

Legal Study on the Preservation of Traditional Weaving in North Lombok: Between Intellectual Property Rights and Communal Protection

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Abstract

Traditional weaving from North Lombok represents intangible cultural heritage with significant economic and cultural value, yet faces threats of extinction and commercial exploitation without fair compensation. This research examines legal protection of traditional weaving through Intellectual Property Rights and communal protection regimes based on Law Number 28 of 2014 on Copyright and Government Regulation Number 56 of 2022 on Communal Intellectual Property. The research employs a normative juridical approach with analysis of laws and regulations and case studies in North Lombok. Findings reveal a dual protection system where the state holds copyright over traditional cultural expressions but has not optimally conducted inventory and economic benefit distribution to weaving communities. Main constraints include minimal documentation of weaving motifs, limited legal awareness among communities, and absence of clear benefit-sharing mechanisms. The research recommends accelerating inventory of North Lombok traditional weaving, strengthening weaving community institutions, and establishing specific regional regulations governing protection and economic utilization of weaving based on communal justice principles.

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1. INTRODUCTION (12 Pts)

Traditional weaving of North Lombok is an integral part of the cultural identity of the Sasak people which has been passed down from generation to generation for centuries.¹ This woven craft not only possesses high aesthetic value through distinctive motifs such as subahnale, ragi genep, and ragi tunjung, but also embodies the Sasak people's philosophy of life, reflecting harmony with nature and spiritual values. In the context of the creative economy, North Lombok weaving has great potential to improve the welfare of local communities and support regional economic development.

However, the existence of traditional weaving in North Lombok faces several serious threats. First, the lack of adequate legal protection makes traditional woven motifs vulnerable to plagiarism and commercial exploitation by external parties without compensation to the weaving community.⁴ Second, globalization and the influx of mass-produced textiles have shifted consumer interest toward hand-produced traditional weaving. Third, the regeneration of weaving artisans has significantly declined as the younger generation prefers jobs in other sectors considered more profitable.

Legal protection for traditional North Lombok weaving presents its own complexities due to the dual nature of the protection system. On the one hand, Law Number 28 of 2014 concerning Copyright places the state as the copyright holder for traditional cultural

expressions, including weaving.⁷ On the other hand, Government Regulation Number 56 of 2022 concerning Communal Intellectual Property recognizes the communal ownership of traditional intellectual property by indigenous communities based on the principle of benefit sharing.

Previous research has shown that legal protection of traditional cultural expressions in Indonesia still faces various obstacles. Gani et al. found that the lack of copyright registration for Sasak woven motifs leads to weak legal protection. Wijaya et al. identified that the concept of social justice in the regulation of traditional knowledge does not fully guarantee the communal rights of indigenous communities. Meanwhile, research by Putrajip et al. highlighted the importance of strengthening traditional weaving in tourism management, but this is hampered by the lack of legal protection.

Unlike previous research that focused more on general legal protection or the development of the creative economy separately, this study offers novelty by comprehensively analyzing the dual legal protection of traditional North Lombok weaving through an integrative approach between individual IPR systems and communal protection. This study also proposes a model of legal protection based on communal justice that integrates inventory, documentation, benefit sharing, and institutional strengthening of the weaving community.

Based on this background, this study aims to analyze: (1) the legal protection mechanism for traditional North Lombok weaving within the framework of Intellectual Property Rights and communal protection; (2) the legal and sociological obstacles in implementing legal protection for traditional weaving; and (3) the formulation of an effective legal protection model based on communal justice to preserve and utilize traditional North Lombok weaving.

2. RESEARCH METHODS

This research uses a normative legal research method with a statutory approach and a conceptual approach¹². The statutory approach is used to analyze regulations related to the protection of traditional cultural expressions, specifically Law Number 28 of 2014 concerning Copyright, Government Regulation Number 56 of 2022 concerning Communal Intellectual Property, and Regulation of the Minister of Law and Human Rights Number 13 of 2017 concerning Communal Intellectual Property Data¹³. The conceptual approach is used to understand legal concepts such as traditional cultural expressions, communal protection, and benefit sharing in the context of intellectual property¹³.

The primary legal materials used include laws and regulations related to intellectual property rights and cultural advancement. Secondary legal materials include books, scientific journals, research findings, and legal articles relevant to the protection of traditional cultural expressions and traditional weaving.¹⁵ Data were also obtained through a documentary study of traditional weaving protection practices in North Lombok.

Data collection techniques were conducted through library research, systematically reviewing and analyzing primary and secondary legal materials¹⁶. The collected data were then analyzed using a descriptive-qualitative method with a legal interpretation approach. The analysis was conducted by identifying relevant legal norms, interpreting the meaning and scope of legal protection, and evaluating the effectiveness of regulatory implementation in protecting traditional North Lombok weaving¹.

3. RESEARCH RESULTS AND DISCUSSION

3.1 Legal Protection of Traditional Weaving in North Lombok within the Framework of Intellectual Property Rights and Communal Protection

Legal protection for traditional North Lombok weaving is regulated through two main regimes that interact with each other but have different characteristics: the individual Intellectual Property Rights system and the communal protection system. Article 38 paragraph (1) of Law Number 28 of 2014 concerning Copyright emphasizes that copyright for traditional cultural expressions, including traditional weaving, is held by the state¹⁸. This provision positions the state as a trustee responsible for inventorying, protecting, and maintaining traditional cultural expressions for the benefit of the culture-carrying community¹⁹.

In the explanation of Article 38 paragraph (1), protected traditional cultural expressions include fine arts in two-dimensional and three-dimensional forms made from various materials, including textiles²⁰. Traditional weaving from North Lombok, with its distinctive motifs such as subahnale, ragi genep, and pucuk rebung, fulfills the criteria as a traditional cultural expression that must be protected. However, protection through copyright faces a fundamental obstacle because the copyright system requires an identified creator, whereas traditional weaving is the result of a collective community creation that has developed anonymously over centuries²¹.

To address the limitations of the copyright system in protecting communal intellectual property, the government issued Government Regulation No. 56 of 2022 concerning Communal Intellectual Property, which specifically regulates the protection of traditional cultural expressions, traditional knowledge, genetic resources, and potential geographical indications.²² This regulation regulates the mechanism for inventorying communal intellectual property rights (KIK) through the Indonesian KIK information system managed by the Directorate General of Intellectual Property²³.

Inventory is a crucial step in the defensive protection of North Lombok's traditional weaving. Through inventory, comprehensive data on motifs, dyeing techniques, raw materials, and traditional weaving philosophy are documented in a national database that can be accessed to prevent third-party claims.²⁴ However, data from the Directorate General of Intellectual Property shows that as of 2024, the inventory of North Lombok's traditional weaving remains very limited, with only a few motifs recorded in the Indonesian Intellectual Property Information System.²⁵

Communal protection also regulates the mechanism of economic utilization through the principle of benefit sharing. Article 33 of Government Regulation No. 56 of 2022 mandates that the use of KIK for commercial purposes must be based on Prior Informed Consent from the community and Mutually Agreed Terms that regulate the fair distribution of benefits.²⁶ This principle aligns with the concept of social justice in Pancasila, which recognizes the communal rights of indigenous peoples to traditional intellectual property.²⁷

3.2 Legal and Sociological Obstacles in the Implementation of Legal Protection

The implementation of legal protection for traditional North Lombok weaving faces various obstacles, both legal and sociological. From a legal perspective, the main obstacle is the inconsistency between the Copyright Law, which places the state as the copyright holder, and Government Regulation No. 56 of 2022, which recognizes communal ownership.²⁸ This dualism creates legal uncertainty regarding who has the right to commercially exploit traditional weaving and how the economic benefits will be shared.

The second obstacle is the absence of government regulations that regulate in detail the further provisions of Article 38 paragraph (4) of the Copyright Law regarding state-held copyright over traditional cultural expressions.²⁹ This legal vacuum results in the

absence of a clear operational mechanism for the inventory, safeguarding, maintenance, and economic utilization of traditional weaving.

The third obstacle is the weak enforcement of the law against violations of the rights to traditional weaving. Although Article 72 paragraph (7) letter c of Law Number 20 of 2016 concerning Trademarks and Geographical Indications regulates the removal of trademarks that have similarities with traditional cultural expressions, in practice, it is very rare for trademarks that use traditional weaving motifs to be removed without permission³⁰.

From a sociological perspective, the main obstacle is the low legal awareness of North Lombok's weavers regarding the importance of legal protection for their traditional crafts.³¹ Many weavers lack understanding of the concept of intellectual property rights (IPR) and are unaware that the motifs they create have economic value that can be legally protected. Limited access to legal information and a lack of outreach from the local government exacerbate this situation.

The second obstacle is the lack of systematic documentation of traditional woven motifs. The process of passing down weaving knowledge is still carried out orally and through hands-on practice from older generations to younger ones without adequate written documentation.³² This situation complicates the inventory process and proves the authenticity of motifs in the event of disputes.

The third obstacle is the weak institutional framework of the weaving community. Most weavers in North Lombok work individually or in small groups without a strong organization to advocate for their collective rights.³³ The absence of representative communal institutions makes it difficult to implement the principles of Prior Informed Consent and Mutually Agreed Terms in utilizing the traditional weaving economy.

3.3 Communal Justice-Based Legal Protection Model

Based on an analysis of existing constraints, this study formulates a model of legal protection for traditional weaving in North Lombok based on communal justice that integrates four main pillars: comprehensive inventory, strengthening community institutions, special regional regulations, and fair benefit sharing mechanisms.

The first pillar is accelerating the inventory of traditional North Lombok weaving through collaboration between the Regional Government, the Directorate General of Intellectual Property, academics, and the weaving community³⁴. The inventory should include comprehensive documentation of the motifs, production techniques, raw materials, philosophy, and historical development of weaving. Documentation can be done through photography, videography, and written narratives stored in a digital database integrated with the Indonesian KIK information system³⁵.

The second pillar is strengthening weaver community institutions through the establishment of representative weaver associations or cooperatives with the legal capacity to manage communal rights to traditional weaving.³⁶ These communal institutions serve as focal points for granting Prior Informed Consent, negotiating Mutually Agreed Terms, and distributing benefit sharing to community members.

The third pillar is the establishment of a specific regional regulation on the protection and development of traditional North Lombok weaving, which details the mechanisms for inventory, protection, economic utilization, and sanctions for violations.³⁷ The regional regulation must adopt *sui generis* protection principles that accommodate the unique characteristics of communal intellectual property, as distinct from the conventional individualized IPR system.³⁸

The fourth pillar is the establishment of a transparent and equitable benefit-sharing mechanism that regulates how the economic benefits from the use of traditional

weaving are distributed proportionally to the weaving community.³⁹ This mechanism could include royalties from motif licensing, profit sharing from the commercialization of woven products, and investment in weaving capacity development.

This model also proposes the establishment of a certification system for the authenticity of traditional North Lombok weaving. This could serve as a geographical indication or certification for local products, providing added value and competitiveness in the market.⁴⁰ This certification system would not only protect consumers from counterfeit products but also provide economic incentives for weavers to maintain the quality and authenticity of their products.

4. CONCLUSION

This study found that legal protection for traditional weaving in North Lombok faces a dualistic system, between protection through Intellectual Property Rights, which positions the state as the copyright holder, and communal protection, which recognizes the collective ownership of the cultural community. This dualism creates legal uncertainty and ineffectiveness in implementing protection.

The main obstacles to the implementation of protection include legal aspects in the form of regulatory inconsistencies, a lack of implementing regulations, and weak law enforcement, as well as sociological aspects in the form of low public legal awareness, minimal systematic documentation, and weak institutional structures of weaver communities.

The proposed communal justice-based legal protection model integrates four pillars: accelerating comprehensive inventories, strengthening weaver community institutions, establishing specific regional regulations, and transparent and equitable benefit-sharing mechanisms. This model adopts the principle of *sui generis* protection that accommodates the unique characteristics of communal intellectual property.

This study recommends that the North Lombok regional government immediately establish specific regional regulations on the protection of traditional weaving, facilitate the formation of representative weaver community organizations, and allocate a budget for a systematic and sustainable inventory and documentation program for traditional weaving.

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