

Education and Legal Assistance for Copyright Assessment of the Oral Tradition of Making *Fish Bubu* (Fishing Trap) in Indigenous Peoples

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Abstract

Introduction: Legal education and assistance is important in reviewing copyright regarding the oral tradition of making fish traps which has been passed down from generation to generation in the indigenous communities of Ambon Island. This service focuses on protecting local intellectual property and traditional wisdom contained in the process of making fish traps.

Purposes of The Devotion: The purpose of writing this article is to provide education and legal assistance to the people of Asilulu, Central Maluku Regency regarding the study of copyright regarding the oral tradition of making fish traps to improve the health of the people of indigenous countries in the future.

Method of The Devotion: Socialization and discussion about the importance of completing documents in registering Intellectual Property Rights for the Oral Tradition of Bubu Ikan at the Ministry of Law and Human Rights, as well as education provided to Village Officials and the Community regarding the completeness of registration documents for registration of Intellectual Property Rights for the Oral Tradition of Bubu Ikan.

Results Main Findings of the Devotion: Education and assistance for the protection of traditional knowledge (oral traditions regarding the creation of traditional fish traps) can prevent the cultural identity of the community that owns it from being lost in line with the extinction of traditional knowledge in the future.

Keywords: Legal Assistance; Copyright Studies; Fish Traps; Copyright Education.

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INTRODUCTION

Indonesian society is a pluralistic society consisting of various ethnicities, races, cultures, religions and beliefs. The existence of indigenous peoples is not without recognition regulated in the provisions of Article 18 letter (b) paragraph (2) of the 1945 Constitution which states that "The State recognizes and respects the units of customary law communities and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.

The dynamics of Indonesia as an archipelagic country with such a large potential for maritime resources are actually the strength of people's lives. For coastal communities and islands in the archipelago, the fisheries economy sector and transportation or shipping business are still mainstay sectors that have survived to this day. The resilience of maritime

assets to coastal indigenous peoples as a form of heritage of the work of their ancestors, as well as showing a symbol or cultural identity as the inheritor of maritime culture. This is not solely because of the size of the ocean area, but a form of community interaction as a social association. Fishing activities have placed them at the forefront of life.¹

Asilulu Country, West Leihitu District, Central Maluku Regency is part of Maluku Province. The use of fishery resources, especially tangkat fisheries, which is still dominated by smallholder fishery businesses using bubu (*fishing traps*) in Asilulu Country, West Leihitu District, Central Maluku Regency, generally has the characteristics of small to medium businesses. In addition, the fishing technology is simple, the range is low, the fishing is limited around the coast and the productivity is still relatively low. The inheritance of traditions from the older generation to the younger generation is generally scientifically conveyed by word of mouth which is carried out with continuous practice, so that usually an oral tradition cannot be verified academically and scientifically but can be accepted as an acknowledgement by an indigenous people as a historical fact. Oral culture or oral tradition is a culture that has not been developed for the purpose of keeping records and passing on knowledge and history.

Fisheries business, especially capture fisheries, is fast and provides results (*quick yielding*), and *is profitable* even though it is risky. However, capture fisheries business actors, especially fishermen, are generally low-income, poor and less prosperous. Traditional bubu fish fishermen in both countries of Maluku Province, namely Asilulu Country, West Leihitu District, Central Maluku Regency use makeshift fishing tools in detecting the presence of fish. The equipment also looks very simple and far from modern technology, namely the word maca diver (local language: molo glasses) and glass stone binoculars.

The ability to instill the characteristics of a culture through the medium of oral tradition is a function of tradition. Because humans have had oral traditions since ancient times, oral traditions can be said to be almost as old as humans themselves. Sibarani stated that oral tradition not only includes eloquence, such as speech that is then categorized in the form of writing, but also in the form (motif) and pattern of eloquence, so that it can develop into public knowledge and can be inherited through various versions from generation to generation, including fishing *traps*. Oral traditions still exist in the modern era. In fact, the cultural and moral messages inherited by indigenous peoples through oral traditions are inherited from generation to generation in the process of making bubu in a simple way. However, gradually the oral tradition of making fish *bubu* (*fishing trap*) for the indigenous people on Ambon Island began to be endangered, due to the lack of interest of the current generation.

METHOD OF THE DEVOTION

The ability to instill the characteristics of a culture through the medium of oral tradition is a function of tradition, because humans have had oral traditions since ancient times, so oral traditions can be said to be almost as old as humans themselves. The stages of activities carried out in this legal counseling activity are: 1). Coordinating with the Asilulu State Government through initial communication with the country's children to be able to prepare various things needed in legal counseling activities. The purpose of this counseling activity

¹ Julian J. Pattipeilohy, "Sistem Penangkapan Ikan Tradisional Masyarakat Nelayan di Pulau Saparua", *Jurnal Penelitian* 7, no. 5 (2013), p. 2.

is to provide education and assistance to the people of Asilulu related to the civil rights of the community; 2). Prepare materials or materials in the form of *powerpoint* materials related to the assessment of Copyright on the Oral Tradition of Making Fish Bubu (*Fishing Trap*) in Indigenous Peoples on Ambon Island to support customary income in the Asilulu Country from the perspective of intellectual property rights; 3). This legal counseling also involved 2 (two) students of the Faculty of Law, Pattimura University who are also Asilulu citizens who help with counseling activities and become *masters of ceremony*; 4). Preparing a location that will be used for legal counseling activities in the Land of Asiulu and assisted by the community. The location chosen is the Asilulu State Government Office, Central Maluku Regency, Maluku Province. To carry out legal counseling activities in the Land of Asilulu through panel discussions where the presenter delivers material in turn, then continued with a question and answer between the speaker and the local community.

RESULTS AND DISCUSSION

The term customary law society is a translation of the term *rechtsgemeenschappen*, which was first used by B. Ter Haar Bzn in his book entitled "*Beginnselen en Stelsel van Adat Recht*."² According to Ter Haar, customary law societies are groups of people who are organized, live in a certain area, have their own power, and have their own wealth in the form of visible and invisible objects. Each member of the unit experiences life in society as a natural thing by nature, and none of the members of the unit has the mind or inclination to dissolve the bond that has grown or leave it, in the sense of breaking away from the bond for all eternity.³

Information that comes from other people is called oral tradition. This knowledge has been passed down from one generation to the next and is stored in human memory. Oral traditions such as written documents are historical records of the past. However, the historical aspect of oral tradition is only one aspect of oral tradition. Oral traditions contain cultural values in addition to historical events, values in religious stories, knowledge and morality. In the current era, oral traditions are only considered as stories or legends that contain unproven myths about historical places. Oral traditions are very closely related to heirs and have become part of the local culture, so their role is very big in Indonesian society.

Bubu fishing gear is a passive fishing gear, so a lure or bait is needed so that the fish that will be the target of the catch want to enter bubu, in general the bait is placed in the middle of the bubu, the shape of the bubu varies, there are those such as cage, cylinders, drums, elongated triangles (cubes) and others. In general, bubu consists of parts of the body, mouth or door. The body is the place where the fish are confined, while the mouth is the door where the fish can enter and cannot leave, the door is the part where the catch is taken. The bubu is simpler in shape and smaller in size, so it is easy to move around, and installed with the help of a boat to the fishing area. However, traps and bubu have similarities in their working principle, namely having space to trap fish, the shape is also made to make it easier for fish to-enter and difficult to out.

Asilulu is a country in Leihitu sub-district, which is located in Central Maluku Regency, Maluku province, Indonesia. This country is located in the southwestern part of Ambon Island. In the country of Asilulu itself there are several oral traditions that are ancestral

² Lalu Sabardi, "Konstruksi Makna Yuridis Masyarakat Hukum Adat Dalam Pasal 18B UUDN RI Tahun 1945 Untuk Identifikasi Adanya Masyarakat Hukum Adat", *Jurnal Hukum dan Pembangunan* 43, no. 2 (2013), p. 170.

³ Husen Alting, *Dinamika Hukum dalam Pengakuan dan Perlindungan Hak Masyarakat Hukum Adat Atas Tanah*, (Yogyakarta: LaksBang PRESSindo, 2010), p. 30.

heritage, one of which is an oral tradition in the form of a very traditional fishing tool, namely bubu fishing.

The manufacture of fishing tools itself cannot be arbitrary or at the will of the maker, according to the information obtained from the elders of the country that the manufacture of bubu tools also uses the right calculations so that the catch results are satisfactory. The method of making it is as follows: for the size of Bubu 2*1 Meter/2 pieces of bubu (Mama & Child) woven into one Material: All obtained from the Asilulu Forest: a) Bamboo 4-5 Trees (Depending on the size of the tree) bamboo sheet $\pm 1\text{cm}$; b) Tali / Gamutu (Tali Hasat); c) Nane Wood 50 Parts consists of; d) Long Wood (Huwae) 16 Parts Bent Wood (Lete) 20 Parts; e) Basic Wood (Palitia) 10 Parts Rattan (Kekel) 4 Parts; f) Stone as a weight for 4 pieces; g) Nylon Rope. Below is a model of the original Fishing *Trap* from Asilulu Country, West Leihitu District, namely:



Figure 1. Fish Bubu in Asilulu

The way to make it is still using manual or traditional methods, namely by weaving these materials, namely bamboo is split and massaged or scraped as thin as possible with the required width, for the inside or known as anak bubu requires 150 veins or fruits that have been thinned to be able to be weaned while for the outside it is more than 2*150 seedlings, the time needed to make the bubu tool is ± 1 week if it is done by 2 people.

Based on the explanation above, the researcher provides a legal view on the Copyright on the Oral Tradition of Making Fish Bubu (Fishing *Trap*) in Indigenous Peoples so that it can be registered as inheritance ownership that can become the property of the country itself, which is the process of registering intellectual property through the Ministry of Law and Human Rights (Kemenkumham) of the Republic of Indonesia, which at the time can be online, Because not only as an ownership but by registering the AKI has many benefits that can be obtained both for the community itself and for the country itself.

The benefits that can be obtained from the registration of Intellectual Property Rights of the bubu tool are in other respects, as a protection of the work which other people or other regions cannot use or counterfeit it, avoid losses due to fraud, benefits as legal certainty as the owner of the work so that they can do business without interference and can even be sold to other people whose works, In addition, it also gets a use permit, which means that the owner can give permission or not for the tool to be used by other parties, even the most obvious benefit is as a source of increased income for the creative economy.

Based on an interview at a meeting with the Chairman of Saniri Negeri Asilulu, the process of making fish bubu (*fishing trap*) in the country of Asilulu, West Leihitu District is

still carried out by several heirs to meet daily needs. The work of making fish bubu was only carried out on a limited basis by Mr. Soleman Mamang as many as 6 pieces, Mr. Abdul Fatah Mahulauw as many as 6 pieces and Mr. Hasan Kalau as many as 5 pieces.



Figure 2. The Process of Lifting Fish Bubu at Asilulu Beach

Defining the treatment and ownership of intellectual property over indigenous heritage, and the guidelines may be more dynamic than the instruments introduced, for copyright implications it should be noted that copyright law dictates how a documented version may be protected by copyright, if it has met the criteria. This means that there will be copyright implications for any use by legacy institutions. Depending on what type of activity they want to do with the protected work for their visitors (reproduction, communication to the public, or distribution), then the institution must ensure that they can carry out these actions without infringing the copyright in the documented version.

Copyrights to traditional cultural expressions are held by the state. The state is obliged to inventory, preserve, and maintain traditional cultural expressions. The use of traditional cultural expressions must pay attention to the values that live in the society in which they are carried out. Provisions regarding Copyright held by the State on traditional cultural expressions are regulated by Government Regulations. It's just that until now there is no Government Regulation that regulates copyrights held by the state. Furthermore, copyright on traditional cultural expressions is valid indefinitely.

The protection of traditional knowledge is essential to prevent misuse and exploitation inappropriately. The protection of traditional knowledge also prevents the cultural identity of the owner community from disappearing in line with the extinction of traditional knowledge. In addition, the protection of traditional knowledge is aimed at preventing unauthorized exploitation and for the maintenance of economic and moral rights for holders of traditional knowledge. This is because traditional knowledge has economic value for developing countries and is one of the resources that the poor rely on. Traditional knowledge also has cultural and social value. Another reason for the protection of traditional knowledge is the *misappropriation* of traditional knowledge in obtaining large profits from the knowledge of others without acknowledging its source of origin or paying appropriate compensation.

At the global level, the fisheries sector provides jobs and livelihoods as well as a source of food security for many people. Dependence on fish resources globally continues to increase which leads to increased fishing intensity and high competition, high social conflicts, and continued utilization of fisheries. This condition threatens the sustainability of fishery resources which leads to a decline in fishery resources and habitat damage.⁴

The recognition of traditional knowledge as part of human rights is in line with the United Nations (UNDRIP) *Declaration on The Rights of Indigenous Peoples* (UNDRIP). In the UN Declaration on the Rights of Indigenous Peoples, the recognition and protection of traditional knowledge is based on Article 11 and Article 31. Article 11 (1) of UNDRIP regulates the right of indigenous peoples to practice and revitalize their cultural traditions and customs. Furthermore, under Article 31 (1) of UNDRIP indigenous peoples have the right to preserve, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their science, technology and culture.

Low productivity of fishermen is generally due to low knowledge and skills as well as the use of fishing gear and boats that are still simple, so that the effectiveness and efficiency of fishing gear and the use of other production factors are not optimal.⁵ Therefore, the protection of traditional cultural expressions will be more appropriate if it is not regulated under the scope of copyright law. The regulation of traditional cultural expression as part of traditional knowledge should not be separated from other traditional knowledge settings. The regulation of traditional knowledge in a single specific law will provide more adequate protection for traditional knowledge.

CONCLUSION

Legal counseling activities on the study of copyright on the oral tradition of making fish powder (*Fishing Trap*) in indigenous peoples on the island of Ambon can provide education and legal assistance on the oral tradition of fish bubu (fishing trap) in general and the younger generation in particular, so that the use of fish bubu (*fishing trap*) traditionally it can still be used as one of the income of the state of Asilulu as one of the studies on the fulfillment of the welfare of indigenous peoples in the land of Asilulu and the cultural identity of the people who own it does not disappear in line with the extinction of traditional knowledge of the land of Asilulu in the future.

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⁴ Adams, T. J. H. *Coastal fisheries and marine developmenr issues for small islands. Marine and Coastal Workshop (in association with the World Conservation Congress)* Montreal, 17-18 October 1996 , p. 10 .

⁵ Venda Jolanda Pical, Hellen Nanlohy, and Saiful, "Peran Gender dan Pengambilan Keputusan Rumah Tangga Perikanan Purse Seine di Kabupaten Maluku Tengah", *Jurnal IPTEKS PSP* 7, no. 14 (2020), p. 75.

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