



INTELLECTUAL PROPERTY AND TRADITIONAL KNOWLEDGE: BALANCING CULTURAL RIGHTS AND LEGAL CERTAINTY IN INDONESIA AND GEORGIA

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Abstract

The development of the global intellectual property law system has created new challenges for the protection of traditional knowledge traditionally safeguarded by indigenous communities. Traditional knowledge, encompassing cultural expressions, medicinal practices, and environmental knowledge, often does not conform to the fundamental principles of new, individualistic, innovation-based intellectual property regimes. In this context, a crucial issue arises: how to ensure the respect of the cultural rights of traditional communities without sacrificing legal certainty in the application of modern intellectual property rules. This paper aims to analyze and compare the legal approaches of Indonesia and Georgia in protecting traditional knowledge under the intellectual property framework. The primary focus is on the balance between recognizing the collective rights of indigenous communities and the need for a secure and enforceable legal system. This research employs a normative-comparative approach, examining national legal instruments, government policies, and relevant international guidelines, including provisions from the World Intellectual Property Organization (WIPO) and the Convention on Biological Diversity. The analysis shows that both Indonesia and Georgia face similar challenges in integrating cultural values into their legal systems. Indonesia has developed a community-based protection

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framework through the recognition of communal rights to traditional knowledge and cultural expressions. Georgia, meanwhile, places greater emphasis on a formal legal approach with the registration and documentation of traditional knowledge. This study concludes that a hybrid model combining formal legal protection and community-based mechanisms is necessary to achieve a balance between cultural rights and legal certainty.

Keywords : *Intellectual property, traditional knowledge, comparative law, Indonesia, Georgia.*

A. Introduction

Traditional knowledge is the result of accumulated experience and wisdom passed down from generation to generation, reflecting the identity and close relationship between indigenous communities and their environment. Traditional knowledge not only serves as a means of cultural preservation but also becomes an important source of economic, social, and ecological values for the sustainability of local communities¹. In the context of modernization and globalization, this knowledge faces challenges such as unauthorized commercial exploitation and incompatibility with formal legal systems that emphasize individual rights more. Therefore, the preservation and protection of traditional knowledge have become an urgent issue to ensure fair and sustainable recognition and respect for the cultural rights of indigenous communities².

The international intellectual property legal system, which is based on the principles of individualism and private ownership, is often inconsistent with the collective nature of traditional knowledge. The communal values that underpin the management and transmission of such knowledge are difficult to

¹ Kamrul Hossain and Rosa Maria Ballardini, 'Protecting Indigenous Traditional Knowledge Through a Holistic Principle-Based Approach', *Nordic Journal of Human Rights* 39, no. 1 (2021): 51–72, doi:10.1080/18918131.2021.1947449.

² Uwadineke Charles Kalu and Ezeama Chidiebele Kene, 'PROTECTING TRADITIONAL KNOWLEDGE/SECRETS UNDER INTELLECTUAL PROPERTY LAW: A COMPARATIVE ANALYSIS OF THE ADEQUACY OF PROTECTIONS USING NIGERIA AS A CASE STUDY', *Nnamdi Azikiwe University Journal of Commercial and Property Law* 6, no. 1 (2019): 2019.

translate into a legal framework that requires proof of sole ownership and new innovation. As a result, many cultural expressions and traditional practices do not receive adequate legal protection, even though they play an important role in maintaining the identity and local wisdom of indigenous communities. This situation indicates the need for a more inclusive and contextual legal approach so that intellectual property protection principles can cover collective interests³.

Exploitation and biopiracy practices are increasingly exacerbating the vulnerability of indigenous communities to the misuse of their traditional knowledge by foreign parties without authorization or fair benefit-sharing. The absence of strict regulations and clear protection mechanisms causes local communities to lose control over the cultural and biological resources they possess⁴. A legal certainty dilemma arises when formal legal systems fail to provide effective protection, while customary values are not recognized in national or international legal frameworks. Therefore, policy harmonization is needed that places social justice and recognition of cultural rights as an integral part of the intellectual property protection system⁵.

Efforts to understand the dynamics of traditional knowledge protection amid the dominance of the global intellectual property system are important to examine how various countries implement different legal approaches. This study specifically focuses its analysis on Indonesia and Georgia as two examples of countries with contrasting cultural backgrounds, legal systems, and traditional knowledge protection policies, yet facing similar challenges in balancing

³ Purcell Filipo and Siaki Salī, 'PROTECTING TRADITIONAL KNOWLEDGE: AN ANALYSIS OF THE PACIFIC REGIONAL FRAMEWORK FOR THE PROTECTION OF TRADITIONAL KNOWLEDGE AND EXPRESSIONS OF CULTURE', *Victoria University of Wellington Law Review* 51 (2020): 559–96, doi:<https://doi.org/10.26686/vuwlr.v51i4.6699>.

⁴ Hans Morten Haugen, 'A New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge', *Etikk i Praksis* 19, no. 1 (2025): 59–76, doi:[10.5324/eip.v19i1.5917](https://doi.org/10.5324/eip.v19i1.5917).

⁵ Ibid.

cultural rights and legal certainty. Indonesia is a country rich in cultural diversity and biological resources, making it one of the world's largest centers of traditional knowledge. This diversity includes traditional healing practices, local agricultural systems, arts, and ecological wisdom passed down across generations⁶. Yet behind this great potential, challenges arise in terms of legal protection for the rights of indigenous communities over the knowledge they hold. The limitations of formal legal mechanisms mean that traditional knowledge often exists in a gray area, where indigenous communities lack a strong legal basis to demand recognition or prevent exploitation by external parties. Therefore, effective protection requires a legal approach that not only accommodates economic value but also respects the social and cultural aspects of traditional knowledge itself⁷.

The implementation of traditional knowledge protection in Indonesia to date remains partial and scattered across various legal instruments such as the Copyright Law, Patent Law, and policies related to Communal Intellectual Property (KIK). This regulatory fragmentation creates inconsistencies in law enforcement and application, so recognition of traditional knowledge has not been fully realized⁸. In addressing these challenges, the government has taken progressive steps through the inventory of Communal Intellectual Property (KIK) – namely the registration and documentation of traditional knowledge in various regions as a form of initial protection. This step is in line with Indonesia's position as a megabiodiverse country with the potential to become a leader in protecting the world's cultural

⁶ Alqiz Lukman, 'Community-Based Management of the USAT Liberty, Bali, Indonesia: Pathways to Sustainable Cultural Heritage Tourism', *Journal of Cultural Heritage Management and Sustainable Development* 10, no. 3 (15 June 2020): 217–31, doi:10.1108/JCHMSD-05-2019-0053.

⁷ Jejen Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL', *JIPRO : Journal of Intellectual Property* 8, no. 1 (30 June 2025): 42–60, doi:10.20885/jipro.vol8.iss1.art3.

⁸ Ibid.

and biological heritage. However, inventory efforts still need to be supported by an integrated legal system so that traditional knowledge protection does not stop at data collection, but also ensures the sustainability of the rights and welfare of indigenous communities⁹.

Georgia is a country with a rich Caucasian cultural heritage, deeply rooted in local traditions that have developed over centuries. In the process of legal modernization and integration with European Union standards, the country faces challenges in ensuring that traditional knowledge remains protected amid the pressure of international policy harmonization. The legal transformation towards a more open and standardized system demands a balance between the preservation of local values and the application of modern legal principles¹⁰. With its strategic geopolitical position and strong cultural identity, Georgia strives to ensure that the modernization process does not erode the collective rights of indigenous communities over their traditional knowledge and practices¹¹.

Georgia's primary approach to protecting traditional knowledge lies in formal registration and systematic documentation, which form the basis for legal recognition of local cultural expressions and practices. While this step strengthens legal legitimacy, difficulties arise in integrating oral and collective customary values into a rigid written legal framework. One notable success is the protection of the traditional Qvevri wine-making technique, which has been recognized as a UNESCO Intangible Cultural Heritage and protected through a

⁹ Ibid.

¹⁰ Rikki Brown, 'Autonomous Political Economies: Winemakers, National Heritage, and the Ethnographic Mapping of Geopolitics in the Republic of Georgia', *TSU-TI—THE INTERNATIONAL SCIENTIFIC JOURNAL OF HUMANITIES*, 2022, 116–26, doi:<https://doi.org/10.55804/TSU-ti-1/Brown>.

¹¹ Tamar Taliashvili and Irakli Shamatava, 'Recent Evolution of Intellectual Property Enforcement in Georgia', *TalTech Journal of European Studies* 10, no. 2 (1 September 2020): 42–56, doi:[10.1515/bjes-2020-0014](https://doi.org/10.1515/bjes-2020-0014).

geographical indication system and national regulations¹². These efforts reflect Georgia's success in integrating international legal standards with local protection mechanisms, thus preserving the sustainability of traditions without compromising legal certainty. However, challenges still remain in expanding this protection model to cover various other forms of traditional knowledge across the country's territory¹³.

The issue of traditional knowledge protection has been widely discussed in both national and global contexts, but comparative studies between countries remain limited. In particular, there are still few in-depth studies examining how two countries with different legal and cultural backgrounds such as Indonesia and Georgia face challenges in balancing the cultural rights of indigenous communities and legal certainty within the modern intellectual property system. Research by Jejen Hendar et al., in the *Journal of Intellectual Property* (JIPRO), shows that although Indonesia already has a legal framework related to Communal Intellectual Property (KIK), its implementation remains weak, particularly in the aspects of data collection, socialization, and government facilitation of registration. KIK registration not only provides formal legal protection but also plays a strategic role in safeguarding national cultural sovereignty amid the dynamics of globalization and free trade. Therefore, synergy between the central government, regional governments, and indigenous communities is needed to accelerate the process of registration and legal protection of communal cultural wealth¹⁴. Next, research by Ni Ketut Supasti Dharmawan in Law Reform shows that referring to Government Regulation Number 56 of 2022, the commercial use of Traditional Cultural Expression works both in the form of adaptation and

¹² Ibid.

¹³ Ibid.

¹⁴ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

transformation by humans or Artificial Intelligence requires permission and must consider benefit-sharing, which will be further determined by the Minister. However, regulations regarding this mechanism have not yet been explicitly regulated¹⁵. And research by Tamar Taliashvili and Irakli Shamatava in Sciendo analysis of the characteristics of the impact of harmonization on intellectual property as an intangible right is proven to have wide benefits for intellectual property holders in Georgia or elsewhere in Europe¹⁶.

The novelty of this research lies in its comparative approach, which highlights how two countries with very different legal systems and cultural traditions – Indonesia and Georgia – address similar issues in protecting traditional knowledge within the framework of modern intellectual property law. Such studies are still rare, particularly with a focus on balancing collective cultural rights and the need for legal certainty. Its urgency arises from the growing risk of unauthorized exploitation of traditional knowledge and weak legal protection, which causes indigenous communities to lose their rights to their intellectual heritage. In the context of globalization and economic integration, the findings of this research are expected to make conceptual and practical contributions to the development of a more inclusive, fair, and culturally relevant legal model. This article not only fills an academic gap but also provides a basis for formulating just traditional knowledge protection policies at both national and international levels.

The research questions focus on two main aspects. First, this research describes how the legal systems in Indonesia and Georgia regulate and implement the protection of traditional knowledge within the modern and formal intellectual property

¹⁵ Ni Ketut Supasti Dharmawan, Desak Putu Dewi Kasih, and Putu Aras Samsithawrati, 'Quo Vadis Traditional Cultural Expressions Protection: Threats from Personal Intellectual Property and Artificial Intelligence', *Law Reform* 19, no. 2 (2023): 321–43, doi:<https://doi.org/10.14710/lr.v19i2.58639>.

¹⁶ Taliashvili and Shamatava, 'Recent Evolution of Intellectual Property Enforcement in Georgia'.

framework. Second, this research examines the extent to which both countries are able to balance the recognition of indigenous communities' cultural rights with the need for legal certainty in the process of modernizing the intellectual property protection system. The objectives of this research are to comparatively analyze the legal approaches of the two countries, identify challenges and opportunities in the implementation of traditional knowledge protection, and formulate policy recommendations that can be used to create a more inclusive, just, and contextually relevant protection model for local cultural values.

The research method used in this article is a normative juridical approach with a comparative method. The normative juridical approach is used to examine various legal provisions governing traditional knowledge protection in Indonesia and Georgia, including national legal instruments, subordinate regulations, and government policies related to intellectual property and indigenous communities' rights. Analysis is conducted on primary legal materials such as laws, government regulations, and international conventions like the Convention on Biological Diversity and the WIPO Traditional Knowledge Framework; secondary legal materials such as academic literature, law journals, and previous research findings; and tertiary legal materials. The comparative method is used to compare the legal approaches of the two countries in balancing collective cultural rights and legal certainty, with the aim of identifying similarities, differences, and best practices that can serve as models for effective protection. Data analysis is carried out qualitatively, emphasizing legal interpretation and the socio-cultural relevance of policy implementation.

B. Research Outcome and Discussion

1. Legal Framework for the Protection of Traditional Knowledge in Indonesia and Georgia

The intellectual property legal systems in Indonesia and Georgia both seek to adapt to global dynamics that demand recognition of the economic and cultural value of traditional knowledge. Traditional knowledge in Indonesia is positioned as part of communal intellectual property that represents the cultural identity and collective rights of indigenous communities. While recognition of this knowledge has begun to be accommodated in various regulations, Indonesia's legal system remains fragmented and does not yet have a special law that comprehensively protects traditional knowledge. This means that legal protection for traditional knowledge is still limited to administrative aspects, such as inventory and registration, without strong legal guarantees for the economic and cultural rights of its owner communities¹⁷.

Meanwhile, practices in Georgia place traditional knowledge within a more formal intellectual property legal framework that is integrated with European legal standards. The country places great emphasis on documentation, registration, and geographical indications as means of legal protection for cultural heritage. Through regulations such as the Law on Cultural Heritage and the protection system for local special products, Georgia has successfully positioned traditional knowledge as part of a cultural heritage-based economic development strategy. However, challenges still arise in maintaining a balance between the application of rigid written law and customary values that are dynamic and communal¹⁸.

The legal basis governing the protection of traditional knowledge in Indonesia is currently scattered across several legal instruments with different scopes. The Copyright Law provides protection for traditional cultural expressions such as

¹⁷ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

¹⁸ Bakur Liluashvili, 'Protection of Intellectual Property Rights under the Private International Law of Georgia', *Herald of Law* 07 (2020): 49–65, www.heraldoflaw.com.

dances, music, and folk artworks, with the state acting as the copyright holder on behalf of indigenous communities¹⁹. Meanwhile, the Patent Law opens up opportunities for protecting inventions derived from traditional practices, although its implementation remains limited because the novelty requirement often does not align with the characteristics of traditional knowledge that is passed down from generation to generation. Both demonstrate Indonesia's efforts to accommodate legal protection for traditional knowledge, yet they do not fully reflect the need of indigenous communities for more substantive recognition of their collective rights²⁰.

The Communal Intellectual Property (KIK) policy has emerged as a breakthrough in Indonesia's legal system to strengthen the recognition and documentation of traditional knowledge. Through the inventory mechanism in practice, the government records local knowledge, cultural expressions, and genetic resources as part of the communal wealth protected by the state. This approach has strategic value in preventing ownership claims by foreign parties and strengthening the legal position of indigenous communities at both national and international levels²¹. However, without the support of strong implementing regulations and a fair benefit-sharing mechanism, protection through KIK still risks being merely administrative,

¹⁹ Lukman, 'Community-Based Management of the USAT Liberty, Bali, Indonesia: Pathways to Sustainable Cultural Heritage Tourism'.

²⁰ Putu Aras Samsithawrati et al., 'Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024?', *Jurnal Pembangunan Hukum Indonesia Master of Law, Faculty of Law* 7, no. 1 (2025): 1–26.

²¹ Mochammad Riansyah Andhika Putra, 'Safeguarding Intellectual Property in the Post-Cultural Advancement Law Era in Indonesia: Preserving Traditional Knowledge', *International Journal of Current Science Research and Review* 07, no. 06 (3 June 2024): 3546–55, doi:10.47191/ijcsrr/V7-i6-04.

and has not yet fully provided legal certainty and economic benefits for its owner communities²².

The legal basis for traditional knowledge protection in Georgia is built through the integration of intellectual property regulations and cultural preservation policies. Geographical Indications (GI) have become one of the main instruments used to protect traditional products and practices that are closely linked to their place of origin²³. Through this system, Georgia has successfully granted legal recognition to distinctive local products such as traditional Qvevri wine and Sulguni cheese, which represent local cultural identity and economic value. This geographical indication-based approach not only strengthens the position of local products in international markets but also encourages the preservation of the traditional techniques and knowledge underlying their production processes²⁴.

Cultural Heritage Law and various regulations related to intangible cultural heritage also play an important role in providing a broader legal framework for the protection of local traditions and knowledge. Through these regulations, Georgia positions traditional knowledge as part of the national identity that needs to be preserved for its sustainability. The government is also active in documenting and registering cultural practices in the national inventory and submitting applications for recognition at the UNESCO level²⁵. While significant progress has been made, challenges still remain in integrating living customary law within society with the positive law framework,

²² M. Citra Ramadhan, Rahmad Syah, and Shulhan Iqbal Nasution, 'Indigenous Data Sovereignty and Blockchain: Reconfiguring Legal Protection of Communal Intellectual Property in Indonesia', *Journal of Cultural Analysis and Social Change* 10 (25 November 2025): 886–94, doi:10.64753/jcasc.v10i2.1710.

²³ Taliashvili and Shamatava, 'Recent Evolution of Intellectual Property Enforcement in Georgia'.

²⁴ Maka Piranashvili, Lamara Kadagidze, and Lizi Dzimistarishvili, 'Positioning Georgia as a Leading Wine Tourism Destination: Key Strategies and Practices', *Acad. Dig.*, 2025, doi:10.55896/2298-0202/2024-7-26.

²⁵ Liliashvili, 'Protection of Intellectual Property Rights under the Private International Law of Georgia'.

so that the protection provided is not only formal but also reflects the social and cultural values inherent to local communities²⁶.

The role of government institutions and intellectual property authorities is crucial in ensuring that traditional knowledge protection policies are implemented effectively and sustainably. In Indonesia, the Ministry of Law and Human Rights through the Directorate General of Intellectual Property (DJKI) serves as the main institution responsible for implementing the inventory and registration policies for Communal Intellectual Property (KIK)²⁷. In addition, the Ministry of Education, Culture, Research, and Technology also plays a role in documenting traditional cultural expressions and promoting preservation through national cultural programs. This inter-institutional collaboration demonstrates the government's commitment to strengthening the legal position of indigenous communities, although cross-sectoral coordination still needs to be improved to create an integrated and efficient protection system²⁸.

In Georgia, the implementation of traditional knowledge protection involves coordination between the *National Intellectual Property Center of Georgia* (Sakpatenti) and the Ministry of Culture, Sport, and Youth. Sakpatenti is responsible for the registration of geographical indications and the legal protection of traditional products and practices, while the Ministry of Culture oversees the conservation and promotion of intangible cultural heritage²⁹. The synergy between these institutions enables Georgia to integrate formal legal protection with cultural preservation at the local level. However, challenges

²⁶ Brown, 'Autonomous Political Economies: Winemakers, National Heritage, and the Ethnographic Mapping of Geopolitics in the Republic of Georgia'.

²⁷ Lukman, 'Community-Based Management of the USAT Liberty, Bali, Indonesia: Pathways to Sustainable Cultural Heritage Tourism'.

²⁸ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

²⁹ Kim Ly Thompson, Trevor C. Lantz, and Natalie C. Ban, 'A Review of Indigenous Knowledge and Participation in Environmental Monitoring', *Ecology and Society* 25, no. 2 (1 June 2020): 1–27, doi:10.5751/ES-11503-250210.

still remain in ensuring the active participation of traditional knowledge-owning communities, so that the protection provided is not only administrative but also reflects the social, economic, and cultural identity interests of the local people³⁰.

The effectiveness of regulations in recognizing the rights of indigenous communities in Indonesia still faces a number of conceptual and practical limitations. While traditional knowledge has been recognized through various legal instruments, its implementation often does not fully prioritize the interests of indigenous communities. One of the reasons is the still limited legal mechanisms that guarantee the participation of local communities in the decision-making process and the protection of their knowledge. As a result, traditional knowledge is often documented by government institutions without ensuring fair benefit-sharing for the original owners. This indicates the need for legal reform that positions indigenous communities as active subjects in the protection process, not merely objects of administrative policy³¹.

In addition, Georgia has shown more systematic progress in involving local communities in traditional knowledge protection policies. Through a participatory approach, communities in rural areas are given space to play a direct role in the documentation, registration, and supervision of protected traditional products such as Qvevri wine and distinctive local handicrafts³². This approach not only strengthens legal legitimacy but also fosters a sense of ownership and

³⁰ Taliashvili and Shamatava, 'Recent Evolution of Intellectual Property Enforcement in Georgia'.

³¹ Al Hanisham Mohd Khalid et al., 'GEOGRAPHICAL INDICATIONS IN MALAYSIA AND INDONESIA: ENHANCING PROTECTIONS FOR ECONOMIC GROWTH AND CULTURAL HERITAGE', *ASEAN Legal Insights* 1 (30 December 2024): 33–53, doi:10.32890/aseanli2024.1.3.

³² Ketevan Tkeshelashvili, Pawan Kumar Dutt, and Miranda Gurgendize, 'Commercialisation of Intellectual Property: A Comparative Analysis of Georgia and Estonia', *TalTech Journal of European Studies* 14, no. 1 (1 June 2024): 22–52, doi:10.2478/bjes-2024-0002.

responsibility among communities for the preservation of their cultural heritage. However, the effectiveness of these policies still depends on the continuity of government support and the availability of resources to maintain a balance between economic, cultural, and legal protection interests. Thus, the participation of local communities becomes a key element in achieving fair and sustainable traditional knowledge protection³³

2. The Balance between Collective Cultural Rights and Legal Certainty in National Practice

The main challenge in harmonizing customary law and positive law lies in the fundamental differences in how the two view the ownership and management of traditional knowledge. Customary law emphasizes the collective, spiritual, and intergenerational nature of such knowledge, while positive law is based on the principles of individualism, originality, and formal legal certainty. The tension between these two systems often makes it difficult for traditional knowledge to obtain adequate legal protection, as it does not meet the criteria set by the modern intellectual property system³⁴. In Indonesia, this is evident from the lack of integration of customary norms into national legal instruments³⁵. Meanwhile in Georgia, obstacles arose in adapting traditional cultural values into a rigid written legal system.³⁶ Therefore, an integrative approach is needed that recognizes the legal validity of customary law as a legitimate source of law in protecting traditional knowledge fairly.

³³ Ibid.

³⁴ Álvaro Fernández-Llamazares et al., 'Scientists' Warning to Humanity on Threats to Indigenous and Local Knowledge Systems', *Journal of Ethnobiology* 20, no. 2 (2021): 144–69, doi:<https://doi.org/10.2993/0278-0771-41.2.144>.

³⁵ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

³⁶ Liliushvili, 'Protection of Intellectual Property Rights under the Private International Law of Georgia'.

The form of recognition of collective rights to traditional knowledge in Indonesia has developed through a community-based approach that positions indigenous communities as the rightful owners of their cultural heritage. This approach acknowledges that traditional knowledge is not the work of individuals, but a collective reflection of the values, practices, and knowledge systems passed down across generations³⁷. Through the involvement of communities in the identification and documentation process, the government seeks to strengthen the legal position of indigenous communities so that they have legitimacy over the knowledge that has become part of their cultural identity. However, community participation is often still limited to the initial data collection stage, and has not yet been fully integrated into the decision-making process and the management of the resulting economic benefits³⁸.

The inventory of Communal Intellectual Property (KIK) has become one of the important instruments in realizing such community-based protection. This program is designed to record and document the cultural expressions, knowledge, and traditional practices owned by local communities so that they are not claimed by other parties, especially at the international level. Through the KIK database managed by the Directorate General of Intellectual Property, the state acts as a protector of collective rights, ensuring that every form of knowledge has legally recognized administrative evidence³⁹. However, the effectiveness of this system still faces obstacles, such as insufficient socialization, limited capacity of indigenous communities to access legal procedures, and the absence of clear benefit-sharing mechanisms. Therefore, the strengthening of the

³⁷ George Nicholas, 'Protecting Indigenous Heritage Objects, Places, and Values: Challenges, Responses, and Responsibilities', *International Journal of Heritage Studies* 28, no. 3 (2022): 400–422, doi:10.1080/13527258.2021.2009539.

³⁸ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

³⁹ Lukman, 'Community-Based Management of the USAT Liberty, Bali, Indonesia: Pathways to Sustainable Cultural Heritage Tourism'.

KIK system needs to be accompanied by inclusive policies that position indigenous communities as the main subjects, not merely passive recipients of protection⁴⁰.

The traditional knowledge protection approach in Georgia focuses on a formal registration system and protection based on Geographical Indications (GI). Through this mechanism, Georgia grants legal recognition to traditional practices and products that have strong ties to their place of origin, in terms of production techniques, raw materials, and cultural value alike. The most prominent example is the recognition of the Qvevri wine-making technique, which not only has economic value but also serves as a symbol of Georgia's national identity⁴¹. The Geographical Indications (GI) system ensures that only products that truly originate from a specific region and are produced using traditional methods can use the name, thereby preventing exploitation by external parties. This approach creates a balance between cultural preservation and strengthening the local economic position in the global market⁴².

In addition, Georgia combines the GI system with intangible cultural heritage preservation policies to ensure the sustainability of traditional practices amid the currents of modernization and commercialization. Through Sakpatenti and the Ministry of Culture, it actively promotes the documentation, certification, and promotion of registered traditional products⁴³. These efforts have proven effective in strengthening international recognition of Georgia's cultural heritage, such as

⁴⁰ Mohd Khalid et al., 'GEOGRAPHICAL INDICATIONS IN MALAYSIA AND INDONESIA: ENHANCING PROTECTIONS FOR ECONOMIC GROWTH AND CULTURAL HERITAGE'.

⁴¹ Vaishali Tripathi, 'Analyzing the Role of Legal Protection for Trademarks and Geographical Indications in Preserving Cultural Heritage and Enhancing Global Trade', *Journal of Law and Intellectual Property Rights* 1, no. 1 (2024): 50–63, www.ciiir.in.

⁴² Anjali Yadav and Rajender Singh, 'Geographical Indication As A Tool For Revitalizing Endangered Traditions And Sustaining Livelihoods', *Educational Administration: Theory and Practice* 30 (27 February 2024): 1071–81, doi:10.53555/kuey.v30i2.4408.

⁴³ Michael S. Spencer et al., 'Environmental Justice, Indigenous Knowledge Systems, and Native Hawaiians and Other Pacific Islanders', *Human Biology* 92, no. 1 (1 December 2020): 45–57, doi:10.13110/humanbiology.92.1.06.

the recognition of Qvevri winemaking by UNESCO as a World Cultural Heritage. However, challenges still arise in maintaining a balance between legal formality and the customary values inherent in these practices. Therefore, building the capacity of local communities and involving them in the management of geographical indications have become important aspects to ensure that this protection system is not only symbolic but also socially and culturally sustainable⁴⁴.

The traditional knowledge protection system in Indonesia has a strength in the aspect of recognizing local cultural values through the Communal Intellectual Property (KIK) mechanism, which positions indigenous communities as an integral part of protection policies. This approach enables the documentation and official recognition of diverse cultural expressions and traditional practices. Its advantage lies in the flexibility and inclusivity that allow various forms of traditional knowledge to be covered, whether spiritual, artistic, or ecological in nature⁴⁵. However, its weakness lies in the aspect of legal certainty, as regulations scattered across various laws are not yet fully harmonized, and there is a lack of strong enforcement and benefit-sharing mechanisms. As a result, the protection provided tends to be administrative in nature and has not been effective in preventing claims or exploitation by external parties⁴⁶.

Conversely, the system implemented in Georgia excels in terms of legal certainty and protection standards that are integrated with the international legal system, particularly through the use of geographical indications and formal

⁴⁴ Driss Ed.daran and Malik Zia-Ud-din, 'The International Legal Framework Governing the Protection of Cultural Heritage', *FWU Journal of Social Sciences* 18, no. 3 (2024): 35–43, doi:10.51709/19951272/Fall2024/4.

⁴⁵ I Gede Agus Kurniawan et al., 'Intellectual Property Rights and Ethics: A Comparison of Philosophical Approaches in Northern and Southern Countries', *Kosmik Hukum* 25 (2025): 106–23, doi:10.30595/kosmikhukum.v25i1.24489.

⁴⁶ I Gede Agus Kurniawan et al., 'Intellectual Property Law and Ethics Creating Space for Ethical Innovation from the Perspective of Dignified Justice', *Jurnal Negara Hukum* 16 (2025): 1–18, doi:10.30595/1.

registration. This approach provides clarity on rights and responsibilities, as well as ensuring strong legal protection for registered traditional products and practices. Its strength lies in the consistency between national regulations and international standards, which supports global recognition of Georgia's cultural heritage⁴⁷. However, its weakness is the tendency of the system to be overly legalistic, so that non-commercial cultural values and customary practices are sometimes sidelined. Thus, both systems show that balancing legal certainty and respect for cultural values requires an adaptive, participatory, and context-sensitive approach to the social setting of each country⁴⁸.

The implementation of the traditional knowledge protection model in Indonesia has had a significant social impact, especially in strengthening the identity and pride of indigenous communities in their cultural heritage. The community-based approach through the Communal Intellectual Property (KIK) inventory also encourages public participation in the preservation of local culture, although it is still limited to the documentation stage. In terms of the economy, its impact is beginning to be seen in the form of increased potential for the commercialization of culture-based products, such as traditional medicine, handicrafts, and local cuisine⁴⁹. However, without a clear benefit-sharing system, these economic outcomes have not yet fully returned to the indigenous communities as the knowledge owners. The legal existence of KIK strengthens the state's position in protecting traditional knowledge from foreign

⁴⁷ Taliashvili and Shamatava, 'Recent Evolution of Intellectual Property Enforcement in Georgia'.

⁴⁸ Tkeshelashvili, Dutt, and Gurgenedze, 'Commercialisation of Intellectual Property: A Comparative Analysis of Georgia and Estonia'.

⁴⁹ Samsithawrati et al., 'Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024?'

claims, but it has not yet been able to provide tangible protection for communities at the grassroots level⁵⁰.

The implementation of the geographical indication-based system in Georgia has had more measurable economic and legal impacts. Formal protection for traditional products such as Qvevri wine or local cheese increases economic added value, opens up export opportunities, and strengthens the position of local producers in the global market⁵¹. Its social impact is also evident in the increased pride and participation of rural communities in preserving the production traditions passed down through generations. From a legal perspective, the GI system provides strong certainty of rights regarding the use of traditional names and methods, reducing the risk of misappropriation. That said, challenges still arise in maintaining a balance between commercialization and the preservation of cultural values, to ensure that legal protection does not alienate indigenous communities from the traditional practices that are the source of their identity⁵².

3. An Ideal Model for the Protection of Traditional Knowledge: Lessons from Indonesia and Georgia

The similarity in the principles of traditional knowledge protection between Indonesia and Georgia lies in the recognition of cultural value as an integral part of national identity and a resource that must be protected. Both countries equally position the state as the main actor in ensuring legal protection for traditional knowledge, whether through inventory in Indonesia or a registration system in Georgia. The principle of community

⁵⁰ Andhika Putra, 'Safeguarding Intellectual Property in the Post-Cultural Advancement Law Era in Indonesia: Preserving Traditional Knowledge'.

⁵¹ Ismail Maswatu et al., 'Legal Protection of Indigenous Land Rights: A Study of Customary Law Integration in National Legal', *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 3 (12 August 2025): 1789–94, doi:10.31004/riggs.v4i3.2223.

⁵² Erik Gómez-Baggethun, 'Is There a Future for Indigenous and Local Knowledge?', *Journal of Peasant Studies* 49, no. 6 (2022): 1139–57, doi:10.1080/03066150.2021.1926994.

participation also serves as an important element in both systems, although its implementation differs in practice⁵³. In addition, both have adopted approaches that are aligned with international standards, such as guidelines from WIPO and UNESCO, to strengthen the legitimacy of protection at the global level. This similarity reflects the awareness that traditional knowledge is not only a cultural asset but also a strategic resource that requires sustainable management⁵⁴.

The main difference arises in the level of formality and legal orientation used by each country. Indonesia tends to prioritize a community-based approach with an administrative character through the Communal Intellectual Property (KIK) inventory, which focuses more on the aspects of recognition and cultural preservation⁵⁵. Meanwhile, Georgia uses a more systematic and economical legal approach by emphasizing geographical indication-based protection that is directly related to the commercial and export value of cultural products⁵⁶. In this context, the Georgian system guarantees more legal certainty, while the Indonesian system emphasizes social and cultural inclusivity. These differences in orientation demonstrate that the protection of traditional knowledge is not universal but rather needs to be adapted to the social, economic, and cultural context of each country⁵⁷.

Georgia's approach to protecting traditional knowledge offers important lessons about the importance of integrating national law and international standards. By aligning national

⁵³ Hossain and Ballardini, 'Protecting Indigenous Traditional Knowledge Through a Holistic Principle-Based Approach'.

⁵⁴ Samsithawrati et al., 'Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024?'

⁵⁵ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

⁵⁶ Liluashvili, 'Protection of Intellectual Property Rights under the Private International Law of Georgia'.

⁵⁷ Nicholas, 'Protecting Indigenous Heritage Objects, Places, and Values: Challenges, Responses, and Responsibilities'.

regulations with WIPO and UNESCO provisions, Georgia has succeeded in creating a legal system that provides not only domestic protection but also global recognition. The implementation of Geographical Indications (GI) is a concrete example of this success, where registered traditional products and practices receive cross-border legal protection and enhance the economic competitiveness of local producers⁵⁸. This integration also strengthens the legal position of local communities in safeguarding traditional values without losing access to modern markets. This shows that adapting laws to international standards can be aligned with cultural preservation when carried out in a contextual and inclusive way⁵⁹.

Georgia's success also lies in its government's ability to create a balance between legal protection, economic development, and cultural preservation. International recognition of practices such as Qvevri wine-making shows that cultural value can become an economic asset without losing its traditional meaning. The active involvement of institutions like Sakpatenti in GI registration and collaboration with UNESCO proves that synergy between national authorities and global bodies strengthens the effectiveness of protection⁶⁰. These lessons are relevant for countries like Indonesia, which has extraordinary cultural wealth but still faces legal fragmentation. By strengthening the link between national policies and international norms, Indonesia can develop a stronger, fairer, and globally recognized protection system⁶¹.

⁵⁸ Mohd Khalid et al., 'GEOGRAPHICAL INDICATIONS IN MALAYSIA AND INDONESIA: ENHANCING PROTECTIONS FOR ECONOMIC GROWTH AND CULTURAL HERITAGE'.

⁵⁹ Andhika Putra, 'Safeguarding Intellectual Property in the Post-Cultural Advancement Law Era in Indonesia: Preserving Traditional Knowledge'.

⁶⁰ Piranashvili, Kadagidze, and Dzimistarishvili, 'Positioning Georgia as a Leading Wine Tourism Destination: Key Strategies and Practices'.

⁶¹ Yadav and Singh, 'Geographical Indication As A Tool For Revitalizing Endangered Traditions And Sustaining Livelihoods'.

Indonesia's approach to protecting traditional knowledge is highly relevant to efforts to recognize the rights of indigenous communities within its still-developing national legal system. Through the Communal Intellectual Property (KIK) mechanism, the state seeks to bridge the gap between collective customary values and the individualistic principles of intellectual property law. This approach emphasizes the state's role as both a protector and a facilitator in ensuring that traditional knowledge is not exploited unilaterally by external parties⁶². Its relevance is evident in how this system opens up formal space for the recognition of indigenous communities' rights without having to change the cultural essence they possess. However, its effectiveness depends heavily on the extent to which indigenous communities are substantially involved in the legal and administrative process⁶³.

In addition, the relevance of Indonesia's approach is also evident in its ability to adapt traditional principles to the dynamics of modern law that demand certainty and formal standards. By incorporating customary elements into public policy, Indonesia seeks to build a pluralistic and inclusive legal model. This is in line with the constitutional spirit of protecting the rights of indigenous communities as part of the national identity. This approach is not only important for preserving traditional knowledge but also strengthens the state's legal legitimacy in the eyes of indigenous communities⁶⁴. Therefore, strengthening the synergy between customary norms and positive law is a strategic step to create a fair, adaptive and

⁶² Ramadhan, Syah, and Nasution, 'Indigenous Data Sovereignty and Blockchain: Reconfiguring Legal Protection of Communal Intellectual Property in Indonesia'.

⁶³ Kurniawan et al., 'Intellectual Property Law and Ethics Creating Space for Ethical Innovation from the Perspective of Dignified Justice'.

⁶⁴ Samsithawrati et al., 'Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024?'

contextual protection system for Indonesia's socio-cultural diversity⁶⁵.

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In addition to strengthening the legal aspect, the hybrid model also has the potential to create a more socially and economically sustainable protection system. A community-based participatory mechanism can ensure that indigenous communities are actively involved in the process of registration, management, and distribution of economic benefits derived from their traditional knowledge⁶⁸. Meanwhile, the presence of a

⁶⁵ Ibid.

⁶⁶ Charles Kalu and Chidiebele Kene, 'PROTECTING TRADITIONAL KNOWLEDGE/SECRETS UNDER INTELLECTUAL PROPERTY LAW: A COMPARATIVE ANALYSIS OF THE ADEQUACY OF PROTECTIONS USING NIGERIA AS A CASE STUDY'.

⁶⁷ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

⁶⁸ Hossain and Ballardini, 'Protecting Indigenous Traditional Knowledge Through a Holistic Principle-Based Approach'.

formal system provides support in the form of legal recognition, international protection, and oversight against exploitation by foreign parties. The synergy between these two systems will give rise to a protection model that is not only legally fair but also sensitive to the socio-cultural context. Therefore, the implementation of a hybrid model needs to be accompanied by clear derivative regulations, enhanced community capacity, and consistent institutional support to operate effectively.⁶⁹

The implications of this research finding for national policy formulation are that Indonesia needs to develop a more integrated, participatory, and just legal framework for protecting traditional knowledge. National policy should not only emphasize administrative aspects through the Communal Intellectual Property (KIK) inventory but also strengthen mechanisms for the substantive recognition of indigenous communities' rights as the owners of such knowledge⁷⁰. An interdisciplinary approach that combines legal, cultural, and economic aspects is essential so that the resulting policies can address real on-the-ground needs. In addition, the establishment of an inter-institutional coordinating body specifically tasked with handling traditional knowledge issues can accelerate the harmonization between customary law and positive law. This step not only strengthens domestic protection but also enhances Indonesia's bargaining position in international forums.⁷¹

The contribution to international discourse is evident in how the protection models of Indonesia and Georgia can serve as comparative material in global efforts to formulate universal standards for traditional knowledge protection. The experiences of both countries show that an approach that combines elements of formal law and community participation is a development

⁶⁹ Ibid.

⁷⁰ Hendar et al., 'URGENSI PENDAFTARAN KEKAYAAN INTELEKTUAL KOMUNAL SEBAGAI UPAYA PREVENTIF TERHADAP KLAIM PIHAK ASING ATAS BUDAYA LOKAL'.

⁷¹ Kurniawan et al., 'Intellectual Property Law and Ethics Creating Space for Ethical Innovation from the Perspective of Dignified Justice'.

direction recognized by various international organizations, including WIPO and UNESCO⁷². Indonesia, with its cultural diversity and biodiversity, has great potential to become a pioneer in advancing the agenda of culture-based justice protection at the global level. On the other hand, Georgia's experience shows the importance of synergy between national legal protection and international recognition of cultural practices. Thus, these two approaches can complement each other in building a more inclusive global paradigm that values diversity and upholds the rights of indigenous communities over their traditional knowledge.⁷³

C. Conclusion

The protection of traditional knowledge requires a balanced approach between legal certainty and respect for cultural values. A comparative study between Indonesia and Georgia reveals that both countries have developed different protection models but share the same goal: to safeguard cultural identity through legal instruments relevant to their national context. Indonesia emphasizes a community-based approach through the Communal Intellectual Property (KIK) system, which positions indigenous communities as the subjects of protection, while Georgia prioritizes a formal legal mechanism based on Geographical Indications (GI) that provides stronger protection for traditional products and practices. These differences reflect two equally important protection pathways: recognition of the collective rights of indigenous communities on one hand, and integration with the international legal system on the other.

⁷² Samsithawrati et al., 'Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024?'

⁷³ Kurniawan et al., 'Intellectual Property Rights and Ethics: A Comparison of Philosophical Approaches in Northern and Southern Countries'.

The findings of this research emphasize that the ideal protection model for traditional knowledge is not one that prioritizes a single approach, but a hybrid system that combines positive law with community-based mechanisms. Such a model can ensure legal certainty while preserving the authenticity and cultural values that form the foundation of traditional knowledge itself. For Indonesia, the integration of national policies and international norms is key to strengthening the legitimacy of protection and preventing the exploitation of knowledge by foreign parties. Globally, the results of this research contribute to international discourse on the protection of cultural heritage and the rights of indigenous communities, emphasizing that the preservation of traditional knowledge is not merely a legal issue, but also part of the struggle to maintain the sustainability of national identity and cultural sovereignty.

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