

## LEGAL PROTECTION OF ANGGUK DANCE AS A TRADITIONAL CULTURE

**Vicki Dwi Purnomo**

Universitas Widya Mataram, Yogyakarta

contact : [vickydepe@gmail.com](mailto:vickydepe@gmail.com)

---

### ABSTRACT

Diterima: 3 Desember 2022  
Direvisi: 13 Desember 2022  
Disetujui: 15 Desember 2022  
Halaman: 125-137

*This study analyzes the legal protection of the Angguk dance for commercial purposes and provides an overview of intellectual property rights and traditional cultural expressions. Furthermore, the author also mentions the legal protection of the Angguk dance as a traditional culture and legal protection at the national level. Next, we analyze the concept of profit sharing. This study provides practical and academic guidance in a scientific field, namely legal research, for those who are interested in advancing the legal protection of the Angguk dance as a traditional culture from the perspective of commercial interests and the subject of analysis. You are expected to provide feedback in a timely manner. of profit sharing. The research method used in this study is a normative library research method, namely research on legal norms contained in statutory regulations. The author analyzes the legal protection of the legal protection of the Angguk Dance as a traditional culture based on Article 38 of Law Number 28 of 2014 concerning Copyright.*

---

Keywords: *Legal Protection, Traditional Culture, Angguk Dance, Copyright Law*

---

## INTRODUCTION

Traditional works are the result of thoughts or ideas that can happen to every self man based on ability, skill And the skills they have. These works are produced in the region they were in. Work traditionally needs to be protected Because including the Right of Intellectual Property (IPR) that contains exclusive rights means rights that are attached to humans. Traditional work should be protected so that it does not happen something matter which no wanted like piracy, plagiarism, and other crimes. in other words, protection of traditional works is needed so that the results work which they give birth no can capture or acknowledge them now realise the importance IPR.

The emergence of injustice felt by developing countries occurs because of the traditional cultural expressions of the nations in the third world no gets protection as riches intellectuals in the country to proceed. 1 problem right creates appear to be related to the problem of liberalization economy on the one hand and the problem of socio-cultural conditions of indonesian society on party other. condition social culture public indonesia is still in the industrial transitional period where not everyone understands and understands the issue of rights previously unknown creation. The industrial transitional society is described as a society that is changing from an agrarian society which is

patterned communal-traditional to public industry which is patterned individual-modern. Change that related to structure connection public which has not been finishing to pattern more rational and commercial as a result of the process development done.

In public sort of that, the law arranges also reflects a transitional period which is described as the face of the law standing on two feet with different steps, namely one foot is stepping on a pattern law modern temporary foot the other still treads on the law traditional. Thereby case with the law which arranges problems right create, although in a manner normative no lots contain problems for enforced in indonesia, will but in a manner cultural there will be lots of problems in implementation.

IPR Also set legal principles governing compensation that must be borne by people who break it by committing plagiarism. At the international level, Indonesia has participated as a member in the agreement established by the World Trade Organization (agreement Formation of the World Trade Organization) hich includes Trade-Related Aspects of Intellectual Properties Rights the consequence reception and the participation of Indonesia in the TRIPs agreement had an influence on Indonesia to accommodate all regulations of IPR. In side That, for protection in a manner international TRIPs signal that member countries adjust regulation national with the Paris Conventions (1967),

Bern Conventions (1971), Rome Conventions (1961) and Treaties on Intellectual Properties in Respect of Integrated Circuits (1989) (Article 2 and Article 3, TRIPS Agreement 1994). Cue that already goods, of course, will so that Indonesia participate ratify the four conventions in addition to the that has been ratified. Until moment this is from the fourth convention that, Indonesia new only ratify. Along with the inclusion of the TRIPs Agreement in the WTO, arose the opinion of some people that the IPR system is one of the tools for a country to proceed to protect interest trading. This assumption is not entirely true because actually the rich will natural resources will also be protected. Of course, this depends on for the country which is concerned wants to take advantage of it or no through the development system IPR Which There.

Riches naturally owned by developing countries associated with geographical indications, cultural expressions traditional including expression folklore And source Power genetics need to get more attention because this is a very potential asset for a nation's prosperity. Article 38 of the copyright law number 28 of 2014 which is titled "Expression Culture Traditional And Right Create on Creation Which Creator No Known' stipulates :

Right, Create the expression of culture traditionally held by the Country.

1) Country must inventory, guard, And look after the expression of

traditional culture as meant in paragraph (1).

2) Use expression culture traditional as meant in paragraph (1) must pay attention to the values that live within public the bearer.  
3) Further provisions regarding Copyright held by the Country on expression culture traditional as meant in paragraph (1) arranged with Government regulations.

Constitution Right Create Year 2014 in a manner line big arrange Which differentiate with Constitution previously that is, Copyright protection is carried out for a longer time in line with the implementation of rules in various countries so that .the period of protection of rights Create in field certain enforced during life creator plus 70 (seventy) years after the creator passed away. More protection Good to right economy para creator and/or Owner Right Related, including limiting the transfer of economic rights in the form of sold-out sale flats). Effective dispute resolution through the mediation process, arbitration or court, as well application offence of complaint for prosecution criminal.

Speaking about IPR, need to be understood return that IPR is not just a matter of legal protection. IPR is also closely related to transfer technology, economic development, and national dignity. A result study done by stated that IPR is a strength which can be used to enrich the life of somebody and period front something nation in a manner material, cultural and social. With thereby, the development system IPR national should no only do with approach law ( legal approaches ) But

Also with approach technology and business (business and technological approach). In connection with matter the in on, it is clear also that the development of the national IPR system is not only a task and responsibility answered by one agency, matter this Directorate General Right Riches Intellectuals, but also needs to be supported by various parties. Cooperation links and good coordination with various related government agencies as well circles private will very help the achievement objective system IPR national. The matter who does not lose importance is the participation public which the more understanding and aware existence and importance IPR . Based matter the, so a writer is interested for write about the problem of "Legal Protection Nodding Dance as Culture Traditional Based on Constitution Number 28 of 2014 concerning Copyright".

### **PROBLEM FORMULATION**

Referring to background behind the problem so formula problems in research is as follows:

- a. How is the legal protection of Anguo dance as a traditional culture for commercial purposes based on Copyright Law No. 28 of 2014?
- b. How are benefit-sharing provisions enforced as legal protections for traditional cultural expressions?

### **RESEARCH METHODOLOGY**

Study This uses method juridical normative as well as data collection through literature study used is ingredients Which There is related to title, where ingredients Which writer gets through scientific books related to titles/lecture materials, magazine and newspaper articles, etc. The writer also uses interview And regulation legislation, Constitution Number 28 the Year 2014.

In the approach of legislation in relation to "Legal Protection of the Angguk Dance as a Traditional Culture Based on Law Number 28 of 2014 Concerning Right Create". If see Constitution Which There is more Specific can see in the law act Copyright article 38 regarding works traditional. In a historical approach, Indonesia has joined international community associations by becoming a member of agreements forming the WTO, including the Agreement on Trade-Related Aspects of Intellectual Property Rights. In addition, Indonesia also signed the Berne Convention for the Protection of Artistic and Literary Works and the Indonesian Copyright Convention through Presidential Decree No. 18 of 1997. Ratified. World Intellectual Property Organization (WIPO Copyright Agreement) based on Presidential Decree No. 19 of 1997. and finally changed by law. Hereinafter referred to as the Copyright Act. Even though the proposed amendments include several adjustments to the articles based on TRIPs, much remains to be achieved

to ensure the protection of intellectual works in the field of copyright, including efforts to encourage the development of intellectual works originating from the diversity of arts and culture mentioned above.

## **DISCUSSION AND RESULTS**

### **Expression Nodding Dance as a Culture Traditional In Constitution Copyright**

Indonesia has have device legislation more in line with its international obligations And more strong base the law for enforcement protection IPR in Indonesia. Although thereby, no can denied that until until mature this, enforcement law right create still face quite serious obstacles. There are several causes ( *causa* ). make it thereby. That is, Still lack of culture or ethics the Indonesian people to want to appreciate someone's creation; and less community and law enforcement understanding of the meaning and function of rights create; as well as the lack of a deterrent function of UUHC which long.

These causes are still coupled with other causes which form a lack of coordination between para-enforcer law Police, Prosecutors, Judges, Agencies Bea Ex cise and agency-related others in charge of implementation issues and enforcement strategies Copyright law. Digital technology has developed so rapidly lately this,

makes availability various equipment tech sophisticated technology capable of duplicating an IPR-laden product accurately, not difficult, quickly and with low production costs as well not labour intensive. And for a businessman who aspires to earn profit big in a time short with cost production low, easy and immediately get big profits quickly, of course, it will take this promising business opportunity, even though it is a big risk to violate signs of legislation Which applies. circumstances Which thereby This open chance make it easy happening violation from piracy products industry entertainment pregnant Copyright more and more rampant lately.

In Constitution No. 28 Year 2014 about Right Create Copyright, based on Article 1 number 1, is a right exclusive creator Which arise in a manner automatic based on principle declarative after something creation embodied in form real without reduce restrictions in accordance with provision regulation legislation invitation.

From the limitations regarding copyright, it can be seen the following elements: element and the nature of rights create as follows.

- a. Copyright is an exclusive right *in* the form of rights special, special only reserved for creator or rights holder create so that no other party may take advantage of these rights without permission creator or holder Copyright.

- b. The function of copyright for creators or copyright holders is For announce or reproduce creation And or give permission to party other For announce or reproduce his creation the.
- c. There are restrictions on the use of copyrights determined by regulation legislation. In matter exercise the exclusive rights of the creator in the form of the right to publish or reproduce creation or give permission on party otherto announce or reproduce creations is not as free as free. However, it is limited by the provisions/laws in the UUHC Alone. This shows that copyright is contained social function. In its use and utilization, should have social function.
- d. Copyright is an intangible movable object (object immaterial) that can be transferred or transferred to another party , either wholly or partly.

Protection law to right create according to UUHC besides administrative as well as civil and criminal. Loaded rights creator or copyright holder to file a civil suit to commercial court and what can be requested in a lawsuit (petitum) is a form of legal protection for creators or rights holders create from violations Which characteristic civil to right create. Draft Constitution Right Create has set become Constitution. This new Copyright Act (“Law No. 28 of 2014 Concerning Copyrights”) will replace Law No. 19 2002 concerning Copyright. The following has presented a comparison in a manner general about right create which there is in second the law act.

*Table 1. The Comparison of Law Number 28 of 2014 Regarding Copyright with Constitution Number 19 years old 2002 about Copyright*

Applicable regulation	UU No. 28 Year 2014	UU No. 19 2002 year
<b>Period apply</b>	70 Year	50 Year
<b>Right economy</b>	Venue manager trading is prohibited let sales and/or duplication goods results violation right create	No arranged
<b>Diversion right economy</b>	Inheritance, grants, endowments,will, agreement written, other reasons which	Inheritance, grant, will, written agreement, cause else that justified UU

	justified law, object guarantee fiduciary	
<b>Completion dispute</b>	Mediation, arbitration, court, offense complaintfor criminal charges	commercial Court, arbitration, alternative settlement dispute
<b>Provision other</b>	Management agency collective	No arranged

The similarities in the old UUHC with those new, are equally set regarding the right creation. UUHC old and new both regulate copyright based on the nature of copyright viz contains right moral And right economy. Both of them also arrange about transfer and expiration of Copyright. From the above similarities, there are also some differences in content both when compared with criminal acts in UUHC Which long, so follow criminal right create now more lots And more perfect. Role and function law criminal the strong in giving protection law to right create. as reality So far, enforcement of copyright law still faces considerable obstacles heavy. Eddy Damian said the cause was a lack of culture or ethics nation Indonesia for want to value the creation of somebody and a lack of understanding of society and law enforcement about the meaning and function right create; as well as lack

of function prevention ( deterrent ) from UUHC w hich long.

In addition, as a movable object, both in Law no. 19 years old 2002 and Rights Act New Copyright is regulated regarding the method divert right creation. However, article 16 paragraph of the New Copyright Law was added that the right creates can divert with waqf and can guarantee with guarantee fiduciary in UUHC New. Also there is which the name is Collective Management Institution. Collective Management Institute, namely an institution in the form of a non-profit legal entity authorized by the creator, holder right create, and/or owner right related To use manage right the economy in the form collect And distribute royalty Article 1 point 22 UU no. 28 of 2014 Arrangement Law About Expression Culture Traditional

Indonesia is a developing country

that has many biological resources and traditional cultural expressions. But protection to source Power biological And especially expression culture Indonesian traditional culture is not maximized. This can be seen from the absence of provisions special Which made the Government of Indonesia for protect the expression of its traditional culture. Indonesia becomes wrong one country participant founding father (original members) WTO as A institution formal. Formed WTO is based on my desire for strong countries to restore a return economy Which was destroyed after War World II. Agreement TRIPs is one of the agreements reached in the General negotiations Agreement on Tariffs and Trade (GATT) which gave birth to the World Trade Organization agreement (WTO). TRIPs are instrument law international. Based on the Statute of International of Justice (ICJ) or Statute Court International, the agreement is wrong one source tree law international. However, TRIPs were not the starting point for the development of the concept of the Rights of Intellectual Property. Various international conventions have existed for a long time was born, and have been changed several times. Significant and the main basis for the concept of Industrial Property is the Paris Convention for The Protection of Industrial Property ("Paris Convention"). Whereas the copyright

field is the Berne Convention for The Protection of Literary and Artistic Works ("Berne Convention"). As seen from two conventions on in a manner traditional right riches intellectual divided risk Kusumastuti, "fist law international to effort protection knowledge traditional owned by countries develop", (Thesis S1 Faculty Law, University Indonesia, 2006), h. 106. above: industrial property, including patents, brands, and designs industry; as well as copyright and related rights.

According to TRIPs there is boundary between wealth intellectual with knowledge traditional can seen from characteristic ownership, that is collective or communal. TRIPs are a compromise, a agreement Which will raises something request For condescending or elevate exists something protection in almost all intellectual property. WIPO was founded under the convention signed in Stockholm on the 14th July 1967 which name is *Conventions established the World Intellectual Properties Organization* apply on year 1970 And become body special United Nations on month December 1974. On year 1989 member WIPO has reach 123 country in including: Indonesia, Malaysia, and the Philippines. This organization is organization between government Which domiciled in Geneva. WIPO tasked with developing efforts to protect rights intellectual property, promote cooperation between countries and organizations organization international. According

to Convention WIPO Which including into the scope of *Intellectual Property Rights* (IPR) consists of two element that is:

- a. Right Owned by Industry ( *Industrial Properties right* ) Which covers patents, trademarks, and industrial design.
- b. Copyright includes works of literature, music, photography and cinematography.

There is two function WIPO tree that is First function development, And function administratively. Function First from WIPO done through activities in frame: (1) initiate making international agreements, (2) provide information about IPR developments and issues to participating countries, and (3) provide technical assistance to developing countries. The second function is the administrative function as a central agency for administrative membership WIPO in agreements international, activities held by tools equipment special administration. Administrative tasks include registering countries which become participants in agreement international in lower WIPO. In scope international, the expression of culture traditional is Still become discussed so regulation about the protection Angguk Dance as a culture traditional has not yet been formulated in something product law. However, on the WIPO website, a brief description of the requirements

has been explained in protecting cultural expression traditional.

### **Protection of the Nodding Dance as an Expression Culture Traditional**

During this, the protection of the expression of culture traditional can be done by making claims to cultural organizations international. Matter this framework makes the public international know that the work or idea is the property of the nation Indonesia However, there is a lack of legal arrangements to regulate its mechanism of protection that make rampant violation right nation Indonesia regarding work or idea traditional cultural expression. This is certainly detrimental to Indonesia, in particular, indigenous peoples because of ideas that they have long guarded from generation to generation hereditary utilized by parties which are no responsible.

Although, government in matter This has form something product law Which listed in UUHC, However thereby not enough adequate For give certainty law to expression traditional culture in Indonesia . Article 38 of the Copyright Law Number 28 of 2014 which entitled „Traditional Cultural Expressions and Copyrights to Works Creator No Known' stipulates :

1. Right Create on expression culture traditional held by Country.
2. Country must inventory, guard, And look after expression traditional culture as meant on paragraph (1).

3. Use expression culture traditional as meant in paragraph (1) must pay attention to the values that live within public the bearer.
4. Further provisions regarding Copyright held by Country on expression culture traditional as meant on paragraph (1) arranged with Government Regulations.

The cultural value system, according to Koentjaraningrat, is a level Which is most abstract from custom. Something system mark culture consists of conceptions that live in the minds of most citizens of society about the things they value in life. Therefore, a system of cultural values usually serves as a guide supreme for human behaviour. Such a value system becomes a guide interaction para individuals in public. Through system marks which are continuously internalized in individuals will form attitudes or attitudes like which expected. In line with that, the importance of value development is also emphasized as the refinement of the ethics individual so that one can live in a manner harmony with others. To be able to realize harmony and regularity in community life, every individual is encouraged to distance himself from deeds Which violate the rights and interests of people other.

Already been proven that the connection harmonious between the fellow, between creators and society, and between creators and people's cultural heritage, creates an

atmosphere Which is conducive to activity And creativity public. In a community where culture and artistic traditions merges in life daily, values respect And the award is a stimulant Which is effective For pushing the realization of the creative potential of society. Art of dance and music, crafts handicrafts, carvings, and batik can flourish into everyday works day public which typical and authentic describe culture area.

### **Protection Nodding Dance as Culture Traditional to Interest Commercial**

The emergence of awareness in developing countries of the importance of the protection of expression culture traditional caused because of misappropriation by developed countries' expression culture traditional public countries develop. In the process of taking this traditional cultural expression later exploited in a manner commercial-no done with public local and no give benefit sharing ( benefits share ) above use expression culture the. countries growing aware that has happened injustice in process utilization. Facts show that countries Which proceed their economy rest on an industry based on intellectual works. For example, America Union, industries produce foreign exchange The highest consists of the arms, film, music, computer-software industries and books, all of which are industries based on work intellectual. Matter this very contrast with countries which

mostly rely on natural resources such as sales of oil, timber, etc. Natural wealth can be used up and dredged, however, intellectual property will continue to be maintained and developed through a good education system, a research and development system which constructive, and regulation which conducive and system incentive which ok.

## CONCLUSIONS

Not yet adequate protection law about expression culture traditional For interest commercial in implementation in public. This is because the government has not regulated interests commercialization of traditional cultural expressions in the form of regulations legislation *sui generis* (in separate or special form). During This law Right Riches Intellectual national, ie the law Law Number 28 of 2014 concerning Copyright in Article 38 only arrange that government as holder right create which no is known its creator.

There is a difference in thinking between public tradition and custom with the concept of Intellectual Property Rights so this becomes a constraint in applying the concept of benefit sharing to cultural expressions traditional. Regulation legislation in the field right riches so far known is always based on the concept of individual intellectual property ownership, requires the presence of novelty, and originality, is known as expression culture traditional or

inventor, and exists restrictions period time protection. Whereas in context utilization knowledge traditional and expression culture traditional, which take precedence is interest communal. Originality and novelty no required, expression culture traditional or the inventor usually no is known, remember existence knowledge traditional and expression culture traditional characteristic imitation and obtained by way of hereditary.

The government through the joint Ministry of Law and Human Rights Board Representative People should form regulation executorsuch as Government Regulations to apply the concept of *benefit sharing*. The current Copyright Law does not yet regulate concepts benefit sharing. Given that the protection system is in the form or the regime that we have known so well, is seen as not fully in accordance.

Every traditional society should demand or form something institution in matter This Can shaped organization social or association in accordance with the provisions of the Ministry of Home Affairs for become their representative in implementing the concept of *benefit sharing* . With the existence of an institution authorized for the concept of *benefit sharing* then traditional cultural expressions and performers will benefit or economic value.

## REFERENCES

### Book:

- Adimihardja, Kusnaka. Knowledge and Technology Systems Local in Sustainable Development in Indonesia. Bandung: Humanities. 2004
- Star, Sanusi. Copyright Law. Bandung: PT Citra Aditya Bakti. 1998
- Chazawi, Adami Chazawi. Intellectual Property Rights (HAKI) Crime. Malang: Bayumedia Publishing. 2007
- Damian, Eddy Damian. Copyright Law. Bandung: PT. alumni. 2005
- Danandjaja, James. Indonesian Folklore. Jakarta: Main Library of Graffiti. 2002
- Daulay, Zainul. Traditional Knowledge: Concepts, Basics Law, and The practice. Jakarta: Rajawali Press. 2011
- Fauzannafi, Muhammad Zamzam. Reog Ponorogo Dancing Between Domination And Diversity. Yogyakarta: Kepel Press. 2005
- Gani, Ramlan A. INDONESIAN LANGUAGE DISCIPLINE. Jakarta: FITK PRESS. 2011
- Haryanto, Ignatius. Human Creativity Plots; Intellectual Monopolies Over Local Wisdom and Biodiversity. Yogyakarta: Cindelas Smart People Library. 2004
- Hozumi, Tumotsu. Asian Copyright Handbook. Translator Masri Maris. Jakarta: Indonesian Publishers Association. 2006
- Jhamtani, Hira and Lutfiyah Hanim. Globalization and Knowledge Monopoly; A review of TRIPs and Biodiversity in Indonesia. Jakarta: INFID. 2002
- Kansil, C.S.T.. Intellectual Property Rights (Industrial Property Rights and Copyrights). Jakarta: Earth Script. 1990
- Lindsey, Tim, et al. Intellectual Property Rights An Introduction. Bandung: PT Alumni. 2006
- Marzuki, Peter Mahmud. LEGAL RESEARCH. Jakarta: Kencana. 2009
- Purba, Achmad Zen Umar. Intellectual Property Rights Post TRIPs. Bandung: PT Alumni. 2005
- Purba, Afrillyanna, et al. TRIPs-WTO and Indonesian Intellectual Property Law Study of Indonesian Traditional Batik Art Copyright Protection. Jakarta: PT Rineka Cipta. 2005
- Riswandi, Budi Agus. Intellectual Property Rights and Legal Culture. Jakarta: PT RajaGrafindo Persada. 2005
- Riswandi, Budi Agus and M. Syamsudin. Intellectual Property Rights and Legal Culture. Jakarta: Raja Grafindo Persada. 2004
- Permatasari, A.D. (2015). Use of Names of Famous Artists as Characters in Fanfiction Novels and Legal Protection for Affected Parties (Juridical Analysis of Articles 20, 21, 22, and 43 Letter D of Law of the Republic of Indonesia Number 28 of 2014 Concerning Copyright) (Doctoral dissertation, Brawijaya university).

Saidin. Legal Aspects of Intellectual Property Rights. Jakarta: PT RajaGrafindo Persada. 2007

Legal Aspects of Intellectual Property Rights. Jakarta: Rajawali Press. 2010

Sardjono, Agus. Intellectual Property Rights and Traditional Knowledge. Bandung: PT Alumni. 2010

Soelistyo, Henry. Copyright Without Moral Rights. Jakarta: PT RajaGrafindo Persada. 2011

Intellectual Property Rights: Conception, Opinion and Actualization. Jakarta: My pen. 2014

Soenandar, Taryana. Protection of IPR (Intellectual Property Rights) in ASEAN Countries. Jakarta: Sinar Graphics. 2007

Soerjono, Soekanto. INTRODUCTION TO LEGAL RESEARCH. Jakarta: UIPress. 1986

Usman, Rahmadi. Intellectual Property Rights Law. Bandung: PT. alumni. 2003

### **Legislation**

Republic of Indonesia Law Number 28 of 2014 Concerning Copyright Laws

### **Journal**

Institute for International Legal Studies, Faculty of Law, UI in collaboration with the Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights. Interests of Developing Countries Against Rights to Geographical Indications, Genetic Resources and Traditional Knowledge. Depok: LPHI-FHUI. 2005.

Intellectual Property Rights and Development: Proceedings of Limited Workshop Series on Bankruptcy Issues and Other Business Law Insights 2004: Jakarta 10-11 February 2004/editor team, Emmy Yuhassarie, Tri Harnowo. Jakarta: Center for Legal Studies, 2004.

### **Internet**

<http://www.wipo.int/tk/en/tk/>

<http://www.kompas.co.id/kompas-dinding/0711/14/utama/3988155>.

<http://www.suaramerdeka.com/harian/0711/30/nas02.htm>

<http://eprints.uns.ac.id/9171/1/79122107200911091.pdf> <http://www.Hukumonline.com>