
RESEARCH ARTICLE

Strengthening Legal Legality of Local Culture Creative Works to Support Entrepreneurship in the Tourism Field

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ABSTRACT

Local cultural copyrighted assets have the potential to support entrepreneurship programs in the tourism sector because, in addition to being numerous and varied, they also have a close emotional relationship in the form of a sense of belonging to the supporting community. However, in practice, these copyrighted assets are problematic in terms of the legality of their ownership due to the weakness of the documents underlying the legal ownership relationship, so these local cultural assets often fall under foreign claims. Another problem is the legal institution that underlies it as an intellectual property right; there is an intersection of conceptions in the relationship between private ownership and communal ownership. This qualitative research uses an empirical normative legal approach by investigating written law as a new legal institution, examining legal principles regarding the applicability of law, studying article by article as a legal formality, and binding it as a force of legislation. The normative approach uses library research with secondary data sources, including conventions, laws, and regulations in Indonesia and journals on the legality of cultural copyright assets. While the empirical approach describes the enactment of the law regarding the legality of cultural copyright assets and analyzes the application of legal institutions regarding communal intellectual property in Makassar City. An empirical approach is used to explore data and information about the maintenance of the legality of cultural copyright assets, and the effects of legal weaknesses on the development of the tourism industry conducted through in-depth interviews with the Regional Office of Law and Human Rights of South Sulawesi, Makassar City Education, and Culture, distributing questionnaires to 100 respondents in Makassar City. The population determined is observers and actors of cultural arts activities in Makassar City. Each population has an equal opportunity to be selected as a sample, so by using a simple random sampling technique, the population is not sorted or stratified first. To determine the sample of informants to be interviewed, purposive sampling was carried out deliberately by the researcher based on certain criteria or considerations. The conclusion of the research shows that the confusion of conceptions can temporarily be overcome because it has been accommodated by Copyright legislation and has not shown any deviation between conceptions. Another conclusion is that the weakness of the legality of local cultural copyright ownership significantly affects the development of local culture-based tourism businesses.

KEYWORDS

Copyright local culture, legality, entrepreneurship, tourism.

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1. Introduction

Entrepreneurs in the field of tourism are expected to be excellent in the future. Tourism is seen as being able to gather various segments to be involved in it, which in turn can present various commercial effects that drive a country's economic growth. Developed countries as big as the United States, China, and South Korea have shown concern for the tourism sector in raising funds for their country's economic progress. The economic achievement of the tourism sector can be obtained through expenditures made by tourists, both domestic tourists and foreign tourists. Sapta Nirwandar, former Deputy Minister of Tourism

and Creative Economy, noted that the economic impact of tourism could be seen in Tourism GDP, tourism workforce, indirect taxes from the tourism sector, and wages/salaries from the tourism sector (2014:43-44). Furthermore, he regrets that local governments are more interested in inviting investors to invest their money in the natural resources sector, which will soon disappear in a matter of fingers, while attention to the world of tourism is number one on their list (2014:xiv-xv).

Tourism is an activity, service, and product of the tourism industry that can create a travel experience for tourists; according to Gartner, the main elements forming the tourist experience is the attractiveness of a place or location (Muljadi A.J., 2009: 7-8). Attraction can be in the form of objects that are natural and can also be artificial, can be modern or traditional with local nuances. Closely related to entrepreneurial ideas developed in society (Muhammad Ashar, Didik Dwi Prasetya, 2018:4).

The tourism sector is a sector that must gain strengthening with two considerations; first: The world has realized how the tourism sector has become the prima donna of the coffers of money for the benefit of a nation/country. Barack Obama, concerning the world tourism industry, especially in the United States, stated: "Tourism contributes to the success of the American and world economies ..." (Sapta Nirwandar, 2014: 2). How the tourism sector shows as a sector that can show its resilience even in the turmoil of other sectors in a country (Yurii Kyrilov, Viktoriia Hranovska, Viktoriia Boiko, Aleksy Kwilinski, Liudmyla Boiko, 2020:2, and Daniel Scott. 2021:2). Is the world community today has made tourism as part of their lives; second, the Government of Indonesia has also shown awareness of the importance of boosting tourism in dealing with problems of weakness in other sectors that often afflict Indonesia and several other Asian countries (Faiza Manzoor, Longbao Wei, Muhammad Asif, Muhammad Zia ul Haq and Hafiz ur Rehman. 2019: 8). Of course, abundant natural resources are not enough to be dealt with by mere physical excavation and management. Natural resources that store beauty must also be a concern, and that is what the Indonesian government is starting to realize.

The fact that cultural wealth is abundant and diverse holds a magnet for other parties to take advantage in managing it and even occupy (at least claim) as part of the culture can be seen as a conscious effort from other nations that this sector is very valuable if its use value is maximized. This has a very close and positive effect on the sustainability and development of the tourism sector. However, our vulnerability is very much felt in dealing with this problem. Thus, an in-depth and comprehensive, and continuous study and attention is needed so that the management of its utilization can provide maximum results under the conditions and situation in Indonesia.

Culture is the result of habits, behaviors, and beliefs that are unique so that they differ from one region to another. This diverse uniqueness is what makes culture an identity that belongs to a group of people. In its position as an archipelagic country, Indonesia has the most cultural diversity in the world; if it is not managed properly, it can become a source of conflict, both domestic conflicts between regions as well as misunderstandings or the practice of mutual claims with other countries. Maybe we can reflect on history where the idea of Indonesian national culture as National Identity and awareness was initiated since the Youth Pledge in 1928. National Culture originates from the peaks of regional culture throughout Indonesia, which are in harmony with the norms of the nation and state.

The diversity of cultures in Indonesia should be able to unify the nation if we don't only look at the differences but the similarities in each culture in terms of architecture, dance, clothing motifs, songs, and several other cultural expressions. This similarity arises from the process of acculturation and cultural assimilation that existed thousands of years ago through population movements before Indonesia was formed, in addition to the similarity of the Indonesian people's origins. To find similarities in regional cultures in Indonesia, it can be done by first collecting data on traditional cultural expressions in the form of cloth motifs, dance, traditional music, folklore, traditional architecture, traditional food, and others. Collecting data on traditional cultural expressions can also introduce other regional cultures to create a sense of ownership of traditional culture.

The increasing flow of technological information has put the world in a new order whose process is called globalization. Globalization which has the goal of creating a world community without national borders, seeks to eliminate the role of the state in carrying out its duties for the welfare of its citizens. Free trade, liberalization, privatization, and the incessant flow of information are part of globalization that we cannot avoid anymore. In addition to having an economic impact on Indonesia, globalization can also dominate culture due to the increased flow of information. And the current condition of Indonesian culture is in a condition where there is the penetration of global culture due to the influence of globalization, eroding the awareness of the younger generation about the heritage of Indonesian cultural traditions in addition to eroding the country's foreign exchange. And this is a challenge in the future for the Indonesian people to preserve traditional culture. For this reason, an initiative is needed to save traditional culture as a cultural heritage so that Indonesia has a national identity and can save traditional cultural expressions from being claimed by foreigners.

2. Conceptual Framework

Weaknesses in the legality of ownership and control of assets based on traditional culture in Indonesia are inhibiting factors in fulfilling demands for the economization of cultural assets. Weaknesses in this legality have turned out to be a trigger for the failure of all efforts to gain recognition and support to encourage the economization of cultural assets. (Mohammad Irfan. 2022:791)

This is different from what has been done by neighboring countries and several other countries in the Asian region, which have succeeded in managing their cultural assets to further optimize them as wealth that can provide support for the progress of their countries, such as Malaysia and China. (Al Halbusi, H., Jimenez Estevez, P., Eleen, T., Ramayah, T., & Hossain Uzir, M. U. (2020), Ismail, N., Masron, T., & Ahmad, A. (2014), Ginting, N., & Wahid, J. (2015).

The opposite situation occurs in Indonesia, where it is forced to take pains to carry out various forms of resistance if you want to release so many cultural assets from foreign claims, both resistance questioning cultural assets that have been claimed (<http://Tempo.co>, Rabu, 30012013) or cultural assets which are likely to be claimed next. (Muhammad Sholeh, <merdeka.com/wordpress.com>, 25062012)

The cultural wealth is not only for the sake of preservation to make the nation's creations proud but must be more advanced than that, namely placing this wealth as a means of developing subsequent innovation creations in the form of modifications in the form of creative work which has become a model of today's society (creative economy) (Ukhles Al Ababneh, Mousa Masadeh, 2019:109) In the 4.0 era, where technology is no longer just making use of it but utilizing technology to develop new ones. (Agyztia Premana, Gian Fitralisma, Andi Yulianto, M. Badruz Zaman, M. A. Wiryo. 2017:3). In this latter context, the expression of a product or work that already existed must be put forward as a manifestation of the 4.0 era (Silvia Cerisola, Elisa Panzera. 2021:3)

All aspects of the work carried out regarding cultural assets and their development, including expressive strengthening, from the implementation of the creative economy, which has recently been developed by the government, are very important in supporting all entrepreneurial activities in the context of developing the national economy. (Mayasari, Dita., Amran, T.G., Sugiarto, D., 2017:13.)

3. Materials and Methods

The legality of assets is the material that is examined in connection with efforts to strengthen the legal bond between cultural art products and the region (local/custom) as owners who can later fulfill their position of supporting tourism businesses. Strengthening the legality of ownership of cultural arts assets is the key to recognizing other parties outside the local community, which provides flexibility in the use of these cultural arts products to be displayed, developed, and modified in the context of the creative economy, thus bringing a high economizing effect to the region (Adrial and Larasati Pristi Arumdani 2020:40).

This qualitative research uses a normative empirical legal approach. The normative legal approach is carried out by investigating written law as a new legal institution, examining legal principles regarding the applicability of the law, studying article by article as a legal formality, and binding it as the strength of statutory regulations. While the empirical approach to describe the enactment of the law regarding the legality of cultural copyright assets analyzes the application of legal institutions regarding communal intellectual property in Makassar City.

The normative approach uses library research with secondary data sources, including conventions, laws, and regulations in Indonesia and journals on the legality of cultural copyright assets. An empirical approach is used to explore data and information about the maintenance of the legality of cultural copyright assets and the effects of legal weaknesses on the development of the tourism industry. Conducted through in-depth interviews with the Regional Office of Law and Human Rights of South Sulawesi, Makassar City Education, and Culture. Distributing questionnaires to 100 respondents in Makassar City. The population determined is observers and actors of cultural arts activities in Makassar City. Each population has an equal opportunity to be selected as a sample, so by using a simple random sampling technique, the population is not sorted or stratified first. The consideration is not only because of their capacity and competence to be selected as informants or resources but also because of the ease of presentation. To determine the sample of informants to be interviewed, purposive sampling, a technique that was carried out deliberately determined by the researcher based on certain criteria or considerations.

4. Discussion and Conclusion

Local cultural copyrighted assets must be strengthened in their position as communal property; this strengthening is in the form of strengthening the legality of ownership, which allows local people to be able to gain the power of confidence as rights holders to explore the economic potential of these local cultural assets.

4.1 Copyright As Intellectual Property

Intellectual Property Rights (IPR) are immaterial assets born from the results of human imagination, creation, and innovation, which are poured into works that can benefit human life. The areas of rights in Intellectual Property Rights include Copyrights, Patents, Trademarks and Geographical Indications, Trade Secrets, Industrial Designs, Layout Designs of Integrated Circuits, and Protection of Plant Variety. Specifically for Copyright, the scope of protection includes scientific, artistic, and literary works (Sulistianingsih, Dewi, et al. 2021:65).

Creations of works of science, art, and literature emerge after humans express their imaginative creations so that they "give birth to a form of product or service" that can be utilized and supports cultural development. "Giving birth in the form of a product or service" emphasizes that it is not the product that is the reference for granting rights but the creation of the result of imagination which takes place in the immaterial realm. However, the immaterial cannot be explained in the form of an object that is to be protected by legal provisions without being followed by pouring it into the form of works (products or services) (Rahmi Jened, 2014: 89)

Revealing the results of the work of the imagination (intellectual) is what brings Copyright to the field of Intellectual Property Rights. Copyright law internationally is regulated in the Bern Convention, which protects works of art and literature and member countries involved in the convention are required to ratify the convention into their national legislation (Nadiya Nurmaya, Mardi Handono, Galuh Puspaningrum, 2020: 102).

However, there is a problem in strengthening the legality of IPR ownership when it relates to copyrights of local cultural works, which have a communal character because IPR tends to be individual, so this conception must be able to reconcile its legal and philosophical foundations. Nevertheless, in the IPR legislation in Indonesia, this is illustrated as if the problem can be solved because several areas of communal copyright are accommodated in the legislation, such as geographical indications and traditional cultural expressions.

4.2 Cultural Copyrights in Intellectual Property Law

Agus Sarjono (2010: 126) describes the existence of elements of relations between humans and between humans and the environment in a material that is born from the results of the experience of community traditions to produce cultural products such as equipment, medicines, methods of treatment, art, worship, the elements of this relationship are good in a spiritual and physical sense. The ownership of a communal relationship element places it in a difficult position to be integrated into the IPR system. Traditional cultural expressions are old creations that can be inferred from the word traditional attached to them. However, it is not the traditional works that are of concern but the works that are born as a result of the expression of these traditional products. Traditional cultural expressions with a communal character are seen as insufficient to be protected by IPR with a personal character. (Henry Soelistyo, 2014:22). Previously, a separate bill had been proposed, but in the end, the law was not issued, and the regulation on Traditional Cultural Expressions was included in the 2014 UUHC.

Identifying Cultural Creations in South Sulawesi with the character of Communal Intellectual Property can be seen in the following note (Zulkifli Makkawaru, 2019:198)

List of Communal Intellectual Property in South Sulawesi
Geographical Indication:

Table 1: List of Communal Intellectual Property in South Sulawesi

Geographical Indication:		
No	Nama KIK Name of Regency	Kabupaten/Kota/City KIK
1	Coffee Wholesale	Sinjai
2	Sinjai Red Rice	Sinjai
3	Drinks Minas	Sinjai
4	Mandoti Fragrant Pulut Sticky Rice	Enrekang
5	Potato Kalosi	Enrekang
6	Typical Dangke Enrekang Foods	Enrekang
7	Wajo Sengkang Silk Tie Weaving	Wajo
8	Passion Fruit Malino	Gowa
9	Shapes of the Pinisi Bira Bulukumba Boat	Bira Bulukumba
Traditional Knowledge		
1	Synrillic Makassar	Makassar
2	Kecapi	Makassar dan Sidrap

3	Lontara Letters	Bugis -Makassar
4	Lagaligo (folklore/literature) South Sulawesi	Sulsel
5	The Story of Aru Palakka	Bone
6	Design of the Pinisi Boat	Bulukumba
Genetic Resources:		
1	Phronima Suppa (nener)	Pinrang
Biodiversity		
1	Taka Bonerate Selayar Underwater Park	Selayar
2	Bantimurung/Maros Butterfly Diversity	Bantimurung/Maros
Traditional Cultural Expressions:		
1	Traditional Festival of Signs Soko/TanaToraja	Tana Toraja
2	Tana Toraja's Traditional Signs of Tukak Festival	Tana Toraja
3	Traditional Festival of Karampuang (Mappugau sianua)	Sinjai
4	Cera Kalompoang (Heirloom Washing ceremony)	Gowa
5	Customs of the Kajang Bulukumba Tribe	Bulukumba
6	Lamung PatuE (Oath on a rock)	Soppeng
Local wisdom:		
1	Tudang Sipulung (sitting in deliberation/sitting together to solve problems)	
2	Principles of Sipaktau, Sipakalebbi, Sipakainga	
3	Siri Culture	

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