



# *Strengthening the Role of Local Government in Protecting Traditional Knowledge in Jepara Regency*

**Ayu Agung**

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia  
Kentingan, Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126  
ayuagung@student.uns.ac.id

**Hartiwiningsih Hartiwiningsih**

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia  
Kentingan, Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126  
[hartiwiningsih@staff.uns.ac.id](mailto:hartiwiningsih@staff.uns.ac.id)

**Mohammad Jamin**

Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia  
Kentingan, Jl. Ir Sutami No.36, Kec. Jebres, Kota Surakarta, Jawa Tengah, Indonesia 57126  
[mohjamin@staff.uns.ac.id](mailto:mohjamin@staff.uns.ac.id)

**Abstract-** This study looks at the different types of traditional knowledge held within the region and the legal preservation of such knowledge that the Regional Government of Jepara Regency has been working on. Since traditional knowledge preserves the identity of the group that owns it, its legal security is paramount. Additionally, the local community can use the economic worth of conventional expertise to enhance their well-being. Interviews with essential parties directly involved in the legal protection of traditional wisdom in Jepara Regency, such as the Department of Tourism and Culture and the Jepara Regency Government, are used in this empirical legal research. The study's conclusions show that, as of right now, there needs to be explicit legislation controlling the legal protection of traditional knowledge, including whether local governments are allowed to take part in that legal protection. Only activities about developing, maintaining, and overseeing traditional arts and culture are permitted for regional administrations, such the Jepara Regency Government. Legislation that explicitly addresses the legal protection of traditional knowledge is therefore required. This includes giving local governments more authority to actively participate in the legal protection of traditional knowledge under their purview, going beyond cultural development and preservation.

**Keywords-** Customary Wisdom, Lawful Defense. Good Government;

## I. INTRODUCTION

The World Intellectual Property Organization (WIPO) defines traditional knowledge as inventions, scientific discoveries, performances, works of art, classic literature, brand designs, names and symbols, secret information, and other innovations rooted in tradition.[1] Knowledge that is owned, controlled, and utilized by a particular community, civilization, or ethnic group is known as traditional knowledge. It is transmitted through the generations and constantly changes due to environmental shifts. The United Nations Commission on Prevention of Discrimination and Protection of Minorities utilized this term in its Study on the Problem of Discrimination Against Indigenous Populations.[2]

According to the World Intellectual Property Organization (WIPO), "traditional knowledge" refers to a broader definition incorporating folklore and indigenous skills. Traditional knowledge is not always indigenous, but indigenous knowledge is the traditional knowledge of the indigenous people.[3] As such, indigenous knowledge falls within the traditional knowledge category. In other words, not all conventional knowledge is indigenous, but indigenous knowledge nonetheless. The owners of the rights to conventional information, in this case, the traditional communities that maintain and advance traditional cultural representations both traditionally and communally, are the subjects of traditional knowledge.[4]

As the legitimate proprietors of conventional wisdom, they pass this information on from generation to generation. Parties that obtain traditional knowledge rights following applicable provisions may include the Central Government, Local Government, and other entities that receive these rights from holders of conventional knowledge. Because traditional knowledge preserves the identity of its owners, it is essential to have it legally protected. The essence of the communities that possess Traditional Knowledge also goes with it. Additionally, there are several justifications for preserving traditional knowledge. Keeping traditional knowledge and culture is one of them. Preserving the moral and financial rights of those who possess traditional knowledge is another goal of protecting it from unlawful use.[5]

## II. LITERATURE REVIEW

### A. *An Overview of Traditional Knowledge*

Traditional knowledge is the work of traditional (customary) communities, which can be in the form of cultural customs, works of art, and technology that have been used from generation to generation since the time of their ancestors and are the common property of indigenous communities which are guarded and preserved. 9 Definition used by the UN Sub-District Commission on Prevention of Discrimination and Protection of Minorities: traditional knowledge is owned or controlled and used by a particular community, society, or ethnic group which is hereditary and continues to develop by environmental changes. This understanding is almost the same as the definition given by The Convention of Biological Diversity (CBD): "Knowledge, innovation, and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity."

In WHO documents, traditional knowledge is not limited to one particular knowledge but refers to an extensive range of knowledge. What separates traditional knowledge from other knowledge is its attachment to a particular community, and this characteristic gives it its traditional nature (passed down from generation to generation). Traditional knowledge is created, maintained, used, and protected within traditional circles and usually refers to knowledge that a community has accumulated in a long process of experience and a particular location. It is not uncommon for traditional knowledge to be knowledge that is important to an identity in a community, so in essence, traditional knowledge is innovation, creation, and cultural expression that is produced and maintained from generation to generation by indigenous people, local communities, or individuals in local communities in a country. Traditional knowledge is often associated with using and applying genetic, biological, and natural resources or managing and conserving natural and environmental resources that have economic, commercial, and cultural values.

### B. *Legal Protection of Traditional Knowledge*

IPR management includes two processes that interact with each other in one system, namely, developing an idea until obtaining an invention and then seeking legal protection, as well as commercializing the invention until making a profit. To encourage increased creativity and innovation, the Government emphasizes efforts to provide legal protection and commercialization<sup>12</sup>. The protective measures offered by the Government, primarily through regulatory channels, are motivated more by the pressure of globalization led by developed countries. This is clearly and straightforwardly reflected in the considerations for establishing a law in the field of IPR. UU no. 14 of 2001 concerning Patents, which revokes Law Number 6 of 1989 concerning Patents as amended by Law Number 13 of 1997 concerning Amendments to Law Number 6 of 1989 concerning Patents. Indonesia's rich natural culture, customs, and various tribes are sources of traditional knowledge, so it is not surprising that Indonesia is also rich in traditional knowledge. For example, various native Indonesian plants have long been used as essential ingredients for cosmetics and traditional medicines, literature and art created by original works of different tribal communities, including craft products from local communities, which are now the target of many art collectors, all needing attention. From both central and regional governments so that their existence can be protected and local communities, as owners of traditional knowledge, benefit from their intellectual property. Especially if we realize that conventional knowledge is a source of inspiration for innovations for researchers to make discoveries or develop them; however, apart from the low awareness of our society regarding the urgency of IPR to protect findings, the Government's efforts to support the existence and development of traditional knowledge are still not optimal. Policies in the field of IPR are still oriented toward developed countries, so they have yet to be able to promote and protect national intellectual property, especially traditional knowledge.

## III. METHOD

The type of research conducted in the preparation of this paper is normative empirical legal research, which is normative legal research with a strong influence from sociological jurisprudence. It involves using secondary and primary legal materials based on field research, such as observation, interviews, and surveys. This research aims to understand the legal protection of Traditional Knowledge undertaken by the Regional Government of Jepara Regency concerning various forms of Traditional Knowledge held within the region. Legal protection of traditional knowledge is of utmost importance because it represents the identity of the communities that own it. Furthermore, Traditional Knowledge holds an economic value that its communities can utilize to enhance their well-being.

#### IV. RESULT AND DISCUSSION

Article 9 of Law No. 23 of 2014 on Regional Government, as amended by Law No. 9 of 2015, provides the framework for the implementation of regional autonomy. It divides regional government affairs into three categories: general matters, which are under the purview of the President as the Head of State; absolute government affairs, which are fully under the control of the central government; and concurrent government affairs, which are devolved to the regions. Moreover, mandatory government affairs pertaining to basic services and obligatory government affairs unrelated to basic services are separated out by Article 11 into two categories. Furthermore, as stated in Article 12, paragraph 2, culture is one of the concurrent government affairs that is required and unrelated to services that are important.[6]

Regional Governments must so encourage the preservation, advancement, and application of traditional arts and culture, including traditional knowledge, at the provincial and district/city levels in their individual areas. This is so that national resilience and the integrity of the nation can be enhanced. The cultures of different regions are among the cultural assets of the country. Republic of Indonesia, Unitary State.[7] Stronger individual and communal identities as well as support for governance, particularly in the areas of economic and developmental development, are further goals of the preservation and advancement of traditional arts and culture, including traditional knowledge. Regarding this, Regional and national identities, as well as the community's economics and well-being, depend on the preservation of traditional knowledge, which is one of the many cultural resources that regional administrations have to maximize.[8]

Regional administrations at the provincial and district/city levels are empowered to handle cultural concerns within their respective regions, as stated in Article 9 of Law No. 23 of 2014 on Regional Government, as revised by Law No. 9 of 2015. WIPO suggests the "documentation" criterion, which states that traditional knowledge will only be protected if it has been documented. This standard streamlines the proof within the security mechanism and might be fairly realistic.[9]

The regional government is empowered to carry out the inventory, documentation, and registration of traditional knowledge in a General List of Indonesian Traditional Knowledge. Additionally, they are entitled to construct a network for the management of definitive knowledge data. November 5, 2021 saw the release of Regulation No. 57 of 2021 by the Jepara Regency Government, which addressed the preservation and advancement of traditional arts and culture in the Jepara Regency. Article 10 of Chapter VII of this Regulation states that the regional government is in charge of putting the region's traditional arts and culture preservation policies into action.[10]

The main objectives of the regulations set forth by the Jepara Regency Regent are the promotion and preservation of traditional arts and culture, as well as the direction and oversight of its safeguarding. From Sabang to Merauke, the Unitary State of the Republic of Indonesia, with its rich cultural diversity, has a wealth of traditional knowledge in the form of arts, culture, and traditional wisdom in many forms. For the benefit of the populace, it is important to cultivate, conserve, and safeguard this traditional knowledge since it is a valuable resource for the nation.[11] Therefore, there is a need for particular laws pertaining to Traditional Knowledge, and these laws should include the ability of regional governments to safeguard Traditional Knowledge within their own borders. Provincial administrations, such as the Jepara Regency Regional Government, are now restricted to their ability to support and oversee the development of traditional arts and culture as well as to preserve and develop traditional arts and culture.[12]

#### V. CONCLUSION

Local governments, both provincial and city/regency, have an obligation to assist in preserving, advancing, and employing traditional art and culture, especially Traditional Knowledge, in their respective areas. This is so because the diversity of regional cultures contributes to the nation's cultural assets and strengthens the Unitary State of the Republic of Indonesia's resilience. In addition to supporting government, especially in the fields of economics and development, the preservation and advancement of traditional art and culture, including traditional knowledge, aim to fortify the identities of people and communities. Nonetheless, local and state governments are not able to play the best possible role in offering legal protection for traditional knowledge because there is a lack of specific legislation governing the preservation of traditional knowledge, including legislation outlining the role of local governments in this regard. Because of this, their engagement is mainly restricted to the development and preservation of culture. Thus, comprehensive legislative measures that tackle the preservation of traditional knowledge and outline local

governments' obligations in this area are required. Local governments would then be able to actively participate in protecting and exploiting traditional knowledge to safeguard the rich cultural heritage of their own regions

## VI. REFERENCES

- [1] S. Sukarmi, "Comparison of Indonesian Industrial Design Law with Malaysia Design Law: Protection of Indonesian and Malaysian Industrial Design Laws," 2020, doi: 10.4108/eai.27-8-2020.2303284.
- [2] J. Shen, R. J. Chou, R. Zhu, and S. H. Chen, "Experience of Community Resilience in Rural Areas around Heritage Sites in Quanzhou under Transition to a Knowledge Economy," *Land*, vol. 11, no. 12, 2022, doi: 10.3390/land11122155.
- [3] L. Ghahramani, K. McArdle, and S. Fatoric, "Minority community resilience and cultural heritage preservation: A case study of the gullah geechee community," *Sustain.*, vol. 12, no. 6, 2020, doi: 10.3390/su12062266.
- [4] O. L. Malapane, W. Musakwa, N. Chanza, and V. Radinger-Peer, "Bibliometric Analysis and Systematic Review of Indigenous Knowledge from a Comparative African Perspective: 1990–2020," *Land*, vol. 11, no. 8, 2022, doi: 10.3390/land11081167.
- [5] G. Kennedy, Z. Wang, P. Maundu, and D. Hunter, "The role of traditional knowledge and food biodiversity to transform modern food systems," *Trends Food Sci. Technol.*, vol. 130, no. October, pp. 32–41, 2022, doi: 10.1016/j.tifs.2022.09.011.
- [6] N. Prasetyo, A. Carr, and S. Filep, "Indigenous Knowledge in Marine Ecotourism Development: The Case of Sasi Laut, Misool, Indonesia," *Tour. Plan. Dev.*, vol. 17, no. 1, pp. 46–61, 2020, doi: 10.1080/21568316.2019.1604424.
- [7] S. Padulosi, J. Thompson, and P. Rudebjer, *Fighting Poverty, Hunger and Malnutrition with Neglected and Underutilized Species*. 2013.
- [8] Jyoti Hosagrahar, J. Soule, L. F. Girard, and A. Potts, "Cultural Heritage, the Un Sustainable Development Goals, and the New Urban Agenda," *Bdc*, vol. 16, no. 1. pp. 37–54, 2016.
- [9] P. Singh, T. Tabe, and T. Martin, "The role of women in community resilience to climate change: A case study of an Indigenous Fijian community," *Womens. Stud. Int. Forum*, vol. 90, no. April 2021, p. 102550, 2022, doi: 10.1016/j.wsif.2021.102550.
- [10] G. P. Cuaton and Y. Su, "Local-indigenous knowledge on disaster risk reduction: Insights from the Mamanwa indigenous peoples in Basey, Samar after Typhoon Haiyan in the Philippines," *Int. J. Disaster Risk Reduct.*, vol. 48, no. April, p. 101596, 2020, doi: 10.1016/j.ijdr.2020.101596.
- [11] P. Studi, T. Persenjataan, F. T. Pertahanan, and U. P. Indonesia, "Prediksi Residual Velocity Pada Fenomena Terminal Ballistic Dengan Metode Eksperimen Dan Analitik Prediction of Residual Velocity on the Phenomenon of Ballistic," pp. 35–42.
- [12] S. Labadi, F. Giliberto, I. Rosetti, Linda Shetabi, and E. Yildirim, "Heritage and the sustainable development goals: Policy guidance for heritage and development actors," *Int. Counc. Monum. Sites*, 2021.

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

