

ABSTRACT

This research aims at analyzing the limitation of copyright protection. To visualize the idea, this analysis elaborates the philosophy of copyright limitation, the limitation criteria both in conceptual approach and regulation. This research is important because Indonesia has a unique concept of property right called “social functioned property right/social function in property right.” The social function in copyright is reflected in the copy right limitation which aims at balancing the legal protection for copyright owners/holders and the benefit /utility for society. This is a legal research using conceptual, statute and historical approaches.

The results of the research can be classified: firstly, the philosophical basis on copyright's. Secondly, juridical character of copyright's in Indonesia, limitation of copyright as the reflection of social function in Indonesia differs both in civil law system which is acknowledged as “limitation’ and common law system as “fair dealing” concept. At the first result of research, it can be argue that the copyright limitation in Indonesian concept acknowledges the principle of communalism/relatives i.e. the limitation of property right derives from existing concept of right itself. In the concept of social functioned property right, the right owners has self consciousness that there is a room for public/others interest in their property rights. Therefore, limitation in copyright act only confirms the existing values in Indonesian society. Thirdly, criteria of limitation and exception of copyright that mentioned in Copyright Act is not consistent, usage and the object.

Keywords : social function, copyright, limitation, exception