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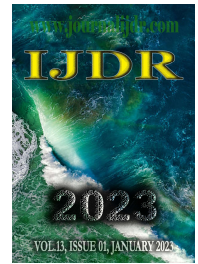
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RESEARCH ARTICLE

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POTENTIAL EMPOWERMENT BALI LOCAL COMMUNITY CULTURE, WITH THE INTELLECTUAL PROPERTY RIGHTS APPROACH

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ABSTRACT

Brand patents and copyrights for the culture of the Balinese people are important for preservation as a continuation of Bali's precious cultural and cultural heritage, an important part of uniqueness as a layer of culture and tourism attraction, needs to be protected with data collection of intellectual property rights. Along with the development of science and technology, because it requires a process to grant brand patents and copyrights, it needs data collection and readiness, to be registered, so as to support social, cultural, economic and sustainable.

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INTRODUCTION

The relationship between the central government and regional governments is regulated by law, taking into account the specificity, privilege, uniqueness and diversity of the regions within the framework of Bhinneka Tunggal Ika Article 18 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia). The existence of regional governments in national development is a constitutional mandate, and is a demand for efficiency and effectiveness in the implementation of development in an equitable manner to accelerate the realization of welfare, society through community empowerment and participation as well as increasing regional competitiveness by taking into account the principles of a rule of law, democracy, a system of government to achieve certainty and justice, at the level of uniqueness and privilege of each region within the unitary state. Law Number 23 of 2014 Concerning Regional Government, is also a reflection of Article 18 of the 1945 Constitution of the Republic of Indonesia, which gives broad, real and responsible autonomy to the regions in a proportional manner, realized by regulating, distributing and utilizing existing resources in the regions definitely and fairly. The essence of autonomy, is placed on the creation and enlargement of opportunities, opportunities for people to make their choices, both in the economic, social and cultural fields. Therefore, the implementation of autonomy accommodates the principle of development with an independent

perspective, and local uniqueness. The uniqueness and specificity of local culture is a tourist attraction, including its natural beauty. The State of Indonesia has natural resources, traditions, local uniqueness, needs to be empowered with regulatory and management support, utilization of community potential as a manifestation of development in a bottom up process. Empowerment of culture, uniqueness, local privileges, with the protection of intellectual property rights (IPR), to prevent recognition from other parties, as well as to encourage local people to be more creative, innovative to work, to utilize their potential. Weaknesses encountered in the development of an IPR legal regime, related to local knowledge, traditions, uniqueness, are the legal instruments.

RESEARCH METHODS

Writing this writer uses two methods, namely the method of observation and method of literature. The observation method is a method or technique of collecting data by making direct observations in the field and drawing general conclusions. Observations were also made by collecting relevant information and data according to the author's observations. Observations were also made through various journals to obtain more accurate information. The Library Method is a data collection technique using a review of books, literature, notes, and various reports relating to the problem to be solved.

RESULTS AND DISCUSSION

The potential of the local community of Bali: The law must not be left behind in the development process, including regional development, because sustainable development requires a legal conception that encourages and directs development as a reflection of the goals of modern law. According to Roscou Pound (1870-1964), law is a tool of social engineering, law changes the thinking of traditional society towards modern society. Meanwhile, according to W. Friedman (1907-1972), that law as a means of social engineering law is not passive, but must be able to be used to change certain circumstances and conditions in the direction intended in accordance with the ideals of community progress. The aim of renewal, the creation of social welfare, legal renewal in the economic field must be directed at two regulatory aspects, namely: (1). Arrangement of economic development efforts, in the sense of increasing local and national economic life as a whole, (2). Arrangements for the distribution of the results of economic development evenly among all levels of society, so that every citizen can enjoy the results of development. According to Sumantoro, that law can function as an agent of modernization and an instrument of social engineering. Regional regulations, as one of the legal products to meet good quality, must fulfill three categories, namely normative, sociological, and philosophical. The normative category, that is, legal rules are made in accordance with applicable procedures, and their substance may not conflict with other legal rules, whether those with a higher or equal position (vertical and horizontal synchronization). Regional Regulations, legally, do not conflict with higher regulations, in terms of pyramidal structure, ideology and constitution. With regard to sociology, regional regulations are able to accommodate values that live and develop in society. Meanwhile, philosophically, regulations must be in accordance with beliefs, morals, ethics that live in society to fulfill certainty and justice.

Local intellectual property management: Empowering local communities towards independence as a regional development effort, according to Rondinelli and Cheema, that Decentralization can be means of overcoming the severe limitations of centrally controlled national planning by delegating greater authority for development planning and management to officials who are working in the field, closer to the problems. Instrumental factors, the implementation of regional autonomy, as an effort to increase development through the management of traditional assets and their values, are embodied in philosophical, ideological, and normative categories, namely Pancasila which accommodates the value of justice which is then elaborated in the Preamble to the 1945 Constitution of the Republic of Indonesia. To form an Indonesian state government, protect all nation and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice. Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the economy is structured on the basis of kinship, paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia, that the nation's potential can be explored and utilized as much as possible for the prosperity of the people. UU no. 23 of 2014 concerning Regional Government. Regional Governments carry out the widest possible autonomy, with the aim of increasing the welfare of the people, and regional competitiveness.

To support this, the government has also issued Law no. 18 of 2000 concerning the National System for Research, Development and Application of Science and Technology (SISNAS P3 Science and Technology) and Law no. 19 of 1992 Concerning Copyright, Law no. 14 of 2001 concerning Patents, Law no. 25 of 2000 concerning Trademarks, Law no. 31 of 2000 concerning Industrial Design, and Law no. 30 of 2000 Concerning Trade Secrets. Regional Autonomy, the provision of responsibility and authority in managing the resources and potential that exists in the regions becomes wider, therefore, the role of intellectual property in the regions is urgently needed so that the regions can increase the added value of traditional

knowledge by exploring and utilizing traditional knowledge from traditional communities, including:

- Traditional medicines whose manufacturing process is based on general knowledge or community habits whose objects can be protected by the Trade Secret Law or the Patent Law.
- Cultural works, woven, songket, woven, ceramics, or other handicrafts that can be protected by the Industrial Design Law.
- Works of art, dance, sculpture, sound art which are included in and protected by the Copyright Act which are public domains in the area.
- Food technology work: finding local varieties of plants typical of the region, protected by the Plant Variety Protection Act.

Sources of local community income, to support Regional Original Income, as one of the benchmarks for the success of regional development, include: (a). Regional original income, namely: (1) Regional tax results. (2) regional retribution results. (3) the results of separated regional wealth management, (4) other legitimate regional original opinions, (b). central and regional balancing funds; and (c). other legitimate regional income.

Legal protection of intellectual property rights, in the form of exclusive rights that provide economic rights (economical rights) and moral rights (moral rights) is a monopoly right for a certain period of time for the owner. Hilary Pearson and Clifford Miller, provide an overview of the exclusive nature of IPR, as follows: The term property refers to something capable of ownership. Ownership basically means the right to possess, use and dispose of property to the exclusion of others. If you own land you have the exclusive legal right to keep out everyone except those you choose to invite to visit. If you own a car you have the exclusive legal right to stop someone else driving it without your permission. If you own copyright in a copyright work you have several legal rights, including the exclusive right to prevent anyone from copying the work. IPR is the same as other property rights, it gives the owner the right to prevent other parties from using or interfering with that right. in the form of innovation, creativity from the local community. In connection with this matter, according to Robert P. Benko, Intellectual property rights grant the inventor/the author a temporary monopoly over the use of his or her invention/creation and prevent competitors from sharing the knowledge without payment. The philosophical basis for granting monopoly rights. exclusive rights, as follows: There is a basic philosophical underling the monopoly in intellectual property (IP). Indeed it must be fully understood with the idea of IP. The objects of IP are creations of human minds, the human intellect. The property is the information reflected in the copies. Therefore the property is not in the copies. Mean while monopoly itself is the sole right as compensation to the proprietor of providing a new creation or a new invention of which the proprietor used his knowledge, skill, time and energy. Therefore the proprietor has to be protected from any counterfeiting.

According to Jeremi Phillips and Allison Firth, the monopoly nature of IPR is as follows:

- a. The Absolute Monopoly of the Market, the right of the IPR owner to prevent everyone from using the IPR, in the market is regulated by law and protects it. For example, an absolute monopoly on patent holders, where the inventor can not only stop anyone who imitates the new product he has invented, but he can also prevent anyone who intends to take advantage of the practical embodiment of his idea.
- b. The Qualified Monopoly, an IPR owner's right in respect of his creation, creates a market monopoly which is faced with one main qualification, that the creator cannot stop other parties from stripping down his creation so that he can effectively use it as the basis for his own creation. This type of monopoly protects integrated circuit electronic circuits and plant variety patents.

- c. The Monopoly of Use of One's Personal Creation, an IPR owner's right to prevent other people from imitating or exploiting the actual work, but without the right to prevent the exploitation of work that is identical or similar to that produced through the independent intellectual endeavors of other parties. The monopoly element here is by no means absolute, and the protection provided is inadequate.

The nature of monopoly, as an exclusive right allows competition at the international level, so that economic value supports industry, creativity, scientific and technological progress and domestic innovation in order to increase competitiveness. There are six indicators that must be considered in increasing the potential attractiveness of local communities, through the dissemination of science and technology activities so that technopreneurship can be formed in the regions, namely: (1). Regional economic potential as an opportunity to increase the added value of superior commodities. (2). Security as a supporter in data security and communication systems. (3). Culture, as an opportunity to cultivate science and technology and protect traditional knowledge. (4). Labor as acceptability of science and technology. (5). Infrastructure as an effort to coordinate utilization. (6). Local regulations as E-documents. As an opportunity for sustainability to attract regional investment, things that need to be accommodated by local regulations are regulations that guarantee the supply of science and technology.

CONCLUSION

Empowerment of the potential of the local Balinese community needs to be realized immediately in a policy in the form of establishing laws and regulations, which are related to intellectual property rights, as an effort to protect the creators of works of art and culture, so that they can be motivated to be creative and innovate as tools and means to prevent piracy, imitation or recognition by other parties, who are not entitled. Regional Governments, need to make an inventory of their regional assets in the form of natural resources, people, culture, art, creative economy, and IPR objects through IPR centers by involving local communities and regional apparatus to play an active role in inventorying and documenting skills and understanding of traditional knowledge, arts, and culture that boils down to the beauty of nature, tradition, culture, as a distinct cultural uniqueness, which is not owned by other regions.

REFERENCES

- Bali Provincial Regulation No. 4 of 2019 concerning Traditional Villages in Bali
- Bryant, Coralie, and Louise G. White, 1982, *Managing Development In The Third World*, Westview, Boulder, Colorado.
- Didiek Hadjar Goenadi, 2002, *Intellectual Property Rights Study, Challenges and Opportunities*, Research and Technology, Pekanbaru.
- Friedman, W. 1990. *Legal Theory*, London, Stever & Sons Limited.
- Government Regulation Number 25 of 2000, Regarding Government Authorities and Provincial Authorities as Autonomous Regions.
- Hilary Pearson and Clifford Miller, *Commercial Exploitation of Intellectual Property*, Blackstone Press Limited, London, 1990
- Insan Budi, 2002, *Legal Protection of Traditional Community Knowledge Creativity innovation*. Research and technology, Pekanbaru.
- James Danandjaya, 1984, *Indonesian Pollore on Gossip, Fairy Tales, and Others*, GraffitiPress, Jakarta.
- Jeremy Phillip & Alison Firth, 1999, *Introduction to Intellectual Property Law*, Third Edition, Butterworths, London.
- Law of the Republic of Indonesia Number 23 of 2004 concerning Regional Government,
- Law of the Republic of Indonesia Number 6 of 2023, Concerning Village Government
- Mac Andrews, Colin, and Ichlasul Amal, 1993, *Central-Regional Relations in Development*, Jakarta: Rajawali Press.
- Mochtar Kusumatmadja, *Community Law and Development of National Law*, Binacipta, Bandung, 1976
- Regional Regulation of the Province of Bali No.16 of 2009 Concerning Spatial Plans for the Province of Bali 2009-1029
- Robert W. Emerson, 1977. *Business Law*, Third Edition, Baron Education Series Inc, Washington D.C.
- Rondinelli, Dennis A., John R. Nellis, G. Shabbir Cheema, *Decentralization in Developing Countries A Review of Recent Experience*, Washington D.C. The World Bank Staff Working Paper Number 581.
- Supomo, R, 1954, *Political History of Customary Law 1609-1848*, Djembatan Publisher, Jakarta.
- The 1945 Constitution of the Republic of Indonesia
- Van Vollenhoven, C, 1987, *Discovery of Customary Law*, Djembatan Publisher, Jakarta
- Wury Andriyani, 1998. *Introductory Notes to Intellectual Property Law in Indonesia*, Yuridika No. 3&4 Year XIII, FH. Unair.
