

Legal Protection for Reog Ponorogo Folklore as an Intangible Cultural Heritage Under Copyright Law Number 28 of 2014 and the Convention for the Safeguarding of the Intangible Cultural Heritage

Aneza Zulfata Hanarendra¹, Sigit Sapto Nugroho², Anik Tri Haryani³

^{1,2,3}Faculty of Law, Universitas Merdeka Madiun, Madiun 63133, East Java, Indonesia

ABSTRACT: This study aims to analyze the form of legal protection for Reog Ponorogo folklore as an intangible cultural heritage under Law Number 28 of 2014 concerning Copyright, and to examine the implementation of the principles of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (ICH) regarding the protection of the art form. The research method employed is a qualitative empirical-juridical approach using case study, phenomenological, and ethnographic methods through the examination of primary and secondary legal materials, as well as field investigations in Ponorogo Regency. The results indicate that the Ponorogo Regency Government has pursued preventive legal protection measures. These include periodic inventories, the standardization of dance core guidelines (pakem) in the form of reference books, the regeneration of artists through local-content-based formal school education, and the Copyright registration of the Bantarangin version with the Directorate General of Intellectual Property (DGIP) since 2004. Internationally, the Reog Ponorogo culture was officially inscribed onto the UNESCO Intangible Cultural Heritage list at the 19.COM session in 2024. Although the ICH Convention emphasizes non-executive and non-economic safeguarding to protect heritage from extinction within the public domain, the synchronization of national regulations specifically a dedicated Government Regulation (PP) concerning communal economic exploitation based on Copyright is absolutely required to mitigate foreign unilateral claims sustainably.

KEYWORDS: Legal Protection, Reog Ponorogo, Copyright, Intangible Cultural Heritage, UNESCO ICH Convention.

I. INTRODUCTION

The Republic of Indonesia is the largest archipelagic state in the world, occupying a strategic position with a total of more than 17,504 islands. This geographic condition engenders a highly heterogeneous socio-cultural diversity, customs, beliefs, and languages. Encompassing more than 900 ethnic groups scattered throughout the archipelago, the treasury of traditional arts and culture occupies a vital position as both the identity and communal intellectual property of the Indonesian nation. The Preamble to the 1945 Constitution explicitly mandates that the purpose of establishing the state is to protect the entire Indonesian nation and to advance public welfare, wherein the preservation of intangible cultural assets from potential illegal exploitation and foreign claims constitutes an inherent part of this constitutional obligation. The diversity of regional cultures constitutes a social potential capable of shaping a distinct cultural character and image within each respective region. Furthermore, this diversity represents an intellectual and cultural wealth, serving as a cultural heritage that must be preserved.¹

Copyright, as a branch of Intellectual Property Rights (IPR), plays a strategic role in providing legal certainty for both creators and communal ownership. The concept of legal protection itself is categorized into preventive measures (conflict prevention) and repressive measures (dispute resolution). Particularly for works of traditional cultural expression that are collective-anonymous in nature, known as folklore, Article 38 of Law Number 28 of 2014 concerning Copyright asserts that the Copyright over traditional cultural expressions is fully held by the state.² Nonetheless, the absence of comprehensive technical implementing regulations frequently induces legal vulnerabilities in practice.³

¹ Dyah Permata Budi Asri, 2018, "Legal Protection for Culture through the UNESCO World Heritage Center," *Jurnal Hukum IUS QUIA JUSTUM*, Yogyakarta, p. 78.

² Article 38 Paragraph (1) of the Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright.

³ Wahyu Sasongko, *Perlindungan Hukum terhadap Ekspresi Budaya Tradisional [Legal Protection for Traditional Cultural Expressions]* (Yogyakarta: Sekolah Tinggi Hukum Indonesia Jentera, 2007), p. 45.

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The Reog Ponorogo Dance is a tangible representation of noble traditional cultural expression native to East Java, which is rich in aesthetic value, the warok-gemblak philosophy, and magical dimensions.¹ Despite possessing strong cultural legitimacy rooted in the Ponorogo community, this art form is frequently confronted with the global threat of unilateral claims by the neighboring country of Malaysia, which modified it into the Barongan Dance. These dynamics trigger the urgency of normativeempirical research to scrutinize the extent to which domestic copyright law instruments interact with the international legal instrument of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage to provide comprehensive protection for the existence of Reog Ponorogo.

Based on the background described above, the author formulates the research questions for this study as follows:

- a. How is the legal protection for Reog Ponorogo folklore structured as an intangible cultural heritage under the Copyright Law in Indonesia?
- b. How are the principles enshrined in the Convention for the Safeguarding of the Intangible Cultural Heritage implemented regarding the protection of Reog Ponorogo as a traditional cultural expression?

II. RESEARCH METHOD

This study applies a qualitative empirical legal research method, which is a systematic and logical investigation process to discover and interpret legal facts in the field using empirical information. The research approaches employed include Phenomenological Research to analyze the essence of the lived experiences of cultural actors, and Ethnography to examine the cultural characteristics of the preserving community. Primary legal materials comprise Law Number 28 of 2014 concerning Copyright and the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. Secondary legal materials were obtained through library research (Library Research) of legal journals, textbooks, expert doctrines, and the results of in-depth interviews with expert informants at the Department of Culture, Tourism, Youth, and Sports of Ponorogo Regency. All data were analyzed using a descriptive-analytical method with a systematic-objective approach to evaluate the application of norms and the ongoing practices of legal protection in Indonesia

III. RESULTS AND DISCUSSION

The Conception of Legal Protection. According to Satjipto Rahardjo, legal protection refers to the act of sheltering the rights of an individual or legal subject who suffers losses due to the actions of another party to fulfill the interests of rights equitably.² Soedikno Mertokusumo conceptualizes legal protection as a guarantee of human rights and obligations to fulfill life necessities in an orderly manner.³ Philipus M. Hadjon divides legal protection into two primary characters: preventive, which aims to prevent disputes through regulations or government discretion; and repressive, which focuses on dispute resolution within judicial institutions.⁴ Copyright over Traditional Cultural Expressions. Based on Law Number 28 of 2014, Copyright is an exclusive right of the creator that arises automatically based on the declarative principle (negative-declarative system) after a work is expressed in a tangible form.⁵ Distinct from industrial intellectual property rights such as patents and trademarks, copyright registration is not constitutive but merely serves as primary legal evidence in court.⁶ The characteristics of folklore place its ownership within the communal realm represented by the state, with an indefinite duration of protection in accordance with Article 60 of the Copyright Law.⁷

International Principles of the 2003 ICH Convention. The 2003 UNESCO Convention defines intangible cultural heritage as the practices, representations, expressions, and skills that communities recognize as an integral part of their ancestral heritage, transmitted from generation to generation.⁸ This international instrument prioritizes non-economic safeguarding measures—encompassing identification, documentation, research, preservation, and revitalization activities—over individual commercial exclusive rights, to ensure the viability of cultural objects within the public domain.¹²

¹ E. Sedyawati, *Indonesia Heritage Seni Pertunjukan [Indonesian Performing Arts Heritage]* (Jakarta: Groigler, 2002), p. 89.

² Satjipto Rahardjo, *Ilmu Hukum [Jurisprudence]* (Bandung: Citra Aditya Bakti, 2006), p. 53.

³ Sudikno Mertokusumo, *Mengenai Hukum: Suatu Pengantar [Understanding Law: An Introduction]* (Yogyakarta: Liberty, 2007), p. 40.

⁴ Setiono, *Rule of Law* (Surakarta: Master of Laws Program, Universitas Sebelas Maret, 2004), p. 12; See also the preventiverepressive theory of Philipus M. Hadjon.

⁵ Article 31 of the Law of the Republic of Indonesia Number 28 of 2014 concerning Copyright.

⁶ Eddy Damian, *Hukum Hak Cipta [Copyright Law]* (Bandung: PT. Alumni, 2005), p. 112.

⁷ Gatot Supramono, *Hak Cipta dan Aspek-aspek Hukumnya [Copyright and Its Legal Aspects]* (Jakarta, 2010), p. 76.

⁸ Article 2 of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (Paris: UNESCO, 2003). ¹² Dyah Permata Budi Asri, "Perlindungan Hukum Terhadap Kebudayaan Melalui World Heritage Center UNESCO" [Legal Protection for Culture through the UNESCO World Heritage Center], *Jurnal IUS QUIA JUSTUM*, Vol. 25 No. 1 (2018), p. 67.

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1. The Form of Legal Protection for Reog Ponorogo Folklore Under Copyright Law No. 28 of 2014

Pursuant to the provisions of Article 38 paragraph (1) of the Copyright Law, the representation of state power is delegated to the Regional Government of Ponorogo Regency to administer the management and protection of the local cultural treasury. Based on 2025 empirical data obtained from the Department of Culture, Tourism, Youth, and Sports of Ponorogo Regency, the local government has formulated a series of operational strategic policies to fulfill the administrative-legal obligations stipulated in Article 38 paragraph (2) of the Copyright Law, which include the duties to inventory, safeguard, and maintain.

Table 3.1: Inventory Efforts for Reog Ponorogo Art

No	Inventory Effort	Legal and Technical Description
	Data Collection and Issuance of Art Identification Numbers	Periodic recording conducted every 3 years by the Department of Culture. It has successfully registered 240 official reog groups. It functions as the legal basis for performing permits outside the region.
	Compilation of the Reog Ponorogo Art Reference Book	Codification of the fundamental pakem (standards) of dance movements, costumes, musical instruments, and makeup, registered with the DGIP of the Ministry of Law and Human Rights of the Republic of Indonesia.
	Documentation of the National Reog Ponorogo Festival	Regular digital audio-visual recording of the annual national cultural event as authentic proof of priority claim.
	Guidebook for Organizing the Reog Festival	Copyright registration for technical event management guidebooks for comparative performance categories, divided into youth and adult classes
	Local Content Curriculum for Schooling	Formulation and IPR endorsement of textbooks for the local content curriculum on Reog art from primary to senior high school levels

Source: Primary Data from the Department of Culture, Tourism, Youth, and Sports of Ponorogo Regency (Processed, 2025)

A tangible form of preventive legal protection undertaken by the government was the Copyright registration of the Reog Ponorogo dance art (choreography) based on the "Bantarangin" version at the Directorate General of Intellectual Property Rights in Jakarta on February 11, 2004, under official registration number 026377. This registration step provides a solid initial evidentiary position for Indonesia in the legal arena. Enforcement efforts through the publication of reference books also serve as a baseline for cultural defense, ensuring that contemporary creative developments do not eliminate the original philosophical essence.

Table 3.2: Maintenance Efforts for the Traditional Art of Reog Ponorogo

No	Maintenance Effort	Mechanism and Implementation Impact
	National Reog Festival (Grebeg Suro)	An annual colossal performance of national scale held at Aloon-Aloon Ponorogo as a means to consolidate reog associations across the archipelago.
	Preservation of the Performance Prop Craft Industry	Centralization of the production of authentic raw materials (<i>dhadak merak</i> from peacock feathers, <i>caplokan</i> from tiger skin, <i>eblek</i>) internally within Ponorogo.
	Regeneration via Children & Youth Festivals	Annual regeneration competitions between schools to instill values of cultural ownership from an early age
	Dispatch of International Cultural Art Ambassador Missions	Periodic global cultural diplomacy to European countries (Germany, France, Belgium, Netherlands) to assert cultural sovereignty

Source: Primary Data from the Department of Culture, Tourism, Youth, and Sports of Ponorogo Regency (Processed, 2025)

Although tactical departmental steps have proceeded well, the effectiveness of implementing legal protection for this communal intellectual property remains overshadowed by serious technical impediments. On the international stage, Reog cultural missions frequently clash with wildlife protection convention regulations due to the utilization of genuine tiger skin materials and peacock feathers on the Dhadak Merak instrument. Furthermore, the absence of subordinate regulations at the level of a Government

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Regulation (PP), as mandated by Article 38 paragraph (4) of the Copyright Law, causes a lack of clarity regarding the mechanism for distributing economic royalties when industrial-scale commercial exploitation by non-communal private entities occurs.⁹

2. The Implementation of the Principles of the 2003 UNESCO ICH Convention on the Protection of Reog Ponorogo Indonesia officially ratified the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage through Presidential Regulation Number 78 of 2007. This convention shifted the protection paradigm from the concept of exclusive ownership rights that are economic in nature (protecting) toward sustainable safeguarding based on the active involvement of local communities (community-driven). Based on the results of the 19th Session of the UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage (19.COM) in 2024, the performing art of Reog Ponorogo was officially inscribed onto the List of Intangible Cultural Heritage in Need of Urgent Safeguarding under Nomination File Number 01969.¹⁰

This international achievement is a follow-up to the collective verification in March 2022 involving 328 participants from various associations (such as Kawula Bantarangin, Probo Wengker, Kartika Puri Joglo Paju) alongside academics from Universitas Muhammadiyah Ponorogo and Universitas Darussalam Gontor. This UNESCO recognition reinforces a commitment to protection aligned with Articles 11, 13, and 15 of the ICH Convention, which require state parties to formulate concrete action plans. These action plans encompass non-formal knowledge transfer in art centers, integrated document digitalization by the Reog Ponorogo Foundation, performance revitalization, and addressing the scarcity of natural materials through the initiation of a communal Peacock Bird Breeding Village pilot program.

To maintain sustainability, the field of genetic resources differs from that of the ICH. The regulation concerning genetic resource protection measures undertaken by Indonesia through the ratification of the Nagoya Protocol in 2013—via Law of the Republic of Indonesia Number 11 of 2013 concerning the Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity—pertains to access and benefit-sharing arrangements that are fair and equitable between the customary law of indigenous communities as traditional knowledge holders and the users. Government and Regional Government policies must include the formulation of policies in the form of legal and institutional frameworks to manage genetic resource data.

Without the documentation, registration, and inventorying of genetic resources, the objectives of the ratification become difficult to achieve. The ratification of the Nagoya Protocol is crucial as an opportunity to protect Indonesia's natural resources and traditional knowledge. The collective ownership of Traditional Knowledge associated with Genetic Resources is enshrined in Article 29 of The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).¹¹

However, the legal consequence of protection under the legal umbrella of the 2003 ICH Convention places all inscribed objects within the universal public domain. This convention does not govern aspects of economic commercialization or the individual moral rights of creators.¹² This underlying factor explains why various intangible cultural heritages of the archipelago ranging from gamelan, angklung, rendang, to Reog Ponorogo remain vulnerable to being concurrently copied and developed by neighboring countries like Malaysia under their national jurisdictions, provided there is no violation of other international IPR treaties. International ICH protection solely safeguards objects against intergenerational transmission extinction, rather than exclusively restricting utilization by the general international public.¹³

IV. CONCLUSIONS

The system of legal protection for Reog Ponorogo folklore in Indonesia domestically relies on Article 38 of Copyright Law Number 28 of 2014, with ownership rights held perpetually by the state without any time limit. The Ponorogo Regency Government has realized preventive protection through choreography Copyright registration number 026377 in 2004, the standardization of dance pakem through the codification of basic reference books, and the integration of the school local content curriculum. On the international stage, formal legitimacy was secured through the successful inscription of Reog Ponorogo onto the UNESCO Intangible Cultural Heritage List in 2024 (Document Number 01969). However, because the legal nature of the 2003 ICH

⁹ Indonesian Legal Assessment Institute, *Kepentingan Negara Berkembang Terhadap Hak Atas Indikasi Geografis [Developing Countries' Interests in Geographical Indication Rights]* (Jakarta, 2015), p. 94.

¹⁰ UNESCO Intangible Cultural Heritage Database, Reog Ponorogo performing art - Inscribed on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding (19.COM 7.a.2) (2024), URL: <https://ich.unesco.org/en/USL/reog-ponorogoperforming-art-01969>.

¹¹ Retno Kusniati et al. Government's Policy in Implementing Sharing Benefits from Utilization of Genetic Resources of the Traditional Knowledge of the Indigenous People. *Journal of Law, Policy, and Globalization*. Vol. 56. 2016

¹² Presidential Regulation of the Republic of Indonesia Number 78 of 2007 concerning the Ratification of the Convention for the Safeguarding of the Intangible Cultural Heritage.

¹³ C.S.T. Kansil & Christine S.T. Kansil, *Pokok-Pokok Pengantar Ilmu Hukum dan Tata Hukum Indonesia [Principles of Introduction to Jurisprudence and the Indonesian Legal System]* (Jakarta: Rineka Cipta, 2008), p. 210.

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Convention is non-exclusive and oriented toward preservation within the public domain, this international instrument is incapable of prohibiting similar cultural utilization by other nations such as Malaysia.

Recommendations. (1) The Ministry of Education, Culture, Research, and Technology, together with the Ministry of Law and Human Rights, need to immediately formulate and publish a definitive Government Regulation (PP) concerning Traditional Cultural Expressions to solidify the enforcement scheme for economic laws and the protection of national communal moral rights.

(2) The Ponorogo Regency Government is advised to promptly initiate the construction of the International Museum of Reog Ponorogo Art as a center for scientific documentation, education, and as an enhancer of geographic legitimacy for the global originality of Reog culture.

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