

Legal Review of Conceptual Differences Between Folklore and Traditional Cultural Expressions in the Context of Intellectual Property Rights

Muhammad Fikri Haikal

Faculty of Law, University of Indonesia, INDONESIA

E-mail: muhammad.fikri29@ui.ac.id

| Submitted: November 30, 2023 | Revised: December 16, 2023 | Accepted: May 24, 2024 |

| Published: September 20, 2024 |

ABSTRACT

This research examines the differences between folklore and traditional cultural expressions in the context of intellectual property rights, especially in Article 20 paragraph (1) of the PTEBT Bill and Article 38 of the Copyright Law in Indonesia. This research applies normative juridical methods and descriptive analysis through secondary data in the form of journals, articles and other relevant data. Folklore is oral stories and old traditions without a clear creator, while Traditional Cultural Expressions include various aspects of cultural heritage such as fine arts, music, dance and clothing. This difference has meaning in protecting people's rights to their cultural heritage. Article 38 of the Copyright Law states state ownership of Copyright of Traditional Cultural Expressions, ordering the inventory, maintenance and preservation of cultural heritage as an integral part of national identity. The UNESCO Convention and the TRIPS Agreement provide similar guidance. Implementation varies depending on national laws.

Key word: folklore; traditional cultural expressions; intellectual property rights.

INTRODUCTION

Traditional knowledge can also be known as cultural tradition or *Folklore*. Use of terms *Folklore* refers more to the narrowing of the scope of traditional knowledge found in art or literature, and science has a key role in maintaining the diversity of folklore in Indonesia. Legal protection of folklore diversity in Indonesia is essential, primarily as an intellectual creation, as well as to maintain its existence as the intellectual property of the Indonesian people, representing the cultural heritage for generations, so as not to be claimed ownership by foreign entities (Annisa, 2018).

From the point of view of social heritage, Indonesia has its own wealth and distinctive attraction. In this case, folklore is one of the riches that enrich diversity in Indonesia. It is clear that each region in Indonesia has different folklore. Every narrative, whether it is intangible inheritance or tangible inheritance, has its own meaning and meaning (Pandiangan, 2022).

Traditional culture is a form of intellectual creation that requires protection. This is an element of identity and characteristics of the Indonesian nation that has economic potential for the progress and welfare of society. Traditional culture is an intellectual creation that needs to be preserved. One example of intellectual creation of traditional culture is the expression of traditional culture or the expression of folklore (Wedhitami, 2014).

In the current era of globalization, many developed countries have continued to produce innovations, and one of their sources of inspiration is traditional cultural arts from developing countries, including traditional knowledge and biological resources. The use and processing of traditional cultural arts from developing countries to create these innovations often provides economic benefits to those who innovate in developed countries. Unfortunately, the use of traditional cultural arts is often done without permission and is often not followed by compensating the country of origin of these diverse traditional wealth (Yuswar et al., 2022).

Inequities experienced by developing countries are caused by a lack of protection for knowledge and also expression of their traditional culture, in contrast to the protection afforded to intellectual property in developed countries. Developed countries actively protect their intellectual property and

developed countries encourage developing countries to follow their lead in protecting knowledge and cultural expression. However, developed countries are often reluctant to acknowledge knowledge and cultural expressions from developing countries because they fear losing access to traditional cultural knowledge and expressions that have proven valuable economically, knowledgeably, and technologically. (Ubbe, 2009).

Problems related to efforts to protect traditional cultural knowledge and expressions still pose significant challenges, both within the legal framework at the national level and on an international scale (Winatha et al., 2023).

The expression of traditional culture or traditional cultural heritage found in Indonesia comes from various activities and creations of indigenous peoples who inhabit various regions in Indonesia with their own distinctive identities. Currently, traditional cultural expressions and traditional cultural heritage have often been used by some developed countries without permission from development countries such as Indonesia (Setyaningtyas & Kawuryan, 2016).

Regarding *folklore* and traditional cultural expressions in Indonesia, some have been claimed by other countries. Such claims often arise when elements of Indonesian culture are recognized or used by foreigners without permission or without acknowledging their origins. This can be a sensitive issue and raise concerns about cultural exploitation or infringement of communal intellectual property rights. Therefore, it is important to ensure adequate protection and recognition of Indonesia's traditional cultural heritage at national and international levels, so that Indonesians can safeguard and control their cultural heritage in accordance with their values and beliefs.

Some cultural elements owned by the Indonesian nation were once claimed by Malaysia and considered as part of their cultural heritage. For example, Malaysia has claimed Angklung, Sundanese musical instruments, batik, keris, Kuda Lumping (jaran kebraid), the song "Rasa Sayange," Reog Ponorogo, and shadow puppets as part of their culture. This claim created a dispute between Indonesia and Malaysia over the ownership and origins of this culture. Some of these claims arise in the context of beauty competitions, sporting events, and activities of Indonesians living in Malaysia (Sabandar, 2023).

The level of importance and protection of intellectual property rights related to traditional cultural heritage, such as folklore and traditional cultural expressions, has become a central issue in the development of law in various countries. Until now, the protection of traditional cultural expressions in the context of intellectual property rights is still the subject of debate between developed and developing countries in an effort to create appropriate international regulations. This happens because traditional cultural expressions have very significant economic, social, and cultural values as part of a nation's cultural heritage (Widyanti, 2020).

The description illustrates the importance of traditional knowledge, especially in the form of *folklore* or traditional cultural expressions, in Indonesian culture. This legal protection of diversity is considered essential, both as an intellectual creation and as part of the cultural heritage inherent in Indonesian society. From the perspective of social heritage, Indonesia has a rich cultural identity, manifested in a variety of *different folklore* in each region. Each of these narratives and cultural expressions has profound meaning and meaning. The concept of *folklore* and traditional cultural expression is essential in maintaining and respecting different cultural values, traditions, and identities. Although different in characteristics, both have a close relationship with intellectual property rights, which are a major element in efforts to provide protection to people's rights to ownership of their cultural heritage.

Traditional culture in Indonesia is not only an identity, but also has significant economic potential for the progress and welfare of society. Therefore, the protection of intellectual creation in traditional culture is essential. In addition, the issue of the use of traditional cultural expressions by developed countries without the consent of developing countries, such as Indonesia, is a challenge that needs to be overcome in order to safeguard the intellectual property rights and cultural heritage of the Indonesian people. The conclusion from this background is that the conceptual distinction between folklore and traditional cultural expressions in the context of intellectual property rights is a complex issue and requires a deep understanding and proper legal protection. This article will explore these

issues in more depth. So the formulation of the problem statement in this paper is arranged as follows:

1. How can *folklore concepts and* traditional cultural expressions be distinguished and defined in the context of intellectual property rights?
2. How has the development of international law related to the protection of intellectual property rights with regard to *folklore* and traditional cultural expressions, and are there differences in approach between developed and developing countries?

What is the legal protection of traditional Indonesian cultural expressions recognized by other countries?

RESEARCH METHODS (10pt Bold)

The research approach method applied in this study is a normative juridical method with a focus on descriptive analysis. In this case the author conducts in-depth literature research to understand the concept of folklore, traditional cultural expressions, and intellectual property rights in a legal context. This includes reviewing legal literature, previous research, and relevant theories. Furthermore, the author analyzes the concept of folklore and traditional cultural expressions conceptually, including the differences between the two within the legal framework of intellectual property rights. Then, the last step, the author analyze the existing legal framework in Indonesia and the international legal framework related to intellectual property rights and how the legal framework governs the protection of folklore and traditional cultural expressions

RESULT AND DISCUSSION

The concept of folklore and traditional cultural expressions can be distinguished and defined in the context of intellectual property rights

1. Defining Folklore and traditional cultural expressions

Folklore is a group of oral stories, legends, myths, fairy tales, folk songs, dances, and other oral traditions passed down through generations in a society. *Folklore* often has no known creator and tends to evolve through oral processes or traditions. These stories reflect a community's worldview and cultural values, and often focus on human origins, meaning, and fate. Folklore became an important means to connect different generations and preserve the cultural heritage of the community.

Traditional cultural expressions cover the entire spectrum of cultural expressions that are regeneratively preserved in society. It is not limited to *folklore*, but also includes fine arts, music, dance, traditional clothing, handicrafts, architecture, language, religion, and various other cultural practices. Traditional cultural expressions reflect the cultural richness of a community, and play a key role in maintaining cultural identity, as well as in uniting communities in various events and rituals.

The concept of *folklore and* traditional cultural expression has a close relationship with intellectual property rights, which is an important aspect in understanding the way people's rights are protected and recognized to their cultural heritage. When we talk about intellectual property rights in the context of folklore and traditional cultural expressions, there are several aspects that need to be considered.

As for the differences between *folklore* and traditional cultural expressions, they are identified as follows:

- a. Coverage: Folklore is a special subsection of traditional cultural expression. It focuses on oral stories, legends, myths, fairy tales, dances, songs, and other oral traditions passed down through generations. Folklore is usually concerned with narrative, mythology, and oral tradition. While traditional cultural expressions cover the entire spectrum of cultural expressions inherited in society, including but not limited to folklore. It includes fine arts, music, dance, traditional clothing, architecture, handicrafts, languages, religious rituals, and various other cultural practices.

- b. Focus and Characteristics: *Folklore* often has oral traits, has distinctive stories passed down orally, and usually has a strong narrative aspect. Traditional Cultural Expressions: Traditional cultural expressions are broader in scope and encompass various aspects of culture, including oral and non-oral ones. It encompasses a wide range of art forms and cultural practices.
- c. Role in Traditional Culture: Folklore is often a way for societies to convey their values, myths, and origin stories. It has a powerful role in maintaining cultural identity and connecting generations. Traditional cultural expressions reflect the way communities express and celebrate their heritage, including through art, music, dance, and various cultural practices.

In order to understand and preserve the cultural heritage of a society, it is important to recognize the difference between folklore and traditional cultural expressions and appreciate the role of both in maintaining and describing diverse cultural richness.

2. Folklore and Intellectual Property Rights:

Folklore is a collection of unique creative elements that often includes stories, folk songs, and traditional dances. Many of these have become regenerated inherited cultural heritage. These elements often do not have an identifiable creator and belong to the collective of a community or cultural group. Despite this, many elements of folklore have significant economic and social value, especially in terms of tourism, performing arts, and creative industries.

In this context, the issue of intellectual property rights arises when there are efforts to protect and recognize the rights of communities or related groups over their folklore. Many countries have developed legal frameworks to recognize moral rights as well as economic rights associated with *folklore*. This includes the right to decide how folklore stories and expressions are used, as well as whether the community or group is entitled to receive economic benefits from the use of their *folklore*. This reflects efforts to ensure that traditional cultural owners have control over their cultural heritage and can benefit from its exploitation, while maintaining the sustainability of that heritage.

In the context of *folklore* and Intellectual Property Rights, it is important to understand that the protection of intellectual property rights is not only about economic rights, but also about moral rights and recognition of cultural values. This allows traditional cultural owners to decide how their folklore is used and to ensure that their cultural heritage is respected and recognized. Thus, an appropriate legal framework can promote cultural sustainability and enable society to safeguard and care for creative elements and cultural heritage passed down through generations.

3. Traditional Cultural Expressions and Intellectual Property Rights

Traditional cultural expression is a term that encompasses more than just folklore. It covers all aspects of traditional culture, including fine arts, music, dance, as well as various other cultural elements. It contains values, knowledge, and works of art that have been passed down from generation to generation from a community or cultural group. Intellectual property rights become relevant in this context because elements such as traditional music and dance are considered works of art with significant economic value. Communities that maintain these traditions have the right to protect their cultural heritage and ensure that their rights are recognized and respected.

The importance of intellectual property rights in the context of folklore and traditional cultural expressions is to protect the rights of communities and groups that are holders of such cultural heritage. This legal protection allows them to regulate the use and utilization of *their folklore* and traditional cultural expressions. Thus, they can preserve cultural values inherited from regeneration. Through appropriate legal frameworks, communities can ensure that elements of their culture are not misused or taken away without permission, and this encourages respect and respect for their traditional culture.

In the context of Traditional Cultural Expressions and Intellectual Property Rights, the importance of legal protection becomes more prominent as it helps to avoid cultural exploitation, unauthorized use, and cultural claims or abuses by foreign parties or commercial entities. Through intellectual property rights, communities and societies that own traditional cultural heritage can maintain control

over their culture and derive equitable economic benefits from their cultural expression, while ensuring the sustainability of their culture and traditional values.

The significance of cultural preservation through communal intellectual property (KIK) is very important in an effort to prevent foreign claims to Indonesian culture. This act of recording is not only a defensive measure, but also an integral part of efforts to protect cultural and biological diversity from potential threats of exploitation and recognition by other countries. Until now, the Directorate General of Intellectual Property (DJKI) of the Ministry of Law and Human Rights (Kemenkumham) has successfully recorded as many as 1,742 KIK data in the National Data Center (PDN). This data has gone through an integrated validation process with relevant ministries and institutions. In the details of the data, DJKI has recorded 1,106 Traditional Cultural Expressions, 409 Traditional Knowledge, 99 Potential Geographical Indications, and 127 Genetic Resources. However, it is important to remember that this data still does not cover all KIK throughout Indonesia (Fitriana, 2023).

According to Article 20 paragraph (1) of the Draft Law on Traditional Knowledge and Traditional Cultural Expressions (RUU PTEBT), which states "Every individual who utilizes Traditional Knowledge and Traditional Cultural Expressions is obliged to respect the religious, spiritual, belief, and secret character aspects contained in Traditional Knowledge and Traditional Cultural Expressions," the protection of traditional cultural expressions must be continuous indefinitely (perpetual). This is necessary because traditional cultural expressions contain values that are considered sacred and sacred in society, which are passed from one generation to the next. Sometimes, traditional cultural expressions also hold secrets that only the community that passed them down understands. (Widyanti, 2020).

In Indonesia, efforts to protect Traditional Cultural Expressions have been integrated into the Copyright Law, especially in Article 38 of Law Number 28 of 2014 concerning Copyright (Copyright Law). Article 38 of the Copyright Law reads as follows: "(1) Copyright on traditional cultural expressions shall be held by the State. (2) The State shall inventory, safeguard and maintain the traditional cultural expressions referred to in paragraph (1)." Thus, it can be said that Article 38 of the Copyright Law plays a central role in protecting Traditional Cultural Expressions in Indonesia. This article affirms that Copyright on Traditional Cultural Expressions is state ownership, recognizing that traditional cultural heritage is the common property of the people of Indonesia. It reflects an awareness of the importance of preserving and protecting cultural heritage that has deep social, historical, and identity values. Furthermore, Article 38 obliges the state to conduct inventory, maintenance, and preservation of Traditional Cultural Expressions. Inventory means recording and collecting data related to traditional cultural expressions, while maintenance includes efforts to maintain and preserve this cultural heritage. Regulating the use and utilization of traditional cultural expressions is also part of the duty of the state. With these measures, this article underlines the role of the state in recognizing, respecting, and protecting Traditional Cultural Expressions as an essential part of Indonesia's national identity.

The development of international law related to the protection of intellectual property rights with regard to folklore and traditional cultural expressions

Substantially traditional knowledge and expressions of traditional culture have been the subject of controversy since 1967 when Bern *Convention for the Protection of Literary and Artistic Works* introduced Article 15. This article claims that unpublished works whose creator is unknown can get copyright protection if the alleged creator is a citizen of a country that is a party to this convention. In addition, States parties to the convention are required to designate an authorized body to provide such protection (Asri, 2018).

The protection of traditional cultural expressions has been regulated within the legal framework, both at the national and international levels. The initiative to protect traditional cultural expressions was started in 1976 by *World Intellectual Property Organization* (WIPO) by creating The Tunis Model Law on Copyright (*Tunis Model Law*). Then, in 1982, WIPO together with *United Nations on Education, Social and Cultural Organization* (UNESCO) develops *The Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other*

Prejudicial Actions (Model Provisions) as a framework for the protection of traditional cultural expressions (Perangin-angin, 2017).

The development of international law related to the protection of intellectual property rights, particularly with regard to folklore and traditional cultural expressions, has become a major concern in recent decades. This reflects the world's awareness of the importance of preserving and protecting intangible cultural heritage, respecting people's rights, and encouraging fair and beneficial use of the elements.

One of the important milestones in the protection of intangible cultural heritage is the 2003 Convention on the Protection of the World's Cultural and Celestial Heritage adopted by UNESCO. The Convention provides legal guidelines and frameworks that support the protection and management of intangible cultural heritage, including folklore and traditional cultural expressions.

In addition, the TRIPS deal (*Trade-Related Aspects of Intellectual Property Rights*) under the WTO includes provisions related to the protection of intellectual property rights. Some countries have proceeded with the TRIPS-Plus agreement which seeks to extend exclusive rights in the context of intellectual property rights. For some, this can have an impact on intangible cultural heritage. The participation of many countries in the TRIPs agreement reflects global attention to the protection of Intellectual Property Rights (IPR) and has a positive impact on efforts to improve IPR protection at the local or national level, including in Indonesia (Roisah, 2016).

UN Human Rights Declaration: The United Nations has affirmed human rights and people's rights related to cultural heritage and intellectual property rights. This includes people's rights to protect, access, and develop their cultural heritage. Many countries have introduced national laws that specifically regulate intellectual property rights related to folklore and traditional cultural expressions. It includes regulations regarding moral and economic rights, as well as regulation of use and utilization.

The Convention on Intellectual Property Rights for Development Purposes (KIPD) is an international initiative that recognizes the need for appropriate protection of traditional knowledge and traditional cultural expressions. Although it has not been fully implemented, it signifies the world's awareness of this issue.

Developments in international law related to intellectual property rights with regard to folklore and traditional cultural expressions reflect a concerted effort to strike a balance between the protection of exclusive rights and respect for the rights of peoples and groups to intangible cultural heritage. This is an important step in preserving cultural values passed down from generation to generation.

The 2005 UNESCO Convention officially known as the "Convention for the Protection and Promotion of the Diversity of Intangible Cultural Expressions" has a close relationship with the protection of intangible cultural heritage, including folklore and traditional cultural expressions. The Convention focuses on aspects of intangible culture that include performing arts, oral traditions, traditional knowledge, as well as various other cultural expressions that have no physical or material form. The 2005 UNESCO Convention carries a number of important implications in terms of the protection and promotion of intangible cultures:

1. Protection and Promotion: The 2005 Convention aims to protect and promote the diversity of intangible cultural expressions. It covers diverse aspects such as traditional ceremonies, traditional dances, folk music, folklore, traditional knowledge, as well as various other forms of cultural expression.
2. Community and Individual Rights: This Convention recognizes the rights of communities and individuals relating to intangible cultures. This includes the right to preserve, access and transmit this cultural heritage from generation to generation.
3. Protection of Intellectual Property: One of the main aspects of the 2005 Convention is the protection of intellectual property related to intangible culture. This includes the right to unique intangible cultural expressions, as well as traditional knowledge possessed by communities and individuals.

4. **Community Participation:** This Convention emphasizes the importance of community participation in efforts to preserve and promote intangible culture. This includes efforts to develop methods and practices that involve communities in decision-making about the use and preservation of their intangible cultures.
5. **International Cooperation:** The 2005 UNESCO Convention also encourages international cooperation in efforts to protect and promote intangible cultures. States parties to the Convention are committed to mutual support and sharing of experiences in the preservation of intangible cultural heritage.

With regard to the topic of intellectual property rights protection, the 2005 UNESCO Convention provides a relevant legal framework in recognizing the rights of peoples and individuals to intangible cultures. It also underscores the importance of recognition and respect for these rights within the framework of national and international law. In addition, the Convention demonstrates that intangible cultural heritage is an integral part of the cultural identity of a community and deserves to be preserved and respected.

The implementation of regulations related to the protection of intellectual property rights in the context of folklore and traditional cultural expressions may vary between developing and developed countries. This is influenced by differences in national legal frameworks, policies, as well as the level of resources and administrative capacity possessed by each country. Developed countries tend to have more mature regulations and greater resources to implement those regulations. On the other hand, developing countries may have more limited legal frameworks and more limited resources. International legal frameworks, such as the 2003 UNESCO Convention and the 2005 UNESCO Convention, establish the principles of protection of intangible cultural heritage applicable to developed and developing countries. Nonetheless, developing countries may face constraints in the allocation of resources for the protection of intellectual property rights. Law enforcement can also vary, with developed countries likely to have stronger and more efficient judicial systems in dealing with intellectual property infringement. It is important to note that within the international framework, recognition of traditional cultural rights and protection of communal intellectual property are increasingly gaining attention and recognition, and developed and developing countries can cooperate in strengthening the international legal framework for protecting traditional cultures. Nonetheless, efforts to ensure fair and balanced protection for developing and developed countries in terms of traditional culture remain challenges that need to be addressed in the context of intellectual property rights.

Legal protection of traditional Indonesian cultural expressions recognized by other countries

Indonesia has more than 1,128 tribes spread throughout its territory, with more than 300 local dialects, more than 3,000 indigenous dances, as well as various other art forms such as traditional songs, traditional musical instruments, and other traditional arts. Indonesia's traditional culture is an intellectual heritage that must be given protection. Indonesian culture is an asset that can be used to encourage economic growth and social welfare. Traditional culture is a form of intellectual property rights that need protection. International legal instruments have sought to regulate the protection of these traditional cultural expressions (Febriantini et al., 2022).

Traditional artworks and old techniques that have existed in traditional societies have significant economic value. Traditional Knowledge and Traditional Cultural Expressions are Indonesia's priceless wealth that reflects national identity, so that regional culture can be on par with international culture and is a unique and irreplaceable asset of the country (Ubbe, 2009).

But, unfortunately, some elements of Indonesian culture were once recognized by other countries as their own, which raises the problem of claims to Indonesia's cultural heritage. The involvement of other countries in these claims may affect the intellectual property rights and cultural heritage of Indonesian society, highlighting the importance of protection and recognition of traditional cultural expressions. The protection of international and national laws is one of the efforts to address this issue and ensure the sustainability of Indonesia's diverse culture. Here are some of the Indonesian cultures that Malaysia once recognized as their own:

1. Angklung is a typical Sundanese musical instrument that Malaysia once recognized as part of their cultural heritage. However, after a long debate, UNESCO recognized angklung as Indonesia's property in 2010.
2. Batik was once claimed by Malaysians as part of their culture. Indonesia then registered batik with UNESCO in 2008, and UNESCO certified batik as Indonesia's cultural heritage in 2009.
3. Keris, a traditional weapon used in several regions of Indonesia, is also recognized by Malaysia. However, UNESCO finally confirmed keris as Indonesia's cultural heritage in 2005.
4. Kuda lumping, a traditional Javanese dance, was once recognized by Malaysians as part of their culture. This includes the use of the song 'Rasa Sayange' to promote Malaysian tourism.
5. Rendang, a typical Padang food, has also been claimed by Malaysia because many Padang people live there.
6. Reog Ponorogo, a traditional vehicle, and Pendet Dance and Plate Dance have also been claimed by Malaysia.
7. Wayang kulit, a traditional performance, was also once recognized by Malaysia as their own before UNESCO recognized wayang kulit as Indonesia's original cultural heritage in 2003 (Sabandar, 2023).

Ridwan (2019) in (Winatha et al., 2023) revealed that within the framework of international law, research related to legal protection for traditional knowledge and traditional cultural expressions can be analyzed within the framework of international human rights law. *Universal Declaration of Human Rights* (UDHR) and *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) is a fundamental international legal instrument that provides recognition and protection of the knowledge and traditional cultural expressions concerned. The recognition and protection of traditional knowledge and traditional cultural expressions as an indispensable component of cultural heritage becomes very important as it impacts on fundamental rights such as cultural rights, intellectual property rights, food rights, health rights, and the right to information.

When folklore and traditional cultural expressions do not have definite legal protection, a variety of negative impacts can arise, including:

1. Recognition and Appreciation: Lack of legal protection can result in loss of recognition and appreciation of a community's cultural heritage. Unique and valuable traditional cultural expressions may be overlooked or claimed by others without rights.
2. Exploitation and Extortion: Lack of legal protections can pave the way for cultural exploitation. Other persons or entities may commercially or exploitatively exploit traditional cultural expressions without providing equitable benefits to the communities of their owners.
3. Shrinkage of Cultural Heritage: When traditional cultural expressions are not protected, communities may lose incentives to preserve, pass on, or preserve their culture. This can lead to shrinkage and deterioration of cultural heritage.
4. Inequality and Economic Loss: Societies may suffer economic losses when their traditional cultural expressions are exploited or claimed by others. This can deepen social and economic inequality.
5. Loss of Identity: Inprotection can cause people to lose their cultural identity, which is an important part of their cultural heritage. This can have an impact on social and psychological well-being.
6. Potential Intellectual Property Release: Without legal protection, elements of traditional culture can be taken and used without permission, which can result in the loss of intellectual property rights of the owning community.
7. Unfair Competition: Parties who utilize traditional cultural expressions without permission may produce commercial products that compete unfairly with those produced by the society that owns that culture.

8. International Conflicts: Lack of protection can create interstate conflict when a country's culture is claimed by another country, which can result in diplomatic tensions.

Therefore, it is important to adopt strong legal regulations, both at national and international levels, to protect folklore and traditional cultural expressions. This will help safeguard the cultural heritage of the community, respect the rights of the owners, and prevent exploitation and unauthorized claims by others.

Protection of traditional knowledge and traditional cultural expressions is essential to safeguard the intellectual property rights and cultural heritage of the Indonesian people. Within the framework of international law, instruments such as the UDHR and ICESCR become important in providing recognition and protection of traditional cultural knowledge and expressions. These legal protections can help address the issue of other countries' claims to Indonesia's cultural heritage and maintain the sustainability of this diverse culture. Measures to prevent claims to *folklore* and traditional cultural expressions by other countries involve legal provisions at both national and international levels. Here are some steps you can take:

National Legal Protection:

1. Immediately register traditional cultural expressions under national copyright laws if possible. This provides strong legal recognition of such ownership and rights of expression.
2. Establish a special protection law for traditional cultural expressions, as stipulated in the Bill for the Protection of Traditional Cultural Expressions (PTEBT) in Indonesia.
3. Documentation and Inventory: Create a comprehensive inventory of the country's traditional cultural expressions, including descriptions, sources, and related information.
4. Document the history, practices, and cultural context of the expression so that it can be used as proof of ownership in the case of a claim.
5. International Cooperation: Active in cooperation with other countries, particularly through international organizations such as UNESCO. Through this cooperation, countries can gain recognition and support in the protection of their traditional culture.
6. Education and Awareness: Educate the public, especially the younger generation, about the importance of preserving traditional culture and the impact of claims to it. Increase public awareness regarding copyright regulations and traditional cultural protection.
7. Diplomacy: Use diplomacy to negotiate and communicate with countries that may claim traditional cultural expressions.
8. Follow up with bilateral discussions and agreements governing the protection of traditional cultures.

Strengthening International Law

Support international initiatives that strengthen the protection of traditional cultures, such as the addition of provisions in international copyright treaties or UNESCO conventions.

These measures can help countries to protect their traditional cultural expressions from claims by other countries, as well as support the sustainability of peoples' cultural heritage. Collaborative efforts between countries and international cooperation will be key in ensuring strong protection of folklore and traditional cultural expressions around the world

CONCLUSION

The relationship between intellectual property rights (IPR) and folklore and traditional cultural expression is about protecting, acknowledging and respecting global cultural heritage. IPR has an important role in protecting the rights of communities that care for folklore and traditional cultural expressions, including moral rights, economic rights, and the right to maintain the authenticity of cultural works. It also plays a role in the preservation of cultural heritage, encouraging communities to care for inherited stories, arts and cultural practices. It also helps respect cultural identities and

diverse values. An appropriate legal framework and cooperation between cultural communities, governments, and related parties are needed to protect IPR effectively. By understanding the important role IPR plays in preserving global cultural wealth, we can ensure that cultural heritage is respected and empowered, while giving people control over their values. The development of international law related to the protection of intellectual property rights, particularly with regard to folklore and traditional cultural expressions, has become a major concern in recent decades. The 2003 and 2005 UNESCO Conventions provide guidelines and legal frameworks supporting the protection of intangible cultural heritage, including folklore and traditional cultural expressions, with emphasis on intellectual property rights. The TRIPS and TRIPS-Plus agreements under the WTO also include universally applicable intellectual property rights provisions. The implementation of these regulations may vary between developing and developed countries, affected by differences in national legal frameworks and resources. Nevertheless, recognition of traditional cultural rights and protection of communal intellectual property are gaining increasing attention within international frameworks. This is a challenge that needs to be overcome in the context of intellectual property rights and the preservation of traditional culture to maintain a balance between exclusive rights and community rights in the preservation of inherited cultural values

REFERENCES

- Annisa, F. (2018). Perlindungan Hukum Terhadap Folklor dalam Hukum Hak Kekayaan Intelektual Indonesia dan Hukum Internasional. *Lex Privatum*, VI(7), 29–36.
- Asri, D. P. B. (2018). Perlindungan Hukum Terhadap Kebudayaan Melalui World Heritage Centre Unesco. *Jurnal Hukum Ius Quia Iustum*, 25(2), 256–276. <https://doi.org/10.20885/iustum.vol25.iss2.art3>
- Febriantini, K. D., Mangku, D. G. S., & Yuliantini, N. P. R. (2022). Perlindungan Hukum Internasional Terhadap Warisan Budaya Indonesia Yang Di Klaim Oleh Nagara Lain. *Jurnal Pendidikan Kewarganegaraan Undiksha*, 10(3), 206–213.
- Fitriana, S. N. (2023, September). Pentingnya Kekayaan Intelektual Komunal untuk Pelestarian Budaya-Ekonomi. *Www.Detik.Com*.
- Pandiangan, A. (2022). Inovasi Folklor sebagai Warisan Sosial Era 5.0. *Www.Kompas.Id*.
- Perangin-angin, R. B. B. (2017). Perlindungan Ekspresi Budaya Tradisional di Indonesia. *Prosiding Seminar Nasional Tahunan Fakultas Ilmu Sosial, Universitas Negeri Medan*, 19, 63–66.
- Roisah, K. (2016). PERLINDUNGAN EKSPRESI BUDAYA TRADISIONAL DALAM SISTEM HUKUM KEKAYAAN INTELEKTUAL. *Jurnal Ilmiah Hukum*, 2(2), 62.
- Sabandar, S. (2023). Ramai Klaim Lagu “Rasa Sayange”, Ini 9 Budaya Indonesia yang Pernah Diklaim Malaysia. *Www.Liputan6.Com*.
- Setyaningtyas, A. C., & Kawuryan, E. S. (2016). Menjaga Ekspresi Budaya Tradisional Di Indonesia. *Jurnal Ilmu Hukum Tambun Bungai*, 1(2), 122–132.
- Ubbe, D. H. A. (2009). *Laporan Tim Pengkajian Hukum Tentang Perlindungan Hukum Kebudayaan Daerah*.
- Wedhitami, B. (2014). Upaya Perlindungan Ekspresi Budaya Tradisional Dengan Pembentukan Peraturan Daerah. *Law Reform*, 9(2), 32. <https://doi.org/10.14710/lr.v9i2.12444>
- Widyanti, Y. (2020). Perlindungan Ekspresi Budaya Tradisional Indonesia Dalam Sistem Yang Sui Generis. *Arena Hukum*, 13(3), 388–415. <https://doi.org/10.21776/ub.arenahukum.2020.01303.1>
- Winatha, I. G. M. Y., Prathama, A. A. G. A. I., Setyaningtyas, P. P., & Cita, N. P. W. C. (2023). ANALISIS KEPASTIAN HUKUM PENGETAHUAN TRADISIONAL DAN EKSPRESI BUDAYA TRADISIONAL SEBAGAI BAGIAN HAK KEKAYAAN INTELEKTUAL. *Jurnal Raad Kertha Vol.*, 6(1), 342–346.
- Yuswar, C. P., Sitepu, R., & Harianto, D. (2022). *Kajian Filosofi terkait Perlindungan Ekspresi Budaya Tradisional oleh Rezim Hak Cipta*. 7(2), 98–107.