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The Role Of The Government In The Management Of Knowledge Of Traditional Medicine As The Intellectual Property Of The Community Of North Aceh

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Abstract

Traditional knowledge is community knowledge that is passed down from generation to generation based on life experience, environment and culture, including traditional medicines. Tradition-based ideas refer to systems of knowledge, creation, innovation and cultural expression that have generally been passed on from generation to generation. Many uses of traditional knowledge for commercial potential acts of theft and abuse, including knowledge of traditional medicines. The existence of knowledge of community traditional medicines is recognized in Article 8 letter j of the CBD which emphasizes respect for and protection of the rights of traditional communities, including knowledge of community traditional medicines. Knowledge does not only need recognition of the discovery of ideas or ideas, but also of the management and utilization of them by other parties without losing as the identity of knowledge of traditional medicines in North Aceh District. At this time in North Aceh District, knowledge of traditional medicines has not been managed properly, meaning that the district government has not yet collected data on the knowledge of traditional medicines of the community. This record will be a document that demonstrates ownership of traditional knowledge and prevents misuse by other users. However, in this case the government, especially the district office of industry, trade and cooperatives, has carried out socialization for the registration of trademarks for traditional medicinal products. The government has facilitated trademark registration, but has not comprehensively recorded the existence of knowledge of traditional medicines. Meanwhile, knowledge of the community's traditional medicines has economic value that can support people's income. Therefore, the district government must increase its role in managing the knowledge of traditional medicines in the community through data collection and strengthening programs through qanun (regional regulations).

Keywords

Government, Traditional medicine, Intellectual property, North aceh

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A. Introduction

The protection of traditional knowledge is still an important issue in the Council for Trade-Related Aspects of Intellectual Property Rights meetings at the WTO (Muthia Septarina, 2016). Traditional knowledge is knowledge that is owned or controlled and used by a particular community, community, or ethnic group that is hereditary and develops in accordance with environmental changes (Mughtar Anshary Hamid Labetubun et al, 2018). This traditional knowledge includes knowledge of traditional medicines. In the development of pharmaceuticals in the world, including in Indonesia, there is the potential for theft (biopiracy) and misuse (missappropriation) of the traditional knowledge of the community to be commercialized (Agus Sardjono, 2010). Meanwhile, Article 8.j of the

Convention on Biological Diversity has emphasized that state parties respect and protect traditional knowledge related to the sustainable use of biodiversity, including encouraging the fair sharing of benefits from the use of traditional knowledge (Yulia, 2013). The convention was ratified by Indonesia in 1995 through a presidential decree.

Then Indonesia has emphasized in Article 18B paragraph (2) of the 1945 Constitution 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 Article 18B paragraph (2) of the 1945 Constitution. However, local people do not understand that the traditional knowledge that has been passed down from generation to generation has economic benefits, especially traditional knowledge about medicines, so the government must provide protection to the rights of these local communities. Utilization and legal protection of traditional knowledge is part of management which must be an integral part as an effort to protect economic rights (Nur Ghenasyarifa Albany Tanjung et al, 2017).

North Aceh Regency is one of the regencies in Aceh Province, where people still use herbal medicines which are the traditional knowledge of the community in concocting these drugs. Traditional medicine is medicine made from a combination of ingredients obtained from plants, animals or minerals based on the traditional knowledge of the community. Syamtalira Aron District, Lhoksukon District, Tanah Pasir District and Syamtalira Bayu District are some areas that still have great potential in producing herbal medicines or treatment based on traditional knowledge of the community. This article analyzes the role of the district government in managing traditional knowledge in North Aceh District.

B. Method

This study uses empirical legal research that uses primary and secondary data. In obtaining primary data, respondents and informants were determined. Respondents. The location of this research is in North Aceh District, namely Samudera District, Tanah Luas District, Lhoksukon District and Tanah Jambo Aye District. Primary data collection was carried out through structured and in-depth interviews, which were submitted to informants and respondents who were determined by purposive sampling by selecting certain people who could represent the needs of this research. This research also carried out a literature study from various libraries and internet media as secondary data. Data that has been collected and has gone through the stages of verification, categorization, reduction, will be checked for validity. Validation of this data is carried out in two stages. First, using comparative materials from documents, books, magazines, newspapers or leaflets or other written materials with journal articles that have been written by previous researchers on a similar theme. Data analysis by examining the results of data processing assisted by theories that have been obtained previously.

C. Discussion

1. Tradisional Knowledge and Intellectual Property

In the study, Dian Devananda Akbar concluded that the legal protection of Indonesian traditional knowledge on traditional herbal medicine can be seen that along with the development of the times, it is felt that the protection of traditional herbal medicine as an asset of Traditional Knowledge from Indonesia is still inadequate. When viewed with the patent law regime, there are still many shortcomings because the patent procedure is too complicated and the community is not a society with a writing tradition (Dian Devananda Akbar et al, 2016). Then Abdul Atsar in his study stated that traditional knowledge and traditional cultural expressions that are protected can improve welfare not only for their creators (indigenous peoples), but also for the nation and state. to protect the culture of the Indonesian nation from threats of recognition by other countries or use by citizens of other countries (Abdul Atsar, 2017).

A study conducted by Karlina Sofyarto that the legal protection of intellectual property rights for traditional knowledge has not been discussed in detail and systematically in Indonesia. The regulation of traditional knowledge in the IPR Law, for example the Copyright Law and the regulation on geographical indications in the Trademark and Geographical Indications Law has not been fully effective to be implemented. If the protection of intellectual property rights for traditional knowledge is optimal, it will become a potential foreign exchange income that provides welfare for the community (Karlina Sofyarto, 2018). Rahma Fitri said that the exploration of knowledge of traditional medicine in Bengkulu is quite a lot so that it becomes the potential for intellectual property in each region. This form of knowledge of traditional medicine is only known by the community from generation to generation without written evidence so that only from generation to generation and word of mouth, until finally certain generations can mix these ingredients into healing drugs. This obstacle in exploring knowledge of traditional medicine is due to various things, such as not being written in each custom in Bengkulu, the absence of cultivation of natural resources that continue to be used so that it can cause extinction (Rahma Fitri et al, 2018).

Yusnidar in his study stated that there are 75 types of medicinal plants used as medicines by the people of the Pante Bahagia Village, Paya Bakong District, North Aceh Regency, which are included in 32 families. Then Ferianto concludes that the opportunity to protect traditional knowledge is that if the database can be managed centrally, systematically and completely, it will facilitate the utilization and regulation of access benefit sharing so that the benefits that are felt by Indonesia as a country that owns genetic resources and traditional knowledge are more optimal. The challenge faced is that the management of the traditional knowledge database in a systematic and complete manner by a special authority has not yet been established by the Government. Arrangements regarding benefit sharing on the use of Genetic Resources and traditional knowledge have not been established and technical regulations have been made that regulate them (Ferianto, 2020).

Biopiracy as a practice of exploitation of natural resources and knowledge of local communities with the aim of commercialization and its nature only benefits some parties without any fair and equitable distribution of benefits. The process of creation as a form of traditional knowledge that is used and developed to date has not yet received an optimal form of legal protection from international law and national law. The existing arrangements are still limited and do not cover all aspects of traditional knowledge and are not included

in the TRIPs agreement. The current arrangements are still very limited and do not cover all aspects of traditional knowledge and traditional cultural expressions. Traditional knowledge is not included in the regulation of intellectual property regulated in the TRIPs-WTO agreement (R.M.A. Illyasa, 2020). The values that live in the community in the use of genetic resources for food and medicine and even traditional medicines have been carried out by the community. The role of non-governmental organizations in protecting genetic resources has made very good efforts to successfully thwart the practice of biopiracy on genetic resources carried out by foreign parties. However, non-governmental organizations need the support of the entire community and public awareness of the importance of genetic resources for Indonesia (Yovita Indrayati, 2021). Based on the studies that have been carried out, no one has specifically studied management including the use and protection of traditional knowledge in North Aceh District.

The study conducted by Yulia emphasized that traditional knowledge needs to be protected from use that does not respect people's rights. One of the safeguards raised at the international level is through an intellectual property regime approach. Where the principle of original disclosure in the description of the patent registration is a requirement that has been confirmed in the Indonesian Patent Law. Disclosure of the original source in a patent application is a form of information disclosure regarding the use of community traditional knowledge (Yulia, 2021).

Traditional knowledge according to WIPO is classified into: agricultural knowledge, scientific knowledge, environmental knowledge (ecological knowledge), knowledge of medicine including medicine and healing (medicines knowledge including related medicine and remedies), knowledge related to biodiversity (biodiversity-related knowledge), folk expression in the fields of music, dance, song, handicrafts, elements of language, and moving cultural objects (Desi Churul Aini, 2012). Knowledge is the human capacity to understand and interpret both observations and experiences, so that it can be used to predict or as a basis for consideration in decision making. Knowledge is the output of the learning process, explanation based on perception. It also includes reasonable understanding and interpretation. But knowledge is not absolute truth. Knowledge itself does not lead to a real action (Ida Rosada, 2020).

Traditional knowledge is included in the scope of community intellectual property in the form of ideas, ideas, or inventions of community groups. The scope of traditional knowledge refers to tradition-based literature, artistic or scientific works, performances, inventions, scientific discoveries, designs, brands, names and symbols, undisclosed information, and all other tradition-based innovations and creations caused by intellectual activities in industrial, scientific, literary or artistic fields. Tradition-based ideas refer to systems of knowledge, creation, innovation and cultural expression that have generally been passed on from generation to generation, are considered related to a particular society or region, have been developed non-systematically, and continuously in response to a changing environment. Thus, traditional knowledge not only requires recognition of the discovery of ideas or ideas, but also for their dissemination and use by other parties (Sulastri, 2011).

Local knowledge which is part of the traditional knowledge of a farming community living in a specific area is usually acquired based on experience passed down from generation to generation. Sometimes a technology developed elsewhere can be adapted to environmental

conditions so that it becomes an integral part of their farming system. Therefore, this external technology will become part of their local technology as well as the technology they develop themselves.

2. Knowledge of Traditional Medicines in North Aceh District

Regional potential is all the capabilities that exist in the area that can be developed into a source of livelihood for the local community. The regional potential in question is the potential possessed by each region in supporting the utilization of traditional knowledge possessed by each region, namely, among others, the potential for natural resources, the potential for human resources, the potential for the environment, and the potential for infrastructure. Each region has differences related to the characteristics of its natural resource potential. In one area the natural resources have been explored, while in an area that has not been explored or even touched at all.

Indigenous peoples (ethnic groups) own and still preserve languages, arts, handicrafts, traditional medicines from nature, healing processes, cooking processes, natural utilization processes, and so on that have economic value. In several ethnic groups in the world, traditional knowledge has become a part of life that is used and preserved, even traditional knowledge has become a cultural identity that has sacred values (D.I Susanti et al., 2019).

The use of traditional knowledge as development capital was first carried out by making an inventory of the potentials possessed by each region, including the potential for traditional knowledge related to human resources, natural resources, the environment, and infrastructure. With the inventory of the potential of traditional knowledge, the next step is to plan the utilization and implementation of utilization that involves community participation in a broad sense. Community involvement in the use of traditional knowledge, among others, can be done through collaborative methods, both between companies, researchers, government, and local communities (Heri Aryanto, 2016).

North Aceh district is also rich in potential for traditional medicines such as making potions for coughs, broken bones, sprains, fever, itching and ringworm. The ingredients used, such as in Tanah Luas District, are: Peacock Leaves, Moringa Leaves, Black Seunijuk Leaves, Girlfriend / Henna Leaves, Broken Nutmeg Bird Leaves, and others. others (Neli Afriza, 2017). These traditional medicines already exist which are produced in packaging and traded in the market (Jailani, 2015). In Lhoksukon District, there are plant parts that are used which are grouped into leaves, stems, flowers, roots, tubers, fruit, sap, seeds and rhizomes (Ria Ceriana et al, 2020).

3. The Role of the North Aceh District Government in Managing Traditional Knowledge

The district government must take inventory and protect Communal Intellectual Property, while for personal intellectual property, the community must play an active role in registering it. Communal intellectual property, the role of the government is needed to be a facilitator so that legal protection of communal intellectual property can run. The special

attention and responsibility of the North Aceh district government to inventory and register Communal Intellectual Property is a form of state sovereignty that must be protected and can be used as a form of cultural promotion and increasing economic potential for the community.

Communal intellectual property can not only encourage regional development and the community's economy, but also as an adhesive for the identity of the Indonesian nation, including protecting cultural and biological heritage. Therefore, the North Aceh district government must have a strategic step or program for the registration of communal intellectual property directly or through the Geographical Indication Protection Society formed by the district government.

The people of North Aceh Regency must be educated about the importance of collecting data on communal intellectual property as the wealth of the people of North Aceh, including knowledge of traditional medicine. Documentation and digital preparation of the existence of traditional medicine knowledge is urgently needed so that it is not lost as community wealth and the identity of the people of North Aceh.

Furthermore, the role of the North Aceh Regency government is also important in collecting data on knowledge of traditional medicine so that the use of the pharmaceutical industries using the knowledge of traditional medicine of the people of North Aceh in the Patent can mention the source of the knowledge. The district government must begin to make regulations, both regional regulations and district regulations as well as careful planning in development programs and providing sufficient budget in district budgets to support the protection of people's intellectual property.

Protection and development Potential intellectual property can increase the competitiveness of producers, build local communities and encourage the regional economy, among others through the contribution of creating jobs, increasing the income of farmers and producers, contributing to Gross Domestic Product and social strength of the community. In fact, the role of the district government regarding knowledge of traditional medicine in North Aceh has not been comprehensive and maximal. The district government does not have a special program and budget for managing traditional knowledge including existing traditional medicines.

However, the North Aceh district government through the Department of Industry and Trade has conducted counseling and facilitated the registration of intellectual property rights on trademarks for home industrial products. Intellectual property development and strengthening programs have not been integrated because of their sectoral nature. So, the role of the North Aceh district government in documenting traditional knowledge including traditional medicine does not yet exist and is only recorded for products that are only registered with brands. Thus, the role of the district government is described as only supporting in the context of marketing the intellectual property products of the community, not documenting or collecting data on the intellectual property of the community.

D. Conclusion

Knowledge of traditional medicines has not been managed optimally so that it can provide opportunities for other parties to use this knowledge commercially. In fact, there is no realization of profit sharing for the community of owners of traditional knowledge. The

government is responsible for protecting, not only traditional knowledge as part of biodiversity, but also traditional knowledge as belonging to local communities. That is, protection is given integrally to the material form and ownership of the knowledge of traditional medicines. This study uses 'management' which includes the use and protection of the community's knowledge of traditional medicines.

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