

From Sacred to Marketed: How Economic Value Has Diminished the Meaning of Traditional Cultural Expressions

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Abstract. *This study examines the challenges in the process of recording Traditional Cultural Expressions (TCEs). TCE recording requires economic value to obtain protection as communal intellectual property. The rejection of the recording of Talam Sehidang (Makan Sehidang Berlina) as a TCE from the Kepulauan Riau Province. This study uses a normative legal research method that analyzes data qualitatively. The study finds that policymakers frequently exclude SWES traditions rich in moral and spiritual significance from legal protection because they perceive such traditions as lacking direct economic value. However, communities and local governments can generate economic value through active cultural preservation after recording. The requirement of economic value hampers the recording of TCEs. This paper proposes an inclusive TCE recording procedure for communal intellectual property. So that TCEs can be legally recognized and then developed by the host community to be economically valuable. It also provides procedural guidance for local communities to protect culturally meaningful expressions through preservation-based approaches. Economic formalism in cultural recording risks disempowering Indigenous communities and reducing heritage to market logic. By restoring philosophical and moral dimensions to legal recognition, cultural policy can promote equity and protect identity. The lack of documentation for ancient TCE and the economic value requirement for TCE recording led to the failure of the recording process. Thus, this research proposes changes to the requirements in the traditional cultural expression recording policy to prioritize philosophical values alongside economic values. The novelty of this study lies in its critique of the TCE recording process, which requires economic value, making it difficult for cultural actors to obtain protection for TCE as communal intellectual property. However, recording can potentially create income for cultural actors by creating activities such as tourism based on traditional cultural expressions.*

Keywords: Culture; Property; Traditional.

1. INTRODUCTION

The rejection of the application for recording of Talam Sehidang (*Makan Sehidang Berlina*) as a TCE by the relevant ministry raises questions in this article. These questions

relate to the standards or requirements for TCE recording. Cultural communities across generations have created and preserved TCEs as collective heritage (Aroian, 2025). Both intellectual property and cultural rights aim to preserve cultural assets and protect the value behind them, including creative and artistic endeavors (Aroian, 2025). These two concepts aim to protect cultural heritage from being lost or misused in the commercialization process.

This article discusses how TCE recording in Indonesia overemphasizes economic value, ignoring the spiritual and philosophical meaning behind TCE. However, economic value can make TCE a source of income for cultural practitioners, even though it occurs after the recording process. Recording can have an impact on the economic sustainability of indigenous communities. Indigenous cultural expression is a key driving force behind the tourism industry (Abdul Ghani Azmi, 2017). Understandably, the economic value aims to avoid distorting the actual image of their culture. Additionally, it is essential to prevent commercial exploitation of culture, as cultural actors rely on TCE as a source of income to support their livelihoods. It is no secret that mass-produced copies of traditional cultural expressions (TCE) often dilute the cultural identity of indigenous peoples, and worse, prevent them from competing with the broader world in terms of market access and price. (Abdul Ghani Azmi, 2017)

This tradition continues to live in the Lingga Malay community of Kepulauan Riau Province. They preserve it from one generation to the next. However, the government is considering rejecting it because it has no economic value. This case illustrates how the state often views cultural heritage as a means to administrative and financial logic. Communities pass traditional cultural expressions from one generation to the next (Bath & Prasad, 2025). This paper aims to critique the TCE recording process in Indonesia, particularly when noble cultural values are compromised to accommodate a copyright regime oriented towards economic value. His paper seeks to critique the TCE recording process in Indonesia, particularly when noble cultural values are compromised to accommodate a copyright regime that prioritizes economic value.

This study argues that the current recording of TCE in Indonesia emphasizes economic value. This claim is based on the rejection of Talam Sehidang. This communal eating tradition in Lingga is considered to have little economic potential.. This argument is based on the inability to record the Talam Sehidang (Eating Five) tradition as a recording TCE, as it is considered to lack commercial potential, despite its high philosophical significance in the Lingga community (Reason). This rejection demonstrates a legal approach that treats TCE as an economic asset, not merely a cultural identity.. The logic follows that if the legal system aims to protect cultural expressions, it must consider non-economic values as valid grounds for recording (Warrant). This principle aligns with both national cultural policy and international standards such as the UNESCO Convention 2003 and WIPO's protection of TCEs.

However, amidst the cultural richness, a legal approach that emphasizes economic value has the potential to ignore philosophical substance. There are concerns that the TCE recording approach, which emphasizes economic value, may overlook philosophical substance. TCE recording should not focus solely on economic value. Heritage refers to any work produced by one's predecessors, encompassing beliefs, languages, archaeological sites, and other things.(Alshehaby, 2020)

The Ministry of Education and Culture has designated various traditions in the Riau Islands Province, such as Gurindam Dua Belas, Makyong, Mendu, and Joget Dangkong, as Intangible Cultural Heritage under the Communal Intellectual Property system. However, intangible cultural heritage, such as Makan Sehidang Berlima, is particularly rich in diversity in terms of art, literature, and culture. One of the phenomenal and monumental literary works is Gurindam 12 by Raja Ali Haji. In addition to Gurindam 12 Raja Ali Haji, the Riau Islands also have various forms of traditional cultural expressions that remain alive and continue to evolve. TCE is in the form of Performing Arts, in the form of Traditions and Oral Expressions, Traditional Skills and Crafts, Community Customs, Rituals and Celebrations, and Knowledge and habits of behavior about nature and the universe. The Ministry of Education and Culture has recorded the various forms of art, literature, and culture mentioned above as Intangible Cultural Heritage originating from the Riau Islands.

However, not all intangible cultural heritages are protected from the intellectual property aspect, as seen in the Ministry of Law and Human Rights. The government has designated some traditions as Intangible Cultural Heritage and integrated them into the Communal Intellectual Property Data Center page (<http://kikomunal-indonesia.dgip.go.id>). The government also recognizes many forms of intangible cultural heritage as TCE. However, this does not apply to TCE that have no economic value. This situation indicates a gap between cultural recognition and TCE protection in Indonesia. The legal protection in question relates to the communal intellectual property (TCE). There are concerns that the TCE recording approach, which emphasizes economic value, may overlook philosophical substance. TCE recording should not focus solely on economic value.

The Ministry of Law and Human Rights has recording Gasing Kepri and Mandi Safar. Communal Intellectual Property system. However, intangible cultural heritage, such as Makan Sehidang Berlima (Talam Sehidang), which falls within the scope of customs, rites, and community celebrations, faces obstacles in the recording process. The tradition cannot be recorded as Intangible Cultural Heritage because it does not meet the established economic value requirements. It is because the recording of TCEs requires that they have economic value. Policymakers have contributed to a critical gap in how traditional cultural expressions are documented and protected by implicitly prioritizing economic value in the recording process.

Recording of traditional cultural expressions should not be based solely on their economic value. Failure to record a particular traditional cultural expression due to its economic value overlooks the philosophical significance of that expression. After the Ministry records TCEs, the community responsible for preserving TCEs can actively generate economic value to improve its welfare. As stated by Jones, the role of culture is currently shifting from an educational function to one that aligns with the economic goals of tourism and regional development. (Jones, 2018)

This claim stems from the rejection of Talam Sehidang: the authorities view this communal eating tradition in Lingga as having little economic potential. Martinet emphasizes that this traditional character is the result of intergenerational transmission, thus distinguishing traditional cultural expressions from other artistic expressions. Second, as Azmi and Jones said above, shows that the commodification of heritage often leads to the distortion of meaning and the disempowerment of indigenous communities.

Third, there is inconsistency between institutions: the Ministry of Education and Culture recognizes various TCEs as intangible heritage, while the Ministry of Law and Human Rights requires demonstrable economic value for legal protection.

This article discusses the process of recording TCE with the relevant ministry. This meaningful tradition symbolizes togetherness and harmony. It means that the TCEs recording system does not see the philosophical value behind traditions that have been passed down from generation to generation, because TCEs prioritizes its economic usefulness as applied to copyright.

Although the state has recognized cultural traditions as intangible cultural heritage, recognition and protection in terms of intellectual property are needed to prevent the TCEs from being used commercially by other parties. The requirement of economic value is possible because TC Reglement Industrial Eigendoms fall under the copyright law regime. Copyright has not only moral value but also economic value. Therefore, when used by other parties, they must provide some compensation in the form of benefit sharing to the community of TCE holders. In the author's opinion, the community can create economic value after recording traditional cultural expressions. The purpose of recording TCEs is to enhance the welfare of communities that have preserved their cultural traditions from one generation to the next.

This conclusion is supported by the principle that TCE in the intellectual property law regime must function to protect and preserve collective identity, not simply to seek economic gain. The characteristic of traditional cultural expressions is their traditional nature. Traditional means passed down from one generation to the next. Today's traditional cultural expressions are a continuation of past intellectual activity. Furthermore, traditional cultural expressions today are both ancient and contemporary. Martinet emphasizes that this traditional character is the result of intergenerational transmission, thus distinguishing traditional cultural expressions from other artistic expressions.(Martinet, 2019)

In response to this systemic issue, this study focuses on supporting documentation and the recording of TCEs, even though they are not yet economically valuable at the time of recording. Essentially, TCEs are recording not only for protection as TCEs but also for other purposes. TCEs exist to increase the economic value of the TCEs and lead to improved welfare of the community holding the TCEs in question. This study aims to contribute to a more inclusive, philosophical, and community-centered approach to recording traditional cultural expressions as Communal Intellectual Property in Indonesia.

This article discusses three issues. The first section discusses the gap between cultural recognition and legal protection of Traditional Cultural Expressions (TCEs), specifically how cultural heritage recognized by the Ministry of Education and Culture often fails to receive appropriate legal protection under the intellectual property rights framework. Second, it discusses the requirement for economic value issues in the TCE listing process. Third, a more inclusive TCE listing should consider the philosophical values behind TCEs. This article recommends that the law should not require traditional culture to have economic value from the outset because communities, in collaboration with local governments, can actively create such value by preserving TCEs to improve their well-being.

This research aims to provide recommendations for the submission and recording of TCEs with the Ministry of Law. To ensure that the economic value requirement for TCE submission is not a prerequisite for legal protection, this article proposes TCE recording that emphasizes philosophical and cultural recognition over economic considerations. Intellectual and cultural recognition comes first, followed by economic development, as the duty of indigenous communities to continue preserving TCEs as icons of cultural tourism.

2. RESEARCH METHODS

This article used Normative Legal Research (Muhammad, 2004). The approach used is statutory (Marzuki, 2019), utilizing secondary data. The data collection technique involved a literature study of the Talam Sehidang traditional ceremony, conducted by the Old Community, to preserve cultural activities in Dabo Singkep, Lingga Regency.

The data used in this study is secondary data, consisting of primary legal materials. The primary legal materials in this study consist of Law No 28 of 2014 concerning Copyright and Regulation (Hariyanti, 2022), and the Minister of Law and Human Rights Regulation Number 13 of 2017 concerning Communal Intellectual Property Data (Ibrahim et al., 2024). This study utilizes secondary legal materials obtained from library sources, including books, legal literature, and scientific journals related to Communal Intellectual Property Rights, particularly those concerning traditional cultural expressions. This study also utilized documents on conventional cultural expressions originating from the Malay Indigenous Community of the Riau Islands.

This research also utilized documents related to traditional cultural expressions emanating from the Riau Islands Malay Indigenous Community. Data collection involved reviewing primary and secondary legal materials. The stages involved identifying, inventorying, recording, and quoting relevant information, as well as analyzing all available legal materials to formulate the research problem. This research processed secondary data through the following stages: data checking (editing), to verify the completeness, accuracy, and suitability of the data to the research problem. Data sourced from laws was coded by writing the article number, law number, year, and name of the law; data sourced from documents by writing the document title and legal events referenced in the document; and data sourced from legal literature by writing the author's name, year of publication, title of the work, publisher, place of publication, and the page number of the data collected.

3. RESULTS AND DISCUSSION

3.1. Traditional Culture Expression in The Legal Regime of Intellectual Property Rights

The Kepulauan Riau Province has a very diverse and rich cultural heritage. The Ministry of Education and Culture has officially recognized this cultural heritage. Examples include Gurindam Dua Belas, Makyong, Mendu, and Joget Dangkong. Some of these traditions have also been recorded as intellectual property (IP) of traditional cultural expressions by the Ministry of Law and Human Rights.

This situation reflects the tension between the collective ownership of indigenous communities and the state's positive legal approach, which places TCE as an object of copyright protection. Therefore, a more contextual and preservation-oriented approach is needed. TCE is indeed different from other works. TCE is in the public domain. Rights holders have limited control over it. Strict control is not possible. Rights holders are sometimes obliged to encourage the public dissemination of TCE. It is to ensure wider preservation.(Li et al., 2024)

Human activities generate TCE (Kasih et al., 2021), particularly in indigenous communities. They face significant challenges in protecting TCE within the scope of intellectual property law. For example, Indonesian law does not yet fully protect TCE, although the state regulates it through the Copyright Law and the Law on the Advancement of Culture.

Legal gaps in TCE protection are not unique to Indonesia; similar issues exist in other countries as well. In Malaysia, for example, copyright law does not explicitly regulate the use of TCE. Several countries have established sui generis legal systems that offer protection for TCE, for example, Zambia's Traditional Knowledge, Genetic Resources, and Folklore Expression Act. Zambia's law provides a more specific approach, focusing on the stronger recognition and economic empowerment of indigenous communities.

TCE recording should not require communities to prove the economic value of their traditions to obtain protection. The focus should be on Law No 28 of 2014 concerning Copyright and Regulation, and the Minister of Law and Human Rights' Regulation Number 13 of 2017 concerning Communal Intellectual Property Data, considering the cultural and social significance of these traditions. You can look at the Mah Meri tribe in Malaysia. Documentation efforts there are aimed at preserving cultural heritage, not simply proving its economic value.

The regulation of intellectual property rights in Indonesia has existed since the 1840s (Wicaksono, 2020). In 1885, the brand arrangement was enforced by the Dutch Colonial Government in the Dutch East Indies. In 1910, the Dutch Colonial Government enacted Octroi Wet Staatblad No. 313 of 1910, which contains patent rules. In 1912, there was an arrangement about brands in the Dutch East Indies in the Reglement Industrial Eigendom Staatblad No. 545 of 1912. In 1912, the Dutch Colonial Government also enacted Auteurswet Staatblad No. 600 Year 1912, which contains Copyright Arrangements.

The enforcement of the rules in the field of intellectual property rights was made by the Netherlands because, in 1914, the country ratified the Bern Convention for the Protection of Literary and Artistic Works of 1886 and, in 1888, ratified the Paris Convention for the Protection of Industrial Property of 1883 (Driouchi & Zouag, 2010). During the Japanese occupation and after Indonesia gained independence, the laws and regulations of the Dutch Colonial heritage remained in force. Only the Octrooi Wet was not enforced because it conflicted with the principles of the sovereignty of the Republic of Indonesia, which had just become independent at that time. (OK. Saidin, 2019)

Intellectual property rights (IPR), due to the ability to think, are realized in the form of an Invention. Creativity or inventions can be beneficial in improving human well-being, especially for their creators.(Muhammad, 2007) Creative works are not only concerned with moral rights but also have economic rights for their creators that must be protected by law.

Intellectual Property Ownership is divided into Personal Ownership and Communal Ownership. Intellectual and personal Property Rights are those that are wholly owned by individuals or groups of individuals with or without applying to the State to obtain monopoly rights for economic exploitation, and Intellectual Property Rights that are communal are those that are wholly owned by a group of people living in a place permanently.(Direktorat Kekayaan Intelektual Kementerian Hukum dan HAM RI, 2019)

The principles of protection of intellectual property include the Principle of Justice, namely the existence of a reasonable reward for the Creator or Inventor who produces results from his intellectual ability; Economic Principles, are the Creator or Inventor gains profit in the form of royalties from the user of the Invention or Invention; The principle of Culture, that is, every creation or invention is expected to provide benefits for the community, nation and country; The Social Principle, is the protection of one's work means protecting the interests of society.(Djumhana, 2014)

Traditional cultural expression is communal, so traditional cultural expression is considered free to be used and reproduced by anyone, within the limits of use and reproduction that does not violate the rules of the community that owns the traditional cultural expression. Thus, even though traditional cultural expressions have been considered the common property of the owner community, the copyright on traditional cultural expressions is held by the state.

This is very different from copyright protection which gives economic rights not only morally to the creator but also economically to the rights holder. In contrast, the protection against EBT has not led to the direction of giving economic rights to at least the traditional communities that preserve the Culture so that it can increase the well-being of the community that is the holder or guardian of the cultural expression in question.

Traditional culture includes intellectual works that must be protected because it is the identity and identity of a nation and Indonesia. Even though the preservation of culture in various tourism activities can be economically beneficial to improve the well-being of the community, especially for communities that continue to preserve it.(Wedhatami & Budi, 2014).

The protection of traditional cultural expressions or folklore in Indonesia (Idris, 2003), appears due to the existence of related countries that claim some traditional cultural expressions that have lived and developed for a long time in Indonesia.(Kusumadara, 2011) The protection system of traditional cultural expression in Indonesia is still included in the copyright law regime (Sardjono, 2003). So, it does not provide the maximum economic and legal protection for the cultural preservation community.

The protection of EBT in Indonesia is included in the legal regime in the field of Intellectual Property Rights, i.e., Copyright. It makes EBT unable to be perfectly protected. Intellectual Property Rights that are the object of protection are novelty/novelty. In comparison, EBT is not something new but rather a tradition or custom continuously preserved by specific traditional communities.

The EBT arrangement is divided into two models, the first of which is sui generis in nature, i.e. its regulation, second by incorporating intellectual property rights arrangements. Indonesia regulates EBT in the Copyright Law. Examples of countries that regulate sui generis are Thailand and the Philippines. Countries that regulate the

Intellectual Property Rights legal regime, such as Australia, India and China.(Purba, 2012)The World Intellectual Property Organization (WIPO) has established the Inter-Governmental Committee on Genetic Resources, Traditional Knowledge, and Folklore of the World Intellectual Property Organization (IGC-GRTKF WIPO) (Azwar, 2015). This committee stipulates that Traditional Knowledge (TK) and Traditional Cultural Expressions, including folkloric expression and genetic resources (GR), are recognized and protected by the international community under international and national law.(Van Der Merwe, 2014)

Traditional cultural expressions in the 1980 WIPO Glossary discussed by the WIPO IGC-GRTKF are:

"Works belonging the cultural heritage of a nation, created, preserved and developed in indigenous community by unidentified persons from generation to generation. Example for such works are folk tales, folk songs, instrumental music or dances, and the different rites of people. According to some opinions, works of folk art expressed in tangible form are not covered by the notion of folklore compromises all literary and artistic works mostly created by authors of unknown identify but presumed to be nationals of a given country, evolving from characteristic forms traditional in the ethnic groups of the country."

WIPO Document Number WO/GA/40/7 Annex, Traditional Cultural Expression is defined as "All forms of expression, both material (things) and immaterial (non-things), or a combination of the two, that show the existence of a traditional culture and knowledge that is hereditary, which includes, but is not limited to phonetic or verbal expression; Voice or musical expression; Expression of movement or action.

Regulation of the Minister of Law and Human Rights Number 13 of 2017 regarding Communal Intellectual Property Data (Ibrahim et al., 2024). Traditional Cultural Expressions are all forms of expression of creative works, tangible and intangible, or a combination of both, that show the existence of a traditional culture held communally and across generations.

An expression is said to be a traditional cultural expression if it involves individual and collective intellectual activity that characterizes the identity and heritage of a community. This activity is preserved and developed by the community, including those who have rights according to the law and customary practices of the community.(Purba, 2012)

Philosophically, the Constitution of the Republic of Indonesia Year 1945, mandates that the protection of cultural diversity in Article 18 B paragraph (2), that "The State recognizes and respects customary law community units and their traditional rights as long as they are still valid and by the development of society and the principles of the Unitary State of the Republic of Indonesia regulated in law."

Article 28C paragraph (1), states that "Every person has the right to develop himself through the fulfillment of his basic needs, the right to receive education and benefit from science and technology, art and culture, in order to improve the quality of his life and for the sake of human well-being. Paragraph (2) Everyone has the right to advance themselves in fighting for their rights collectively to develop their society, nation and country.

Article 28I paragraph (3), specifies that: "The cultural identity and rights of traditional communities are respected in accordance with the development of the times and civilization"

Article 32 paragraph (1), states that "The state advances Indonesian national culture in the midst of world civilization by guaranteeing the freedom of the community in preserving and developing its cultural values."

Provisions of International Law also recognize the cultural diversity of people or communities in a region. Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Paris 2015, Perpres No. 78 of 2011 regarding the Ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Convention on the Protection and Promotion of the Diversity of Cultural Expressions) (Nwauche, 2017). This convention provides recognition of the protection of cultural diversity, especially in situations where there is a possible threat of extinction to EBT.

The Matatua Declaration on Cultural and Intellectual Property Rights of Indigenous People 1993, which discusses the values of traditional knowledge, biodiversity and biotechnology, environmental management customs, art, music, language, and various physical and cultural forms.

The Convention for the Safeguarding of the Intangible Cultural Heritage was ratified by Presidential Decree No. 78 of 2007 regarding the Ratification of the Convention for the Safeguarding of the Intangible Cultural Heritage (Convention for the Protection of Intangible Cultural Heritage) in 2003.

The concept of 'protection' of EBT in indigenous communities provides fundamental protection, as the heritage of specific indigenous communities cannot be owned by one person, and it certainly cannot be bought or sold, as in the protection of intellectual property in general. Kholis Roisah states that the legal regime of Intellectual Property Rights is individual and monopolistic, while traditional cultural expression is based on communal and spiritual values.(Roisah, 2014)

EBT in traditional societies is not for commercial gain, unlike IPRs, which generally have a limited lifespan. That is the concept of 'protection' in the traditional society, which implies taking care of the survival and development of EBT in the context of culture, society, and spirituality, so that one person cannot own EBT, let alone trade it.(Van Der Merwe, 2014)

The Legal Regime of Intellectual Property Rights places Traditional Cultural Expressions in Law No 28 of 2014 on Copyright, because it adopts the provisions of The Berne Convention for the Protection of Literary and Artistic Works (Berne Convention 1979). Article 15, Paragraph 4 Berne Convention 1979, regulates:

- "(a) In the case of unpublished works where the identity of the author is unknown, but where there is every ground to presume that he is a national of a country of the Union, it shall be a matter for legislation in that country to designate the competent authority which shall represent the author and shall be entitled to protect and enforce his rights in the countries of the Union.*
- (b) Countries of the Union which make such designation under the terms of this provision shall notify the Director General by means of a written declaration giving full information concerning the authority thus designated. The Director*

General shall at once communicate this declaration to all other countries of the Union."

The EBT arrangement in Law No 28 of 2014 on Copyright provides an opportunity for protection through recording by the State. As stipulated in the Regulation of the Minister of Law and Human Rights Number 13 of 2017 regarding Communal Intellectual Property Data. The recording of EBT is beneficial, especially for the traditional community of holders and conservators, as well as for the improvement of well-being through its utilization by other parties. However, the concept of benefit sharing from the commercial use of traditional cultural expressions has not been regulated in Indonesian laws and regulations.

3.2. The Requirement for Economic Value Issues in The TCE Listing Process

Policymakers implicitly prioritize traditions that have future economic potential. It creates a bias against cultural expressions that are rich in philosophical meaning but lack real monetary value. The economic value of TCE is required for TCE recording, apparently because the protection of economic and moral rights over creations originating from TCE is equivalent to copyright protection. The Indonesian government includes TCE in the country's copyright legal regime.(Widyanti, 2022)

The Tradition of Eating Five at a Time (Talam Sehidang), which we attempted to document for the Ministry of Law and Human Rights, is an example of this problem. Although this tradition is rooted in the customs of the community and embodies the values of unity and togetherness, efforts to document it have encountered obstacles because policymakers do not regard it as having economic value.

In general, culture is a form of human cultivation that includes various knowledge, beliefs, arts, morals, laws, customs, and other abilities and habits acquired by humans as social creatures. Culture manifests as a way of life that reflects the cultural values it embodies. Essentially, the way of life in society is a concrete reflection of the cultural values that are applied in everyday life. Cultural values that are used in the dynamics of life. Thus, the characteristics of a particular community or ethnic group will be clearly seen from the cultural factors that encompass all aspects of life, such as artistic traditions and cultural practices that distinguish it from other ethnic groups. One of the ethnic groups that upholds its culture is the Malays. The Malay community continues to maintain its identity. In the Malay tradition itself, there is a phrase that expresses this concept: "*Adat Bersendikan Syarak, and Syarak Bersendikan Kitabullah.*" It implies that, directly or indirectly, Malay cultural traditions in the Riau Islands, particularly in Karimun, continue to adhere to Islamic teachings.(Swastiwi & Arman, 2019).

Malay culture has universal values that are recognized by humanity, such as the value of belief in the authority of the Creator, God, the value of "persebatian" among fellow people, the value of deliberation and consensus, as well as maintaining and creating justice. Justice, so that the Malay people have dignity, and dignity that is seen as equal to other humans and societies. The philosophy of Malay culture and Islamic values must be able to bring together the Malay cultural philosophy and Islamic values, to form Malays who have a form of ukhuwah (need for affiliation), quwwah (need for achievement), and quwwah (need for achievement). Reality social reality needs to be returned to efforts so that Malay culture and Islam are used as the basis, umbrella, and the crown of its society.(Thamrin, 2018).

Lingga, Riau Islands Province, has a tradition of eating together, which is named "Talam Sehidang." This "Talam Sehidang" tradition describes the habit of Malay people eating and drinking together which is preceded by the tradition of making traditional Malay dishes. Talam Sehidang is a concept and tradition of Malay people eating together to build a sense of kinship, stay in touch with each other, and maintain relationships between residents of the Malay community of Riau Islands, especially in the Lingga area.

The tradition of eating together in the Lingga Malay community has been around since ancient times. As early as when the king worked, the history of eating together at the time of the kings ordered Penghulu to decorate the hall and spread the mats, and hang the veil and ceiling, and look at people's food, and visit people, call people, because the king's servants, and all the king's treasurers, and all those who hold the king's country products, and the shahbandar all in about Penghulu Bendahari alone. The Penghulu Bendahari sent a summons, and the Temenggung would arrange for people to eat in the hall. So the men ate, four to a plate, and so on downwards; and if there was no one to eat with, there were three; if there were no two, there were two; if there were no three, there was one. The treasurer ate one meal with the king's son. Such were the customs in the days of Melaka, and there were many others. (Ahmad, 2003).

As described above, the Malay community's custom is to eat together, a tradition to be preserved by the community. The philosophy of eating together, known as "Talam Sehidang", embodies the values of bersilaturrahmi, brotherhood, togetherness, and sharing sustenance.

By focusing on economic value, recording ignores the philosophical aspects that exist in TCE as an identity for a particular cultural community. It likely happens because policymakers equate TCE recording with copyright rules, which include both moral and economic rights, as a means to preserve cultural heritage. In Indonesia, the government currently places TCE under the country's copyright regime.

Traditional cultural expressions are not just creative works, but are also deeply rooted in the identity of indigenous communities and their belief systems. These expressions are passed down through generations as shared knowledge, not as individual property. There are many interests and goals of indigenous and traditional communities in TCE. Unfortunately, because TCE falls under the copyright law regime, the government has not effectively accommodated it. (Acharya & Rathore, 2023)

This communal nature of TCEs has implications not only for their cultural significance but also for their usage and legal treatment in society. Traditional cultural expressions belong to the community, so anyone may use and reproduce them freely, as long as they follow the community's rules that govern their use and reproduction. Thus, even though conventional cultural expressions have been considered the common property of the owner community, the copyright on traditional cultural expressions is held by the state.

This approach reflects the difference in views between the government and indigenous peoples on the philosophy of traditional cultural expression. The state prioritizes economic value as regulated in the copyright legal regime. At the same time, indigenous communities emphasize the meaning behind TCE by continuing to preserve the culture. The rules for recording TCE economic value often reflect the fact that many indigenous traditions consider traditional knowledge and cultural expressions to be something sacred and communal.

This divergence becomes even more pronounced when we consider how the intellectual property regime treats traditional forms of expression. The combination of common property and individual works in indigenous traditions makes copyright rules problematic. In copyright, unprotectable expression falls into the public domain, and they are free for all to use. Traditional communities believe that no one must ever own certain things. These designs may be considered part of the public domain from the community's perspective, but outsiders should not exploit them for personal gain. There may be cultural products that are both sacred and profane, intended for public consumption only within their traditional contexts of use, such as ceremonies, chants, and prayers.

As stated by Van Der Merwe, the concept of protection in indigenous communities prioritizes sustainability and preservation in a cultural context.(Van Der Merwe, 2014) At the same time, the IPR system protects economic values that are fundamentally at odds with the idea adopted by indigenous communities, which states that TCE is part of the community heritage that cannot be owned by one person and which certainly cannot be bought or sold.(Van Der Merwe, 2014)

This copyright-based framework does not operate in a vacuum. Instead, it reflects the broader orientation of the state in cultural governance. Byrne argues that state elites safeguard intangible heritage as a means to legitimize and project the state's overarching interests in its people's heritage, both domestically and internationally. (Byrne in Kuah & Liu, 2017)

It is the state through its appointed officials that defines, decides, and prioritizes the list of intangible cultural heritage.(Kuah & Liu, 2017) Government institutions often shape cultural valuation based on bureaucratic priorities, sidelining the cultural meanings upheld by the communities themselves.

The results of this study indicate that the process of recording Traditional Cultural Expressions (TCEs) as Communal Intellectual Property (KIK) in Indonesia still relies heavily on economic value parameters. It would be beneficial if TCE recording prioritized not only the future economy but also the philosophical meaning behind a TCE. It demonstrates a legal-formalistic approach that emphasizes only economic benefits without considering the values or moral messages behind TCE, which are expressions of traditional culture.

Theoretically, TCE is understood not only as creative works born from a community but also as part of a collective cultural identity passed down from generation to generation. TCE reflects the value systems, local knowledge, and spirituality of indigenous communities that cannot be measured solely by modern economic standards. Van Der Merwe (2014) emphasized that indigenous communities consider TCE cultural heritage to be something that no individual can own or sell. Protection of TCE from a community perspective is directed more towards sustainability and preservation, rather than commercialization.

However, Indonesia's positive legal system situates TCE within a copyright legal framework that balances the protection of moral rights and economic rights. This placement creates tension between the state's approach and community philosophy. The state requires the recording and legal protection of TCE with monetary value. Indigenous communities prioritize the spiritual and social significance behind preserving TCE. The assessment that the Talam Sehidang (Makan Sehidang Berlima) has no economic value is the basis for policymakers not to record it as TCE.

Thus, the results of this study not only highlight the technical issues of legal protection for TCE but also underscore the need for an initial economic value. However, after the recording process, it is possible to develop TCE to have economic value through TCE-based tourism activities. It will ultimately increase the economic empowerment of the TCE-bearing communities.

3.3. Towards a More Inclusive and Community-Centered Protection of TCEs

A more inclusive and philosophical approach to the current TCE recording process is needed to avoid claims from other parties, especially other nations with similar cultures. Authorities should not require communities to prove the economic value of a tradition they have preserved for generations to obtain protection. The act of recording and recognizing TCE must be the basis for economic empowerment, especially for indigenous peoples or TCE bearers.

This tension becomes even more complex when TCEs are placed in the public domain, as noted by Li et al., who argue that the government, under the Ministry of Law, prioritizes TCEs with economic potential. Therefore, TCEs that do not provide direct economic benefits can have economic potential if developed as culture-based tourism icons. Overemphasizing economic value risks obscuring the cultural and philosophical meanings embedded in traditional expressions, especially when communities are unable to protect them through legal mechanisms such as communal intellectual property. Communities continuously transmit TCEs across generations (Li et al., 2024), enable them to improve their economy by creating TCE-based cultural activities.

The system of recording communal intellectual property, mainly traditional cultural expressions, should not only prioritize the economic value of a tradition. Another effect is increasing community welfare. This article proposes a study on a more inclusive TCE recording process. This article writes about the experience of one of the traditions of Makan Sehidang Berlima (Talam Sehidang).

The government has recorded this tradition as an intangible cultural heritage from Lingga. In general, communities can record intangible cultural heritage as communal intellectual property originating from traditional cultural expressions. However, because the requirements for recording communal intellectual property necessitate an economic value in TCE, the recording process originating from this celebration ceremony is hindered because it does not meet the criteria.

This article describes the experience of the Talam Sehidang tradition. The government has recorded this tradition as an intangible cultural heritage from Lingga. Generally, communities can record intangible cultural heritage as communal intellectual property derived from traditional cultural expressions. However, because communal intellectual property recording requirements require an economic value in IPR, the recording process for this celebratory ceremony has been hampered due to the inadequacy of the criteria.

This article proposes a TCE recording process that considers the philosophical significance of the tradition. Because even after recording, it is the community that will continue to preserve the tradition from one generation to the next. Governments and communities can conserve traditional cultural expressions (TCEs) by developing tourism that highlights creative works (Abdul Ghani Azmi, 2017). The primary purpose of protecting traditional cultural expressions (TCEs) is to enhance the well-being of the

artists who continue to preserve and pass them on. Therefore, if they become tourism icons, this will increase their income sources.

As Carmen stated, cultural tourism can save a region. By revitalizing cultural activities in areas (for example, villages) through the utilization of cultural tourism resources, cultural tourism can promote cultural and artistic activities that align with local traditions, history, and unique products.(Carmen, 2018)

This article examines that, indeed, after TCE was commercialized, it became clear that TCE had inherent market value (Sulzer, 2024). It is true that the purpose of recording communal intellectual property, particularly TCE recording, which requires economic value, is to achieve a specific objective. The goal is to increase the income of indigenous communities holding TCE. For example, by recording TCE, the monetary value of TCE can be improved through the creation of TCE activities, such as developing TCE in the form of tourism activities, which attract tourists. Ultimately, the community benefits economically from the recording of TCE. Recording becomes an attraction or selling point for tourists.

4. CONCLUSION

Economic value requirements continue to be a barrier to the recognition and legal protection of Traditional Cultural Expressions (TCEs) in Indonesia. The philosophical meaning of TCE is not the basis for the recording approach. If the government recognizes TCE as communal intellectual property, the TCE bearer community can develop its economic aspects after recording to improve its welfare. Instead, recording serves as the starting point for creating economic value in TCE, which aims to advance culture and enhance the welfare of the TCE-bearing community. The state, in this case the relevant Ministry, must use an inclusive and philosophical approach in the EBT recording process.

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