

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)



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ABSTRACT: One field that is loaded with IPRs is Traditional Knowledge. Traditional knowledge (traditional knowledge) is included in the scope of intellectual work originating from ideas, ideas, or discoveries of community groups of a country. As time goes on, it is important that Traditional Knowledge be protected. Especially the protection of IPR laws against traditional knowledge itself. Legal protection This traditional knowledge is in fact not only done in developing countries but also in developed countries. In this paper, the authors are interested in discussing the comparison of traditional knowledge legal protection in several countries, such as Bangladesh, Australia and Indonesia. The research method used in this paper uses normative juridical. The discussion in this paper will be divided into two, namely the concept of understanding traditional knowledge as intellectual property and a comparison of legal protection for traditional knowledge in Bangladesh, Australia, and Indonesia.

KEYWORDS: IPR; Traditional Knowledge; Bangladesh, Australia and Indonesia.

I. INTRODUCTION

The birth of the World Trade Organization (“WTO”) as a result of the 8th round of the Uruguay Round, has had an impact on the birth of an agreement on trade related to aspects of Intellectual Property Rights (“Agreement on Trade-Related Aspects of Intellectual Property”. Rights or TRIPs”). The reason that was taken into consideration for agreeing on TRIPs as part of Annex 1C of the Agreement Establishing the World Trade Organization is because Intellectual Property Rights (“IPRs”) can affect international trade (Purba, 2011), namely Intellectual Property Rights. play an important role in economic development. (Maskus, 2000) Intellectual Property Rights is a system that is currently attached to the modern system of life. Different from other aspects that give color to modern life, such as environmental issues and business competition, intellectual property rights are a relatively old concept for most countries, but have only become the focus of serious attention for developing countries. (Purba, 2005) However, the development of Intellectual Property Rights is growing along with the development of increasingly advanced times.

The definition of Intellectual Property Rights (IPR) itself is the right to enjoy economically the results of intellectual creativity. So, it is a right born as a result of human ability or creation. An item that is created from the result of intellectual creativity, then the product is attached to two rights, namely economic rights and moral rights. Economic rights are rights to obtain economic benefits from creations and related rights products. While moral rights are rights inherent in the creator that cannot be removed without any reason, even though these rights have been transferred. (Nurachmad, 2012) One of the fields that is full of Intellectual Property Rights is Traditional Knowledge.

Traditional knowledge (traditional knowledge) is included in the scope of intellectual work originating from ideas, ideas, or inventions of community groups of a country. The scope of traditional knowledge itself 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 of their dissemination and use by other parties. (Rongiyati, 2011)

Regarding traditional knowledge, the World Intellectual Property Organization (“WIPO”) provides the following definition of traditional knowledge:

“Traditional knowledge is Knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.”

Meanwhile, Prof. Agus Sadjono defines traditional knowledge as knowledge that is owned or controlled and used by a particular community, society, or ethnic group that is hereditary and develops in accordance with environmental changes. (Sadjono, 2010)

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

In general, there are nearly 20 different terms used for traditional knowledge. (Rohaini, 2015) Among them are “local knowledge”, “indigenous knowledge”, “traditional knowledge”, “traditional ecological knowledge”, “folklore (folklore).”, “cultural property (cultural property)”, and others. All of these terms in principle both focus on a concept of knowledge that has long been known in a particular community group, while the difference lies in the orientation of the intended community. (Saleh, 2010) The World Intellectual Property Organization WIPO itself classifies Traditional Knowledge into 6 (six) fields, namely: agricultural knowledge (agricultural knowledge), scientific knowledge (scientific knowledge), environmental knowledge (ecological knowledge), knowledge of medicines including 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. (Aryanto, 2014) As time goes on, it is important for Traditional Knowledge to be protected. Especially the legal protection of Intellectual Property Rights against traditional knowledge itself. Setiono said that legal protection is an action or effort to protect the public from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as human beings. (Setiono, 2014) Legal protection can also mean the protection given to the law so that it is not interpreted differently and is not injured by law enforcement officials and can also mean the protection provided by the law against something. (Mertokusumo, 2009) According to WIPO, innovations based on Traditional Knowledge can take advantage of the protection of patents, brands, and geographical indications, or be protected as trade secrets. Meanwhile, Budi Agus Riswadi and M. Syamsudin explained that theoretically, in protecting Traditional Knowledge there are two mechanisms, namely: (Riswadi, 2005).

Protection in the form of law, is a form of effort to protect traditional knowledge through binding legal forms, for example the Intellectual Property Rights legal regime, regulations governing genetic source issues, especially traditional knowledge, contracts, and customary law; and Protection in non-legal forms, namely protection given to traditional knowledge that is not binding, including codes of conduct adopted by international, government and non-governmental organizations, professional communities and the private sector.

Legal protection This traditional knowledge is not only practiced in developing countries, but also in developed countries. In this paper, the author is interested in discussing the comparison of legal protection for traditional knowledge in several countries, such as Bangladesh, Australia, and Indonesia. The term comparative law, in foreign languages, is translated: comparative law (English), *vergelijkende rechtstheorie* (Dutch), *droit comparé* (French). This term, in legal higher education in the United States, is often translated differently, namely as conflict law or translated into dispute law, which means something different for legal education in Indonesia. (Atmasasmita, 2000) Rudolf B. Schlesinger said that, comparative law is a method of investigation with the aim of obtaining deeper knowledge about certain legal materials. Comparative law is not a set of rules and legal principles and is not a branch of law, but rather a technique for dealing with foreign legal elements of a legal problem. (Swantoro, 2017).

II. RESEARCH METHOD

The research method used in this paper uses a normative juridical research type, with a problem approach that is used through a statute approach, a comparative approach, and a conceptual approach. (Marzuki, 2008) Ronny Hanitjo Soemitro states that the juridical approach is an approach that refers to the applicable laws and regulations (Soemitro, 2010), while the normative approach is an approach that is carried out by examining library materials or secondary data on the principles of legal principles and case studies which in other words are often referred to as library law research. (Soekanto & Mamudji, 2010) The sources of legal materials used are primary legal materials in the form of related laws and regulations, secondary legal materials in the form of books on law, and non-legal materials in the form of books outside the law. (Soekanto & Mamudji, 2010) In relation to the method of analysis of legal materials used in this paper, the deductive method is used, namely starting from basic principles and then presenting the object to be studied, in other words, starting from general principles to general principles. special. (Soekanto & Mamudji, 2010)

III. DISCUSSION

1. Concept of Understanding Traditional Knowledge as Intellectual Property

Although discussions related to the protection of traditional knowledge have been carried out more than forty years ago, however, internationally until now there has not been a uniform definition of traditional knowledge that has been agreed upon. Overall, it seems fair to say that the international framework for traditional knowledge regulation remains ambiguous. In the context of environmental agreements, traditional knowledge is dominantly perceived as a means to conserve natural resources by means of potential economic valuation. This perspective differs significantly from the ILO and UN conventions, which stipulate the acceptance of the customary rights of indigenous peoples. However, both the focus on environmental protection and traditional peoples' rights contrast sharply with international commercial law, which generally supports the economic interests of industrialized countries and their corporations. Due to the complex ambivalence of international regimes, the specific balance between different interests in the field of traditional knowledge policy depends on domestic implementation. (Eimer, 2013)

Traditional knowledge (TK) and traditional cultural expressions (EBT) are state assets with great potential for the prosperity of the nation because they have high economic value, but their ownership is widely recognized (claimed) by foreign parties without

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

any benefit sharing, resulting in conflicts of interest between developed countries and developing countries like Indonesia. Our weakness in developing the protection system is the absence of an appropriate and adequate protection system and the limited data, documentation and information about TK and EBT. (Atsar, 2017)

There are various definitions of traditional knowledge in the literature, both proposed by international organizations and by scholars and experts. Some of them: (Rohaini, 2015)

a. *Secretariat of Convention on Biological Diversity (CBD)* defines traditional knowledge as follows:

“Traditional knowledge refers to the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over the centuries and adapted to the local culture and environment, traditional knowledge is transmitted orally from generation to generation. It tends to be collectively owned and takes the form of stories, songs, folklore, proverbs, cultural values, beliefs, rituals, community laws, local language, and agricultural practices, including the development of plant species and animal breeds. Sometimes it is referred to as an oral traditional for it is practiced, sung, danced, painted, carved, chanted and performed down through millennia. Traditional knowledge is mainly of a practical nature, particularly in such fields as agriculture, fisheries, health, horticulture, forestry and environmental management in general.”

b. According to Ratna Bandyopadhyay and Krishnapada Majumder Traditional knowledge is based on the practical experience of ordinary people, which is deeply rooted in people's lives. It has been transmitted orally through generations. It has become a part of their life. This knowledge is implicit and difficult to manage. But the proper organization of this knowledge is necessary because it points the way for the comprehensive social and economic development of society as well as of the nation as a whole. Traditional knowledge can range from environmental conservation, health maintenance/preservation, medical practice, sustainable agricultural practice, etc. (Bandyopadhyay & Majumder, 2012)

While the notion of Traditional Cultural Expressions is intellectual works in the field of art, including literary expressions that contain elements of traditional heritage characteristics that are produced, developed, and maintained by a particular community or society (RUU PTEBT). (Atsar, 2017) Traditional Cultural Expression is rooted in three words, tradition, culture and expression. For "expression", it means to express or clear goals, ideas or feelings. Culture in English corresponds to "culture" in Indonesia. (Koentjoroningrat, 2009) It is rooted in the Sanskrit "budhayah" which means mind or intellectual. (Mulyana, 2006) In general, culture can be defined as something produced by the human mind and intellect to develop and maintain their lives in their environment. Traditional cultural expressions are part of the cultural life of the community as the owner. Traditional cultural expressions already contain several values such as economy, spirituality and communality. All of these values are respected by traditional communities. Therefore, traditional cultural expressions can represent the identity of indigenous peoples in certain areas. (Hadikusuma, 2010)

The problem of traditional knowledge is a very important aspect that is fought for by countries that have the potential to get legal protection because theoretically traditional knowledge itself is very possible to be protected. As has been said earlier, that traditional knowledge can be protected in the form of law, namely the protection regime for Intellectual Property Rights in the form of trademarks, copyrights, geographical indications, patents and so on, as well as protection in non-legal forms, namely protection given to traditional knowledge that is not binding, including a code of conduct. Protection of traditional knowledge through Intellectual Property Rights law is intended to protect the rights of intellectual creation with the following objectives: (Purba, 2005); Encouraging the creation of new intellectual works; The openness of new intellectual works; Facilitating market order through the elimination of confusion and unfair competition actions; Protect confidential information from users who do not have good intentions.

2. Comparison of Legal Protection of Traditional Knowledge in Bangladesh, Australia and Indonesia

BANGLADESH

Bangladesh has a rich heritage of traditional knowledge, such as flood management systems, land exploitation, fisheries, agriculture, livestock and forests. Their flood management system is a unique example of an agroecological system between soil and water. Apart from agricultural knowledge, traditional medicine systems in Bangladesh including Ayurvedic and Unani medicines are also protected. (Barr, Payton & Sillitoe, 1996) In summary, in Bangladesh, there are about nineteen major tribes of which fourteen live in tract districts. These indigenous tribes have knowledge of agriculture and medicine, traditional dances and songs. Conservation and management of natural resources is a very common resource in tribal communities in hilly districts of Bangladesh it is often called "Para Reserve or Mouza Reserve". (M&M.K, 2011) Following are Traditional Knowledge protected in Bangladesh State:

1) Agriculture and Herbs

Bangladesh until now still maintains traditional agriculture. Whereas with the introduction of modern rice varieties, productivity has doubled in Bangladesh, but some problems have arisen in agriculture. For example, the loss of soil fertility; low content of organic matter in the soil; low nitrogen in almost all soil types; reduced content of Phosphorus, Zinc, Sulfur and Boron, etc. This problem actually arises because of the inappropriate use of chemical fertilizers. Not only that, many traditional plants are also destroyed because of the introduction of modern plant varieties.

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

In some cases, excess nitrogen has created a nutrient imbalance and depletion of nutrient elements in the soil. The annual rate of nutrient depletion in soil is estimated at 250kg/ha while only 100 kg/ha is returned to the soil in the form of additional fertilizer. Sedimentation due to upstream deforestation, as well as inappropriate cultivation practices with the use of chemical fertilizers contribute to soil erosion which eventually causes sedimentation in downstream rivers, lakes, etc. This results in flash floods and hampers crop productivity. (Rahaman, 2015)

Bangladesh itself in protecting the problem so far has not ratified agricultural and crop legislation, so the regulation is still in draft form since the last sixteen years and has not been implemented until now. (Rahaman, 2015) Several draft regulations on agriculture and crops include the Biodiversity And Community Knowledge Protection Act Of Bangladesh Of 1998 and Plant Varieties Act Of Bangladesh Of 1998.

Some articles that write about traditional knowledge in the Biodiversity And Community Knowledge Protection Act Of Bangladesh Of 1998 are as follows:

Article 2

Objectives

1. *The general objectives of this Act shall be,*

a) *to protect the sovereign rights of the Communities that have knowledge of biodiversity, and have managed, maintained, conserved, reproduced and enhanced biodiversity, genetic resources and traditional knowledge, culture and various forms of practice related to these resources and which are always held in common.*

Article 7

Prior Informed Consent

9. *The State shall, through the National Biodiversity Authority, ensure that Communities have the right not to allow the collection of biological and genetic resources and the access to traditional knowledge and technologies in their custody, as well as to demand restrictions upon such activities.*

Meanwhile, in the Plant Varieties Act Of Bangladesh Of 1998, Traditional Knowledge is also regulated in two articles. First, Article 20 point 7 stipulates that every economic transaction in a sizeable amount traditionally, between farmers whose purpose is to recover, especially the cost of procurement and distribution of plant varieties or plant propagation materials, does not require a Commercial Permit. However in this case must notify the National Biodiversity Authority, stating the following:

- a) That the transaction contributes to food security, is essential for agricultural production and has a positive effect on the overall biodiversity of the locality as well as the country.
- b) That the transaction does not operate outside the general circulation of seeds, spreads material or crops within and between farmers, and is therefore not a commercial operation for profit.

Second, Article 22 letter g explains the Rights of Farmers and Plant Protection Funds. The farmers who comprise the Community are entitled to the following Farmer Rights in addition to the rights stipulated in the Law on the Protection of Biodiversity and Community Knowledge, and the above and above benefit sharing. For the purposes of this Act, any Communities involved in food production, whether living in forests, floodplains, or anything else in the agroecological zone, or members of such Communities, women and/or men, will be considered as Farmers having the right one of which receives support from the government in the conservation, development and improvement of local, native or wild plant varieties and/or the reintroduction of traditional varieties.

2) Traditional Medicine

The traditional medicine system although still popular is facing threats due to the loss of forest cover from which medicinal plants are often purchased as practitioners' traditional occupations. The relatively recent introduction of western medicine into rural Bangladesh has resulted in a general change in people's perceptions of health care. It seems that the younger generation has more faith in modern doctors than in traditional herbal practitioners, namely "Kabiraz" which they often consider outdated. (Rahaman, 2015)

Bangladesh has tried to develop, protect, promote and control the practice of Unani and Ayurvedic Medicine. (Md & S.K, 2004) The Unani and Ayurvedic Practitioners Council formed under the Unani Practitioners and Ayurvedic Ordinance 1983 and the 1982 Drug Control Ordinance have taken different steps for the development of Alternative medicine. The Unani and Ayurvedic Act 1983 established two formularies, namely the National Formulary for Unani Medicine and the National Formulary for Ayurvedic Medicine. Both of these medical systems have formularies for commercial production. About 50% of this formula is produced in traditional medicine factories. This traditional preparation by the Directorate of Drug Administration. Registered practitioners can, based on their registration, produce small-scale medicines for their own patients. The Bangladesh herbal medicine market is valued at Taka 3,300 million (approximately \$60 million) at trade prices and has grown at a much higher rate than the 10% growth recorded in the Allopathic market. (Graham, Ali, & Jahangir, 2003) Consumers for herbal medicines are currently found in rural areas. In addition, the herbal industry considers that urban consumers prefer rapid, symptom-focused allopathic

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

treatments over a holistic, long-term herbal approach. (Graham, Ali, & Jahangir, 2003) Therefore it is important to build a system of traditional medicine on a wider scale.

AUSTRALIA

Australia is one of seventeen countries designated in the world to be responsible for more than 70% of the world's biodiversity. Australia alone has about 13% of the world's biodiversity with around 44,000 plant species, 88% of which is endemic to Australia. This means that Australia is in a relatively unique position when it comes to protecting and conserving biodiversity. (Wright, Cahill, Stoianoff, 2016)

Australia's policy of recognizing traditional knowledge in intellectual property law is of limited scope. (Davis, 1998) While indigenous property rights, cultural heritage, and environmental laws provide recognition and protection, currently not enough. Some of the regulations in Australia that protect traditional Knowledge are as follows: (Australian Human Rights Commission, 2008)

- 1) *Native Title Act 1993*, establish principles for the recognition of customary property rights, including rights to knowledge, based on traditional laws and customs observed and practiced by indigenous rights holders. While traditional owners are required to disclose their traditional knowledge in order for their original title to be recognized, it provides some safeguards for Indigenous traditional knowledge particularly in relation to information about certain sites that traditional owners groups can classify as sacred. This information is classified as confidential, in most cases held by the Original Title Representative Body or the Land Council, and access is restricted to those who have been nominated by the traditional owner of the information.
- 2) *Aboriginal and Torres Strait Islander Heritage Protection Act 1986* also has the potential to provide greater protection for Indigenous traditional knowledge. The purpose of this law is to preserve and protect areas and objects on land and waters that have special meaning for indigenous peoples in accordance with their traditional laws and customs. Although this law is currently limited to the protection of physical inheritance, and provides no mechanism to protect confidential and sacred knowledge relating to important areas, 30 Ministers have the authority to make declarations related to areas of importance to indigenous peoples who threatened. Declarations under paragraphs 9(1) or 10(1) with respect to an area shall:
 - a) describe the area in sufficient detail to allow the area to be identified
 - b) contains provisions for and with respect to the protection and preservation of the area from injury or disfigurement.
- c) *Biodiversity Conservation Act 1999* (Sentina, Mason, & Janke, 2018), This Act regulates access to biological resources and related Traditional Knowledge in the Commonwealth region. The EPBC Act and Regulations establish a permit system for commercial and non-commercial access to living resources. If access to living resources in the Commonwealth is for commercial purposes or for potentially commercial purposes, parties seeking access are required to enter into benefit-sharing arrangements with the access provider. There is no defined form for a benefit-sharing agreement, but the EPBC Rules require that it must provide:
 - a) Details of sources of Indigenous Knowledge;
 - b) Evidence of agreement to use Indigenous Knowledge (with access providers, but also with other Indigenous groups, where other groups are involved); and
 - c) Statement of benefits in return for the use of Indigenous Knowledge.
- d) Access and benefit-sharing provisions of the EPBC Act and Regulations protect Traditional Knowledge only if:
 - e) The biological resources to be accessed are located in areas owned by the Commonwealth;
 - f) The access sought is for commercial purposes; and
 - g) Existing Indigenous Knowledge related to biological access and use.

INDONESIA

The number of countries that are participants in the TRIPs agreement shows the international community's concern for the protection of Intellectual Property Rights. This has an impact on efforts to increase the protection of Intellectual Property Rights at the local and national levels, including Indonesia. In the last decade, Indonesia has ratified international agreements in the field of Intellectual Property Rights and revised and issued new regulations in the field of Intellectual Property Rights legislation (Roisah, 2014)

As a consequence of being a participant in the TRIPs agreement, Indonesia is burdened with the obligation to implement the Intellectual Property Rights system in accordance with the TRIPs Agreement into national law. (Roisah, 2012) One of the intellectual property rights that are protected in Indonesia in accordance with the mandate of the TRIPs Agreement is Traditional Knowledge. Indonesia's traditional knowledge has the potential to become a material wealth when it is manifested in the form of products that have a distinctive design. In the perspective of intellectual property law, this potential is a material right because it is a form of Intellectual Property Rights. (Roisah, 2012) In Indonesia, legal protection for traditional knowledge, when viewed from the unity of legislation on Intellectual Property Rights, is contained in several laws, such as:

1) Law no. 5 of 1994 concerning the Ratification of the United Nations Convention on Biodiversity

Article 8j of UNCBD states that the signatory to the convention must respect, protect, maintain the knowledge, innovations and practices of indigenous and local communities that reflect traditional lifestyles, in accordance with the conservation and sustainable use of biological diversity and promote their wider application. with the consent and involvement of the owners of such knowledge, innovations and practices and promote the equitable sharing of benefits resulting from the utilization of knowledge and innovations. (Sofyarto, 2018)

2) Plant Variety Protection Act/PVT (Law No. 29 of 2000 concerning Plant Variety Protection):

The Law on the Protection of Plant Varieties/PVT (Law No. 29 of 2000 concerning Protection of Plant Varieties) provides protection for traditional knowledge in Article 7 which states the following: Local varieties belonging to the community are controlled by the state, Control by the state as referred to in paragraph (1) is implemented by the Government, the Government is obliged to give naming to local varieties as referred to in paragraph (1), provisions for naming, registration, and use of local varieties as referred to in paragraphs (1), (2), and (3), as well as agencies who are given the task to carry it out, shall be further regulated by the Government.

3) Law Number 28 of 2014 concerning Copyright:

Article 38 paragraph (4) of Law no. 2 of 2014 concerning Copyright, confirms that further provisions regarding copyright held by the state will be regulated by a Government Regulation. Meanwhile, at the initiative of the Regional Representatives Council, currently discussing the formation of a Bill on the Protection and Utilization of Intellectual Property, Traditional Knowledge, and Traditional Cultural Expressions. The characteristic of copyright is the originality in creating a copyrighted work. The work must be produced by the person who acknowledges it as his creation. The work may not be copied or reproduced from another work. If the creator has applied a fairly high level of knowledge, expertise, and judgment in the process of creating his work, this is considered to have fulfilled the nature of authenticity in order to obtain copyright protection. (Rafian & Sabrina, 2014) Article 38 reads: (1) Copyrights on traditional cultural expressions are held by the State. (2) The state is obligated to make an inventory, maintain, and maintain traditional cultural expressions as referred to in paragraph (1). (3) The use of traditional cultural expressions as referred to in paragraph (1) must pay attention to the values that live in the community that bears it. (4) Further provisions regarding Copyrights held by the State on traditional cultural expressions as referred to in paragraph (1) shall be regulated by a Government Regulation.

Copyright on traditional cultural expressions held by the state as referred to in the Copyright Law is valid indefinitely. In the elucidation of Article 38 paragraph (1), what is meant by "traditional cultural expressions" includes one or a combination of the following forms of expression: verbal textual, both oral and written, in the form of prose or poetry, in various themes and contents of the message, which can be in the form of literary works or informative narratives; music, including, inter alia, vocal, instrumental, or a combination thereof; movement, including, among other things, dance; theater, which includes, among others, wayang performances and folk plays; fine arts, both in two-dimensional and three-dimensional forms made of various materials such as leather, wood, bamboo, metal, stone, ceramics, paper, textiles, and others or a combination thereof; and traditional ceremonies. Law of the Republic of Indonesia Number 13 of 2016 concerning Patents

Indonesia is a country that has a wealth of genetic resources and traditional knowledge which are often used by domestic and foreign inventors to produce new inventions. Therefore, in this Law there are provisions regarding the clear and honest mention of the materials used in the Invention if they are related to and/or derived from the genetic resources and/or traditional knowledge mentioned in the description.

Article 26

- (1) If the Invention is related to and/or derived from genetic resources and/or traditional knowledge, it must be stated clearly and correctly the origin of the genetic resources and/or traditional knowledge in the description.*
- (2) Information on genetic resources and/or traditional knowledge as referred to in paragraph (1) shall be determined by an official institution recognized by the government.*
- (3) The distribution of results and/or access to the utilization of genetic resources and/or traditional knowledge as referred to in paragraph (1) shall be carried out in accordance with statutory regulations and international agreements in the field of genetic resources and traditional knowledge.*

In the explanation of Article 26 paragraph (1) the reason for mentioning the origin of genetic resources and/or traditional knowledge in the description is so that genetic resources and/or traditional knowledge are not recognized by other countries and in the context of supporting Access Benefit Sharing (ABS).

4) Law of the Republic of Indonesia Number 20 of 2016 concerning Marks and Geographical Indications

Traditional Knowledge can also be protected in the Law on Trademarks and Geographical Indications. Implicit traditional knowledge is also part of the definition of Geographical Indication, which is a sign indicating the area of origin of an item and/or product which due to geographical environmental factors including natural factors, human factors or a combination of these two factors gives a certain reputation, quality and characteristics. on the goods and/or products produced. Article 56 states that an Application for Geographical Indications cannot be registered if: contrary to state ideology, laws and regulations, morality, religion,

Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

decency, and public order; misleading or deceiving the public regarding reputation, quality, characteristics, origin, source, process of making goods, and/or their use; and is a name that has been used as a plant variety and is used for a similar plant variety, unless there is an addition of equivalent words that indicate similar geographical indication factors.

While the application for Geographical Indications is rejected if: Documents Description of Geographical Indications cannot be verified; and/or have similarities in their entirety with the registered Geographical Indications.

IV. CONCLUSIONS

Concept of Understanding Traditional Knowledge as Intellectual Property. Traditional knowledge refers to the knowledge, innovations and practices of indigenous and local people around the world. Developed from experiences gained over centuries and adapted to the local culture and environment, traditional knowledge is transmitted orally from generation to generation. They tend to be collectively owned and take the form of stories, songs, folklore, proverbs, cultural values, beliefs, rituals, community laws, local languages, and agricultural practices, including the development of plant species and animal breeds. It is sometimes referred to as an oral tradition because it was practiced, sung, danced, painted, carved, sung and carried down for thousands of years. Traditional knowledge is primarily practical, particularly in fields such as agriculture, fisheries, health, horticulture, forestry and environmental management in general. Associated with Intellectual Property Rights, traditional knowledge can be protected in the form of law, namely the Intellectual Property Rights protection regime in the form of trademarks, copyrights, geographical indications, patents and so on, as well as non-legal protection, namely protection given to traditional knowledge that is not binding, including a code of conduct.

Comparison of Legal Protection for Traditional Knowledge in Bangladesh, Australia, and Indonesia. Protection of traditional knowledge in Bangladesh can be seen in several laws, including: Biodiversity And Community Knowledge Protection Act Of Bangladesh Of 1998, Plant Varieties Act Of Bangladesh Of 1998, Practioner Unani and Ayurvedic Ordinance 1983 and Drug Control Ordinance 1982. Furthermore Knowledge Protection Traditional knowledge in Australia can be seen in three laws, namely: Native Title Act 1993, Aboriginal and Torres Strait Islander Heritage Protection Act 1986, and Biodiversity Conservation Act 1999. Finally, in Indonesia, traditional knowledge can be found in several laws and regulations. Intellectual Property Rights Act, namely: Law no. 5 of 1994 concerning Ratification of the United Nation Convention on Biodiversity, Law on Plant Variety Protection (Law No. 29 of 2000 concerning Protection of Plant Varieties), Law Number 28 of 2014 concerning Copyright, Law No. Law of the Republic of Indonesia Number 13 of 2016 concerning Patents, and Law of the Republic of Indonesia Number 20 of 2016 concerning Marks and Geographical Indications.

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Legal Protection of Traditional Knowledge (Comparative Study of Bangladesh, Australia and Indonesia)

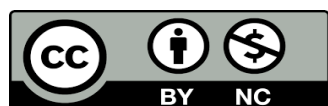
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