



PKM Legal Assistance in Efforts to Inventory Traditional Cultural Expressions in The Traditional Village of Pangkung Karung Gede, Pangkung Karung Village, Kerambitan Sub-District, Tabanan District, Bali Province

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Abstract

In community service for the 2024 academic year, we from the PKM UNWAR Team provided assistance to the community and traditional artists in Pangkung Karung Gede Village, Kerambitan District, Tabanan Regency, in terms of obtaining intellectual works in the form of art and culture owned by communal communities or also known as Traditional Cultural Expressions. One of the Traditional Cultural Expressions is the Sanghyang Memedi Dance of Pangkung Karung Gede Traditional Village, Tabanan Regency. Over time the dance began to be forgotten because it was included in the category of sacred dance in Balinese customs and culture, so it could only be danced at certain times. In this community service, where the community wants legal assistance in recording Copyright for Sanghyang Memedi Dance in Pangkung Karung Gede Traditional Village, Tabanan Regency has not been implemented, this is due to the lack of legal understanding of the community and cultural factors of the community who still consider recording to be of little benefit. We from the PKM UNWAR Team, in carrying out this community service, found that the problem is that the knowledge and ability of human resources in an effort to inventory traditional cultural expressions in the Pangkung Karung Gede Traditional Village is not optimal. Based on the above problems, we, from PKM UNWAR, are determined to provide assistance to the parties in making a cooperation agreement to avoid unwanted things in the future, so that cooperation can be carried out properly.

Keyword: inventory; cultural expression; mentoring



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Introduction

The issue of protecting traditional works and knowledge as the nation's assets, as well as how to protect them, is widely questioned, because basically the nation's assets can be empowered economically. The problem of mutual cultural claims between countries has also been in the spotlight lately. Indonesia's indigenous cultural wealth that is claimed as belonging to other countries amounts to 14 (fourteen) types of culture. Some traditional Indonesian cultures recognized by other countries as their culture include Kebaya Clothing, *Reog Ponorogo* Dance, Rasa Sayange Song, *Pendet* Dance.

The provision in article 1 point (4) of the Regulation of the Minister of Law and Human Rights Number 13 of 2017 concerning Communal Intellectual Property Data, states that:

“Ekspresi Budaya Tradisional adalah segala bentuk dari hasil karya cipta, baik berupa benda maupun tak benda, atau kombinasi keduanya yang menunjukkan keberadaan suatu kebudayaan tradisional yang di lestarikan dan di pegang secara komunal serta lintas generasi”.

These Traditional Cultural Expressions are collective in nature and are considered the property of the entire community or organization or indigenous people and not as the property of individuals within the community.

Traditional Cultural Expression works are very diverse in form and form, the scope is very broad can be expressed in the form of traditional food to traditional dance works. As long as the local community in the place where the traditional knowledge grows and develops is able to realize and express into a real work of expression derived from traditional knowledge, it is included in the scope of Traditional Cultural Expression works. Traditional culture is an intellectual work that is very important to protect, because traditional culture is the identity of the Indonesian nation, and because of the uniqueness of traditional culture, people can utilize Indonesian culture economically.

Dance is one of the traditional and modern cultures that are very much created by the Indonesian people. In Bali dance can be divided into 3 (three) types including: *Wali* dance (sacred), *Bebali* dance (ceremony) and *Balib-baliban* dance (entertainment). *Wali* Dance and *Bebali* Dance are only performed at a predetermined time and place. The *Wali* Dance is performed inside the temple while the *Bebali* is in the middle of the temple courtyard. While the *Balib-balib* Dance which is for entertainment is held outside the temple.

Based on observation, Pangkung Karung Village is located in Kerambitan District, Tabanan Regency, Bali Province. Pangkung Karung Village has an area of 296.5388 ha consisting of 200 ha of paddy land, 23 ha of plantation land, 5 ha of public facilities, 68.5388 ha of housing and others, with an altitude of 500 m above sea level and an average temperature of 28-34 degrees Celsius. Pangkung Karung Village is directly adjacent to: Northern boundary: Penyalin Village, East boundary: Yeh Nu River, South boundary: Curah Village, West boundary: Nusa River. Pangkung Karung village is located in a lowland area with the condition of the area tends to be fertile and windy because the village is located near the coast with a distance of +/-10 km from the coast, in the Pangkung Karung Traditional Village there are several works of cultural expression that are owned, need to be protected and inventoried. The purpose of conducting an inventory is to prevent the recognition of works, especially those of a general nature. Referring to this explanation, it is necessary for the community to understand the legal protection of their copyrighted works, because it is feared that imitation or plagiarism will occur without permission if left unchecked. The result is a gap between the norms in legal regulations and the phenomena that occur in society.

Based on initial observations to the field and seeing directly to the field, namely in Pangkung Karung Village, Tabanan Regency, where the enthusiastic community and traditional

leaders want legal recognition of the *Sanghyang Memedi* Dance which is a legacy of the community's ancestors.

With the request for assistance from the legal side by the community due to the not optimal knowledge and ability of human resources in an effort to inventory traditional cultural expressions in the Pangkung Karung Gede Traditional Village.

As a form of lecturer service to the community.

Providing opportunities for lecturers to carry out direct service with partners to target objects, communities, artists, and traditional leaders in the Pangkung Karung Gede Traditional Village to carry out one of the Tri Dharma of Higher Education in terms of community service.

Improve the cooperation relationship between universities and the community, artists, and traditional leaders in the Pangkung Karung Gede Traditional Village.

Provide optimal assistance to the community, artists, and traditional leaders in Pangkung Karung Gede Traditional Village on the implementation of Law No. 28 of 2014 on copyright and moral rights which is emphasized in article 5 of the Law. According to Article 8 of Law No. 28 of 2014 on Copyright states:

“Hak Ekonomi merupakan hak eksklusif pencipta atau pemegang hak cipta untuk mendapatkan manfaat ekonomi atas ciptaan”.

This right grants permission or prohibits other people from publishing and reproducing their creations. Provisions regarding Traditional Cultural Expressions have been regulated in Law No. 28 of 2014 concerning Copyright, namely in Article 38 to Article 40. *Sanghyang Memedi* Dance has not been registered or has not been recorded by the state as a Traditional Cultural Expression. The recording of copyright is called Inventory, this can be seen in Article 38 paragraph (2) which states that the state is obliged to inventory Traditional Cultural Expressions.

Socialization and legal counseling on the provisions of the Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright.

Socialization and legal counseling on the provisions of the Minister of Law and Human Rights Regulation Number 13 of 2017 concerning Communal Intellectual Property Data.

Providing assistance to the community so that *Sanghyang Memedi* Dance can be recognized by the state by having Intellectual Property Rights recognition.

Method

The implementation methods carried out in this community service are:

Directly met with partners to see firsthand the situation of Pangkung Karung Gede village, Kerambitan Sub-district, Tabanan Regency.

Discussing with the parties in this case, namely the community, artists, PKK mothers, and traditional leaders, namely Mr. Bendese Adat of Pangkung Karung Gede Village.

The PKM implementation team provides explanations related to existing legal regulations so that the *Sanghyang Memedi* Dance can be considered by the government to obtain Intellectual Property Rights. The PKM implementation team also visited and socialized to the Tabanan Regency Culture Office to obtain the completeness letter requested by the Ministry of Law and Human Rights of Denpasar, Bali.

Contribution in this case is a contribution given in various forms, both

contributions in the form of funds, programs, ideas, energy given to other parties to achieve something better and more efficient.

This Community Service will provide assistance in the explanation of Article 4 of Law No. 28 of 2014 which states that:

“Hak Cipta sebagaimana dimaksud dalam Pasal 3 huruf (a) merupakan hak eksklusif yang terdiri atas hak moral dan hak ekonomi”

Also in the provisions of Article 9 of Law No. 28 of 2014 concerning Copyright that:

(1). Pencipta atau Pemegang Hak Cipta sebagaimana dimaksud dalam Pasal 8 memiliki hak ekonomi untuk melakukan:

Penerbitan Ciptaan;

Penggandaan Ciptaan dalam segala bentuknya;

Penerjemahan Ciptaan;

Pengadaptasian, aransemen, pentransformasian Ciptaan;

Pendistribusian Ciptaan atau salinannya;

Pertunjukan Ciptaan;

Pengumuman Ciptaan;

Komunikasi Ciptaan; dan

Penyewaan Ciptaan.

Sanghyang Memedi Dance is a Traditional Cultural Expression of the Pangkung Karung Gede Traditional Village Community in the form of a work of art in the form of a dance, where copyright related to this work of art is held by the state. Based on the definition of Copyright mentioned in Article 1 point (1) of Law No. 28 of 2014 that Copyright is an exclusive right that arises automatically based on the declarative principle, which means that the copyright is obtained directly when the creation has been realized in reality.

In this case, the PKM Team also provided explanations and understanding to the community regarding the Law regarding the inventory of Traditional Cultural Expressions. The obligation to conduct this inventory is also regulated through the Minister of Law and Human Rights Regulation No. 13 of 2017 concerning Communal Intellectual Property Data in Article 7 states:

Kekayaan Intelektual Komunal Wajib Dilakukan Inventarisasi

Inventarisasi Sebagaimana Dimaksud Pada ayat (1) Dilakukan Oleh Menteri.

Dalam melakukan Inventarisasi Sebagaimana Dimaksud Pada Ayat (2), Menteri Dapat Bekerja Sama Dengan Kementrian/Lembaga/Pemerintah Daerah.

Results And Discussion

Dance is one of the traditional and modern cultures that are very much created by the Indonesian people. In Bali dance can be divided into 3 (three) types including: *Wali* Dance (sacred), *Bebali* Dance (ceremony) and *Balib-balihan* Dance (entertainment). *Wali* Dance and *Bebali* Dance are only performed at a predetermined time and place. *Wali* Dance is performed inside the temple while *Bebali* Dance is in the middle of the temple yard. While the *Balib-balihan* Dance which is for entertainment is held outside the temple. *Sanghyang Memedi* Dance can be categorized as a *Wali* (sacred) Dance.

From the description above, the PKM Team discussed that the Sanghyang Memedi dance is a sacred dance that needs to be preserved and maintained by the owner community, namely the Pangkung Karung Gede Traditional Village community and also needs to be maintained in terms of legal protection which is expected to get from the positive law side.

The lack of optimal knowledge and ability of human resources in an effort to inventory traditional cultural expressions, namely the Sanghyang Memedi Dance in the Pangkung Karung Gede Traditional Village, in this case the PKM Team provides socialization and legal assistance, especially regarding the Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright and Regulation of the Minister of Law and Human Rights Number 13 of 2017 concerning Communal Intellectual Property Data.

Sanghyang Memedi Dance is a Traditional Cultural Expression of the Pangkung Karung Gede Traditional Village Community in the form of artwork in the form of dance, where copyright related to this artwork is held by the state. However, if we talk about copyright held by the state, namely in the form of Traditional Cultural Expressions in accordance with Article 38 paragraph (1) of Law No. 28 of 2014, the Law provides an obligation for the state to carry out the process of recording works included in Traditional Cultural Expressions, in this case the Sanghyang Memedi Dance has not been registered or has not been recorded by the state as a Traditional Cultural Expression.

Therefore, it is necessary to provide assistance to the community and artists so that in Traditional Cultural Expressions, in this case the Sanghyang Memedi Dance gets Intellectual Property Rights in accordance with the provisions of Law No. 28 of 2014.

Conclusion

In the Legal Protection of Sanghyang Memedi Dance in Pangkung Karung Gede Traditional Village, there are many legal regulations in the form of Laws and Regional Regulations of Bali Province that can be used as regulations in protecting works of Traditional Cultural Expression, so that people will continue to be able to develop traditional artistic talents without fear and hesitation to be recognized by other parties, and in terms of the implementation of legal protection of Sanghyang Memedi Dance works, it is still in the process of submitting forms at the Ministry of Law and Human Rights of the Bali Province Regional Office.

Daftar Pustaka

Atsar, A. (2017). *Perlindungan Hukum Terhadap Pengetahuan Dan Ekspresi Budaya Tradisional Untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau Dari Undang-Undang No. 5 Tahun 2017 Tentang Pemajuan Kebudayaan Dan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta. Law Reform, 13(2), 284-299.* <https://doi.org/10.14710/lr.v13i2.16162>

Hidayah, K. (2017). *Hukum Hak Kekayaan Intelektual*. Malang: Setara Press.

Hutabarat, S. M. D. (2017). *Perkembangan Dan Perlindungan Pengetahuan Tradisional*

- Dan Ekspresi Budaya Tradisional Ditinjau Dari Perspektif Hak Kekayaan Intelektual. *Jurnal Yuridis*, 2(2), 202–219. <https://doi.org/10.35586/.v2i2.201>
- Kementrian Hukum dan Hak Asasi Manusia. (2020). *Modul Kekayaan Intelektual Tingkat Dasar di Bidang Hak Cipta*. Jakarta.
- Margono, S. (2015). *Hukum Hak Kekayaan Intelektual*. Bandung: Pustaka Reka Cipta, Bandung.
- Martinet. L. (2019). Traditional Cultural Expressions and International Intellectual Property Law. *International Journal of Legal Information*, 47(1), 6-12. <https://doi.org/10.1017/jli.2019.8>
- Peraturan Menteri Hukum Dan Hak Asasi Manusia Nomor 13 Tahun 2017 Tentang Data Kekayaan Intelektual Komunal (Berita Negara Republik Indonesia Tahun 2017 Nomor 964).
- Undang-undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 266, Tambahan Lembaran Negara Republik Indonesia Nomor 5599).