in writing, will be keeping the legal certainty and clarity in comparison with verbal approval, let alone the transfer of copyright carried out secretly. It was given too many interests involved in the issue of copyright, including the interests of the heirs in the future. The transfer of copyright was based on economic motives, the desire to obtain economic benefit or advantage commercially. Creator transfer copyright in order to obtain economic benefits from the sale of creation, while the copyright of a work remains in the hands of the creator for creation is not transferred the entire copyright.

Applicability of the principle of the oneness of the creator copyright implies that copyright was sold for the whole or part can not be sold again for a second time by the same seller. Where disputes arise between multiple buyers of similar copyright on a work, the protection is given to buyers who first gained it. Copyright can switch, in whole or in part, through inheritance, grants, and will. Diversion is done by using the right, in the form of reproductive rights, the right to demonstrate, the right to adapt, and the rights that are transferable to translate overall (at once), and can also be individually or in part, may even only in certain forms, for example:

- a. the field of reproductive rights, reproductive rights are transferable only if published in book form creation and not in magazines, not in the newspapers, and so on;

- b. the right to field perform/play, which shifted to just the right to play certain music in the park Isrnail Marzuki Jakarta alone, not to be played on television, radio, and so on;
- c. adaptation rights field, which transferred the right to make a movie of creation is concerned, not to be encoded;
- d. translation rights field, which transferred the right to translate the essay in question only in Japanese, not in Spanish or Russian, and so on.

Copyright belongs to the state, if a creation has an entirely unknown creator and this must have been preceded by an attempt to find out and discover creators who are new, Once completely sure that creation is not known or cannot be found its creators, copyright or creation is set controlled by the state. However, if in the future there are those who can prove they are the creator the state will hand back the entitlement rights. In addition, copyright can also be transferred either partly or wholly, through trading and the license agreement.

The transfer of copyright can also be done with the transfer and/or assignment, with transfer refers to the transfer of the form or contains a waiver to the other party and the transfer can be in the form of inheritance, grants, wills, or buy and sell agreement. Assignment refers to the transfer of containing granting approval or permission to utilize in a given time period. Assignment usually takes the form of a license agreement. Copyright ownership is very important to know or stress because it concerns the rights of heirs in the future to accept the transfer of ownership rights of the copyright after the author or copyright holder dies.

In addition Article 19 (1) states that Copyright owned by the Creator as yet, have, or do not have done Announcements, distribution, or communication after the Author passes belong to the heirs or the recipient with the will.

Implicitly implies that moral rights can not be transferred because it is united and attached to a self-creator. Heirs are not the same as the creator's moral rights can't be inherited but moral rights are guarded and escorted by the law. While the economic rights are, under Article 8 UUHC, namely the exclusive right of the creator or copyright holder to obtain economic benefits over creation. Thus the provisions of Article 16 (2) should be clarified beforehand regarding which rights are transferable. For moral rights are rights that can not be reduced to economic rights. Similarly, in reference to Article 18 and 19 paragraph (1) UUHC 2014, there is still confusion and legal uncertainty, which in turn has not given a sense of fairness to all parties related to the transfer of copyright through inheritance. Article 18 states that in case of transfer of economic rights of creators, all though the true sale or indefinite transfer, after 25 years, economic rights are transferred back to the creator or copyright holder. The issue is when, if before the period of 25 years from the agreement ending, its creator has died? Whether copyright can then be automatically transferred to the heirs? This further adjustment is necessary in Article 18 paragraph (2), for example. Similarly, with respect to

Article 19 paragraph (2) stating that Copyright, owned by the Creator as yet, have, or have not done Announcements, distribution, or communication after the author passed, belongs to the heirs or the recipient will. The paragraph also contained ambiguities that could ultimately lead to legal uncertainty and do not reflect the value of fairness to all parties associated with the transition of copyright through inheritance. Said to be ambiguous because it combines the word "yet and has" (made announcements, distribution, or communication after its creator died). If announcement, distribution, or communication happens rather than creation, then it's done exploitation copyright and it may be partly already transferred to economic Creator. If it has been transferred, it is not true that the rights belong to the heirs or beneficiaries via the will if the creator or copyright holder dies.

Reconstruction of the Transitional Law of Inheritance Copyright Based on Justice Values

Indonesia is a State of Law (Constitution of the Republic of Indonesia of 1945), One element of the law is a democratic country. Constitutional democracy according to Dahl contains some other elements, namely, the statement of the rights of human rights (HAM), statement of social and economic rights, the shape of the unitary state or federal government, the legislature with one room or two rooms, power settings judicative, presidential or parliamentary government system, the regulation concerning the constitutional amendment and referendum and the electoral system. (Valina, 2008)

Seen from the point of law and engineering law, all law making in addition must pay attention to technical statutory hierarchy, and all the laws and regulations that exist in our country should be sourced and based on the 1945 constitution (Dimiyati, 2009) as the 1945 Constitution is the highest source of law.

Article 28D (1) of the 1945 Constitution stipulates that "every person has the right to recognition, security, protection and legal certainty and equal treatment before the law". The right of individuals to obtain recognition of property rights was further referred to in Article 28H paragraph (4) of the 1945 Constitution which states that "every person is entitled to have private property rights and property rights should not be taken over arbitrarily by anyone".

John Locke teaches the concept of ownership (property) related to Human Rights with the statement "life, liberty, property". (Rahmi Jened, 2013) Locke stated that originally the naturalist status (state of natura) is a peaceful atmosphere and no positive law that divides the person's ownership or specific authorisation to instruct others. John Locke said the two kinds of rights are: Liberty right that is for areas free of duty; and Claim right that is for areas where the rightholder is owed a duty by others (Rahmi Jened, 2013).

The term is derived from the Arabic belongings, namely milk. Owned by 'lughowi' interpreted as "having something and able to act independently of him. The term belongs to is defined as a *ikhtisas* blocking others (Abdul, 2016).

Based *ikhtisas* principle of the right of ownership, the owners may block other parties using their property without consent and likewise against the creator or copyright owner.

Property in the view of Islamic law can be distinguished as:

- 1) A perfect property rights, the ownership of which include mastery of the object (substance) and benefits (result) objects as a whole;
- 2) Property rights are less than perfect so called because it only includes the object ownership, or benefits only. (Abdul, 2016)

Reconstruction of Article 16 paragraph (2), Article 18 and Article 19 of UUHC or juridical reconstruction in accordance with the second principle of Pancasila "just and civilized humanity" and also the five precepts of Pancasila "social justice for all Indonesian people". Reconstruction juridical on Article 16 paragraph (2), Article 18, and Article 19 UUHC in accordance with the values prevailing in the State of Indonesia, especially wisdom Pancasila. Moreover, Article 28D (1) of the 1945 Constitution stipulates that "every person has the right to recognition, security, protection and legal certainty and equal treatment before the law". The right of individuals to obtain recognition of property rights was further referred to in Article 28H paragraph (4) of the 1945 Constitution which states that "every person is entitled to have private property rights and property rights should not be taken over arbitrarily by anyone". The reconstruction done on Article 16 paragraph (2), Article 18, and Article 19 UUHC will bring a positive impact on the protection and legal certainty to copyright in particular against copyright ownership through inheritance as well as with the law in accordance with the progressive legal theory and reflect fairness to the citizens who own the copyright through inheritance.

UUHC confuse moral rights and economic rights, saying that the copyright (moral rights and economic rights), is a right that can be transferred. The provisions contained in Article 16 of the UUHC are as follows:

- 1) Copyrights are intangible moving objects
- 2) Copyright may be transferred, either whole or in part, for either a:
 - a. Heir
 - b. Grant
 - c. benefaction
 - d. Will
 - e. Written agreement

f. Other causes are justified by legislation

Based on the description above, it has been appropriately given legal certainty according to the author of the rules regarding the transfer of moral rights and economic rights on an invention.

Article 19 UUHC states that

- 1) Copyright owned by the Creator as yet, have, or have not done Announcements, distribution, or communication after the Author passed belong to the heirs or the recipient will.
- 2) The provisions referred to in paragraph (1) shall not apply if the right was obtained unlawfully.

Associated with transferable copyright according as defined in Article 16 UUHC stating the actions that can transfer copyright, i.e. inheritance, grants, endowments, wills, written agreement or any other cause that is justified by the legislation, should be cleared first, what rights are transferable.

When compared with the Berne Convention Article 2 (7), protection of rights applies to the benefit enjoyed by the creators and their heirs of those rights. Inheritance rights and the right to enjoy moral rights economy for identity, such as surnames are continuously passed on and kept the rest. Heirs of songwriter Gesang songs, for example, will enjoy a big name Gesang, but does not mean he inherited moral rights Gesang, because the name remains attached to Gesang Gesang. The heirs of Gesang do not inherit the rights moral in the sense of identity.

If the inherited moral rights, then it means that the heirs have the right exactly as the creator, that is changing the integrity of copyright and so on. Heirs are not the same as the creator. Moral rights can not be inherited but guarded, escorted by law. (Diah, 2017)

If moral rights are formulated as the right to identity, of experts cannot be inherited inheritance is not the creator. In this case, the Berne Convention expressly separates the moral rights and economic rights, and states that were transferred are economic rights. See Article paragraph 1: apart have economic rights, and even after the transfer of economic rights of the creator has the right to be declared as a creator over a work and has the right to declare objected to the actions that damage, cut or modify the work, or all the other actions that disparage the work of his creation, which would diminish the respect or reputation as a creator.

UUHC stated more explicitly moral rights and economic rights in the formula norm in the torso (Article 4 and Article 5 UUHC). However, Article 5 (2) UUHC still provide

opportunities moral rights transfer after the creator's death. This will undermine the inherent and enduring characters that have been formulated in Article 5 (1) UUHC (Act No. 28 of 2014)

UUHC incorporate the rights of creators to elaborate into two groups, moral rights and economic rights. Provisions in Article 5 of the UUHC are:

- 1) Moral rights stipulated in Article 4, namely: the inherent right of self perennially on the creator's
 - a. Continue to say or not to include their name on the copy with respect to the use of their creation to the public
 - b. Using the alias name or pseudonym
 - c. Ciptaanya change in accordance with decency in society
 - d. Change the title and subtitle creation
 - e. Defend their rights in the event of creation distortion, mutilation creation, modification creation, or things that are detrimental to the self-respect or reputation.
- 2) The moral rights referred to in paragraph (1) may not be transferred during the time a creator is still alive, but the implementation of these rights can be transferred by a will or other reason in accordance with the provisions of the legislation after creator died.
- 3) In the event of the implementation of the transfer of moral rights referred to in paragraph (2), the receiver can release or reject the implementation of the rights, subject discharge or refusal of exercise of these rights expressed in writing.

UUHC formulation has a philosophical foundation clearer than the previous law. With a clear philosophical basis, it actually UUHC Indonesia maker must behave that moral rights are rights that can not be reduced to economic rights, as well as the concept of moral rights are swept by its creator, as in France and Canada. Moreover, the concept of moral rights, if traced back to the concept of 'morale Dorit' (France), is the unity between the creator and his creation (Diah, 2017).

Meanwhile, the economic rights under Article 8 UUHC, namely: economic rights the exclusive right of the creator or rights holder to create to gain economic benefits over creation. As for Article 9 of its detailing the types of activities that are economic rights, namely

- a. Publishing creation
- b. Doubling creation in all its forms
- c. Translation creation
- d. Adaptation, arrangement or creation transformation
- e. Creation or distribution of copies

- f. Appointment creation
- g. The announcement of creation
- h. Communication creation
- i. Rental creation

The provisions of Article 19 UUHC is slightly ambiguous because of the mixed word: yet, already or not (do Announcements, distribution, or communication after the Author passed). If it happens announcement, distribution, or communication rather than creation, then it's done exploitation copyright and it may be partly already transferred economic Creator. If it has been transferred, it is not true that the rights belong to the heirs or beneficiaries will if the creator or copyright holder dies.

However, creation (copyright) that has not been exploited, for example, a song has been created but have not been recorded, reproduced and so on, the copyright of the song is true belongs to the heir or the holder of a will. If creation was obtained unlawfully, for example, the song is the result of plagiarism, it does not apply the provisions of Article 19 paragraph (1) UUHC.

Besides, according to the authors would need additional paragraph in Article 19 that the copyright has shifted ownership to heirs or beneficiaries will have to be registered / recorded in order to obtain legal certainty as to who the copyright holder next, who is entitled to take benefit economy of creation after the creator's death, and the certainty of future copyright protection up to 70 years after its creator died as referred to in Article 58 paragraph 1 so that when the time limit is over the protection of copyright becomes public property.

Article 18 UUHC states that "Creation of books, and/or all of the results of other writings, songs and/or music with or without text are transferred in agreement true sale and/or transfer indefinitely, Copyrighted switch back to the Creator at the time the agreement reached a period of 25 years".

The provisions of Article 18 UUHC lists different types of novelties in the regulation of copyright in Indonesia. That is, if there is a transfer of economic rights of creators, although the true sale or transferred indefinitely, after 25 years, economic rights are transferred back to the creator or copyright holder.

The issue is how that before the period of 25 years of the agreement it exceeded its creator has died? Whether copyright can be automatically transferred to the heirs?. Therefore the provisions in Article 16 paragraph (2) and Article 19 (1) of the UUHC need to be reconstructed and Article 19 needs to be added by one paragraph regulating the economic benefits of copyright referred to in paragraphs 1, the heirs or beneficiaries will have to keep

records of the copyright transition. The provisions of Article 18 of the UUHC also need to be added to the paragraph by regulating new provisions concerning namely: Copyright as referred to in Article 18 paragraph (1), when its creator is edited right to creation can be transferred to the heirs at the time of the agreement reached a period of 25 years.

The construction and reconstruction of Article 16 paragraph (2), Article 18 and Article 19 of the UUHC, as follows in Construction Article 16 paragraph (2), which reads: Copyright may be transferred, either whole or in part by:

- a. Inheritance;
- b. Grant;
- c. Endowments;
- d. Will;
- e. Written agreement; or
- f. Another reason is justified pursuant to the provisions of the legislation.

A weakness is in Article 16 paragraph (2) UUHC as its not stated stated unequivocally that the copyright may be transferred in only economic rights alone while the perpetual moral right inherent to the creator and is not transferable.

Reconstruction Article 16 paragraph (2), which reads: Economic rights over a work may be transferred either whole or in part by:

- a. Inheritance;
- b. Grant;
- c. Endowments;
- d. Will;
- e. Written agreement; or
- f. Another cause is justified in accordance with the provisions of the legislation.

Construction Article 18 states that:

For creation of books, and/or all of the results of other writings, songs and/or music with or without text are transferred in agreement true sale and / or transfer indefinitely, copyright switches back to the Creator at the time of the agreement reached a period of 25 (twenty five years).

A weakness in Article 18 UUHC is, the Country not provide legal certainty if before expiration of the 25-year agreement creator dies whether copyright can automatically switch to their heirs. According to the author, the copyright will be transferred to the beneficiary if the expiration of the agreement term is 25 years.

Reconstruction Article 18 UUHC, which reads:

- 1) Creation of books, and/or all of the results of other writings, songs and/or music with or without text are transferred in agreement true sale and/or indefinite transfer, copyrights switches back to the Creator at the time the agreement reached a period of 25 years.
- 2) Copyright as referred to in Article 18 paragraph (1), when its creator died, the right to creation can be transferred to the heirs at the time of the agreement reached a period of 25 year.

Construction Article 19 states that:

- 1) Copyright owned by the Creator as yet, have, or have not done Announcements, distribution, or communication after the Author passed belong to the heirs or the recipient will.
- 2) The provisions referred to in paragraph (1) shall not apply if the rights were acquired against the law.

A weakness in Article 19 UUHC is, Not yet mixing state, has or does not (do announcements, distribution, or communication after the Author passed). If it happens announcement, distribution, or communication rather than creation, then it's done exploitation copyright and it may be partly already move Economic Creator. If it has been transferred, it is not true that the rights belong to the heirs or beneficiaries of the will, if the creator or copyright holder dies. However, creation (copyright) that has not been exploited, for example, a song has been created but have not been recorded, reproduced and so on, the copyright of the song is true belongs to the heir or the holder of a will. The state has not explicitly stated that the transfer of copyright through inheritance must register, for which in order to obtain legal certainty as to who the next copyright holder is, who is entitled to take benefit the economy of creation after its creator died, and the certainty of copyright protection period to 70 years after its creator died as referred to in Article 58 paragraph 1

Reconstruction Article 19 UUHC, which reads:

- 1) Copyright owned by creator who has not, or has not done Announcements, distribution, or communication after the Author passed belong to the heirs or the recipient of the will.
- 2) The provisions referred to in paragraph (1) shall not apply if the rights were acquired against the law.
- 3) To get the economic benefits of copyright referred to in paragraphs 1, the heirs or beneficiaries will have to keep records copyright transition.

Conclusion

Transitional copyright through inheritance in accordance with the positive law in Indonesia



has not been based on values of justice because there is confusion between moral rights and economic rights. Article 16 (2) UUHC mentioned that copyright is transferred to the heirs. While copyright itself under Article 4 UUHC consists of moral rights and economic rights. Moral rights under Article 5 (1) UUHC are an inherent right of self perennially on the creator. In addition Article 19 (1) states that Copyright owned by the Creator as yet, have, or have not done Announcements, distribution, or communication after the Author passed, belong to the heirs or the recipient will. Reconstruction Transitional Copyright Law through Inheritance Based on Justice Value reinforces and clarifies Article 16 paragraph (2), Article 18 and Article 19 paragraph (2) UUHC.

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