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**Protection of Traditional Knowledge
in Indonesia: Review**

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Protection of Traditional Knowledge in Indonesia : Review

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1. Before the year 2000 most of the intellectual community in developing countries do not pay attention to intellectual property right system. There is wrong perception among scientists and engineers and industrial community about IPR. Specifically about patent for instance, the intellectuals consider that patent system belongs to law community, the invention must be high technology invention, drafting of a patent is complicated, it is expensive and it takes a long time to get patent granted. The scientists in developing countries are keen to produce scientific publications but they do not consider possibility for patenting their research work. Since scientific publications are protected under copyright law, and it is automatically protected without necessity to register, the scientists and engineers do not pay attention to IPR regulations. They are satisfied with research publications and hoping others to convert their research into something useful for industry.
2. Patent system can be regarded as an incentive system to promote technological advances in a particular country. It is a balance between public return and private return. Patent can be defined as a grant by a state to an inventor (or his assignee), giving exclusive right to make, use, exercise and vend the invention for a limited period of time, in exchange for disclosure of his invention in a patent document. Therefore patent system can be viewed as an integration of three components, namely invention, commercialization and regulation. Establishment of patent system in a country, or IPR system in general, should address to the three components. Strengthening the regulation side only, namely the law and enforcement for instance, will not yield an optimum result. When the numbers of resident inventions increases, automatically they need better protection and their appreciation to IPR system increases.
3. In the General Provisions and Basic Principles, Article 7. Objectives, it is mentioned that *the protection and enforcement of IPR should contribute to the promotion of technological innovations and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations*. When transfer and dissemination of technology takes place in developing countries through cooperation or collaboration with modern countries, the result can be detected through certain science & technology indicators such as international publications and the number of resident patent in that particular developing countries. Statistics shows that resident patent of most developing countries are low, less than 500 patent applications per year, showing the low appreciation of the intellectuals on IPR. It should be noted that IPR system has proven itself to be one of the instruments of development in industrialized countries. The low patent resident application in developing countries

is understandable since the developing countries are usually importing their technology from developed countries while at the same time the engineers and scientists do not appreciate the IPR system as an incentive to increase technological innovations for conducting social and economic welfare.

4. Current IPR laws applicable in Indonesia are copyrights, patents and trademarks. The Amendment of Law No.12 on copyrights , Amendment of Law No.13 on Patents and Trademark Law no.14 of 1997 were enacted on May 1997.
5. As mentioned previously the intellectual community do not appreciate IPR system namely copy right, patent and trade mark. However by the end of year 1999, before they comprehend fully the importance of IPR system to protect their intellectual work, in accordance to the TRIPs Agreement, new additional law concerning integrated circuit, industrial design, trade secret , geographical indications and plant varieties must be implemented by the first of January 2000. It is then a great challenge for the intellectual community to absorb the modern IPR system to be integrated to their research and engineering activities.
6. The fact that through TRIPs Agreement additional regulations are enacted to member of WTO, this case represents that the protection of intellectual property right is an ever changing regulation to suit the need to protect the intellectual property related to the advance and complexity of science, technology and art, and especially new development in biotechnology and information technology.
7. Most of developing countries however are exposed to greater challenge. They are not only have to build awareness of the new intellectual property system and to be able to cope with advances in science, technology and art, the developing countries have to also protect their own traditional knowledge, and particularly for Indonesia to protect our rich biodiversity.

Traditional Knowledge in Indonesia

8. Edi Sedyawati in her paper (1) focused on one aspect of traditional knowledge, namely intellectual property related to arts in Indonesia. She mentioned that in most cases works of traditional arts are anonymos. Sometimes, however, even in ancient artistic works the name of the artis is known. They did not have any objection when some of their works were copied by many other artisan, and sold as souvenirs. This attitude should be understood from a traditional standpoint, in which copying of a work of art is regarded as a token of respect and appreciation. As far as the system is confined within the respective society it might be harmless, but if people from a different social system enter and use this opportunity to make commercialization ventures, it should be regarded as harmful for the society concerned.
9. Art forms in any branch (visual arts, performing arts, media art) within a traditional culture should be understood as something integrated with the culture as a whole,

in which they are part of it. She also mentioned that the conspicuous issue regarding traditional knowledge is its protection from being appropriated by foreigners, meaning that expressions or products of traditional knowledge are used (especially for commercial ends) without permit and proper legal procedures. However, within the traditional society itself, the workings of its systems of socialization and dissemination should be spared from generalization.

10. Related to neighboring rights, it should be noted that in many forms of traditional art, especially in performing arts, the performer is at the same time the creator. A characteristic example is the case of the master puppeteer, called dalang. Although conforming to the general and basic conventions of the wayang performing art, the dalang is free to innovate and develop his own renderings of composition and interpretation.
11. Finally Edy Sedyawati concluded that Traditional works of art, that have developed a specific, characteristic style and technique, should be protected from any harm. Its values should not be misrepresented by inappropriate use, they should not be used for commercialization without proper compensation, and they should always be acknowledged as the property of the respective nation ethnic group. However, traditional arts in general should not be obstructed from its creative course of development.
12. Goeswin Agoes (2), (3), (4) concerned with plants as part of Indonesian biodiversity, whereas the plant is used for medicine as an alternative health treatment. The use of plants as alternative health treatment is being promoted by the government as well as society especially due to the monetary crisis. Beside as herbal medicine, the plants are also used as cosmetics.
13. The use of medicinal plants either boiled in water (decoct) or used fresh are commonly used in the rural areas. The medicinal plants are also frequently used as fresh vegetables, taken with food especially by women for body maintenance. People take drugs obtained from plants as a liquid extract prepared by extraction using water. A mixture of several liquid extracts obtained from plants is commonly available in Indonesia and is called Jamu. Embossed pictures at Borobudur temple show people preparing Jamu and pictures of plants which are used for preparing traditional remedies .
14. The traditional practitioners in Indonesia is called dukun in Java or balian in Bali. Dukun diagnoses disease by oral interview and observation of external symptoms, and sometimes the dukun observes a glass of water to diagnose them.
15. Goeswin mentioned that written culture is relatively new for Indonesian culture, and modern education started during the 19th century by the colonial Dutch for local administrators who were loyal to the colonial ruler. The interest of using medicinal plant in modern science started in 1775 with the publication of a book named: *Herberia Ambionensis* by Rumphius. There are several other book written about Jamu and other herbal medicine. The Balinese have a good tradition and habit to write on lontar (lontar) leaves, a certain palm tree, about all things they

wanted to write about, e.g.rules, doctrines, philosophy, folklore, legends, including their knowledge of traditional medicine.

16. Suradiwisastra (5) mentioned about Subak, a method for growing rice field in Bali. The whole method are written and organized and it is integrated in their dailiy and ritual life. On the other hand the process of producing keris, a kind of weapon in Java, although it is written in local language, it is kept secret within save place, a kind of trade secret.

Protection of Traditional Knowledge.

17. As shown in the begining of this paper, the intellectual community of Indonesian begin to learn about standard IPR such as copyright, trademark and patent. With the implementation of TRIPs Agreement, the community became aware of the IPR regime such as industrial design and plant varieties. The draft of new IPR regualtion are now already submitted to the People Consultative Assembly.
20. In line with awareness on TRIPs Agreement, Indonesian also concern about protecting their traditional knowledge, in particular in the field of biodiversity. Although some institutions and NGO have made several meetings, a systematic activities in national scale concerning protection of traditional knowledge as defined by Blakeney (6) is still in the early stage in Indonesia .

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