

Perlindungan hukum atas pemanfaatan ulos batak Toba sebagai ekspresi budaya tradisional dalam mewujudkan ekonomi kreatif = Legal protection for the use of Toba Batak ulos as an expression of traditional culture in realizing a creative economy

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Abstrak

Ekspresi Budaya Tradisional sudah ada sejak dahulu secara turun temurun dan diwariskan dari generasi. Salah satu ekspresi budaya tradisional yang menjadi kebanggaan bangsa Indonesia adalah keragaman kain tradisional, yaitu kain tenun. Kain tenun Ulos Batak Toba sebagai salah satu kain tradisional yang dimiliki bangsa Indonesia. Dibutuhkan perlindungan hukum yang tepat untuk mencegah dan menyelesaikan berbagai pelanggaran hukum dalam melindungi Ulos Batak Toba, karena walaupun ekspresi budaya tradisional sudah dilindungi baik secara nasional dan internasional tetapi peraturan-peraturan tersebut masih belum mampu mengakomodir perlindungan ekspresi budaya tradisional di Indonesia. Hal tersebut menjadikan ekspresi budaya tradisional rentan terhadap tindakan pemanfaatan dan eksploitasi di antaranya peniruan kain Ulos Batak Toba oleh pihak lain secara melawan hukum. Ulos Batak Toba memiliki nilai-nilai ekonomi dan budaya yang memberikan manfaat ekonomi dari pemanfaatan tersebut.

Sifat penelitian dalam penelitian ini adalah bersifat deskriptif dengan pendekatan bersifat yuridis normatif, penulis mengkaji kaidah atau asas hukum yang berhubungan dengan bagaimana perlindungan hukum Ekspresi Budaya Tradisional kain Ulos Batak Toba dalam sistem hukum HKI dan penerapan penganturannya di Indonesia. Berdasarkan hal ini peneliti menyimpulkan bahwa perlindungan hukum terhadap Ulos Batak Toba sebagai ekspresi budaya tradisional berdasarkan sistem Hukum HKI dan UU Pemajuan Kebudayaan belum efektif, diperlukan aturan bersifat sui generis yang spesifik dan terpisah mengatur mengenai Ekspresi Budaya Tradisional. Pemerintah Daerah juga turut serta dalam memberikan kepastian hukum kepada pencipta atau pemegang hak Ekspresi Budaya Tradisional Budaya kain Ulos Batak Toba.

.....Traditional Cultural Expressions have been around for generations and are passed down from generations. One of the expressions of traditional culture that is the pride of the Indonesian people is the diversity of traditional fabrics, namely woven fabrics. Ulos Batak Toba woven cloth as one of the traditional fabrics owned by the Indonesian people. Proper legal protection is needed to prevent and resolve various violations of the law in protecting Ulos Batak Toba, because although traditional cultural expressions have been protected both nationally and internationally, these regulations are still unable to accommodate the protection of traditional cultural expressions in Indonesia. This makes traditional cultural expressions vulnerable to exploitation and exploitation, including the imitation of the Ulos Batak Toba cloth by other parties against the law. Ulos Batak Toba has economic and cultural values that provide economic benefits from these uses.

The nature of the research in this research is descriptive in nature with a normative juridical approach, the author examines the legal principles or principles related to how the legal protection of traditional cultural expressions of Ulos Batak Toba cloth in the IPR legal system and its implementation in Indonesia. Based on this, the researcher concluded that the legal protection of the Batak Toba Ulos as a traditional cultural

expression based on the IPR legal system and the Law on Cultural Advancement has not been effective, it requires sui generis rules that are specific and separate regulating traditional cultural expressions. The Regional Government also participates in providing legal certainty to the creator or right holder of the Traditional Cultural Expression of Batak Toba Ulos cloth.