

Strengthening Legal Protection for Traditional Cultural Expressions in North Sulawesi: A Community-Based Approach to Prevent Commercial Misappropriation

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Abstract

This community service aims to strengthen the legal protection of Traditional Cultural Expressions (TCEs) in North Sulawesi against unauthorized commercial utilization by improving stakeholders' understanding of communal intellectual property (IP) protection and enhancing readiness for inventory and documentation. The program adopted a participatory legal community service approach involving needs identification, legal counseling, interactive discussions, and evaluation with local stakeholders. The needs assessment identified two major challenges: incomplete inventory and documentation of TCEs for communal intellectual property registration and the absence of local mechanisms governing permission and benefit-sharing for commercial utilization. To address these issues, the program produced three practical outputs: a shared action pathway for communal IP registration, a simplified inventory and documentation checklist, and policy recommendations supporting local regulations on permission and benefit-sharing. The findings indicate that legal counseling combined with stakeholder participation can improve institutional readiness for communal IP protection while providing an operational basis for strengthening preventive legal protection. The program also highlights the importance of developing regional regulations or a *sui generis* legal framework to ensure legal certainty, equitable benefit-sharing, and the sustainable preservation of Traditional Cultural Expressions in North Sulawesi. This aligns with Sustainable Development Goals (SDGs) 17: Partnerships for the Goals.

KEYWORDS *Traditional Cultural Expressions, Communal Intellectual Property, Community Service, Benefit-Sharing, Sustainable Development Goals (SDGs).*

Introduction

Indonesia's constitutional framework obliges the State to safeguard and advance national culture; within the intellectual property regime, Traditional Cultural Expressions (TCE/EBT) are commonly positioned as communal cultural assets that require active protection to prevent misappropriation and to support community welfare. Scholarly discussions emphasize that the protection of TCE as communal intellectual property

depends not only on formal legal norms, but also on practical governance capacity at the local level (e.g., identification, documentation, and community-oriented management of communal cultural assets)¹.

Protection of EBT is regulated in only one article in the Copyright Law, namely that Copyright for EBT is held by the state in this case the provincial and district/city governments where the EBT is located. The state is obliged to inventory, maintain, and preserve traditional cultural expressions. The use of EBT must pay attention to the values that live in the community that develops it.²

Alan Jabbour defines EBT as a type of traditional knowledge that is developed, maintained, and passed down from generation to generation in a community, and is sometimes passed down through certain customary procedures that apply in the culture of that community. EBT in the community includes songs, stories, legends, and other community cultures.³

From this understanding, it can be stated that EBT is an art that contains elements of traditional heritage characteristics developed by indigenous communities so that many communities consider EBT as a form of their cultural identity, so this is what makes it traditional.⁴

EBT as a cultural heritage of indigenous peoples is not utilized for commercial purposes for the economic interests of indigenous peoples but is used together by the community as a way of life because it contains sacred values. However, with the influence of globalization in Indonesia, EBT has

¹ Purnama Hadi Kusuma and Kholis Roisah, "Perlindungan Ekspresi Budaya Tradisional Dan Indikasi Geografis: Suatu Kekayaan Intelektual Dengan Kepemilikan Komunal," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 107–20.

² Francis Kariuki, "Traditional Governance Institutions and the Holistic Protection of Traditional Knowledge," in *Cultural Heritage, Sustainable Development and Human Rights* (London: Routledge, 2024), 255–77.

³ Sunardi Purwanda et al., "Legal Protection of Yei People's Knowledge of Local Medicines and Medicinal Plants from Extinction," *Masalah-Masalah Hukum* 53, no. 3 (2024): 245–56.

⁴ Himani Lodhi and Ujjwal Singh, "Exploring the Intersection of Cultural Attitudes and Legal Protection for Children from Sexual Offences in India," *International Journal of Human Rights and Constitutional Studies* 12, no. 1 (2025): 34–43.

become a highly valuable work of art that attracts foreign tourists visiting Indonesia, which is then taken and exploited for the purpose of making a profit, while the indigenous people do not receive any contribution from the utilization of EBT.⁵

Various types of EBT in North Sulawesi such as the dance in the picture below:

Maengket Dance



Source: *Good News from Indonesia*⁶

Minahasan Kabasaran dance



Source: *Perpustakaan.id*⁷

Minahasa Traditional Dance



Sasambo Bolaang Mongondow Dance

Source: *RRI*⁸



Masamper Tahuna Dance

Source: *BKSD NTB*⁹,

⁵ Zhilong Guo, Jie Hao, and Lewis Kennedy, "Protection Path of Personal Data and Privacy in China: Moving from Monism to Dualism in Civil Law and Then in Criminal Law," *Computer Law & Security Review* 52 (2024): 105928.

⁶ Muhammad Farid Akbar, "Tari Maengket, Tarian Rasa Syukur Dan Gotong Royong Masyarakat Suku Minahasa," *Good News from Indonesia*, 2024.

⁷ Vannisa, "Tarian Kabasaran," *Perpustakaan.id*, 2019.

⁸ Yelin Selpiyani, "Tari Tatengesan: Persembahan Sejarah Dan Kebudayaan Tradisional Minahasa," *RRI*, 2024.

⁹ BKSDA NTB, "Tari Tradisional Sasambo Oleh Dharma Wanita Persatuan (DWP) UPT KLHK Provinsi NTB," *BKSDA NTB*, 2022.



Source: Kompas.com¹⁰



Source: iNews.id¹¹

The North Sulawesi Provincial Government through the Cultural Service has conducted an inventory and data collection of EBT in the district/city to be recorded at the Office of the Ministry of Law and Human Rights as a form of protection as mandated in the Regulation of the Minister of Law and Human Rights Number: 13 of 2017 concerning Intellectual Property Data. This inventory process is essential to establish official documentation, prevent unauthorized claims by third parties, and strengthen the legal recognition of communal intellectual property owned by indigenous and local communities.¹²

The problem is that not all EBT works have been recorded at the Office of the Ministry of Law and Human Rights and until now the inventory of EBT data collection in the district/city areas is still being carried out. In a community-service context, these gaps indicate the need for structured legal empowerment and technical assistance for local stakeholders (custodian communities and relevant local agencies). Atsar et al. (2025) argue that systematic identification and inventory of communal intellectual property require active collaboration between local governments and communities to ensure effective protection and

¹⁰ Puspasari Setyaningrum, "8 Tari Tradisional Sulawesi Utara, Dari Tari Sasambo Hingga Tari Kabeli," KOMPAS.com, 2022.

¹¹ Cahya Sumirat, "Cerita Hubungan Leluhur Indonesia-Filipina Di Kepulauan Sangihe, Legenda Migrasi Pangeran Mindanao," iNews, 2022.

¹² Vita Fatimah Armadhany and Anjar Sri Ciptorukmi, "The Protection for Traditional Cultural Expression in Indonesian Constitution and National Law System," *International Journal of Business, Economics and Law* 26, no. 2 (2022): 44–47, <https://doi.org/10.14710/lr.v9i2.1244432-48.4>.

sustainable management of cultural assets.¹³

Community engagement literature in legal community service commonly recommends an activity flow that starts with identifying partner problems/needs, continues with dissemination of applicable regulations, and is strengthened through focused discussions and problem-solving forums to translate legal norms into implementable steps¹⁴. This service flow aligns with Mukhlis et al.¹⁵, who argue that participatory local governance requires more than formal recognition in legislation. Their analysis shows that effective participation depends on systematic needs mapping, meaningful community involvement, transparent administration, and strong coordination across central–regional–local actors. They emphasize that public participation and community-based planning strengthen accountability and institutional capacity. Accordingly, this community service aims to enhance stakeholders' understanding of the TCE protection framework, improve readiness for inventory and documentation of communal intellectual property, and promote fair utilization through licensing and benefit-sharing mechanisms.

Since Indonesia has not yet established specific regulations governing permission and benefit-sharing for the commercial use of TCEs, the development of regional regulations or a *sui generis* legal framework is necessary to ensure legal certainty and equitable protection for traditional communities. The need for a local regulatory instrument can also be

¹³ Abdul Atsar et al., "Socio-Legal Review of The Implementation of Identification and Inventory of Communal Intellectual Property for Tourism Development" 31, no. 2 (2025): 107–16.

¹⁴ Yuli Prasetyo Adhi, Dewi Sulistianingsih, and Rini Fidiyani, "Pengelolaan Kekayaan Intelektual Berbasis Kearifan Lokal Sebagai Penguatan Budaya Literasi, Kreativitas, Dan Inovasi," *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI* 4, no. 4 (2021): 18–30.

¹⁵ Muhammad Mutawalli Mukhlis et al., "Examining the Implementation of Participatory Village Autonomy: Models of Community Engagement and Application in Strengthening Inclusive Governance in Indonesia," *Jurnal Pengabdian Hukum Indonesia* 8, no. 1 (2025): 115–62, <https://doi.org/10.15294/jphi.v8i1.21226>.

supported through decentralization and autonomy debates. Mukhlis et al.¹⁶ show that regional autonomy becomes effective only when authority is clearly delegated and local governments are enabled to design responsive rules to address locally specific problems, rather than relying solely on central-level norms. Applied to communal cultural assets, this supports the argument that a Perda or sui generis framework can operationalize permission procedures, define benefit-sharing principles, and allocate institutional responsibilities for implementation. Such local regulation can function as an implementable bridge between the general mandate of state-held rights over EBT and the concrete administrative needs of licensing, revenue distribution, and reinvestment for cultural development. The importance of regional regulations on EBT to protect EBT from unauthorized use has been done in Korea and has been circulating on social media using Masamper art accompanied by dances belonging to the Tahuna community of Sangihe Regency.

Methods

This manuscript is prepared as a legal community service (*pengabdian hukum*) report. The method emphasizes legal counseling and stakeholder assistance to strengthen the protection of Traditional Cultural Expressions (TCEs) through communal intellectual property (IP) inventory and recording mechanisms. The activity adopts a participatory–descriptive service approach, in which service outputs are produced through direct engagement with local stakeholders, needs assessment, delivery of legal guidance, and formulation of follow-up recommendations, as participatory legal counseling has been shown to

¹⁶ Muhammad Mutawalli Mukhlis et al., “Regional Government Autonomy in Indonesia: The Ambiguity of the Federalism or Republic Model,” *Malaysian Journal of Syariah and Law* 13, no. 1 (2025): 35–57, <https://doi.org/10.33102/mjssl.vol13no1.760>.

enhance legal awareness and encourage active community involvement in implementing legal policies.¹⁷

Relevant laws and regulations (including the 1945 Constitution, the Copyright Law, and Regulation of the Ministry of Law and Human Rights No. 13 of 2017 on communal IP data) are used solely as a reference framework for preparing service materials and guidance tools, not as a normative legal research design

The service was implemented in four stages commonly used in legal community service programs: preparation (needs identification), material/tool development, implementation, and evaluation/follow-up, as follows.

- (1) Preparation/needs identification. The team conducted initial coordination with relevant local stakeholders involved in EBT protection to map priority issues. Implementation readiness also depends on institutional clarity within local government. Hariyanto, Mukhlis, and Risma¹⁸ highlight that unclear authority allocation inside regional government structures often produces inefficiencies, overlapping mandates, and conflicts in execution. Their principle-based authorization perspective highlights consultation, accountability, and clear institutional roles as essential for effective governance. In the context of EBT, clear authority over inventory, community consent, and benefit-sharing administration helps improve coordination, strengthen legal protection, and support the effective implementation of community service recommendations. The mapping focused on: (i) gaps in inventory and documentation required for communal IP recording, and (ii) the absence of local-level arrangements regarding permission procedures and benefit-sharing in

¹⁷ Oki Wahju Budijanto et al., "Community Involvement Strategies in Quality Legal Counseling," *Advances in Social Science, Education and Humanities Research* 549, no. 1clhr 2020 (2021): 103–11.

¹⁸ Hariyanto, Muhammad Mutawalli Mukhlis, and Daud Risma, "The Role and Authority of the Deputy Regional Head According to Islamic Principles within the Framework of Regional Government Law," *Juris: Jurnal Ilmiah Syaria* 24, no. 1 (2025): 13–27, <https://doi.org/10.31958/juris.v24i1.12678>.

EBT utilization. This stage produced an agreed problem list and a service focus aligned with stakeholders' capacity and needs.

- (2) Development of service materials and tools. Based on the identified needs, the team prepared: (a) counseling materials on the legal basis of EBT protection and communal IP recording; (b) a simple checklist for EBT inventory/documentation to support data readiness; and (c) an outline of policy points for local regulation discourse (permission mechanism and benefit-sharing principles) as an initial recommendation for local government.
- (3) Implementation. The community service was delivered through counseling sessions using a lecture/presentation format combined with interactive discussion, including Q&A and focused group discussion. This stage aimed to translate legal norms into practical steps that stakeholders can apply, particularly regarding data readiness for inventory/recording and governance options for permission and benefit-sharing.
- (4) Evaluation and follow-up. Evaluation was conducted through structured discussion and Q&A to capture participants' feedback and remaining obstacles, and the results were used to refine the materials and formulate written recommendations for strengthening EBT protection (especially improving readiness for inventory/recording and the direction of local regulatory needs).

The documentation from each stage (coordination notes, discussion points, and compiled outputs) was analyzed descriptively to identify recurring issues and to formulate actionable recommendations consistent with the objectives of the community service program.

Results and Discussion

Making the community aware of the economic value of renewable energy and its potential to improve the community's welfare is crucial.¹⁹ According to researchers of technological progress, in the current era of digitalization and globalization, it has become easy for creative individual actors to use renewable energy without permission for commercial purposes.²⁰ Digital environments increase the risk of unauthorized commercial exploitation and require an enforcement approach that is compatible with electronic evidence and online dissemination. Maskun et al.²¹ discuss electronic-based criminal law policy in Indonesia (linked to SDG 16) and underline that legal certainty and consistent interpretation among enforcement agencies are crucial when addressing offenses committed through electronic systems. For EBT/TCE, this perspective supports strengthening digital monitoring and complaint channels, improving evidence preservation practices (screenshots, metadata, platform records), and enhancing inter-agency coordination when unauthorized uses circulate online. These steps complement preventive measures such as inventory/recording, because they help translate documentation into enforceable responses when misappropriation occurs in digital spaces.

The Masamper dance is one of the traditional cultures that is still maintained, fostered and developed by the Sangihe community to this

¹⁹ Miaomiao Tao, "Dynamics between Electric Vehicle Uptake and Green Development: Understanding The Role of Local Government Competition," *Transport Policy* 146 (2024): 227–40.

²⁰ Etinosa Igbinenikaro and Adefolake Olachi Adewusi, "Financial Law: Policy Frameworks for Regulating Fintech Innovations: Ensuring Consumer Protection While Fostering Innovation," *Finance & Accounting Research Journal* 6, no. 4 (2024): 515–30.

²¹ Maskun et al., "Empowering SDG 16: Electronics-Based Criminal Law Policy to Combat Sexual Violence in Indonesia," *Jurnal Hukum Novelty* 14, no. 2 (2023): 288–303, <https://doi.org/10.26555/novelty.v14i2.a26968>.

day.²² The function of dance in human life can be divided into four, namely dance as a means of ceremony, as entertainment, performing arts and as a medium of education. Between the four types of dance that have different functions, each has its own characteristics or characteristics.²³

The government's inconsistency is seen in "efforts to prevent the registration of EBT by foreign parties and efforts to create a local legal umbrella."²⁴ Based on the facts and research findings, the problematic protection of folklore lies in the implementation of the legal system mechanism, especially the law enforcement system. The law enforcement system has not been optimal in protecting EBT from exploration and exploitation carried out by irresponsible parties to gain profit. The concept of appropriate legal protection must be created by the government, especially both preventive and repressive. In addition, it must be supported by synergy with the demands and needs of the community.²⁵

The results of research in North Sulawesi, especially in fifteen districts/cities, show that there is no specific legal instrument that provides protection for folklore expressions in accordance with the characteristics of each region.²⁶

²² Jefry Kalalo and Christoblless Evryanto Sawotong, "Contextual Theological Review of The Meaning of Tamo Cake in The Tulude Tradition and Its Impact on Faith Growth in The GMIM Batu Karang Bualo Congregation, Bunaken Region," *Eduvest-Journal of Universal Studies* 4, no. 11 (2024): 10087–98.

²³ Franklin Oniamba Mundala et al., "Enhancing Water Cooperation in Africa: The Role and Challenges of International Law in Managing Transboundary Resources," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2024): 333–58.

²⁴ Muhammad Rahjay Pelengkahu, Fatma Ulfatun Najicha, and Lego Karjoko, "The Urgency of New Renewable Energy Regulation as an Efficiency in The Utilization of Natural Resources in Indonesia," *Jurnal Analisis Hukum* 7, no. 1 (2024): 56–69.

²⁵ E Carmen et al., "Building Policy Synergies: A Case of Community Resilience, Climate Change and Community Empowerment Policies in Scotland," *Environmental Science & Policy* 150 (2023): 103579.

²⁶ M A Elmurodova, "The Concept of Jurisdiction in the Context of International and National Law of the Republic of Uzbekistan," *Miasto Przyszłości* 48 (2024): 646–50.

The lack of clarity in the regulation of the protection of folklore cultural expressions can be seen from three sides, namely:

- a. Specific regulations in the form of Regional Regulations have not been formed, specifically regulating the registration of EBT and the prohibition of unreasonable use of EBT;
- b. Institutions, especially regarding organizational and institutional structures that specifically handle folklore expression issues, have not been formed;
- c. The legal culture of traditional communities does not yet support protection for EBT, especially since indigenous communities are generally apathetic and do not care about what is happening.

The continued occurrence of "misappropriation" in the form of embezzlement of indigenous peoples' rights requires the government and local governments to be consistent in overcoming it with various alternative policies.²⁷ According to researchers, Sui Generis regulations that substantially protect EBT in the form of regional regulations must be made immediately in North Sulawesi.

In discussions with the international community, efforts have been made to provide protection for EBT through the Stockholm conference, which has recommended EBT regulations in the UUHC, which the Indonesian government has included in Article 38 of the 2014 Copyright Law. The regulations in the UUHC are still abstract and very minimal so that they have not been able to answer issues related to the use of EBT by both foreign parties and Indonesian parties themselves for commercial purposes without providing benefits to the community of origin of the EBT.²⁸

In the preparation of Sui Generis legislation which regulates the issue of foreigners' access to biological resources and related traditional

²⁷ Makhmudova Aziza Nugmanovna, Kamariddinzoda Zukhrabonu, and Shamsiddinova Madinabonu, "The Role of Legal Culture in the Education System," *Research Journal of Trauma and Disability Studies* 3, no. 2 (2024): 368–72.

²⁸ Yanlong Zhang and Dong Yan, "Legal Protection for Gig Workers' Availability Time: An Empirical Study of Take-Out Platform Riders in Beijing," *Employee Relations: The International Journal* 46, no. 1 (2024): 133–46.

knowledge, as well as the sharing of benefits that occur due to such access. The same legislation can also include regulations regarding contractual practices and clauses related to the provision of access and sharing of the benefits mentioned above.²⁹

The establishment of sui generis regulations as an alternative to protect EBT, as the nation's cultural wealth should be considered by the government. In International Law, this has been recognized. The cultural wealth in question is, in the sense of cultural property which refers more to (physical) objects resulting from the cultural creativity of indigenous tribes in a country, including cultural wealth in the sense of EBT or other traditional knowledge.³⁰ Both are the result of cultural creativity. In this context, Indonesia can consider a sui generis system considering the characteristics of Indonesian society which are very different from western society. This sui generis system needs to be considered to be created considering the fundamental differences between Copyright and EBT.³¹ These differences can be seen in the following table:

Table 1. Differences between Copyright and Folklore Cultural Expression

No.		Hak cipta	Folklor
1.	Communal	Individual	Communal
2.	Orientation	Economy	Community identity
3.	Existence	Modern society	Traditional society
4.	Creator	It is known	Unknown
5.	Time of creation	It is known	Unknown

²⁹ Ian Hannam, "Legislative Protection for the Soil Environment and Climate Change," *International Yearbook of Soil Law and Policy* 2022, 2024, 51–82.

³⁰ Elisatris Gultom, "Legal Protection of Investors Against Windows Dressing in Terms of Capital Market Law and Good Corporate Governance," *Journal of Law and Regulation Governance* 2, no. 1 (2024): 114–23.

³¹ Guo, Hao, and Kennedy, "Protection Path of Personal Data and Privacy in China: Moving from Monism to Dualism in Civil Law and Then in Criminal Law."

6	Rights holder	Creator/person who receives rights	Country
7	Protection Time	Limited	Unlimited

Source: author data processing, 2025

From the table above, it can be seen that there are many fundamental differences between copyright and EBT that require a different protection mechanism so that the regulation of EBT in UUHC needs to be reconsidered by making sui generis regulations or at least making Regional Regulations on folklore cultural expressions accompanied by the establishment of institutions.³² The Mataatua Declaration in 1993 in New Zealand which discussed the cultural rights and intellectual property rights of indigenous peoples, among other things, determined that: the right to protect EBT is the right to self-determination, which according to this researcher means that the Indonesian government can make sui generis regulations that are adjusted to the characteristics of Indonesian society, which are still strongly colored by a collective or communal system influenced by magical religious elements, so that the behavior of society is still permeated and guided by this value system. The Indonesian government can also determine what constitutes indigenous folklore as a cultural heritage that needs protection.³³

In the formation of sui generis laws, it is inseparable from the context of discussions on legal pluralism. In the formation of sui generis, it is good to consider the role of indigenous communities.³⁴ The historical jurisprudence view represents this approach. Laws should be formed based on norms or even values that live and develop in the midst of society. This approach also considers the morality of law in the form of just law. The formation of sui generis laws should never ignore the reality of the existence

³² Valdimar Tr Hafstein, "Folklore and Cultural Heritage: Reflecting on Change," *Journal of American Folklore* 137, no. 543 (2024): 16–22.

³³ Anna Pokrovskaya and Irina Gronic, "Fan Art in E-Commerce Marketplace Copyright Protection: A Study of the Chinese Experience," *Journal of Comprehensive Business Administration Research*, 2024, 1–9.

³⁴ R Basumatary and T L Khawzawl, "Folklore of the Himalayan Foothills: Weaving Traditions in Bodo Folklore," *Rupkatha Journal* 16, no. 2 (2024): 2.

of a very diverse plurality of society. Law should be formed based on norms or even values that live and develop in the midst of society. Hopefully customary law or customary law can be one alternative source or material to formulate the rights of local communities in *sui generis* laws, especially in regional regulations.³⁵

The most important substance of the *sui generis* law in question is the explicit recognition that the Custodian EBT is a local community that maintains and develops folklore cultural expressions in a traditional and communal manner.³⁶

With the implementation of regional autonomy, *sui generis* rules at the local level have become a demand, because local rules are considered more specific and more in line with the rights of indigenous peoples.

The principles of customary law that can be accommodated into *sui generis* laws include:

1. Simple

In *sui generis* law is simple. This means that what is regulated in the law is easy to understand, understood by the wider community, and its implementation does not require complicated procedures as with IPR legislation.³⁷ This characteristic is in line with the mindset of the community which is also simple. This simple mindset is reflected, among other things, in the customary law system which is clear and cash. Customary law does not recognize abstract legal institutions as with "intellectual property" legal institutions.³⁸

³⁵ Eunice Erhagbe and Emmanuella Adesuwa Edevbaro, "A Comparative Analysis of Copyright Laws: Nigerian Copyright Act Compared With The United States, India, and The United Kingdom, with A Focus on The Film Industry," *Fountain University Law Journal* 1, no. 2 (2024): 120–36.

³⁶ Khiswatul Barokah et al., "The Existence of the Papuan People's Assembly in Special Autonomy: A Comparative Legal Study Between Indonesia and France," *Nagara Law Journal* 1, no. 02 (2024).

³⁷ Vjosa Jonuzi-Shala, "Kosovo Sui Generis: Criminal Act 'Inducing Sexual Acts by False Promise of Marriage' and the 2019 Criminal Code.," *Pakistan Journal of Criminology* 16, no. 1 (2024).

³⁸ Daniel F Robinson, "Legal Geographies of Intellectual Property, Traditional, Knowledge and Biodiversity: Experiencing Conventions, Laws, Customary Law, and Karma in Thailand," *Geographical Research* 51, no. 4 (2013): 375–86.

2. Religious norms

Sui generis law should not ignore elements based on religious norms and morality. This is in line with the customary law system which is magical religious in nature. This element is the main factor that causes society not to be too materialistic. The measure of appreciation is not only material in the form of economic rewards, as rewards in the IPR regime. Appreciation also includes appreciation of the belief system or belief that knowledge is a gift from God that must be appreciated and practiced for the welfare of humanity.³⁹

3. Social System

The *sui generis* law should remain based on a social system that highly values togetherness. This is in line with the customary law system which is not individualistic. In other words, the *sui generis* law should not be based on the principle or understanding of individualism as in the IPR regime. Adopting an individualistic system would only mean repeating the mistakes of the IPR regime which has proven to be less than successful in its implementation.⁴⁰

4. Public welfare

The *sui generis* law must be able to guarantee or at least provide a great possibility that the use of EBT can truly provide welfare for the community in general. In this case, the law must be able to provide certainty that the community concerned will truly benefit from the traditional knowledge concerned. This guarantee is also one of the mandates of the Indonesian constitution that state control is intended for the greatest possible prosperity of the people.⁴¹

5. Society's perspective

³⁹ Kariuki, "Traditional Governance Institutions and the Holistic Protection of Traditional Knowledge."

⁴⁰ Leah Goldmann et al., "The Ethics of Knowledge Sharing: A Feminist Examination of Intellectual Property Rights and Open-Source Materials in Gender Transformative Methodologies," *Frontiers in Research Metrics and Analytics* 9 (2024): 1321302.

⁴¹ Rajni Malhotra Dhingra and Nisha Dhanraj Dewani, "Intellectual Property Rights: Theoretical Foundations to Practical Considerations," *Intellectual Property Rights and Competition Law in India*, 2025, 1–15.

What needs to be further researched and studied is how to formulate the perspectives and customs of traditional communities into the intended *sui generis* legal product to provide protection for their Traditional Cultural Expressions (TCEs). As argued by Widyanti (2020), a *sui generis* legal framework is necessary because the communal and customary nature of TCEs cannot be adequately accommodated under the conventional intellectual property regime.⁴² This is where the role of legal experts and legislative institutions is highly expected to realize the mandate of the Constitution and Indonesia's international commitments.

EBT in the development of the modern world today has high artistic value and selling value, is a very valuable asset for the community in improving the welfare of local communities. According to researchers, there needs to be a paradigm shift in indigenous communities, cultural actors and the government to care about.⁴³

This is where the function of law plays its role. Regarding the role of law in society and what it regulates, Roscoe Pound introduced an idea that links law and society known as "law as a tool of social engineering". The idea of making law a means of social engineering makes law have the power to direct and shape society in accordance with the objectives of the law. Furthermore, according to Achmad Ali, the function of law as a "tool of social engineering" where law is a tool to change society or as an agent of change where there is a person or group of people who are trusted by society as leaders. The government as an agent of charge has the authority to form *sui generis* laws, or in the formation of regional regulations.⁴⁴ A paradigm shift is needed to encourage traditional communities and cultural actors to

⁴² Y. E. Widyanti, "Perlindungan Ekspresi Budaya Tradisional Indonesia Dalam Sistem Yang Sui Generis," *Arena Hukum* 13, no. 3 (2020): 388–415.

⁴³ Walter G Park, "Introduction to the Handbook of Innovation and Intellectual Property Rights," in *Handbook of Innovation and Intellectual Property Rights* (Cheltenham: Edward Elgar Publishing, 2024), 1–11.

⁴⁴ Amit Upadhyay and Abhinav Mehrotra, "A Case for Recognition of Caste as A Sui Generis Category in International Law," *Hungarian Journal of Legal Studies* 65, no. 2 (2024): 204–21.

recognize the economic and cultural value of Traditional Cultural Expressions (TCEs) and to prevent their unauthorized commercial exploitation. Indigenous communities should actively preserve, develop, and utilize their cultural heritage to improve community welfare while strengthening legal protection. As noted by the World Intellectual Property Organization (WIPO, 2017), greater community awareness and participation are essential for the effective preservation and protection of traditional cultural expressions.⁴⁵

Efforts to protect the law against EBT because of the high cultural value and economic value it has. The case of Malaysia which claims that the reog culture originates from its country is an example of how society is indifferent to the culture it owns, later after a problem occurs with another party, the community reacts, making a fuss by holding a demonstration even though this does not solve the problem. The case of Jepara carvings is also a valuable lesson and opens our eyes to how valuable the traditional works of the Indonesian people are if they are allowed to be used commercially without permission by others.⁴⁶

Traditional communities must view folklore as the greatest intellectual property that requires preservation and legal protection, so that it is not easily stolen by other parties to gain profit and does not provide benefits to them. Agus Sardjono stated that in the process of drafting sui generis legislation, other important things that need to be considered include:

- a. Indonesia's ethnic groups collectively contribute to the nation's rich Traditional Cultural Expressions (TCEs). Although each expression belongs to its originating community, it also represents Indonesia's shared cultural heritage. Respectful use by other communities, while recognizing the rights and traditions of the original custodians, supports national unity and cultural preservation.

⁴⁵ WIPO, *World Intellectual Property Organization. Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions* (Geneva, 2020).

⁴⁶ Teng Berlianty, Yosia Hetharie, and Putri Anggia, "Legal Protection of Bambu Gila Dance as a Traditional Cultural Expression," *Yuridika* 39, no. 1 (2024): 43.

- b. The utilization of Traditional Cultural Expressions (TCEs) by other communities may be permitted for non-commercial purposes, such as education, research, and cultural preservation, provided that the legitimate interests of the originating community are respected. Commercial use, however, should require prior authorization, an agreement with the custodians, and a fair benefit-sharing mechanism. As noted by Fazyla and Maksun (2021), an effective *sui generis* framework should incorporate Prior Informed Consent (PIC) and Access and Benefit-Sharing (ABS) principles to ensure equitable protection of traditional knowledge and cultural expressions.⁴⁷ Therefore, these principles should be explicitly regulated through *sui generis* legislation.
- c. Sui generis legislation should ensure that the development and transmission of local traditions remain protected while allowing indigenous communities to continue creating, adapting, and preserving their Traditional Cultural Expressions (TCEs). Therefore, such legislation should facilitate, rather than restrict, the ongoing creative and cultural practices of traditional communities. According to Rohaini (2015), an effective *sui generis* framework must accommodate the dynamic nature of traditional knowledge and promote its sustainable development by indigenous communities.⁴⁸
- d. Researchers agree, thus in the *sui generis* regulation it is necessary to determine an appropriate form or model of protection. By looking at the cases that occur, "misappropriation" carried out by foreign parties and Indonesians themselves, the appropriate model is "outward looking" and by adopting the system adopted in the copyright protection system, namely the negative protection system. This protection model can also be applied to EBT. This system is relatively non-burdensome for local community members (rights holders) of traditional knowledge and folklore cultural expressions.

⁴⁷ Fazyla Alyaa Hafshoh, Novita Dewi Masyithoh, and Maksun, "Legal Protection of Traditional Knowledge Concept Based Prior Informed Consent and Access Benefit Sharing System," *Walisongo Law Review (Walrev)* 3, no. 2 (2021): 265–84, <https://doi.org/10.21580/walrev/2021.3.2.17027>.

⁴⁸ Rohaini, "Establishing the Sui Generis Laws for Protecting Traditional Knowledge in Indonesia.," *US-China L. Rev.*, 12, 708., 2015.

During the needs-identification stage, partners identified two key challenges: incomplete inventory and documentation for the communal intellectual property (KIK) registration of Traditional Cultural Expressions (TCEs), and the absence of local mechanisms governing permission and benefit-sharing. These findings reflect the situation in North Sulawesi, where the Provincial Office of the Ministry of Law reported 26 certified KIK applications as of 4 June 2024 while emphasizing the need for continued inventory and registration assistance. The Provincial Culture Office has also recorded ten cultural assets in the national KIK database, indicating progress but highlighting the importance of systematic documentation.

The baseline findings are also consistent with national developments in communal intellectual property protection. According to the Directorate General of Intellectual Property, the implementation of the communal intellectual property recording system continues to face several challenges, including incomplete documentation, limited public awareness, insufficient technical capacity of local governments, and weak coordination among relevant institutions. These constraints reduce the effectiveness of the registration system and delay legal recognition of Traditional Cultural Expressions (TCEs), despite the availability of the legal framework under the Minister of Law and Human Rights Regulation No. 13 of 2017.⁴⁹

Table 2. Priority Issues Identified During Community Service

No	Identified Issue		Follow-up Recommendation
1	Incomplete inventory	TCE	Accelerate inventory and communal IP registration
2	Incomplete documentation		Develop standardized documentation checklist

⁴⁹ Aicha Grade Rebecca, "Analysis of the Legal Challenges of Enacting Effective Communal Intellectual Property Data Collection System in Indonesia" 5, no. 5 (2024).

3	Weak institutional coordination	Strengthen collaboration between the Provincial Culture Office and Ministry of Law
4	Absence of benefit-sharing mechanism	Prepare regional regulation (<i>Perda</i>) or <i>sui generis</i> framework
5	Limited public legal awareness	Conduct periodic legal counseling and technical assistance

The results presented in Table 2 indicate that stakeholders perceived documentation and institutional coordination as the two most urgent priorities. These findings confirm that legal protection of Traditional Cultural Expressions depends not only on legal provisions but also on administrative readiness and collaborative governance.

During the interactive discussion, stakeholders identified four priority issues requiring immediate follow-up: (1) acceleration of TCE inventory and documentation; (2) preparation of standardized documentation to support communal intellectual property registration; (3) improvement of coordination between the Provincial Culture Office and the Regional Office of the Ministry of Law; and (4) development of local regulations governing licensing and benefit-sharing for commercial utilization. These priorities are consistent with recent studies emphasizing that inventory, documentation, institutional coordination, and community participation constitute the core elements of effective communal intellectual property protection.⁵⁰

To address these issues, the program provided legal counseling through presentations, discussions, and question-and-answer sessions to improve stakeholders' understanding of TCE protection and communal IP registration. This approach is consistent with Anggraeny (2021), who argues that effective protection of Traditional Cultural Expressions

⁵⁰ M. Citra Ramadhan and Fitri Yanni Dewi Siregar, "Protecting Communal Intellectual Property In Indonesia: Constraints Faced By The Directorate General For Intellectual Property," *Kanun Jurnal Ilmu Hukum* 24, no. 3 (2022): 267–77.

requires systematic registration and active collaboration between communities and government institutions.⁵¹

As a community service manuscript, the primary “results” are short-term outputs and implementation readiness, rather than hypothesis-testing. After the counseling and structured discussion, three outputs were consolidated:

- a. A shared action pathway for inventory and communal IP recording.
The discussion translated the baseline problem (“incomplete inventory/documentation”) into an agreed sequence of administrative steps aligned with communal IP recording requirements.
- b. A simplified inventory/documentation checklist for EBT data readiness.
The team’s prepared checklist for EBT inventory/documentation was refined through evaluation discussions, responding to the practical need for minimum documentation elements to support recording and to reduce governance risks identified in the documentation literature.
- c. Written policy points to support local regulatory follow-up on permission and benefit-sharing.
The program produced an outline of policy points (permission mechanism and benefit-sharing principles) as an initial recommendation for local government, addressing the second baseline constraint: limited local arrangements for utilization governance.

These outputs represent a shift from a pre-program condition characterized by incomplete documentation readiness and unclear governance follow-up, toward a post-program condition characterized by clearer operational guidance and documented recommendations that can be carried forward by local agencies and custodian communities. This framing also aligns with legal scholarship examining communal IP protection in North Sulawesi, which discusses the importance of

⁵¹ Dwi Ratna Indri Hapsari et al., “Protection of Traditional Cultural Expressions as Intellectual Property in Indonesia : A Juridical- Sociological Review” 590, no. Inclar (2021): 84–88.

governmental roles and registration/recording as part of the protection approach⁵².

The short-term outputs above are relevant to preventing unauthorized commercial use because they support defensive administrative protection (through inventory and recording readiness) and establish a policy direction for permission and benefit-sharing governance. Importantly, such governance is necessary to ensure that documentation efforts support safeguarding rather than unintentionally enabling misuse through uncontrolled access to recorded materials.

Conclusion

This community service demonstrates that strengthening the legal protection of Traditional Cultural Expressions (TCEs) in North Sulawesi requires more than the existing legal framework. The main challenges identified were incomplete inventory and documentation for communal intellectual property (KIK) registration and the absence of local mechanisms governing permission and benefit-sharing for the commercial utilization of TCEs. These issues continue to limit preventive legal protection against unauthorized commercial exploitation.

Through legal counseling, interactive discussions, and stakeholder engagement, the program improved participants' understanding of communal intellectual property protection and produced three practical outputs: a shared action pathway for KIK registration, a simplified inventory and documentation checklist, and initial policy recommendations on permission and benefit-sharing. These outputs strengthen stakeholders' readiness to implement communal IP recording and provide an operational foundation for future local governance.

To ensure sustainable protection, local governments should continue strengthening inventory and documentation systems while developing

⁵² Friend Henry Anis, Ollij Anneke Kereh, and Karel Yossi Umboh, "Perlindungan Hukum Terhadap Hak Kekayaan Intelektual Komunal Di Sulawesi Utara," *Jurnal Hukum To-Ra* 9, no. 3 (2023): 396–407, <https://doi.org/https://doi.org/10.55809/tora.v9i3.281>.

regional regulations or a *sui generis* legal framework that clearly regulates custodianship, prior authorization, and equitable benefit-sharing. Such measures are expected to enhance legal certainty, prevent commercial misappropriation, and promote the preservation and sustainable utilization of Traditional Cultural Expressions as part of Indonesia's communal cultural heritage.

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