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Analysis Of Legal Protection Of Intellectual Property Rights On Batu Bara Songket Cloth In Batu Bara Regency

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ABSTRACT

This study aims to examine the urgency of legal protection for Songket Batu Bara cloth within the framework of intellectual property law, with an emphasis on its recognition as a Traditional Cultural Expression (EBT) that receives legal protection based on the provisions of Law Number 28 of 2014 concerning Copyright. Songket Batu Bara cloth is a cultural product of the Malay community that is full of historical, artistic, and philosophical values, and is passed down from generation to generation. Typical motifs such as bamboo shoots, cananga flowers, and pandan shoots contain deep symbolic meanings and socio-cultural functions. This study uses a normative juridical method with a statutory regulatory approach and a conceptual approach, to analyze the positive legal norms that form the basis for the protection of this traditional cultural work. The results of the study indicate that legal protection for Songket Batu Bara is not optimal due to obstacles in the aspects of legal substance, institutional structure, and legal culture of the community. The absence of specific technical regulations, the weak role of related institutions such as the DJKI and regional offices, and low legal awareness among craftsmen are the main inhibiting factors. Therefore, it is necessary to formulate affirmative policies by local governments through regional regulations, strengthening the institutions of artisan communities, and synergy between academics, the private sector, and the community to realize an effective, adaptive, and sustainable intellectual property rights protection system.

Keywords: Analysis, Prisoners, Legal Protection, Intellectual Property Rights, Songket Cloth, Coal.

INTRODUCTION

Songket is a type of traditional Malay woven fabric found in Indonesia, Malaysia, and Brunei. It belongs to the brocade family. Handwoven with gold and silver threads, it is typically worn at formal occasions. Batu Bara Regency is known for its rich cultural

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heritage, including songket craftsmanship.

Batu Bara songket has distinctive patterns and motifs, reflecting the cultural identity and local wisdom of the local community. This craft not only serves as a cultural product but also has significant economic potential, both in local and international markets. However, in practice, many songket artisans in Batu Bara face various challenges regarding legal protection for their work.

One of the problems faced is the low awareness and understanding of artisans regarding the importance of intellectual property rights as a legal protection tool. This leaves their works vulnerable to unauthorized copying or plagiarism by others, which can ultimately harm the artisans economically and morally. Furthermore, the copyright registration process is often perceived as complicated and expensive, so many artisans are reluctant to undertake it.

Intellectual Property Rights (IPR) have an important role in protecting the work and creativity of individuals and groups. Legal protection for Batu Bara Songket Cloth aims to provide recognition and appreciation to creators for the work they have produced, as well as to encourage the creation of a climate conducive to the development of innovation and creativity. The rapid development of life, especially in the economic sector, both at the national and international levels, has contributed to changes in Intellectual Property Rights (IPR), especially in the fields of Copyright, Trademark Rights and Geographical Indications, Patents, Industrial Designs. For this reason, effective legal protection for Batu Bara Songket Cloth is needed to create a good climate for the growth and development of the spirit of creation in the fields of science, art and literature.

Intellectual property rights are often interpreted in various references using various terms, and their scope of study is often academically inadequate. For example, trade secrets, unfair competition, and geographical indication are included within the field of intellectual property rights, even though academically, there are no material rights inherent in these legal terms.This is because the presence of intellectual property rights in academic studies has a history of its own. Likewise, its presence in the Indonesian legal system and the global order.

The historical journey of intellectual property law in Indonesia has its own unique history. It didn't emerge suddenly. Along with the growth and development of human civilization,

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intellectual property law has also grown and developed. Intellectual property law is not a uniquely Indonesian law. It is not a law rooted in Indonesian culture. The intellectual property law in force in Indonesia today stems from Dutch colonial law. The Dutch East Indies government was the first to introduce intellectual property law.

This proves that Intellectual Property Rights (IPR) are rights that can be owned, can be the object of ownership or property rights and therefore the terms of ownership apply to the Batu Bara Songket Cloth, both regarding how to use it and how to transfer its rights. All of this, the law will provide protection according to the nature and rights. It can also be understood that the protection provided by the law for copyright is to stimulate or encourage the activities of creators to continue creating and be more creative. The birth of new creations or pre-existing creations must be supported and protected by law. The form of protection is confirmed in the law by placing criminal sanctions on those who violate copyright unlawfully.

According to the provisions of Article 1 number 1 of Law No. 28 of 2014 which reads: "Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a creation is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations." Copyright is an exclusive right granted by a country to a creator who has just been granted by the state in the fields of science, art and literature which have a strategic role in supporting national development and advancing public welfare as mandated by the 1945 Constitution of the Republic of Indonesia. Copyright consists of economic rights and moral rights.

Economic rights are the right to obtain economic benefits from a product or related product. Moral rights, on the other hand, are rights inherent in the creator and cannot be removed without any reason, even if the rights have been transferred. Unlike patents or trademarks, which are legally required to be registered to obtain legal protection, copyright is not. Copyright may or may not be registered, as even unregistered works receive legal protection.

However, if a copyright is registered, it will be more beneficial for the creator himself, because the person whose name is registered at the Regional Office (Kanwil) of the Ministry of Law and Human Rights (Decree of the Minister of Justice of the Republic of Indonesia Number: M.09-PR.07.06 of 1999) who is still an extension in the registration

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process in each region, is considered as creator (centralized system). This can facilitate proof in the event of a dispute. Registration under the Indonesian Copyright Law is conducted passively, also known as a negative declarative registration system. This means that all registrations are accepted without much investigation into the applicant's rights, unless there is evidence of copyright infringement. This registration system emphasizes the presumption of being the creator of the registered rights, until someone else can prove otherwise.The provisions governing the implementation of creation registration are Article 64 to Article 73 of the Copyright Law No. 28 of 2014, Regulation of the Minister of Justice Number: M.01-HC.03.01 of 1987 concerning "Registration of Creations" and Government Regulation (PP) No. 26 of 1999 concerning "Tariffs on Non-Tax State Revenue Applicable to the Ministry of Justice". PP No. 26 of 1999 was further refined by PP No. 75 of 2005 and PP No. 75 of 2005 was replaced by PP No. 19 of 2007 concerning "Types and Tariffs on Types of Non-Tax State Revenue Applicable to the Ministry of Law and Human Rights". Applications for creation registration are submitted to the Minister of Law and Human Rights (Human Rights) of the Republic of Indonesia through the Directorate General of Intellectual Property Rights (Dirjen HAKI).

In this context, Law Number 28 of 2014 concerning Copyright plays a strategic role in providing legal protection for songket artisans. This law not only guarantees the economic and moral rights of creators but also regulates simpler and more affordable registration procedures. Therefore, an in-depth study is needed to understand the implementation of this legal protection in Batu Bara Regency, particularly in encouraging creativity and innovation among songket artisans.

Legal protection in trade and business is absolutely necessary, especially in this current era of counterfeiting, piracy, and unfair competition between businesses. Furthermore, it's undeniable that these unethical practices have led to consumers feeling disadvantaged. In the business world, anything can happen, and we are no longer social creatures, but rather, we are faced with the notion that one person can prey on another. This issue must be addressed by all elements of the nation, both within the legal system and the parties involved in the world of trade.

There are several factors that encourage Copyright violations by the public, including the fact that many people still do not know the importance of Copyright benefits, including

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low human resources. Likewise, research results show that factors that cause IPR violations include: Low levels of public understanding of the importance of creation registration, the existence of several corporate individuals who have attitudes and desires to obtain trade profits easily and the lack of sufficient common understanding of the attitudes and actions of law enforcement officers in dealing with Copyright violations.

The legal protection period stipulated in the Copyright Law varies widely. In the Copyright Law, the protection period is divided into three parts:

1. Firstly, creations in the form of books, pamphlets and all other written works, dramas or musical dramas, dance and choreography, all forms of fine art such as painting, sculpture and statues, batik art, songs or music with or without text, architecture, lectures, speech lectures and other similar creations, teaching aids, maps, translations, interpretations, adaptations and anthologies are protected during the life of the creator and continue for 50 (fifty) years after the creator dies;
2. Second, creations, computer programs, cinematography, database photography and works resulting from transformations are protected for 50 (fifty) years from the time they are first published;
3. Third, for creations contained in Article 10 paragraph (2) of the Copyright Law, they are protected indefinitely and Article 11 paragraphs (1) and (3) of the Copyright Law are protected from the time the creation is first announced. Article 40 paragraph (1) point in Law Number 28 of 2014 concerning Copyright states that songket works of art are one of the protected creations. Protected creations include creations in the fields of science, art, and literature, consisting of:
    a. Books, pamphlets, typographical versions of published works, and all other written works;
    b. Lectures, talks, speeches and other similar creations;
    c. Teaching aids made for educational and knowledge purposes;
    d. Songs and/or music with or without lyrics;

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e. Drama, musical drama, dance, choreography, wayang, and pantomin;
f. Fine art works in all forms such as paintings, drawings, carvings, calligraphy, sculpture, statues, or collage;
g. Applied arts;
h. Architectural works;
i. Map;
j. Batik art or other motif art;
k. Photographic works.

Therefore, to protect and preserve the Batu Baru songket in Batu Bara Regency from extinction, research is needed on how to provide legal protection for every entrepreneur, including weavers, because creating high-quality and durable traditional woven fabrics requires significant effort, thought, and funds. Especially in this era of economic crisis, these traditional craftspeople must be able to survive to support their families and employees and contribute to/support Indonesia's regional economic development.

Therefore, to analyze the form of legal protection for copyright on Batu Bara songket, this study uses a normative legal research method. This method aims to examine the norms or rules of positive law that apply as a legal basis for providing legal protection for this traditional cultural expression. This approach was chosen to examine in depth the provisions of relevant laws and regulations and legal principles that can be used as a basis for efforts to preserve and protect Batu Bara songket as part of the communal intellectual property in the Batu Bara Regency area.

METHOD

This study uses a normative juridical method with a qualitative approach to analyze the form of legal protection for Batu Bara songket cloth from the perspective of Intellectual Property Rights in Batu Bara Regency and to determine the obstacles and challenges faced in the process of protecting songket cloth in Batu Bara Regency.

The data for this research was collected by conducting research on library materials (library research), as well as secondary data in the form of laws and regulations (regarding

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copyright), books written by legal experts, as well as the teachings of legal experts and scientific works related to copyright. through an inventory and systematization of literature that is related to the legal issues in this research.

In order to answer the legal problems studied, it is necessary to conduct data analysis, which is a process of organizing and sorting data into category patterns in a basic description, so that after finding the theme, a working hypothesis is formulated as suggested by the data which in this case analyzes the legal protection of Batu Bara songket, the research was conducted using a statutory approach as primary legal material and intellectual property rights theory as secondary legal material to find the legal basis for such legal protection. The analysis was conducted qualitatively by interpreting relevant legal norms and examining the principles of legality and justice as the basis for normative considerations.

DISCUSSION

Based on a written source entitled Mission to the East Coast of Sumatra 1823, written by Anderson, it is estimated that Batu Bara Malay songket already existed at that time. Anderson was a British envoy visiting East Sumatra, including Batu Bara. He recorded all his activities during his visit to the region, from December 30, 1822, to April 5, 1823. His entourage was accompanied by the Deli Kingdom's envoy, Syahbandar Ahmud. He visited Batu Bara and described the Malay clothing in the Batu Bara area as follows:

"22 February.—Went to the Bindahara's by appointment, in expectation of meeting all the chiefs, who had been summoned by Sri Maharaja Lela meet me; but this being Friday, the Mussulman Sunday, they did not come down. They however sent messages to prepare us their arrival next day. Employed collecting and purchasing all the different kinds of cloths, of which there is an infinite variety. They manufacture silk and cotton cloths, the former principally beautiful tartan patterns, and some splendidly wrought with gold thread. These manufactures consume large quantities of raw silk. I purchased one of the looms, with beautiful tartan sarong half-finished in it.

John Anderson explains that at that time, the Malays in Batu Bara wore distinctive clothing made of silk and cotton, with beautiful checkered patterns. Some of these were finely crafted with gold thread. Their clothing was largely composed of coarse silk thread. They also wore sarongs. The clothing of the Malays in Batu Bara displayed European and

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Bengali styles. In the second decade of the 19th century, the Malays in Batu Bara were familiar with gold thread, silk thread, and cotton thread, indicating that they had contact with outside cultures that produced these threads. Therefore, it is highly likely that the Malays in Batu Bara then made songket and cloth for various purposes.

Based on interviews with Yusnah, it was discovered that over time, the Batu Bara Malay community produced fabrics, including songket, for traditional purposes and used in certain ceremonies. According to informants, the Batu Bara community inherited this songket-making tradition from ancient times, and to this day, there are still 190-year-old Batu Bara songket fabrics. These songket fabrics are kept at the Batu Bara Museum to ensure their preservation and preservation. It is likely that songket has been present in the Batu Bara Malay culture for almost two centuries.

Batu Bara songket cloth is more than just a woven fabric; it is a symbol of cultural heritage that has lived and grown alongside the Malay community on the coast of North Sumatra, particularly in Batu Bara Regency. Each thread holds priceless historical values, traditions, and collective identity. However, amidst the rapid flow of globalization and textile industrialization, traditional fabrics like Batu Bara songket now face serious challenges: potential exploitation, unauthorized commercialization, and unilateral claims by parties who do not possess historical or cultural rights to them.

This is where the urgency of Intellectual Property Rights (IPR) issues becomes relevant. In a legal context, Batu Bara songket can be examined from four main IPR approaches: copyright, geographical indication (GI), trademark rights, and industrial design. As a work containing aesthetic elements and unique motifs, Batu Bara songket can receive copyright protection as a work of applied art. This copyright protects distinctive designs or motifs that have been passed down from generation to generation, preventing them from being commercialized or mass-produced by outside parties without approval.

Without adequate legal protection, Batu Bara songket is at risk of becoming a victim of cultural plagiarism. This fabric can easily be imitated, even claimed as belonging to foreign parties, as has happened with several other Indonesian cultural heritages. Therefore, the relevance of IPR is increasingly urgent, not only to maintain the originality and dignity of local culture, but also as a strategy for preservation and economic empowerment of artisan communities.

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In this context, copyright is not only a legal instrument but also a means of protecting intangible cultural heritage. Copyright guarantees that cultural works such as songket are not misused, unilaterally commercialized, or claimed by foreign parties without basis. This protection also encourages the documentation and recording of local cultural heritage, in line with preservation efforts mandated by the 2003 UNESCO Convention on the Safeguarding of Intangible Cultural Heritage.

The registration and legal recognition of Batu Bara Songket as part of communal-based intellectual property is highly relevant. First, it guarantees the protection of the rights of indigenous peoples or communities that produce it, preventing their cultural products from being appropriated by outsiders who have no moral or legal rights to them. Second, this recognition opens up opportunities for local communities to obtain sustainable economic benefits through licensing schemes, promotions, and the development of local culture-based industries. Third, official registration with the Directorate General of Intellectual Property (DJKI) as a Traditional Cultural Expression (EBT) will strengthen the legal standing of this songket against copyright infringement or misuse by foreign parties, both domestically and internationally.

Therefore, the urgent need for registration and legal recognition of Batu Bara songket cannot be postponed any longer. It is a strategic necessity in protecting, empowering, and advancing local culture amidst complex global challenges. Without it, this cultural heritage will remain vulnerable and marginalized from the legal protection system that should safeguard it.

As a local cultural entity rich in historical and economic value, Batu Bara songket cloth requires legal protection support that comes not only from national regulations but also from the active role of local governments as drivers of preservation and empowerment. In the Indonesian government system that adheres to the principle of regional autonomy, local governments have a strategic position in designing policies that support the protection and development of local cultural-based intellectual property, including Batu Bara songket. Local governments are not only obliged to carry out administrative functions, but also play a role as facilitators, mediators, and legal protectors of their community's cultural assets. This is in line with the mandate of Article 9 paragraph (1) of Law Number 23 of 2014 concerning Regional Government which states that cultural

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affairs are part of concurrent government affairs that must be carried out by local governments.

Community participation in the protection of local cultural heritage, such as Batu Bara songket cloth, cannot be viewed merely as an administrative complement. Rather, community involvement represents a recognition of indigenous peoples' collective rights to the knowledge, techniques, and cultural symbols they produce and pass on. Without meaningful involvement, any protection effort—whether through copyright, geographical indications, or other legal schemes—risks becoming a formalistic project that loses its socio-cultural roots.

In addition to internal challenges such as low legal understanding among the public and the absence of rights management institutions, the protection of Batu Bara songket cloth also faces a broader structural challenge, namely the lack of synchronization between the national legal system and the distinctive characteristics of traditional cultural heritage (KBT). Indonesia's Intellectual Property Rights (IPR) system remains oriented towards individualistic and formalistic principles, while cultural expressions such as Batu Bara songket are rooted in communal and generational principles.

According to Graham Dutfield, the biggest challenge in protecting traditional cultural expressions is the mismatch between the modern IPR system and the realities of indigenous communities, because positive law places too much emphasis on registration, exclusive ownership, and the duration of protection. In fact, a culture like songket is a living culture, continues to develop, and is passed down from generation to generation without time limits.

Furthermore, the protection of songket motifs and techniques is hampered by the lack of a digital database or integrated documentation system at the regional level. When motifs are not systematically documented, claims of originality and origin become difficult to prove in a formal legal context. According to Prof. OK Saidin, proper documentation and data collection are crucial initial steps in establishing legal protection for traditional knowledge.

The various obstacles to protecting Batu Bara songket reflect the need for a systematic approach that addresses legal, social, and institutional aspects. Improving intellectual property rights (IPR) literacy, establishing community legal entities, preparing technical

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documents, and actively engaging local governments are essential requirements for elevating Batu Bara songket to national and international legal protection. Without serious intervention, this local cultural heritage will remain vulnerable to exploitation.

CONCLUSION

This study aims to analyze the Urgency of Legal Protection for Batu Bara Songket Cloth within the scope of intellectual property law. Batu Bara songket cloth is a traditional cultural product of the Malay community that has high historical, artistic, and philosophical value, and has been passed down from generation to generation. Typical motifs such as bamboo shoots, cananga flowers, and pandan shoots are not only visual motifs, but also full of cultural and social meaning. In the positive legal framework, Batu Bara songket meets the criteria as a Traditional Cultural Expression (EBT) that can be protected based on Law Number 28 of 2014 concerning Copyright. Protection of this work is very urgent and strategic in efforts to prevent piracy, maintain local cultural identity, and maintain the economic sustainability of the craftsman community in the era of globalization.

Obstacles and Challenges in Protecting Batu Bara Songket Cloth. Legal protection for Batu Bara songket cloth still faces various obstacles, both in terms of legal substance, institutional structure, and legal culture. The available legal substance does not explicitly regulate the mechanism for protecting local culture comprehensively. Institutional structures such as the DJKI and Regional Services have not been optimal in conducting socialization, registration assistance, and fostering artisan institutions. Meanwhile, the legal culture of artisan communities still tends to be passive towards legal protection due to a lack of understanding and access to information. Therefore, intervention from local governments is needed through special regulations, strengthening the capacity of artisans through training and coaching, and synergy with academics and the private sector to create an effective and sustainable IPR protection system.

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