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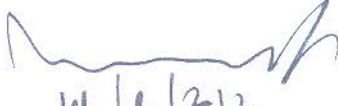
**INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL
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**WIPO INDIGENOUS PANEL ON THE ROLE OF THE PUBLIC DOMAIN CONCEPT:
EXPERIENCES IN THE FIELDS OF GENETIC RESOURCES, TRADITIONAL KNOWLEDGE
AND TRADITIONAL CULTURAL EXPRESSIONS: EXPERIENCES FROM INDONESIA**

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REFORMING 'PUBLIC DOMAIN'

The Role of Public Domain in Indonesian Cultural Community:
The Cases of Legong Keraton Peliatan Balinese Dance,
Sumba Woven Clothes, and Ulin Kalimantan Timber

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Indonesia

1. Indonesia as a Cultural Community

This presentation would be based on a view that the examples of Traditional Cultural Expressions explained in this paper are geographically originated from Indonesian archipelago. Thus, as a nation which are bound by the same socio-political and cultural history, Indonesia is also regarded as a big cultural community that includes hundreds of ethnic groups, tribal peoples, and traditional as well as local communities, where thousands of Traditional Knowledge, Traditional Cultural Expressions and millions of Genetic Resources related to Traditional Knowledge are situated and maintained from generation to generation by Indonesian people.

Although Indonesia now is known as a form of a modern state, the development of its original social-political and cultural jurisdiction is mainly rooted from the archipelagic traditional concept of the unity of Nusantara ('*nusa*' means islands, '*antara*' means the spaces between the islands). Epics about the vow of Gajah Mada from Majapahit Kingdom to unite thousands of islands of Nusantara under Java empires strongly indicate that this concept had been established hundred years before the first ship from Europe 'found' Indonesian archipelago in the 16th century.

Currently, legal bases of this view are written in article 32 and 33 of the 1945 Constitution of the Republic of Indonesia. Article 32 (1) of 1945 Constitution assures that the state develops Indonesian national culture in the world's civilization and guarantees the freedom of the people to maintain and enhance their cultural values, while article 33 (3) of the Constitution substantiates that a power upon lands, water and all incorporated natural resources in Indonesian jurisdiction is held by the state for the utmost welfare of Indonesian people.

These constitutional bases are in line with the concept of *the spirit of nation* from Friederich Carl von Savigny. Savigny believes that there is one spirit of a nation which are expressed in languages, behaviors and organizational means, which characterize their ideology and cultures, and are rooted from the same historical experiences. Ruth Benedict calls the map of these expressions as *the pattern of culture* of a nation¹. The views of these scholars ascertain that a nation, like Indonesia, can also be regarded as a cultural community that possesses its own unique and evolving cultural expressions.

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¹ Merryman, John Henry, *The Civil Law Tradition* (1969) 2, in Henry W. Ehrmann, *Comparative Legal Studies* (1976) 8, see also: Cita Citrawinda Priapantja, *Budaya Hukum Indonesia Menghadapi Globalisasi, Perlindungan Rahasia Dagang Di Bidang Farmasi* (Indonesian Legal Culture in Globalization, the Protection of Trade Secret in Pharmacy) (1999) 199.