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**LAW, BUSINESS
& GOVERNANCE**

23-24

OCTOBER 2013
BANDAR LAMPUNG
UNIVERSITY (UBL),
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PREFACE

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the First International Conference on Law, Business and Governance (Icon-LBG 2013) organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 67 technical papers were received for this conference.

The participants of the conference come from many well known universities, among others : International Islamic University Malaysia, Utrech University, Maastricht University, Unika ATMA JAYA, Universitas Sebelas Maret, Universitas Negeri Surabaya, Universitas Jambi (UNJA), Diponegoro University, Semarang, Universitas 17 Agustus 1945 Jakarta, Universitas Bandar Lampung, Universitas Andalas Padang, University of Dian Nuswantoro, Semarang, Universitas Terbuka, Universitas Airlangga, Bangka Belitung University, President University, Tujuh Belas Agustus University Jakarta, International Business Management Ciputra University, Surabaya, University of Indonesia, Business School Pelita Harapan University, STIE EKUITAS, Bandung, STAN Indonesia Mandiri School of Economics Bandung, Lampung University.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also gratefull to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

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LEGAL PROTECTION OF TRADITIONAL CRAFTS TAPIS LAMPUNG BASED LOCAL WISDOM IN THE ERA OF GLOBALIZATION

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Abstract

New technologies that arise from globalization without pushing the limits of local cultural renewal effort that his form can be imitation, exchange, use new or refurbished, then removes the values contained in the local cultural products. It affects the traditional culture of creativity itself. The challenge for Indonesia is a need for policies that are able to manage the balance between protection, maintenance, and development of handicrafts diversity as cultural heritage. It thus applies to other communities that have similar cultural diversity with Indonesia. There should also be a free atmosphere in the spirit of openness that meeting and exchange of cultural experiences between local and migrant communities will enrich the cultural diversity.

Legal protection of traditional crafts lampung filter based on local wisdom in the era of globalization is a form of legal development in the regional economy, this is done because the traditional craft Lampung filter turns out that ideally should be protected by laws and regulations lack legal protection, but this craft is heritage values have philosophical, spiritual, cultural. Crafting legal protection filter needs to be done in the form of Lampung legal development based on local wisdom, this is done so that the spirit of the values underlying the legal protection capable of blending in the heart Lampung. Fore, this legal protection implies a return of function cloth filter for Lampung society as sacred objects that have symbolic meaning associated with the philosophical and religious beliefs become commodity products trading intelligently.

Keywords : Legal Protection, Crafts Tapis Lampung

1. INTRODUCTION

Challenges of globalization grows for local cultural products should be anticipated with both positive reinforcement and strengthening norms of customary norms (local wisdom), this is done as a legal safeguard of the law irresponsible behavior. Legal protection of traditional crafts utilization tapis Lampung is an important of the cultural heritage of a people that need adjustment as social identity and expression that comes from a people who got an role as a source of creativity and new innovations play an important role in the economic development of the community itself and ultimately to the economic progress of the nation.

New technologies that arise from globalization without pushing the limits of local cultural renewal effort that his form can be imitation, exchange, use new or refurbished, then removes the values contained in the local cultural products. It affects the traditional culture of creativity itself. The challenge for Indonesia is a need for policies that are able to manage the balance between protection, maintenance, and development of handicrafts diversity as cultural heritage. It thus applies to other communities that have similar cultural diversity with Indonesia. There should also be a free atmosphere in the spirit of openness that meeting and exchange of cultural experiences between local and migrant communities will enrich the cultural diversity.¹

Legal issues of traditional crafts lampung filter to be raised in writing this dissertation, include: First, the absence of positive norms (regulations undnagan) which provide legal protection for crafts filter float, besides local wisdom (customary law) which has been the guideline people's lives should not get a place

¹ Kusnaka Adimihardja, *Sistem Pengetahuan dan Teknologi Lokal, dalam Pembangunan Berkelanjutan di Indonesia*, Humaniora, Bandung, 2006, hlm.2

in the eyes of the state, and even local wisdom is less attention in the implementation of the livelihood of the community. Second, craft unprotected filter implies a change in the function of the filter fabric for lampung changed from sacred objects with symbolic meanings associated with the philosophical and religious beliefs being traded commodity products with the goal of mere financial gain.

2. PROBLEMS

Based on the above background to a number of issues concerning the legal protection of traditional crafts Lampung filter based on local wisdom in the era of globalization, namely:

1. Why traditional crafts Lampung filter based on local wisdom is not protected?
2. What implications do not filter Lampung protection of traditional crafts for the development of national law?
3. How the economic development efforts of law Lampung traditional crafts filter based on local wisdom in the era of globalization?

3. DISCUSSION

1. Loss of Philosophical Value Tapis Lampung

Filter fabric in general is a form of womenswear Lampung ethnic patterned sarong woven plain lines that make up the color fields and given a bright color decorative embroidery floss.² The filter fabric used in traditional events kebuwaiyan or clan, the event begawei, cakak pepadun, welcomed the guests and the bride clothes at the time of the marriage ceremony. Every ceremony, instrumental filter fabric or symbol spiritual one's position in society as well as customary.

Behind a fabric tapis, especially on every form of who applied stored the concept of and value of culture who sublime (local wisdom), or with other words every form of motif on cloth tapis not only in the form collection of point, a line, fields of, color, and agambar visual an object who laid out and composed basis artistically, as legacy basis down-generations. But reversed decoration that applied on the fabric tapis contained philosophy of life who become society guidelines his supporters in living the life for achieve life a better, congratulations and prosperous.³

Relationship and interaction between artisans, traders or businessmen, and consumers allowing the creation of new products. Social and cultural contacts also had an impact on the shape and variation of the products, so that the traditional craft lampung filter not only produces products such as sarongs are used as traditional clothing and worn in rituals and religious ceremonies. As the creation of craft products filter lampung diverse forms and products, as an effort to meet the demands, interests, and needs of the community and consumers, then it implies that there has been a change in the function of the filter fabric.⁴

This function shows that the filter fabric is no longer a symbol of social status and become a symbol of holiness own pride for the nation Lampung, filter fabric is no longer a sacred objects and sacred heritage which can protect the wearer from evil spirits and bad influences from the dirt outside the inherited by generations of previous generations.⁵ Based on factual, that local knowledge is contained in the filter craft increasingly weak due diligence protection of the filter, which is based in penormaan laws lack legal protection.

2. Traditional Crafts Tapis Lampung unprotected

Law was created as a tool (instrument) to regulate the rights and obligations of legal subjects so that each subject the law to fulfill their obligations properly and get the right to be fair, but also serves as a legal instrument for the protection of legal subjects, including entity indigenous (customary law). If it is associated with the existence of a country, the law can function as a protector of citizens from acts which may harm the subject of law, either by the government or fellow legal subjects. To institute legal protections for citizens, the holding of regulation (positive law) in accordance with the values of local wisdom (local wisdom) and the performance of the functions of the judiciary to uphold the law and justice as well as a place to seek justice, even when the existence of the law positive and less judicial

² Esther Helena, Eko Wahyuningsih, *Katalog Kain Tapis*, Dinas Pendidikan Provinsi Lampung, Bandar Lampung, 2005, hlm. 2

³ Lili Hartono, *Kain Tapis Lampung: Perubahan Fungsi, Motif dan Makna Simbolis*, Lembaga Pengembangan Pendidikan dan UPT Penerbitan dan Percetakan UNS (UNS Press), Surakarta, 2009, hlm.124

⁴ *Ibid.*, hlm.122

⁵ *Ibid.*, hlm.123

accommodate the values of local wisdom.⁶ According to Wet Sjahran given legal protection is *qonditio sine qua non* in enforcing the law, law enforcement is a *sine qua non qonditio* also to realize the function of the law.⁷

In this context, legal protection is more on the legal protection of geographical indications, understanding or protection of geographical names had been known previously by the term *appellation of origin* and *indication of source*. In the TRIP's agreement specifically addresses the protection of GIs in article 22-24, IG meaning set forth in article 21 (1) Geographical indication are, for the purpose of this agreement, a indication roomates identify goods as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essential attributable to its geographical origin. IG settings on TRIP's emphasis on the use of indications which identify a state's territory, region or areas within the region as the origin of the goods where the goods have a reputation, quality and characteristics of the goods is determined by the geographical factors.⁸

Geographical Indications (GI) itself has meaning:

*A sign used on good that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. The use of geographical indication is not limited to agricultural products. They may also highlight specific qualities of a products with are due to human factors that can be found in the place of origin of the products, such as a specific manufacturing skills and tradisionals.*⁹

WTO imposes limits geographical indications are place names (in some countries also words associated with a place) used to identify the origin and quality, reputation or other characteristics of products (for example, Champagne, Tequila or Roquefort). Which means that the names of places (in some countries also words associated with a place) used to identify the origin and quality, reputation or other characteristic of a product, for example: Champagne, Tequila or Roquefort. IG Definition according to Article 56 Paragraph (1) UUM is an indication of the identity of an item or originating from a place, area or region that specifies the quality, reputation and characteristics including natural factors and human factors are used as attributes of the item. While in the Government Regulation No. 51 of 2007 stated that the geographical indication is a sign that shows the area of origin of goods, which is due to the geographical environment factors including natural factors, human factors or a combination of both factors, providing specific characteristics and quality of the goods generated.

3. Implications unprotected Tapis Lampung Traditional Crafts

Factual, that the law does not function properly in the face of the problems associated with traditional products, even in the case of filter lampung craft this law does not provide protection, because the law is not arranged based on local knowledge, it is becoming a reasonableness filter if handicrafts lampung as entities indigenous Lampung began to shift its function, changes in the function of the filter fabric for lampung changed from sacred objects with symbolic meanings associated with the philosophical and religious beliefs being traded commodity products with the goal of mere financial gain, even mimicking and removal of the philosophical value Lampung. The authoritative legal experience weakness in the face of people's behavior, it is of course due to the lack of positive norms (laws) which provide legal protection, in addition to the indigenous (customary law), which is a way of life people should not get a place in the eyes of state, local knowledge is even less attention by local governments in the implementation of the livelihood of the people Lampung.¹⁰

The business activity should be escorted by setting legal norms and *berkeseimbangan* fair, this arrangement is done because the law is *keunggulan / primacy* (supremacy) has given the law and the function of law functions through the expected life regarding social behavior (attitude) to change direction better, namely discipline, awareness, compliance, social responsibility, fairness, certainty, and social order.¹¹ Law burdened with such a heavy task in the era of globalization given the social changes happening so fast. Acceleration of social change should be able to read and arrested by the order and the

⁶ Ridwan HR, 2006, *Hukum Administrasi Negara*, Rajawali Press, Jakarta, hlm.289

⁷ *Ibid.*, hlm.290

⁸ *Ibid.*, hlm. 386.

⁹ *Indication of source*, diunduh dari <http://www.wipo.int/>, pada tanggal 30 Desember 2010

¹⁰ Sri Rejeki Hartono, *Orientasi ke Arah Pengelolaan Investasi (Sebuah Langkah Pemikiran Awal)*, dalam *Permasalahan Hukum Investasi di Era Global*, Penerbit Universitas Lampung, Bandar Lampung, 2007, hlm.2

¹¹ Endang Sutrisno, *Bunga Rampai Hukum dan Globalisasi*, Genta Press, Yogyakarta, 2007, hlm.116

rule of law. If the law is not able to capture the signs of social change that happens, the law will stop at one point and ended up being overlooked law.¹²

4. LEGAL DEVELOPMENT EFFORTS

a. Pancasila as the Law Development Foundation

Pancasila seen as the ideal law (Rechtsidee) is a guiding star, this position requires the establishment of national law is to achieve the ideas in the Pancasila.¹³ This is ideally done by konkritisasi Pancasila values in norms of legislation, because it is undeniable that the Pancasila as the state ideology and worldview nations often experience ups and downs of development, but it is worth remembering that the tides were not caused weakness value principles of Pancasila, but rather leads to the consistent implementation of the values in the life of the nation of Indonesia.¹⁴

Pancasila as a whole should be seen as a "national guidelines", as a "national standard, nomr and principles that also includes" human rights and human responsibility ".¹⁵ Pancasila can also serve as a margin of appreciation as boundary or edge line of respect for the law is life in a pluralistic society (the living law) so that it can be justified in the national law of life. In view of jurisprudence Muladi that character should be able to leverage the Pancasila as the paradigm and the margin of appreciation that the formation of the theory and practice of law in Indonesia should be based on universal ethical precepts contained in-shit in Pancasila, namely:¹⁶

- 1) Not to be contrary to the principles of the Supreme Godhead order that respects religious life, religious feeling, and religion as a major interest;
- 2) Respect the values of human rights both civil rights and political dna of economic, social, and cultural, and within the framework of relations between nations should respect "the rights to development".
- 3) Must be a national unity based on respect for the concept of "civic nastionalism" who appreciates pluralism;
- 4) Should respect the index or "core value of democracy" as a means of "democracy audit"
- 5) Had to put "legal justice" in terms of "social justice" and the relations between nations in the form of the principles of "global justice".

b. Law of Economic Development Based Local Wisdom

Legal studies and local knowledge, is tantamount shows how the values and local wisdom has been functioning as a new approach in the study of law. By I Gede AB Wiranata local knowledge as an element of a substantial and dominant as the basis of social behavior in the global era, it will eventually bring behavior (one of roomates is a cultural behavior) roomates, if done continuously will get labeled as legal culture. Is grammatically local knowledge (local wisdom) consists of two words, namely wisdom (wisdom) and local (local), whereas local means local wisdom with wisdom. General Secaar local wisdom can be understood as local ideas that are thoughtful, full of wisdom, good value, roomates is embedded and Followed by members of the community.¹⁷

Local knowledge (local genius) is a truth that has been a tradition or monotonically in a region. Local knowledge is the implementation of a combination of the values that are sacred recognized and correlated with existing values. Local knowledge is formed as a local culture of excellence and geographical conditions in a broad sense, local knowledge is pdouk cultural past that should be tersu constantly hold onto life, even though the local value but the value contained in it is considered universal. The characteristic local knowledge, include: able to withstand foreign cultures, has the ability to accommodate

¹² Ibid., hlm.117

¹³ Jimly Asshiddiqie dan Ali Safa'at, *Teori Hans Kelsen Tentang Hukum*, Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI, Jakarta, 2006, hlm.23

¹⁴ Endang Sutrisno, *Op.Cit.*, hlm.96

¹⁵ Muladi, *Pancasila Sebagai Margin of Appreciation Dalam Hukum Yang Hidup di Indonesia*, dalam Gunawan Muhammad dan Muamar Romadhan (ed), *Menggagas Hukum Progresif Indonesia*, Pustaka Pelajar, IAIN Walisongo, dan PDIH Undip, Yogyakarta dan Semarang, 2006, hlm.102

¹⁶ Ibid., hlm.104

¹⁷ I Gede AB Wiranata, "Masyarakat, Budaya Hukum, dan Kearifan Lokal di Era Globalisasi", makalah disampaikan dalam kegiatan sosialisasi UU ITE, Keterbukaan Informasi Publik, Pemberantasan Korupsi, dan Budaya Hukum Propinsi Lampung, Hotel Indra Puri, Bandar Lampung, Rabu 4 November 2009.

the elements of foreign cultures, has the ability to integrate elements of foreign culture into the native culture; has the ability to control, and able to give direction to the development of culture.¹⁸

In the view of John Haba, local knowledge refers to a variety of cultural treasures that grow and thrive in a society known, trusted, and are recognized as important elements that can strengthen social cohesion among citizens, based on an inventory of John Haba, there are 6 (six) significance and function of local wisdom, namely: first, as a marker of identity of a community, secondly, the element of adhesive (cohesive aspect) cross-residents, inter-faith, and belief; third, local wisdom and not coercive or from above (top down), but a cultural elements that exist and live in the community. Fourth, local knowledge gives colors together for a community; fifth, local wisdom will change mindsets and interrelationships of individuals and groups, placing it in the cultural common ground owned. Sixth, local wisdom can serve promote the development of community, appreciation as well as a joint mechanism to ward off the possibility that reduced the range, even destructive of communal solidarity, which is believed to have originated and grown over the collective consciousness of an integrated community.¹⁹

The values of local wisdom of this kind at least we can be a reference in looking at the extent to which they view the benefits that can be picked and criticized the values that are not relevant and less useful for our lives. Kebersamaan values and the preservation of traditional cultural arts traditions we should keep our guard and preserve. Benefits from the perspective of indigenous practices: (1) the traditional thinking, between society and the natural environment turns out there is always a sense of harmony in which the interdependence between humans also are harmony to the environment, (2) in the atmosphere dependence menghasruskan a community for bersikap tidak master, but to be more attuned to the natural environment, so that they become wise and environmentally friendly, (3) implementation through artistic means to strengthen their cosmological view.²⁰

c. Craft Development Law Tapis Lampung Lampung Based Local Wisdom

Indigenous peoples is an autonomous public entity, ie they set the system life (law, politics, economics), he was born and developed with and is maintained by the community itself.²¹ Lampung people have local knowledge Pi'il Pesenggiri based philosophy of life which is to regulate the social order and the social humanism and values characteristic of a particular position. This gives an understanding that philosophy (wisdom) is a conceptual idea that living in the community, grow and develop continuously in the public consciousness, serves to regulate the lives of people associated with the nature of life is sacred to the formal patterns of life.

The two groups had differences in the use of language or dialect, the dialect used nyow pepadun community and dialect Saibatin fire developed in the community, but the philosophy of the two groups were essentially the same, namely: philosophy of life Pi'il Pesenggiri. Pi'il Pesenggiri is a moral order is a guideline Lampung people behave and act in all his activities. Philosophy of life Lampung since formed and well-organized indigenous peoples is Pi'il pesenggiri. Pi'il (ficial = arabic) mean behavior, and moral meaning Pesenggiri high, high-minded, know yourself, know the rights and obligations. Pi'il Pesenggiri is the potential for local knowledge in the area of socio-cultural context that has meaning as a source of motivation for everyone to dynamic in an effort to fight for positive values, esteemed and valued life in the midst of society. As a consequence to fight for and defend the honor of public life, then society Lampung obliged to control behavior and maintain its good name to avoid attitudes and actions are not praiseworthy. Pi'il Pesenggiri as a symbol of honor must be maintained and lived according to the greatness that carried Juluk Adek, spirit nemui nyimah, nengah nyappur, and Sakai sambaiyan in order Titie Gemattei norm.²² In summary Pi'il Pesenggiri elements that can be described as follows:²³

a. Juluk-Adok

Etymologically Juluk-adok (customary title) consists of words and adek juluk, each of which has a meaning: Juluk is a family nickname of a man / woman who is given the time they are young or unmarried teens, and Adek meaningful degree / custom nickname of a man / woman who are married

¹⁸ I Gede AB Wiranata, "Masyarakat, Budaya Hukum, dan Kearifan Lokal di Era Globalisasi", makalah disampaikan dalam kegiatan sosialisasi UU ITE, Keterbukaan Informasi Publik, Pemberantasan Korupsi, dan Budaya Hukum Propinsi Lampung, Hotel Indra Puri, Bandar Lampung, Rabu 4 November 2009.

¹⁹ Irwan Abdulan (ed), *Agama dan Kearifan Lokal dalam tantangan Global*, Sekolah Pascasarjana UGM dan Pustaka Pelajar, Yogyakarta, hlm.7-8

²⁰ *Ibid*

²¹ Ade Saptomo, *Hukum dan Kearifan Lokal: Revitalisasi Hukum Adat Nusantara*, Grasindo, Jakarta, 2010, hlm.

²² I Gede AB Wiranata, *Loc.Cit.*

²³ *Ibid*

through traditional degree-granting procession. Juluk-Adek is the right of members of the community Lampung, therefore Juluk-Adek a major identity attached to the individual concerned.

b. *Nemui-Nyimah*

Nemui derived from a word meaning encountered, whereas the mean *nemui* *mertamu* or visit / relationship. *Nyimah* derived from the word "simah", then became the "nyimah" which means like giving (quixotic). While *nemui-nyimah* literally interpreted as a gesture of generous, open-handed, loves to give and receive in the sense of material according to ability. *Nemui-nyimah* a family basis to create an attitude of familiarity, harmony, and friendship that is based on a sense of sincerity to create a harmonious life.

c. *Nengah-Nyappur*

Nengah means to be in the middle, while *nyappur* *cappur* noun derived from a verb meaning *nyappur* diffuse or mingle. It literally can be interpreted as a gregarious attitude, love and tolerance among fellow friends. *Nengah-nyappur* Lampung illustrate that community members put a sense of family and supported with a friendly attitude and a love hanging out with anyone, no distinction of race, religion, level, and class origins

d. *Sakai-Sambaiyan*

Sakai means giving something to a person or group of people in the form of objects and economically valuable services which in practice tends to require mutually reciprocated. While significant *sambaiyan* give something to someone, a group of people or to the public interest is socially shaped objects and services without expecting something in return. *Sakai sambaiyan* means mutual help and mutual support, it means understanding the meaning of togetherness or *guyub*.

e. *Titie Gemattei*

Gemattei Taylor, Taylor comes from the word meaning *titi* road, and *gemantie* means unusual or ancestral customs that are considered good. Taylor *gemanttei* in a concrete manifestation in the form of norms unwritten customs of indigenous peoples, which are formed on the basis of agreement of indigenous peoples through a special forum (*Meeting Perwatin Indigenous / Keterem*).

Lampung is the local wisdom then used as the basis of policy making by local governments in providing legal protection for traditional products in the land of his birth, for wisdom is certainly going to provide an alternative way in order *penormaan* positively in the era of globalization, so that the soul of the nation's local knowledge will protected by the positive *penormaan*. In the sense that the craft would be a filter Lampung land for the welfare of indigenous peoples in particular, so the implications of legal protections based on local wisdom this would make a solid legal and wise laws for the people of Lampung.

4. CLOSING

1. Conclusion

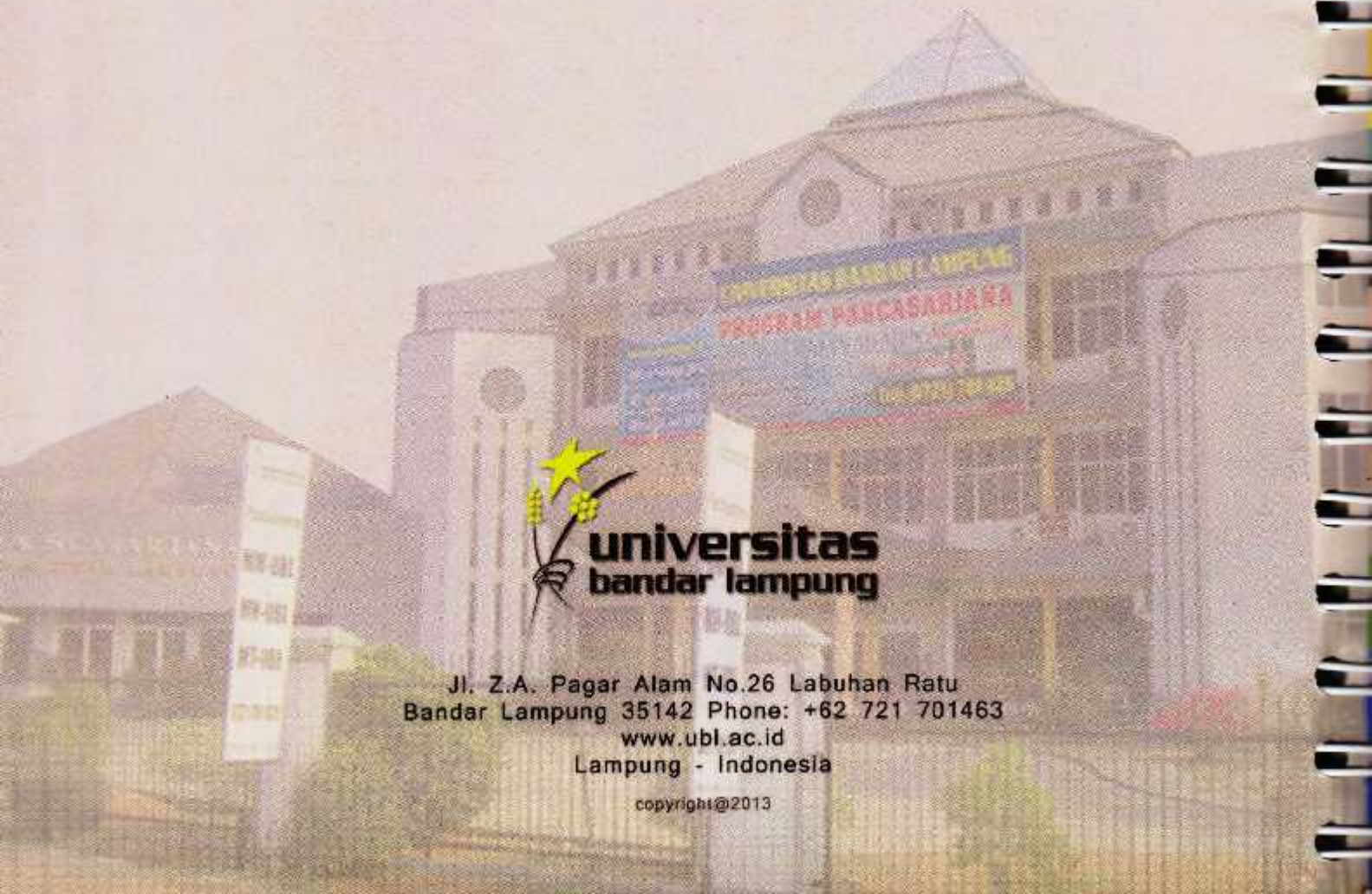
Legal protection of traditional crafts Lampung filter based on local wisdom in the era of globalization is a form of legal development in the regional economy, this is done because the traditional craft Lampung filter turns out that ideally should be protected by laws and regulations lack legal protection, but this craft is heritage values have philosophical, spiritual, cultural. Crafting legal protection filter needs to be done in the form of Lampung legal development based on local wisdom, this is done so that the spirit of the values underlying the legal protection capable of blending in the heart Lampung. Fore, this legal protection implies a return of function cloth filter for Lampung society as sacred objects that have symbolic meaning associated with the philosophical and religious beliefs become commodity products trading intelligently.

2. Suggestion

- a. Need for legal protection in the form of local regulation Lampung Lampung filter that protects the craft
- b. There needs to be development of law in the form of legal protection filter based on local wisdom Lampung
- c. Need the involvement of indigenous peoples in the implementation of the legal protection Lampung craft Lampung filter.

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