



Safeguarding Intellectual Property in the Post-Cultural Advancement Law Era in Indonesia: Preserving Traditional Knowledge

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ABSTRACT: Traditional Knowledge, as a product of the interplay between ecological, social, and cultural factors, embodies the insights acquired by communities in understanding the demands of nature. Embedded in intellectual activities shaped by a nation's thoughts, ideas, and creations, Traditional Knowledge necessitates legal protection and certainty of ownership by the state due to its significant value, categorizing it as a national asset. This protection is often sought through laws like the Cultural Advancement Law, primarily designed to uphold the nation's interests. This research aims to analyze the role of the Cultural Advancement Law in safeguarding Traditional Knowledge in Indonesia and identify the challenges faced by this legal framework in providing protection. Employing a normative approach through a literature review, the study reveals the pivotal role of the Cultural Advancement Law in developing, utilizing, advancing, preserving, and safeguarding Traditional Knowledge. However, its enforcement faces obstacles due to the ongoing debate surrounding the impact of traditional Knowledge on the economy and society.

KEYWORDS: National Asset, National Interest, Obstacles, Role, Traditional Knowledge.

INTRODUCTION

Numerous nations have indigenous cultures exemplified by the presence of Traditional Knowledge (TK) and Traditional Cultural Expression (TCE)(Oguamanam, 2018). TK and TCE are fundamental pillars of culture, influencing the way of life, overall welfare, and growth of those who uphold them. Furthermore, these entities offer advantages to the human race, serving as an integral component of the "common heritage of mankind"(Schrijver, 2016). Communities that possess traditional knowledge and traditional cultural expressions (TK/TCE) frequently derive advantages in the form of economic value. Indonesia, an archipelagic nation characterized by many ethnicities, customs, arts, and civilizations, exhibits significant potential in the realm of Traditional Knowledge. In addition to its notable economic significance in fostering local communities, the remarkable cultural potential of this asset is inherently a national resource that necessitates protection and conservation. Preserving government institutions is crucial for ensuring their long-term viability and advancement(Kirchherr et al., 2023).

Traditional Knowledge refers to the accumulation of information by a community through the interplay of ecological, social, and cultural elements, alongside the acquisition of knowledge by the group in comprehending the intricacies of nature and the environment(Usher, 2000). Traditional Knowledge is incorporated into intellectual endeavors rooted in the collective views, ideas, or innovations of a particular group within a nation(Todd et al., 2023). The category of native culture encompasses a wide range of intellectual creations and achievements, including heritage books, artistic and academic performances, discoveries, scientific advancements, styles, products, titles, indicators, undetermined data, and other innovations and ritual creations that originate from cognitive processes in the domains of business, scientific knowledge, articles, or arts(Lenzerini, 2011).

According to the definition provided by the World Intellectual Property Organization (WIPO), Traditional Knowledge can be described as follows: The concept being referred to is that of a body of information, expertise, abilities, and customs that are cultivated, upheld, and transmitted across successive generations within a particular community, frequently constituting an integral aspect of its cultural or spiritual heritage. As to the declaration provided by the World Intellectual Property Organization (WIPO), Traditional Knowledge is not confined to any knowledge domain. In contrast, traditional knowledge contains a wide range of information, exhibiting distinctive traits that set it apart from other forms of knowledge, notably in its association with a given civilization. Examples of areas of expertise related to species diversity include agriculture, modern scientific practices, environmental knowledge, medicinal knowledge encompassing pharmaceuticals and healing practices, proficiency in the production of medicinal products such as medicines and related solutions, as well as expertise in artistic fields such as arts, choreography, music, handicrafts, and linguistic aspects. Traditional Knowledge is integrated into intellectual works through the ideas or creativity



originating from social collectives. The cultural legacy of Indonesia encompasses the cultural aspects of the nation and has the potential to be economically exploited for the benefit and prosperity of the community.

The inclusion of protection for Traditional Knowledge in Indonesia was discussed during the drafting of legislation. Ultimately 2017, this protection was officially established by passing Law Number 5 of 2017, which focuses on promoting cultural development (Yulia, 2021). The objective of the law is to offer benefits to incentivize the safeguarding, advancement, utilization, and cultivation of the national culture. The concept of cultural advancement encompasses safeguarding, growing, utilizing, and cultivating cultural elements, with the ultimate goal of fostering a politically autonomous, economically self-reliant, and culturally unique Indonesian society.

RESEARCH METHODS

In order to ensure the precision of the findings, a normative method is employed, mostly through a comprehensive literature review. This entails collecting data from various scholarly sources such as books, journals, papers, and prior research studies. The collected data undergoes processing, and the outcomes are communicated using a qualitative descriptive approach.

The normative approach is a methodological framework that prioritizes the examination of established norms, principles, and standards within a specific discipline. Within the framework of your assertion, it encompasses a methodical examination of extant scholarly works to acquire pertinent knowledge and perspectives.

The normative approach is built upon a literature study, its foundation. The process entails thoroughly analyzing academic literature, encompassing various sources such as books, scholarly journals, papers, and prior research discoveries. This methodology enables the researcher to discern fundamental concepts, theories, and factual data about the subject matter under investigation.

After the collection of pertinent data, the subsequent stage involves the processing of the acquired data. This process entails systematically arranging, classifying, and examining the data acquired during the literature study. The objective is to extract significant patterns, themes, and insights that enhance comprehension of the material at a profound level.

After the completion of data processing, the outcomes are then communicated utilizing a qualitative descriptive approach. Qualitative research emphasizes comprehending a particular phenomenon's intricate details, interpretations, and circumstances. In contrast, descriptive research offers a comprehensive portrayal of the attributes and attributes of a certain subject.

RESULTS AND DISCUSSION

A. The Role of the Cultural Advancement Law in Protecting Traditional Knowledge in Indonesia

The agreement on Aspects of Intellectual Property-Related Trade acknowledges the inclusion of various categories of intellectual property, namely patents, trademarks, copyrights, geographical indications, trade secrets, integrated circuit layout designs, and industrial designs (Durán & Michalopoulos, 1999). However, excluding traditional knowledge from this agreement has generated considerable inquiries and disputes. There exist compelling arguments in favor of and against extending the scope of intellectual property protection, as currently defined by the seven established categories, to encompass traditional knowledge. The arguments presented predominantly exhibit moralistic or emotive characteristics. The initial emphasis lies on the theoretical framework of moral rights, positing that individuals should enjoy the fruits of their labor or ingenuity. Developing nations assert that their conventional knowledge has been crucial in facilitating research endeavors that have resulted in valuable breakthroughs, the advantages of which are predominantly reaped by industrialized nations. Developing and less developed nations see a sense of exploitation of their knowledge by Western nations, primarily due to the refusal of industrialized countries to acknowledge traditional knowledge as a form of intellectual property (Antons, 2009). The ultimate contention is on the economic circumstances prevailing in emerging nations, wherein both developed and developing countries level accusations against one another over information piracy.

Traditional knowledge must frequently improve in satisfying innovation criteria and non-obviousness in patent applications (Ullrich, 2006). Furthermore, it should be noted that conventional knowledge already encompassed within the public domain needs to meet the criteria of 'prior art' for patent purposes. Hence, it is not deemed as novel. Preserving traditional knowledge as a communal asset poses a substantial responsibility for the Indonesian government. It is imperative for the government to effectively tackle a range of concerns about the infringement of traditional knowledge. The objective of this endeavor is of utmost importance and holds



significant advantages in enhancing the well-being of society. Furthermore, numerous research attempts employ conventional knowledge as a foundational basis to acquire patent rights for their respective products (Teixeira & Ferreira, 2019).

Policy debates have highlighted two primary demands on the intellectual property (IP) system. The first demand pertains to the acknowledgment of rights held by individuals about their traditional knowledge. The second demand revolves around apprehensions regarding the unauthorized appropriation of IP rights over traditional knowledge by external entities. Consequently, two distinct forms of intellectual property (IP) protection have been devised and put into practice:

Active protection is the provision of legal rights to individuals or communities who possess traditional knowledge, enabling them to adopt appropriate measures or pursue legal remedies in response to specific instances of misuse or infringement upon such information.

Defensive protection involves safeguarding traditional knowledge from external parties' unauthorized appropriation of intellectual property rights.

The objective of defensive protection is to hinder the acquisition or utilization of unauthorized intellectual property rights by external entities about traditional knowledge. Implementing defensive protection measures can prove efficient in thwarting the infringement of intellectual property rights. However, it is important to note that such measures do not deter the active utilization or exploitation of traditional knowledge by others. Certain types of affirmative safeguards are essential in order to deter unlawful utilization. Hence, it is imperative to adopt a holistic approach to protection that encompasses both proactive and reactive measures, recognizing their interdependence and complementary nature. One potential strategy to safeguard traditional knowledge is to publish it as a defensive measure, which prevents third parties from obtaining patents on it. However, this approach may have unintended consequences, as it can simultaneously enhance the accessibility of the knowledge and place it within the public domain. Paradoxically, this increased accessibility may facilitate the utilization of the knowledge by third parties in a manner that contradicts the intentions of the traditional knowledge holder.

The primary objective of defensive protection strategies is to proactively safeguard traditional knowledge from external entities seeking to obtain intellectual property rights. An illustrative example is the compilation of a database in India about traditional medicine, which substantiates evidence for patent examiners to evaluate previous discoveries while assessing patent applications. Defensive methods may also safeguard sacred cultural expressions, such as symbols or words, from being officially registered as trademarks. Defensive protection aims to safeguard traditional knowledge from improper use of intellectual property rights by external entities. The primary objective of this method is not to establish rights based on positive protection but rather to prevent third parties from claiming intellectual property rights related to traditional knowledge material. So far, the emphasis on defensive strategies has predominantly revolved around the patent intellectual property (IP) framework. This strategy encompasses a range of strategies aimed at preventing the unauthorized utilization of traditional knowledge by external entities without obtaining prior consent from the traditional knowledge holder.

The protective measures outlined in defensive protection concerning patents include specific provisions necessitating the disclosure of the source of genetic resources and traditional knowledge pertinent to the invention within patent applications. b) Developing a comprehensive database encompassing scientific and technical information pertaining to conventional knowledge, aiming to facilitate access for patent examiners. Implementing such a database is useful in assessing the originality of the proposed finding.

Law No. 5 of 2017 has been enacted to safeguard traditional cultural manifestations by establishing a distinct repository of cultural wealth. According to Law No. 5 of 2017, a provision offers safeguarding measures for traditional knowledge and the manifestations of traditional culture, which encompass many forms such as arts, customs, folk games, and traditional sports (as stated in Article 5). The safeguarding of cultural artifacts is achieved by the use of an integrated cultural data system, which encompasses several measures such as inventorying (as stated in Article 22), maintenance (as outlined in Article 24), rescue (as specified in Article 26), publication (as mentioned in Article 28), and development (as indicated in Article 30). According to Article 16, paragraph (4) of Law No. 5 of 2017 on Cultural Advancement, compiling the Inventory of Cultural Heritage Objects for Cultural Advancement involves three stages. These stages include 1) recording and documentation, 2) decision, and 3) data updates. The process of safeguarding cultural heritage objects for cultural advancement involves several key actions:

1. It entails the regular updating of data in the Registration System. This ensures that accurate and up-to-date information is maintained regarding these objects.
2. It involves the ongoing integration of cultural elements, thereby fostering a dynamic and evolving cultural landscape.



3. It necessitates the transmission of cultural advancement objects to future generations, ensuring their continued relevance and significance.

4. It involves advocating cultural advancement objects as global cultural heritage, as Article 22, paragraph 4 stipulates.

The primary emphasis of defensive protection measures lies within the framework of the patent system. The objective of defensive protection is to prevent the patenting of traditional knowledge by external entities. This is ideally achieved by ensuring that pertinent traditional information is thoroughly considered during the evaluation of patents for their uniqueness and inventiveness. In patent applications, the evaluation of claimed innovations commonly relies on the examination of "prior art," which refers to established knowledge bodies that are considered pertinent to determining the validity of a patent. If traditional information has been previously documented in a scholarly publication prior to the patent application date, it becomes a constituent of the pertinent prior art (Shrivastav, 2014).

Consequently, the application is precluded from validly asserting the traditional knowledge as a discovery, as it would not be deemed novel. There has been a growing recognition of the need to prioritize traditional knowledge as a significant prior art in recent years. This recognition stems from concerns that patents may inadvertently encroach onto publicly revealed traditional knowledge (Ruiz, 2002).

The overarching development at the core of this matter is expanding the intellectual property system within the global information society to encompass additional participants, such as indigenous and local communities. As a result, their knowledge repositories, including traditional knowledge, gain significance as valuable sources of prior art. Consequently, it becomes imperative to accurately identify and recognize these knowledge sources to ensure the proper operation of the intellectual property system. An alternative method frequently debated for defensive protection involves the proposition that patent applicants ought to be obligated to divulge the conventional knowledge and genetic resources utilized in the innovation being claimed or associated with it. Current patent legislation already mandates the publication of some information by applicants. However, there are suggestions to broaden and emphasize these requirements, establishing explicit responsibilities for disclosing traditional knowledge and genetic resources. The "WIPO Technical Study on Patent Disclosure Requirements Related to Genetic Resources and Traditional Knowledge" examines the topic of defensive protection, which is identified as WIPO Publication No. 786E.

In the Indonesian context, the enactment of Law No. 5 of 2017 has been significant in safeguarding traditional knowledge and cultural expressions. The legislation in question provides a distinct repository of cultural assets, providing protective measures and processes for the conservation, retrieval, dissemination, and advancement of cultural artifacts. Furthermore, it underscores the significance of transmitting cultural artifacts to succeeding cohorts and pushing for their recognition as global cultural heritage (Yulia, 2021).

Implementing a defensive protection strategy is crucial to mitigate the risk of improper acquisition of intellectual property rights by external entities in relation to traditional knowledge. The primary objective of this endeavor is to address the legal and practical dimensions associated with recognizing traditional knowledge as pertinent prior art during patent evaluations while facilitating its accessibility for patent examiners. The objective is to prevent the improper issuance of patents that encompass customary knowledge already in the public domain (Erstling, 2009).

The implementation of defensive protection poses several obstacles that must be addressed. These challenges encompass the need to effectively manage the oral transmission of traditional knowledge, establish efficient indexing and classification systems, and recognize traditional information as pertinent prior art during patent exams. The objective encompasses not only the safeguarding of traditional knowledge but also the establishment of a harmonious equilibrium between preventing unauthorized utilization and preserving accessibility for forthcoming generations (Varadarajan, 2011).

Within the framework of Indonesian legislation, the above sui generis protection mechanism is commonly called the Communal Intellectual Property Protection System. The Indonesian government acknowledges the significant genetic and cultural assets present in the archipelago. Consequently, they deem it imperative to establish a robust legal framework for safeguarding these resources at the national level. However, it should be noted that efforts to establish binding international agreements that comprehensively protect Genetic Resources, Traditional Knowledge (GR TK), and Traditional Cultural Expressions (TCE) are still ongoing at the international level.

Implementing Law Number 5 of 2017 effectively addresses the issue at hand, which promotes cultural development. This legislation explicitly designates common cultural knowledge, in addition to GR TK, as one of the focal points of cultural advancement under



the purview of this law. Moreover, as elucidated in the caption of Table 1 provided earlier, the Ministry of Law and Human Rights of Indonesia has made revisions to the previous Copyright Law, Patent Law, and Trademark Law by integrating sui generis laws about the safeguarding of Genetic Resources (GR), Traditional Knowledge (TK), and Traditional Cultural Expressions (TCE). Regrettably, the regulations above do not specifically address inclusive rights. Hence, the ongoing discourse concerns the rationale behind the equitable distribution of economic gains derived from derivative products and creative works to the wider community. The concept of exclusive rights is founded upon the principle that individuals or entities that have discovered or created a product or work are entitled to possess economic benefits, hence barring others from accessing it. Nevertheless, the concept of exclusive rights needs to provide a rationale for the equitable distribution of economic advantages to the community that did not have a direct role in the discovery or creation of the product or work. Conversely, inclusive rights offer a potential solution to this issue. Indeed, the fundamental nature of commonality lies in the act of sharing. The act of individuals belonging to a shared community necessitates the sharing of advantages among its members, fostering a sense of oneness. In this scenario, the concept of sharing pertains to the notion of inclusive Communal Intellectual Property (IP) rights associated with individual IP rights.

An instance of this is when patented innovations are derived from traditional knowledge. In such cases, the advantages arising from the patented products ought to be distributable and encompass the source community, ensuring that shared benefits are obtained by both the individual inventor and the community. Although community members may not be the inventors of the specific aspects of the patented product, their contributions to the preservation of traditional knowledge as the fundamental source of the product warrant their inclusion in the sharing of benefits (Simon, 2005).

The available alternatives for implementing active protection measures encompass the use of current intellectual property (IP) laws and systems, such as unfair competition rules. Additionally, there is the possibility of extending or modifying IP rights to particularly address traditional knowledge (TK), which constitutes a distinctive feature of IP law. Furthermore, establishing new independent sui generis frameworks that confer rights in TK represents another potential avenue for safeguarding TK. Additional alternatives to intellectual property (IP) can be incorporated into the comprehensive range of options. These alternatives encompass various aspects such as trade practices and labeling laws, civil liability laws, contract utilization, customary laws and protocols, regulations about the accessibility of genetic resources and associated traditional knowledge (TK), as well as restitution based on claims such as unfair enrichment, publicity rights, and defamation. Various forms of intellectual property rights have been employed to safeguard different facets of traditional knowledge (TK). The utilization of these rights is exemplified in the publication "Consolidation Analysis of Legal Protection of Traditional Knowledge" by the World Intellectual Property Organization (WIPO). For a concise and pragmatic overview of trademarks and designs, one may refer to WIPO's publications "Creating Trademarks" (No. 900E) and "Looking Good" (No. 498E). Future installments within this series will delve into patents and copyrights.

The inclusion of traditional knowledge as a component of the Convention on Biological Diversity (CBD) has garnered ratification from 170 countries, including Indonesia, with the enactment of Law No. 5 of 1994. Despite being approved under Indonesian law, the government has limited commitment to safeguarding traditional knowledge within the Indonesian territory. The provisions outlined in Article 8 (j) of the Convention on Biological Diversity (CBD) emphasize the importance of respecting, preserving, and maintaining the knowledge, innovations, and practices of indigenous and local communities that embody traditional lifestyles relevant to the conservation and sustainable use of biological diversity. Furthermore, the article calls for the promotion of wider application of such knowledge, innovations, and practices, with the approval and involvement of the holders of this knowledge, and encourages the equitable sharing of benefits derived from their utilization. However, it is worth noting that, to date, no international agreement has specifically addressed the implementation of these provisions within the TRIPS agreement or other relevant agreements (Correa, 2022).

According to Article 30 of the Cultural Advancement Law, it is required that both the Government and private entities undertake various actions aimed at the development of cultural aspects. Development activities encompass a range of endeavors, including publication, research and development, and study and development. The enhancement of the variety of cultural components. Dissemination operations are implemented to expand the reach of culture beyond its geographical boundaries. Individuals outside the confines of a certain geographical region must possess knowledge of diverse cultures.

The correlation between the establishment of an inventory for cultural advancement objects and the various methods of implementing legislation in the realm of intellectual property, as exemplified by Minister of Law and Human Rights Regulation No. 13 of 2017, is evident. Moreover, about the endeavors aimed at enhancing diversity, it is imperative to exert efforts towards



preserving cultural diversity within the Indonesian context. Based on irrefutable evidence, Indonesia exhibits a multitude of ethnicities, resulting in a rich tapestry of cultural variety (Kasih et al., 2023). Nevertheless, enrichment enhances diverse cultures through assimilation, acculturation, adaptation, and invention. In essence, the dynamism of culture is enhanced in tandem with the advancements in science and technology. The coexistence of an advanced medical science with a superstition-based medical system inside society raises concerns over appropriateness. Culture is inherently receptive to a wide range of inventive endeavors. According to the Cultural Advancement Law, the following principles are outlined:

1. The preservation of the dignity and wisdom inherent in cultural advancement objects
2. The utilization of cultural advancement objects in everyday life
3. The safeguarding of the diverse range of cultural advancement objects
4. The revitalization and conservation of the cultural ecosystem
5. The transmission of cultural advancement objects to future generations through inheritance

The primary objective of the Cultural Advancement Law is to bolster cultural resilience and promote the significant role of Indonesian culture within the global civilization. As per Lemhannas' definition, Cultural Resilience refers to the dynamic state of a nation characterized by its tenacity and resilience, enabling the development of national strength to confront and surmount various challenges, threats, obstacles, and disruptions. These may arise from external and internal sources, posing direct or indirect risks to preserving culture. Consequently, culture plays a pivotal role in fostering an awareness of community development, which is encapsulated within the local values of the community group.

B. The Challenge for the Cultural Advancement Law in Protecting Traditional Knowledge in Indonesia

The potential consequences of deliberately violating human rights can be substantial and may have severe implications for businesses, particularly those operating in the tourism industry. These repercussions can include the dissolution of a company, harm to its reputation, and the termination of contractual agreements. However, it is imperative to proactively consider potential complaints about Intellectual Property Rights (IPR), encompassing the following concerns: IPR can establish monopolistic conditions that may lead to elevated pricing levels. The imposition of royalties is anticipated to result in elevated prices and impede the dissemination of knowledge. Intellectual property rights (IPRs) may impede enterprises from fully capitalizing on their ideas (Gathii, 2016).

The impact of the Trade-Related Aspects of Intellectual Property Rights (TRIPs) on the alignment of the Human Knowledge Index with the interests of developing nations is significant. From the standpoint of developing nations, there is a prevalent assumption that the revision of intellectual property legislation primarily benefits countries that export intellectual property. In contrast, developing nations typically assume the role of consumers rather than producers of intellectual property. Consequently, they perceive less urgency in enforcing stringent intellectual property protection measures. The concept of intellectual property is often regarded as a costly obstacle and, at times, even a justification for preventing the transfer of Western technology to developing nations, which is crucial for fostering economic growth and improving social well-being. This paper aims to elucidate developing nations' perspectives on reforming intellectual property regulations.

The Impact of Foreign Investment Experts have opined convincingly that enhancing intellectual property rights will attract foreign investment equipped with cutting-edge technology in the context of endeavors to augment foreign investment in Indonesia. The impact of intellectual property rights on the predominant sectors of the Indonesian economy, namely agriculture, manufacturing, and services, is relatively limited.

Escalated Expenses Stringent restrictions about intellectual property rights will result in significant financial burdens. The economic crisis has significantly declined per capita income in Indonesia, reducing about 50% to less than US\$600 per year. Consequently, many Indonesians face challenges in affording necessities and need more purchasing power.

The pronounced surge in unemployment rates observed in Indonesia after the economic crisis, in conjunction with inadequate law enforcement measures, has resulted in the exponential expansion of the piracy sector. This rise has, therefore, created employment prospects for individuals involved in producing, distributing, and retailing pirated goods.

The Impact of Intellectual Property Rights on Indigenous Innovations There is a prevailing belief that the anticipated strengthening of intellectual property rights in Indonesia will likely have limited influence on the domestic advancement of novel ideas, mostly attributable to the insufficient financial resources available within the private sector and among specialists (Kurnilasari et al., 2018).



The acquisition of intellectual property and traditional knowledge There is a growing awareness among Indonesians that the existing framework of intellectual property rights may not effectively safeguard traditional productions and knowledge. Instead, it may inadvertently enable domestic and international corporations to appropriate these cultural assets.

The topic under consideration is the intersection between Intellectual Property Law and Customary Law. The notion widely acknowledged by most Indonesians by customary law is the prominent repudiation of intellectual property rights, primarily grounded on economic and social factors. The concept of intellectual property rights is incongruous with the fundamental principles of customary law. Most customary legal systems do not acknowledge certain abstract concepts prevalent in Western legal systems. One aspect to consider is the distinction between tangible and intangible property. Customary law operates on a foundation of tangible and perceptible notions of fairness, precluding the recognition of transactions involving intangible objects.

Furthermore, the paramount principle of customary law is prioritizing society over individuals. Due to the relatively slower pace of economic and technological development compared to other nations that have transitioned into industrial societies, there is a prevailing pessimism regarding the feasibility of implementing intellectual property rights reform in Indonesia. Consequently, many contend that the country needs to prepare to embrace such reforms. The intellectual property rights system is associated with three adverse effects:

The high expenses result from the limited monopoly rights within the intellectual property rights regime.

Companies with intellectual property rights often refrain from fully capitalizing on their inventories by limiting public access since they strategically retain these rights for business-related objectives.

The intellectual property rights system has the potential to impede the dissemination of knowledge.

Despite objections and criticisms surrounding intellectual property rights and their potential negative consequences, adopting a categorical opposition to them is not a prudent course of action. This is because the losses incurred due to implementing the intellectual property rights system are transient and of limited duration. If Indonesia can effectively utilize intellectual property rights, the aforementioned unfavorable effects can transform into advantageous outcomes for the nation.

Rejecting the recognition of intellectual property rights may have detrimental implications for Indonesia since it would violate the agreement made by all member countries of the World Trade Organization (WTO) to uphold and enforce intellectual property rights. The failure to sign or ratify the agreement results in isolation from international engagements and global commerce.

Rejecting the validity of intellectual property rights is a futile endeavor, as these rights have attained the status of an internationally recognized standard. Indonesia's adherence to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) is evidenced by its ratification through Law No. 7 of 1994. Consequently, Indonesia must effectively enforce intellectual property rights comprehensively, without any exemptions (Sulistianingsih & Ilyasa, 2022).

Examining the convergence of traditional knowledge and common intellectual property is a multifaceted subject requiring significant consideration, particularly within multicultural identity. This idea encompasses diverse knowledge, skills, and practices passed down within indigenous communities. On the other hand, communal intellectual property pertains to the community ownership and control of intangible cultural assets, such as music, art, and folk legends. The relevance of the relationship between the two entities is crucial since traditional knowledge frequently serves as the fundamental basis for collective intellectual property. This information imparts a cultural context and imbues these assets with meaning and importance. The intersection between these cultural treasures and communities carries significant implications for their preservation and protection.

While traditional knowledge and shared intellectual wealth may appear distinct, a notable convergence exists between these two notions. Traditional knowledge often plays a crucial role in the collective intellectual capital, offering cultural context and serving as a fundamental basis for developing these resources. Native music frequently originates from the indigenous knowledge of communities, manifesting societal ideas, values, and customs. Likewise, conventional medical practices frequently serve as the foundation of collective intellectual capital, manifested in utilizing herbal remedies and healthcare. These recent instances, regarded as novel insights or inventive developments, can readily be documented as patents via streamlined protocols (Nahapiet & Ghoshal, 1998).

In light of these concerns, several international agreements have been established to safeguard traditional knowledge and common intellectual assets. One of the most widely recognized international agreements in this context is the Convention on Biological Diversity, which acknowledges the crucial significance of conserving biodiversity and safeguarding the rights of indigenous groups. Furthermore, the World Intellectual Property Organization (WIPO) has established the Intergovernmental Committee on Intellectual



Property and Genetic Resources, Traditional Knowledge, and Folklore. This committee is responsible for developing international legal instruments to safeguard these valuable resources.

Even with these endeavors, the safeguarding and conserving of these variables continue to pose challenges owing to the intricacy involved in their definition and classification. Traditional knowledge poses a significant challenge in quantification and measurement due to its reliance on intangible cultural practices and beliefs. The establishment of communal intellectual wealth frequently hinges upon the principles of shared ownership and control. This concept needs to be revised regarding its precise delineation and effective implementation. In this context, divergent interests among local stakeholders become apparent, influenced by various factors that may not directly align with the overarching objective of safeguarding traditional knowledge.

Conflicting interests frequently emerge due to the potential contradiction between the objectives of safeguarding and conserving resources and the commercial goals pursued by corporations and other external stakeholders. The occurrence of an illustrative instance pertains to patenting conventional medicinal remedies, which has generated considerable controversy due to the efforts of enterprises to capitalize on the knowledge and practices of indigenous populations. Nevertheless, these endeavors frequently overlook the importance of honoring traditional communities and neglect to consider their utmost welfare. This situation prompts significant inquiries on the significance of conventional knowledge and collective intellectual assets in an increasingly globalized society, with the ethical and legal consequences of exploitation and appropriation.

Within the legal domain, interconnected elements derive from Indonesia's Constitution, namely the 1945 Constitution. This foundational document emphasizes safeguarding and conserving cultural heritage as an integral component of the nation's character. The arguments under consideration stem from including Article 18B paragraph (2) and Article 28I paragraph (3) in the legal framework. Article 18B (2) acknowledges the recognition and reverence of customary legal communities and their traditional rights, provided they remain relevant and in accordance with societal progress and the principles of the Unitary State of the Republic of Indonesia, as regulated by legislation. Similarly, Article 28I (3) emphasizes the importance of respecting cultural identity and the rights of traditional communities in alignment with the evolving nature of time and civilization.

According to Article 18B paragraph (2) of the Indonesian Constitution, the state acknowledges and honors customary legal communities and their traditional rights, provided that they are still in existence and accordance with the principles of social progress and the unity of the Republic of Indonesia, as specified by the law. As mentioned in the Constitution, the phrase "customary legal communities" pertains to indigenous communities. Moreover, Indonesian statute employs the terms "customary legal communities" and "indigenous communities" interchangeably. Recognizing the significance of safeguarding traditional knowledge has grown in prominence due to the constitutional amendment of 2000, which enshrined cultural identity and the rights of indigenous communities as fundamental rights within the framework of the 1945 Constitution. According to Article 28I, paragraph (3), it is imperative to uphold traditional groups' cultural identity and rights by the progress of time and civilization.

The legislative body in Indonesia is normatively obligated to ensure the recognition of all aspects present in the 1945 Constitution and other pertinent rules within the legal system. This serves as the foundation for Indonesia's legal framework. In order to ensure legal certainty for the community, the conception of traditional knowledge must be manifested in tangible manifestations. Safeguarding against possible misappropriation or exploitation by corporate entities is paramount since it can potentially erode the intrinsic cultural and practical significance embedded within traditional knowledge.

CONCLUSION

Based on the research findings, the Cultural Advancement Law has been formulated to foster the growth, utilization, progression, preservation, and concurrent safeguarding of Traditional Knowledge and Traditional Cultural Expressions. This is done to safeguard the nation's assets and development capital, particularly for the pertinent communities, by the provisions outlined in the 1945 Constitution of the Republic of Indonesia. This suggests that the Indonesian government is obliged to preserve traditional knowledge as a communal resource. Despite being approved under Indonesian law, the government has yet to demonstrate significant endeavors to safeguard traditional knowledge within the Indonesian territory. Furthermore, the Cultural Advancement Law seeks to augment cultural fortitude and make a meaningful contribution to Indonesia's cultural prominence within the worldwide society.

The reliance of Indonesia on intellectual property rights, encompassing a vested interest in traditional knowledge, not only functions as a catalyst for economic expansion but also as a mechanism for safeguarding traditional knowledge and expertise. The intellectual property rights system, in its association with traditional knowledge, is more suited for producing traditional goods and services as



it aligns with liberal values. Nevertheless, traditional knowledge's substantial influence on the economy and society is noteworthy, prompting ongoing discussions regarding the government's involvement in this domain. The government's involvement in safeguarding and advancing traditional knowledge is anticipated, albeit its impact on the economy and society is a topic of ongoing scholarly discourse.

In order to forward the development of this research, it is imperative to acknowledge and discuss the limitations inherent in the present study. Further examination and extensive analysis of the government's endeavors in safeguarding traditional knowledge is warranted. Moreover, forthcoming studies should explore the pragmatic application of the Cultural Advancement Law and evaluate its efficacy in preserving and disseminating traditional knowledge. Policy recommendations encompass several key aspects that policymakers should consider. Firstly, augmenting awareness and comprehension regarding the significance of traditional knowledge is imperative. This can be achieved through targeted educational initiatives and comprehensive dissemination of information. Secondly, policymakers should adopt a proactive approach by implementing robust measures to safeguard traditional knowledge. This entails the establishment of legal frameworks, regulations, and enforcement mechanisms to prevent unauthorized use, exploitation, or misappropriation of traditional knowledge. Lastly, developing collaboration between governmental entities and local communities is crucial. This can be accomplished by creating platforms for dialogue, consultation, and active participation, ensuring that policies are developed and implemented to respect and integrate traditional knowledge systems. Recognizing the inherent constraints of this study, future research initiatives should explore the intricate interplay between traditional knowledge, economic progress, and societal ramifications to cultivate a more nuanced comprehension of the topic.

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