

# AXIOLOGICAL ANALYSIS ON COMMUNAL RIGHTS OF CRAFTSMEN OF TRADITIONAL BATIK WORKS FROM SURAKARTA AND GRINGSING CLOTH OF KARANGASEM BALI

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## ABSTRACT

*The difference in values in Law Number 28 of 2014 Concerning Copyright (UUHC 2014) with the communal values of Surakarta traditional batik craftsmen and Karangasem Bali gringsing cloth, resulting in the ineffectiveness of Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of Law Number 28 of 2014 Concerning Copyright in protecting Traditional Cultural Expressions (EBT). Therefore, the problem is How is the axiological analysis of the application of UUHC 2014 in protecting EBT works of traditional Surakarta batik and Karangasem Bali gringsing cloth, due to the clash of individual values in exclusive rights with communal values of indigenous peoples. The next problem: How to anticipate value differences to increase the effectiveness of legal protection of EBT works of Surakarta traditional batik and Karangasem Bali gringsing cloth. To discuss this problem, empirical legal research type is used, descriptive research nature. The data used are primary data as the main data and secondary data as supporting data. Furthermore, it is analyzed qualitatively, drawing conclusions with inductive logic. Based on axiological analysis, there are two conflicting attitudes in accepting the value of individual exclusive rights of copyright. i.e. Surakarta traditional batik craftsmen accept the limited value of individual exclusive rights of copyright in protecting their EBT batik. However, the attitude of Karangasem Bali gringsing cloth craftsmen rejects the individual value of copyright exclusive rights in protecting EBTs. Acceptance of individual value has the impact of losing the meaning of EBT which results in losses for Indonesia. Therefore, efforts need to be made by forming special regulations to protect EBT and it is necessary to increase Government cooperation with other Asian countries to determine EBT common heritage and fight for international legal instruments to protect EBT.*

**Keywords:** axiology, difference in the value of EBT protection, axiological analysis

## 1. PREFACE

Humans as social creatures always live in groups. However, this cannot go hand in hand with a sense of human ego that often prioritizes individual interests over group interests. As a result, conflicts arise that can disrupt the survival and harmony of group interactions. To anticipate this, each community group needs the rule of law that can guarantee the rights of each individual and be able to solve community problems, so that the harmonization of social life is realized.

Law is held to work in society, so the law as a construction is faced with a natural environment. However, this situation raises many problems, because the law does not always succeed well in projecting its desires into society. Therefore, in order for the law to be able to work in society, it is necessary to involve people, the environment, traditions, and values of the community's worldview in creating the law (Satjipto Rahardjo, 2006). Therefore, legal science needs to be seen from various aspects of the discipline to achieve legal effectiveness. One of them is by using social science as one of the supporting sciences, because legal science cannot be separated from the values that live in society and these values should be accommodated in the rule of law, so that the rule of law can be accepted by the community concerned. Based on this reason, legal science can not only be seen as a dogmatic science, but it is also necessary to develop non-dogmatic legal science. Non-dogmatic legal science includes social values that are extracted

from the values that live in society. This is important, considering that the law is for humans not the other way around (Satjipto Rahardjo, 2009). So it is time for the law to function in society so that it can lead humans towards a just, prosperous and happy life.

One of the absolute requirements to function the law, namely by enforcing the law in accordance with the values that live in the community concerned. However, to restore the function of law, it is necessary to conduct a scientific study based on ontology, epistemology and axiology. To examine the benefits of the science of law, an axiological study is carried out which is a study of values that determine the content and benefits of values, such as propriety, equality, justice, freedom and abuse of rights. The study of the axiology of legal science achieved by non-dogmatic legal science is to seek and achieve the value of truth in law as a humanitarian and societal institution (Jujun S.Suriasumantri, 2005). This condition became one of the reasons for the birth of progressive law in Indonesia in 2002 (Jujun S.Suriasumantri, 2005). Therefore, progressive law is a correction to the weaknesses of the modern legal system and wants to free itself from modern law. Progressive law has an understanding that the law needs to be developed and headed as a pro-people and pro-justice law (Jujun S.Suriasumantri, 2005). This is driven by the understanding that legal problems in society cannot be separated from social conditions and social change, because humans are constantly changing. In 1997 there were socio-economic changes marked by the birth of economic globalization, which was dominated by developed countries through the World Trade Organization. In this case, the WTO made modern law the only law dominated by developed countries to impose modern law on each WTO member country by ratifying international conventions. The reason is that modern law is more suitable for creating legal certainty in a free market, because it has liberal and individualistic qualities. This is one of the new modes of colonialism under the shadow of free trade that creates industrialization and capitalism (Satjipto Rahardjo, 2009).

One of the products of modern law that is forced to be ratified by all WTO members is the Berne Convention 1971, namely: the convention of copyright protection, including the protection of EBT. The Berne Convention was ratified by Presidential Decree No. 18 of 1997 concerning the Berne Convention for the Protection of Literary and Artistic Works and set forth in Law No. 28 of 2014 concerning Copyright (UUHC) (Satjipto Rahardjo, 2009). However, the clash of values between UUHC 2014 and the values that live in indigenous peoples producing EBT results in many obstacles in applying UUHC 2014 when protecting EBT works. Although, in Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) UUHC 2014 has tried to accommodate communal values but it still does not reach to protect EBT works effectively. So it can be said that, the law can be effective if it is able to accommodate the values that live in the relevant community.

The conditions contained in the 2014 UUHC are very different from the values embraced by indigenous peoples. This is because the formation of the UUHC 2014 is based on the individual principle which is based on two philosophical theories, namely the reward system and the ownership system. To be able to realize the two theories, monopoly protection is needed in the form of exclusive rights so that the copyrighted work can be utilized optimally. The existence of exclusive rights in Article 1 number 1 of the UUHC 2014 provides an understanding that the creator has a monopoly right to utilize the economic value of his work, as long as it is not detrimental to the interests of society. However, the description of exclusive rights in UUHC 2014 is inconsistent, due to the exception in Article 38 Paragraph (1) UUHC 2014, where the protection of EBT works is controlled by the state and its management is for the benefit of the nation (Rahmi Jened, 2007).

The Berne Convention's ambiguous stance is adopted by the 2014 UUHC in protecting EBT as a sacred work that is a form of devotion to the group in carrying out customary activities, religious rituals or beliefs. On the other hand, indigenous peoples in Indonesia understand the law as a balance keeper by prioritizing their community rights over individual rights (Satjipto Rahardo, 2009). One way to meet the target of legal effectiveness in the implementation of the 2014 UUHC is for the Regional Government to aggressively socialize the 2014 UUHC to its community. However, the socialization carried out causes misperceptions in the community, so that people are unable to distinguish copyrighted works from EBT works. One evidence of misperception in the socialization process can be seen when the Central Government launched the National Program for Registration of EBT works from all regions including traditional batik and gringsing cloth to the Directorate General of IPR. Based on this program, the regions register without first separating between motifs that include copyright and traditional motifs that include EBT. One example is that the Surakarta City Government has registered 900 batik motifs, without separating between copyright batik motifs and traditional batik motifs or EBT (Inilah.com, 2010).

However, this condition is inversely proportional to the Regional Government of Karangasem Regency which does not make any efforts including registering gringsing cloth as an EBT work of Karangasem Regency Bali (Travel, 2008). In addition, misperceptions are also seen in using the term "copyright registration" with the designation "patenting copyrighted works." This proves that the community, including the Government, has not properly understood the scope of IPR (Arif Havas Oegroseno, 2009). If misperceptions in the community are not addressed properly, it can pose a serious threat to national unity. Where some communities and Regional Governments consider EBT protection to be regional in nature and outside their regions they are not allowed to utilize it. Seeing the obstacles that arise due to misperceptions, the World Intellectual Property Organization and Unesco bridged the gap by holding the Solo Declaration on October 28, 2008. The declaration created an international instrument under the protection of WIPO to prevent the misuse of cultural assets (Kompas, 2009). The Solo Declaration was followed up by UNESCO on September 30, 2009 in Abu Dhabi, United Arab Emirates, by including Indonesian batik in the List of Representative Cultures after wayang and keris (Satjipto Rahardjo, 2006).

Based on the above facts, it can be seen the importance of community values being adopted in legal regulations. To avoid the clash of individual values in UUHC 2014 with communal values that have an impact on the legal effectiveness of UUHC 2014 in protecting EBT works. Therefore, the law is not only seen as a logical and rational regulatory building in a system that is able to understand the values that live in society (Jujun S.Suriasumantri, 2005).

To be able to create legal effectiveness, it is carried out with an axiological approach. Axiology is a theory of value that aims to examine the benefits of a value (Jujun S.Suriasumantri, 2005). To facilitate the testing of the axiological approach to UUHC 2014, several indicators are used, namely: the level of public understanding of EBT and creation, the ability of the community to distinguish EBT and creation, acceptance of the individual value of UUHC 2014 exclusive rights, the effectiveness of UUHC 2014 and public opinion in protecting EBT.

To obtain maximum results, this research was conducted in two locations, namely Surakarta City and Tenganan Village, Karangasem Regency, Bali. The reason for choosing the location of Surakarta City is because the Surakarta City Government has registered the most batik works.

On the other hand, the selection of Tenganan Village, Karangasem Regency Bali, because until now the gringsing cloth has never been registered and has received less attention from the local government.

The importance of protecting EBT works of Surakarta batik and gringsing cloth in Karangasem Regency Bali aims to improve the regional economy and become one of the assets in free trade. Thus, this research is expected to be the first step to find the right form of legal regulation in protecting EBT works in order to fulfill a sense of justice and legal certainty for EBT-producing indigenous peoples including traditional batik craftsmen and gringsing cloth (Jujun S.Suriasumantri, 2005). Therefore, the title of this research is "Axiological Analysis of the Communal Rights of Craftsmen of Surakarta Traditional Batik Works and Gringsing Cloth in Karangasem Regency, Bali."

## **2. RESEARCH METHOD**

The legal research method used is normative research method supported by empirical research with the nature of descriptive research precisely with axiological and socio-cultural approaches. In addition, it also uses primary data and secondary data. To obtain primary data, the interview method is used in the form of a list of open and closed questions. Primary data is the main data, while secondary data is supporting data. Secondary data used consists of primary legal materials and secondary legal materials.

Furthermore, it also uses the interview method which aims to obtain information about the values embraced by the indigenous people of Surakarta and Karangasem Bali. The data collection technique used is by using 3 (three) types of data collection tools, namely document studies, observations or observations and interviews or interviews, precisely using non-probability sampling techniques with Purposive sampling types. Meanwhile, to analyze the qualitative analysis method was chosen based on the consideration that the data analyzed is diverse in nature and has conflicting value concepts. In order to draw conclusions, inductive logic is used, because this research focuses on the application of law in indigenous communities.

## **3. RESULT AND DISCUSSION**

Starting from the ineffective application of Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of UUHC 2014 in protecting the EBT of Surakarta traditional batik and Karangasem Bali gringsing cloth, due to the clash of the individual value of exclusive rights of UUHC 2014 with the communal value of indigenous peoples producing EBT works. However, this condition does not make developed countries realize that a legislation that applies to a particular society cannot contradict the values embraced by the society concerned. This shows that the values of truth, justice, appropriateness and legal certainty in each community group are not the same. This concept of value is in line with the theory of axiology which states that values cannot be applied universally, especially in the application of positive law, because the birth of a value is very dependent on the beliefs, culture and philosophy of the community that gave birth to it. However, the unilateral interest of developed countries to support free trade has overruled the axiological theory in determining its policy regulations.

This difficult condition is also faced by Indonesia when enacting Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of UUHC 2014 which is a modern legal product to protect EBT works. Modern law known as UUHC 2014 uses the exclusive right of copyright as a tool to protect EBT without regard to differences in value. One of the individual concepts contained in the exclusive right of copyright is seen with the requirement that a work must

characterize the personality of the creator. The reason is that the creation must be sourced from the original idea and reflect the character of the creator, so that every creation is known to its creator. In addition, another requirement that must be met is that the creation must be expressed with the real form of an object. This concept cannot be fulfilled by EBT works because EBTs are made for the benefit of the relevant indigenous community in carrying out their life activities. The individual concept is not needed, because the ownership of EBT works is in the community, not in the individual creator and reflects the cultural character of the community. Therefore, EBT works do not recognize their creators or are documented.

If the two values are clashed, then legally it is the individual value that comes out as the winner, because the concept of creation in UUHC 2014 is easier to prove in terms of ownership. As a result, Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of UUHC 2014 are too fragile in protecting EBT works. Therefore, it is important to understand the extent to which the indigenous people of Surakarta traditional batik craftsmen and Bali Karangasem gringsing cloth craftsmen respond to the 2014 UUHC. For this reason, it is necessary to conduct an axiological study of the values believed by the community in the two regions, to determine the value shift or rejection of individual values in the exclusive rights of UUHC 2014 which is measured by an axiological approach assisted by several indicators as a measuring tool, below:

- a. The artisan community's understanding of EBT criteria in accordance with communal values.
- b. The artisan community's understanding of the elements of creation protected by copyright in accordance with the principle of exclusive rights.
- c. Ability to distinguish between Copyright works and EBT.
- d. The suitability of individual values with communal values of indigenous peoples in the exclusive rights of UUHC 2014.
- e. The effectiveness of the exclusive rights of UUHC 2014 in protecting EBT works.
- f. Forms of protection of EBT works that are in accordance with the values that live in indigenous peoples.

Based on indicators number one to number three, the results are processed and displayed in table one to table three, the assessment criteria are in the percentage range, namely: 10% to 49% for less value, 50% to 69% for sufficient value and 70% to 100% for good value. For the fourth and fifth indicators regarding the perceptions of traditional batik craftsmen and gringsing cloth craftsmen towards the individual value of exclusive rights in the 2014 UUHC requires a fairly good understanding of the previous indicators. Furthermore, the sixth indicator describes the community's opinion regarding the form of EBT protection that is most in accordance with the values of the indigenous people concerned in order to create the effectiveness of EBT legal protection.

When viewed from the results of the data processed in table 1 below, it can be seen that traditional batik craftsmen in Surakarta have a good understanding of the criteria for EBT batik, because they are nurtured continuously by the Surakarta palace. In this case, batik craftsmen can explain well the characteristics of EBT batik works. However, some experts think that traditional batik making no longer uses natural coloring and this is considered to reduce the sacred value (Nanik Widayanti, 2024). Surakarta traditional batik craftsmen not only make batik in EBT motifs but also make good development which is a creation.

This condition is different from the Karangasem Bali gringsing fabric craftsmen who only recognize traditional motifs and have never had a development motif. In the process of making

gringsing cloth craftsmen are still done traditionally, both by spinning and natural coloring from plants, in accordance with ancestral traditions, so the manufacturing process takes a minimum of ten years. For this reason, it can be said that traditional Surakarta batik craftsmen and Karangasem Bali gringsing cloth craftsmen understand EBT works well.

**Table 1**

*The Artisan Community's Understanding of Renewable Energy Criteria in Accordance with Communal Values*

Community Craftsmen	Level of Understanding	Description
Traditional batik craftsmen in Surakarta	75%	Good
Gringsing cloth craftsmen Karangasem Bali	70%	Good

In table 2, the level of understanding of the elements of creation in order to be protected by copyright, which consists of the original idea and the obligation of a work to be realized in the form of material objects. However, in this case both Surakarta batik craftsmen and craftsmen gringsing Karangasem Bali, have not understood the elements of the creation. Therefore, it can be said that, the craftsmen do not understand the individual value attached to the exclusive rights of copyright which includes moral rights and economic rights as a monopoly right for the creator or right holder.

**Table 2**

*Understanding of the Artisan Community on the Elements of Creation Protected by Copyright in Accordance with the Principle of Exclusive Rights*

Community Craftsmen	Level of Understanding	Description
Traditional batik craftsmen in Surakarta	5%	Less
Gringsing cloth craftsmen Karangasem Bali	0	Less

In Table 3 regarding the ability to distinguish copyrighted works and EBT, the traditional batik craftsmen of Surakarta obtained a good score, because the batik craftsmen were able to distinguish traditional batik in the EBT regime with batik development within the scope of copyright. This condition is supported by the participation of the Surakarta Palace which continuously provides guidance to traditional Surakarta batik craftsmen. This condition is inversely proportional to the Karangasem Bali Gringsing cloth craftsmen who only recognize the traditional motif of Gringsing cloth. This situation is supported by the original culture of the community and has not been contaminated with other cultures.

**Table 3**

*Ability to Distinguish Between Cipta and EBT Works*

Community Craftsmen	Level of Capability	Description
Traditional batik craftsmen in Surakarta	70%	Good
Gringsing cloth craftsmen Karangasem Bali	0	Less

Furthermore, Table 4 and Table 5 are interrelated. These two tables are related to the value shift that occurs in traditional Surakarta batik craftsmen. Based on the data in the two tables above, it can be seen that Surakarta traditional batik craftsmen consider the individual value of exclusive

rights of UUHC 2014, especially Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of UUHC 2014 to be appropriate and quite effective in protecting EBT works. This condition is inversely proportional to the gringsing cloth craftsmen who initially did not understand the meaning of the exclusive rights of copyright, so the researcher first explained the meaning and concrete examples of the exclusive rights of copyright. The researcher's goal is to obtain answers about the opinions and attitudes of gringsing cloth craftsmen towards the individual value of exclusive rights UUHC 2014, regarding the level of acceptance or rejection of these values. An initial explanation is needed before asking questions, considering that the gringsing cloth craftsmen of PEMKAB Karangasem Bali have never been socialized about UUHC 2014 by any party. Based on the researcher's explanation, the answer of the gringsing cloth craftsmen does not agree, if the gringsing cloth is protected by the exclusive rights of UUHC 2014, because according to them the gringsing cloth is a cloth that has a sacred value owned by the village community of Tenganan Karangasem Bali.

**Table 4**

*Conformity of Individual Values of Exclusive Rights of UUHC 2014 with Communal Values of Indigenous Peoples*

Community of Artisans	Conformity	Non-conformity	Abstain
Traditional batik craftsmen in Surakarta	v		
Gringsing cloth craftsmen Karangasem Bali		v	

**Table 5**

*Effectiveness of the 2014 UHHC Exclusive Right in Protecting EBT Works*

Community of Artisans	Effective	Ineffective	Abstain
Traditional batik craftsmen in Surakarta	v		
Gringsing cloth craftsmen Karangasem Bali			v

In this table 6, it illustrates the expectations of Surakarta traditional batik craftsmen and Karangasem Bali gringsing cloth craftsmen regarding EBT protection. For traditional batik craftsmen in Surakarta, they agree that EBT works are protected with the exclusive rights of UUHC 2014. However, the form of protection of EBT works is owned by regional communities, not individuals. So that there is an assumption that traditional Surakarta batik can only be utilized by the Surakarta community, outside the Surakarta community must ask permission, when utilizing traditional Surakarta batik motifs.

For the gringsing cloth craftsmen of Karangasem Regency Bali did not express an opinion, because the gringsing cloth craftsmen did not mind if their work was widely used by anyone. However, ownership remains with the community of Tenganan Karangsem Village Bali so that the community and gringsing cloth craftsmen do not agree, if any party claims gringsing cloth as individual ownership. Therefore, gringsing cloth craftsmen think that EBT gringsing cloth needs to be protected by law, but gringsing cloth craftsmen have not been able to answer the expected form of legal protection. In the author's opinion, the attitudes and views of the community and craftsmen of Karangasem Bali gringsing cloth will have the same opinion as Surakarta traditional batik craftsmen.

**Table 6**

*Forms of Protection of EBT Works in Accordance with the Values that Live in Indigenous Peoples*

Community Craftsmen	Exclusive Rights UUHC		Own Regulations in accordance with Communal Values	Abstain
	Pure Individual	Limited Individual (limited to its community)		
Traditional batik craftsmen in Surakarta		v		
Gringsing cloth craftsmen Karangasem Bali				v

Based on the axiological study presented in table 1 to table 6, it can be seen that there is a clash of values in protecting EBT between the individual value of exclusive rights of UUHC 2014 and the communal value of batik craftsmen and gringsing cloth craftsmen. This clash of values gives rise to two controversial attitudes, namely acceptance and rejection of the individual value of exclusive rights of UUHC 2014. If seen in table 4, table 5 and table 6, the traditional Surakarta Batik craftsmen can accept the individual value of exclusive rights of UUHC 2014, although not fully. This attitude is a shift from communal values to individual values. On the other hand, the gringsing cloth craftsmen reject the individual value of the exclusive rights of UUHC 2014. Attitude differences occur due to different absorption of information, then form an opinion on a value which is then realized in an attitude. The difference in attitude between Surakarta traditional batik craftsmen and Bali Karangasem Regency gringsing cloth craftsmen is influenced by the support of their respective LGs in viewing the need to protect their regional EBT.

In this case, the support of the Surakarta City Government and the Surakarta Palace play an active role in socializing UUHC 2014 and introducing traditional batik motifs. However, different conditions can be seen in PEMKAB Karangasem Bali which has never conducted socialization of UUHC 2014 or EBT so that the community does not understand about UUHC 2014 and EBT. On the other hand, PEMKOT Surakarta in conducting socialization does not properly understand UUHC 2014, especially the protection of EBT. So that the impression arises that EBT protection is more appropriately protected in the copyright regime. This misunderstanding in protecting EBT due to the shift of communal value to individual value has an impact on the loss of the meaning of EBT itself by switching EBT to the copyright regime. In the copyright regime, it means that the legal protection of EBT is limited in time, so that in the long run it can harm the Indonesian nation at a macro level and indigenous peoples at a micro level. Therefore, it is time for the Government to make a separate regulation in the form of a Law that adopts the values of indigenous peoples to effectively protect EBT works, including traditional batik and gringsing cloth.

The existence of UUHC 2014 including Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) is an intervention of developed countries through the WTO. The attitude of developed countries that force modern laws based on individual values, such as the Berne Convention as outlined in the UUHC 2014 has overruled the theory of axiology. In the theory of axiology, values cannot apply universally, because values are born in accordance with the philosophy of the community. As a result, the application of Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) of UUHC 2014 is unable to effectively protect EBT, because the regulation is too vague and does not fulfill the community's sense of justice.



This condition creates the impression as if developed countries are not serious about providing opportunities for developing countries including Indonesia to protect their EBT works. On the other hand, developed countries direct the protection of EBT towards the individual value of exclusive rights in UUHC 2014, so it is natural that the protection of EBT in UUHC 2014 has so far been ineffective. Therefore, the Government needs to utilize the *sui generis* system in Article 8 letter (j) of the CBD to make separate regulations regarding the protection of EBT in accordance with the communal values that live in society so that EBT protection can be more optimal. In line with the axiological theory which states that, a rule of law formed based on the values that live in the community can fulfill the sense of justice and legal certainty of the community.

EBT protection is very important for a country, because EBT works reflect the culture of indigenous peoples. So that EBT works are not limited by the period of protection and can be utilized by all Indonesian people. However, it cannot be utilized by foreign parties without permission. The reason is that EBT protection is more focused on the protection of moral rights, not merely economic rights in order to maintain the value of EBT from distortion of works that can damage the culture of the indigenous people concerned. Therefore, the utilization of EBT including traditional batik and gringsing cloth by foreign parties must go through a licensing process from the state.

Therefore, one of the most difficult obstacles in protecting Indonesian EBT works is the absence of legal regulations that are in accordance with the communal values of indigenous peoples. In addition, it is necessary to regulate the licensing mechanism and authorized institutions for foreign parties who want to utilize Indonesian EBT.

The efforts described above are national scale efforts, which should be the Government's top priority. However, considering that EBT protection is aimed at anticipating unauthorized utilization by foreign parties, the Government should play an active role at the international level. This needs to be considered as well as possible, because no matter how perfect the EBT protection regulations are made, they will not be able to reduce violations by foreign parties, if no efforts are made at the international level.

The first step that needs to be taken by the Government at the international level is to foster cooperation with neighboring countries in the Asian region, considering that Indonesian culture has similarities with the culture of the people of Malaysia, China and India. This cooperation aims to determine works in the common heritage category that are jointly protected by these EBT producing countries, due to cultural similarities. After sorting out the works categorized as common heritage, the Central Government and LGUs appoint official institutions so that the results can be accounted for to collect and document original EBT works belonging to Indonesia.

After documentation in the form of a database, the Government submits the results to WIPO, so that they can be published as Indonesian EBT works can be used as evidence. In addition, the database can be used as a reference in bilateral agreements to cancel copyright grants that imitate Indonesian cultural arts (Arif Havas Oegroseno, 2009). In response to this, the Government should not be complacent considering that the granting of batik as a cultural heritage by UNESCO (Maria Y. Benyamin, 2009) is only limited to recognition, not legal protection. In addition, between WIPO and UNESCO are separate institutions, so an approach to WIPO is still needed in terms of registering Indonesia's EBT database and asking for support to create international legal instruments regarding EBT protection. However, with regard to support for the creation of international legal instruments, this requires the cooperation of the Government

with developing countries producing EBT that have the same interests. The goal is that EBT producing countries can jointly fight by negotiating international legal instruments in protecting EBT. This needs to be done considering that currently, WIPO has begun to eliminate the role of the Government in managing its EBT and directly appoints EBT producing communities as implementers in granting EBT utilization permits by foreign parties accompanied by independent organizations (Damos Dumali Agusman, 2024). As a result of the loss of the Government's role in managing and protecting EBT, it can trigger national disintegration due to the prominence of regionalism with the emergence of the division of the Republic of Indonesia as a unitary state.

The Government's struggle at the international level is still quite long and there are still many obstacles considering that developed countries are not sincere in providing opportunities for EBT producing countries including Indonesia to protect their folkloric works. Therefore, it needs a serious attitude from the Central Government and Regional Governments to support each other in preparing the EBT Protection Law or preparing a database that is used as a reference in making international legal instruments.

#### **4. CONCLUSIONS AND RECOMMENDATIONS**

Axiological analysis of the value contained in Article 38 Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4) UUHC 2014, starting from the ineffectiveness of these regulations in protecting EBT works of traditional batik Surakarta and gringsing cloth Karangasem Bali. The results of the axiological study prove that there is a difference in value between the individual value of exclusive copyright rights and the communal value of EBT works of traditional batik and gringsing cloth. This difference in value gives rise to two conflicting attitudes, namely the attitude of Surakarta traditional batik craftsmen who accept the limited value of the individual exclusive rights of UUHC 2014 in protecting EBT works. In addition, the attitude of the Karangasem Bali gringsing cloth craftsmen who refuse to protect their EBT works with the individual value of the 2014 UUHC exclusive rights. Based on these two attitudes, the attitude of limited acceptance of the individual value of copyright exclusive rights has a more detrimental impact on the Indonesian nation than the attitude that rejects. Therefore, the shift of communal values towards individual values can lead to the loss of sacred meaning, because the shift of EBT into creation, causes EBT protection to be limited in time and is vulnerable to distortion of works that can damage cultural values as cultural identity. So that the loss of sacred meaning can lead to the loss of the nation's culture. In addition to individual values in EBT, it can lead to regionalism which causes national disintegration. To overcome the obstacles arising from the difference in value between the individual value of exclusive rights of UUHC 2014 and the communal value of Surakarta traditional batik craftsmen and Karangasem Bali gringsing cloth craftsmen, the Government needs to make national and international efforts. Nationally, the Government needs to make special regulations in the form of laws that are in accordance with the values that live in indigenous peoples in protecting EBT. In addition, the law is equipped with a licensing mechanism and appoints an authorized institution to take care of licensing, regarding the use of EBT by foreign parties. Another effort that needs to be made by the Government is to increase the participation of the Government by cooperating with fellow Asian countries to determine EBT which is classified as common heritage works. For this common heritage EBT, it is protected jointly by work-producing countries that have cultural similarities. For original Indonesian EBT works, the Central Government together with PEMDA can collect and document in the form of a database, then register with WIPO to be published as an Indonesian sacred work. In addition, it can be used as evidence in the event of a dispute. However, due to the lack of willingness of developed countries in providing opportunities for EBT producing

countries to protect their EBT, the Government needs to cooperate with other EBT producing countries to fight for international legal instruments regarding protection of EBT.

The government needs to make a separate regulation in the form of a law that is in accordance with the values that exist in Indonesian indigenous peoples, to protect communal rights including traditional Surakarta batik and gringsing cloth. In addition, the regulation must be completed regarding the licensing mechanism for the utilization of EBT works by foreign parties and appoint an authorized institution to administer the permit. The Government needs an active role to cooperate with other Asian countries in determining works that include common heritage and protect them together between the EBT producing countries. In addition, there is a need for cooperation with other producing countries to fight for international legal instruments regarding the protection of indigenous peoples' communal rights.

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