

Perlindungan hak cipta seni tari tinjauan dan studi perlindungan seni tari pendet bali = Copyright protection of dances study and review protection of pendet bali dance

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Abstrak

ABSTRAK

Seni Tari sebagai bentuk Ekspresi Budaya Tradisional (EBT) Indonesia sangat beragam dan dengan jumlah sangat banyak belum dapat terakomodir dengan baik. Seringkali masyarakat tradisional beranggapan tarian tradisional adalah milik bersama (komunal) sehingga terhadap kurangnya perhatian terkait hak cipta menyebabkan klaim terhadap EBT Indonesia oleh pihak asing seperti halnya Tari Pendet Bali. Bertujuan mengkaji konsep perlindungan Hak Cipta dalam rangka melindungi seni tari tradisional, tesis ini meengangkat pokok permasalahan tentang pengaturan EBT dalam perundang-undangan di Indonesia, perlindungan, upaya serta kendala dalam melindungi EBT dari klaim pihak asing.

Penelitian ini menggunakan metode penelitian yuridis normative, yang dilakukan dengan cara wawancara, dan menggunakan pendekatan perundang-undangan (statute approach) dan pendekatan kasus (case approach). Hasil penelitian menunjukkan bahwa UU Hak Cipta belum dapat memberikan perlindungan terhadap EBT khususnya Tari Pendet Bali meskipun pasal EBT tertuang jelas. Hal ini dikarenakan belum ada perangkat peraturan pelaksana dari UU Hak Cipta menyulitkan penegak hukum melaksanakan UU, masyarakat tradisional berparadigma komunal serta kurang memiliki kesadaran dan pemahaman bahwa EBT Indonesia dilindungi oleh Hak Cipta, sehingga banyak terjadi klaim oleh pihak asing terhadap EBT Indonesia. Namun demikian, upaya positif dilakukan antara lain, dari pihak pemerintah dan peran serta masyarakat. Langkah awal pemerintah perlu melakukan inventarisasi dan dokumentasi secara konsisten dan berkesinambungan, sosialisasi pentingnya perlindungan hukum terhadap EBT, dan mengkaji EBT dibuat UU Sui Generis.

<hr><i>ABSTRACT

The dance as a form of the traditional cultural expressions (EBT) of Indonesia very diverse and so many can not be accommodated properly. Often traditional society assume traditional dance is generally owned (communal) so that the lack of attention led to a claim of copyright related to EBT Indonesia by foreigners as well as Pendet Bali. With a vieq to analyzing the concept of copyright protection the framework of to protect traditional dance, this thesis brings forward the issues on regulating EBT in legislation in Indonesia, protection, efforts and constraints in protecting EB T of claims from foreigners.

The method of this study is juridicial normative which is done by interviews, statutory approach and case approach. The study shows that the copyright law could not provide protection against EBT especially Pendet Bali even though Article EBT clearly stated. This is because there is no device implementing regulations of the copyright law make it difficult for law enforcement to implement legislation, the traditional society has paradigm of communal and have less awareness and understanding that EBT Indonesia protected by copyright, so prevalent claims by foreigners against EBT Indonesia. However,

positive attempts made, among others, from the government and the role of community. The first step the government needs to conduct an inventory and documentation consistently and continuously, socialize the importance of legal protection over EBT, and study EBT made law sui generis.</i>