

RESPONSIBILITY OF THE TUAL CITY GOVERNMENT IN AN EFFORT TO PROTECT THE COPYRIGHTS OF BATIK KEI MOTIVES

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ABSTRACT

This study aims to identify and analyze the responsibilities of the Tual City government in providing legal protection in the field of intellectual property rights, especially copyright for Batik Kei motifs. This research is socio-legal research, which is a combination research method between doctrinal law research methods and empirical legal research methods. This research was conducted in Tual City, namely the Kei Batik Craftsman with the name Camelia Batik Kei. The types of data in this study are primary data and secondary data obtained through library research and interviews. Based on the results of the research, the Tual City government has an important role in providing copyright legal protection for Camelia Batik Kei's business. But in reality, although the Tual City government often displays Kei Batik motifs which incidentally elevate Kei customs and culture, from the aspect of copyright protection, the government has not given it at all. The entrepreneurs of Camelia Batik Kei are also not very aware of the importance of registering and protecting copyright laws for Kei Batik's motives. Therefore, there is a need for socialization and cooperation with the local government of Tual City to provide copyright legal protection for Kei batik motifs.

Keywords: *Responsibilities; Legal Protection; Intellectual Property Rights; Kei Batik Motifs.*

INTRODUCTION

Copyright is a branch of Intellectual Property Rights (IPR) that protects human creations in the fields of art, literature, and science.¹ Based on Article 1 of Law Number 28 of 2014 concerning Copyright (hereinafter referred to as the Copyright Law) it is stated that: "Copyright is the exclusive right of the creator that arises automatically based on declarative principles after a work is realized in tangible form without reducing restrictions in accordance with the provisions of the legislation." In the provisions of the Copyright Law, registration is not a must because without being registered, copyright already exists, is recognized, and is protected.²

As a masterpiece, today's batik is not only recognized by the people of Indonesia but has also been recognized worldwide. October 2, 2009, became a historic date for Indonesia because batik has been designated as a Humanitarian Heritage for Oral and Non-material Culture

(Masterpieces of the Oral and Intangible Heritage of Humanity).³ In the end, October 2 was designated as Batik Day by the Government of Indonesia. Since the recognition of batik as a world heritage, the prestige and market share of batik in the country have been boosted. This situation is a breath of fresh air for many entrepreneurs who are engaged in batik, both in their professions as batik craftsmen, batik museum managers, large-scale batik industry players, and home batik industries. But on the other hand, there are many obstacles in the domestic batik industry, including competition with batik products from other countries, especially from China which has cheaper prices because they use high technology in producing batik as well as the exemption of import duties.⁴

Some Indonesians are constrained in interpreting and understanding intellectual property rights and their regulations because the economic condition of the Indonesian nation is below the GDP of developed countries. As a result, the small industrial community is often disadvantaged, because they are considered to have violated the provisions of IPR even though the works they make are actually their own creations. Even because of the influence of culture and religion, some community members think that sharing their knowledge and findings with others is a noble act. Unfortunately, then the innocence and “nobility” of the heart are used irresponsibly by other parties, which results in the works and findings of some Indonesian people being “stolen” by others. Plagiarism is common among individual batik makers, small and medium-scale batik businesses, large-scale batik industries, plagiarism, and recognition of intellectual property rights to batik motives by other countries.

Batik is a creation that is protected by copyright. This is regulated in Article 40 of the Copyright Law. The period of copyright protection for contemporary batik artworks is 70 (seventy) years. The batik artwork referred to in the Copyright Law is a contemporary batik motif that is innovative, contemporary, and not traditional. The work is protected because it has artistic value, both in terms of images, patterns, and color compositions.

Indonesia has many batik centers in various regions such as on the islands of Java, Sumatra, and Kalimantan.⁵ However, in Eastern Indonesia such as Maluku, the batik business is still very rare. In Tual City there is a batik business center which is managed individually. The batik business is Camelia Batik Kei. The business of Camelia Batik Kei as the name implies, the resulting motifs are motifs that promote the customs and culture of the Kei Islands.

From the aspect of intellectual property rights, these Batik Kei motifs have not received legal protection, especially in the field of copyright. In fact, Camelia Batik Kei’s business with motifs with nuances of Kei customs and culture can provide material and moral benefits not only to business actors but also to provide benefits to the Kei people and the Government by introducing the Kei Islands more in the eyes of Indonesia and even in the world.

METHOD

In this study, the type of research used is sociolegal research, which is a combination research method between doctrinal law research methods and empirical law research methods to identify copyright registration as a guarantee of legal protection for Kei batik motifs. The types of data in this research are primary data and secondary data. The data collection techniques used were

³Dwinugroho, T. B. (2017). Implementasi Programmable Logic Control (PLC) Pada Gripper Mesin Batik Cap Otomatis Berbasis CNC. *Industrial Engineering Journal of the University of Sarjanawiyata Tamansiswa*, 1 (1).

⁴Sudantoko, D., & Mariyono, J. (2011). Stochastic Optimisation Of Coffee And Dairy Productions In Integrated Farming System In Yogyakarta, Prestasi. 7 (1), 1-10.

⁵Andiani, R., Raya, A. B., Nugroho, A. D., Siregar, A. P., Prasada, I. Y., Indana, F., ... & Kinasih, A. T. (2020). Strategi Pengembangan IKM Batik di Luar Jawa. *Dinamika Kerajinan dan Batik*, 37 (2).

literature study and interview techniques which were studied and analyzed in depth in order to obtain a complete and in-depth conclusion in a descriptive-analytical manner.

ANALYSIS AND DISCUSSION

Development of Kei Batik Products through Various Motifs of Kei People's Culture

A Brief Overview on Kei Community

The Kei Islands (Evav) are a group of islands within the Southeast Maluku Regency with its capital city named Tual (now it has been expanded to become Tual City). It consists of about 100 islands which are divided into 5 (five) groups of islands, namely Kei Besar (Nuhu Yuut), Kei Kecil (Nuhu Roa), Tanimbar Kei (Tnebar Evav), Tayando (Tahayad) and Kur. The total land area is 24,958 km² while the ocean area is not less than 190,000 km². Astronomically it is located between 5005'-6004' latitude and 131055'-133013' east longitude, while geographically in the west it is bordered by the Tanimbar Islands group (West Southeast Maluku Regency), in the east with the Aru Islands cluster (Aru Islands Regency), in the north with the mainland of large Papua and to the south with Australia.⁶

The soil structure of the Kei Islands is rocky and barren.⁷ Stone in Portuguese is called "kayos", so the Portuguese who stopped in ancient times named it Kei Island.⁸ White soil dominates the soil structure in the Kei Islands. All white sandy beaches with swaying palm trees. The white sand at Pasir Panjang Beach located in Ngilngof Village is claimed by the local government to be the softest in the world.⁹

Fertile red soil is rarely found in the Kei Islands. Therefore, it is very rare for the Kei people to cultivate agricultural or plantation crops except for the types of tubers. Mainly "embal", which is a type of poisonous cassava that is then processed and becomes the staple food of the local community. Almost all basic necessities, whether in the form of rice, vegetables, or fruits, are imported from Java, Ambon, Makassar or Papua, so that the goods are worth several times the price at their place of origin. However, in the Kei Islands, the potential for fish is quite abundant, with a sloping beach structure that makes the tidal area very long. At low tide, marine products such as fish, sea cucumbers, Lola clams (*Trochus niloticus*), and the like can be easily harvested by the community.¹⁰ Unfortunately, these marine products are increasingly difficult to obtain as coral reefs are damaged as a result of the use of potassium or bombs by fishermen, facilitated by fish entrepreneurs.

In social life, socio-culturally is still very strongly influenced by customs that have been followed for generations and used as guidelines in their lives. The custom regulates the relationship between individuals in the community as well as with the surrounding nature including the sea as a source of livelihood. They believe, living doing good according to customary law will get help from a power that we do not know that will deliver it to its

⁶Yusuf, M., Nofrita, D., Mafiroh, N. N., & Garamatan, A. (2021). Persepsi hukum adat Larvul Ngabal pada masyarakat kei perantauan di kota jayapura provinsi papua. *POROS ONIM: Jurnal Sosial Keagamaan*, 2(1), 20-36. Yusuf, M., Nofrita, D., Mafiroh, N. N., & Garamatan, A. (2021). Persepsi hukum adat Larvul Ngabal pada masyarakat kei perantauan di kota jayapura provinsi papua. *POROS ONIM: Jurnal Sosial Keagamaan*, 2(1), 20-36.

⁷Kunu, P. J. (2020). Analisis Daya Dukung Lahan Pertanian untuk Menjamin Keamanan Pangan di Kepulauan Kei Besar Kabupaten Maluku Tenggara. *Agrologia*, 9 (2).

⁸Tiwery, W. Y. (2018). Larvul ngabal dan ain ni ain sebagai pemersatu kemajemukan di kepulauan kei maluku tenggara. *Sosiologi Pedesaan*, 6(1), 8-15.

⁹Farawowan, I. (2021). *Identifikasi City Branding Kepulauan Kei (Maluku Tenggara)* (Doctoral dissertation, STPAMPTA Yogyakarta). P. 176.

¹⁰Nanolohy, H., & Timisela, N. S. (2017). Tata Kelola pemanfaatan Sumberdaya Perikanan di Kepulauan Kei Kecil, Kabupaten Maluku Tenggara. *TRITON: Jurnal Manajemen Sumberdaya Perairan*, 13(2), 79-84.

destination according to the intent of the ancestral tales which until now are still commonly sung “Taflur Nit ma Itsob Duad, Oooo hee hoar taur, La I O (2X), La I O, Hoar taur, La I entau taur, Nel U Hoar taur, La I O (2X)”.¹¹

The patrilineal society in the Kei Islands has a very close kinship. “Vu’ut Ain Mehe Ngifun, Manut Ain Mehe Tilor”, which means “the egg of one fish and one bird”. That is, they believe that they are descended from one lineage. Since the ancestors until now, the saying “ain ni ain”, which means “we are all one” is still firmly held in the hearts of the Kei people.¹² Therefore, even though the ancestors of the Kei Tribe liked to fight, the war would end quickly after a few casualties.

The philosophy of living in togetherness and balance with nature and the environment is reflected in the ancestral stories which until now have always been advised to their children and grandchildren. The ancestral advice is passed down in the form of songs or proverbs. The point is to live in a place/village where we eat and live from that place, so we are obliged to obey all customary laws so that customary law, ancestors and God protect us.

The Philosophical Meaning of Kei Batik Motive

The Kei batik business carried out by Camelia Batik Kei craftsmen is inspired by the batik business in Yogyakarta. Seeing the potential for the customs and culture of the Kei people, Camelia Batik Kei craftsmen are interested in creating batik business opportunities under the name Camelia Batik Kei which carries batik motifs by taking symbols of the customs and culture of the Kei people. The motifs created and produced by Camelia Batik Kei business actors are:

1) “Embal” Motive



Embal is the most popular specialty food in this area. To the extent that some say, if you have not eaten Embal you are not considered as a Tual. That statement is not entirely wrong, because as a person with Evav blood (the name for the Kei people), you must feel this Embal. Embal is made from cassava (kasbi) which is processed by grating, after the grating process, the cassava is put into a sack. After that, it is pressed with a stone and left overnight so that the water from the cassava comes out. Grated cassava that has been pressed is called “embal luluun”. Inspired by “embal” as a typical food from the Kei Islands, Camelia Batik Kei craftsmen used it as one of the motifs on Batik Kei. This “embal” motif is also the motif that is most in demand by buyers.

¹¹Bukido, R., Rumkel, N., Wekke, I. S., & Palm, E. (2018). Customary Law of Larvul Ngabal in the Implementation of Regional Autonomy in North Moluccas. *Hasanuddin Law Review*, 4(2), 242-255.

¹²Tiwery, W. Y. (2018). Larvul Ngabal and Ain ni Ain as a Unifying Pluralism in the Islands Kei Southeast Maluku. *Sociality: Jurnal Sosiologi Pedesaan*, 6 (1).

2) “Embal” Leaf Motive



In the Kei Islands, cassava (Basic Material for Embal) is the main commodity grown at the beginning of the rainy season. This type of food is very suitable as food in the famine season because it has a long shelf life, 1-2 years, if stored in good and dry conditions. According to history, the people of Maluku initially planted sago as a staple food. However, the reduced supply of sago in the market in the 1970s made many farmers switch to open cassava fields from the late 1970s to the 1980s. Gradually, this plant became a favorite in the eyes of the public. According to Ellen, embal made from cassava is a “twin” of food with sago raw material called plate sago.¹³

3) Lela Motive



Lela is the traditional cannon of the kei community. Lela is a traditional object that is very thick with the procession of resolving traditional violations including violating the tradition and culture of wear. These objects cannot be traded because they are an integral part of a traditional procession and are believed to have a very “expensive” and highly valued cultural power. Lela is a cultural object made of copper and shaped like a small cannon.

4) Kei’s Gold Motive

¹³ Ellen, R. 2007. *Modern Crises and Traditional Strategies: Local Ecological Knowledge in Island Southeast Asia*. Berghahn Books. England.



Kei Gold / Kei Brass is still used as a traditional means and as a form of marriage dowry when proposing to a Kei woman. Not only that, this “Golden Kei” is so meaningful, it’s even used as a medium of apology.

5) Gong motive



Gong is one of the traditional objects other than lela (cannon) or traditional gold whose amount is calculated as offerings in traditional events and as a symbol of peace.

6) “Lolat” Motif



The Southeast Maluku region does have a culture of regulating brotherhood, with the shape of a “Lolat” leaf. Leaf “lolat” plays a role in regulating community social relations, namely between two or more villages.

7) Bow and Arrow Motives



In ancient times, when fighting, the Kei people used bows and arrows as weapons, and in the end, the Kei people realized what they were fighting for and no one won and no one lost, that's where the Kei people gathered with each other, and took an oath that no one else may start a riot there and if there is he will be subject to the oath. From the things that happened above emerged the Arrow Dance which described the situation of the riots at that time where the men held bows and arrows which symbolized that the man was brave and proficient in using the tool of war. The arrow dance at this time is often performed during guest welcoming events and important events on the island of Kei.

8) Beach Motive



It is called the beach motif because this motif is made with the feel of the beach and marine life in the Kei Islands. The Kei Islands are one of the most famous in Maluku for their beach tourism so craftsmen are inspired to make motifs that can introduce the characteristics and advantages of the Kei Islands. The marine life in this beach motif, such as bia lola, shellfish, and other marine life.

9) Mixed Motive



Business actors Camelia Batik Kei not only make products, both whole fabrics and apparel with one motive but there is a combination of several motifs into one product. For example, the combination of “embal” motives and gong motifs, gong motifs and Kei gold motifs, “embal” motive and “lela” motive, and various other combinations of motifs. Most of the results of this combination of motifs are also adapted to market demand or customers who are interested in Batik Kei.

10) Complete Motif



The last motive is the complete motif. It is called with the full motif name because all the motifs are combined into one whole cloth product which is then made into desired products such as men’s and women’s clothes, scarves, and other forms according to market demand.

The Responsibilities of the Local Government of Tual City in Providing Legal Protection of Intellectual Property Rights for the Development of Kei Batik Motifs

Legal protection is all efforts made to ensure legal certainty which is based on the overall rules or rules that exist in life. Definitively, the creation of Kei batik motifs contains several elements, namely creator, creation, motif, element of art, and originality.

The subject of the protection of the Kei batik motif is a Batik Kei craftsman with the business name Camelia Batik Kei as the creator of the batik motif. This is as referred to in Law Number 28 of 2014 Article 1 paragraph (2) regarding creators, namely:

“The creator is one or several people who individually or together produce a creation that is unique and personal”.

Furthermore, Article 1 paragraph (4) states that:

“Copyright holder is the Creator as the owner of the Copyright, the party who receives the right legally from the Author, or another party who further receives the right from the party who receives the right legally”.

Objects of Protection Kei batik motifs are the result of creations and innovations of Camelia Batik Kei craftsmen who are currently contemporary batik that should be protected. According to Law Number 28 of 2014 concerning Copyright Article 1 paragraph (3) it is stated:

“Creation is any copyrighted work in the fields of science, art, and literature that is produced based on inspiration, ability, thought, imagination, dexterity, skill, or expertise that is expressed in a tangible form”.

The legal basis is reinforced by Article 40 paragraph (1) letter j which contains “artworks of batik or other motifs”. The work is protected because it has artistic value, both in terms of images, patterns, and color compositions. Batik art, including Kudus batik, has received legal protection in Indonesia.

Regarding the issue of the rule of law, in this case, the Copyright Law, it cannot be denied that the law was not born from the womb of the Indonesian nation, but adoption from the international community. This condition causes the process of adjustment and implementation in the field to become a problem that is not easy. Especially with the nature of this copyright law itself which is more about individual protection than communal protection, so in its application it is often not only difficult to understand by the public, even some views seem very contradictory.

The perspective of the Camelia Batik Kei craftsman himself is that so far the government, in this case, the Tual City government, has collaborated with Camelia Batik Kei several times to display Batik Kei products in official activities and in the form of exhibitions. However, in relation to legal protection efforts in the field of copyright, there is absolutely nothing. Moreover, as a small business that is run individually, Camelia Batik Kei craftsmen are not aware of the importance of legal protection, so the awareness to register copyright itself is completely unthinkable. Finally, the protection of batik motifs carried out by batik artisans is very individual. This condition clearly illustrates that at the community level as legal subjects, they do not have high legal awareness. This can be understood because the existence of this copyright system was not born from the traditions of the people themselves.

This condition can be concluded that copyright law in practice has not been optimally applied. Not only is the matter of the rule of law that is applied far in the realm of thinking of the community as legal subjects but law enforcement officials and apparatus are also considered less responsive to actively protect themselves. Communal community culture makes the application of an individual copyright law system.

The role of the local government is quite important to provide protection and increase the productivity of craftsmen, especially Batik Kei. Some of the roles of the Tual City Government should be done in protecting and developing Batik Kei include:

1. Conduct a survey of business locations and make an inventory of Kei Batik craftsmen first.
2. Provide socialization on the importance of registering Kei batik motifs.
3. Provide training and if necessary can bring craftsmen from other regions with similar batik so as to increase the understanding and insight of Batik Kei craftsmen as well as copyright registration training.
4. Provide stimulant funds for copyright registration to craftsmen.
5. Require the state civil apparatus (ASN) in Tual City to wear Kei batik.
6. Involving Batik Kei craftsmen in exhibitions both nationally and internationally, both conventionally and online.

CONCLUSION

The welfare state is a state, a society in which the government is responsible for providing welfare for its citizens, at least having to create and distribute that welfare. The government is obliged and responsible for respecting, protecting, enforcing, and promoting welfare for the community, including welfare, convenience and legal protection for business actors such as Camelia Batik Kei which not only provides material and moral benefits for its craftsmen but also for the region and the Kei community by promoting customs. Kei customs and culture. Therefore, legal protection must be realized by the Tual City government for these Batik Kei craftsmen, through efforts to protect intellectual property rights, especially copyrights. The responsibility of the Tual City government in providing such protection is through socialization and providing legal education on the importance of registering IPR for Camelia Batik Kei products/motifs as well as material support for the development of the Batik Kei business, which is still classified as a Micro Small business that desperately needs assistance from the government.

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Regulations:

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