LEGAL PROTECTION OF DEBUS ARTS IN THE ADVANCEMENT OF LOCAL UNIQUENESS-BASED CULTURE

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Abstract

This research aims to (1) analyse the form of legal protection of Debus art both in cultural advancement regulation and in copyright; and (2) propose a Model that is appropriate in enhancing the role of related stakeholders in Banten Province for implementing Debus protection. This research falls under normative juridical research emphasising secondary data supported by interviews with informants as supporters, examining positive law (IPR/Copyright and Cultural Advancement). The output of this research is targeted for a scientific publication in the form of a model to increase the role of stakeholders in the protection of Debus Banten. The research results show that 1. The form of legal protection of Debus art needs to be enhanced through preservation carried out by Debus performers and their associations and stakeholder synergy in regulation, promotion, and education. There are four pillars namely protection, development, guidance, and utilisation, which are continuously strived for optimally. 2. The appropriate model in enhancing the role of related stakeholders in Banten Province for the implementation of Debus protection, with the optimisation of the role of local governments in implementing four pillars, plus partnership patterns and partisanship.

Keywords: legal protection, Debus, Banten, culture, local uniqueness.

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A. INTRODUCTION

It is known from the Directorate General of KI (2022) that Debus is an art that demonstrates the content of immunity and since the reign of Sultan Ageng Tirtayasa (around the 17th century) it has been used to encourage his soldiers to fight the invaders. The literature on the origin of this debus varies, some state that it is a legacy of the Acehnese army (Cut Nyak Dien) who were in Banten. If we trace this history, according to Daliani, there has been a deviation in function, where initially debus was used as a medium for spreading the Islamic religion and was not shown in public, but now it has become entertainment and is deliberately shown, even the practices and dhikr are no longer in accordance with the tarekat and makhrajil. Simeulue is an area in Aceh. Temporary literature shows that Debus in Banten was also initially a medium for spreading the religion like in Aceh, which then changed its function to become a traditional art which is actually traditional knowledge based on local uniqueness, so Debus is an expression of traditional culture. Debus in Banten can currently be found in the Cikadu area, Serang Regency, and has a next generation that continues to practice maintaining this ancestral heritage, even having around 3000 members spread across **Banten Province**

This author's research does not question the deviation of the function or purpose of Debus as in Daliani's study, but examines the protection side, especially its legal protection. Currently, there is indeed Law Number 28 of 2014 concerning Copyright and Law Number 5 of 2017 concerning the Advancement of Culture, but regarding its implementation, it still needs to be studied further, considering the need for harmonization between the two regulations, also with the apparatus in the region, both in the form of regional policies and related regional regulations, as well as the synergy of stakeholder roles whether it has really been implemented in order to achieve the objectives of the two laws, namely legal certainty, cultural advancement and the end result is the welfare of the stakeholder community. Just as the purpose of granting copyright is that the creator has control over the use of the work and protects his economic interests, so it is with regard to traditional knowledge that it must be beneficial to its community, in addition to protecting it from commercialization actions that are detrimental to the economic interests of the community that holds it, as well as the misuse of the culture itself.

This research question is related to (1) The form of legal protection of Debus art both in cultural advancement regulations and in copyright; and (2) The right model in increasing the role of related stakeholders in Banten Province in order to implement Debus protection.

Article 38 of Law Number 28 of 2014 states that Copyright for traditional cultural expressions is held by the state. The state is obliged to inventory, maintain and preserve traditional cultural expressions. Article 4 of Law Number 5 of 2017 states that Cultural Advancement aims to develop the noble values of national culture, enrich cultural diversity, strengthen national identity, strengthen national unity, and improve the nation's image. So it is important to examine the form of legal protection of this art both in cultural advancement regulations and in copyright. Then related to the implementation of the protection of this traditional knowledge, of course how are the

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efforts and roles of related stakeholders in Banten in promoting and protecting this art, which is of course based on local uniqueness.

According to Thrisnawaty (2017), the history of Debus art in Serang Regency can be said to be still very dark because there are no written sources that can explain or reveal the Debus period before the 19th century. Generally, existing sources only explain that Debus began in the 16th or 17th century during the reign of Sultan Ageng Tirtayasa. The period that began to be clear was when the period approaching the beginning of independence was in 1938 when the Debus art group was established in Walantaka District in Serang Regency, even then with limited sources. The interesting thing about this Debus art is that initially Debus art had a function as the spread of Islam, but there was a change in function during the Dutch colonial period, namely during the reign of Sultan Agung Tirtayasa, this art was used to raise the spirit of the Banten people's struggle against the colonizers. According to Zulkifli and Azhari (2018), in order to advance culture, strategic steps are needed in the form of protection, development, utilization and guidance. Several tangible traditional objects have been protected as cultural heritage. However, previous research shows the importance of more optimal protection, both as cultural heritage and in supporting the tourism industry. According to Hidayat and Rusman (2022), legal protection of cultural heritage sites in Indonesia is not yet optimal.

From the perspective of legal certainty, of course, it is still being improved. Marina and Dessy (2019) stated that there is no legal certainty regarding the protection of Indonesian Traditional Cultural Expressions, it is necessary to regulate Traditional Cultural Expressions separately, specifically followed by Government Regulations along with strict sanctions for violations.

Tuarita et al (2022) stated that the art of the nation's cultural heritage needs to be protected and preserved as traditional knowledge and traditional cultural expressions belonging to Indonesia. Atsar (2017) stated that legal protection for traditional knowledge and traditional cultural expressions if managed properly and obtain legal protection can improve the standard of living of the community, especially indigenous peoples, so indigenous peoples have economic rights.

Reviewing Article 39 of Law No. 28 of 2014 states that copyright for traditional cultural expressions is held by the State. The state is obliged to inventory, maintain and preserve traditional cultural expressions. The use of traditional cultural expressions must pay attention to the values that live in the community that carries them. Article 39 paragraph (4) states that further provisions regarding Copyright held by the State for traditional cultural expressions are regulated by Government Regulation, however, there are no government regulations regarding copyright related to traditional cultural expressions held by the state. Law No. 5 of 2017 also provides protection for traditional knowledge and traditional cultural expressions such as art, customs, folk games and traditional sports (Article 5). Protection is carried out by means of an inventory of cultural advancement objects through an integrated cultural data collection system, security (Article 22), maintenance (Article 24), rescue (Article 26), publication (Article 28) and development (Article 30).

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Senoper and Turnip (2021) state that the values contained in a culture must come from the origins of the indigenous people themselves. Protection of traditional knowledge and cultural expressions is needed to protect these values and indigenous peoples. In the laws and regulations in Indonesia, namely Law No. 28 of 2014 concerning Copyright, works of creation whose creator is unknown are protected. Indigenous communities can also register traditional knowledge and cultural expressions with DJKI as community groups. Protection in the form of Geographical Indications is regulated by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Every culture that wants to be registered as a geographical indication must have 3 (three) requirements, namely reputation, quality, and certain characteristics.

The Law on Cultural Advancement outlines four strategic steps in advancing culture: protection, development, utilization, and development. Each step serves a specific need. Protection, development, and utilization aim to strengthen elements in the cultural ecosystem, while development aims to increase the capacity of human resources in the cultural ecosystem.

Community participation and stakeholder role synergy need to be questioned again in terms of commitment, in formulating plans and efforts to advance national culture, which are manifested in four strategic steps: protection, development, utilization, and guidance. Purwaningsih (2013) stated that traditional knowledge holders need to be empowered to be able to manage the intellectual property of ancestral heritage based on local uniqueness, the approach taken can be in the form of empowerment with active participation of indigenous people and optimization of the role of local governments and related agencies.

Paramisuari and Purwani (2022) also stated that the regulation of legal protection for traditional cultural expressions (EBT) with copyright in Indonesia is still weak, because in EBT the creator is unknown, while copyright works require the name of the creator to be stated in the work of creation. Therefore, in protecting EBT, a form of legal protection is needed that is preventive and repressive. Kisworo (2010) stated that The use of IP Law would find some difficulties in protecting traditional knowledge. this is because most of traditional knowledge in Indonesia is often in oral form. The principles in the Advancement of Culture based on the Law on Advancement of Culture include:

- a. The principle of mutual respect and appreciation
- b. The principle of diversity, is that the advancement of culture recognizes and maintains differences in ethnicity, race, religion and belief.
- c. The principle of locality, is the advancement of culture that pays attention to the characteristics of natural resources, ecosystems, geographical conditions, local community culture, local wisdom.
- d. The principle of cross-region, is that the advancement of culture pays attention to the dynamics of local culture without being limited by administrative boundaries.
- e. The principle of participation, is the advancement of culture carried out by involving the active role of each person, both directly and indirectly.
- f. The principle of benefit, namely the advancement of culture is oriented towards future investment so that it can provide optimal benefits for the welfare of the people.

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- g. The principle of sustainability, is the advancement of culture is carried out systematically, planned, continuously, and continuously by ensuring the regeneration of Cultural Human Resources and paying attention to the interests of future generations.
- h. The Principle of Freedom of Expression, is an effort to advance culture to guarantee the freedom of individuals or groups in conveying cultural expressions as long as it does not conflict with laws and regulations.
- i. The Principle of Integration, is the advancement of culture carried out in a connected and coordinated manner across sectors, across regions, and across stakeholders.
- j. The Principle of Equality, that the advancement of culture guarantees equal standing in a society that has diverse cultures.
- k. The Principle of Mutual Cooperation, namely the advancement of culture is carried out with a sincere spirit of working together.

Based on the previous literature review above, the author has a State of the art is this study in addition to specifically (1) analyzing the form of legal protection of Debus art both in cultural advancement regulations and in copyright; and (2) proposing an appropriate model in increasing the role of related stakeholders in Banten Province for the implementation of Debus protection, also focuses more on creating a model for increasing the role of stakeholders for the protection of Debus Banten.

The theory of legal protection is the basis for upholding the advancement of this traditional art, as well as promoting and protecting, meaning that in addition to the obligation to promote and develop traditional arts according to the mandate of the Cultural Advancement Law and the Copyright Law, it also protects against violations, misuse, on the other hand provides rights, namely economic benefits for its holders.

Rosmilawati & Sulaeman (2019) stated that the participatory learning strategy in learning the art of Debus at the Padepokan Terumbu Banten uses the stages of planning, implementation and assessment. Because participatory is a learning that involves administrators and students who complement each other and need each other in the initial goal of the administrators, namely to preserve the art of Debus.

Ramadani, Rizal & Permana (2024) stated that in this era of modernization, the debus art of the Sumur Tujuh Padepokan has experienced difficulties in every journey undertaken to continue to maintain and preserve the debus art. However, thanks to the enthusiasm of the administrators of the padepokan and the enthusiasm of the community, the debus art of the Sumur Tujuh Padepokan still exists.

Meilia & Pinasti (2022) argue that the existence of Almadad art can be seen from the collaboration carried out with Debus art without eliminating the authenticity of each art. The Almadad art group is also still practicing and maintaining the authenticity of the content and tools of the art.

Said (2016) argues that beliefs also influence the transmission of existing and developing culture, including Debus and dhikr mulud. Debus, for example, seems to integrate and attract culture, magic, and kanuragan which are wrapped in readings (mantras) that strengthen religious forms. Likewise with dhikr mulud, the chanting of shalawat is wrapped in the culture of the community which still gives the impression that cultural elements are more dominant than the sacredness of religious values.

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Mubarok, Damanhuri & Nida (2024) stated that many efforts have been made by Banten cultural activist organizations in preserving the Banten Debus Art and Culture. It's just that many people and young people don't know about this activity. Such as Silaturahim between Banten Debus actors, cultural arts events, and various other activities.

Hudaeri (2010) stated that Debus experienced a complicated development when it became a popular belief among the general public. The game of debus ultimately does not only refer to existing tarekat sources, but also to local traditions that have long been popular in society. So that the debus game that we get now seems to have been uprooted from its true roots, namely part of the tarekat tradition.

Calasanza & Gunawan (2023) argue that the art of Debus can be abandoned by the younger generation, therefore efforts to preserve the arts have emerged, namely by studying one's own culture, which can be done through extracurricular activities in the field of arts in schools and also by establishing art schools as a place to learn and practice. The existence of these schools and extracurricular activities can be a way to reintroduce the art of Debus as a traditional art in the region.

Saifullah, Nur & Maali (2023) stated that the changes and modifications to the performance attractions carried out today are not intended to separate debus from the tarekat. Although the changes in the purpose and function of debus are directed at the present as a tourism commodity, the debus performers still remain steadfast in carrying out the teachings of their ancestors and continue to follow the lines of the tarekat they adhere to.

Solehah, Jamaludin & Fitrayadi (2022) argue that preserving local culture requires support and enthusiasm from everyone. This is because the content of cultural values contained in the art of debus has quite great potential in strengthening the identity and character of the nation.

Hakiki (2013) stated that Debus has now left or separated from its origins, namely tarekat. This shift can be seen in terms of rituals, performance styles, personnel recruitment patterns and the goals to be achieved. Debus art now tends to be used more as a means of public entertainment or as a tourism commodity rather than as a cultural product that contains religious values.

B. RESEARCH METHODS

This research is included in normative legal research, namely emphasizing secondary data supported by interview results with sources as supporters, studying positive law (IPR/Copyright and Cultural Advancement).

This research uses literary study and is supported by in-depth interviews, with a statute approach, and a historical approach, so that data is obtained both from the literature, and support from interview results. Interviews were conducted with 3 actors and elders of the Debus association, and 1 policy stakeholder at the Integrated Service Office in Banten, legal protection/Legislation design section at the Banten Provincial Secretariat.

This research was conducted from January to September 2024. The research location is in Serang, Banten Province. The population of this study is all principles,

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theories and regulations related to the protection of traditional cultural expressions. Positive Law on traditional arts in Indonesia. The sampling technique used is purposive sampling (purposeful sampling) by selecting non-random sampling, namely Positive Law on Traditional Arts in Indonesia and more specifically about Debus.

C. RESULTS AND DISCUSSIONS

1. Forms of Legal Protection for Debus Art

Interview with Salam, founder, player, trainer, elder and owner of Padepokan Silat and Debus Panca Buana Banten, located in Serang, known as Abah Salam, August 1, 2024 stated that this debus art has long been passed down from ancestors, but only 1 child inherits each generation. Other children may also be able to do pencak silat, but usually debus is only passed down to 1 descendant, with a prayer ritual. Abah Salam only knows the history of debus purely as an art, although according to him there is still a mystical touch. The debus association already exists in Banten, and its elders currently number around 50 people. The way to protect it is by preserving it with children and educating children around the village, which currently number around 40 children. Yayan as a player stated that he had heard that the origin of debus was Islamic propagation which then turned into an art that was performed to the general public. Each performance consists of 10-15 people. Both Abah Salam and Yayan hope that the Regional Government will continue to advance this debus and protect it so that it does not become extinct, promoting it along with preservation, both included in local educational content since elementary school and national competitions. In the debus performance ritual, it usually begins with reading Basmalah and Al Ikhlas 3x, then the call 'Al Madat' which is answered with 'Hadir'. According to Abah, debus is like the flower of pencak silat.

Agreeing with Tuarita et al (2022) that the art of the nation's cultural heritage needs to be protected and preserved, also agreeing with Atsar (2017) that legal protection for traditional knowledge and traditional cultural expressions if managed properly and obtain legal protection can improve the standard of living of the community, this Debus has the potential to become Banten's flagship.

Interview with the Head of the Legislation Section of the Banten Provincial Secretariat August 19, 2024 Achmad Syaefullah, August 19, 2024, Legal and Legislation Section, Banten Provincial Secretariat.

Debus performers should have a license so that Indonesian culture is not recognized by other countries. so that it does not happen again, a condition where the government seems to be silent. Therefore, the thing that must be considered is, who should carry out the protection. who has the authority for that. Of course, we must see that authority from the central level regulations.

When talking about authority, Banten Province has two regulations that are icons for its big concept, namely:

- 1) Regional Regulation Number 6 of 2019 concerning the Master Plan for Tourism Development 2015-2025.
- 2) Regional Regulation Number 2 of 2024 concerning the Advancement of Regional Culture..

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Of these two regulations, the tourism aspect is because it conveys and talks about the role of the provincial government in strengthening its organizational structure and authority, namely by...:

- 1) forming a regional tourism promotion agency, because in the regulation, there is indeed a policy that speaks like that. If we can take debus as a part that will be promoted to make it even more booming, then it would be good if there was a regional government tourism promotion agency.
- 2) In addition, partnership strengthening is needed. because the origin of the journey of debus was not because of the regional government, but emerged from the community itself. so it is necessary to build partnership strengthening with the community. So the real role of the regional government is to build partnerships with the community.
- 3) as a regional government, it should be able to be present first before debus becomes a truly global icon. This is Banten with all its uniqueness and culture. Here there needs to be an aspect of recognition of debus from the government from a regulatory aspect. The province is trying to be present to acknowledge that there is indeed one difference with other provincial areas.

Agree with Zulkifli and Azhari (2018), in order to advance culture, strategic steps are needed in the form of protection, development, utilization and guidance. Also agree with Hidayat, and Rusman (2022) that legal protection for Cultural Heritage Sites in Indonesia is not optimal, so according to the author, it needs to be accompanied and improved by Debus stakeholders, especially for this Banten debus art.

From the perspective of legal certainty, the author also highlights the opinion of Marina and Dessy (2019) who stated that there is no legal certainty regarding the protection of Indonesian Traditional Cultural Expressions.

Agree with Calasanza & Gunawan (2023), with the existence of this padepokan and extracurricular activities, it can be a way to reintroduce debus art as a traditional art in its region. Also agree with Solehah, Jamaludin & Fitrayadi (2022) that preserving local culture requires support and enthusiasm from everyone. Because the content of cultural values contained in debus art has quite great potential in strengthening the identity and character of the nation.

2. The Right Model in Increasing the Role of Relevant Stakeholders in Banten Province

Protection of Debus is not merely in the concrete form of the Provincial Government directly stepping down in the form of regional regulations. Because the Banten province is a representative of the central government, so there are certain limitations that according to the legal perspective, that the Provincial Government cannot directly enter the technical realm, of course there needs to be a guide, namely regulations that guide so that it can or at least facilitate the progress of the debus object itself. In the context of advancing regional culture, the role of the Provincial Government has four pillars, namely the pillars of protection, development, utilization, and guidance. When we agree that debus is part of one of the tourism icons, then when we want to advance regional culture, it is necessary to build:

1) Protection. Debus must be registered with the center as one of the assets

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- originating from Banten, do not let it be recognized by other regions. Encouragement from the government is needed to protect so that debus is recorded as an icon of Banten.
- 2) Development. In society, associations or associations emerge, this and that debus association. The government must be able to see the existence of these associations so that a formulation is needed so that their sustainability can be monitored by the government.
- 3) Utilization. Activities at certain events should be encouraged by the government. For example, in the celebration of Banten's birthday, at least there is a Banten cultural performance, echoed in the context of the birthday and there are many more events. Here there is an arts council as a place to express art and culture. In the context of law, this utilization activity is not yet clearly visible where the direction of its utilization is.
- 4) Guidance. The meaning of protection actually comes from guidance. When there is a party who criticizes, it turns out that it is caused by poor guidance. Debus, when it has been agreed as an icon and part of Banten culture, of course there must be institutions that oversee it, and they can be a place for regional promotion, by the Regional Promotion Agency, so that it can connect between Regional Regulation number 6/2019 and Regional Regulation number 2 of 2024.

That's where the 4 pillars are important and become part of the role or protection of debus from the regulatory order aspect. both regulations are considered to be representative.

3. Partnership and Partisanship

Legislation cannot be separated from implementing regulations. We are talking about regional regulations that have been completed, but the regional regulations will be implemented, so there must be implementing regulations for the regional regulations. Looking at the governance structure and the formation of legislation, this regional regulation requires a gubernatorial regulation. Talking about sustainability, of course, there is encouragement and commitment from the government to immediately carry out or compile implementing regulations for the regional regulations, so that it is not only spoken in a narrative or rhetorical context but will be more implementative from the aspect of its implementation level, because not all can be resolved with regional regulations. Of course there are subsequent regulations, namely the gubernatorial regulation as part of the regulations that must be ratified and immediately designed and compiled. Partnership and partisanship are very urgent keywords. Especially for debus, for example, public aspirations are needed through FGD. So good regulations begin with collecting public aspirations, community views, so that they can find out the deep needs of the community, and solutions that are needed by the community emerge, so that the regulations that will be formed by the government will answer all challenges.

If the problem is, for example, lack of guidance, what is the solution. Or for example, the deficiency is the utilization of development. So the parties who are active in the decomposition, they can be appreciated in the form of awards for example as a society that maintains cultural values. Currently, the image in the form of awards is still very lacking, so that regulation is important, so that it is not only good at the level of

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Regional Regulations, but its implementation is still lacking. Maybe those are two things that really show how the partisanship is depicted.

C. CONCLUSION

Based on the results of the data analysis, it can be concluded: 1) the form of legal protection for Debus art needs to be improved not only through preservation carried out by Debus actors and their associations, but also stakeholder synergy in regulation, promotion and education. There are 4 pillars, namely protection, development, coaching and utilization, which continue to be optimally pursued; 2) the right model in increasing the role of related stakeholders in Banten Province for the implementation of Debus protection, by optimizing the role of local government in implementing the 4 pillars, plus partnership patterns and partisanship.

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