Abstract

The copyright law determines that the state holds a copyright owner regarding traditional cultural expressions. What if a cultural expression undergoes renewal and is created into a new dance that still has a traditional theme. The purpose of this study is to describe the form of the legal protection of intellectual property rights as well as constraints in determining who is the legal owner of the copyright of the creation of new dance choreographies in Lampung. The research method used is the socio-legal approach, namely by using an approach that focuses on seeing the law through a combination of normative analysis (juridical legal norms) and non-legal science approaches. The data used are primary data and secondary data using qualitative analysis. The results of this study indicate that legal protection of Intellectual Property Rights based on the Copyright Law of 2014 is preventively provided to prevent an infringement of a copyrighted work, especially new creative dance creations, preventive actions that can be taken to protect dance creations. A new creation is by recording the work as regulated in Articles 66-67 of the Copyright Law. This legal protection is given to find a form of a solution in defending the rights of the creator of the work. The obstacle is a lack of understanding of the importance of copyright registration, the registration procedure and process, which are still considered complicated, and the registration fee, which is still deemed burdensome to artists.

Keywords: Legal Protection, Intellectual Property Rights, Creation Dance.
A. Introduction

Juridically, works of art are part of Intellectual Property Rights (IPR), which is the norm are rights lifted from human creative behavior to produce innovative works that can be applied to human life.\(^1\) The law protects the creative process of the artist's creativity, intentions, and feelings, and work.\(^2\) Furthermore, the law also provides clear regulations regarding copyright implicitly regulated in the 2014 Copyright Law. In concept, the law aims to provide a legal umbrella for art created by artists to not cause legal problems and protect intellectual works created by new scientists.\(^3\) The development of theories relating to the protection of Intellectual Property Rights and the need to resolve problems seen in using Intellectual Property Rights, including the need for settlement of legal disputes in court or terms of agreements.\(^4\) New inventions that are innovative or the creation of ideas from someone need to be supported by the awareness of the community and market players, to be honest in terms of understanding the importance of protecting IPR for a product produced by someone.\(^5\) Technological advances nowadays often affect the field of social life. If technology development is not adequately regulated, there will be a tendency to use technology to become uncontrollable to be in the form of actions against the law or criminal.

The principle of work contains two elements, namely the creator and the element of creation or creation. The creator is one or more people who combine their inspiration, based on thinking, imagination, dexterity, skills, or professional knowledge to give birth to creation and inject a uniquely personal form. At the same time, the creation is the work of each creator that shows its authenticity in science, art, or literature.\(^6\) The concept of legal protection about Traditional Cultural Expressions is different from legal protection for other copyright objects as determined by the 2014 Copyright Law. Copyright requires artists or scientists to include the name of the creator, who must be given legal legality and get clear protection.\(^7\)

Traditional culture, which is part of a copyrighted work, should be understood based on the sound of Article 5 paragraph (2) and Article 8 of the Copyright Law so that copyright can be attached to the creator and/or copyright holder. However, moral rights and economic rights are only attached to the creator as long as he is still alive. Meanwhile, copyright holders can only enjoy economic rights. The government's obligation with copyright owners for traditional cultural expressions is to carry out an inventory and documentation of these cultures.\(^8\) Law Number 28 of 2014 concerning Copyright (Copyright Law), that the state holds a copyright holder regarding traditional cultural expressions is different from legal protection for other copyright objects as determined by the 2014 Copyright Law. Copyright requires artists or scientists to include the name of the creator, who must be given legal legality and get clear protection.\(^7\)

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7. Kariodimedjo, “Perlindungan Hak Cipta, Hak Terkait, Dan Desain Industri.”
cultural expressions. But what if such a cultural expression undergoes renewal or is created into a new dance that still has a traditional theme, for example, the bala dance, the bala dance itself is taken from the names Bali and Lampung performed by the Indonesian Dharma Hindu Woman or Wanita Hindu Dharma Indonesia (WHDI) of Central Lampung Regency who participated in the Party Balinese Arts or Pesta Kesenian Bali (PKB). 9

Another example is the sigeh pengunten dance (siger penguntin), a new dance creation from the Lampung area. This dance is a development of the prayer dance, a traditional dance of the people of Lampung. According to local regulations, the Sijipep Gaoteng Dance is opened as a Lampung Dance and is welcomed by essential guests. The dance choreography also adopts various elements of Lampung traditional dance to represent Lampung culture. In formal events (such as a wedding parade), the liturgy is usually performed as part of the guest manners. This dance describes the joy of the guests' arrival. Also, the vital meaning of this dance is as a form of respect for the guests who participated. In this dance, the dancer expresses it through a series of flexible, friendly, and warm movements. 10 In essence, these dances are new but result from the development of existing traditional dances, which have been updated or created so that they become new dances. Interestingly, the protection of the law itself and the position of its creator if the dance is the result of its creation or a combination of existing traditional dances.

The regulation of traditional cultural expressions in the copyright law means that traditional cultural expressions are part of IPR because this culture is also the result of human intellectual thinking. However, sometimes the inventor of the culture is not known. The emergence of many disputes in the field of intellectual property rights indicates that so far, the concept used in the protection of local culture has not been maximally applied, or maybe even there are no regulations that are technical in nature to the existing problems, especially those that regulate such matters. Therefore, the various cultures that exist in Indonesia need an effort to protect the law, especially legal protection in society as intellectual work. Such steps need to be taken as an effort that can be taken to create a form of legal certainty.

Based on the description of the background explanation above, in this study, the author is interested in examining the protection of intellectual property rights from the creation of new dance choreographies. Therefore, the problems described in the research are how the forms of intellectual property rights protection are and how the legal mechanisms and constraints in determining who the legal holders of copyright are to the creation of new dance choreographies in Lampung. The research method used is normative research and empirical research. The data used are primary data and secondary data using qualitative analysis.

B. Discussion
1. Forms of Intellectual Property Legal Protection Against New Creation Dance Choreography in Lampung

The purpose of copyright law is to channel individual creativity for the benefit of humans at large. However, the reality is that in Indonesia, the creations of artists are not legally respected as they should be by society or the artists themselves. This can be caused by several reasons, including IPR as a legal institution. It is felt that it has not been able to protect the legal interests of the artists, so in this case, legal protection for IPR attached to a person is vital. Legal protection is protecting human rights that others have harmed. This protection is given to the community to enjoy all the rights provided by law or, in other words. Legal protection is a variety of legal measures that law enforcement officials must provide to provide a sense of security, both physically and mentally, from disturbances and various threats from any party.

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Providing legal protection for intellectual property rights in terms of creating new creations of dance choreography in Lampung can be done in two ways, namely preventive and repressive. This can be described as follows: 11

a. Preventive Legal Protection

The preventive legal protection is intended to prevent a violation of a copyrighted work, especially in this case, namely in the form of new creative dance creations. 12 Preventive action can be taken by recording the work as regulated in Articles 66-67 of the Copyright Law. Since the creation of the work, the work has been protected, so there is no need to register, but the copyright registration function is designed to facilitate proof in case of a copyright dispute. 13 In Indonesia, the protection of new creative dance creations must refer to the theory of copyright protection. 14 Suppose a copyrighted work is manifested in several forms, as long as the copyrighted work is original and not a copy. In that case, the copyrighted work will automatically be protected by copyright without a copyright registration. This is following the copyright principle, which is called the automatic protection principle. 15

The philosophy of the importance of copyright protection according to law is based on natural law theory and is also defended by utilitarians who emphasize that intelligence is an economic principle. 16 So that copyright protection is needed to encourage creators to be creative. 17 The creative spirit of the creator can improve the welfare of the community. According to the civil law system, humans have natural intellectual property rights, which result from human thought. 18 This means that humans have natural rights to the material and non-material products created by their intellectual works and must acknowledge ownership of those products. When this theory is applied to copyright, it can be stated that the above theory is the most important foundation that the creator has because of his work. 19

The idea of IPR is based on the idea that intellectual work that humans have produced requires the sacrifice of energy, time, and money. 20 These sacrifices make the work that has been produced have economic value because of the benefits it can enjoy. Whereas based on this thought, it encourages the need for an appreciation for the work that has been produced in the

14 Rahmayanti Mulyadi And Fakultas, “Prospek Perlindungan Hukum Hak Kemayaan Intelektual Dalam Kesenian Tradisional Di Indonesia,,” Jurnal Ilmu Hukum Prima 2, No. 650 (2016).
16 Interview Results with Diantori as Chairperson of the Gardancestory Dance Studio in Bandar Lampung. Thursday, September 2, 2020
19 Soedarso Sp, Sejarah Perkembangan Seni Rupa Modern (Jakarta: CV Delapan Puluh Enterprise, 2000).
form of legal protection for IPR. The purpose of providing this legal protection is to encourage and deliver enthusiasm for work and creation.

The 2014 copyright law provides legal protection for everyone’s creativity, allowing them to fully control and enjoy their work. Creating copyrighted works is not easy, requires thought, and is expensive, so protecting every copyrighted work in nature is natural. Knowledge, arts, and literature. Within the framework of copyrighted works, at least some basic principles of copyright must be considered, namely: what is protected by copyright is a tangible and original idea; copyright is generated automatically (automatically); it is not necessary to publish work to obtain copyright; Both published and unpublished works (published/unpublished works) can enjoy copyright; the copyright of a work is a right recognized by law (legal right) and must be distinguished and must be distinguished from the physical possession of the work; Copyright is not an absolute right.

In Lampung, there are several types of dances consisting of traditional folklore from the regions, namely the sigeh pengunten dance, the cangget dance, the bedana dance, the rolling dance, and the peacock dance. The two new dance creations originating from the individual creation of a dance creator or choreographer include the Abung Bedayo dance, the Papang Tuho dance, and the Ngebekas dance, which are creations created by Lampung dance artists or choreographers. Dian Anggraini explained that every dance has its characteristics in the field of dance, meaning that it cannot be separated from the features of the supportive community in each dance system. The last is a community that preserves and creates dance. In line with that, dance artist Ahmad Susantri from Lampung also explained that it is necessary to reflect or reflect on the creations of local communities as supporters in various forms in every regime. Social foundation, respect for the division of a dance.

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24 Interview Results with Dian Anggraini as Chair of the Dian Arzadance Company Dance Studio in Bandar Lampung. Saturday, September 5, 2020.
25 Interview Results with Ahmad Susantri as Chair of the Setiwang West Lampung Dance Studio. Saturday, September 5, 2020.
26 Ibid.
Based on the data above, the creators' registration of intellectual property rights is low. This means that there are many artists, scientists who do not register their creations to get clear and comprehensive legal protection. Thus, the form of preventive measures taken is to provide socialization on the importance of copyright registration, which can minimize the occurrence of legal consequences in the future and explain the importance of registering intellectual property rights that the creator will obtain.

b. Repressive Legal Protection
Various efforts have been made to protect the law against violations, one of which is repressive. Apart from that, to protect the rights of creators, this protection is also given to find a solution. Regarding violations that may harm the creator, of course, this behavior needs to be stopped and provide sanctions and fines to the creator's copyrighted work. This is in line with the provisions of Article 113, paragraph (3) of the Copyright Law, which explains the sanctions and fines that will be imposed on the creator or copyright owner if the copyright of the work they own is violated.27

The following are some opinions from dance artists in Lampung regarding the protection of intellectual property rights for the creation of new dance choreographies:

1) Dance as an object of copyright protection
   According to Diantori, it is better to include dance creations in the 2014 Copyright Law, both in Article 40 and other articles. According to him, this can provide legal protection for the art of dance created by artists promoted in the 2014 Copyright Law. Besides that, according to the Diantori, dance works are also the creator's property related to the interests of descent or inheritance in the future.28 This is also in line with Dian Anngarini's delivery that recognizing and protecting every creative dance work and dance artists will feel the comfort and sense of security in making a work of art.29 According to Ahmad Susantri, artists should be given protection for their works as stipulated in the 2014 Copyright Law. This is because, along with the development of times, especially in the era of globalization, Susantri also stated that a new dance should be legally protected so that it does not cause legal consequences later.30

Based on appreciation and respect for creativity, every right related to the work will protect every copyright work produced by the dance artist. This is a form of admiration and respect for the work of others, as well as protection and recognition of works that are created legally positive in Indonesia. Therefore, from the description above, the author can conclude that dance artists in Lampung, in principle, agree or disagree with the protection of dance works regulated in the 2014 Copyright Law because, for them, the regulation and protection of dance works is respect. A form of appreciation for creations invented and created by artists.

2) Exclusive Rights in the Copyright Law
   Diantori believes that there are exclusive rights whose contents are related to the right to publish and reproduce works protected by copyright. Dance artists or dance creators need to reflect this exclusive right in whatever form. Yes, because, according to him, this exclusive right is related to appreciation and respect for works. Copyright. Diantori uses

| Amount | 52 | 94 | 67 | 77 | 290 |

27 Article 113 of Copyright Law Number 28 Year 2014.
28 Ibid, Chairman of the Gardancestory Dance Studio.
29 Interview Results with Dian Anggraini as Chair of the Dian Arzadance Company Dance Studio in Bandar Lampung. Saturday, September 5, 2020.
30 Interview Results with Ahmad Susantri as Chair of the Setiwang West Lampung Dance Studio. Saturday, September 5, 2020.
the metaphor of the hero to explain. According to him, a hero who loses his life in battle, a
hero is rewarded for his services and an artist. An artist's work also requires respect and
respect from others. He believed that his work should be more or less respected and
respected by others, and he believed that other people respected and respected the work of
others.

The exclusive rights in the law are designed so that parties who wish to exploit or use a
copyrighted work that is not their work must go through the process. This means that anyone
who will use or exploit for any purpose must obtain permission from the creator. This is done
so that copyright works or works produced or owned have legal recognition and must be
respected. Copyrighted dance creators are urgently needed to publish and copy their dance
works to further ensure sustainability and protect their copyrighted work. They agree and agree
that the 2014 Copyright Law has economic and moral rights because these rights provide
protection and guarantees for the work of a dance artist so that other people do not own it.

Based on the description above, it can be stated that copyright contains economic rights
and moral rights. Economic rights are rights to work and related rights products to obtain
economic benefits. At the same time, moral rights are rights attached to the creator, even if
copyright or related rights have been transferred, these rights cannot be removed or removed
without reason. Besides, the creator or copyright owner must obtain legal protection. Legal
protection is to protect Human Rights (HAM) that are harmed by others, and this protection is
given to the community so that they can enjoy all the rights provided by law. Hadjon assessed
two types of legal protection: preventive legal protection and repressive legal protection.
Preventive legal protection is a form of protection against opposition before the government
makes a decision. Simultaneously, repressive legal protection is provided to people who violate
legal provisions or feel their rights are being violated.

2. Authorized Copyright Holder Against Choreography Creation of New Creation
Dance in Lampung

Article 38 and Article 39 of the 2014 Copyright Law concerning cultural expressions of
ownership of works that are not yet known, have not been registered, or have not been
announced, the state holds the copyright in the interests of the creators. In more detail, it is
elaborated in Article 38 paragraph (1) to paragraph (4), as follows: (1) Copyright on traditional
cultural expressions is held by the state; (2) The State is obliged to invest, safeguard
and maintain traditional cultural expressions as referred to in paragraph (1); (3) The use of
traditional cultural expressions as referred to in paragraph (1) must pay attention to the values
that live in the carrying community; (4) Further provisions regarding copyright held by the state
on traditional cultural expressions as referred to in paragraph (1) shall be regulated by
government regulations.

If the copyrighted work is an existing thing and is made new or re-created, what is the legal
position of the creator. According to Diantori, new dance creations that create traditional dances
are commonplace for artists because artists are always required to keep creating, innovating,
and being creative. In the case of choreography creation of new dance creations, the basis of
the movements itself still takes from the basis of traditional dance movements created because,
in essence, all the movement patterns in similar dances are only slightly different, the location
of the differences that stand out is only in their properties such as costumes, backgrounds, and
music. So it is challenging to categorize new creation dances because only a few make it

different. After all, the fundamental movement patterns are the same, but in terms of ownership of the new creations, dances are owned privately.32

According to Dian Anggraini, new creation dances that create traditional dances for ownership depend on the needs of the creative work, whether for private or for the government, because in the creation itself, if there is a collaboration with the government, the results of the new dance creations are held by the local government because there has been a collaboration beforehand. If the creative dance is indeed created for individuals, then the ownership of the copyrighted work is owned. For example, the dance created by the new creation is the inner dance from West Lampung, which is a dance resulting from creating a traditional dance into a new creation dance, which is a dance created at the request of the West Lampung government so that the dance is not private but belongs to the Lampung government. West or the indigenous people of West Lampung.33

According to Article 35 paragraph (1) Copyright Law 2014, the explanation is as follows: Unless agreed otherwise, the copyright holder (who is considered the creator) of a work whose creator has a relationship with the government is a government agency. Meanwhile, for copyrighted works made at the request of others or a working relationship, the copyright owner is the party who created the copyright. According to the provisions of Article 36 Copyright Law 2014, this article reads: Unless agreed otherwise, the creator and copyright holder do works based on a working relationship or by order, namely the party who produced the work.

Based on the above explanation, it can be concluded that the ownership of the choreography copyright of new creations of dance is not included in traditional cultural expressions because the dance is still a sports dance. After all, the word new creation is only a designation of a dance artist even though the new creation dance is taken from traditional dance that has already been created. There is, but in terms of ownership, it remains with the creator of the work. If the new creative dance is created for personal or government needs, if creating a new creation dance is cooperation or a request from the government, the ownership rights are held by the government.


Based on Article 40 Law Number 28 of 2014 on Copyright, dance is one of the objects of protected copyright works.34 When talking about protection, of course, there will be obstacles or obstacles in the protection efforts, especially for creating new dance choreography. Several things become obstacles in protecting intellectual property rights to creating new dance choreographies experienced by dance artists in Lampung.

According to Diantori, the challenge is the lack of understanding of IPR among artists so that artists only create or create new dance creations without ever registering their work, because the choreography or movements in the basic dance movements are the same so that the rules of what percentage of the movement patterns are considered different so that it becomes a new creation dance if the dance is the result of creating a traditional dance that already exists not described in detail by law. Diantori added that another obstacle is the idealism of dance artists. When other people use their work, they will be happier, meaning that their work is useful

32 Interview Results with Diantori as Chairperson of the Gardancestory Dance Studio in Bandar Lampung. Thursday, September 2, 2020.
33 Interview Results with Dian Anggraini as Chair of the Dian Arzadance Company Dance Studio in Bandar Lampung. Saturday, September 5, 2020.
34 Ibid, Article 40.
for other people, primarily when used as learning. Hence, they feel no need to register their work as long as they don't change anything from their copyrighted work.\(^{35}\)

According to Ari, there is still a lack of understanding of IPR itself so that when talking about choreographed works of new dance creations is considered too narrow because, in the creation of the work itself, there are several elements that must be explored, namely concepts, ideas, forms, the vocabulary of movements and visual aesthetics. Moreover, every artist has idealism towards the five concepts because the five concepts become an inseparable unit in creating new dance choreography. So the dance artist still doesn't know which part should be registered and which part of the criteria is considered different so that it becomes a new creation dance that deserves to be documented.\(^{36}\) This is in line with what was conveyed by Nufus, that there are still many dance artists who do not understand IPR itself because most of the dance artists only do works without ever registering besides because they do not understand IPR. This factor causes artists not to register their work as idealism by the artist themselves. After all, when other people use his work, there is a special sense of pride.

Based on the explanation above, there are still many obstacles experienced by dance artists in protecting intellectual property rights against the creation of new dance choreographies, whether there is still a lack of understanding of IPR, a lack of understanding of the importance of copyright registration, and the difficulty of the IPR registration procedure and costs that are still considered burdensome to dance artists.

C. Conclusion

Law 28 of 2014 concerning Copyright (Copyright Law) is preventively provided to prevent a violation of copyright work, especially new creations of dance creations, preventive action that can be taken to protect new creations of dance is by recording the creation as regulated in Article 66-67 of Copyright Law. Providing legal protection, including preventive and repressive, is considered sufficient to regulate protection, especially for artists, because there is protection for every copyrighted work obtained by dance artists. Dance artists will be respected and respected by the community. According to law, with the protection and recognition of copyrighted works, dance creators or artists will feel comfortable and at ease while working in society and developing their works.

In essence, the copyright is already attached to the creator when the copyrighted work is created, but this is excluded, as regulated in Article 35 Paragraph (1) of the 2014 Copyright Law. It is explained that, unless agreed otherwise, the copyright holder of the work made by the creator in official relations, the one who is considered the creator, is a government agency. The ownership or legal holder of the right to create choreography for new dance creations is not included in traditional cultural expressions. The dance is still a sports dance. After all, the word new creation is only a designation of a dance artist even though the new creation dance is taken from an existing traditional dance but in ownership remains in the hands of the work's creator. However, there is still a lack of understanding of the importance of copyright registration. The procedures and registration process are still considered complicated so that it is inconvenient for artists to register their creations.

\(^{35}\) Interview Results with Diantori as Chairperson of the Gardancestory Dance Studio in Bandar Lampung. Thursday, September 2, 2020.

\(^{36}\) Results of Interview with Ari as the Choreographer of Lampung Dance. Saturday, September 5, 2020.
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