

**PELINDUNGAN HUKUM EKSPRESI BUDAYA TRADISIONAL
TERHADAP KESAMAAN BUDAYA NEGARA SERUMPUN
(STUDI TERHADAP NEGARA INDONESIA
DAN MALAYSIA)**

Oleh:

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INTISARI

Penelitian ini bertujuan untuk (1) mengkaji dan menganalisis persamaan dan perbedaan pengaturan pelindungan hukum atas Ekspresi Budaya Tradisional terhadap kesamaan budaya diantara negara serumpun di Indonesia dan Malaysia (2) Untuk mengkaji dan menganalisis *lesson learned* yang dapat diambil atas pengaturan pelindungan hukum Ekspresi Budaya Tradisional di Malaysia terhadap upaya penguatan pelindungan hukum Ekspresi Budaya Tradisional di Indonesia

Sifat penelitian ini bersifat deskriptif dengan Jenis penelitian normatif yuridis meneliti bahan kepustakaan berupa data sekunder yang diperkuat dengan data primer sebagai penunjang data sekunder seperti halnya wawancara dengan ahli atau akademisi. Setelah data sekunder dan data primer dikumpulkan selanjutnya disusun dan dianalisis secara kualitatif dengan menguraikan data yang ditemukan dan selanjutnya diolah dalam bentuk kalimat (deskriptif).

Hasil penelitian menunjukkan bahwa (1) Persamaan dan perbedaan pengaturan pelindungan hukum atas Ekspresi Budaya Tradisional terhadap kesamaan budaya diantara negara serumpun di Indonesia dan Malaysia adalah, Persamaan tersebut dapat dilihat dari definisi dan kategorisasi Ekspresi Budaya Tradisional berdasarkan Akta Warisan Kebangsaan 2005 Malaysia dengan UUHC dan PP KIK. Perbedaan pengaturan pelindungan hukum Ekspresi Budaya Tradisional kedua negara tersebut jika dibandingkan dapat dilihat dari Sistem Pelindungan, Konsep Kepemilikan serta Hak Eksklusif atas Ekspresi Budaya Tradisional. (2) *Lesson learned* yang dapat diambil atas pengaturan pelindungan hukum EBT di Malaysia terhadap upaya penguatan pelindungan hukum EBT di Indonesia adalah Malaysia telah mengembangkan pemanfaatan atas EBT yang belum dilakukan oleh Indonesia dengan belum diundangkannya RUU PTEBT. Pengaturan Indonesia memiliki kelemahan yaitu Belum terbentuknya Undang-Undang yang bersifat Sui Generis, belum diaturnya pemanfaatan atas EBT bagi Komunitas Asal budaya. Kesamaan budaya diantara negara serumpun Indonesia yang menimbulkan klaim sepihak dari Malaysia dapat diminimalisir dengan pelindungan hukum secara internasional.

Kata Kunci: Pelindungan Hukum, Ekspresi Budaya Tradisional, Kesamaan Budaya, Negara Serumpun, Indonesia, Malaysia

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**LEGAL PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS
AGAINST CULTURAL SIMILARITIES OF ALLIED COUNTRIES
(STUDY OF INDONESIA
AND MALAYSIA)**

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ABSTRACT

“This study aims to (1) examine and analyze the similarities and differences in legal protection arrangements for Traditional Cultural Expressions against cultural similarities between allied countries in Indonesia and Malaysia (2) To review and analyze lessons learned that can be drawn on legal protection arrangements for Traditional Cultural Expressions in Malaysia against efforts to strengthen legal protection for Traditional Cultural Expressions in Indonesia.”

The nature of this research is descriptive, with this type of normative juridical research examining library material in the form of secondary data which is reinforced with primary data to support secondary data, such as interviews with experts or academics. After the secondary data and primary data are collected, they are then compiled and analyzed qualitatively by describing the data found and then processing it in sentence form (descriptive).

The results of the research show that (1) The similarities and differences in legal protection arrangements for Traditional Cultural Expressions regarding cultural similarities between the allied countries of Indonesia and Malaysia are. These similarities can be seen from the definition and categorization of Traditional Cultural Expressions based on the 2005 National Heritage Act of Malaysia with the UUHC and PP. KIK. The differences in the legal protection arrangements for Traditional Cultural Expressions in the two countries when compared can be seen from the Protection System, Concept of Ownership and Exclusive Rights to Traditional Cultural Expressions. (2) Lessons learned that can be taken from the legal protection arrangements for EBT in Malaysia towards efforts to strengthen legal protection for EBT in Indonesia are that the Indonesian regulations have advantages, namely the State as the holder of rights to EBT, the role of regions in protecting EBT in Indonesia, and the comprehensiveness of the regulations. EBT in Indonesia. Indonesia's regulations have weaknesses, namely that there has not been a sui generis law, and the use of EBT for communities of cultural origin has not been regulated. Cultural similarities between Indonesia's cognate countries which give rise to unilateral claims from Malaysia can be minimized with international legal protection.

Keywords: Legal Protection, Traditional Cultural Expression, Cultural Similarity, Allied Countries, Indonesia, Malaysia

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