

YOUTH, CREATIVITY, COPYRIGHT, AND CULTURAL NUANCE IN THE DIGITAL AGE

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Abstract

This research is trying to see how some digital natives in Indonesia deal with copyright in the digital age since internet enable everyone to become a consumer, distributor, and also producer of content at the same time. With different characteristics of digital natives in Indonesia, the current work thus seeks to fill the gap for Indonesia's context that has not been touched by the previous research from Palfrey, Gasser, Simun, and Barnes (2009). With the use of qualitative method, the research conducted to a group of young people age from 14-19 years old that come from social class A and B. They were asked to fill closed and open-ended questionnaire and continued with an in dept interview for those who showed interest in creation process on the internet. It was found that there is a great distance between copyright concepts to digital natives in this research. Besides, there were also misconceptions in understanding copyright law. Moreover, it was found lack of participations in creating cultural works on the internet from these digital natives. They had not been armed with technical and social knowledge to participate in creating and influencing cultural production and development.

Keywords: internet, copyright, digital natives, culture

INTRODUCTION

The number of internet users in Indonesia significantly increase. One study about internet which was conducted by Markplus Insight also shows that fact. The study currently confirms that mobile internet penetration in Indonesia reached 57 percent of the total internet users, a 100 percent increase from last year. It happens due to the affordable prices of gadgets and mobile internet services. At the other side, the number of internet users in Indonesia significantly increased to 55 million people in 2011 from the previous 45 million (Internet users Indonesia reaches 55 million people).

Markplus held their study from August until September 2011 to 2161

internet users aged 16 – 64 years old, social economic class ABC who use the internet more than three hours per (Waizly, 2011). It also reported that in every city where the survey had been conducted, namely Jakarta, Surabaya, Bandung, Semarang, Medan, Makassar, Denpasar, Pekanbaru, Palembang, and Banjarmasin, up to 80 percent of internet users are people aged between 15 and 30-years old. (Internet users Indonesia reaches 55 million people)

Though it is not strictly defined by his or her age, but a person born into the digital age (after 1980) who has access to networked digital technologies and strong computer skills and knowledge can be called as a digital native. Digital natives

share a common global culture that is defined by certain attributes and experiences related to how they interact with information technologies, information itself, one another, and other people and institutions. In Hungary, Denmark, Iceland, Finland, Norway, Germany, Poland, Luxembourg, and also Asia for instance, a majority of young people have posted messages to chat rooms, online newsgroups, or forums, but not all digital natives are participating in the creative renaissance that is happening online. Only about one in four young people say they remix content of any kind into their own artistic creations such as artwork, photos, stories, videos, or the like (Palfrey & Gasser, 2008).

From my previous research, it was found that not all digital natives participate in the creative process. The persons I interviewed, said that they read online news more and compare the accuracy between one online news article and the other, have an emotional attachment in spite of the news accuracy, discuss one news with their friends through face to face communication and also computer mediated communication, but they have not involved in creativity process related to the news consumption (Haristya, 2010). From previous interview with Mr. Donny B.U, founder of ICT Watch, internet entered Indonesia commercially in 1995, hence

there are different internet maturity and penetration level between digital natives in Indonesia and abroad.

In accordance with digital native concept, nowadays, access to a computer and an Internet connection enables anyone with even modest technical skills to create and consume content—including copyrighted content—while bypassing traditional channels of distribution. As a result, copyright laws have become relevant to the millions who interact with digital content on a regular basis. (Madden and Lenhart, 2003 in Palfrey, Gasser, Simun, and Barnes, 2009). Palfrey, Gasser, Simun, and Barnes (2009) found that young people in Boston, US that operate in the digital realm overwhelmingly ignorant of the rights, and to a lesser degree the restrictions, established in copyright law. They often engage in unlawful behavior, such as illegal peer-to-peer music downloading, yet they nevertheless demonstrate an interest in the rights and livelihoods of creators.

Kusumadara (2000) in her dissertation argued that intellectual property laws, especially in this research copyright law was difficult to be enforced in Indonesia because of the profound incompatibility of the law with Indonesian culture. Indonesian people tend to share what they have with others while the copyright concept more to protect one's

intellectual property. Hence, with the different level of digital natives' skills in using technology in digital world and also the incompatibility of copyright law to Indonesian, this research is trying to find out some of Jakarta digital natives' understanding and attitudes about digital creativity and copyright law.

Previous Research

This research based on the idea that brought by Palfrey, Gasser, Simun, and Barnes (2009) with title Youth, Creativity, and Copyright in the Digital Age. According to them, new digital networked technologies enable users to participate in the consumption, distribution, and creation of content in ways that are revolutionary for both culture and industry. Based on that thought, they found that young people operate in the digital realm overwhelmingly ignorant of the rights, and to a lesser degree the restrictions, established in copyright law. They often engage in unlawful behavior, such as illegal peer-to-peer music downloading, yet they nevertheless demonstrate an interest in the rights and livelihoods of creators. In here, they explored digital native age 12-22 in the greater Boston area which grow up in the digital world with access to the technologies and the skills to use them in sophisticated ways.

Copyrights in Indonesia: a Brief Introduction

Intellectual property law in Indonesia is related to three primary areas which are patent, trademark, and copyright. Intellectual property law is the most ratified law among others. Patent and trademark each were ratified for three times; meanwhile copyright law itself was ratified for four times: Copyright Law No. 6/1982, Law No. 7/1987, Law No. 12 / 1997, and the latest is Law No. 19/2002. Indonesian government also has become a member of several copyright international agreements such as World Trade Organization (WTO) which this also included the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), then Indonesia's role in ratifying Berne Convention as the basis of World Intellectual Property Organization (WIPO).

Copyright itself according to Law No. 19/2002 shall mean an exclusive right for an Author or the recipient of the right to publish or reproduce his work or to grant permission for said purposes, without decreasing the limits according to the prevailing laws and regulations. Copyright legally guarantees that the creator of intellectual and artistic works should retain control over those materials for a set period of time, and thus enjoy the profits of creative labor (Wooth and Smith 2005: 24)

but on the other side, public have an interest to get information. This often makes conflict between the interest of creator and public as user of the copyrighted content.

International world recognize fair use doctrine which says that copyright in some matters has its limitations. This limitation is related to public's need for information access which aim to technology development and new creation based on previous copyrighted works (Ratnajati, 2008). Fair use doctrine in Indonesia is arranged in part V "Copyright Restrictions" article 14-18 Copyright Law No. 19/2002. According to article 15, the use of a work of another party for the purpose of education, research, scientific thesis, report writing, criticizing or reviewing an issue, provided that it does not prejudice the normal interest of the Author shall not be deemed as Copyright infringement.

According to Ratnajati (2008), Indonesia has done some arrangement about fair use but there are three out of five weak points on it. First, there is an ambiguity that shows in Law No. 19/2002 because of the effort in combining economic right from the creators and also moral right from the public. As a developing country, Indonesia needs many references to develop the education field and also its research but on the other side, as part of the international society, Indonesia cannot abandon the economic

interest from other countries that mostly act as creator than user of technology. Second, Indonesia does not have a strict factor in qualifying and categorizing fair use act. The current factor that stated fair use act is only 10% or as long as it does not disturb the normal interest of the creators tend to result in an abstract understanding because there is no further explanation about it. Third, Indonesia does not have a clear practical guide about fair use in classroom.

Copyright in The Digital Age

Jones (1994: 26 in Lister et.al, 2009) summed up the inflated claims for the impact of Computer Mediated Communications (CMC). He observed that popular and critical writing claimed that the net would create opportunities for education and learning, create new opportunities for participatory democracy, establish countercultures on an unprecedented scale, ensnarl already difficult legal matters concerning privacy, copyright and ethics, restructure man/machine interaction.

Copyright itself contains two rights: moral and economic right. Moral right means that everybody who creates any cultural works has the right to be admitted as the creator of his or her work. This right has to be respected by other parties since the first time it exists. The purpose of moral right is to protect the reputation of creator and copyright holder. Economic right

assured that other party who use creator's or copyright holder's work should pay some royalty to the creator or copyright holder. (Ratnajati, 2008)

Before the introduction of the internet, the copyright holders had the right to prohibit reproductions of copyrighted works for commercial purposes and the right to restrict certain public uses of copyrighted works because it will cause disadvantage for the economic right of their creation. At that time, copyright laws did regulate activities of private individuals, but they did not affect many uses of copyrighted works by individuals for noncommercial purposes. (Tamura, 2009)

Nowadays, the internet has completely changed this situation. The digital technologies allow private individuals to make perfect copies of digitized copyrighted works. Furthermore, the internet enables millions of individuals to distribute such perfect copies to an unlimited number of strangers without difficulty. Copyright laws have started to affect many activities of private individuals which were considered lawful in the analogue era. (Tamura, 2009)

METHOD

I conducted the research in Greenville, West Jakarta area with a group of young people age from 14-19 years old who come from social class A and B.

Before I gave the questionnaire, I asked them first "Do you use internet every day?" Whenever they answered yes, then I handed the questionnaire to them. After they filled out a questionnaire consists closed-ended questions about their personal habit on the internet, then they were given several open-ended questions asking their opinion about copyright in the digital era. These questions such as: "What is crossing your mind when you hear about copyright? Have you ever thought or concerned about copyright and why? What kind of act is included as copyright infringement according to you? Downloading music from the internet do you think it's legal or illegal and why? Sharing music with your friends do you think it's legal or illegal and why? Have you heard about fair use before? (Palfrey, Gasser, Simun, and Barnes, 2009). After they filled out the questionnaire, then I selected two students that indicated creation activity based from their answers in the questionnaire to have an in depth interview asking deeper about the process how they created works on the internet and to identify about their understanding regarding copyright in their creative process.

DISCUSSION

Below is the descriptive statistics data from respondents' characteristics:

1. N = 27

2. Ages = 14-19 consist of middle school, high school, and college students.
3. Female = 40.7%, male = 59.3%
4. Those who used the internet at ages 7-9 are 22.2 % and at ages 10-12 are 77.7%
5. Person who showed them how to use the internet for the first time is 3.7% by a school teacher, 22.2% by parents, 33.3% by a friend, 14.8% by a sibling, 3.7% by a course teacher, and 22.2% by their own selves.
6. 100% have their own hand phone, 96.3% has their own computer, laptop, and (or) tablet, 33.3% has their own digital camera
7. 7.4% have an account in one social networking site, while 92.6% has an account in minimum two different social networking sites.
8. 44.4% logged in to their social networking account less than 3 times a day, 55.6% logged in more than 5 times a day
9. 66.7% do uploading activity on the internet, 33.3% never upload anything to the internet.
10. 59.2% upload photos, 25.9% upload music, 7.4% upload article, 11.1% upload video
11. 100% have downloaded something from the internet.
12. 100% download music, 55.5% photo, 25.9% article, 44.4% video
13. 77.8% streaming, 22.3% never do streaming

Consumption and Distribution Practices

After asking their personal habit on the internet, then I was giving them open questions on the questionnaire so that they can explore more in giving their opinion. Digital native were asked whether they care or not with copyright. Some students answered that they care because they were afraid if they caught by the police. Meanwhile, two students thought that they had to appreciate others' creation, not because they were afraid of the punishment but basically they respected the creators because they realized that people needed money to create something.

Another side of these young people showed neglectful attitude toward copyright. Two students thought that there was no law about copyright in Indonesia and also there was none ever get punished for copyright infringement so they did not pay attention to it. Two students correspondingly wrote that they did not care about copyright of one work because they have not created anything by themselves. And also, five students stated they did not care with copyright because they did not see any relevance with their needs and interests.

In response to the question “When you hear the word ‘copyright’ what is crossing on your mind?” One student has an opinion that if he heard the word copyright, he would associate it with movie. The other said he would directly think about the cover of comic book that he used to read. The other answers are:

1. “It must be someone who is awesome because he or she created something great so that he or she can get copyrights for his or her creation.”
2. “Copyright means that some work belongs to them. Cannot be used by others without permission.”
3. “Musician is already rich so why I should care about copyright?”

Concern from some of their answers is how great the distance between copyright concept to them. Students in here do not feel that copyright concept belong to them and it is attached to their daily lives. Furthermore, it also shows their lack of participation in producing cultural works on the internet. In fact, internet nowadays is shrinking the world and bringing people closer together. This is the inspiration behind another well-known phrase coined by McLuhan: ‘the global village’ (McLuhan and Fiore 2001 in Lister et.al, 2009). Internet as one form of technology has expanded our horizons to such an extent

that we feel a vicarious intimacy with people and places all over the world. This intimacy, as Jones observed that the net would ensnarl already difficult legal matters concerning privacy, copyright and ethics restructure man/machine interaction (1994: 26 in Lister et.al, 2009). New media is a borderless world hence copyrights issue on the internet touches everyone who is connected to the internet. Palfrey, Gasser, Simun, and Barnes (2009) in their research also found the same condition. Some statements from their respondents described copyright as a protection that is afforded to *others*, rather than a legal concept applicable to society as a whole, including young people.

Misconception of Copyright Infringements

If in Palfrey, Gasser, Simun, and Barnes’(2009) research it was found that many of the young people that they spoke to confused copyright with notions of plagiarism, this condition happens also in this research with 44.4% of the students answered that copyright is identical with piracy for them. Lindsey (Ratnajati, 2008) stated that there is difference between plagiarism and copyright infringement. Copyright infringement is using others’ work without permission. Plagiarism is presenting others’ work as one’s own. But,

overall these two concepts are related with fair use doctrine.

Students in here also experience puzzling opinions regarding copyrights infringement. 48.14% said that according to them, downloading any work from the internet is an illegal act; meanwhile 44.44% said that it is legal. Those who has opinion that it is an illegal act realized that it happened whenever someone download something from the internet, they just take the work without paying it or ask for permission from the author. On the other hand, other students wrote that they knew it was illegal but since everybody does it, it becomes a common thing to do.

Misinterpretation of copyright infringement also shown below:

1. "I do not want to download illegal content from the internet in the future, but I will ask it from my friends."
2. "There is some act included as copyright infringement. Shinta and Jojo (note: two Indonesian young girls that become famous because of their lip-sync video for Keong Racun song in Youtube) is legal meanwhile pirated song is the one that illegal.

There are confusions exemplified students in here. First student said that he would ask content for example like music

directly from his friends. On the internet, content is available via many different modes of access— downloading, streaming, sharing via messengers and email with friends. In addition, digital content can also be copied and shared via physical format, such as burning CDs or sharing files directly from hard drive to device. The legal issues involved in this range of practices can be puzzling, even to lawyers who have studied this area of law (Palfrey, Gasser, Simun, and Barnes, 2009). Then, the second student wrote that for him, lip-sync video that usually being uploaded to Youtube is a legal one, in the meantime the debate whether it is a legal or illegal video against copyright still keep continuing until present in abroad. Digital natives' understandings of copyright law confirmed how difficult these concepts can seem to nonlawyers (Palfrey, Gasser, Simun, and Barnes, 2009).

Creative Practices and Cultural Nuance

Kusumadara (2000) stated that copyright has become a neglected area of law in Indonesia, because the country is still unable to produce significant intellectual works which are worthy of international copyright protection. In this research, it is found that digital native in here mostly did not get used to create some works to be uploaded to the internet. This indication is supported by initial question that being asked to assess their personal habit on the

internet. Only 66.7% ever uploaded content to the internet and even this number typically uploaded photos to their social networking account, meanwhile 100% of students in this research have downloaded some content from the internet.

Young people in this research also answered that mostly they were showed the internet usage for the first time 33.3% by a friend, 22.2% by their own selves, and 22.2% by parents. Meanwhile, there was only 3.7% of the student showed the internet usage for the first time by a school teacher. In contrary, they admitted that they used the internet for the first time at ages 7-9 are 22.2 % and at ages 10-12 are 77.7% which this is an elementary school aged.

The concern found in research done by Palfrey, et.al (2009) is the fact that traditional authority figures, such as educators and parents who taught the internet usage to the young people often have little knowledge in this arena to permit them to support youth as they engage in cultural commentary and digital production online. For the meantime, in this research is found that young people in here were mostly showed internet usage for the first time by friends and their own selves, then it even become more serious issue since it can be assured that friends and also their own selves have little knowledge about copyright to support their cultural

commentary and digital production online engagement.

From this answer, it can be seen that creating a cultural work on the internet is still uncommon for them. Students in here have not been armed with technical and social knowledge to participate in creating and influencing cultural production and development. In fact, nowadays, the overlap between cyberspace and the 'real world' is great – so great in fact that the difference between what's *cyber* and what's *real* is sometimes impossible to tell. (Thurlow, Lengel, & Tomic, 2004). It can be concluded that if young people participate in creating and influencing culture on the internet, it also can influence culture in the real world. It is more supported with how the new technologies broke down old barriers between media consumption and media production. The old rhetoric of opposition and cooptation assumed a world where consumers had little direct power to shape media content and where there were enormous barriers to entry into the marketplace, whereas the new digital environment expands their power to archive, annotate, appropriate, and recirculate media products. (Jenkins 2002 in Lister, et.al, 2009)

Attitudes toward Reuse of Content

International world recognize fair use doctrine which says that copyright in

some matters has its limitations. This limitation is related to public's need for information access which aim to technology development and new creation based on previous copyrighted works (Ratnajati, 2008). Fair use doctrine in Indonesia is arranged in part V "Copyright Restrictions" article 14-18 Copyright Law No. 19/2002. According to article 15, the use of a work of another party for the purpose of education, research, scientific thesis, report writing, criticizing or reviewing an issue, provided that it does not prejudice the normal interest of the Author shall not be deemed as copyright infringement.

In Palfrey's research, when it comes to the reuse of others' work, it was found that among young people a respect for the creators' right though they emphasized more to financial impact. In the meantime, in this research it is found confusions among young people. From two students out of 27 who involved in creating cultural works by reusing others' works, their opinion were:

1. "If we took any movie scene, it is the real copyrighted work, so it can be categorized as copyright infringement. O, and also books! But, if the content on the internet, since it's there, so it can be used."
2. "Whenever content is available on Google then it can be assured that the creator was agreed to allow their

works to be used by others freely because uploading something to the internet, it is not for profit yet because it is not protected by the law yet. I and my friend at the Fiction Press Community is just a little fish in the big sea so we have not been protected yet by the copyright law. It is impossible there is someone who would like to upload their creation to the internet meanwhile they want to make any profit from their work

If we take a look at previous explanation, it can be seen that young people who are not involved in creation process, some of them showed a great distance with copyright concept. Here, students who involved in creation process, they knew that there is a copyright concept but they had a bit misconception.

Until the 1990s, it was true that the breakdown of the professional and amateur category is so rigid. But now, that rigid distinction between professional and amateur technologies defined by engineering quality and cost has now broken down. If we take a look at internet combined with PC, laptop, or tablet, those all are 'prosumer' technologies that enable the user to be consumer and producer, as well as distributor. We can use it to look at and listen to other people's media products, as well as to produce our own, from ripping CD compilations to editing videotape,

mixing music or publishing websites. (Jenkins 2002 in Lister, et.al, 2009).

Based on article 2 in Copyright law 19/2002, it is stated that Copyright shall mean the exclusive right of an Author or a Copyright Holder to publish or reproduce his/her work, which emerges automatically after the creation of the work without prejudice to restrictions pursuant to the prevailing laws and regulations. Hence, any result of works of an author, which shows originality in the field of science, arts and literature is automatically protected after it is produced.

When being asked about their understanding on Creative Commons, one student who gets used to produce creative work said that:

“Creative Commons is part of copyright that arrange about the control to reuse one content, for example like do you need to mention the author’s name or not. But, since everything on Google is available to be used freely, then Creative Commons has its roles whenever one website is set to be not included in Google, or like when we found one picture on the internet and whenever we right click our mouse, it cannot be saved.”

The other one said that:

“I don’t know about Creative Commons. I don’t the limitation of dos and don’ts in copyright, so I have no fear in reusing others’ works because I don’t know at all. If I have an important creation so I will not share it on the internet, but if it is not too important then I will upload it to the internet.

It shows some misconceptions here. First is opinion about Creative Commons. The digital technologies allow more effective and invasive monitoring of private individuals’ compliance with copyright law than analogue technologies could ever do. As these activities count enormous numbers, Lessig warned that the copyright protection is likely to become too strong and omnipresent, and therefore the problem of striking a just and adequate balance between the interests of right holders and users has become more urgent and serious than ever before. (Tamura, 2009) With this awareness, Lessig with his founding committee established Creative Commons. Creative commons is a license that provide a flexible range of range of protections and freedoms so that others has the right to share, use, and even build upon creator’s work whenever the creator publishes their work under this license (“About CC”, n.d.). Then, if we see choices of licenses in its website, no matter what combination of licenses that someone chooses, all is included attribution license which means that people should mention the creator’s name whenever we use it.

Second, content provided on the internet can be categorized as those protected by copyright and also those under a free license. These two young people did not have any idea about these distinctions thus they said that when they were on the

internet, they felt no hesitant to use others' creation. Consequently, when it came to his own creation, he would only upload his unimportant creation to the internet, but not the important one. I argue this happened because this digital native did not know the distinctions so that he used any content he wanted to use on the internet and later when it came to his valuable creation, he did not want the same thing happen to his own. This attitude will become an obstacle for digital native to be involved in culture creation and further to the creative economic and opportunities that more enhance by the internet.

CONCLUSION

From previous discussion, it can be concluded that there is a great distance between copyright concepts to digital natives in this research. They did not feel that copyright concept belong to them and attached to their daily lives. Besides, there were also misconceptions in understanding copyright law. Moreover, it was also found that they had not been armed with technical and social knowledge therefore they had lack of participations in creating cultural works on the internet that actually can impact the cultural production and development in the real world as well.

There are some recommendations for some parties after I completed this research. One argument said that in the light

of the new developments, media interpretation and production are a core skill set for all kinds of professional employment therefore media studies especially media studies 2.0 should be seen as a central component of a new humanities to embrace the new skills and creativity of a 'YouTube' generation (Gauntlett 2007, Merrin 2008 in Lister, et.al, 2009). Here, I would like to endorse students, teachers, and also lecturers, not only from communication studies, but all kind of field to empower their selves to become content producer on the internet so that young people later can take advantage in the creative industries that has wide opportunities because of internet and other digital technologies development.

On the other sides, I also propose the need for DJHKI (Direktorat Jenderal Hak Kekayaan Intelektual or Directorate General of Intellectual Property Rights) to work all together with Creative Commons, school and universities' students, teachers, and lecturers. Teachers and lecturers need to be equipped with education about copyright so that they can transfer this knowledge to their students. Students also need to be prepared with this education since they will become active internet users in the future.

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