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# COMMUNAL INTELLECTUAL PROPERTY IN INDONESIA: BETWEEN PROTECTING RIGHTS AND PRESERVING CULTURES

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## ABSTRACT

*Local and Indigenous communities primarily hold Indonesia's rich cultural diversity and natural resources, and they must be protected, preserved, developed, and utilized as a foundation for national development. However, exploitation and misuse are frequent, especially as other ASEAN member states share similar cultures with Indonesia. To address this issue, we aim to analyze the challenges surrounding communal intellectual property (CIP) implementation using a normative legal research methodology and SWOT analysis to propose solutions. Our findings indicate that current CIP regulations are overly focused on defensive protection, do not fully incorporate customary law, and lack enforcement mechanisms, particularly against foreign claims. Practical challenges include limited public awareness and insufficient resources for CIP registration. To resolve these issues, we recommend immediately enacting a comprehensive CIP law that governs access fees, upfront payments, benefit-sharing, capacity building for technology transfer, and community consent. This law should ensure that local communities retain control over their cultural assets and strengthen the Directorate General of Intellectual Property's capacity to manage CIP. Externally, Indonesia should collaborate with other countries, particularly ASEAN member states, to create a shared CIP database for similar assets and use ASEAN or WIPO dispute resolution mechanisms to address CIP-related conflicts. This approach would ensure that CIP is both protected and utilized while promoting and preserving Indonesia's heritage and culture.*

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**KEYWORDS:** Communal Intellectual Rights, Cultures, Indonesia, ASEAN IPRs, WIPO.

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## 1. INTRODUCTION

Indonesia is the world's largest archipelagic country, comprising over 17,499 islands scattered from Sabang to Merauke. This distribution of islands is complemented by geographical diversity, making this country home to some of the most varied cultural heritages in the world. It has 1,340 tribes and 718 dialects. Each region has traditions, customs, and cultures that reflect local identities and wisdom passed down through generations. The traditional culture encompasses various aspects such as dance, music, crafts, cuisine, rituals, ceremonies, and unique local products passed down from generation to generation. In addition, it has a high diversity of flora and fauna. Out of 1,812,700 species of flora identified worldwide, 31,750 species (or 1.75%) are found in this country. As for fauna, it ranks second after Brazil for its richness, hosting about 12% of the world's mammals, 16% of reptiles, and 17% of birds.

Indonesia's cultural diversity and natural wealth, which are mostly held by communities, whether by Indigenous communities or local communities, serve as fundamental assets for national development. Hence, they need to be protected, preserved, developed, and utilized as a foundation for national development. In this regard, the state needs to inventory, safeguard, and maintain such Communal Intellectual Property (CIP). Protecting CIP has become increasingly important in the era of globalization and digitalization, as the risks of exploitation and misuse are rising.

Given the importance of CIP, the Indonesian government has implemented regulations for the documentation and registration of this intellectual property by issuing the Ministry of Law and Human Rights Regulation No. 13 of 2017 on Communal Intellectual Property Data (CIP Data Regulation). In 2022, Government Regulation No. 56 of 2022 on Communal Intellectual Property (CIP Government Regulation) was issued to establish a legal framework to protect the intellectual property owned by communities. Both of the regulations aim to ensure that the CIP is recognized and protected; consequently, the economic benefits from the utilization of this intellectual property are enjoyed by the original communities.

Due to the importance of CIP and its legal protection, several studies have been conducted in Indonesia focusing on this area. For example, Dewi *et.al* discuss the inadequate legal protection of Songket motifs in Bengkalis and highlight challenges in preserving cultural heritage, including a lack of community and law enforcement awareness. Dana Indra Sensuse and Lukman address the urgent need

to manage genetic resources and traditional knowledge, given that Indonesia has the second-largest genetic resource potential in the world. Yovita Indrayati discusses the legal framework governing the conservation, access, and use of genetic resources, as well as the challenges of integrating principles of justice and sustainability. Robiatul Adawiyah and Rumawi Rumawi examine the challenges and opportunities in integrating intellectual property systems with the practices and values of local communities based on cultural heritage. Dwi Martini *et al.* investigate the pharmaceutical industry's use of traditional biotechnology and Indonesia's genetic resources. They focus on how traditional knowledge and genetic diversity are applied in drug development, highlighting the importance of protecting intellectual property rights and conserving genetic resources. Azizah Rima Gita Cahyani explains that Indonesia needs strong laws to protect cultural expressions and raise public awareness about culture, highlighting the crucial role of the government in both domestic and international contexts. Dyah Permata Budi Asri points out that there is a significant difference between intellectual property rights and traditional cultural expressions. She emphasizes that the intellectual property system regulated under the Copyright Law does not meet the community's desire for the protection of traditional cultural expressions.

Generally, research on CIP in Indonesia focuses on one or two types of CIP and relates them to the protection of specific communities. Only several studies discuss CIP more broadly; for example, Dian Nurfitri concludes that the protection of CIP in Indonesia, following the issuance of the CIP Government Regulation, essentially offers significant hope for the legal protection of CIP. The concept of communal protection enhances the safeguarding of CIP held by indigenous communities, particularly the originating communities. Ayu Palar *et al* find that there is a need to establish different forms of community consent for inclusive rights rendered for CIP. Anissa Rizkytia focuses on the National CIP Data Center and suggests the Indonesian government needs to implement comprehensive policies by issuing a single piece of legislation for CIP, whether *sui generis* or an extension of existing intellectual property systems, aiming for proactive protective measures.

## 2. METHOD

This study employs a normative legal research design combined with a socio-legal approach to

comprehensively analyze the governance and implementation challenges of Communal Intellectual Property (CIP) in Indonesia. Normative legal research is used to examine the existing legal frameworks, principles, and doctrines governing CIP, while the socio-legal perspective enables the incorporation of empirical insights related to institutional practices and community dynamics. The research adopts a qualitative approach with two main analytical frameworks: Doctrinal (Normative) Legal Analysis. This approach focuses on examining national legal instruments regulating CIP (laws, government regulations, and ministerial regulations); international legal frameworks such as the Convention on Biological Diversity (CBD) and the Nagoya Protocol; and regional frameworks, particularly ASEAN intellectual property cooperation.

The objective is to evaluate the consistency, gaps, and legal effectiveness of CIP regulation in Indonesia. SWOT Analytical Framework: To complement the normative analysis, this study utilizes SWOT analysis (Strengths, Weaknesses, Opportunities, Threats) to assess internal institutional capacity and legal structure and external pressures such as globalization, biopiracy, and international regimes. The SWOT framework is further integrated with Friedman's legal system theory (legal substance, legal structure, and legal culture) to provide a multidimensional evaluation of CIP implementation.

This research relies on both secondary and primary data, consisting of secondary data: legislation and regulatory documents related to CIP; academic literature (journal articles, books, policy reports); official databases, particularly the Indonesian CIP database managed by the Directorate General of Intellectual Property (DGIP); and international legal instruments

and policy documents. Primary Data. Primary data are obtained through Focus Group Discussions (FGDs) involving: Government officials (DGIP and related ministries), academics and legal experts, and representatives of local and indigenous communities. A total of 10 key informants were selected using purposive sampling based on their expertise and involvement in CIP governance. Data were collected through document and library research (statutory and literature review); online database analysis (CIP national database); and Focus Group Discussions (FGDs) to capture practical challenges, stakeholder perspectives, and institutional realities. The data were analyzed using a juridical-qualitative method, which emphasizes interpretation of legal norms and principles, thematic categorization of qualitative findings, and analytical synthesis between legal doctrine and empirical insights.

### 3. RESULT AND DISCUSSION

#### *Legal Framework of Indonesia's CIP: An Alignment with the ASEAN and WIPO Approaches*

Intellectual property is generally divided into two categories, namely Personal Intellectual Property (PIP) and Communal Intellectual Property (CIP). PIP refers to intellectual assets owned by individuals or groups of individuals, while CIP refers to intellectual assets owned by a community, Indigenous society, or traditional group in a particular region. CIP differs from PIP, which typically protects individual works, while CIP protects the whole community that owns it. As a result, laws and regulations relating to the two regimes of IPs in Indonesia are also different. Table 2 illustrates these two regimes.

**Table 2: The Regimes of IPs in Indonesia.**

| Description                   | Conventional IPs   | Communal IPs   |
|-------------------------------|--|--|
| Owner                         | An individual or a group of individuals. <sup>1</sup>  | A community, Indigenous society, or traditional group <sup>2</sup>   |
| Type of Rights                | Exclusive Rights. <sup>3</sup>   | Inclusive Rights. <sup>4</sup>   |
| Types                         | Copyright, Patents, Trademarks, Geographical Indications, Plant Varieties, Trade Secrets, Industrial Designs, and Layout Design of Integrated Circuits. <sup>5</sup>   | Traditional Cultural Expressions (TCE), Traditional Knowledge (TK), Genetic Resources (GR), Indications of Origin (IO), and Potential Geographical Indications (PGI). <sup>6</sup>   |
| Relevant Laws and Regulations | <ul style="list-style-type: none"> <li>a. Law No. 28 of 2014 on Copyright;</li> <li>b. Law No. 13 of 2016 on Patents;</li> <li>c. Law No. 20 of 2016 on Trademarks and Geographical Indications;</li> <li>d. Law Number 29 of 2000 on Plant Varieties;</li> <li>e. Law No. 30 of 2000 on Trade Secrets;</li> <li>f. Law No. 31 of 2000 on Industrial Designs;</li> <li>g. Law No. 32 of 2000 on Layout Design of Integrated Circuits.</li> </ul> | <ul style="list-style-type: none"> <li>a. Law No. 11 of 2013 on the Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity;</li> <li>b. Law No. 11 of 2019 on the National System of Science and Technology;</li> <li>c. Government Regulation No. 48 of 2011 on Animal Genetic Resources and Livestock Breeding;</li> <li>d. Government Regulation No. 56 of 2022 on Communal Intellectual Property;</li> <li>e. Minister of Agriculture Regulation No. 67/Permentan/OT.140/12/2006 on the Conservation and Utilization of Plant Genetic Resources;</li> <li>f. Minister of Law and Human Rights Regulation No. 13 of 2017 on Communal Intellectual Property Data;</li> <li>g. Minister of Environment and Forestry Regulation of the Republic of Indonesia No. P.2/Menlhk/Setjen/Kum 1/1/2018 on Access to Wild Species Genetic Resources and Benefit Sharing from Their Utilization.</li> </ul> |

Source: Listed by the researchers, 2024

Although CIP is specifically governed by Government Regulation No. 56 of 2022 on Communal Intellectual Property (CIP Government Regulation), this Regulation does not provide complete provisions compared to the PIP Laws because it has no provisions on penalties or sanctions for CIP violations. The Regulation merely focuses on CIP inventory as explicitly stated in the General Elucidation as follows:

*"This Government Regulation is intended to consolidate various provisions necessary as a legal basis for the implementation of the inventory of CIPs".* The contents include:

- a. Types of CIPs, which consist of Traditional Cultural Expressions, Traditional Knowledge, Genetic Resources, Indications of Origin, and Potential Geographical Indications;
- b. The inventory of CIPs conducted through the recording and integration of CIP data;
- c. The protection and preservation of CIPs by the minister, ministers/heads of non-ministerial government agencies, and/or regional governments;
- d. The establishment of a national information system for Indonesian CIPs in carrying out the inventory;
- e. The utilization of CIPs included in the Indonesian CIP information system; and
- f. Funding for the inventory, preservation, and protection of CIPs".

In addition, the level of the CIP Government Regulation is lower than the PIP laws under the hierarchy of legislation in Indonesia, based on Law No. 12 of 2011 on the Formation of Legislation, namely:

1. The 1945 Constitution of the Republic of Indonesia
2. Decrees of the People's Consultative Assembly
3. Laws/Government Regulations instead of Laws
4. Government Regulations
5. Presidential Regulations
6. Provincial Regulations
7. Regency/City Regulations

Although CIPs are protected by the CIP-relevant legal instruments, the numerous violations of CIPs, as provided by Table 1 above, have caused significant disadvantages to the communities of origin. At the ASEAN level, violations of Indonesia's CIPs by other ASEAN member states have occurred frequently because Indonesia, as an ASEAN member, has a close geographical proximity with other ASEAN countries. It is not surprising that there are cultural heritages with similarities and commonalities across these countries. Some regions of these countries were once unified, leading to similarities in both traditional cultural expressions and traditional knowledge. These similarities are reflected not only

in cultural forms but also in the traditional knowledge they possess. For example, Indonesia, Malaysia, Singapore, and Brunei Darussalam share a Malay culture with interlinked historical roots.

Due to shared history and long-term interactions among communities in the ASEAN region, traditional knowledge often features similar or even identical practices, beliefs, and values passed down through generations. Yet, this geographical closeness also facilitates ongoing cultural exchange among ASEAN countries, enriching and reinforcing each nation's cultural identity. This highlights the importance of valuing and protecting cultural diversity and traditional knowledge in the region as part of efforts to promote international harmony and cultural sustainability within ASEAN.

Concerning IPRs, ASEAN member states have different approaches due to their diverse layers of governance, comprising competing ethical rationales in terms of cultural, traditional, and societal backgrounds. This circumstance is referred to as vertical regulatory fragmentation. Regulatory fragmentation in IPRs in the ASEAN region is mainly due to vertical fragmentation because ASEAN Member States (AMS) have different legal and regulatory environments in IPR and competition matters.

Regulations related to CIP in ASEAN refer to the regional framework established through the ASEAN IPRs and the ASEAN IPR Action Plan 2016-2025. These frameworks serve to develop a harmonized intellectual property protection system in the region, including the protection of CIPs for ASEAN member states. The ASEAN IPR Action Plan 2016-2025 includes measures for protecting CIPs as part of the regional strategy to promote innovation and creativity. This action plan outlines steps to raise awareness about the value of CIPs, strengthen legal and regulatory frameworks, and encourage collaboration among ASEAN Member States (AMSs) in protecting their cultural heritage. It specifically focuses on promoting a protection mechanism for Generic Resources, Traditional Knowledge, and Traditional Cultural Expression under Initiative 19 by emphasizing to 1) conduct a preliminary study by interested AMSs, (i.e. comparison study to several countries that have laws on GR/TK/TCE); 2) develop relevant national policies and laws related to GRTKTCE, for interested AMSs; 3) develop a network of GR and TK databases for interested AMSs; 4) implement regional cooperation agreements such as a code of conduct on the use of GR by interested AMSs.

In addition to the ASEAN legal instruments, several international legal instruments are relevant to CIP, such as the Biological Diversity Convention, the Nagoya Protocol, the Beijing Treaty on Audiovisual Performances, and the World Intellectual Property Organization (WIPO) Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge of 2024. As part of the international community and a member of WIPO, Indonesia has ratified these legal instruments through Law No. 5 of 1994 on the Ratification of the Convention on Biological Diversity and Law No. 11 of 2013 on the Ratification of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization. On July 8, 2024, Indonesia and WIPO signed the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge (GRATK). The purpose of this treaty is to enhance the effectiveness, transparency, and quality of the patent system concerning genetic resources and traditional knowledge associated with genetic resources. Other relevant international legal instruments to CIP have also been ratified by Indonesia through the following laws and regulations:

- a. Law No. 21 of 2004 on the Ratification of the Cartagena Protocol on Biosafety;
- b. Law No. 4 of 2006 on the Ratification of the International Treaty on Plant Genetic Resources for Food and Agriculture;
- c. Presidential Regulation No. 78 of 2007 on the Ratification of the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage;
- d. Presidential Regulation No. 78 of 2011 on the Ratification of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Similar to ASEAN, WIPO acknowledges the protection of CIP belonging to indigenous communities in the form of Traditional Knowledge (TK), Traditional Cultural Expressions (TCE), and Genetic Resources (GR). In the Sixty-Fourth Series of Meetings, Assemblies of the Member States of WIPO reaffirmed their commitment to advancing efforts toward balanced and effective measures for the protection of GR, TK, and TCE by utilizing all relevant WIPO working documents. Cultural property should be protected by the country of origin of the cultural wealth. We note that although CIP Government Regulation aligns with ASEAN and WIPO relevant legal instruments on CIP, it adds more types to CIP, namely "Indications of Origin, and Potential Geographical Indications", which will be elaborated below.

**Types of Indonesia's CIP: An Approach Beyond ASEAN and WIPO**

The CIP Government Regulation is a legal basis for the inventory of CIP, which includes Traditional Cultural Expressions (TCE), Traditional Knowledge (TK), Genetic Resources (GR), Indications of Origin (IO), and Potential Geographical Indications (PGI). The inventory of CIP that has been recorded by the database of the Directorate General of Intellectual Property is presented in Figure 1.

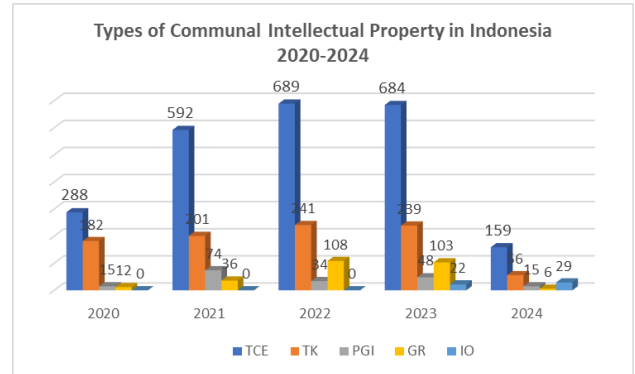


Figure 1: The Inventory of CIP 2020-2024.

Figure 1 shows that the registration of Traditional Cultural Expressions (TCE) is higher compared to other types of CIP. Although TCE registrations decreased in 2023 (684 TCE) compared to 2022 (689 TCE), a decline is also seen in Traditional Knowledge (TK) from 241 to 239, and in Genetic Resources (GR) from 108 GR to 103 GR. However, there was an increase in Potential Geographical Indications (PGI) from 34 in 2022 to 48 in 2023. Similarly, Indications of Origin (IO) showed a significant change, with no registrations in 2022, but 22 IOs registered in 2023.

Although there have been increases and decreases in registrations for each type of CIP, TCE consistently has the highest number of registrations from 2000 to 2024 (2,412 TCE), followed by TK with 919 registrations, GR with 265, PGI with 186, and IO with 51, as shown in Figure 2.

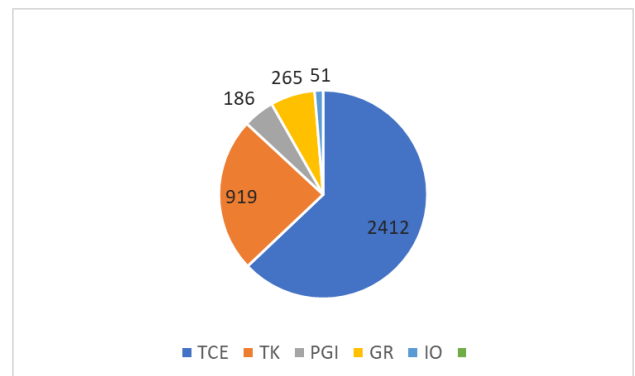


Figure 2: Communal Intellectual Property 2020-2024.

Based on CIP registrations by 38 provinces in Indonesia, 5 provinces are particularly active in registering, as indicated by a large number of registered CIPs, namely North Maluku Province (455 CIPs), followed by South Sulawesi Province (389 CIPs), North Sumatra (277 CIPs), Central Java (231 CIPs), and Southeast Sulawesi (224 CIPs). The province with the fewest CIP registrations is North Kalimantan, with no CIPs.

### ***Traditional Cultural Expressions (TCE)***

Traditional Cultural Expression (TCE) is also referred to as "Expressions of Folklore," which are collectively owned and whose creators are typically anonymous, and are passed down through generations, including both oral traditions and gestural forms. TCEs consist of "verbal texts, music, dance, theatre, visual, ceremonial rituals, architecture, landscapes, and/or other forms of expression in accordance with their development. In realizing these forms of expression, TCEs may utilize GR".

Two regulations specifically address TCEs. Article 9 of the CIP Data Regulation outlines an inventory process that includes the name, custodian, form, classification, region, and description of the TCE. While this regulation provides administrative guidance, comprehensive legal protection for TCEs is still lacking. The CIP Government Regulation further solidifies legal protection for TCEs. Article 12 of the CIP Government Regulation outlines the inventory process, while Article 27 defines defensive legal protection, aimed at safeguarding TCEs from misuse, fraud, false claims, and piracy. Article 33 requires that communities grant permission for the commercial use of TCEs, ensuring compliance with relevant laws. Article 28 of the CIP Government Regulation emphasizes protection through prevention, mediation, advocacy, and diplomacy with other countries. However, the CIP Government Regulation still has shortcomings.

We argue that while the state holds exclusive rights to TCEs, including the authority to use, reproduce, or commercialize them, there is no comprehensive regulation outlining the legal consequences of state-held copyrights. Additionally, no legal mechanism addresses the exploitation of Indonesian TCEs by foreign entities. Although the CIP Government Regulation recognizes the economic value of TCEs, it does not clarify who benefits from these economic rights, implying that the state may have dominant control. Therefore, legal protection must incorporate both the cultural and economic dimensions of TCEs, ensuring that the

benefits are shared with the originating communities.

### ***Traditional Knowledge (TK)***

Traditional Knowledge (TK) under Article 1 of the CIP Government Regulation encompasses ideas and concepts within a community that reflect local values, derived from practical experience and continuously developed over generations. Examples of TK include traditional methods, technical skills, learning techniques, agricultural knowledge, ecological knowledge, genetic resource knowledge, traditional medicine, economic systems, and other evolving knowledge.

Given the diversity of TK, comprehensive legal protection is crucial to safeguard its authenticity and prevent threats such as theft or appropriation at local, national, or international levels. Protection is provided through national laws, including Law No. 5 of 2017 on Cultural Advancement (Cultural Advancement Law), the CIP Government Regulation, and the CIP Data Regulation. The importance of protecting TK is evident from cases where TK from Indonesian regions has been claimed by other countries.

### ***Genetic Resources (GR)***

Genetic Resources (GR) under Article 1, paragraph (4) of CIP Government Regulation refers to genetic material from plants, animals, or microorganisms that carry hereditary traits with actual or potential value. In practice, GR is closely tied to traditional knowledge, particularly in techniques for managing these resources, such as using genetic materials in traditional medicine. While the utilization of GR can bring both commercial and non-commercial benefits, it also has negative consequences, particularly when these resources are exploited for profit by foreign entities.

The legal framework governing the protection of plant genetic resources in Indonesia is outlined in Law No. 13 of 2010 on Horticulture and Law No. 29 of 2000 on the Protection of Plant Varieties. Additionally, Indonesia has ratified international agreements like the Convention on Biological Diversity (CBD) and the Nagoya Protocol, both of which emphasize the fair and equitable sharing of benefits derived from GR. Indonesia's participation in the Nagoya Protocol further strengthens legal protections for GR. The protocol requires that access to GR and related TK be governed by Prior Informed Consent (PIC) from the resource providers. Without such consent, any use of these resources by third parties is considered illegal. The protocol also

emphasizes benefit-sharing, intellectual property rights, and the ethical and safe utilization of genetic resources. As the National Competent Authority for genetic resources, the Indonesian government is responsible for monitoring its utilization.

### ***Indications of Origin (IO)***

Indication of Origin (IO) under Article 1, Paragraph 5 of CIP Government Regulation defines "An Indication of Origin is a characteristic of goods and/or services that is not directly related to natural factors and is protected as a sign indicating the true origin of the goods and/or services used in commerce." IO is similar to Geographical Indication (GI) in that it refers to products with qualities tied to a specific region, including cultural and traditional aspects. However, unlike GI, IO signifies that a product possesses special attributes or a reputation due to its geographic origin. For example, Gabus Pucung Jakarta, a processed food product, is recognised by the DKI Jakarta Provincial Cultural Office as originating from Betawi. Its historical background notes that the dish emerged during the Dutch colonial era, when the Betawi people, unable to afford expensive fish like carp, tilapia, and milkfish, began using the more affordable gabus fish.

The purpose of IO is to protect products with unique qualities tied to their geographic origins, ensuring that only those genuinely from the designated area can use the IO label. Additionally, IO aims to promote the economic well-being of local communities by promoting their products in the global market while preserving the knowledge and traditions associated with these goods.

### ***Potential Geographical Indications (PGI)***

Potential Geographical Indications (PGI) under Article 1(3) of CIP Government Regulation defines "Potential Geographical Indication (PGI) refers as goods and/or products that gain a specific reputation due to geographic factors, including natural elements, human factors, or a combination of both. These goods and/or products have the potential to be protected under geographical indications but have not yet been registered as such." PGI based on Article 11 of CIP Government Regulation consists of the following goods and/or products: 1) natural resources; 2) handicrafts; and/or 3) industrial products. Today, 117 PGIs have been registered by local communities. However, we argue that this reflects a low level of public awareness regarding PGI because Indonesia has a lot

more PGI in each of its regions. Therefore, the government must educate local communities on the importance of PGI and its benefits. Geographical Indications (GIs), along with Traditional Cultural Expressions (TCE), Traditional Knowledge (TK), and Genetic Resources (SDG), have historically been included in the Intangible Cultural Heritage (ICT), a kind of communal intellectual property (CIP) (Simatupang,2024).

## ***Balancing between Cultural Heritage Preservation and Exploitative Commercialization***

### **1. Legal Protection for Community**

CIP plays a crucial role in preserving cultural identity and local wisdom in Indonesia, while also serving as a valuable asset that enriches the nation's cultural heritage. The 2003 UNESCO Convention recognizes CIP as intangible cultural heritage, which includes practices, expressions, skills, representations, and knowledge, as well as the associated cultural environment, artifacts, and related objects. The goal of the Convention is to preserve and protect cultural heritage, which is integral to cultural identity and contributes to the sustainability of cultural practices within communities.

Legal protection is essential for societies governed by law, and this protection extends not only to individuals but also to groups and cultures. Protecting CIP is vital to prevent exploitation and misuse by unauthorized parties and to ensure economic and social benefits for originating communities. However, the rise of globalization and increased commercial exploitation pose significant challenges to the protection of CIP. CIP is often appropriated without permission and used by outsiders for economic gain without providing fair compensation or recognition to the originating community. To protect these, Indonesia implements legal recognition, registration, and documentation measures, ensuring that the communities benefit economically and socially. This protection not only safeguards cultural heritage from exploitation but also ensures that it continues to thrive and benefit future generations.

Article 13 of the CIP Government Regulation stipulates that CIPs that have not yet been registered can be officially documented. Registration can be initiated by the community or the local government and must meet certain administrative requirements. Applications may be submitted electronically or in writing, with the ministry or authorized agency reviewing the submission to verify its completeness. CIP registration offers significant benefits to

communities and the state, including legal protection and public recognition. Registered CIPs are officially recognized by the state, preventing unauthorized claims or exploitation by third parties. This also raises public awareness about the importance of protecting cultural heritage and helps gain international recognition for Indonesia's cultural wealth. Economically, registered CIPs can be commercialized or leveraged for cultural tourism, improving the welfare of indigenous or local communities.

Despite these benefits, we opine that there are challenges in the registration process. The bureaucratic process is often complex, requiring extensive documentation that can be burdensome for indigenous or local communities. Financial constraints and limited knowledge also hinder the communities from effectively navigating the registration system. Furthermore, there is a risk that the economic benefits from registered CIPs may not always flow back to the communities but instead be exploited by third parties with better access to markets and capital. Even with registration, legal protection is not always sufficient to prevent misappropriation or infringement, particularly at the international level.

Article 5, Paragraphs 1 and 2 of CIP Government Regulation outline the moral rights held by the originating community, which include indefinite protection and the potential for economic benefit. We advance that customary law can play a key role in safeguarding CIP because it contains rules about who can access and use this CIP, and ensures its responsible management. For example, in some indigenous communities, only specific members, such as shamans or traditional elders, are permitted to use certain knowledge, such as traditional medicinal practices. Customary law helps maintain the integrity of this knowledge and ensures its sustainability. This approach fosters a sense of ownership and responsibility within the community and encourages the preservation of CIP across generations.

It can be deduced that CIP registration offers several benefits, such as legal protection, public recognition, and economic opportunities through cultural commercialization. However, it also presents challenges, such as bureaucratic hurdles and the risk of economic benefits not always reaching the communities that developed the CIP. Nevertheless, we claim that registration remains a crucial step in safeguarding Indonesia's cultural heritage and ensuring its continued growth and preservation for future generations.

### *A Choice Between Positive and Defensive Protection*

According to Rahardjo, legal protection serves as a safeguard for the public, allowing individuals to enjoy various rights granted by law as human rights. He identifies four key elements that constitute effective legal protection: 1) the government protects its citizens, 2) it instills confidence in legal certainty, 3) it is connected to the rights of citizens, and 4) sanctions are applied against law violators. According to Philipus M. Hadjon, legal protection can be divided into two categories, namely preventive and repressive measures. Preventive legal protection aims to avert disputes by ensuring that the government makes informed decisions across various areas. In contrast, repressive legal protection is employed to resolve disputes after they arise.

The protection of Intellectual Property (IP) can be divided into 1) Defensive Protection that aims to prevent unauthorized use and exploitation of IP by others without permission from the traditional holders. It can be implemented through legal measures and community-based practices. 2) Positive Protection involves the enforcement of legal rights and the distribution of benefits through positive law.

The concept of CIP in Indonesia encompasses moral rights, including 1) the right to ownership of the community's intellectual property, 2) the right to protection from counterfeit or unauthorized use, and 3) the right to protection from disparagement. CIP protection specifically employs a defensive approach by organizing data that verifies the existence of CIP belonging to indigenous or local communities. It is specifically addressed in Article 27(2) of the CIP Government Regulation, which defines defensive legal protection as "a concept aimed at safeguarding the rights of the originating community from misuse, deception, fraud, false statements, and theft or piracy." The process for implementing defensive protection is outlined in the CIP Government Regulation and the CIP Data Regulation through the "inventory (recording and documenting CIP)".

We assert that the current focus of CIP protection is primarily on defensive measures, as evidenced by the CIP Government Regulation and the CIP Data Regulation that promote prevention through a database. Unlike other intellectual property (IP) rights, which are exclusive and individually held, CIP rights are communal and inclusive. The current legal protection for CIP has emphasized defensive rather than positive measures. We suggest that positive protection is necessary to establish legal safeguards and enforcement actions that the state can

take against inappropriate use of CIPs as part of cultural heritage. We note that some efforts toward this goal are outlined in the CIP Government Regulation. The CIP Government Regulation includes provisions for preventing the exploitation of CIP, providing mediation and/or advocacy, and engaging in diplomacy with other countries. However, comprehensive legal enforcement against the misuse of CIPs remains insufficiently addressed.

To rectify the challenges in the current regulations on CIPs, several concrete steps are needed. We suggest first, regulatory reformulation is necessary to optimize legal protection for CIPs and prevent misuse and harmful exploitation. Second, protecting CIPs serves as a form of affirmative action, benefiting underrepresented groups in society. However, challenges arise when individuals or groups with differing views are treated uniformly; such uniform treatment perpetuates disparities, even if rights standards improve. Third, regulatory reformulation can provide legal certainty for communal communities, enabling them to gain economic benefits from their expressions. Fourth, enhanced regulation demonstrates the government's commitment to upholding the human rights of communal communities, including indigenous peoples and local traditional communities, which is a constitutional right in Indonesia. We opine that the concrete steps to address existing CIP challenges are by implementing positive protection and establishing specific laws in the form of Undang-Undang (Law) for CIP.

### ***Socio-Legal Approaches to Strengthen CIP Enforcement***

As we previously suggested, customary law is an essential framework for protecting CIP in Indonesia because it is rooted in local cultural values and norms, so it may be used to guide the management of CIP within communities. Due to the unwritten nature of customary law, it should be incorporated into the CIP legal framework to ensure written protection for all customary laws in this context. National law both adapts to and protects customary law, providing a comprehensive CIP legal framework. The synergy between these two legal frameworks establishes a formal mechanism for broad protection, facilitating Indonesia's participation in international cooperation and ensuring adequate protection for CIP.

We note that implementing the CIP Government Regulation presents challenges, including ensuring consistent application and enforcement across Indonesia's diverse regions. Therefore, we urge that

harmonizing national laws with regional implementations is crucial for effectively protecting CIPs. This is because CIP holds economic, cultural, and social significance for communities. It is emphasized again that adequate protection of CIPs can contribute to local communities' economic development and the preservation of their cultural heritage.

The central government, under the Directorate General of Intellectual Property (DGIP), operating under the Ministry of Law and Human Rights, is the authorized agency for protecting CIP in Indonesia. According to Article 250 of the Minister of Law and Human Rights Regulation No. 28 of 2023, DGIP formulates and implements intellectual property policies in line with legal provisions. As elaborated previously, the central government has initiated several efforts to protect CIP. These include creating regulations such as the CIP Government Regulation, the Cultural Advancement Law, and the CIP Data Regulation. The government has also integrated CIP into national development plans, participated in international forums like WIPO to advocate for global CIP protection, conducted outreach to promote the registration of CIP, and supported research and documentation of CIP through agencies like the National Research and Innovation Agency (Badan Riset dan Inovasi Nasional/BRIN). Additional efforts include allocating budgets for CIP protection programs, developing educational curricula to include CIP, managing CIP databases or websites, and proposing CIP for the 2025-2029 National Legislation Program.

In addition to the central government, regional governments play a crucial role in promoting CIP development within communities. Their responsibilities include continuing the central government's efforts, drafting regional regulations (Peraturan Daerah/PERDA) to support the protection of CIP based on local cultural specifics, training local communities to become protectors and heirs of traditional knowledge and cultures, organizing workshops to enhance sustainable management of CIP, facilitating its promotion through cultural festivals and exhibitions, and encouraging the development of creative economies based on CIP to improve local community welfare. However, the role of regional governments has largely been limited to inventorying CIP, focusing on cultural preservation without mechanisms for conflict resolution when claims arise from Indigenous communities across districts. We suggest that the central and regional governments must assist communities holding their CIP by facilitating the

formulation of special laws to regulate the distribution of benefits from managing or commercializing CIP. The government both the central and regional governments must strive to protect CIP comprehensively, respect customary law, and adhere to national laws, ensuring that cultural values and identities are preserved over time to optimize welfare and economic growth in Indonesia. As an active participant in international forums addressing CIP protection, such as WIPO and UNESCO conferences, we opine that Indonesia can advocate for the importance of protecting CIP while sharing its experiences and challenges. This engagement also opens opportunities for collaboration with other countries and international organizations in developing more effective protection policies and strategies, helping Indonesia gain international support for its efforts.

Nevertheless, we again emphasize that strengthening the legal and policy framework through the effective implementation of CIP Government Regulation before the enactment of a special CIP Law is essential. This involves providing clear guidelines and support for communities in registering and protecting CIP. The government must ensure that all parties understand the procedures and benefits of CIP protection while offering technical assistance to facilitate the registration process. Effective implementation also requires stringent monitoring and enforcement to prevent violations and misuse of CIP, thereby ensuring the rights of local communities are well protected. Incentives such as financial assistance, access to markets, and training programs should be established to enhance local community well-being while preserving the sustainability and authenticity of CIP.

In addition, it is important to note that it is significant to engage communities in policymaking and implementing CIP protection. Awareness programs and legal education should be enhanced to increase understanding of the CIP issues. Empowering communities is a vital strategy that includes training on effectively managing and protecting CIP. Raising awareness and education through public campaigns is essential for enhancing understanding of the importance of protecting CIP both domestically and internationally. Campaigns can be conducted through various media channels—television, radio, social media, and public events. Local communities need education on the significance of preserving and protecting CIP and how to leverage CIP protection for their benefit.

In short, from a legal perspective, we deduce that CIP requires regulatory improvements for comprehensive protection, including strengthening economic and moral rights associated with CIP. A special national law in the form of Undang-undang (Law) on CIP needs to be enacted to ensure effective legal enforcement mechanisms. From a social perspective, we highlight the importance of involving Indigenous or local communities in policymaking and implementing CIP protection. Awareness programs and legal education for the communities should be enhanced to increase understanding of CIP issues. In this regard, we suggest several aspects to be considered for a better implementation of CIP as follows:

- a. **Strengthen Legal Infrastructure and Enforcement:** Enhance institutional capacity and legal infrastructure for CIP registration and monitoring. This includes training relevant officials, developing effective monitoring systems, and reinforcing legal enforcement against CIP violations, providing accessible reporting mechanisms, and imposing strict sanctions for offenders
- b. **Simplify Registration Processes:** Improve and streamline administrative procedures for registering CIP, making them more accessible to communities. This may include reducing bureaucracy and providing technical assistance to applicants. Consider developing a user-friendly online registration system to expedite the process.
- c. **Increase Public Awareness:** Launch intensive educational and outreach programs on the importance of CIP. Collaboration among governments, academics, and NGOs to organize seminars, workshops, and public campaigns, utilizing social media and digital platforms, can broaden audience reach and enhance awareness of CIP protection's benefits and significance.

### *Proposed Strategies and Management of CIP*

According to Lawrence Meir Friedman, law enforcement involves three interrelated components, which are explained as follows:

- a. **Legal Substance:** This component refers to the legal rules themselves, including the norms and principles that govern societal behavior. It reflects the values and goals that society aims to achieve through its legal system.
- b. **Legal Structure:** This encompasses the organizations and institutions responsible for enforcing the law, such as the judiciary, police, and other law enforcement agencies. It defines how law enforcement is carried out, including the procedures and authority granted to these institutions.

c. Legal Culture: This involves the values, beliefs, and norms present within society. Culture plays a crucial role in law enforcement as it shapes how society perceives the law, its compliance, and its trust in law enforcement institutions.

In Friedman's view, a comprehensive and coherent understanding of these three components is essential for achieving effective law enforcement in society. Therefore, we adopt Friedman's approaches to classify the implementation of CIP. We also use SWOT analysis on the grounds that it is a strategic planning method to evaluate Strengths (S), Weaknesses (W), Opportunities (O), and Threats (T) of the current CIP implementation. Some factors influence SWOT analysis, namely:

- a. Internal factors consist of strengths and weaknesses. Identifying internal factors involves successful or unsuccessful experiences, financial resources or budget, and available resources.
- b. External factors include opportunities and threats. Identifying external factors covers environment, regulations, trends, cultural, ideological, socio-political, and economic aspects, current events, sources of funding or capital, and technological advancements.

Table 3 presents the implementation of CIP using SWOT analysis, applying Friedman's approach, which we will further use to develop more appropriate CIP strategies and management.

**Table 3: SWOT Analysis of the CIP Implementation.**

| Friedman's Approach | Strengths (S)   | Weaknesses (W)  |
|---------------------|---|---|
| Legal Substance     | <ol style="list-style-type: none"> <li>There are already <i>sui generis</i> guidelines regulating CIP, including Government Regulations and Ministerial Regulations.</li> <li>The CIP database system serves as a form of defensive protection against biopiracy and misappropriation.</li> <li>At the international level, the protection of biological resources is also regulated under the Convention on Biological Diversity, with benefit-sharing arrangements outlined in the Access and Benefit Sharing system.</li> </ol>  | <ol style="list-style-type: none"> <li>There is currently no legislation at the level of law regulating CIP, resulting in weak legal standing and ongoing incidents of biopiracy and misappropriation of CIP.</li> <li>There is weak coordination among stakeholders related to CIP data.</li> <li>Many countries, especially developed countries, still consider CIP to be a "common heritage" rather than an "inventory," leading to frequent occurrences of biopiracy.</li> </ol>  |
| Legal Structure     | There are judicial institutions for resolving disputes related to biopiracy and misappropriation, including district courts, high courts, and the Supreme Court.  | There is yet to be a specific entity established to address legal issues related to CIP, and there is a lack of adequate human resources.   |
| Legal Culture       | The awareness of Indonesian society regarding respect for legal culture is quite high, as it values "diversity" in relation to ethnic groups, cultures, and the values upheld in the community, particularly concerning communal intellectual property (CIP).   | There is a lack of awareness regarding the importance of protecting local wisdom, which represents a "value of identity," concerning illegal utilization (economic exploitation by foreign entities).   |
|                     |   |   |
| Friedman's Approach | Opportunities (O)   | Threats (T)   |
| Legal Substance     | <ol style="list-style-type: none"> <li>WIPO has started focusing on CIP.</li> <li>Accession to international legal frameworks is open to UN member states.</li> <li>The ASEAN Plan began addressing CIP and benefit sharing within the ASEAN region in 2000.</li> <li>Communal Intellectual Property is proposed in the 2025-2029 National Legislation Program.</li> </ol>  | <ol style="list-style-type: none"> <li>The emergence of the biotechnology industry that aggressively uses genetic resources in developed countries also plays a role in contributing to the emergence of the biopiracy phenomenon.</li> <li>Foreign entities acquire indigenous peoples' biological/genetic resources without permits and compensation, and then seek protection under UPOV (The International Union for the Protection of New Varieties of Plants) for cosmetic/pharmaceutical modifications and so on.</li> </ol> |
| Legal Structure     | <ol style="list-style-type: none"> <li>WIPO already has a non-litigation dispute resolution mechanism in place.</li> <li>Diplomatic channels and ASEAN pathways can be utilized for dispute resolution.</li> <li>The National Development Planning Agency, Republic of Indonesia (BAPPENAS) has planned a 2025 roadmap for the development of CIP.</li> </ol>   | <ol style="list-style-type: none"> <li>There is currently no ASEAN dispute resolution mechanism apart from diplomatic channels.</li> <li>No community holds a property claim on knowledge, and it cannot be determined who first discovered the beneficial property under CIP.</li> </ol>   |
| Legal Culture       | <ol style="list-style-type: none"> <li>The awareness of local communities about traditional wealth and the values of life, tradition, culture, and biological wealth is quite high, so "local wisdom" is still maintained.</li> <li>The traditional knowledge owned by Indigenous peoples for centuries, passed down from generation to generation, has great value for pharmaceutical companies, as well as for many other industries.</li> <li>A culture of mutually beneficial international cooperation, such as benefit-sharing, has already occurred in Indonesia.</li> </ol> | <ol style="list-style-type: none"> <li>The cultural diversity in ASEAN poses a risk of conflicts related to communal intellectual property (CIP).</li> <li>Most CIPs in ASEAN member states are not "documented" (not written or scripted), which has an impact on misappropriation and disputes.</li> </ol>  |

Based on the strengths of the SWOT analysis, we can deduce that with CIP in Indonesia, the existing *sui generis* guidelines, including Government and Ministerial Regulations, already govern communal intellectual property (CIP), while the CIP database system offers defensive protection against biopiracy and misappropriation. Internationally, the protection of biological resources is addressed through the Convention on Biological Diversity, which outlines benefit-sharing arrangements via the Access and Benefit Sharing (ABS) system. Judicial institutions such as district courts, high courts, and the Supreme Court handle disputes related to biopiracy and misappropriation. Indonesian society demonstrates strong awareness and respect for legal culture, particularly valuing diversity and communal intellectual property across various ethnic groups, cultures, and community values.

However, we find some weaknesses of CIP based on the SWOT analysis that the absence of specific legislation regulating communal intellectual property (CIP) has resulted in weak legal standing, contributing to ongoing incidents of biopiracy and misappropriation. Additionally, coordination among stakeholders responsible for CIP data is lacking, further complicating protection efforts. Many developed countries continue to view CIP as a "common heritage" rather than as an "inventory," exacerbating the problem of biopiracy. There is no dedicated entity to address legal issues related to CIP, and human resources in this area are insufficient. Moreover, awareness about the importance of protecting local wisdom, which reflects a community's "value of identity," remains low, leaving it vulnerable to economic exploitation by foreign entities.

Nevertheless, we find opportunities based on the SWOT analysis for the improvement of CIP because WIPO has started focusing on communal intellectual property (CIP), and accession to international legal frameworks is open to UN member states. The ASEAN Plan is also addressing CIP within the region, and the CIP is proposed in Indonesia's 2025-2029 National Legislation Program. WIPO has a non-litigation dispute resolution mechanism in place, with diplomatic channels and ASEAN pathways available for resolving CIP disputes. Indonesia's National Development Planning Agency (Badan Perencanaan Pembangunan Nasional/BAPPENAS) has outlined a 2025 roadmap for the development of CIP. Local communities in Indonesia have a strong awareness of traditional wealth, values, culture, and biological resources, which helps preserve "local wisdom." The CIP passed down for centuries by indigenous peoples holds significant value for industries such as pharmaceuticals. An example of

mutually beneficial international cooperation, like benefit-sharing, has already been implemented.

Yet, we also discover some threats based on the SWOT analysis that the aggressive use of genetic resources by the biotechnology industry in developed countries has contributed to the rise of biopiracy, where foreign entities acquire indigenous peoples' biological and genetic resources without permits or compensation. Currently, there is no ASEAN dispute resolution mechanism beyond diplomatic channels. Furthermore, no community can assert a property claim on knowledge, making it difficult to determine who first discovered the beneficial properties under CIP. The cultural diversity in ASEAN also poses risks of conflicts related to CIP, as most communal intellectual properties in member states are undocumented, which increases the potential for misappropriation and disputes.

To improve the CIP implementation in Indonesia, we combine two points from the SWOT framework to determine strategic steps. The combinations are as follows:

- a. Strengths-Opportunities (S-O): This strategy aims to leverage strengths to capitalize on external opportunities.
- b. Weaknesses-Threats (W-T): This strategy seeks to minimize weaknesses and avoid external threats.
- c. Strengths-Threats (S-T): This strategy uses strengths to address external threats.
- d. Weaknesses-Opportunities (W-O): This strategy aims to minimize weaknesses to take advantage of external opportunities.

The CIP strategy we have developed refers to the Cycle of Intellectual Property Ecosystem Elements, which consists of the following components:

- a. Creation adds value during the creation process, while innovation enhances value during the commercialization (marketing) of CIP.
- b. Protection involves the protection and management of CIP involves the utilization of data and information, stakeholder capacity building, and promotional support.
- c. Utilization includes 1) Production: Crafts and/or manufacturing; 2) Marketing: Both online and offline channels; 3) Financing: Financing schemes based on intellectual property; 4) Public Interest: Compulsory licensing, government use, waqf (endowment), and voluntary licensing.

Table 4 presents our proposed Communal Intellectual Property (CIP) strategies based on the Cycle of Intellectual Property Ecosystem Elements, utilizing a combination of two points from the SWOT analysis in Table 4.

Table 4: Proposed CIP Strategies.

| Intellectual Property Ecosystem Elements | Strengths-Opportunities (S-O)  | Weaknesses-Opportunities (W-O)   |
|--|--|--|
| <b>Creation</b>                          | <p>Stakeholders must collaborate on the roles and functions between ministries or agencies, provincial governments, and district/city governments, specifically:</p> <ol style="list-style-type: none"> <li>1. Providing educational understanding and outreach related to the discussion of the five types of communal intellectual property (CIP).</li> <li>2. offering assistance and guidance in CIP registration, including help in drafting CIP descriptions.</li> <li>3. Educating communities to raise awareness about the dangers of biopiracy and misappropriation, and the importance of CIP in improving welfare, including information on CIP benefit-sharing. This will encourage creativity, both in CIP registration and its development.</li> </ol> | <p>Given the weak coordination among stakeholders related to CIP and the vastness of Indonesia, consisting of thousands of islands with diverse customs and traditions, it is necessary to:</p> <ol style="list-style-type: none"> <li>1. Create a comprehensive document among stakeholders on a five-year or ongoing basis without overlap.</li> <li>2. The comprehensive document should include an integrated mapping system using blockchain technology to track who is doing what and in which location, community acceptance and understanding of CIP, community potential for CIP creation, and other relevant aspects.</li> <li>3. Create a database for evaluation and policy development to enhance future creativity, including increasing CIP registrations and development.</li> </ol> <p>Discuss among the ASEAN member states to create an ASEAN database on CIPs that contain similarities.</p> |
| <b>Protection</b>                        | <ol style="list-style-type: none"> <li>1. The government needs to make a mechanism policy to protect and enforce registered CIPs.</li> <li>2. Support CIP holders (Indigenous people) to be aware of the protection that the CIP offers or of the importance of using legal provisions to protect CIP.</li> <li>3. Using ASEAN and WIPO dispute mechanisms to resolve CIP disputes among the ASEAN member states and at the international level.</li> </ol>  | <ol style="list-style-type: none"> <li>1. The central government leads the identification and registration process of CIPs with other stakeholders, as well as related government authorities, who are sufficiently involved in the establishment of the CIPs, enabling them to maintain and develop it in the long term.</li> <li>2. Indonesia must be more active at the ASEAN level and international level to promote the CIP of Indonesia to gain awareness from other countries.</li> </ol>  |
| <b>Utilization</b>                       | <p>The utilization of CIP requires several technological stages, elaboration, and the establishment of a concrete foundation for the utilization of CIP. These stages include:</p> <ol style="list-style-type: none"> <li>1. Determining the value of CIP.</li> <li>2. Determining the method for obtaining approval for access permits, and the commodification and commercialization of CIP.</li> </ol>  | <p>It is necessary to regulate the utilization of communal intellectual property (CIP) towards commercialization in the CIP law comprehensively, along with its implementing regulations. This should be done by considering the input or the needs of CIP communities regarding:</p> <ol style="list-style-type: none"> <li>1. aspects of welfare guarantees or utilization.</li> <li>2. Communities' relationship with industries related to benefit-sharing agreements. This will enhance the responsible and equitable commercialization of communal intellectual property.</li> </ol>   |
| Intellectual Property Ecosystem Elements | Strengths-Threats (S-T)  | Weaknesses-Threats (W-T)   |
| <b>Creation</b>                          | <p>The duty bearers (government) and stakeholders (originating communities, and supporting groups such as researchers, academics, and CIP experts) must synergize to:</p> <ol style="list-style-type: none"> <li>1. Promptly search for new genetic resources for CIP registration.</li> <li>2. Utilize the CIP database system to support the development of CIP or analyze the potential for unauthorized creations related to biopiracy and misappropriation.</li> <li>3. Establish networking collaborations among stakeholders, including local industries, to foster creativity, particularly in genetic/biological resources.</li> </ol>  | <ol style="list-style-type: none"> <li>1. Immediately draft legislation, starting with the creation of a law followed by its implementing regulations, aimed at preventing biopiracy and misappropriation.</li> <li>2. The drafting process should involve all stakeholders and incorporate inclusive input.</li> <li>3. This legislation must also aim to promote creativity, particularly in the area of CIP related to genetic resources.</li> <li>4. Sharing data and responsibilities relating to similar CIPs among the ASEAN member states.</li> </ol>  |
| <b>Protection</b>                        | <p>The government needs to:</p> <ol style="list-style-type: none"> <li>1. Optimize the database and conduct an inventory of communal intellectual property sustainably to claim communal intellectual property owned by the Indonesian state.</li> <li>2. Prevent the registration of communal intellectual property by foreign parties; disseminate the benefits of communal intellectual property to the Indonesian people.</li> </ol>   | <ol style="list-style-type: none"> <li>1. Educate a lack of knowledge of CIP among stakeholders, CIP associations/groups, government bodies, external partners, and other entities on the importance of protection both economically and legally.</li> <li>2. Actively engage and discuss with other ASEAN member states on the solutions relating to similar CIPs.</li> </ol>   |
| <b>Utilization</b>                       | <ol style="list-style-type: none"> <li>1. The Government Regulation No. 56 of 2022 on Communal Intellectual Property (CIP) and the benefit-sharing arrangements regulated in the Access and Benefit Sharing (ABS) system should serve as substantial foundations for developing explicit protections in the formation of a law specifically governing CIP. This law would address the responsible and equitable utilization of CIP.</li> <li>2. Aligning the benefit-sharing approaches of ASEAN to proportionally share benefits among the ASEAN member states.</li> </ol>  | <ol style="list-style-type: none"> <li>1. Immediately draft legislation, starting with the creation of a law followed by its implementing regulations, regarding the utilization of communal intellectual property (CIP). This should involve gathering opinions and including all relevant stakeholders, particularly concerning guarantees for the utilization or welfare of CIP communities. Key aspects include access fees, upfront payments, benefit sharing, capacity building for technology transfer, consent from CIP communities, and other related matters.</li> <li>2. Promote ASEAN common heritage and cultures among the ASEAN member states and the international community to gain more understanding about the similarities of ASEAN culture that can be shared as ASEAN CIPs.</li> </ol>   |

## CONCLUSION

Indonesia's rich cultural diversity requires strong protection of its heritage. To address this, the Ministry of Law and Human Rights established the CIP Data Regulation in 2017, a system recognizing community-owned intellectual property with both economic and cultural value. Today, CIP is regulated by the CIP Government Regulation covering TCE, TK GR, IO, and PGI, and the CIP Data Regulation. Despite existing regulations, CIP protection faces significant challenges. The regulations focus heavily on defensive protection, fail to comprehensively address customary law, and lack enforcement mechanisms, especially against foreign claims.

CIP implementation also faces practical hurdles, such as limited public awareness, inadequate resources for registration, and weak law enforcement. The illegal exploitation of CIP, especially in remote areas, is common due to weak law enforcement and poor coordination between the central and regional governments. Raising awareness and improving education at the community level, along with enhancing law enforcement capacity, are critical steps to curbing CIP violations. Therefore, effective protection of CIP requires cooperation across sectors—government, local communities, academia, and industry, along with regional collaboration to prevent foreign exploitation. Improving the documentation and promotion of CIP internationally is also essential for its preservation and economic potential. Additionally, customary law and national law must work together to safeguard

CIP. These laws ensure local communities maintain control over their cultural assets. Strengthening the Directorate General of Intellectual Property and expanding education programs for communities is crucial for better protection and registration of CIP. Furthermore, leveraging technology to streamline CIP registration and monitoring will ensure efficient documentation and protection, both domestically and globally, through bilateral and multilateral agreements. More importantly, legislation in the form of Law (Undang-Undang) needs to be drafted urgently to prevent CIP misappropriation and misuse, while promoting creativity in CIP. The process should involve all relevant stakeholders to ensure inclusive input, especially concerning the welfare of CIP communities. Key aspects of the legislation should include access fees, upfront payments, benefit sharing, capacity building for technology transfer, and community consent.

As a member state of ASEAN that shares similar cultures and knowledge, violations of the CIP of Indonesia frequently occur. Indonesia, via ASEAN, should collaborate to create a shared CIP database for similar communal intellectual properties, resolve disputes using ASEAN and WIPO mechanisms, and align benefit-sharing approaches to ensure proportional distribution. Indonesia must also actively promote its CIP at both the ASEAN and international levels to raise awareness. Additionally, ASEAN should promote its common heritage and cultures to foster understanding and recognition of shared CIPs within the region and globally.

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