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BOOK REVIEW

NATIONAL HERITAGES AND THE LAW, A
BOOK REVIEW “PERLINDUNGAN
NEGARA ATAS WARISAN BUDAYA
BANGSA”, DR. DIAH IMANINGRUM
SUSANTI, S.H., M.HUM, M.PD, SETARA
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ABSTRACT

The obligation to appoint a competent authority based on national provisions to provide protection for published works whose authors are not known to represent the interests of the creators and protect the

rights of the creators is one of the problems in the context of protecting cultural heritage in the copyright dimension in Indonesia. The book "*Perlindungan Negara atas Warisan Budaya Bangsa*" contains theoretical and juridical foundations in how the state provides adequate legal instruments in the protection of the nation's cultural heritage in Indonesia.

Keywords: Legal Protection, Cultural Heritage, Intellectual Property Rights



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SHORT SUMMARY

In Indonesia, Traditional Cultural Expressions (EBT) are categorized in the area of copyright law. This is stated in the Act. No. 6 of 1982 concerning Copyright which states "The State is the Copyright Holder of Traditional Cultural Expressions". This book examines more about the protection of EBT theoretically - conceptually, historically, and juridically, based on the EBT's position in law, the arguments of experts, and governmental steps relating to EBT. All of that in the context of state protection of EBT as a national cultural heritage.

Indonesia is a mirror of world pluralism, various types of EBT live and develop within Indonesia. For this reason, this book will discuss the essence of copyright law that covers EBT as the nation's cultural heritage, and everything related to it: Indonesian Copyright Law from 1982 to 2014, relevant government regulations plan, and the

International Convention in the field of EBT and national cultural heritage. In this book, also proposed the recommendations in the EBT management, and the scientific steps & research that should be carried out in realizing a comprehensive regulation of EBT.

Traditional Knowledge (PT) and Traditional Cultural Expressions (EBT) are things that can be distinguished though inseparable. PT involves the concept and is abstract, while EBT involves activities and is concrete. Research and writing about PT and EBT are carried out by technical implementation units in the regions, through the BPNB (Cultural Values Preservation Office). The Directorate General of Culture of the Republic of Indonesia collected the PT-EBT in the form of a knowledge revitalization event and traditional cultural expression. The aim is to strengthen the almost extinct elements of tradition.

The broad category of "Traditional Knowledge" also includes technical, agricultural, and medical knowledge, including "Traditional Cultural Expressions" in the form of music, dance, singing, crafts, design, stories, and artwork, language elements, such as names, indications geographical, and symbol, as well as cultural assets which are not objects. Not included in the description of traditional knowledge are "matters which have not resulted from intellectual activity in industrial, scientific, literary, or artistic fields, such as the treatment of human remains, language in general," and other similar elements of "inheritance" In a broad sense. However, this is only one of two meanings where the term "Traditional Knowledge" is used.

Traditional Cultural Expressions or EBT are closely related to the terms "immaterial," "intangible," and "tangible". This distinction is not easy at the level of practice, because communal societies have their holistic understanding, encompassing the whole process, expression, and objects in relevant contexts.

Criticism of the term "traditional" culture also reflects an important point in the discussion about adequate protection against EBT. The term does not include contemporary expressions, so this term is considered inadequate for including a national cultural

patrimony. About EBT, this relates to the question of whether only "traditional," whether original expressions should also be included or also include contemporary variations.

The knowledge and expression of the traditional culture of the Indonesian people have a very large and wide content and scope. However, the wealth of traditional culture of knowledge and expression has not been enjoyed economically for its use, especially for the community of the original owner. Now a certain part of the knowledge and expression of that culture has been commercialized by other people or other nations. However, this commercialization does not guarantee justice for the person or group of people who have the initial knowledge and expression of that culture.

Misuse of knowledge and expression of traditional culture, belonging to Indonesian people by other nations has become a reality. The Intellectual Property Rights regime was inadequate in protecting the knowledge and expression of Indonesia's traditional culture from abuse. This happens because intellectual property rights as a legal regime are developed based on Western domination, in developing countries, including Indonesia.

The role of regional governments in protecting cultural knowledge and expression in each region has not been based on a comprehensive concept, starting with its inventory, development and empowerment. While the knowledge and expression of regional culture has been claimed by other parties. This claim is important because it leads to commercial monopolies which are detrimental to the area concerned.

REVIEW

AS STATED in the title of this book, the discussion presented by the author in this book is none other than the efforts and tips that have been made or will be carried out by the state relating to the richness of the nation's cultural treasures.

In this book, traditional culture is described as an intellectual work that needs legal protection from the state. One form of traditional culture in question is EBT, which is the expression of traditional culture.

This book also explains that although there are already several related legal instruments, if examined from an academic perspective on intellectual property rights, the orientation still leads to the copyright regime. The regulation of traditional cultural expression as regulated in existing laws does not protect the whole and essential, because it is not following the concept of substance, and the philosophy of traditional cultural expression as understood and interpreted by Indonesian people who are communal.

From what I read, this book was written by the author and published with the aim of explaining and describing the problems of the State as the copyright holder of traditional cultural expressions as stated in Law No. 28 of 2014 concerning copyright. So the author gives an explanation of the various terms that have been used such as folklore, expression of folklore, traditional cultural expressions, indigenous and traditional differences, expressions of tangible and intangible, reasons why traditional cultural expressions need to be protected, theories explaining them, and cultural positions traditional in the context of national and international law.

Overall, this book has raised an important issue that has not been thought about, especially in the area of life in society lately. The issue of cultural preservation is considered to be regulated and is absolute, so there is nothing to review.

This book also conveys so many suggestions and recommendations so that little things in the effort to protect the nation's cultural heritage do not go unnoticed. The book suggests that:

1. It takes a planned and continuous effort to inventory cultural knowledge and expression. Continued efforts towards developing and utilizing them are needed for the improvement of welfare, especially for the initial community members
2. New, responsive and specific laws are needed relating to rights and obligations in the use of traditional cultural knowledge and

expression, through legal policies at the central and regional levels.

3. Real and specific programs are needed for sustainable development, for the substance of knowledge and traditional cultural expressions that have the potential to increase the income of the owner's community. Or other tangible programs, which cause knowledge and expression of certain traditional cultures, are of higher quality and can be proud of in the development of national character.

On the writing style of the author, language and the presentation of the material which are quite extensive is very understandable. Analogies and examples which are being mentioned by the author are also common and could be easily known. The narration of the author somehow, are too complicated and long-winded, yet that is not a big deal in compared to the author's writing ability which is described all the materials in a delicate yet straightforward way.

DATA of BOOK

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