

# HARMONIZING CULTURAL DIPLOMACY AND COMMERCIALIZATION OF TRADITIONAL CULTURAL EXPRESSIONS: CASE STUDY ON I LA GALIGO THEATRICAL PERFORMANCE

Laina Rafianti<sup>1\*</sup>, Ahmad M. Ramli<sup>2</sup>

<sup>1\*,2</sup>Faculty of Law, Universitas Padjadjaran, Jalan Raya Bandung-Sumedang km. 21, Jatinangor, Sumedang, Jawa Barat, Indonesia.

Email: <sup>1\*</sup>[laina@unpad.ac.id](mailto:laina@unpad.ac.id), <sup>2</sup>[ahmadmramli@yahoo.com](mailto:ahmadmramli@yahoo.com)

Article History: Received on 16<sup>th</sup> May 2020, Revised on 5<sup>th</sup> August 2020, Published on 17<sup>th</sup> September 2020

## Abstract

**Purpose:** Indonesia is protecting Traditional Cultural Expressions (TCEs) by communal Copyright Law. In the case of I La Galigo, performers used one of Bugis's ancient literary works on theatre. Bugis people believe that there was a misappropriation of Bugis culture. This paper evaluates how cultural diplomacy gives benefit to the Bugis people and how to do Copyright law support I La Galigo theatrical performers.

**Methodology:** From a methodological standpoint, this paper used both a normative and ethnography-legal research approach in data collection.

**Main Findings:** Any society in Indonesia including the Bugis people has the freedom to preserve and develop their cultural values.

**Implications/Applications:** The importance of harmonizing implementing legislation in protecting performers of traditional cultural expressions is very much needed. TCEs inscription as defending protection, its dissemination including cultural diplomacy, and its utilization become three chains supporting each other for the treatment of TCEs in the future.

**Novelty/Originality of this study:** The research of I La Galigo theatrical performance in legal particularly traditional cultural expressions perspective has never been done by other researchers.

**Keywords:** *Copyright, Cultural Diplomacy, La Galigo, Traditional Cultural Expressions, Performers' Rights.*

## INTRODUCTION

Indonesia regulates the protection of Traditional Cultural Expressions (TCEs) by copyright law. This measure was taken since the Indonesian Copyright Law 2002 and amended by Copyright Law 2014. Meanwhile, an international forum in World Intellectual Property Organization is still having discussions on the protection of Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore/Traditional Cultural Expressions (GRTKF), Indonesia decided to construct a unilateral act to regulate TCEs as an urgent issue to protect Indonesian culture. Recently, an effort to create a sui generis TCEs law has been made by the Indonesian government and legislative. Since the lack of consensus on discussions in creating a sui generis system for years, the Indonesian government prefers to amend Copyright law 2002 into Copyright Law 2014 for some crucial point regarding the protection of TCEs.

Article 38 (1) Copyright Law 2014 provides the State holds TCEs Copyright on traditional cultural expressions. Article 38 (4) stated that The Government regulates further provisions on the rights held by the State on traditional cultural expressions as referred to in paragraph (1). Directorate General of Intellectual Property is a leading sector to generate the implementing legislation on the rights held by the State on TCEs. This plan is still in progress considering the robustness to coordinate between several ministries among others ministry of law and human rights, ministry education, and culture, coordinating ministry for human development and culture.

Stipulates that TCEs is part of the culture, the regulation also governs under the Law for the Advancement of Culture 2017. The objective of this law is to develop, utilizing, promoting, and preserving Indonesian culture (Sardjono, 2017). Copyright Law 2014 and the Law for the Advancement of Culture 2017 laws were based on Article 32 of the Indonesian constitution. The Spirit of constitution initiator was to strengthen Indonesian national identity in a diverse culture in which it consists of 300 tribes. The sense of moral rights is stronger than the concept of having economic rights.

In 2004-2011, an independent production company based in Milan, Change Performing Arts, created a massive performance based on Bugis epic, I La Galigo. Robert Wilson, an American theater director, has used one of Bugis's ancient literary works on theatre, music, dance, and poetry unity performance all over the world. Bugis people and culture scholars from South Sulawesi believe that there was the occurrence of misappropriation and exploitation from Bugis culture. Resistance from Bugis people concerning this misappropriation has become the legal question whether they have legal bases to claim or not. Do Bugis people have the right to gain economic benefits from the successful performance or not? Bugis people never

sue the disappointment of I La Galigo misappropriation. On the other hand, culture scholars still worried about the exploitation of local artists who were satisfied with insufficient profit from one stage to another. Moreover, recorded music from I La Galigo's performance is selling for € 34,31. Indonesia has initiated at least two laws at the national level on protecting TCEs; those are Copyright law and the Law for the Advancement of Culture. These two laws are ideal but not proven great effect yet to give benefit for dissemination and utilization of Indonesian culture. Those laws moreover do not have the bridging clause on its implementation. This condition examines two objectives in this paper. First, this paper purposes to evaluate how cultural diplomacy can give benefit to Bugis people of their TCEs. Second, how the Copyright law support I La Galigo theatrical performers in balancing moral and economic rights for the commercialization of TCEs. Theories of cultural rights, copyright, and related right mainly performers' rights on the implementation of theatrical performance will be discussed below.

## LITERATURE REVIEW

### Cultural Diplomacy

According to the Cultural Diplomacy Dictionary, cultural diplomacy is described as the means through which countries promote their cultural and political values to the rest of the world. This type of diplomacy is presented by governments, public and private sector institutions, and also civil society ([Diplomacy, 2013](#)).

The first terminology of cultural diplomacy was introduced in 1965 by the American professor Edmund Guillon, who worked for the U.S. state department, created the phrase "public diplomacy" to avoid the term propaganda ([Zamorano, 2016](#)). Joseph S. Nye distinguishes two types of diplomacy, namely hard power and soft power. Mentioned that "The ability to persuade through culture, values, and ideas, as opposed to 'hard power', which conquers or coerces through military might" ([ICD, 2019](#)).

This soft diplomacy is more often discussed at the level of political science than legal science. Cultural diplomacy is needed in addition to the national interest to see how much credibility and legitimacy from other countries are ([Ang et al., 2015](#)).

This soft diplomacy aims to improve relations between countries in the economic, social, and cultural fields. In the United States, soft diplomacy is carried out by introducing culture through literacy in magazines, student exchanges, culinary, dance, music, to basketball.

Cultural diplomacy is a form of diplomacy that emphasizes the use of culture as the main element and will provide broader possibilities for participation. The field of cultural diplomacy in Indonesia is conducted more about community characteristics, which can include things such as language, religion, traditional values, behavior, beliefs, and the arts ([W.S.P., Wibisono, & Supartono, 2018](#)).

The government plays an essential role in cultural diplomacy. South Korea, for example, through government policy ([Trisni, 2019](#)), the wave of Korean pop (K-Pop), is emerging. Nowadays, in this digital era, cultural diplomacy turns into digital diplomacy ([Pohan et al., 2017](#)). Various media such as Twitter, Instagram, YouTube, and blogs are used to introduce the culture of one nation to another country.

### Commercialization

In the intellectual property field, commercialization is making money out of one's ideas. There is no value of idea until something created to be a tangible object and it has been proven so that other people would pay to use, see, read, recognize, or listen to that product. WIPO defined the IP commercialization as a continuation of activities that provide for the protection, management, evaluation, development, and value-creation of ideas to implement them in practice ([Keller, 2015](#)). The nature of copyright is commercialization. The copyright system promotes authors and related right holders to make use of the division of labor in an advanced commercial economy by benefiting from the efficiencies of labor specialization ([Mossoff, 2015](#)).

The further use of traditional cultural expressions as copyright held by the State also provides space for monetization, commercialization, and decontextualization which are intended to improve the welfare of traditional communities ([Drilling & Drilling, 2019](#)).

However, not all traditional societies agree with the commercialization of their culture, particularly in traditional theatrical performances ([Sutiyono, 2018](#)). Most of them consider that sacred things cannot be commercialized or limited to certain values in the implementation of their commercialization.

### Traditional Cultural Expressions

Traditional Cultural Expressions (TCEs) is as a cultural expression with additional traditional character in its cultural content ([Palar et al., 2018](#)). Indonesia in Law Number 28 of 2014 has regulated TCEs as copyrights held by the State in Article 38.

Paragraph 1 of this article stipulates that the Copyright for traditional cultural expressions is held by the State. Furthermore, the second paragraph obliges the State to inventory, safeguard, and maintain traditional cultural expressions. In the third paragraph, it is explained that the use of traditional cultural expressions as referred to in paragraph (1) must pay attention to the values that live in the society that carries it. In the last paragraph, it is stated that further provisions regarding Copyright held by the State for traditional cultural expressions as referred to in paragraph (1) shall be regulated in a Government Regulation. In the explanation of Article 38, it is stated that TCEs include verbal textual culture, including literary works; music, motion, theatre, fine arts, and traditional ceremonies.

Indonesia is one step ahead compared to other countries and even international legal instruments regarding the protection of traditional cultural expressions. In the international fora, for many years, indigenous people and local communities and also governments mostly, from developing countries have called for the intellectual property protection of traditional forms of creativity and innovation, which under the conventional intellectual property system, are generally regarded as “public domain”, and thus free for anyone to use (Wendland, 2018). The “public domain” status of traditional cultural expressions is disputable by local communities and many countries, particularly developing countries. They raise concerns about creativity based on traditional cultural expressions which result in exploitation and misuse. In short, the question that intellectual property policymakers are wrestling with is whether Traditional Cultural Expressions should be protected as a new form of intellectual property, beyond the limited protections that are already provided by the conventional intellectual property system. Wendland questioned if so, for which socio-economic and cultural purposes, for whose benefit, in which circumstances and how? (Wendland, 2018). At the WIPO international forum, the issue of Traditional Cultural Expressions has been discussed in the Intergovernmental Committee on intellectual property and Genetic Resources, Traditional Knowledge and Folklore/Traditional Cultural Expressions forum which was formed since 2001. As at the time of writing, difficulties continue to stem from over-negotiated and ambiguous mandates, persisting divergences among countries on objectives and core policy issues, and the absence, so far, of an effective working methodology.

WIPO in the 40th session of the intergovernmental committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore/Traditional Cultural Expressions. In June 2019 draft article, the definition of TCEs is all forms of cultural practices expressed by the community in traditional contexts (Secretariat of the World Intellectual Property Organisation, 2019). In this draft article, there are still many things that have not yet reached an agreement. For instance, regarding definition, in terms of objectives, protection time limits, beneficiaries, exceptions, and limitations, an agreement has also not been reached.

Although currently there are UNESCO provisions regarding Intangible Cultural Heritage which regulate traditional culture, in the view of intellectual property experts, the core provisions have not yet reached the goal of protecting traditional cultural expressions. In connection with the absence of government regulations regarding traditional cultural expressions, efforts made at the national level are to form the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 13 of 2017 concerning Communal Intellectual Property Data.

## METHODS

This paper used both a normative and ethnographic research approach (Afolayan & Oniyinde, 2019) in data collection. Field research with snowball samples (Kirchherr & Charles, 2018) to gain primary data was conducted in Makassar, South Sulawesi, and Jakarta, Indonesia. This research used descriptive specification by conducting comparative legal analysis between international legal instruments, and Indonesian national legislation.

## RESULTS AND DISCUSSION

### I La Galigo Journey: Oral Tradition, Manuscript, and Performance Art

**The memory of the world:** La Galigo is the most voluminous literary work in the world with an estimated 6000 folio pages. This content is pre-Islamic and of an epic-mythological nature of high literary quality. Dating from approximately the 14th century and was based initially on oral traditions. In 2010 Indonesia and the Netherlands submit La Galigo to be registered on Memory of the World by UNESCO. Later in 2011, UNESCO inscribed Sureq Galigo, another name from La Galigo as a poetic text using the Bugis language and particular Bugis alphabet (Banco Mundial, 2011).

At first, La Galigo scattered over South Sulawesi, even all over the world. The version is varied into hundreds of La Galigo manuscripts. Without disregarding the value of every other available La Galigo manuscript, UNESCO has opted for the nomination of two manuscripts. The first manuscript is part of a collection of Museum La Galigo in Makassar, Indonesia. The second manuscript is a compilation from a scattered manuscript in South Sulawesi written by ColliqPujie, Queen of Pancana, a Bugis Kingdom in South Sulawesi (UNESCO, 2010). This manuscript submission is together with the Netherlands because, in the middle of the 19th Century, ColliqPujie collaborates with B.F. Matthes, Holland famous scholars of Bugis studies. The manuscript has probably been written between the years 1852-1858. Finally, from oral tradition, La Galigo is

compiled and written in Bugis vocabulary. Twelve-volume of a manuscript kept in the University of Leiden Library as NBG-Boeg 188 (Toa, 2017).

To keep La Galigo known by the young Indonesian generation considering the difficulties to study this Bugis ancient manuscript, two Bugis scholars from Indonesia, Muhammad Salim, and Fachruddin Ambo Enre translated La Galigo into Bahasa Indonesia. This project was supported by Nurhayati Rahman, Sirtjo Koolhof, and Roger Tol. Compilation and translation started in 1987. The first volume was first published in 1993, the second volume in 2000, and the third volume in 2015. Nevertheless, some volumes remain untranslated. The effort to preserve this Bugis culture should continue from generation to generation, inter-generational, and sustainable.

As an oral tradition, La Galigo which is akin to a Buginese scripture for Tolotan, relating to values in their daily lives. La Galigo's poem traditionally sung in *mappabotting* (wedding ceremonies), *maddoja bine* (planting), *mappaenreq bola* (building a house), and *macceraqarajang* (purifying heritage goods). The art of singing La Galigo verses is called *massureq* (singing an epic tale), and the person who sings is called *passureq*. The term comes from *sureq* which means epic. Unfortunately, the influence of another religion and modernization cause this tradition discontinued. Wajo is the only remaining district in South Sulawesi who is keeping the culture of La Galigo. In this regard, Nurhayati persists that revitalization is essential to continue this tradition alive (Nurhayati Rahman Membawa Pulang "La Galigo," 2017).

**Adapting literary into theatrical work:** Rhoda Grauer, a native American, was attracted to the Galigo epic while in Sulawesi researching Buginese traditions. She likes to expose La Galigo into the stage, but she assures that producing La Galigo for theatrical work will eliminate its sacred values. She and Restu Kusumaningrum, an Indonesian dancer who had performed in one of Robert Wilson's recent works, persuaded Wilson in late 2000 to adopt the epic (Arnold, 2004). By the continuous efforts of Change Performing Arts and Bali Purnati Center, the project of I La Galigo comes to the stage in a new visionary work by Robert Wilson. I La Galigo was cast by 50 Indonesia's performers. The music is composed of Indonesian master Rahayu Supanggah (Davies, 2015).

In the theatrical work, the story starts with the gods in the sky decided to send Batara Guru, a fellow god down to the world to create and rule over man. The world's new rulers produce a pair of intimate twins, Sawérigading and We Tenriabeng, who are fated to fall in love. Bissu priests order them to separate at the birth notice that their incest would doom the world. Sawérigading adventures overseas, becoming an explorer to compete with Ulysses. He returns home and falls in love with his twin sister when recognized about the existence of the world's most beautiful woman. We Tenriabeng introduces him to an identically beautiful woman to prevent him from marrying her. Her sister whom he marries is We Cudaiq, and with her, he has a son named I La Galigo.

Robert Wilson likes working with an epic of this scale because the memory of the heroes still presents in the people of the village. It is a surreal world, yet it is real, he said. The first performance was in Esplanade, Singapore, 2004; turn to a European tour in Holland, Spain, France, and Italy in 2004; after that USA and Jakarta, Indonesia in 2005; followed by Melbourne, Australia in 2006; back to Italy, this time in Milan in 2008 and Taipei, and ends in its hometown, Makassar, Indonesia in 2011 (Change Performing Arts, 2011).

The performance was successful in every country. The ticket was sold out and achieved a positive response from the audience. In Milan, the ticket price was € 16 to € 40. Especially for performance on the 12 February 2008, ticket sales were donated to Amici di Edoardo Onlus to fund integration activity, formation, and Barrio's community. The donation also shares with the Don Gino Rigoldi community in Italy (Kementerian Luar Negeri R.I, 2008).

What is the compensation for the Bugis tribe as the owner of La Galigo's ancient story? Is this work an entirely new idea of Robert Wilson that causes a strict separate line from a derivative work from its prior art? Copyright Law Number 19 of 2002 applied that time. This law overprotected Indonesian culture from utilization by another party. Article 10 (2) of that law mention that the State shall hold the Copyright for folklores and works of popular culture that are commonly owned, such as stories, legends, folk tales, epics, songs handicrafts, choreography, dances, calligraphies, and other artistic works. Article (3) regulates that to publish or reproduce the works as referred to in paragraph (2), any person who is not the citizen of Indonesia shall, firstly, seek permission from the institution related to the matter (Undang-Undang Nomor 19 Tahun 2002 Tentang Hak Cipta, 2002). The lack of implementing legislation and the absence of a representative community became an obstacle to the utilization of Indonesian traditional cultural heritage.

### Cultural Diplomacy and Commercialization in One Path

**The spirit of cultural diplomacy:** Mochtar Kusumaatmadja was encouraging cultural diplomacy with its aim to develop the image of Indonesia abroad. For this purpose, Indonesia has to practice diplomacy completed with art and culture dimensions (Sumardjo, 1999). After Mochtar's speech mentioning the urgent of cultural diplomacy (Cohen, 2019), the regulation to enhance this mission is created, followed by exhibitions and festivals overseas. This spirit listed in every legislation and regulation was made by the Indonesian government to disseminate culture.

Article 32 of The Constitution of the Republic of Indonesia regulates, to advance the national culture of Indonesia, any society in Indonesia has the freedom to preserve and develop their cultural values. The development of their culture is recommended to create a culture living and broadly disseminated. On the contrary, Article 10, 2002 Copyright law restricts the nature of cultural dissemination is obliged by people particularly foreigner to asking permission to the government of Indonesia for utilizing Indonesian TCEs. Meanwhile, there was a lack of procedure in asking permission and lack of custodian institution to get a benefit. Utilization becomes complicated, foreigners are afraid to promote Indonesian TCEs, and consequently, the spirit of culture dissemination is failed. Since that time, in the progress of Copyright Law revision, the government considers not to overprotect on Indonesian TCEs. In 2014 Copyright Law there is no such distinction of asking for permission in protecting and utilizing TCEs. The main principle of the utilization of Indonesian TCEs in the recent copyright law is respecting the existing living values in its custodian communities ([The Republic of Indonesia, 2014](#)).

Behind the I La Galigo stage directed by Robert Wilson, there exists an Indonesian producer. She is Restu Kusumaningrum ([Supanggah, 2016](#)), who has the spirit of cultural diplomacy. As an Indonesian dancer, she insisted performers were exclusively from Indonesia ([Kusumaningrum, 2011](#)). The other advantage of this work is to facilitate cooperation between Indonesian and foreign talent in the performing arts industry, resulting in beneficial skill transfers. In this respect, it is notable that Rama Soeprapto, the Assistant Director of I La Galigo, became the director of the Indonesian drama entitled “Timun Mas” ([Rafianti, 2017](#)). By exposing La Galigo's international performance, the awareness of the existence I La Galigo is raising. The forgotten Sureq La Galigo was awakened and actively revitalized.

### Who is the Custodian of La Galigo Ancient Story?

Janke remarks in Two Decades after the Matatua Declarations and Our Culture: Our Future, “the differentiation between individual and communal rights has meant that community ownership remains largely unrecognized and unprotected” ([Janke, 2018](#)). On the contrary, countries with rich cultural heritage persist that TCEs belong to communal intellectual property rights ([Palar et al., 2018](#)). The communal IP nature is related to the UNDRIP (the United Nations Declaration on Rights of Indigenous People). This includes the right to maintain, protect, and develop the past, present, and future manifestations of their cultures, including visual and performing arts and literature ([Nwauche, 2015](#)). Although indigenous people are not suitable for the condition of Indonesia, this cultural right to maintain its culture is held by the State. Indonesia is standing in position holding the copyright of TCEs by the State without taking possession of this works. This protection is in between public domain and exclusive rights. Such rights are indirectly mentioned by Pufendorf as an inclusive positive community ([Draho, 2016](#)). The vision of an inclusive positive community is not to exclude others. All have the right to use TCEs for their individual welfare.

As a member of the Berne Convention, Indonesia related the provision on Article 15 (4) regarding an unknown identity of the author. Berne Convention regulates in the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority. This competent authority shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union. Consequently, In Indonesia, the State is the competent authority for TCEs which commonly the author is unknown.

The State as TCEs Copyright is an abstract legal subject. A definite legal subject who possesses TCEs is a custodian. Afterward, which community defines as a custodian for I La Galigo as an ancient Bugis story, is the next question. Possibly South Sulawesi Provincial Government, Luwu District, Wajo District, or around 2 million Bugis people are the potential custodian? The importance of appointing custodian is to protect moral and economic rights. Custodian is significant to grant permission and to be the subject whose benefit is given ([Kartika, 2018](#)). Meanwhile, I La Galigo as theatrical works may be protected as copyright. Under the Berne Convention, derivative work may have copyright, without affecting the copyright in any underlying work ([Margoni, 2015](#)). Based on an interview with Nurhayati Rahman ([Rahman, 2018](#)), literature scholars on I La Galigo in South Sulawesi, the disagreement on I La Galigo's performance by Robert Wilson is the use I La Galigo as stage title. For some community, I La Galigo is a sacred belief, and the story of pre-existing work is entirely different, its adaptation should be titled differently and given additional information “*inspired by I La Galigo*”.

However, local people emphasize the work on moral rights more than economic rights. The issue is the lack of formal inscription of I La Galigo as Bugis TCEs. After ratifying the UNESCO Convention for the Safeguarding on the Intangible Cultural Heritage ([UNESCO, 2003](#)), local culture inscription in every province in Indonesia is more structured, formalized, and increased. The local, national, and international levels also emphasize to raise awareness according to this Convention besides ensuring cooperation as well ([Ketut & Dharmawan, 2017](#)). This awareness is more active after the enactment of Law for the Advancement of Culture. This Law obliged provincial, city, and district government to create Principal Thought of Local Culture (*Pokok Pikiran Kebudayaan Daerah*).

Through the 2014 Copyright Law, cooperation to get a benefit for TCEs' stakeholder is expected. TCEs custodians shall be aware of the commercialization of their TCEs by other parties. When other parties do not seem aware of giving benefit,

TCEs custodian shall approach them and show TCEs inscription. By applying exclusive rights, since the status of Wilson's work is derivative from Sureq La Galigo, the commercialization over it should grant permission. Conversely, by applying inclusive positive right, grant permission is not a duty. But the weakness is, the implementation will low because it depends on the awareness of the party who wants to create a derivative work. Moreover, the Law for Advancement of Culture persuades custodians to utilize their culture. The more utilized by its root, the more other people reluctant to claim.

Compared to the effort of protection of TCEs in Australia, the Copyright Act 1968 does not regulate communal intellectual property but the awareness of the local community in making the TCEs database is higher (Stoianoff & Roy, 2015). Unlike India, in its legislation, there is no protection for TCEs. In the music and film industry in India, they combine modern and traditional music (Ganguli et al., 2019). Meanwhile, there is no copyright on the original cultural heritage because it has been going on for a long time, has been passed down from generation to generation, and is communally owned (Awopetu, 2020).

### **Performers' Right as a Core of Traditional Cultural Expressions Protection**

Using copyright to protect TCEs both in international and municipal law will find a deadlock because nature is different. International discussion through Intergovernmental Committee on Intellectual Property and GRTKF in WIPO has not found a unanimous draft to protect communal rights over TCEs.

The objective of Law for the Advancement of Culture is to preserve and promote Indonesian Culture. Many provisions create to safeguard Indonesian culture. Thus permission grant becomes a requirement for commercialization (*Undang-Undang R.I. Nomor 5 Tahun 2017 Tentang Pemajuan Kebudayaan*, 2017). It is mentioned in Article 37 that large enterprises and foreigners are obliged to grant permission of culture development object utilization from related ministry. This provision is reverted the ineffective rules on the previous 2002 Copyright Law.

Article 38 (3), 2014 Copyright Law mentioned that the use of traditional cultural expressions must consider the values that live in the custodian. Ratna Sarumpaet, an Indonesian playwright, critiqued that I La Galigo performed by Robert Wilson in Singapore was lack of sacred energy or cultural significance with the Buginese context (Cohen, 2005; Sarumpaet, 2004). Scholars have disputed disobeying values from the original text. Sawérigading, for instance, is being conceived as Batara Guru's son rather than his grandson. Another example is, Cina is described as China from its costume and music, rather than a kingdom in Sulawesi (Toa, 2017). This problem is occurring in fact because the cultural person is questioning the parameter of preserving or violating cultural values.

Because of the chaotic on TCEs protection, this paper proposes that performers' right is the starting point to protect culture. People involved in the advancement of culture need protection (Atsar, 2017). The subject of adaptation of I La Galigo into theatrical work is performers. Restu insists all performers are Indonesian is reasonable. She wishes Indonesian performers took excessive advantage of Indonesian culture. Local scholars hope performers from South Sulawesi particularly Bugis people more involved in the stage.

The 2014 Copyright Law does not distinguish between performers in conventional copyright and performers regarding TCEs. Article 1.6 defines 'Performers' as one or several persons who individually or together to show and demonstrate work. Performers deserve moral and economic rights. Performers' moral rights are the inherent right of Performers who cannot be removed or cannot be removed for any reason although the economic rights have been transferred. Performers' economic rights, e.g., fixation copying; and distribution over the fixation performances or copies are related to I La Galigo performance. Music, as the most important part of I La Galigo show, was recorded and distributed with compensation to the performers once at the beginning, without calculating continuous royalty (Manggau, 2018). A principle of conventional related right (performers' right) may apply in this case to approach the capitalist paradigm when the effort to protect TCEs is puzzled.

Abdul Murad, cast as Patotoqe and King of Cina remarks, he received more or less USD 53 per day for I La Galigo Europe tour. He also mentions that all casts have the opportunity to visit Sureq La Galigo's second home in Leiden University Library (Murad, 2018). Indeed, becoming part of a vast international stage is a pride for the performer. Applying performers' right, custodian, stakeholder, producer, and performer may get a benefit. Before commercializing TCEs, all parties must create a fair contract (Lixinski, 2020). Ideally, guidelines concerning TCEs commercialization must produce to gain the interest for all parties. Based on experience, challenges in I La Galigo commercialization are the absence of custodian community; the absence of legal bases of custodian community; the lack of formal TCEs inscription; and the lack of the map of the spread of I La Galigo culture.

Besides the direct monetary benefit, Mohamad Gentile Andilolo, cast as I La Galigo shows indirect monetary benefit from involving I La Galigo theatrical work by Robert Wilson. He received a scholarship to study at Watermill Center, New York. He added that the most valuable benefit from I La Galigo theatrical work is the knowledge behind the process of rehearsing and performance (Andilolo, 2018). Moreover, Faisal Yunus, another performer added that the benefits he gained from the project are monetary and non-monetary benefits. The monetary benefit gained by Yunus since he was involved in this

theatrical work, he got money from the performance and he is more famous in the world of performing art. As a non-monetary benefit, in 2009 he received appreciation from the Regent of Barru as a Cultural Ambassador from Barru District. He also has a right to re-create Robert Wilson's work on I La Galigo (Yunus, 2018). From the producer's point of view, the community of I La Galigo's ancient story is the musicians, the choreographer, the original translator, lot of the artists that are involved (Kusumaningrum & Grauer, 2018; Mambro, 2018).

There is some strength to the future commercialization of I La Galigo. First, I La Galigo had become Memory of the World in 2010. Second, some part of I La Galigo story, Sawerigading, for example, is inscribed as Intangible Cultural Heritage from South Sulawesi. Third, I La Galigo revitalization should be increased through culture dissemination. Fourth, preserving and promoting the advancement of culture by creating Principal Thought of Local Culture in Indonesia. In the digital era, commercialization will spread into digitalization (Borissova, 2018), creating webtoon (Yustina et al., 2019) and cinematographic works.

The legislation is not enough, it must develop several implementing legislation at a smaller level. The Government shall regulate further provisions on the rights held by the State on traditional cultural expressions. To be harmonized, a requirement on utilization by large enterprises and foreigners regulated in Law for the Advancement of Culture should be eliminated. For practical implementation, between Copyright law and Law for Advancement of culture shall be linked. This harmonization is particularly needed for documentation and inscription. At least six ministries related to the protection of I La Galigo as a cultural-based intellectual property, those are the Ministry of Law and Human Rights, Ministry of Education and Culture, Ministry of Tourism and Creative Economy, Ministry of Foreign Affairs, the Coordinative Ministry on Political, Justice & Security Affairs the Coordinative Ministry of Human Resources & Culture (Palar et al., 2018). Besides that, Cultural Documentation is important to defensive protection for TCEs for further commercialization by other parties.

## CONCLUSION

To conclude, according to the Constitution of the Republic of Indonesia, to advance the national culture of Indonesia, any society in Indonesia including the Bugis people have the freedom to preserve and develop their cultural values. Their rights of culture have to be balanced with their duties, by utilizing their culture effectively.

Mainly for the second issue, the importance of harmonizing implementing legislation in protecting performers of traditional cultural expressions is very much needed. Indonesia with not less than 300 ethnics is impossible to have unity legislation on the advancement of culture. Starting from the law of the advancement of culture at the national level, each province, city, and district level must create implementing legislation concerning the utilization of TCEs based on the unique character of their culture. TCEs inscription as defensive protection, TCEs dissemination including cultural diplomacy, and TCEs utilization become three chains supporting each other. Last October 2019 in Bali, I La Galigo theatrical work directed by Robert Wilson was again performed as one of a cultural event in the IMF Meeting. This time, the promotion of I La Galigo as a TCE was enhanced by BEKRAF, one Creative Economy Unit under the government of the Republic of Indonesia. Although the lack of regulation concerning implementing legislation on the utilization of TCEs remains unresolved, theatrical performance has received economic rights. Commercialization over Sureq Galigo still maintains the ancient values by respecting Bissu and all rituals before, during, and after the performance.

## LIMITATION AND STUDY FORWARD

This research has a limitation on the benefit-sharing agreement that showed the commercialization portion between custodian and performers. For further research, the custodian could arrange guidelines to allow or prohibit people outside communities to prevent cultural misappropriation.

## ACKNOWLEDGMENT

Researchers would like to give high gratitude to Prof. Nurhayati Rahman and her assistant Basiah for useful information concerning Sureq I La Galigo; I La Galigo performers by Robert Wilson, Arifin Manggau as a musician and Abdul Murad as an actor, to become interviewees in this research which was held in South Sulawesi; Sudirman Sabang, Education and Cultural Office, Wajo District, South Sulawesi. We would like to thank Restu Imansari Kusumaningrum, Rhoda Grauer, and Elisabetta di Mambro, Muhammad Gentile Andilolo and Faisyal Yunus for showing the excellent performance of I La Galigo and how is the benefit of performers behind the stage. Also, our high gratefulness for Prof. Eddy Damian and Dr. Rika Ratna Permata for their thought on the need for TCEs protection and utilization. Thank you for Miranda Risang Ayu Palar Ph.D, for the idea and thought while having endless discussions on communal IP and cultural-based in Indonesia. We also would like to thank Faculty of Law Universitas Padjadjaran for giving support to be the participant in INLAC 2018 Conference.

## AUTHORS CONTRIBUTION

Laina Rafianti contributed to data collection in Makassar and Jakarta then analyzing using a legal research approach. Ahmad M. Ramli did the theoretical analysis, comparison studies, and final discussion.

## REFERENCES

1. Afolayan, M. S., & Oniyinde, O. A. (2019). Interviews and Questionnaires as Legal Research Instruments. *Journal of Law, Policy and Globalization*, 83, 51–59. <https://doi.org/10.7176/JLPG>
2. Andilolo, M. G. (2018). *Transkrip Wawancara Mohammad Gentile Andilolo 21 Oktober 2018*.
3. Ang, I., Isar, Y. R., & Mar, P. (2015). Cultural diplomacy: Beyond the national interest? *International Journal of Cultural Policy*, 21(4), 365–381. <https://doi.org/10.1080/10286632.2015.1042474>
4. Arnold, W. (2004). *Robert Wilson Illuminates Indonesian Creation Myth - The New York Times*. <https://www.nytimes.com/2004/04/07/theater/robert-wilson-illuminates-indonesian-creation-myth.html>
5. Atsar, A. (2017). Perlindungan Hukum Terhadap Pengetahuan dan Ekspresi Budaya Tradisional untuk Meningkatkan Kesejahteraan Masyarakat Ditinjau dari Undang-undang No. 5 Tahun 2017 tentang Pemajuan Kebudayaan dan Undang-undang No. 28 Tahun 2014 tentang Hak Cipta. *Jurnal Law Reform*, 13(2), 284. <https://doi.org/10.14710/lr.v13i2.16162>
6. Awopetu, R. (2020). In Defense of Culture : Protecting Traditional Cultural Expressions in Intellectual Property. *Emory Law Journal*, 69(4).
7. Banco Mundial. (2011). *Poverty | United Nations Educational, Scientific and Cultural Organization*. UNESCO. <http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/europe-north-america/portugalspain/geres-xures/%0Ahttp://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/poverty/>
8. Borissova, V. (2018). Cultural heritage digitization and related intellectual property issues. *Journal of Cultural Heritage*, 34(2017), 145–150. <https://doi.org/10.1016/j.culher.2018.04.023>
9. Change Performing Arts. (2011). *I La Galigo*. Change Performing Arts. <http://www.changeperformingarts.com/shows/galigo/ilg.html>
10. Cohen, M. I. (2005). Performance Review: I La Galigo. *Asian Theatre Journal*, 22(1)(138–149). <https://doi.org/10.1353/atj.2005.0002>
11. Cohen, M. I. (2019). Three Eras of Indonesian Arts Diplomacy. *Bijdragen Tot de Taal-, Land- En Volkenkunde*, 175(2–3), 253–283. <https://doi.org/10.1163/22134379-17502022>
12. Davies, S. G. (2015). Performing selves: The trope of authenticity and Robert Wilson's stage production of I La Galigo. *Journal of Southeast Asian Studies*, 46(3), 417–443. <https://doi.org/10.1017/S0022463415000326>
13. Diplomacy, T. I. for C. (2013). *Cultural Diplomacy Dictionary of the Academy for Cultural Diplomacy* (Chakraborty, K. (Ed.)). [www.academy-for-cultural-diplomacy.org](http://www.academy-for-cultural-diplomacy.org)
14. Drahos, P. (2016). *A Philosophy of Intellectual Property*. ANU eText. <https://press-files.anu.edu.au/downloads/press/n1902/pdf/book.pdf>
15. Drilling, T., & Drilling, M. (2019). *Commercialization of Indigenous Handicrafts in Mexico as Empowerment*. 10(4), 65–67.
16. Ganguli, M. K., Rafianti, L., & Chaudhuri, S. K. (2019). Policy Frameworks for the Protection of Cross Border Traditional Song-Baul : A Case Study. *Social Sciences & Humanities*, 27(4).
17. ICD. (2019). *Institute for Cultural Diplomacy*. [http://www.culturaldiplomacy.org/index.php?en\\_culturaldiplomacy](http://www.culturaldiplomacy.org/index.php?en_culturaldiplomacy)
18. Janke, T. (2018). Protecting Indigenous Cultural Expressions in Australia and New Zealand: Two Decades After the Mataatua Declaration and Our Culture, Our Future. *Journal of the Intellectual and Industrial Property Society of Australia and New Zealand*, 114, 21–30.
19. Kartika, E. D. (2018). Perlindungan Hukum Atas Cerita Rakyat Yang Ditulis Oleh Pencipta Dalam Rangka Benefit Sharing. *Jurnal Hukum & Pembangunan*, 48(2), 379. <https://doi.org/10.21143/jhp.vol48.no2.1669>
20. Keller, G. N. (2015). Guide on Intellectual Property (IP) Commercialization. In *Committee on Development and Intellectual Property (CDIP) Sixteenth Session, Geneva, November 9 to 13, 2015*. World Intellectual Property Organization. [http://www.wipo.int/edocs/mdocs/mdocs/en/cdip\\_11/cdip\\_11\\_summary.pdf](http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_11/cdip_11_summary.pdf)
21. Kementerian Luar Negeri R.I. (2008). *Kementerian Luar Negeri Indonesia - Pertunjukan Teater Kontemporer ?I La Galigo? Asal Bugis di Milan*. <https://www.kemlu.go.id/id/berita/siaran-pers/Pages/Pertunjukan-Teater-Kontemporer-I-La-Galigo-Asal-Bugis-di-Milan-Italia-12-17-Februari-2008.aspx>
22. Ketut, N., & Dharmawan, S. (2017). Protecting Traditional Balinese Weaving Trough Copyright Law: Is It Appropriate. *Diponegoro Law Review*, 02(01). <https://doi.org/10.14710/dilrev.2.1.2017.57-84>
23. Kirchherr, J., & Charles, K. (2018). Enhancing the sample diversity of snowball samples: Recommendations from a research project on anti-dam movements in Southeast Asia. *PLoS ONE*, 13(8), 1–17. <https://doi.org/10.1371/journal.pone.0201710>

24. Kusumaningrum, R. I. (2011). Dari Tanah Asal I La Galigo; From the Heartland of I La Galigo. In *I La Galigo* (pp. 93–100). Change Performing Arts in partnership of Bali Purnati.
25. Kusumaningrum, R. I., & Grauer, R. (2018). *Transkrip Wawancara Restu Imansari Kusumaningrum 12 Oktober 2018*.
26. Lixinski, L. (2020). Commercializing Traditional Culture: Promises and Pitfalls in the Convergence of Intellectual Property Law and Cultural Heritage Law. *AIDA*, 1–15.
27. Mambro, E. di. (2018). *Transkrip Wawancara Elisabetta di Mambro 12 Oktober 2018*.
28. Manggau, A. (2018). *Transkrip Wawancara Arifin Manggau 16 April 2018*.
29. Margoni, T. (2015). The Digitisation of Cultural Heritage: Originality, Derivative Works and (Non) Original Photographs. *SSRN Electronic Journal*, January 2014. <https://doi.org/10.2139/ssrn.2573104>
30. Mossoff, A. (2015). How Copyright Drives Innovation: A Case Study of Scholarly Publishing in the Digital World. *SSRN*, 955–988. <https://doi.org/10.2139/ssrn.2243264>
31. Murad, A. (2018). *Transkrip Wawancara Abdul Murad 17 April 2018*.
32. Nurhayati Rahman Membawa Pulang “La Galigo.” (2017). Kompas. <http://seni-dan-budaya-kompas.blogspot.co.id/2017/12/nurhayati-rahman-membawa-pulang-la.html>
33. Nwauche, E. S. (2015). The Emerging Right to Communal Intellectual Property. *Marquette Intellectual Property Law Review*, 19(2), 225–244. <http://scholarship.law.marquette.edu/iplrhttp://scholarship.law.marquette.edu/iplr/vol19/iss2/4>
34. Palar, M. R. A. (2018). The Protection of Intangible Cultural Resources in the Indonesian Legal System. In C. Antons & W. Logan (Eds.), *Intellectual Property, Cultural Property, and Intangible Cultural Heritage* (1st ed.). Routledge. <https://doi.org/10.4324/9781315714288-1>
35. Palar, M. R. A., Sukarsa, D. E., & Ramli, A. M. (2018). Indonesian System of Geographical Indications to Protect Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. *Journal of Intellectual Property Rights*, 23, 174–193.
36. Pohan, S., Pohan, H., & Nuria Savitri, I. (2017). *Digital Diplomacy-Maximizing Social Media in Indonesia's Economic and Cultural Diplomacy*. 81(Icosop 2016), 372–390. <https://doi.org/10.2991/icosop-16.2017.52>
37. Rafianti, L. (2017). *The protection of the performing arts in indonesia, including in the digital age*.
38. Rahman, N. (2018). *Transkrip Wawancara Nurhayati Rahman 17 April 2018*.
39. Sardjono, A. (2017). Symphonizing Intellectual Property Laws in the Advancement of Culture. *Padjadjaran Jurnal Ilmu Hukum*, 4(3), 437–453. <https://doi.org/10.22304/pjih.v4n3.a1>
40. Sarumpaet, R. (2004, March). La Galigo: Panggung Megah, Miskin Makna. *Kompas*.
41. Secretariat of the World Intellectual Property Organisation. (2019). *The Protection of Traditional Cultural Expressions: Draft Articles*.
42. Stoianoff, N. P., & Roy, A. (2015). Indigenous Knowledge and Culture in Australia The Case for Sui Generis Legislation. *Monash University Law Review*, 41(3). <https://doi.org/10.2139/ssrn.2778462>
43. Sumardjo, J. (1999). Biografi Prof. Dr. Mochtar Kusumaatmadja, S.H., LL.M. In M. Komar, E. R. Agoes, & E. Damian (Eds.), *Mochtar Kusumaatmadja: Pendidik&Negarawan* (pp. 3–28). Alumni.
44. Supanggih, R. (2016). *Perlunya Penelitian Artistik dalam Pembuatan Karya: Kasus Musik I La Galigo*. ISI Surakarta. [http://repository.isi-ska.ac.id/630/1/research\\_artistic\\_R.Supanggih.pdf](http://repository.isi-ska.ac.id/630/1/research_artistic_R.Supanggih.pdf)
45. Sutyono, S. (2018). Phenomenological Approach in Traditional Theater Art. *International Journal of Art and Art History*, 6(2), 17–21. <https://doi.org/10.15640/ijaah.v6n2a3>
46. The Republic of Indonesia. (2014). *Law of the Republic of Indonesia Number 28, 2014 of Copyright*. [www.indolaw.org](http://www.indolaw.org)
47. Toa, R. K. C. P. A. P. (2017). *La Galigo: Menurut Naskah NBG 188*. Obor dan Yayasan La Galigo.
48. Trisni, S.-. (2019). South Korean Government's Role in Public Diplomacy: A Case Study of the Korean Wave Boom. *Andalas Journal of International Studies (AJIS)*, 8(1), 31. <https://doi.org/10.25077/ajis.8.1.31-42.2019>
49. Undang-undang Nomor 19 Tahun 2002 tentang Hak Cipta. (2002). [http://www.cric.or.jp/db/link/doc/indonesi\\_aCopyrightLaw\\_bilingual.pdf](http://www.cric.or.jp/db/link/doc/indonesi_aCopyrightLaw_bilingual.pdf)
50. Undang-undang R.I. Nomor 5 Tahun 2017 tentang Pemajuan Kebudayaan. (2017).
51. UNESCO. (2003). *Convention for the Safeguarding of the Intangible Cultural Heritage*. UNESCO.
52. UNESCO. (2010). *MEMORY OF THE WORLD REGISTER La Galigo ( Indonesia and The Netherlands ) Ref N ° 2010-64*. UNESCO. [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/mow/nomination\\_form\\_s/indonesia\\_netherlands\\_la\\_galigo.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/mow/nomination_form_s/indonesia_netherlands_la_galigo.pdf)
53. W.S.P., G. N., Wibisono, M., & Supartono. (2018). Cultural Diplomacy in Supporting the National Interest and National Defense: The Study of Indonesia Arts and Culture Scholarship Program by the Ministry of Foreign Affairs of Indonesia. *Jurnal Diplomasi Pertahanan*, 4(3), 97–126.
54. Wendland, W. (2018). International Negotiations ar WIPO on Intellectual Property and Genetic Resources,

Traditional Knowledge and Traditional Cultural Expressions: Analysis of the Process So Far and Thoughts on Possible Future Directions. *Intellectual Property Forum: Journal of the Intellectual and Industrial Property Society of Australia and New Zealand*, 114.

55. Yunus, F. (2018). *Transkrip Wawancara Faisyal Yunus 23 Oktober 2018*.
56. Yustina, A., Isneni, N. F., & Risaldi, D. (2019). The Transition of I La Galigo Epos Into a Webtoon Serial Form As a Learning Media of Buginese Classical Literature Creation in the Digital Era. *ISLLAC: Journal of Intensive Studies on Language, Literature, Art, and Culture*, 3(2), 263–268.
57. Zamorano, M. M. (2016). Reframing Cultural Diplomacy. *Culture Unbound Journal of Current Cultural Research*, 8, 166–186. <https://doi.org/10.3384/cu.2000.1525.1608165>