



NATIONAL CHAPTER
INDONESIA

ALSA Forum Thailand 2022

ALSA INDONESIA SEMINAR MATERIALS SET

contact@alsaindonesia.org

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ALSA FORUM THAILAND 2022

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Legal Liabilities and Law Enforcement in the Metaverse in Indonesia

Daffa' Deta Prawira

ALSA LC Universitas Airlangga

Najla Aura Maharani Hasbullah

ALSA LC Universitas Hasanuddin

Nugra Alayya Wahab

ALSA LC Universitas Airlangga

I. Background

Metaverse is defined as a concept of a virtual world where one can create and explore with other internet users in the form of his own avatar. The word “Metaverse” were combined from the word “Meta” and “Universe”, and a word that is used primarily to refer to an anticipated future iteration of the internet that is often hailed as Web 3.0. Metaverse is a term that comes from the world of technology industry, this term was written about by Neal Stephenson in the novel Snow Crash that was released in 1992. It represents the parallel virtual reality universe created by computer graphics, which users from around the world can access and connect through goggles and earphones. In 2011, a modern literary reincarnation of the Metaverse called OASIS is illustrated in the form of a science fiction novel called Ready Player One authored by Ernest Cline that evolved into the predominant online destination for work, education, and entertainment.¹

Metaverse is a combination of Virtual Reality (VR) and Augmented Reality (AR) technology. Virtual Reality (VR) is a technology that is capable of creating simulations, where this simulation can be exactly the same as the reality or real world.

¹ Mystakidis, S. (2022). Metaverse. *Encyclopedia*, 2(1), 486–497. <https://doi.org/10.3390/encyclopedia2010031>.

Augmented Reality (AR) is a technology that combines two-dimensional and/or three-dimensional virtual objects into a real environment and projects these objects in reality in real-time. Even though the word metaverse might be a new vocabulary to the world of technologies, it is a term used to portray a virtual expanse outside the confines of the everyday or a reality beyond real life. The metaverse is a ground-breaking development and has the potential to reshape how we work, learn, and socialize in a virtual world. There has been much discourse about the metaverse in both science fiction and in the gaming community, but the number of legal aspects that specifically talk about the metaverse have been limited. For example, it was reported as late as May 2021 that attention from legal practitioners is still nascent where the metaverse is concerned.

The development of the metaverse is still in the nascent stages, but it has the potential to play a large part in human existence. One view is that the metaverse would be a “parallel universe” existing alongside the real world where human beings possess an avatar that resides in the metaverse, and virtual reality would be one of the many access points. In the metaverse, there would be no boundaries and it would be decentralized such that it does not have centralized ownership.

II. Issue

In this topic, we are going to discuss the two issues below:

- 1) Should avatars be given legal rights and duties in the Metaverse?
- 2) How to enforce the law towards avatars in the Metaverse?

III. Regulation

- 1) The 1945 Constitution of the Republic of Indonesia;
- 2) Indonesia Personal Data Protection Bill; and
- 3) Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 on Information and Electronic Transaction.

IV. Analysis

Should avatars be given legal rights and duties in the Metaverse?

When users interact through their avatars, there may be situations where some form of altercation occurs that would equate to breaking the law if it took place between people in the real world. Such incidents could be in breach of tort law (which covers civil claims such as negligence or nuisance) or criminal law (involving illegal acts and crimes such as assaults, murder, burglary, or rape).

If an avatar assaults another, would the criminal laws of assaults and battery apply to this situation? Such issues in the metaverse would arise as users would expect their avatars' right to be protected in the metaverse. Hence, one way the problem could be resolved would be by making an avatar responsible for their actions in the metaverse. But this is complicated because it would mean that we need to attribute a legal persona to the avatar, accord these avatars rights and duties within a legal system and allow them to sue or to be sued. The more difficult issues would be the kind of standards and criteria that would need to be in place to distinguish between a 'legal' avatar and the real-life person who operates that avatar.

How to enforce the law towards avatars in the Metaverse?

According to Article 28G of the 1945 Indonesian Constitution, "*everyone has the right to personal protection, family, honor, dignity, and property under his control, as well as the right to a sense of security and protection from the threat of fear to do or not do something which is a basic right*," which means that everyone in the Metaverse has the right to protect their personal information and any data stored on the platform.² The Metaverse allows users to accomplish everything that they can do in the real world, but the Metaverse concept is to combine the virtual and real worlds into one large environment. As a result, it can generate real-world issues, such as hackers recording the footage and knowing the user's home or private space, resulting in an invasion of

² Article 28G The 1945 Constitution Republic of Indonesia.

privacy. The only way to safeguard them is to install cyber security software, which is difficult to perform because the Metaverse is a sophisticated platform.

The Metaverse can also be used to create a virtual marketplace, which means it can be used to sell illegal items such as narcotics, weapons, or even stolen creative art. NFT, or non-fungible token has been a hot issue recently, and the Metaverse can easily allow such transactions.³ Unfortunately, due to a lack of expertise, Indonesia's law enforcement does not yet meet the threshold to conduct an inquiry in that area. In order to combat this type of war and crime, the Indonesian government must provide basic training to its law enforcement officers, especially the police authority. An additional commission or independent agency to regulate and control the virtual reality world and protect the user's data is also urgently needed. Indonesia will need to create a specialist police department to combat cybercrime as it develops its police authority. Furthermore, as per today, Indonesia only regulated cyber crimes as far as personal data distribution, online gambling, threats and extortion, hoax, hate-speech, tapping, security system breach, basically the main things revolving around personal data, publishing, and interception of governmental affairs.⁴ As a result, the so-called "*internet police*" will be a significant invention for Indonesia in the coming years.⁵

ASEAN has no data protection regulations, unlike the European Union, which enacted a General Data Protection Regulation (EU GDPR) in 2016. Because the development of highly advanced technology is on the rise, Indonesia is currently in need of specialized law. However, finally after several years Indonesia has enacted Personal Data Protection on 20th September 2022.⁶ This bill will help the protection of the user's personal data in the Metaverse world and also to keep maintaining the

³ Lau, Lean Pau, 'The metaverse: three legal issues we need to address', <https://theconversation.com/the-metaverse-three-legal-issues-we-need-to-address-175891>, accessed on 20 September 2022.

⁴ Article 27-30, Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 on Information and Electronic Transaction.

⁵ Anderson, Nate, 'The Internet Police: How Crime Went Online, and the Cops Followed', (W. W. Norton & Company 2013), [28].

⁶ Yusuf, 'Menkominfo: RUU PDP Disahkan, Kominfo Awasi Tata Kelola Data Pribadi PSE', <https://aptika.kominfo.go.id/2022/09/menkominfo-uu-pdp-disahkan-kominfo-awasi-tata-kelola-data-pribadi-pse/>, accessed on 20 September 2022.

platform safe and healthy.

V. Conclusion

The Metaverse is a vast platform that can bring a new way of life in the coming years. The Metaverse, on the other hand, has a few risks, such as privacy threats, identity theft, impersonation, and fraud acts of the marketplace that can be held in the Metaverse, such as NFT and cryptocurrency. The advancement of highly advanced technology in the twenty-first century is quite rapid. Not only is technology advancing, but criminal methods are also becoming more technologically advanced.

Despite its allure, the Metaverse still lacks a legal foundation in the ASEAN region, particularly in Indonesia. The need for a virtual world policy will make it easy for Indonesia to comprehend the possible crimes of the Metaverse. The development of a specialized cyber-police or internet police will be of great assistance to Indonesia in combating cyber dangers and supervising virtual activities, particularly on the promising platform known as the Metaverse.

VI. Recommendation

On this matter, we are going to suggest a few things regarding the Metaverse:

- 1) ASEAN will still need to push on the making of a ASEAN General Data Protection Bill in order to prevail future cross-region cyber crimes; and
- 2) Not only that, Indonesia also needs to make a commission or supervisor regarding the virtual world space especially on Metaverse to monitor the platform on a daily basis.

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The Legal Liability of Violent Criminal Avatars in Metaverse

Bunga Lily Cahaya
ALSA LC Universitas Udayana

Hanifa Aini
ALSA LC Universitas Andalas

Renata Aurellia Alfatiha
ALSA LC Universitas Sriwijaya

I. Background

Metaverse is a new world that is currently an exciting topic because it impacts various fields of life, such as social, economic, legal, and other fields. Defining what the Metaverse is, seems more complicated than one might expect. The metaverse refers to the integration and augmentation between the physical world into the digital world to various interactions of activities and digital assets. It is a compound word of “meta,” meaning transcendence and virtually, and “universe,” telling world and universe. This term refers to the digitized earth as a new world expressed through digital media such as smartphones and the internet.¹ The metaverse is a virtual space set and a place for people to explore with other internet users that are not in the same room. It is a virtual world where people can feel cyberspace as part of the natural world and blur the boundaries between the real and virtual worlds.²

The word metaverse might be a new vocabulary to the world of technologies. It is used to portray a virtual expanse outside the confines of everyday or a reality

¹ Kim S., ‘Metaverse: the digital world, a world of emerging items’ [2020] p. 376.

² Tribun Medan, ‘Mengenali Arti Metaverse Dunia Virtual 3D yang Dihuni Avatar dalam Satu Lingkup’ (Tribun Medan, December 18, 2021) <<https://www.msn.com/id-id/berita/other/mengenali-arti-metaverse-dunia-virtual-3d-yang-dihuni-avatar-dalam-satu-lingkup/ar-AARW0mM>> accessed August 22, 2022.

beyond real life. To tackle the power of the metaverse for good is crucial for unlocking a future for the public, industries, and governments worldwide. Every new technological creation comes with an exploitative risk, like in 1991 when the internet was introduced.

Metaverse is a 3D virtual reality that people could explore through their avatars as part of an endless virtual community connected. Avatar is a word used to depict a body manifestation of an immortal being or a manifestation of a being belonging to a parallel world. People, through their avatars, could work, meet, and play by using virtual reality headsets, augmented reality glasses, smartphone applications, or other devices.³ With the avatar being controlled by humans in the real world, what the avatar does in the metaverse is the responsibility of the humans who control it.

Legal liability is a person or entity's legal responsibility, in which a person must bear the consequences of a legal act committed by that person, intentionally or not, which can cause harm. As the practical applications of the metaverse continue to broaden and evolve with technological improvements, so will the legal and regulatory challenges.⁴ Legal issues in the metaverse world are indeed related to the violent crime of avatars. In this regard, clear legal rules are needed so that activities in the metaverse world can protect users and provide punishment for those who abuse it.

II. Issue

It is argued that not regulating avatars in the metaverse can have serious ramifications as the very structure of cyberspace permits a separation between a person's real identity and their virtual one. The main challenge here would be trying to protect rights and impose liability using existing legal concepts. If an avatar steals a digital 'Gucci bag' in the 'metaverse,' this would involve property rights, theft, and

³ Reta Amelia, 'Mengenal Metaverse, Dunia Virtual Baru di Masa Depan' (Universitas Pasundan, November 30, 2021) <<https://www.unpas.ac.id/mengenal-metaverse-dunia-virtual-baru-di-masa-depan/>> accessed August 22, 2022.

⁴ Megan Gordon, 'The Metaverse: What are the legal implications?' (Clifford Chance, February 13, 2022) <<https://www.cliffordchance.com/insights/resources/hubs-and-toolkits/talking-tech/en/articles/2022/02/the-metaverse--what-are-the-legal-implications-.html>> accessed August 22, 2022.

intellectual property law issues. If the loss of money or reputation of a real- world person or company is concerned, there is a case to be made that these are legal problems sufficiently substantive to warrant an actual claim in a real court of law. Extending legal protections to avatars would encourage investment in the business, reduce unnecessary litigation and promote creativity.

When users interact through their avatars, there would be situations where some fight would occur, tantamount to an unlawful act occurring between people in the real world. This would be complicated because we must associate legal personas with avatars, giving them rights and obligations in the legal system to enable them to sue or be sued. Proving an assault or violence is also much more difficult, as evidence of actual bodily harm is usually required. In the metaverse, naturally, there will be no actual bodily harm.

There is a case that happened in 2022, QA 43-year-old woman claimed to be groped in the virtual world by some male avatars. Three males groped her by touching her private areas and taking screenshots of her avatar. She also was being verbally abused by other avatars in Meta Horizon Venues. The woman said, “It was surreal; it was a nightmare,” and she was traumatized by this experience.

After this case, the Meta company’s spokesperson clarified and apologized to that woman. They don’t expect something terrible could happen and cause actual harm or anxiety to their users. They want Horizon Venues to be a positive place that can give good experiences to all users. They also clarified that users can now easily find the safety tools to help the victims, investigate crimes, and take action.

They committed to building safer Horizon Venues and improving by learning how people would interact in these Metaverses and how people would report or act to help them solve this case efficiently and reliably. But, in reality, the Metaverse is getting worse. Insider workers (Stephen Jones) reported another similar case. A stranger has also groped a woman on Meta’s Horizon Worlds. It is known that the

victims are not enabled with safety features.⁵

III. Regulation

Until now, national law is not ready to respond to innovations in the development of metaverse technology. The legal context of each electronic system operator must ensure that electronic system users are aware of the risks. Indonesia still needs essential protection tools to develop that currently do not exist, such as the personal data protection law. The presence of the metaverse is a challenge to develop legal rules that can respond to the speed of technology.

Besides that, some Indonesian regulations are related to the Metaverse, the digitized world, and its violent crimes (which now we are focusing on Sexual Harassment). First, Law Number 19 of 2016 concerning the changes of Law Number 11 of 2008 concerning the Information and Electronic Transaction. Article 27, section 1 formulate, “Everyone intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency.” It violates the ethical code of a person.

Article 45, section 3 says, “Every person who distributes or transmits or makes access to Information that consists of abuse or defamation will get a maximum sanction of 4 years of imprisonment and a fine of 750 million Indonesian Rupiah.⁶ Second, Article of 14 Law Number 12 of 2002 concerning the Sexual Harassment which regulates the online-based sexual harassment act such as taking pictures/videos without any consent, doing an online transmitting of sexual content, stalking for sexual purposes will get a maximum 4 years of imprisonments and/or a fine of 200 million Indonesian Rupiah.⁷

⁵ Zitser, Joshua, ‘A woman claimed she was virtual groped by a gang of male avatars in Meta’s metaverse, report says’ (Business Insider, 30 January, 2022) <<https://www.businessinsider.nl/a-woman-claimed-she-was-virtually-groped-by-a-gang-of-male-avatars-in-meta-s-metaverse-report-says/>> accessed on 26th August 2022.

⁶ Indonesian Law Number 19 of 2016 concerning the Information and Electronic Transaction.

⁷ Indonesian Law Number 12 of 2002 concerning the Sexual Harassment.

IV. Analysis

With the case of sexual harassment that happened in 2022, it is not impossible that the case can be repeated in the future. Government and the related company that has a hold in the metaverse must have a sense of belonging to their respective citizens and users. As stated in Article 14 Law Number 12 of 2002 in Indonesia, concerning Sexual Harassment both in reality and online, you will get a maximum of 4 years imprisonment and/or a fine of 200 million Indonesian Rupiah. However, the online platform and the metaverse slightly own a difference. The online platform is not as accurate as a metaverse if we compare it to the real world. In the metaverse, users can feel the touch of other avatars even though they are not in the same room.

The metaverse concept is still in a grey area for developing countries. Many adjustments should be made before the metaverse can be called a safe place to work, socialize, study, and many other activities that are usually done in the real world. In the metaverse, action can be done by avatars that do not use their own real identity. That is why it can be difficult for the law enforcer to penalize the one who controls the avatar.

Statutory remedies could be put in place to allow the person behind the veil of incorporation of the avatar to become statutorily liable without relying on common law veil-piercing principles to impose liability on the real-world person. Where avatars have caused real-world harm in the metaverse, it would seem that the first step in legal proceedings would be a pre-action discovery against an incorporated avatar to force the disclosure of the natural person's identity behind the avatar to commence real-world legal proceedings. Suppose the veil cannot be lifted to disclose the person behind the avatar. In that case, a litigation representative could be appointed to sue or defend an action on behalf of the avatar in the real world.

V. Conclusion

Metaverse is a new world that is currently an exciting topic because it impacts various fields of life, such as social, economic, legal, and other fields. The metaverse

refers to the integration and augmentation between the physical world into the digital world to various interactions of activities and digital assets. Legal issues in the metaverse world are indeed related to the violent crime of avatars. In this regard, clear legal rules are needed so that activities in the metaverse world can protect users and provide punishment for those who abuse it.

It is argued that not regulating avatars in the metaverse can have serious ramifications as the very structure of cyberspace permits a separation between a person's real identity and their virtual one. The main challenge here would be trying to protect rights and impose liability using existing legal concepts. There is a case that happened in 2022, QA 43-year-old woman claimed to be groped in the virtual world by some male avatars. Three males groped her by touching her private areas and taking screenshots of her avatar. She also was being verbally abused by other avatars in Meta Horizon Venues. The woman said, "It was surreal; it was a nightmare," and she was traumatized by this experience.

Until now, national law is not ready to respond to innovations in the development of metaverse technology. The legal context of each electronic system operator must ensure that electronic system users are aware of the risks. However, some laws can be used and still have related subjects to the metaverse. In Indonesia, Law Number 19 of 2016 concerning the changes of Law Number 11 of 2008 concerning Information and Electronic Transaction. Also, Article 14 Law Number 12 of 2002 concerning the Sexual Harassment.

Statutory remedies could be put in place to allow the person behind the veil of incorporation of the avatar to become statutorily liable without relying on common law veil-piercing principles to impose liability on the real-world person.

VI. Recommendation

As the practical applications of the metaverse continue to broaden and evolve with technological improvements, so will the legal and regulatory challenges. Legal

issues in the metaverse world relate to privacy and data protection, as it is difficult to detect the user's real presence from the avatar. In this regard, clear legal rules are needed so that activities in the metaverse world can protect users and provide punishment for those who abuse it.

Some policy recommendations can be provided to solve these violent crimes issue in the Metaverse:

1. Implement possible punishment for the perpetrators

If the users commit sexual assault or murder crimes, we can give them sanctions either ban them from the Metaverse, give them a real-life fine, publicly display, and lose their digital assets.

2. Establishing Metaverse Regulation

Meta companies should have an International Regulation to ideally have cross-border jurisdictions to cover the criminals and victims from different countries. Though it may be challenging for Metaverse companies to comply with these regulations, tax deductions can be implemented. If metaverse companies understand that they will lose more profit if users feel unsafe in the metaverse, they will be more likely to cooperate.

3. Conducting Metaverse Police Agency

This agency will make decisions towards the legal reals in Metaverse. They will become the party that will enforce the Metaverse Regulations.

4. Non-Legal Solutions

Solutions may not always be related to the law, but improving education and self-awareness will also help us to a better future. Events like ACCPCJ Conference and ALSA Forum could also be a facilitator, giving us a huge opportunity to participate in building a safer Metaverse.

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Indonesian Law Number 19 of 2016 concerning the Information and Electronic
Transaction

Indonesian Law Number 12 of 2002 concerning the Sexual Harassment

Protecting Human Rights in the Metaverse

Satriabudi Praharsa

ALSA LC Universitas Gadjah Mada

Shakeera Arjumand Bano

ALSA LC Universitas Brawijaya

Muhammad Habel

ALSA LC Universitas Syiah Kuala

I. Background

The word Metaverse has been a hot topic in this era where we are all socially distancing. Another word that comes to mind when speaking of Metaverse is the tools that are used which are Augmented Reality (AR) and Virtual Reality (VR). The rapid evolution of technology as well as the need of human beings to socialize with another human being, some people have conceptualized a world where it can be enjoyed virtually. The idea behind this Metaverse is that humans will still be able to do almost anything even if they were not in the 'Real World'. There is no yet clear explanation about what The Metaverse is but it can be understood as a digital universe that melds virtual and augmented reality to build an immersive experience.¹ In short, users can do real life human things but in a digital form. This new invention might be beneficial to our lives, but on the other hand it still has potential risks especially to human rights. Human rights are rights we have simply because we exist as human beings. These universal rights are inherent to us all, regardless of nationality, sex, national or any other status. Online harassment and abuse could occur where there could be a person record their surroundings with some AR tools in secret. Not only that, our personal

¹ Shamani Joshi., 'What is The Metaverse? An Explanation for People Who Don't Get It', (Vice, March 15, 2022), <<https://www.vice.com/en/article/93bmyv/what-is-the-metaverse-internet-technology-vr>> accessed 1 September 2022.

data could also be recorded and somehow connected to the companies who build the metaverse. With this current condition, all of the parties such as governments, NGOs, and the companies including the investor should also be focusing on human rights in the Metaverse.

II. Issue

The issues that comes up under human rights perspective on metaverse:

- 1) Whether there can be a violation of human rights that could come up on metaverse?
- 2) Whether there can be a dispute and conflict upon the manifestation of human rights violation on metaverse?
- 3) What is the role of government and policy makers in creating better legal regulation?

III. Regulation

- 1) Law Number 19 of 2016 concerning Amendments to Laws Number 11 of 2008 concerning Information and Electronic Transactions;
- 2) The Regulation of the Minister of Communication and Information Number 20 of 2016, which concerns the Protection of Personal Data in Electronic Systems; and
- 3) The Budapest Convention on Cybercrime and European Union General Data Protection (GDPR).

IV. Analysis

1. The Violations of Human Rights in Metaverse and Its Consequences

A core component of the metaverse is interoperability which means that

information is exchanged between different systems seamlessly.² Setting a foot in the metaverse is just easy, if a person has access to a VR headset and AR glasses, then they have access to the metaverse. This system works by capturing biological data about a user's body. Spending just 20 minutes in a VR tool leaves nearly 2 million unique recordings of body language. Some biological data that is captured in the VR headset and exposed in the metaverse can cause some serious problems. Referring to the gathering and use of biological data to reveal intimate details about a user's likes, dislikes, preferences, and interests, human rights lawyer Brittan Heller called it as 'biometric psychography.' By experiencing VR, the user can also see some emotional response and that can be analyzed and tracked. This 'no-boundaries' nature in the metaverse means that there is no law yet for the user to do some activities. The lack of established legal framework of consequences may even enhance the probability of criminal or abusive actions.³ There are three most common and expected cases in the Metaverse: Privacy-Related risks, Sexual Exploitation, and Verbal Harrasment. The huge amount of personal data collected from users in metaverse systems may follow individuals far more closely as it can lead to the violation of human privacy, expose users to electronic extortion, diversion of personal data, and may fall victim to attacks and fraud. Where the consequences of this are data being monetized by third parties, people will lose a sense of security and trust, and people tend to feel intimidated. Sexual exploitation may occured by just using AR glasses as user can easily record their surroundings in secret. The need for the protection especially for the women is urgent as Jane Patel a 43-year-old and mother of four who actually works for a metaverse project was verbally and virtually harassed by 4 male iconic figures after joining the metaverse and designing her avatar. In this metaverse or virtual reality, somehow the feeling that the victim's got is way much uncomfortable. By that, some people said it's important to have good behavior in virtual spaces now. Though its

² Emma Ascott, '10 Things You Need to Know About The Metaverse' (allwork.space, 21 January 2022) <https://allwork.space/2022/01/10-things-you-need-to-know-about-the-metaverse/>, accessed 29 June 2022.

³ Nitin Kumar, 'Six Unaddressed Legal Concerns for The Metaverse' (forbes.com, 17 February 2022) <https://www.forbes.com/sites/forbestechcouncil/2022/02/17/six-unaddressed-legal-concerns-for-the-metaverse/?sh=2c23ae517a94>, accessed 29 June 2022.

virtual world, it still made an impact on the real world.

2. Metaverse and War: The Connection

As the development of the technology, now we can escape from this real world to the digital or virtual world. By that, we could be assuming that someday there will be no sound of a gun in a war since the nations will be fighting through virtual environment. The thing that is loss is not the life but it's the assets that owned in the metaverse. If there is no governing control mechanism or rules of control created over Metaverse wars, it could lead to an economic war where the only physical casualties are those people who are starving because once they logged out of the virtual world, they no longer could afford food or necessities after losing all their virtual assets. War crimes considered as a violation of act, human rights, and humanitarian law. This crime includes all violations of International Law in relation to an armed conflict for which individuals may be prosecuted and punished, including crimes against peace, crimes against humanity and genocide. Cyber operations are now becoming part of today's armed conflicts so there is some possibility that Metaverse will be the new warfare. The IHL current principles of humanity, distinction, precaution and proportionality are clearly applicable to the use of new weapons and methods of warfare. According to **Article 36 of the Additional Protocol 1 of 1977 Geneva Conventions**, cyber warfare could be considered as a new weapon or method in war. This condition may lead to the exist of cyber-terrorists where they could hack the systems and steal some resources from other players. Since the pandemic occurred, some military has been trying to developed learning opportunities through simulations, wargames, and the use of augmented-reality to visualize battlespace. If the military is connected to the virtual world, it means that the metaverse has the potential to become a new domain of warfare.⁴ The laws of armed conflict or we can call it as International Humanitarian Law should be conducted about this too considering the war will be held virtually. If the parties of the metaverse war are some

⁴ Aaron Bazin, 'The Metaverse: A New Domain of Warfare?' (Small Wars Journal, 3 April 2022) <https://smallwarsjournal.com/jrnl/art/metaverse-new-domain-warfare>, accessed 30 June 2022.

nations, then they should obey the basic rules of IHL which include humanity, distinction between civilians and combatants, distinction between civilian objects and military objects, proportionality, and military necessity.

3. The Role of the Governments

Human rights is a fundamental right belonging to every person in the world that has been given from birth to death. These rights are essential as they will protect our life. The Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly more than 70 years ago. It shows that since the beginning, Human Rights will always be part of people and will still be. It might be confusing to govern the metaverse as the metaverse itself is something that is ungovernable. The virtual world only gives us to see and to feel but not to touch like it is not truly viable. There are a lot of companies that are working on different metaverse projects, so it is hard for the council to take part. The EU's General Data Protection Regulation (GDPR) could arguably apply to the metaverse, as could the UK's Data Protection Act. But given the novel nature of the metaverse, to ensure that users' rights are protected, the processes governing informed consent around data processing may need to be revisited.⁵ In Indonesia, there are no specific rules regarding the data privacy law.

Nevertheless, the Indonesian government has been preparing a Personal Data Protection Draft Bill (the PDP Draft Bill), which would recognize international standard concepts such as data controller, data processor, sensitive personal data, and dedicated data protection officers. In the international court, it has not yet had uniform rules to give sanctions for all violations in the metaverse sphere. Until now, violations in the metaverse can only be tried within the scope of private law and not public law. Currently, the international court can provide advisory opinions on cases faced by each country. Human rights infringements can not be seen as a simple violation, it should be the government top priority when making the law for the metaverse. The

⁵ Pin Lean Lau, 'The Metaverse: three legal issues we need to address' (the conversation, 1 February 2022) <https://theconversation.com/the-metaverse-three-legal-issues-we-need-to-address-175891>, accessed 30 June 2022.

challenge that the government will be facing when making the law is the act is not really visible. And when it comes to proving the assault, it would also be difficult even if the victim really felt the loss.

V. Conclusion

In underlying conclusion over the Human rights violation over the metaverse, the violation of human rights in metaverse is admissible under the virtual world. The enforcement of the violation is still in question and becomes a problem. In relations within the war and also metaverse, we conclude that the dispute between states under the metaverse certainly becomes the legal gaps in today's legal perspective. In relations to the government and the international community, the role of the government and the international community is to provide a legal framework. However, the rapid development of technology tends to portray the legal event that is far behind the demand of the legal framework.

VI. Recommendation

In relation to the enforcement of human rights violations, the enforcement should be aligned with the sovereignty of the states and how the states should work on advanced technology enforcement. Besides that, the defense mechanism of states to support the repression of human rights violations. In relation to the war and metaverse, we recommend creating a better law of war under the Rome statute to create a better legal framework on providing better regulations. The government and international community should also create a more secure network of metaverse to better enforce and maintain the sovereignty of the states in the metaverse world.

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Article 36 of the Additional Protocol 1 of 1977 Geneva Conventions

Law Number 19 of 2016 concerning Amendments to Laws Number 11 of 2008
concerning Information and Electronic Transactions

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Safeguarding Creativity in the Metaverse: Regarding Copyrights Law

Andika Reza

ALSA LC Universitas Syiah Kuala

Ilham Daffi Syabana

ALSA LC Universitas Padjadjaran

Nafisah Putri Nabilah Herlambang

ALSA LC Universitas Brawijaya

Salma Atiqah Raihana

ALSA LC Universitas Brawijaya

I. Background

Inventions Computer science plays a major role in everyday life as they change and enrich human relations, communication, and social transactions. From the point of view of end users, three major waves of technological innovation have been noted centered on more or less introduction of exclusive personal computers, Internet and mobile devices, respectively. Currently, the fourth wave of computational innovation is underway around spatial, immersive technologies such as virtual reality (VR) and augmented reality (AR). This wave is needed to produce the next ubiquitous computing paradigm that has the potential to change education (online), business, remote work, and entertainment. This new paradigm is Metaverse.

The term Metaverse is a closed compound word with two components: Meta (Greek prefix meaning post, completion, or beyond) and universe. In other words, Metaverse means post-empirical universe, persistent, multi-user environment that combines physics reality with digital virtuality. The metaverse is a concept of an online, 3D, virtual world connecting users in all aspects of life. It would connect

several platforms, similar to the internet containing different websites accessible through a single browser.¹ The advantages of the metaverse world consist of various things, starting from connecting the world and negative physical distance, new enterprise opportunities, upgrades to the work environment, and so forth. Using avatars, people in this new virtual environment can act, interact, and engage in business as they do in the real world.

The universal challenges of the commercial revolution era are in designing the policies and legal guidelines to be carried out in the modern development. Intellectual property (IP) plays a critical function in commercial criminal protection. In the penal aspect of IP protection in Indonesia, there are sorts of offense, regular offenses and criticism-primarily based offense. The crook offense is one of the vital things that underlie the modification to Copyright law number 28 of 2014. Inside the 2002 Copyright law, Article 72 (1) categorizes violations of rights as a regular crime. The regular crime follows the number one nature of criminal regulation, in which it's far impartial of the settlement or grievance from the aggrieved party. While it is acknowledged popularly, that most of the practices of the state adjust the risk of criminal consequences against violations of IP is a grievance offense.

II. Issue

In this case, the legal issue that is very influential on the Metaverse is regarding ownership rights. We know that transactions in the Metaverse world use cryptocurrencies or non-fungible tokens (NFT). Therefore, in the absence of a definite rule or law governing cryptocurrency or NFT, it also has a direct impact on the legal status or legality of Metaverse in this world. Generally, transactions carried out in the Metaverse are buying and selling digital goods in the form of digital land, buildings, or accessories. This transaction is very unsafe in the eyes of the law because in every

¹ Binance Academy, 'What Is The Metaverse?'(academy.binance.com, May 20, 2022), https://academy.binance.me/en/articles/what-is-the-metaverse?utm_campaign=googleadsxacademy&utm_source=googleleadwords_int&utm_medium=cpc&ref=HDYAEES&gclid=Cj0KCOjwvtvqVBhCVARIsAFUxcRvjQJC_iBT2xrMPKdj5ghaaaW4R6iNKweqm3GP2hK-P5VDVKxTab-0aAtFgEALw_wcB, accessed on August 1, 2022.

transaction involving money, it is necessary to have a protected interest to have a security of our money.

Furthermore, regarding the ownership rights of these goods, according to positive law today, they are only limited to intellectual property rights, namely license rights. Licensing rights themselves, in this case, also do not necessarily become legal validity for individuals who declare the existence of ownership. Therefore, in the absence of clear legal certainty, the Metaverse moves too quickly due to the dominating social conditions. This situation can allow many acts of violating the norms that exist in society. With the things that have been mentioned, we can examine the issue with copyright Law Number 28 of 2014 according to positive law in Indonesia.

III. Regulation

- 1) Law of The Republic Indonesia Number 28 of 2014 on Copyrights;
- 2) Law of The Republic Indonesia Number 19 of 2016 Concerning Electronic Information and Transactions;
- 3) Law of The Republic Indonesia Number 13 of 2016 on Patent;
- 4) 17 U.S. Code § 106 - Exclusive rights in copyrighted works; and
- 5) 17 U.S. Code § 101 - DefinitionsThe 1945 Constitution of the Republic of Indonesia.

IV. Analysis

NFTs are digital files in which creative works or other subject matter, such as a video or an artwork, can be embedded. The object of the NFT itself is an artwork which shall be distinct between the owner of the artwork and owner of the digital data. Nevertheless, copyright protects the original digital creation and grants its author some exclusive rights, for instance the right to copy or distribute the work. Therefore, the particular artistic work sold as an NFT can be eligible to be protected by copyright if it

fulfils the established requirements, for instance; originality and creativity.

NFT is an intangible asset but can be traded. In this Metaverse, purchasing and selling occurs via blockchain. Still, the vast majority of transactions are conducted off-chain and entered manually into the blockchain. The transactions will not transfer ownership of the intellectual property rights associated with the digital asset associated with the NFT from the owner of those rights to the buyer unless this transfer is expressly stipulated in the intelligent contract encoded in the NFT. Therefore, we can conclude that the creator of the NFT is the sole owner of the NFT, and that the purchaser of the NFT receives just the right to use it. If there is additional agreement, the purchaser of the NFT may resell it.

For now there are no rules specifically governing this metaverse. So that it can be confusing for us and make us feel less protected either as creators or buyers. In addition, violations of legal norms will also occur if there are still no clear rules regarding Metaverse.

V. Conclusion

Technology alone could not cover the path for true ownership over digital assets in the Metaverse. NFTs cannot avoid the centralized command that the metaverse platforms currently have and will continue to have under the contractual terms of service. Conclusively, legal reform apace with technology innovation is needed prior to the metaverse maturing to what it promises to become.

Since property in the metaverse is not an object that can be physically located in a place, as needed by the property law idea, it is difficult to apply property law. Intellectual property law may triumph, but issues of legal jurisdictions, choice of laws, and enforcement of the law arise. Such legislation may be ideal for the metaverse, but its implementation will be flawed or insufficient.

There remains much to be seen, and determined, with respect to the ownership, trade, and valuation of NFTs, as well as the forms of tensions that will arise in

competing spheres of ownership. This will definitely be the issue where NFTs are minted and sold without the presence of robust licensing agreements drafted by experienced parties.

VI. Recommendation

Seeing that there is a shortage in creativity protection in the Metaverse there should be a law that fully regulates creativity protection in the Metaverse. With the help of the government and Metaverse experts we could create a law that could protect the Metaverse and its users.

Enhancing the educational system to digitalise more curriculum, which will make the student have a more comprehensive understanding about the new era of technology. With good cooperation between government and technological experts, we will make that happen. With the enhanced educational system it will benefit the young generation from this new era.

NFT should be regarded as **private property**, which is protected by laws introduced by legal authorities. In doing this, the NFT can gain the same rights as other real assets in common laws (IP Law, Copyright Law). This can safeguard the creativity of artists, effectively handle fraud incidents and create a safer NFT environment.

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The Metaverse Monopoly

Daffa Haykal

ALSA LC Universitas Hasanuddin

Diqa Qothrunnada

ALSA LC Universitas Airlangga

Divka Talulla

ALSA LC Universitas Indonesia

Hilmi Adli

ALSA LC Universitas Indonesia

Kyla Ruchita

ALSA LC Universitas Diponegoro

Metaverse is a three-dimensional virtual replica of the real world, where people can interact with each other through avatars without any geographic restrictions. Metaverse functions through virtual reality (“VR”) and augmented reality (“AR”) systems that integrate cyberspace with representational real-life activities. These activities cover various real-life interactions that include business, research, sales, and transactions. Similar to real life, metaverse has a self-sustaining economy system that uses digital currencies as the medium of exchange equipped with a completely new field of business. Even in the virtual world of Metaverse, these transactions can also produce significant numbers of business opportunities or business practices.¹ The interactions between these corporation entities may give rise to some legal

¹ John David, William G. Burns and Richard Gilbert, “3D Virtual Worlds and The Metaverse: Current Status and Future Possibilities,” *ACM Journals* (2013).

implications in the commercial sector.

Metaverse as a relatively new-founded field of commercial opportunity is dominated by only a few big tech companies that have the resources and finances. The owners of the Metaverse's gateway have unique access to its users' personal data, attention and resources, which would make it more difficult for new entry or expansions for other competitors. Even though the development regarding the metaverse has increased over time, the regulation specifically in Indonesia has not fully regulated the metaverse, that is why the main reason for the development regarding metaverse has been obstructed solely because of the lack of regulation.

The Antitrust Laws are a series of legislations that aims to protect the trade and commerce from unlawful restraints and monopolies or unfair business practices. The main objective of Antitrust Laws is to protect the process of competition siding with the consumers, making sure there are strong incentives for businesses to operate efficiently, keep prices down, and keep quality up. In Indonesia, it is regulated in Law of the Republic of Indonesia No. 55 of 1999 on Prohibition of Monopoly Practices and Unfair Business Competition and Law of the Republic of Indonesia No. 11 of 2020 on Job Creation. However, these regulations do not mention the extension of its legality to the field of virtual worlds.

Analysis

If these Metaverse companies gain unchallenged market power over a significant period of time, they could still be subject to the same catalog of antitrust rules that apply to any other industry. Antitrust agencies can enforce their respective laws from each country to protect users in their jurisdictions. Based on previous Antitrust regulations, this includes exclusivity features of Metaverse platforms that downstream content providers that derive from gateway devices to access specific Metaverse spaces, refusals to grant access to a Metaverse space to a competitor, or even just raising entry barriers through data accumulation. A dominant Metaverse platform could also face private litigation (e.g., for controlling how players or competitors use

data, for foreclosing access to IP or core functionalities, or for preventing multihoming).

Antitrust should and can be implemented in Metaverse, however there can also be an added clause in the existing rules of Antitrust regulations regarding the extension of its applicability in virtual worlds or Metaverse. Right now, almost everyone coexists with technology and this can towards us to develop something bigger, like Metaverse. The metaverse is a virtual reality which is very similar to real life and facilitates someone to communicate, buy and sell, build something, go to some places and others. The short history of the Metaverse was defined in Neal Stephenson's novel in 1992 namely "Snow Crash". There are some "Old Metaverse" that have existed such as City Space, Active Worlds, and Second Life.² Right now, Metaverse is still a double-edged sword. There are some issues regarding the Metaverse business monopoly, Property Law and Antitrust Law.

Business organizations don't have to separate their legal entity between the real world and the virtual world because they have already registered their entity in the real world but they only expanded their business field in Metaverse, so they have rights and can be punished as a legal entity if they break the Metaverse's rules. The Metaverse is developing and it allows us to buy or sell some products. The metaverse provides ideal ways for businesses to experiment with virtual technology, interact with customers and create a new engaging experience.³ Tech-related companies like Meta or big e-commerce companies like Amazon are now entering virtual reality. The Tech industry is also swiping up the Metaverse just like Walmart, Gucci, and Shopify.

The metaverse is a concept or a platform. There are plenty of potential ways to

² Benedikt, M. L. 'Cityspace, Cyberspace, and the Spatiology of Information' (2008), Vol 1 No.1 Journal for Virtual Worlds Research, accessed on 24 June 2022.

³ Magas, Julia. 'Business in the Metaverse: How to Grab Opportunities'(2022) <<https://beincrypto.com/business-in-the-metaverse-how-to-grab-opportunities/#%3A~%3Atext%3DBusiness%20in%20the%20metaverse%3A%20Opportunities%20The%20metaverse%20offers%2Ctheir%20environment%20in%20a%20secure%20and%20decentralized%20way>> accessed on 13 July 2022.

make money in the metaverse and someone could get an original idea which they would then follow up by forming a company. But just as in the real world, that process is done the usual way with licensing in place and the metaverse is just an extension where you could operate. There are vast numbers of big business organizations that are making real money when operating their business in the Metaverse. Those brands have already registered their entities in the real world and extended their reach in Metaverse. The same goes when we have a business, we will be interested in extending our business to a new potential environment like Metaverse.

The negative thing is that big brands can continue monopolizing business because they already have popularity in our “real world”. The positive thing is when those big brands come to Metaverse, it can introduce people to virtual reality and increase curiosity about the Metaverse so everyone can coexist with technology. A big amount of investment can push for a bigger innovation, pairing strong funding with strong brand awareness, corporations have the ability to accelerate the adoption of the Metaverse.⁴ To prevent the Metaverse monopoly, we need to enforce the Antitrust law to regulate the Metaverse, including preventing a group of companies or even a single player from “owning” the Metaverse. Antitrust Law contributes to making a more competitive, innovative, and open space, securing opportunities for big and small businesses.

⁴ Fortis, Savannah. ‘Corporations in the Metaverse: Innovative? Or Maintaining the Monopoly?’ (2022) <<https://beincrypto.com/corporations-in-the-metaverse-innovative-or-maintaining-the-monopoly/>> accessed on 13 July 2022.

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contact@alsaindonesia.org