CHAPTER I

INTRODUCTION

1.1. Background

An ideal and perfect state, according to Socrates[1] and Plato,[2] is that firstly, it should be carried out by specially educated officers, secondly, the government should show everything to the public, and thirdly, the people should ideally make a perfect moral life. When reading the 1945 Constitution, we see in the preamble that it states that in relation to Indonesia's independence, they are to "therefore the independence of Indonesia shall be formulated into a constitution of the Republic of Indonesia which shall be built into a sovereign state…". The Republic of Indonesia is, as stipulated in Article 1 (3) of the 1945 Constitution, "Indonesia shall be a state based on the rule of law" which entails that Indonesia is a country based on law (*rechtsstaat*) and that it is not based on power on its own (*machsstaat*).[3]

According to Padmo Wahyono, an expert on the General Theory of State, the definition of the concept of Lawful State (*rechtsstaat*)[4] is that:

1) The state stands above the law that ensures justice for its citizens;
2) Respectful of human rights;
3) The existence of the democratic institutional mechanism of the state;
4) There exists a legal system.

[1] Plato. *The Republic*, (Victoria: Penguin books, 1955).
[2] *ibid.*
[3] Elucidation of the Transitory Provisions of the 1945 Constitution.
[4] Wahyono, Padmo. *Indonesia Negara Bedasarkan Atas Hukum*, (Jakarta: Ghalia Indonesia, 1983).

In addition, Oemar Seno Adji, the former chief justice of the Indonesian Supreme Court, further elaborated that Lawful State (*rechtsstaat)*[5] is as stated by the following:

1) Based on the recognition of human rights;
2) Trias Politica;
3) Rule of Law;
4) There is an administrative court;
5) Equality before the law for all people;
6) A Constitution that is based on human rights;
7) Principle to overcome all obstacles.

The idea of the Rule of Law primarily began with Plato with his concept:[6]

> "…that good state administration is based on good (law) arrangements which are called *nomoi*"

Then the idea of a rule of law began to be popular in the 17th century as a result of the political situation in Europe which was dominated by absolutism. In its development, the understanding of the rule of law cannot be separated from popular understanding. Because in the end, the law that regulates and limits the power of the state or government is defined as a law made on the basis of the power and sovereignty of the people. In relation to the rule of law, people's sovereignty is a material element of the rule of law, in addition to the problem of people's welfare."[7]

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[5] Adji Seno, Oemar. *Peradilan Bebas Negara Hukum*, (Jakarta: Erlangga, 1985).
[6] Parker, David. *"Sovereignty, Absolutism and the Function of the Law in Seventeenth-Century France*." Past & Present, Oxford University Press (1989). http://www.jstor.org/stable/650951.
[7] *ibid.*

According to A.V. Dicey —a known British jurist and constitutional theoris — the Rule of Law has 3 (three) important characteristics, which are:[8]

1) The supremacy of law in the sense that there should be no arbitrariness (Supremacy of Law);

2) Equality before the Law;

3) Guaranteed human rights in the law. Laws and/or court decisions (Due Process of Law).

The conception of the "welfare state" dates back to the 18th century when it was popularized by Jeremy Bentham — a known legal philosopher — where he shared that the government has a responsibility to ensure the greatest happiness — or welfare — of the greatest number of their citizens.[9] Bentham's claim that "*the greatest happiness is for the greater number*" then was the foundation of utilitarianism, and the utilitarian approach of legal theory in general, that is also popular within the scope of legal positivism.[10] By using his utilitarian approach, he believes that if something were to achieve more pleasure or happiness, then it is good.[11] Bentham vouches for legal reform, where the role of the constitution is aimed for the development of social policy, hence being labeled as the "father of the welfare state."[12]

[8] Andriyan, Dody Nur. *Hukum Tata Negara & Sistem Politik*, (Indonesia: Deepublish, 2016), p.37.
[9] Bessant, Judith, Rob Watts, Tony Dalton and Paul Smith, *Talking Policy: How Social Policy is Made*, (London: Routledge, 2005).
[10] *ibid.*
[11] *ibid.*
[12] *ibid.*

At the end of the 19th century, in Western Europe, the concept of a "welfare state" was developed, a concept in which the state prioritizes the public interest. The development of the welfare state in Europe occurred after the First World War and was then further developed in 1974 and was referred to as "*Verzorgingstaat*". The characteristics of *Verzorgingstaat* is such as the state providing social security to the entire population, such as unemployment benefits, health care, subsidies and so on. It is advisable that the state must be active in managing the areas of community life and anticipating the tendency for social change. The goal is to maintain a balance of various interests and to strive to improve social welfare based on the principle of justice. During the Dutch colonial rule, the role of state administration was still very limited, especially as a means of maintaining security and legal order for efforts to collect resources from the land of Indonesia — at that time known as the Dutch East Indies — for the benefit of the government and the Dutch people.[13]

According to Gøsta Esping-Andersen, a Danish sociologist in the 1990s, the main principles of the welfare state consist of:[14]

1) the recognition of the social rights inherent in every citizen (social citizenship), to promote social welfare and security for the lower and more unfortunate to get greater benefit;

2) complete democracy;

[13] Thoha, Miftah. *Dimensi-dimensi prima ilmu administrasi negara. Rajawali*, 1984.
[14] Esping-Andersen, G. *The three worlds of welfare capitalism.* Princeton University Press, Princeton, 1990.

3) modern industry-based socio-economic system relations, in order to prevent of harmful effects to the functions of market economy, especially the one unfavorable to those who are in the lower social and economical hierarchy;

4) the right to education with the extensive expansion of the modern education system, along with the distribution of prosperity and opportunities for all in a fair and even manner.

The four principles in the above shows that the welfare state stands on the foundation of the important role of the state in carrying out the principles of social justice, solidarity and equality on the formal social foundation of a capitalistic society.

Along with the principles, the 6 (six) fundamental objectives of the welfare state concept is namely:[15]

1) Economic growth;

2) Ample job;

3) Opportunities;

4) Price stability;

5) Development;

6) The expansion of the social security system and the improvement of working conditions, capital distribution and common welfare, and the promotion of diverse social and economic interests and groups.

[15] *ibid.*

Indonesia declared its Independence as part of the Opening Remarks to the 1945 Constitution of the Republican State of Indonesia ("UUD 1945") which reads as verbatim:

> *Then rather than that, to form an Indonesian state government that protects the entire Indonesian nation and all the blood of Indonesia and to promote public welfare, educate the nation's life, and participate in implementing world order based on independence, eternal peace and social justice, Indonesia's national independence was compiled. that is in the constitution of the Indonesian state, which is formed in a state structure of the Republic of Indonesia which is sovereign of the people based on: Almighty Godhead, just and civilized humanity, Indonesian unity and society led by wisdom in deliberation / representation. , as well as by realizing social justice for all Indonesian people.*

Based on the foregoing, the 1945 Constitution therefore regulates the structure of the State and is further complemented with Article 1(3) of the UUD 1945 where, '*the State of Indonesia shall be a State based on the rule of law*', with stating that the one of the main objectives of the state is to bring welfare to its people, and the government being the main actor of authority in pursuing welfare state.

In this context, Article 27 Paragraph (2) of the Transitory Provisions of the 1945 Constitution also reflects the welfare state principles, as it states that "*Every citizen shall have the right to work and to earn a humane livelihood.*" — followed by Article 28A under the Human Rights clause — "*Every person shall have the right to live and to defend his/her life and existence.*"

In the Human Rights section of the 1945 Constitution, the respect and protection of human rights is even highlighted in Article 28 I (3), which read as the following:

> "The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilizations."

Additionally, Chapter XIV of the 1945 Constitution gives further emphasis on the conception of state law in the aims to achieve welfare state, wherein Article 34 elaborates that Social Welfare shall be as verbatim:

> *(1) Impoverished persons and abandoned children shall be taken care of by the State.*
>
> *(2) The state shall develop a system of social security for all of the people and shall empower the inadequate and underprivileged in society in accordance with human dignity.*
>
> *(3) The state shall have the obligation to provide sufficient medical and public service facilities.*
>
> *(4) Further provisions in relation to the implementation of this Article shall be regulated by law.*

According to Mubyarto, XIV of the 1945 Constitution shows a causal relationship that became the basis for the ratification of the 1945 Constitution by the founders of the country, because the good or bad of the National Economy will determine the level of social welfare.[16]

Esping-Andersen, explained in his political theory book that the welfare state is more frequently associated with attributes of service policy and social

[16] Asshiddiqie, Jimly. *Hukum Tata Negara & Pilar-Pilar Demokrasi*,(Jakarta: Konstitusi Press, 2005), p.124.

transfer made available by the state or government to the people, suggesting services on education, income transfer and poverty combat so that both welfare of the state and social policy are commonly identical.[17] In his view, social policy may be applied without the presence of a welfare state, though, on the other hand, a welfare state would always need social policy to support its existence.[18]

It could be said that the concept of welfare state is that of an 'ideal' model of provision, as it illustrates that "the state and government accepts accountability for the provision of comprehensive and universal welfare for its people."[19] A modern welfare state, according to T.H. Marshall — an English Sociologist, is a distinctive combination of democracy, welfare, and capitalism. He also mentioned that citizenship must encompass access to social, as well as to political and civil rights,[20] where one isn't interchangeable to the other. As mentioned in the above, Indonesia incorporates the welfare state ideology to its constitution, and as such we are able to see it reflected across its numerous laws. Also noting that the government —and the state itself— is the main actor in pursuing and achieving a welfare state, as every one of their affairs are carried out with the intention of ensuring the welfare of the people and ensuring its own interest.[21] We can see this in the birth and creation of government functions in public services.

[17] Esping-Andersen, G. *The Three Worlds of welfare capitalism.* (Princeton University Press, 1990).
[18] *ibid.*
[19] Spicker, P, *Welfare States, An introduction to Social Policy,* (Policy Press, 2021).
[20] Marshall, Thomas Humphrey. *Citizenship and Social Class: And Other Essays by T.H. MARSHALL,* (University Press, 1950).
[21] Mas'udi, Wawan, and Hasrul Hanif. "Welfare Politics in Contemporary INDONESIA: Examining WELFARE Vision of Law 11/2009." *PCD Journal*, vol. 3, no. 1-2, 2017, p. 95., doi:10.22146/pcd.25742.

As mentioned above, the Welfare state also involves there being a transfer of funds between the state and the service function of the state that involves health care, benefits, and education.[22] This is made possible through being funded by the redistribution of the taxation, and it is referred to as a type of mixed economy. This aids in the aims to reduce the wage and income gap between the upper and lower income class. The benefits mentioned would also refer to welfare benefits such as pensions and unemployment benefits, along with welfare services such as child and health care services. These services are implemented in laws such as:

1) Decree of the Minister of Social Affairs of the Republic of Indonesia No. 185/HUK/2016 regarding Forum of Social Responsibility of Business Agency, as an effort to accelerate the achievement of the social welfare development;

2) Law Number 11 of Year 2009 regarding Social Welfare;

3) Law Number 4 of Year 1979 regarding Children Welfare.

Through these provisions, the concept of welfare state is therefore sufficient in the distribution of the wellbeing and personal autonomy amongst the public, whilst also influencing how the public would live a more upstanding daily life.

The issue regarding the protection of Intellectual property — and intellectual property law itself — has recently become a source of the promotion of social welfare. In its core, intellectual property law is motivated by a utilitarian approach, as Intellectual property aims to benefit everyone, may it be the inventors who submitted the property, or the people who enjoy said property.[23] Intellectual

[22] Thoha, Miftah. *Dimensi-dimensi prima ilmu administrasi negara,* (Jakarta: Rajawali, 1984).
[23]WIPO, *What is Intellectual Property?*, 2020.
<https://tind.wipo.int/record/42176>

property and its branches recognize the "cultural and social importance" of the submitted properties — along with its economic value — and this directly goes towards the direction of social welfare.[24]

Though, through the years, there is constantly the abuse of intellectual property laws, especially in the field of culture. Culture — in this sense — goes beyond the arts, as customs, society, tradition and traditional knowledge falls into this category.[25] The existing system has left an open opportunity for big corporations to abuse the submission system for capitalistic interests, leaving the small enterprises along with the community to be crippled and shut down, hence going against the ideology of social welfare.

One of the areas of intellectual property law that is handicap regarding the above context are Trademarks. By definition, trademarks, in intellectual property rights, are marks or signs which are in the form of images, names, words, letters, numbers, the composition of colours, or a combination of the elements that have different power and use in activities, items, or services.[26] The word in itself has made itself a home in mainstream media. Having used the (unregistered) Trademark symbol, "™ ", on catchphrases written on social media platforms because of the frequency in which the word is uttered on a day-to-day basis. This is especially popularized by major corporations such as Walt Disney Co., which has filed and

[24] *ibid.*
[25] WIPO, *Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities,* 2017. < https://tind.wipo.int/record/28997> accessed May 2020.
[26] Article 15 paragraph (1), Section 2 TRIPs Agreement

granted trademarks ranging from made-up catchphrases to catchphrases of cultural significance.

"*Hakuna Matata*" a famous Swahili saying that means "No Worries", was granted the Trademark to Disney in 1994 (and renewed as of 2013) for their animated feature, "*Lion King*".[27] This granting had been a topic of dialogue in more recent times due to the renewal of the Trademark for the live-action remake of the "*Lion King*" in 2019. More than 100,000 people had signed petitions in the hopes for Disney to 'drop' the rights for "*Hakuna Matata*" as they claim that 'it is not a Disney Creation, hence not an infringement on the intellectual or creative property, but an assault on the Swahili people and Africa as a whole.'[28]

Cultural Appropriation, based on the Oxford dictionary, is the act of taking or using of intellectual property, cultural expression or artifacts, history, and ways of knowing or knowledge by somebody from a more dominant group in society.[29] Its legal relations with Trademark can be traced back to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the UNESCO in 2005 as they have set up their definition of "cultural expression" as "expressions that result from the creativity of individuals, groups, and societies, and which have cultural content." The 2005 convention was made with the intent of promoting the diversity of cultural expressions in international cultural policy, and that the cultural

[27] "Hakuna Matata Trademark of Disney Enterprises, Inc. - Registration Number 2700605 - Serial Number 74558335 :: Justia Trademarks." Justia, <trademarks.justia.com/745/58/hakuna-74558335.html> accessed in December 2021.
[28] Freytas-tamura, Kimiko De. "Hakuna Matata™? Can Disney Actually Trademark That?" *The New York Times*, The New York Times, 20 Dec. 2018
[29] Skeggs, Beverley. *Class, Self, Culture,*(Routledge, 2003).; Oxford Learners Dictionaries. "Cultural Appropriation". <https://www.oxfordlearnersdictionaries.com/definition/english/cultural-appropriation?q=cultural+appropriation>

and economic expressions by artists and cultural professionals will be protected. This would also recognize the sovereign rights of states to maintain, adopt and implement policies to maintain, adopt and implement policies to protect and promote diversity of cultural expressions, on a national and international scale.[30] This is followed by the World Intellectual Property Organisation ["**WIPO**"] with the definition of "music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts, and narratives, or any other artistic or cultural expressions."

In branded products, goods and services based on traditional knowledge and traditional cultural expressions can also be a tourist attraction. Tourists can be offered to visit a tourism destination that produces a product (goods and services) based on traditional knowledge and traditional cultural expressions that have used the Mark as a medium to promote it. For example when compared to other countries, people will be attracted to visit the Champagne region, a region in northeastern France whose wines are with Belgium, the places where it is produced is world famous with the same (Mark) name.[31]

It should be noted that this issue is not a foreign one in Indonesia, seeing that it was reported that throughout 2019 the Ministry of Law and Human Rights had received around 47 complaints on trademark infringement along with patents

[30] UNESCO. "The Convention on the Protection and Promotion of the Diversity of Cultural Expressions." *Diversity of Cultural Expressions*, 24 September 2019. <en.unesco.org/creativity/convention.>

[31] Antariksa, Basuki. *Kementerian Kebudayaan dan Pariwisata: PELUANG DAN TANTANGAN PERLINDUNGAN PENGETAHUAN TRADISIONAL DAN EKSPRESI BUDAYA TRADISIONAL,* (Jakarta: Kementerian Kebudayaan dan Pariwisata, 2011).

and copyright infringements.[32] As seen from the Indonesian Kopitiam dispute, wherein a common term that is already deeply interrelated with the culture and was trademarked by an Indonesian businessman named Abdul Soelystio who had registered the Kopitiam name as his own brand in 1996 and currently is still the holder of the exclusive rights of the Kopitiam name. The term 'Kopitiam' roughly translates as/or is a generic term for Chinese coffee shops. This is widely known in the South East Asian region and is familiar seeing that they can be found across the region. After the granting of the brand, many Kopitiam restaurant owners were reluctant to change their names. Some even went as far as to sue the party that had granted and issued the trademark license, while also suing Abdul Soelystio for the Kopitiam brand.

One of the many problems regarding both the lawsuits and the court decision on the Kopitiam dispute is that it tends to overuse Article 5 (c) & (d) of the Law Number 15 of Year 2001, wherein even Abdul Soelistyo often comments on how ridiculous the situation is, seeing that he is the recipient of the lawsuit.[33] Based on the above case, many parties are of the opinion that the Kopitiam should not be used as a brand because due to it being a known and generic word that is already embedded in the culture. In addition, many parties also say that Abdul Soelistyo is too capitalist by maintaining the exclusive Kopitiam brand for him. A rebuttal of said claim often uses the Indonesian brand "*Aqua*", seeing that the trademark is

[32] CNN, "Pelanggaran Merek Paling Banyak Diadukan Ke Kemenkumham." Teknologi, 31 Dec. 2019.
<www.cnnindonesia.com/teknologi/20191231141341-185-461331/pelanggaran-merek-paling-banyak-diadukan-ke-kemenkumham.>

[33] Putusan Mahkamah Agung RI Nomor 179 PK/Pdt.Sus/2012 tertanggal 20 Maret 2013; Putusan Pengadilan Niaga Jakarta Pusat Nomor 32/Merek/2012/PN.Niaga.Jkt.Pst

registered in Indonesia and is not a description of an item even though it is common knowledge that "*Aqua*" means Water,[34] as the product being sold is bottled water.

Another case that is somewhat similar to the Kopitiam case, is the RM Sederhana Bintaro case of 2014. The Commercial Court at the Central Jakartan District Court had carried out the deletion of the wording "Sederhana" on RM Sederhana Bintaro's name, in accordance with Decree letter No: 074/2011/EKS. The RM Sederhana brand is an established and well-known restaurant in Indonesia that sells Padang cuisines, and the plaintiff, Haji Bustaman, is the legal owner of said brand.

The Judge of the Commercial Court had mentioned that the execution of the decision was on the basis of the decision of the Judicial Review Verdict of the Republic of Indonesia dated October 5, 2009, No. 077 PK / Pdt.Sus / 2009 Jo. Decision of the Supreme Court of the Republic of Indonesia on December 10, 2008, No. 764 K / Pdt.Sus / 2008 Jo. Decision of the Commercial Court in the Central Jakarta District Court No. 27 / MEREK / 2008 / PN.NIAGA.JKT.PST[35] dated 15 September 2008 which has permanent legal force, also with regards to the fact that RM Sederhana Bintaro had ignored the initial notice on the change of the usage of the word "Sederhana" on their brand, hence why it was forcibly taken from them. There was criticism that this was done rather rashly, as RM Sederhana Bintaro legally owned the name for RM Sederhana Bintaro. This, however, would be a fruitless argument because nonetheless, RM Sederhana had registered their brand

[34] Putusan Mahkamah Agung RI Nomor 94/Pdt/2001/Pn.Jkt.Pst
[35] Putusan Mahkamah Agung RI No. 764 K / Pdt.Sus / 2008 Jo. Decision of the Commercial Court in the Central Jakarta District Court No. 27 / MEREK / 2008 / PN.NIAGA.JKT.PST

prior to RM Sederhana Bintaro and that the latter could only use the SB logo seeing that it was not registered by the former. Further, Indonesia applies the system of *first to file* as of Article 6(3) of the Paris Convention along with Article 16(1) of the Trade Related Aspects of Intellectual Property Rights ["**TRIPS**"] which is then adopted to the Law Number 20 of Year 2016 regarding Trademark, so whomever applied for the copyright or trademark first, will be the owner.

This could also be seen in more famous Indonesian cases such as the Pierre Cardin Case, where the French designer had filed a lawsuit against Alexander Satryo Wibowo who is a local businessman from Indonesia. At the court of first instance, the panel of judges rejected the lawsuit filed by Pierre Cardin. One of the reasons in which the panel of judges had acknowledged Alexander's *Pierre Cardin* trademark was that it had been registered in advance on 29 July 1977. Unsatisfied with the primary results, Pierre Cardin then continued the case to the Cassation level, which also gave unsatisfactory results. This was further confirmed by the Supreme Court in the case ruling No. 557/K/Pdt.Sus-HKI/2015 that Alexander as the owner of the local *Pierre Cardin* brand had a differentiator in his product, wherein the Panel mentioned that;

> "The Respondent has the distinction of always including the words Product by PT. Gudang Rejeki as the differentiator, in addition to other information as an Indonesian product. So that it reinforces the rationale that the brand does not accompany the fame of other brands, "[36]

[36] *PIERRE CARDIN vs. ALEXANDER SATRYO WIBOWO*, Putusan Mahkaman Agung No. 557/K/Pdt.Sus-HKI/2015

With this, we can assume that trademark cases in Indonesia are not dealt with much care. Having applied relevant Articles from the Paris Convention and TRIPs to the Law on Trademark Number 20 of Year 2016 is a step in the right direction in order for our laws to be of the same level with that of the international standard, it is still not enough to halt the misuse of something that is deep rooted in culture, and to exploit it for monetary means. In the current law, we see that, in comparison with the previous Law Number 15 of Year 2001, there is now an addition of Article 72 (7) (c) which highlights that the deletion of a registered Mark on the initiative of the Minister may be carried out if:

> "they have similarities in their entirety with traditional cultural expressions, intangible cultural heritage, or names or logos that have been passed down from generation to generation."

This shows that there is active awareness of the lawmakers to be more mindful of how culturally rich Indonesia is, with centuries of cultures passed down — both tangible and intangible — and is attempting to update the law accordingly. However, due to the newness of the clause, the general public is yet to be aware of this — and as such — greedy corporations still monopolize cultural related names to submit as Marks to this day.

1.2. Research Question

As derived from the information in the background, the legal issues that will be discussed for the following chapters are:

1) How do Trademark Law provide protection for culture-related Trademarks in Indonesia?
2) How is the implementation of legal protection for culture-related Trademarks particularly for smaller and medium enterprises?

1.3. Purpose of Research

In accordance with the formulation of issues in the above, this study aims to:

1) To identify the gaps in the law, in particular Art. 5 (c) and (d) of Law Number. 15/2001 and Law Number. 20 of Year 2016 Regarding Trademark.
2) To conduct a more in-depth study with culturally appropriated trademarks beyond the area of traditional knowledge.
3) To determine if the controversy surrounding Cultural Appropriation and Trademark is merely a fallacy or if it is a legitimate legal concern in the fields of Intellectual Property Rights and/or Competition Law.

1.4. BENEFITS OF RESEARCH

1.4.1. Theoretical Benefits

This research is mainly aimed to tackle the capitalistic behavior of big companies who are willing to Trademark a phrase that is intertwined with culture for the goal of the company's creative use of said phrase in products. This capitalistic exploitation is rather problematic, especially in such a globalized world that we currently live in, though it is to eliminate threats of other competitors, it is to the expense of the people in said cultures. This research is also done in the hopes to contribute to the very few literature on Trademark and Culture, especially in Indonesia.

1.4.2. Practical Benefits

For the author — and readers — to further understand the gaps of Trademark law, especially in the field of culture in Indonesia. Also for the public, to raise awareness of the problematics of the capitalistic actions of big corporations against small enterprises and communities.

1.5. STRUCTURE OF WRITING AND FRAMEWORK

1.5.1. Chapter I: Introduction

For this chapter, the introduction will be a further elaboration on the title where it talks of the background, research question, and purpose of the research.

1.5.2. Chapter II: Literature Review

For the second chapter, the author will conduct a literature review using the existing literature surrounding the topic in which this paper is discussing, especially in the aims to tackle the formulation of issues.

1.5.3. Chapter III: Research Methodology

The research methodology will discuss the data used by the author to answer the formulation of issues.

1.5.4. Chapter IV: Analysis

For the Analysis, it will be fully a breakdown, regarding the issues that arise as mentioned in the Formation of Issues. This will be a comparison of the Trademark submission and granting from Indonesia and is to be compared with the system in the United States of America.

1.5.5. Chapter V: Conclusion & Recommendations

For the conclusion and further recommendations, it summarizes the analysis of the previous chapters with the aim to attain the answers to the legal issues from the research questions. The chapter also functions as a reflection on all the faults that are present in the research for future research.