


Copyright Assessment of The Oral Tradition of Making Fishing Traps Among Indigenous Peoples

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Abstract

Introduction: The passing on of traditions from the older generation to the younger generation is generally conveyed scientifically by word of mouth which is carried out with continuous practice, so that usually an oral tradition cannot be verified academically-scientifically but can be accepted as recognition by an indigenous community as a historical fact. Oral culture or oral tradition is a culture in which writing has not been developed for the purpose of keeping records and passing down knowledge and history.

Purposes of the Research: To examine the copyright registration for the oral tradition of making fish traps among indigenous communities on the island of Ambon to obtain recognition of intellectual property rights.

Methods of the Research: The research method used is in accordance with the research objectives where the type of research used is sociolegal (sociolegal research) namely a research method combining doctrinal legal research and empirical legal research methods.

Results Main Findings of the Research: 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. Procedure Copyright is one part of intellectual property which has the broadest scope of protected objects, because it includes science, art and literature (art and literacy) which also includes the oral tradition of making fishing traps.

Keywords: Copyright; Oral Traditions; Fish Trap Device; Indigenous.

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INTRODUCTION

Indonesian society is a pluralistic society consisting of various different ethnicities, races, cultures, religions and beliefs. The existence of indigenous communities 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 customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the State. Unity of the Republic of Indonesia.

The ocean and coastal areas are a figure of the Indonesian archipelago, of course it cannot be separated from the existence of customary law communities who inhabit coastal areas. of course, this coastal area cannot be separated from the presence of the state through binding regulations as regulated in Law Number 1 of 2014 concerning amendments to Law

Number 27 of 2007 concerning Management of Coastal Areas and Small Islands. The dynamics of Indonesia as an archipelagic country with enormous maritime resource potential is actually the strength of people's lives. For coastal and island communities in the archipelago, the fisheries economic sector and transportation or shipping businesses are still mainstay sectors that have survived to this day. Resilience of maritime assets in coastal indigenous communities is a form of legacy of the work of their ancestors, as well as showing symbols or cultural identity as heirs of maritime culture. This is not simply because of the size of the ocean area, but rather a form of community interaction as a result of marine activity. Maritime activities have placed it at the forefront, as the basis of life.¹

Asilulu State, West Leihitu District, Central Maluku Regency. Utilization of fishery resources, especially tangkat fisheries, which are still dominated by people's fishing businesses using fish traps in Asilulu Country, West Leihitu District, Central Maluku Regency, generally has the characteristics of small to medium businesses. Apart from that, the fishing technology is simple, the fishing range is limited around the coast and the productivity is still relatively low. The process of fishing by traditional fish trap fishermen has been going on for generations following the same and old pattern, which was taught by the fishermen's predecessors in Negeri Asilulu, West Leihitu District, Central Maluku Regency. The inheritance of traditions from the older generation to the younger generation is generally conveyed scientifically by word of mouth which is carried out with continuous practice, so that usually an oral tradition cannot be verified academically but can be accepted as recognition by an indigenous community as a historical fact. Oral culture or oral tradition is a culture in which writing has not been developed for the purpose of keeping records and passing down knowledge and history.

According to Kuntowijoyo, citing Vansina's opinion, oral tradition is testimony that is passed down orally from one generation to another or more. Oral traditions are studied in anthropology and include personal memories, general knowledge of history and oral literature. Anthropology has used three things as sources for its research and statements. After testing or criticizing sources, oral literature and general historical knowledge can also be used as oral sources in oral history,² of course, historical sources are very necessary as references and whose credibility can be justified in researching and writing history, especially local history. Furthermore, according to Kuntowijoyo's explanation³, the process of carrying out historical research consists of several stages, namely: determining themes, heuristics, verification, interpretation and historiography.

This is caused by oral habits or oral traditions that are difficult to avoid. Apart from that, local fish trap fishermen feel more comfortable and familiar with using makeshift fishing equipment. On the other hand, fishermen's adaptation in the fishing process is considered to have been expressed in the form of operating patterns which are a reflection of responses to environmental changes.⁴ In fact, developments in fishing technology have developed which are able to have a positive impact on the productivity of catches for indigenous

¹ Julian J Pattipeilohy, "Sistem Penangkapan Ikan Tradisional Masyarakat Nelayan Di Pulau Saparua," *Jurnal Penelitian* 7, no. 5 (2013): 1-47.

² A B Lopian, *Metode Sejarah Lisan (Oral History) Dalam Rangka Penulisan Dan Inventarisasi Biografi Tokoh-Tokoh Nasional* (Jakarta: Proyek ISDN, Departemen Pendidikan dan Kebudayaan, 1981), p. 23.

³ Kuntowijoyo, *Pengantar Ilmu Sejarah* (Yogyakarta: Yayasan Bentang Budaya, 1995), p. 23.

⁴ Eko Sri Wiyono, "Kendala Dan Strategi Operasi Penangkapan Ikan Alat Tangkap Bubu Di Muara Angke, Jakarta," *Nusantara Tropical Fisheries Science (Ilmu Perikanan Tropis Nusantara)* 1, no. 1 (2022): 14-20, <https://doi.org/10.30872/jipt.v1i1.414>.

communities. The low productivity of fishermen is generally caused by low knowledge and skills as well as the use of fishing equipment and boats that are still simple, so that the effectiveness and efficiency of fishing equipment and the use of other production factors are not optimal.⁵ Based on the above, there are several issues faced by trap fishermen in fishing activities, namely dependence on the availability of fish resources and natural conditions. The increase in the number of traditional fish trap fishermen reaching 50% in one decade causes increasing pressure which accelerates the destruction of natural resources and the decline in biodiversity. In some areas, there has even been real overfishing. The issuance of Regulation of the Minister of Maritime Affairs and Fisheries Number 2 of 2015 which prohibits the use of trawl fishing gear (trowls) and seine nets in the fisheries management areas of the Republic of Indonesia is an awareness movement of the government through the Minister of Maritime Affairs and Fisheries to the wider community to further seriously utilize, maintain and manage marine natural resources which have great potential contained therein. One type of environmentally friendly fishing gear is a fish trap.

For this reason, fish traps are fishing tools that are commonly known among traditional fishermen, in the form of traps, and are passive. This tool is in the form of a cage like a closed room, so the fish cannot get out. The making of Bubu fishing gear which is passed down from the older generation to the younger generation uses rattan and forest bamboo which are woven in such a way that fish that enter cannot come out again. Therefore, according to the author, there is a need for a special study of copyright regarding the oral tradition of the process of making fishing traps in indigenous communities on Ambon Island in relation to the perspective of intellectual property rights in the future. Furthermore, there is a need for Copyright regulations on Intellectual Property Rights, the existence of indigenous communities has been announced and their protection is mandated based on the 1945 Constitution. Although the government has subsequently issued several regulations governing coastal areas and small islands as well as marine spaces, where the state has the authority to regulate and utilize and distributing natural products also provides protection for indigenous communities.

In this case, copyright for the oral tradition of making fish traps in Indonesia is referred to as material rights (*Zaakelijke Recht*). According to Sri Soedewi Masjchoen, material rights are absolute rights over an object where this right gives direct power over an object and can be maintained by anyone.⁶ Meanwhile, according to Mahadi, copyright is a material right. Because besides having absolute properties, it also has *droit de suite* properties.⁷ With the position of copyright as a material right (*zakelijk recht*), copyright can be transferred and transferred in whole or in part to another person. Copyright as a result of human thinking (intellectual) abilities is an idea which is then realized in the form of a creation. Copyright can give rise to economic and moral rights for the creator. Economic rights are the right to obtain economic benefits from product creation and related product rights. Meanwhile, moral rights are inherent in the creator and cannot be removed without any reason even

⁵ Venda Jolanda Pical, Hellen Nanlohy, and Saiful, "Peran Gender Dan Pengambilan Keputusan Rumah Tangga Perikanan Purse Seine Di Kabupaten Maluku Tengah," *Jurnal IPTEKS Pemanfaatan Sumberdaya Perikanan* 7, no. 14 (2020): 74-88, <https://doi.org/10.20956/jipsp.v7i14.9665>.

⁶ Sri Soedewi Masjchoen, *Hukum Perdata: Hukum Benda* (Yogyakarta: Yogyakarta: Liberty, 2000), p. 33.

⁷ OK Saidin, *Aspek Hukum Hak Kekayaan Intelektual* (Jakarta: Rajagrafindo Persada, 2015), h. 12.

though these rights have been transferred.⁸ 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 time immemorial, oral traditions can be said to be almost as old as humans themselves. Sibarani stated that oral traditions do not only include oral traditions, such as speech which is then categorized in written form, but also oral forms (motifs) and patterns, so that they can develop into public knowledge and can be passed down through various versions from generation to generation, including tools. catch bubu fish (fishing trap). Based on the background above, we are interested in conducting research with the following problem formulation: How do copyright registration procedures for the oral tradition of making fish traps among indigenous communities on the island of Ambon obtain recognition of intellectual property rights.

METHODS OF THE RESEARCH

The research method used in this research is in accordance with the problems and objectives of this research, the type of research used is sociolegal research,⁵ which is a combination research method between doctrinal legal research methods and empirical legal research methods. Doctrinal research is intended to conduct literature research by identifying laws and regulations and collecting other data related to the problem under study. Empirical research is intended to identify copyright registration for the oral tradition of making fish traps among indigenous communities on the island of Ambon in order to increase the state and local government's original income.

RESULTS AND DISCUSSION

A. Legal Protection of Oral Traditions for Traditional Fish Tray Creators

Indonesia is the largest archipelagic country in the world which has 17,504 large and small islands with a sea area of 5.8 million km². Consisting of a territorial sea with an area of 0.3 million km², archipelagic waters covering an area of 2.95 km², an Exclusive Economic Zone (EEZ) area of 2.55 km². With such a large sea area, the fisheries sector is a sector that has potential big impact on economic growth.⁹ Small island regions are areas with a high level of vulnerability to climate variability and change and its impact on rising sea levels. Fisheries on small island areas are economically dependent on the fishing industry, weak adaptive capacity, minimal human resources, and expensive development costs due to high insularity. The main factor that must be taken into consideration when talking about small islands is that, by definition, small islands are almost entirely composed of coastal areas, and most of the population lives in coastal areas. Coastal and marine areas thus become important issues when talking about resource management in this region.

At a global level, the fisheries sector provides jobs and livelihoods as well as a source of food security for many communities. Dependence on fish resources globally continues to increase, which has led to increased fishing intensity and high competition, high levels of social conflict, and unsustainable use of fisheries. This condition threatens the sustainability

⁸ Maya Jannah, "Perlindungan Hukum Hak Kekayaan Intelektual (HaKI) Dalam Hak Cipta Di Indonesia," *Jurnal Ilmiah Advokasi* 6, no. 2 (2018): 55-72, <https://doi.org/10.36987/jiad.v6i2.250>.

⁹ Posma Sariguna Johnson Kennedy, "The Normative Study Of Central Marine Development Policy And Integrated Fisheries In Small Islands And Border Area Based On KKP Regulation Number 48/2015," *Fundamental Management Journal* 3, no. 2 (2018): 74-83, <https://doi.org/10.33541/fjm.v3i2.926>.

of fisheries resources, leading to a decline in fisheries resources and habitat destruction.¹⁰ The geographical condition of the Maluku Province region, with its vast sea area and large number of small islands, is a particular challenge in the utilization and management of fish resources. The geographical limitations of small islands and their relationship to fisheries commodities make management difficult and even more problematic due to minimal infrastructure, socio-economic characteristics and institutions. The inherent characteristics of fish resources themselves as products that require special handling (cold chain), make fish resources very vulnerable to quality and quantity in production.¹¹

Almost the majority of fishing communities in Maluku belong to small-scale (artisanal) fishing communities. Law Number 45 of 2009 concerning Revision of Law Number 31 of 2004 concerning Fisheries Article 1 number (10) defines a fisherman as a person whose livelihood is fishing. Meanwhile, small fishermen (article 1 number (11) of Law Number 45 of 2009), states that small fishermen are people whose livelihood is fishing to meet their daily living needs using the largest fishing vessels measuring 5 GT.¹² The characteristics of artisanal fishermen are characterized by operating their own boats, using simple fishing equipment such as gill nets, clown nets, minitrawls, fishing rods, longline poles, using a revenue sharing system between the owner and the crew, and selling the fish caught within the market. limited local.¹³

Fishing businesses, especially capture fisheries, are fast and provide results (quick yielding), and are profitable even though they are risky. However, capture fisheries business actors, especially fishermen, generally have low incomes, are poor and less prosperous. Traditional fish trap fishermen in the two states of Maluku Province, namely Asilulu State, West Leihitu District, Central Maluku Regency and Hukurila State, South Leitimur District, Ambon Municipality use makeshift fishing equipment to detect the presence of fish. The equipment also looks very simple and far from modern technology, namely the words maca divers (local language: molo glasses) and glass rock binoculars.

The inheritance of traditions from the older generation to the younger generation is generally conveyed scientifically by word of mouth which is carried out with continuous practice, so that usually an oral tradition cannot be verified academically but can be accepted as recognition by an indigenous community as a historical fact. Oral culture or oral tradition is a culture in which writing has not been developed for the purpose of keeping records and passing down knowledge and history. Information that comes from other people is called oral tradition. This knowledge has been passed down from one generation to the next and stored in human memory. Oral traditions, like 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 other than historical events, values in religious stories, knowledge and morality.

¹⁰ Timothy J H Adams, "Coastal Fisheries and Marine Development Issues for Small Islands," in *Marine and Coastal Workshop (in Association with the World Conservation Congress)* (Montreal, 1996), 40-50.

¹¹ Wellem Anselmus Teniwut, Syahibul Kahfi Hamid, and Marvin Mario Makailipessy, "Mitigation Strategy on The Uncertainty Supply Chain of the Fisheries Sector in Small Islands, Indonesia," *Uncertain Supply Chain Management* 8, no. 4 (2020): 705-12, <https://doi.org/10.5267/j.uscm.2020.8.002>.

¹² Pudji Purwanti, "Perilaku Ekonomi Rumah Tangga Nelayan Skala Kecil Dalam Mencapai Ketahanan Pangan Di Pedesaan Pantai Jawa Timur," *Jurnal Sosial Ekonomi Kelautan Dan Perikanan* 4, no. 1 (2017): 31-44.

¹³ Ermayanti, Nursyirwan Effendi, and Muhammad Hidayat, "Teknologi Penangkapan Ikan Pada Masyarakat Nelayan Di Nagari Pasar Lama Air Haji, Kecamatan Linggosari Baganti, Kabupaten Pesisir Selatan," *Jurnal Antropologi: Isu-Isu Sosial Budaya* 17, no. 1 (2015): 23-38.

One of the areas in Intellectual Property Rights (hereinafter referred to as IPR) is Copyright, which is regulated in the preamble to Law Number 28 of 2014, which states that Copyright covers the fields of science, arts and literature which have a strategic role in supporting national development and advancing the nation's welfare as stated in mandated by the 1945 Constitution. The development of science and technology, art and literature has been very rapid, so it requires increased legal protection for copyright holders and owners of related rights. For this reason, communal intellectual property rights can consider implementing intellectual property rights protection mechanisms designed for indigenous communities such as the "sui generis system" which offers special protection for traditional knowledge.

Furthermore, there is a need for Copyright regulations on Intellectual Property Rights, the existence of indigenous communities has been announced and their protection is mandated based on the 1945 Constitution. Although the government has subsequently issued several regulations governing coastal areas and small islands as well as marine spaces, where the state has the authority to regulate and utilize and distributing natural products also provides protection for indigenous communities. In determining the recognition and ownership of intellectual property over customary heritage, guidelines can be more dynamic than introduced instruments. For copyright implications it should be noted that copyright law determines how a documented version may be protected by copyright, if it meets the criteria. This means that there will be copyright implications for any use by heritage institutions. Depending on what type of activities they wish to perform with the protected work for their visitors (reproduction, communication to the public, or distribution), institutions must ensure that they can perform these actions without violating copyright in the documented version.

The Copyright Law only regulates the protection of traditional knowledge in the form of traditional cultural expressions, while traditional knowledge which includes agricultural knowledge, scientific knowledge, technical knowledge, ecological knowledge and medicinal knowledge is not regulated. Protection of traditional cultural expressions is regulated in Article 38 Copyright Law. Based on the Elucidation of Article 38 Paragraph (1) Copyright Law, traditional cultural expressions include one or a combination of the following forms of expression: a. textual verbal, both spoken and written, in the form of prose or poetry, in various themes and message content, which can be in the form of literary works or informative narratives; b. music, including, among other things, vocal, instrumental, or a combination thereof; c. movement, including, among other things, dance; d. theater, including, among other things, puppet shows and folk plays; e. fine arts, both in two-dimensional and three-dimensional form made from various materials such as leather, wood, bamboo, metal, stone, ceramics, paper, textiles, etc. or a combination thereof; and f. traditional ceremonies.

Copyright for traditional cultural expressions is held by the state. The state is obliged to inventory, preserve and preserve traditional cultural expressions. The use of traditional cultural expressions must pay attention to the values that live in the community of its bearer. Provisions regarding Copyright held by the State for traditional cultural expressions are regulated by Government Regulations. It's just that until now there is no Government Regulation that regulates copyright held by the state. Furthermore, copyright for traditional cultural expressions is valid indefinitely (perpetually).

Things are more complicated if the person documenting the traditional fish bubu oral tradition is employed by an organization as some jurisdictions grant copyright to the employer. In this case, the employee will need their employer's permission to work on documented custom fish traps and authorize another party to do so. Before considering the copyright of subsequent copies, it is important to emphasize that holding a physical object is not the same as copyright ownership. Thus returning a documented version of an oral tradition or a copy thereof is not the same as transferring copyright ownership to another community.

Protection of traditional knowledge is very important to prevent misuse and inappropriate exploitation. Protection of traditional knowledge also prevents the cultural identity of the people who own it from being lost in line with the extinction of traditional knowledge. Thus, it would be more appropriate to protect traditional cultural expressions if they were not regulated under the scope of copyright law. The regulation of traditional cultural expressions as part of traditional knowledge should not be separated from the regulation of other traditional knowledge. Regulating traditional knowledge in a special law will provide adequate protection for traditional knowledge.

B. Copyright Registration Procedure for the Oral Tradition of Making Fish Traps in Indigenous Communities

The 1945 Constitution (hereinafter referred to as the 1945 Constitution) recognizes the existence of indigenous communities and the rights attached to them in the Second Amendment to the 1945 Constitution in 2000. In the Second Amendment to the 1945 Constitution, two articles regarding indigenous communities and their traditional rights were added, namely Article 18B Paragraph (2) and Article 28I Paragraph (3). Article 18B Paragraph (2) of the 1945 Constitution states that the state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law. The 1945 Constitution uses the term customary law community to refer to indigenous people. Apart from that, in Indonesian legislation we find the term "customary law community"¹⁹ and also the term "indigenous community" to refer to the term indigenous people. In this article the term "indigenous people" is used. Furthermore, Article 28I paragraph (3) of the 1945 Constitution states that the cultural identity and rights of traditional communities are respected in line with developments over time and civilization. With the recognition of indigenous peoples and their traditional rights in Article 18B paragraph (2) Article 28I paragraph (3) of the 1945 Constitution, traditional rights are recognized as constitutional rights in Indonesia.

Through Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution, traditional knowledge which is a traditional right and cultural identity of indigenous people is implicitly recognized as a constitutional right. Traditional knowledge as a cultural identity and the rights of indigenous people in Article 28I paragraph (3) of the 1945 Constitution is part of Human Rights. Copyright is a special right for the creator or holder to reproduce, duplicate and publish the results of his or her creative work which grows at the same time as the birth of a creation.

The scope of copyright covers the results of intellectual works in the form of works of art, literature and science. The restrictions referred to in this case are detailed in more detail,

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including: a) Books, pamphlets, published forms of written work, and all other written works; b) Lectures, lectures, speeches and other similar creations; c) Teaching aids made for educational and scientific purposes; d) Songs and/or music with or without text; e) Drama, musical drama, dance, choreography, puppetry and pantomime; f) Works of fine art in all forms such as paintings, drawings, carvings, calligraphy, sculpture, sculpture or collage; g) Works of applied art; h) Architectural works; i) Map; j) Batik or other motif artwork; k) Photographic works; l) Portrait; m) Cinematographic works; n) Translations, estimates, adaptations, anthologies, databases, adaptations, arrangements, modifications and other works resulting from transformation; o) Translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions; p) Compilation of works or data, either in a formal form that can be read using a computer program or other media; q) Compilation of traditional cultural expressions as long as the compilation is an original work; r) Video games; and s) Computer programs.

The Copyright Law (hereinafter referred to as Copyright Law) does not only talk about protected copyright. Article 41 Copyright Law also mentions forms of creation that are not protected by copyright, namely: a) Works that have not been realized in real form; b) Any ideas, procedures, systems, methods, concepts, principles, findings or data even though they have been expressed, stated, described, explained or incorporated in a work; and c) Tools, objects, or products that are created only to solve technical problems or whose form is only intended for functional needs. The trap fishing tool is a passive fishing tool, so a lure or bait is needed so that the fish that will be the target of the catch will enter the trap. In general, the bait is placed in the middle of the trap, the shape of the trap varies, some are like cages, cylinders, drums, elongated triangles (cubes). and others. In general, traps consist of parts of the body, mouth or door. The body is the place where the fish are trapped, while the mouth is the door where the fish can enter and cannot get out. The door is the part where the catch is taken.

Slack and Smith make a difference in characteristics between a trap and a pot. A trap is a simple and passive fishing tool, and can make fish enter it and make it difficult for them to escape. In some trap constructions, there is a part that functions to direct the fish. to get into the trap. Traps are permanent so they cannot be moved because of their construction and large size. Several types of traps include sero, barriers or barriers made from piles of stones, fyke, etc. The traps are simpler in shape and smaller in size, so they are easy to move, and are installed with the help of a boat to the fishing area. However, traps and traps have similarities in their working principle, namely that they have space to trap fish, their shape is also made to make it easier for fish to catch them. -get in and hard to get out. Asilulu is a land in Leihitu sub-district, which is in Central Maluku Regency, Maluku province, Indonesia. This country is located in the southwest part of Ambon Island. In the Asilulu country itself, there are several oral traditions which are inherited from our ancestors, one of which is an oral tradition in the form of a very traditional fishing tool, namely fishing traps.

According to the story of the source, Mr. Soeleman Mamang, several hundred years and/or thousands of years ago, there was a grandfather/tete who at midnight around 04.00 WIT wanted to defecate in the sea because at that time there were no toilets, when he was in the sea after he had finished defecating. Hajat saw from a distance a shaped tool in which there were lots of fish but no owner. The grandfather continued to look at the tool timidly

until a voice said, take it because it is an heirloom from China, use it as best as possible as a fisherman's search for it. indigenous people. It is from this story that the Asilulu country is known as a source of livelihood for fishermen using traditional tools which are the legacy of their ancestors, until today there are still several people or families who use or preserve this oral tradition. The manufacture of fishing gear itself cannot be arbitrarily or arbitrarily made, according to information obtained from the elders of the country that the manufacture of bubu tools also uses the right calculations so that the catch is satisfactory.

For trap size 2*1 meter/2 traps (mother & child) woven into one material. All obtained from the Asilulu Forest, are: a) Bamboo 4-5 Trees (Depending on the size of the tree) bamboo sheet $\pm 1\text{cm}$ ' b) Rope/Gamutu (Hasat Rope); c) Nane wood 50 parts consisting of long wood (Huwae) 16 parts bent wood (Lete) 20 parts; d) Basic wood (Palitia) 10 parts Rattan (Kekel) 4 parts; e) 4 stones as ballast; e) Nylon Rope; f) Below are several parts of making an original Fish Trap from Negeri Asilulu, West Leihitu District. The method for making it is still manual or traditional, namely by weaving the materials, namely the bamboo is split and sorted or scraped as thinly as possible to the required width. For the inside or what is known as the "Anak Bubu", you need 150 veins or pieces that have been thinned to be able to weave them. while for the outside there are more than 2*150 juvenile veins, the time needed to make the trap tool is ± 1 week if done by 2 people. Based on the explanation above, the researcher provides a legal view regarding Copyright for the Oral Tradition of Making Fish Traps in Indigenous Peoples so that it can be registered as heritage ownership which can become the country's own wealth, the process of registering the copyright is through the Ministry of Law and Human Rights Republic of Indonesia, which at the moment can be done online, because not only is it ownership but by registering the battery there are a number of benefits that can be gained both for the community itself and for the country itself.

The benefits that can be obtained from registering the IPR of the trap tool itself include, among other things, as protection of the work which other people or other areas cannot misuse or falsify, avoiding losses due to fraud, benefits as legal certainty as the owner of the work so that you can do business without interference, you can even sell your work to other people, apart from that you also get a use permit, meaning the owner can give permission or not for the tool to be used by other parties, in fact the most obvious benefit is as a source of increased income for the creative economy. Similar to other forms of cultural heritage, traditional fish traps are a study of oral traditions that are often collected and held by parties outside the traditional country community, so that their authenticity becomes faded. Based on an interview at a meeting with the Chair of the Saniri of Asilulu State, the process of making fish traps in Asilulu State, West Leihitu District is still currently being carried out by several heirs to fulfill their daily living needs. The work of making fish traps was only carried out on a limited basis by Mr. Soleman Mamang, 6 of them, 6 of Mr. Abdul Fatah Mahulauw and 5 of Mr. Hasan Kalau.

In general, traditional knowledge can be described as literary, artistic or scientific works which are the result of intellectual activity and have been passed down from one generation to the next.¹⁴ Traditional knowledge is broadly classified as an expression of traditional

¹⁴ J. Janewa Oseitutu, "Traditional Knowledge: Is Perpetual Protection a Good Idea," *IDEA: The Intellectual Property Law Review* 50, no. 4 (2010): 697-721.

culture and traditional knowledge,¹⁵ related to medicine, genetic plant resources, crafts, and so on.¹⁶ In addition, the protection of traditional knowledge is aimed at preventing unauthorized exploitation and at maintaining the economic and moral rights of holders of traditional knowledge. This is because traditional knowledge has economic value for developing countries and is one of the resources that poor people rely on. Traditional knowledge also has cultural and social value. Another reason for the protection of traditional knowledge is the misuse (misappropriation) of traditional knowledge in obtaining large profits from other people's knowledge without recognizing the source of origin or paying appropriate compensation. Recognition of traditional knowledge as part of human rights is in line with the United Nations (UN) Declaration on the Rights of Indigenous Peoples or The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In the UN Declaration on the Rights of Indigenous Peoples, recognition and protection of traditional knowledge is based on Article 11 and Article 31. Article 11 (1) UNDRIP regulates the rights of indigenous peoples to practice and revitalize their cultural traditions and customs.

CONCLUSION

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. Procedure Copyright is one part of intellectual property which has the broadest scope of protected objects, because it includes science, art and literature (art and literacy) which also includes the oral tradition of making fishing traps.

REFERENCES

- Adams, Timothy J H. "Coastal Fisheries and Marine Development Issues for Small Islands." In *Marine and Coastal Workshop (in Association with the World Conservation Congress)*, 40–50. Montreal, 1996.
- Ermayanti, Nursyirwan Effendi, and Muhammad Hidayat. "Teknologi Penangkapan Ikan Pada Masyarakat Nelayan Di Nagari Pasar Lama Air Haji, Kecamatan Linggosari Baganti, Kabupaten Pesisir Selatan." *Jurnal Antropologi: Isu-Isu Sosial Budaya* 17, no. 1 (2015): 23–38.
- Jannah, Maya. "Perlindungan Hukum Hak Kekayaan Intelektual (HaKI) Dalam Hak Cipta Di Indonesia." *Jurnal Ilmiah Advokasi* 6, no. 2 (2018): 55–72. <https://doi.org/10.36987/jiad.v6i2.250>.
- Kennedy, Posma Sariguna Johnson. "The Normative Study Of Central Marine Development Policy And Integrated Fisheries In Small Islands And Border Area Based On KKP Regulation Number 48/2015." *Fundamental Management Journal* 3, no. 2 (2018): 74–83. <https://doi.org/10.33541/fjm.v3i2.926>.
- Kuntoijoyo. *Pengantar Ilmu Sejarah*. Yogyakarta: Yayasan Bentang Budaya, 1995.

¹⁵ Yinliang Liu, "IPR Protection For New Traditional Knowledge: With A Case Study Of Traditional Chinese Medicine," *European Intellectual Property Review* 25, no. 4 (2003): 194–99.

¹⁶ Krishna Ravi Srinivas, "Traditional Knowledge and Intellectual Property Rights: A Note on Issues, Some Solutions and Some Suggestions," *Asian Journal of WTO & International Health Law and Policy* 3, no. 1 (2008): 81–120.

- Lapian, A B. *Metode Sejarah Lisan (Oral History) Dalam Rangka Penulisan Dan Inventarisasi Biografi Tokoh-Tokoh Nasional*. Jakarta: Proyek ISDN, Departemen Pendidikan dan Kebudayaan, 1981.
- Liu, Yinliang. "IPR Protection For New Traditional Knowledge: With A Case Study Of Traditional Chinese Medicine." *European Intellectual Property Review* 25, no. 4 (2003): 194–99.
- Masjchoen, Sri Soedewi. *Hukum Perdata: Hukum Benda*. Yogyakarta: Yogyakarta: Liberty, 2000.
- Oseitutu, J. Janewa. "Traditional Knowledge: Is Perpetual Protection a Good Idea." *IDEA: The Intellectual Property Law Review* 50, no. 4 (2010): 697–721.
- Pattipeilohy, Julian J. "Sistem Penangkapan Ikan Tradisional Masyarakat Nelayan Di Pulau Saparua." *Jurnal Penelitian* 7, no. 5 (2013): 1–47.
- Pical, Venda Jolanda, Hellen Nanlohy, and Saiful. "Peran Gender Dan Pengambilan Keputusan Rumah Tangga Perikanan Purse Seine Di Kabupaten Maluku Tengah." *Jurnal IPTEKS Pemanfaatan Sumberdaya Perikanan* 7, no. 14 (2020): 74–88. <https://doi.org/10.20956/jipsp.v7i14.9665>.
- Purwanti, Pudji. "Perilaku Ekonomi Rumah Tangga Nelayan Skala Kecil Dalam Mencapai Ketahanan Pangan Di Pedesaan Pantai Jawa Timur." *Jurnal Sosial Ekonomi Kelautan Dan Perikanan* 4, no. 1 (2017): 31–44.
- Saidin, OK. *Aspek Hukum Hak Kekayaan Intelektual*. Jakarta: Rajagrafindo Persada, 2015.
- Srinivas, Krishna Ravi. "Traditional Knowledge and Intellectual Property Rights: A Note on Issues, Some Solutions and Some Suggestions." *Asian Journal of WTO & International Health Law and Policy* 3, no. 1 (2008): 81–120.
- Teniwut, Wellem Anselmus, Syahibul Kahfi Hamid, and Marvin Mario Makailipessy. "Mitigation Strategy on The Uncertainty Supply Chain of the Fisheries Sector in Small Islands, Indonesia." *Uncertain Supply Chain Management* 8, no. 4 (2020): 705–12. <https://doi.org/10.5267/j.uscm.2020.8.002>.
- Wiyono, Eko Sri. "Kendala Dan Strategi Operasi Penangkapan Ikan Alat Tangkap Bubu Di Muara Angke, Jakarta." *Nusantara Tropical Fisheries Science (Ilmu Perikanan Tropis Nusantara)* 1, no. 1 (2022): 14–20. <https://doi.org/10.30872/jipt.v1i1.414>.

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