

*Research Article***Legal Reform and the Effectiveness of Protection for Traditional Cultural Expressions: A Case Study of Gambang Semarang**Rinitami Njatrijani^{1*}, Nazura Abdul Manap², Sartika Nanda Lestari¹, Putri Ayu Sutrisno¹¹Faculty of Law, Universitas Diponegoro, Indonesia²Fakulty of Law, Universiti Kebangsaan Malaysia, Malaysia

*rinitaminjatrijani@gmail.com

ABSTRACT

Legal protection for Traditional Cultural Expressions (TCEs) in Indonesia, particularly the Gambang Semarang performance, remains inadequate despite formal recognition under Article 38 of Law No. 28 of 2014 on Copyright. The core gap lies in the absence of a *sui generis* protection regime and the ambiguous formulation of Article 38, which fails to specify ownership, benefit-sharing, or registration mechanisms for communal cultural expressions. This reflects a broader difficulty in harmonizing cultural heritage preservation with intellectual property law. This study evaluates current legislation and proposes reforms to strengthen the legal and policy framework safeguarding TCEs as part of Indonesia's intangible cultural heritage and collective identity, ensuring fair acknowledgment and sustainable community stewardship. Using an empirical juridical method combined with conceptual and statutory approaches, data were gathered through observation, interviews, and documentation, drawing on primary and secondary legal sources. Findings reveal that the lack of implementing regulations and limited institutional capacity at the provincial and regency levels have impeded effective protection of Gambang Semarang. The study concludes that regional regulations in Central Java and Semarang are essential for legal certainty in the inventory, recognition, and benefit-sharing of traditional performances. It recommends the formulation of a *sui generis* protection model supported by contractual mechanisms and active local government involvement.

Keywords: Traditional Cultural Expressions; *Gambang Semarang*; Legal Protection; Intangible Cultural Heritage; Law Reform; Intellectual Property Rights

A. INTRODUCTION

Traditional cultural expressions (TCEs), such as Gambang Semarang, are essential for safeguarding a region's unique cultural identity and promoting local economic growth through tourism and cultural recognition (Raharjo et al., 2024). However, the Indonesian government has not yet provided optimal support for the preservation and protection of TCEs, resulting in low public awareness of their importance (Bath & Prasad, 2025).

A key challenge is to align the communal ownership and intergenerational transmission of traditional cultural expressions (TCEs) with the individualistic logic of contemporary intellectual property regimes (Sony & Chopra, 2025). Cultural expressions such as Gambang Semarang are developed, performed, and handed down collectively, without any single identifiable author. Yet intellectual property systems depend on a particular, clearly identifiable creator and a definitive point in time of creation in order to

provide legal protection (Aroian, 2025). In practice, protection granted through intellectual property frameworks often fails to correspond to the collective character of TCEs. As a result, these systems can produce legal gaps, weaker-than-optimal protection, and heightened exposure of TCEs to unauthorized exploitation and digitization (Kusumaningtyas et al., 2023).

Indonesia's intellectual property system tends to be individualistic. It grants exclusive rights to a specific creator and treats the creation as private property, offering protection for a fixed duration (Roisah et al., 2017). This framework prioritizes personal economic principles, enabling the rights holder to control, license, and profit from the work while preventing others from doing so without permission. Traditional cultural expressions (TCEs), by contrast, are communal and intergenerational forms of cultural heritage transmitted by society. TCEs are created, modified, and passed down collectively across generations without a single author. No individual or group holds exclusive economic rights to TCEs (Kusumaningtyas et al., 2023).

Legal protection for TCEs, such as Gambang Semarang, does not merely consist of formal recognition under the Copyright Act and related regulations; it also faces significant obstacles in practical implementation and law enforcement, including weak application and overlapping regulations among government institutions (Nasrianti et al., 2025).

The fragmentation of legal regulations in which relevant provisions are dispersed across Law No. 28 of 2014 on Copyright, Law No. 5 of 2017 on the Advancement of Culture, and Law No. 11 of 2010 on Cultural Heritage creates legal uncertainty because these laws regulate TCEs from different perspectives without establishing a unified system for ownership, benefit-sharing, and enforcement. Consequently, the absence of a comprehensive legal framework make many TCEs vulnerable to exploitation or commercialization without the consent of their rightful communities (Suratno & Faujura, 2024).

The fact that TCEs are in the public domain heightens the risk of misappropriation and unlawful digitalization of various traditional arts, such as Gambang Semarang (Oguamanam, 2026). The absence of a strong legal framework results in limited economic benefits and reduced added value for local communities, despite the fact that revitalizing TCEs can strengthen regional economies and tourism (Kasih et al., 2021; Rifqi et al., 2023). Multiple initiatives have been pursued by stakeholders to improve the protection of TCEs, including incorporation into educational curricula, promotion of cultural tourism, and legal outreach. The challenges that emerge comprise inadequate renewal of young artists, weak promotion, and low levels of community engagement in the identification and reporting of TCE exploitation (Benson et al., 2025).

Experts recommend developing a *sui generis* legal system that is more culturally

sensitive and integrates human rights principles. They also recommend increasing international cooperation and active community involvement in managing and enforcing rights over TCEs (Agustianto et al., 2024). Madam Yunik Ekowati, a traditional dance practitioner and instructor, emphasized the important role community-based studios, such as Saraswati Studio and Pracawita Studio, play in preserving the cultural identity of Gambang Semarang. She emphasized that the sustainability of traditional dance requires the continuous regeneration of young performers through formal and informal educational channels (Ekowati, 2025).

This study is based on a distinction between the collective rights of indigenous communities and the individualistic orientation of modern intellectual property law systems. Experts recognize TCEs as cultural heritage held collectively, transferred across generations in accordance with customary law (Fahmi, 2024). This aligns with Article 38 paragraph (1) of Law No. 28 of 2014, which provides that traditional cultural expressions are held by the State for the benefit of indigenous communities (Roisah et al., 2025). Accordingly, the fundamental incompatibility does not concern intellectual property law in general, but rather copyright doctrine, which depends on the presence of an identifiable author, originality, fixation in a tangible medium, and a limited duration of protection—requirements that conflict with the communal,

intergenerational, and continually evolving nature of TCEs (Samsithawrati et al., 2025).

Many stakeholders have recommended sui generis protection models as an alternative due to awareness of regulatory gaps. These models include a special legal model capable of accommodating the unique character of TCEs and safeguarding community rights on a communal basis (Musiza, 2022; Lai, 2025). National and international literature shows that the current positive law system is inefficient when relying solely on IP. Therefore, researchers emphasize the necessity of having special protection systems tailored to local cultures and of acknowledging customary law (Sudarsana et al., 2020; Roisah et al., 2026).

The protection of TCEs in Indonesia continues to face significant challenges due to the fragmentation of national legal regulations, the absence of a comprehensive international legal framework specifically governing TCEs, and the limited effectiveness of law enforcement (Palar et al., 2021). Although Indonesia has ratified the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage through Presidential Regulation No. 78 of 2007 and enacted several national laws, including Law No. 28 of 2014 on Copyright, Law No. 5 of 2017 on the Advancement of Culture, and Law No. 11 of 2010 on Cultural Heritage, the lack of implementing regulations, institutional coordination, and enforcement capacity has hindered effective protection, leaving traditional

communities vulnerable to the unauthorized use and commercialization of their cultural expressions (Suratno & Faujura, 2024).

Policymakers need to design a legal protection system that can accommodate the unique characteristics of TCEs. A unique legal protection framework prioritizes community involvement and the upholding of traditional rights, rather than depending solely on the individual focused approach characteristic of standard intellectual property regulations.

Recent studies indicate that legal recognition of local wisdom and regulations that harmonize with customary law can strengthen the position of communities to preserve, utilize, and transmit traditional cultural expressions in a sustainable manner (Kusumaningtyas et al., 2023).

In an interview held on 12 November 2025, Dr. Eko Raharjo, M.Hum., Vice Dean I of the Faculty of Languages and Arts at Universitas Negeri Semarang (UNNES), stated that the existing intellectual property (IP) regime does not adequately safeguard the communal nature of TCEs because of representational challenges within communities and institutional fragmentation. He argued that “the issue is not limited to regulation, but also concerns who is legally empowered to speak for the community and how fragmented governance undermines that authority.” His remarks reinforce the doctrinal claim that Article 38 of the Copyright Act is insufficiently clear in practical operation and

therefore requires reform through a *sui generis* system that more accurately reflects customary decision-making frameworks and collective ownership principles. The government should improve harmonization between national legislation and the relevant international frameworks, especially the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the ongoing discussions within the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (WIPO IGC), while also strengthening administrative and criminal law enforcement to ensure robust protection of Traditional Cultural Expressions (Roisah et al., 2022; Geoffrey & Roisah, 2020).

Global collaboration, integration of human rights perspectives that recognize the cultural rights of indigenous peoples and local communities including their right to preserve, control, and benefit from their traditional cultural expressions (TCEs) and empowerment of local communities are key to ensuring that TCEs are not only formally protected, but also effectively protected from the challenges of digitalization and exploitation by commercial interests. Traditional community owners will become increasingly empowered when legal authorization for cultural expressions is assured and unauthorized exploitation is minimized (Suratno & Fadjura, 2024).

The current legal framework in Indonesia does not yet provide effective legal protection for

Traditional Cultural Expressions (TCEs) (Sreenath & Anson, 2023). Although several legal instruments recognize the importance of TCEs, their implementation remains hindered by regulatory fragmentation, the absence of comprehensive implementing regulations, limited institutional coordination, and weak law enforcement.

A significant doctrinal inconsistency stems from the divergent legal concepts adopted in Law No. 28 of 2014 on Copyright and Law No. 5 of 2017 on the Advancement of Culture. While Article 38 of the Copyright Act states that traditional cultural expressions (TCEs) are held by the state, it does not clarify whether the state acts as the legal owner, trustee or representative of indigenous and local communities (Müller et al., 2024). In contrast, the Advancement of Culture Law treats cultural expressions as cultural heritage originating from and preserved by communities. This conceptual inconsistency creates legal uncertainty regarding who has the authority to grant licences, provide consent for commercial use and receive benefits derived from the exploitation of TCEs.

As many TCEs remain in the public domain, there is an increased risk of exploitation without appropriate compensation or recognition for indigenous communities (González González, 2025). Digitalisation also facilitates the unauthorised duplication and commercial trade of TCEs (Wagner & de Clippele, 2023).

A legal gap analysis shows that the mechanisms for identifying, registering and granting collective rights to TCEs are ineffective, and there is still a lack of harmonisation between national protection and international instruments. Effective protection of TCEs in Indonesia requires efforts from various sectors beyond legal regulations alone (Rahmanda et al., 2024).

The government is struggling with weaknesses in the mechanisms for identifying, registering and granting collective rights to TCEs. Legal stakeholders have not implemented the protection system effectively because it tends to prioritise national or international interests, resulting in suboptimal harmonisation of legal instruments and regulatory overlaps.

Poor coordination and fragmented regulations among institutions increase the risk of TCEs being misused and exploited. Notably, the Reog Ponorogo controversy arose in 2007 when a performance resembling Reog Ponorogo appeared in the Visit Malaysia 2007 tourism campaign without acknowledging its Indonesian origin. The omission of the dance's origin, coupled with the replacement of the words 'Reog Ponorogo' on the Singa Barong mask with 'Malaysia', sparked public protests, highlighting the absence of effective legal mechanisms to prevent unauthorised use and commercialisation of TCEs. Commercial actors frequently exploit unauthorised digitalisation and cross-border trade that lacks adequate oversight (Kasih et al., 2021).

Researchers argue that legal reform based on *sui generis* models and stronger recognition of customary law is urgently needed (Acharya, 2026). To mitigate the risk of violations, encourage indigenous community participation in TCE protection and enhance international cooperation to address the challenges of digitalisation and globalisation that threaten the sustainability of traditional cultural expressions in Indonesia, the government must strengthen legal foundations in detail (Ncube, 2022).

This study makes a valuable contribution to existing scholarship on Indonesia's traditional cultural expressions by focusing on the Gambang Semarang. This musical instrument embodies the distinctive cultural heritage of Semarang and exemplifies the integration of TCEs into the education and tourism sectors.

Curricula featuring the Gambang Semarang and promotional efforts in the tourism sector have successfully increased public appreciation of this cultural heritage. Distinguishing itself from previous studies, this research addresses the dynamics of preservation and local economic empowerment, while also highlighting gaps in legal protection, the challenges of regenerating young artists and limitations in promotional and government support.

The researcher takes a novel approach to analysing the need for legal protection models that address communal characteristics and the digitalisation of TCEs in the modern era (Raharjo

et al., 2024). When it comes to preserving traditional dance arts, Ms Yunik Ekowati recognises the impatience and desire for instant gratification of the younger generation. She addresses this by using social media and teaching methods that relate to young people's daily lives (Ekowati, 2025).

The cultural preservation committee reinforces the revitalization and safeguarding of Gambang Semarang by improving community-based education and its promotion. Local residents develop a stronger sense of ownership and become more actively involved in preserving Gambang Semarang.

The Department of Education incorporates Gambang Semarang into the curriculum, while the tourism sector promotes it on an ongoing basis. This strategy has been shown to effectively increase young people's appreciation of cultural heritage (Sentanu et al., 2025).

Art communities take part in cultural festivals and training programs to help renew generations of artistic performers and to cultivate pride in local cultural identity. The government offers steady support, strengthens regulations, and enhances cross-sector collaboration as a basis for sustaining the economic and social advantages provided by legal protection for Gambang Semarang (Alamineh et al., 2023).

These actions increase regional economic value, reinforce cultural tourism marketing and consolidate the identity and competitiveness of Semarang society at national and international

levels (Wang, 2025). Unlike previous studies that emphasised cultural preservation, this research provides a legal reform model integrating collective rights, prior informed consent and community-based registration systems.

Unlike previous studies, this study does not discuss TCEs as an embodiment of indigenous communities and regional identity in Semarang (Kusumaningtyas et al., 2023). The aforementioned study only addresses the discrepancy between the individualistic copyright framework and communal TCE ownership, whereas this study proposes a specific legal reform mechanism. Furthermore, research comparing Islamic law and positive law in the protection of Traditional Cultural Expressions in Aceh (Nasrianti et al., 2025) has a different research location and does not involve empirical fieldwork with practitioners, unlike this study. Other studies discuss a human rights-based approach to communal intellectual property protection (Susanti, 2022), addressing the topic at a general national level. This study, however, specifically formulates a reform model for Gambang Semarang. Another study discusses the long-standing confusion between TCEs and copyright doctrine (Aroian, 2025). This study differs from the aforementioned study in that it translates the doctrinal critique into a country- and case-specific reform pathway. Another study discusses the protection of traditional knowledge and TCEs under copyright law in India (Bath & Prasad, 2025). This differs from the present study

in that it only recommends *sui generis* protection as a general concept without specifying operational mechanisms such as prior informed consent, community-based registration and benefit-sharing. Based on comparisons with previous studies addressing similar topics, it can be argued that this study differs from previous studies, thus providing novelty and importance. Unlike previous studies that emphasise cultural preservation alone, this research provides a legal reform model that integrates collective rights, prior informed consent (PIC) and community-based registration systems, all of which are specifically tailored to Gambang Semarang.

This research primarily examines the effectiveness of legal protection for Gambang Semarang. Various obstacles still exist in the identification, registration and implementation of collective community rights protection mechanisms for this cultural heritage, which is why it is one of the main focuses of this research.

The legal protection of dance artworks is a particular concern, as Madam Yunik Ekowati believes that the current regulations do not provide traditional dance artists with optimal intellectual property rights protection.

The study also emphasises the necessity of legal reforms to ensure that the protection of TCEs, such as Gambang Semarang, provides tangible and sustainable benefits to the owning community. Required reforms include strengthening *sui generis* legal models,

integrating customary law and harmonising national regulations with international instruments.

In addition, educational and promotional efforts that actively engage the community are essential to ensure that the legal protection of Gambang Semarang has a positive impact on the local identity and economy (Raharjo et al., 2024).

Researchers have identified community involvement and educational strategies as crucial factors in ensuring the long-term success and positive impact of Gambang Semarang on local identity and the economy. Educational institutions are integrating Gambang Semarang into their curricula, while the tourism sector is continually promoting this cultural heritage. These practices increase youth appreciation, strengthen social cohesion and encourage active participation in artistic communities (Li et al., 2020).

Festival organisers and cultural tourism initiatives create jobs for artists and increase community income. The government, educational institutions and art communities collaborate to provide a solid foundation for the development of Gambang Semarang at national and international levels. However, researchers continue to highlight challenges such as the regeneration of young artists and limited promotion, which require specific attention as priority agenda items for TCE protection at local and national levels (Usmaedi et al., 2024).

This paper is organized into several main interconnected sections. In the first section, the author outlines the background and the urgency

of legal protection, while also describing preservation efforts for Gambang Semarang as a traditional cultural expression (TCE).

The second section reviews the theoretical framework, including the concepts of TCE and collective rights, as well as the legal challenges at both national and international levels. In the third section, the author presents a problem analysis and draws attention to the discrepancy between practical protection measures and the ideal legal norms.

The fourth section discusses the paper's research contributions in comparison with prior studies, with particular attention to education and tourism. In the fifth section, the author states the research objectives and formulates the corresponding questions regarding the effectiveness of legal protection and the reforms required, as well as the expected benefits for the community.

In the subsequent chapter, the author presents an analysis of empirical data and offers relevant recommendations to strengthen communal and sustainable protection for Gambang Semarang. Each section is closed with a discussion and conclusion that stress the importance of aligning legal regulations, education, and community-based promotion to sustain local arts and culture (Raharjo et al., 2024).

B. RESEARCH METHODS

This study takes an empirical legal approach, supported by normative and comparative analysis, to examine the legal safeguarding and maintenance of Gambang Semarang as a form of traditional cultural expression (TCE).

Data were collected from legal documents, statutory regulations, jurisprudence and policies in force in Indonesia, as well as several other countries for comparison. The author also conducted interviews and made field observations with artists and cultural organisations directly involved in preserving Gambang Semarang, in order to gain a deeper understanding of the challenges faced and the real needs of the local community. All interviews were conducted with the informed consent of the participants for academic and research purposes only.

The empirical component of this study consisted of semi-structured interviews with two key informants:

1. Yunik Ekowati, S.Pd., M.Pd., who is a dance practitioner and choreographer. She serves as a dance teacher at SMAN 16 Semarang and as a member of the Dance Commission of the Semarang Arts Council for the 2022–2027 term.
2. Dr Eko Raharjo, M.Hum., Vice Dean 1 of the Faculty of Languages and Arts at Universitas Negeri Semarang (UNNES).

Interview data were coded thematically and triangulated with statutory and literature review findings to ensure analytical rigour and depth.

During the analysis stage, the author applied legal interpretation techniques, comparative methods and content or thematic analysis, based on the criteria of legal adequacy, effectiveness, cultural sensitivity and community empowerment. This series of techniques enables the author to formulate practical and strategic recommendations based on empirical findings to strengthen the collective and sustainable protection of TCE (Raharjo et al., 2024).

C. RESULTS & DISCUSSION

The empirical findings reinforce the structural gaps identified in the doctrinal analysis. Dr Eko emphasised that the art community are the 'front-line custodians' of Gambang Semarang and similar TCEs. However, he noted that the integration of TCEs into formal school curricula remains sporadic and inadequate. He stated: 'We promote Gambang Semarang at festivals, but the legal structure to protect it is still weak and there is no clear recognition of community authority.'

His insights demonstrate that inadequate legal recognition results in weak institutional coordination, leaving TCEs vulnerable to unauthorised commercial use and digital appropriation.

Madam Yunik Ekowati also emphasised that the regeneration of young performers is the most urgent cultural challenge. She observed that

younger students often face 'instant culture' expectations that reduce their interest in traditional forms unless teaching methods are adapted. She explained: 'Today's students need contextual and relatable methods; otherwise, traditional dance becomes too distant for them.'

Her comments suggest that sustainable preservation necessitates educational innovation and legally mandated community involvement. These empirical findings corroborate the need for a *sui generis* system based on community governance, compulsory benefit sharing and transparent authorisation procedures (Raharjo, 2025).

The findings reveal that the legal protection of Gambang Semarang as a traditional cultural expression (TCE) is facing several significant challenges, including a weak registration status, suboptimal recognition as a collective right and overlapping intellectual property protection regulations (Rahmanda et al., 2024).

The researcher organises the discussion into several subsections that highlight key issues, such as the effectiveness of the national legal framework, the role of the community in preservation, and the need to harmonise national law with international standards.

The researcher concludes that the active participation of local communities in safeguarding cultural heritage is essential because it conveys cultural values and promotes economic development. They propose reforms in the form of developing collective registration mechanisms

based on community participation, improving the performance of TCE protection institutions and integrating educational and promotional aspects rooted in local wisdom (Susanti, 2022).

The researchers emphasise the active role of the community, education and cross-sectoral collaboration as key strategies for ensuring the sustainability of Gambang Semarang. Schools have incorporated Gambang Semarang into their curricula and tourism sector stakeholders consistently promote this cultural heritage. These practices have successfully increased appreciation of cultural heritage among students and young people, strengthened social cohesion, and encouraged direct participation from arts communities (Muda, 2025).

Art festival organisers and cultural tourism stakeholders create job opportunities for artists and boost community income. Local governments, educational institutions and arts groups collaborate to establish a robust cultural preservation ecosystem at local and national levels.

However, researchers still identify challenges such as the lack of young artists and limited promotion, which makes the prioritisation of TCE protection necessary for the future. These efforts aim to ensure that Gambang Semarang is culturally preserved and provides the Semarang community with tangible economic and social benefits (Purwadi et al., 2023).

a. International and Regional Norms on TCE Protection

This study highlights that safeguarding Traditional Cultural Expressions (TCEs) has emerged as an important concern in international intellectual property law. Although the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage offers an international framework for identifying, documenting, preserving, and promoting intangible cultural heritage, it does not create proprietary intellectual property rights or govern matters such as authorization, licensing, prior informed consent (PIC), or benefit-sharing for TCEs. Instead, these questions are addressed by the World Intellectual Property Organization (WIPO) through the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (WIPO IGC). The WIPO IGC is currently conducting text-based negotiations on an international legal instrument to protect Traditional Cultural Expressions, with deliberations concentrating on core topics including recognition of community rights, authorization to use TCEs, equitable benefit-sharing, and the function of customary law in determining beneficiaries and governance. Ongoing advancement of the WIPO IGC Draft Articles offers a valuable normative point of reference for Indonesia in formulating a *sui generis* legal regime that can protect TCEs from unauthorized exploitation while honoring their communal and intergenerational character (Kusuma & Roisah, 2022).

The researcher observes that, in regions including the Pacific and Africa, regional legal frameworks have been developed, such as the Pacific Model Law 2002 and ARIPO's Swakopmund Protocol 2010, which uphold the collective rights of indigenous communities and reinforce mechanisms for authorization and benefit sharing.

The researcher also examines the experiences of countries such as Kenya, South Africa, and Panama, showing that adopting *sui generis* systems can offer a flexible legal foundation for addressing the protection, use, and transfer of the socio-economic values of TCEs in the context of globalization and digitalization-related difficulties (Harrington et al., 2021).

Digitalization has a dual effect: it supports the promotion and development of dance arts while also creating challenges in managing copyright and commercialization without permission (Ekowati, 2025). Accordingly, the researcher concludes that it is essential to strengthen international and regional legal frameworks that are integrated with national law, while consistently ensuring the active involvement of indigenous communities as the legitimate holders of TCEs.

b. Indonesian Legal Framework for TCEs

Indonesia addresses the protection forms of traditional cultural expressions (TCEs) through Copyright Law No. 28 of 2014 (Anggayasti et al., 2025). The law specifies that folklore and TCEs fall within collective intellectual property

ownership that is safeguarded by the government, which serves as the rights holder for the community, even though this is implemented through a modified copyright framework (Njatrijani et al., 2020).

To enhance both commercialization and protection, the government enacted Government Regulation No. 56 of 2022, which regulates the commercial use of copyrighted works and related rights, including TCEs, and mandates permission from the government or the relevant authorities (Li et al., 2024).

State institutions such as the Directorate General of Intellectual Property (DGIP) play a key role in the registration, recordation, administrative management and supervision of TCE utilisation processes in Indonesia (Harding et al., 2025). However, the system still faces challenges with regard to the involvement of indigenous communities and the effectiveness of dispute resolution in TCE use. Although Government Regulation No. 56/2022 is an implementing regulation, it does not establish a *sui generis* protection regime (Palar et al., 2023), resulting in ongoing normative gaps (Wulandari et al., 2023).

The absence of binding regional regulations for Gambang Semarang means the legal status of authorisation and benefit-sharing remains unclear, preventing enforcement action against unauthorised digital reproduction and foreign commercial usage (Simatupang et al., 2024).

c. The Case of *Gambang Semarang*

Gambang Semarang is a traditional cultural expression unique to the city of Semarang, which has a strong historical and cultural profile. Musicians play this traditional music using the *gambang*, a wooden xylophone-like instrument. This makes *Gambang Semarang* a reflection of the local wisdom and cultural acculturation of Semarang.

Efforts to revitalise and preserve it have been carried out through its integration into school curricula and its promotion as a cultural tourism attraction (Pradhana et al., 2021). *Gambang Semarang* is officially legally safeguarded under multiple laws, including the 1945 Constitution, the Advancement of Culture Law (No. 5 of 2017) and Copyright Law No. 28 of 2014.

In practice, however, protection remains suboptimal due to weak law enforcement, limited communal registration and challenges in institutional coordination and benefit sharing. The involvement of local art communities, promotion via cultural festivals and integration into education have empirically increased public appreciation for *Gambang Semarang*.

Nevertheless, the lack of young artists, limited promotion and insufficient institutional support and benefit-sharing mechanisms remain major challenges to the preservation and protection of *Gambang Semarang*'s rights (Kasih et al., 2021).

d. Effectiveness Assessment: Gaps & Constraints

An evaluation of how effectively Indonesia protects traditional cultural expressions shows that multiple gaps and constraints remain. Weak law enforcement and overlapping jurisdictions arising from fragmented regulations lead to inadequate safeguarding of traditional cultural expressions.

Many cultural expressions have already entered the public domain, making them susceptible to unauthorised appropriation, commercialisation without benefit sharing, and exploitation that undermines indigenous communities. Technological developments have further intensified these difficulties: digitisation enables traditional works to be shared online, yet it also heightens the risk of misuse and piracy in cyberspace (Fasi, 2023; Puspita et al., 2024). Traditional performances such as Gambang Semarang can be digitally recorded, reproduced, and monetised without the consent of the communities that sustain them. However, Article 38 of Law No. 28 of 2014 does not set out clear procedures for digital authorisation, prior informed consent (PIC), benefit sharing, or enforcement against cross-border online exploitation. As a result, traditional cultural expressions are insufficiently protected in the digital environment.

Furthermore, low legal literacy among indigenous communities, limited institutional capacity, and issues regarding gender representation and community involvement in rights management continue to pose significant challenges. Therefore, in order to guarantee the

proper safeguarding of Indonesia's traditional forms of cultural expression, the relevant stakeholders need to undertake integrated efforts through regulatory strengthening, the integration of human rights aspects, and community empowerment (Kasih et al., 2021).

e. Comparative Best Practices & Lessons

Across different countries, comparative approaches to protecting traditional cultural expressions underscore the importance of adopting *sui generis* legal systems designed to reflect the specific characteristics of each community. Comparative research indicates that these systems are more effective than depending exclusively on conventional intellectual property law, because *sui generis* frameworks can account for the communal character and distinctiveness of traditional cultural expressions.

Incorporating customary and community protocols into protection schemes is therefore central to ensuring that Indigenous groups obtain formally recognized and genuinely effective rights protection (Sajeev et al., 2023). In addition, strengthening digital safeguards and using advanced technology are necessary to prevent the misuse of traditional cultural expressions in an environment that is increasingly digital (Meyer & Naicker, 2023).

Governance models that actively involve the local community have also been shown to improve the effectiveness and sustainability of TCE protection while preventing exploitation by outside parties.

Based on comparative studies and various legal recommendations, stakeholders are encouraged to promote regulatory reform, reinforce international collaboration and integrate human rights perspectives, with the aim of making the safeguarding of Indonesia’s traditional cultural expressions more effective and responsive to global trends (Raharjo et al., 2024).

f. Proposed Reform Model for Indonesia/Gambang Semarang

The Indonesian government and relevant stakeholders need to develop a reform model for safeguarding traditional forms of cultural expression, including Gambang Semarang. The aim should be to create a sui generis system tailored to the specific needs and features of the local context.

This model should incorporate fair benefit-sharing and prior informed consent (PIC) mechanisms that prioritise community approval (Xia, 2023). Institutional frameworks and coordination must be strengthened at both the central and regional levels to ensure effective and sustainable protection while preventing overlapping authorities.

In today's digital era, communities must intensively carry out technology-based protection, monitoring and law enforcement efforts to prevent exploitation and piracy and safeguard the economic rights of indigenous peoples. Inclusive governance that incorporates community voices and considers gender sensitivity is essential to

ensure that protection efforts represent and address the interests of all stakeholders.

Table 1. Proposed Legal Reform Mechanisms for TCE Protection

Reform Component	Proposed Legal Mechanism
Ownership	State as trustee, community represented via customary institutions
Authorization	Prior informed consent (PIC) requirement
Benefit-sharing	Mandatory equitable royalty distribution
Registry	Community-driven TCE Inventory (Regional Government Ordinance)
Enforcement	Administrative sanctions + community dispute board

Source: Processed by the Author

D. CONCLUSION

This study emphasises the need for the Indonesian government to implement adaptive, community-based legal reforms to protect traditional forms of cultural expression. It demonstrates that the current protection regime still faces challenges in terms of its effectiveness, legal aspects, governance and community participation.

There are high hopes that the government and related institutions will provide tangible support in the form of funding, facilities and recognition to ensure the sustainable preservation of traditional dance arts (Ekowati, 2025). The researcher recommends that policymakers promptly reform relevant regulations, strengthen the institutional framework and comprehensively integrate digital technology.

The findings of this study should inform public policy development, enhance local culture and inform future research agendas. Furthermore,

the researcher acknowledges this study's limitations and recommends further interdisciplinary research to improve understanding of the long-term safeguarding of traditional cultural expressions.

The study concludes that Indonesia must adopt a sui generis protection regime for TCEs, supported by regional Gambang Semarang-specific regulations. This system should incorporate PIC, benefit-sharing, community-based registration and digital safeguarding mechanisms, in order to prevent unauthorised commercialisation and cultural misappropriation.

REFERENCES

JOURNALS

- Agustianto, A., Disemadi, H. S., Hariyanto, O. I. B., & Sihombing, D. A. (2024). Special Intellectual Property Protection for Traditional Cultural Expressions: Rectifying Broad Legal Approaches. *Nurani*, 24(1), 88–104.
<https://doi.org/10.19109/nurani.v24i1.21807>
- Alamineh, G. A., Husseina, J. W., Endawekeb, Y., & Taddessec, B. (2023). The Local Communities' Perceptions on the Social Impact of Tourism and its Implication for Sustainable Development in Amhara Regional State. *Heliyon*, 9(6), 1–13.
<https://doi.org/10.1016/j.heliyon.2023.e17088>
- Acharya, A. (2026). Beyond Copyright: Designing a Sui Generis Framework for Folklore and Traditional Knowledge Protection in India. *Journal of Intellectual Property Rights*, 31(1), 77–86.
<https://doi.org/10.56042/jipr.v31i1.12814>
- Anggayasti, U.H., Hardiyanti, M. & Natalis, A. (2025). Legal Protection of Traditional Medicine Knowledge in Indonesia: Integrating Local Wisdom and Modern Regulations. *Pan African Medical Journal*, 51, 73.
<https://scholar.undip.ac.id/en/publications/legal-protection-of-traditional-medicine-knowledge-in-indonesia-i/>
- Aroian, M. (2025). Traditional Cultural Expressions and Copyright Law: Denoting the Long-lasting Confusion. *Journal of World Intellectual Property*, 28(2), 568–588.
<https://doi.org/10.1111/jwip.12345>
- Bath, S. & Prasad, S. (2025). Legal protection of traditional knowledge and traditional cultural expressions under copyright laws. *Indian Journal of Traditional Knowledge*, 24(4), 384–394.
<https://doi.org/10.56042/ijtk.v24i4.5061>
- Benson, S. R., Ocepek, M. & Cheng, S., (2025). Protecting Indigenous Cultural Heritage Across Borders: A Delphi Study of International Traditional Cultural Expression Laws. *IFLA Journal*, 52(2), 120–137.
<https://doi.org/10.1177/03400352251321191>
- Fahmi, C. (2024). The application of international cultural rights in protecting Indigenous peoples' land property in Indonesia.

- AlterNative: An International Journal of Indigenous Peoples*, 20(1), 157–166. <https://doi.org/10.1177/1177180124123526>
- 1
- Fasi, M. A. (2023). A Review of the Practices Related to the Protection of Indigenous Designs and Traditional Cultural Expressions under Intellectual Property Law in Canada and India. *International Journal of Intellectual Property Management*, 13(3-4), 446–471. <https://doi.org/10.1504/IJIPM.2023.134070>
- Geofrey, M. J. C., & Roisah, K. (2020). Patenting deal in Indonesia: Article 20 of the Patent Law in the political perspective of international trade law. *Law Reform*, 16(1), 19–31. <https://doi.org/10.14710/lr.v16i1.30302>
- González González, J. L. (2025). The Challenges of Intellectual Property in the Traditional Expressions of Indigenous Peoples. *Ibero-American Journal of Intellectual Property*, 22, 77–95. <https://doi.org/10.26422/RIPI.2025.2200.gon>
- Harding, D., Lukman, K. M., Palar, M. R. A., & Kohsaka, R. (2025). Geographical Indication in Indonesia: A Review on the Spatial Distribution and Classification of Geographical Indication-Registered Products and Related Publications. *Journal of World Intellectual Property*, 28, 263–285. <https://doi.org/10.1111/jwip.12332>
- Harrington, J., Deacon, H., & Munyi, P. (2021). Sovereignty and development: law and the politics of traditional knowledge in Kenya. *Critical African Studies*, 13(1), 95–114. <https://doi.org/10.1080/21681392.2021.1884108>
- Kasih, D. P. D., Dharmawan, N. K. S., Putra, I. B. W., Sudiarawan, K. A. & Rakhima, A. S. (2021). The Exploitation of Indigenous Communities by Commercial Actors: Traditional Knowledge and Traditional Cultural Expression. *Journal of Ethnic and Cultural Studies*, 8(4), 91–108. <https://doi.org/10.29333/ejecs/898>
- Kusuma, H. P., & Roisah, K. (2022). Perlindungan Ekspresi Budaya Tradisional Dan Indikasi Geografis: Suatu Kekayaan Intelektual Dengan Kepemilikan Komunal. *Jurnal Pembangunan Hukum Indonesia*, 4(1), 107-120. <https://doi.org/10.14710/jphi.v4i1.107-120>
- Kusumaningtyas, R. F., Hidayat, A., Soebiakto, G. P., Permana, A. F., & Ibadurrahman, H. A. (2023). Traditional Cultural Expression as an Embodiment of Indigenous Communities and Regional Identity: Semarang Indonesia Case. *Journal of Indonesian Legal Studies*, 8(1), 45–92. <https://doi.org/10.15294/jils.v8i1.63191>
- Usmaedi, U., Lansiw, M. A., Studyanto, A. B., Gymnastiar, I. A., & Amin, F. (2024). Cultural Heritage Preservation through Community Engagement: A New Paradigm

- for Social Sustainability. *Indonesian Journal of Studies on Humanities, Social Sciences and Education*, 1(2), 50–59. <https://doi.org/10.54783/cv5q0011>
- Lai, J. C., Wright, E., Goodman, J. R. (2025). Intellectual Property at a Crossroads: The Knowledge and Resources of Indigenous Peoples and Local Communities. *Journal of World Intellectual Property*. 28(3), 899-900. <https://doi.org/10.1111/jwip.12359>
- Li, J., Krishnamurthy, S., Roders, A. P., van Wesemael, P. (2020). Community Participation in Cultural Heritage Management: A Systematic Literature Review Comparing Chinese and International Practices. *Cities*, 96, 102–115. <https://doi.org/10.1016/j.cities.2019.102476>
- Musiza, C. (2022). Weaving Gender in Open Collaborative Innovation, Traditional Cultural Expressions, and Intellectual Property: The Case of the Tonga Baskets of Zambia. *International Journal of Cultural Property*, 29(2), 182–201. <https://doi.org/10.1017/S0940739122000042>
- Meyer, C. & Naicker, K. (2023). Collective Intellectual Property of Indigenous Peoples and Local Communities: Exploring Power Asymmetries in the Rooibos Geographical Indication and Industry-wide Benefit-sharing Agreement. *Research Policy*, 52(9). <https://doi.org/10.1016/j.respol.2023.104851>
- Muda, F. (2025). Community Participation in Indonesian Sustainable Tourism: A Systematic Review of Models, Impacts, and Gaps. *Priviet Social Sciences Journal*, 5(8), 125–139. <https://doi.org/10.55942/pssj.v5i8.462>
- Müller, M. V. C., Sanabria, D. F. S., & Remigio, A. M. (2024). The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge: Situating a Landmark Development in International Intellectual Property Governance. *GRUR International*, 73(12), 1128–1136. <https://doi.org/10.1093/grurint/ikae140>
- Nasrianti, N., Sanusi, S., Azhari, A., & Ilyas, I. (2025). Legal Protection of Traditional Cultural Expressions in Aceh: A Comparative Legal Analysis of Islamic Law and Positive Law in Indonesia. *Al-Istinbath Jurnal Hukum Islam*, 10(1), 81-104. <https://doi.org/10.29240/jhi.v10i1.12526>
- Ncube, C. B. (2022). Intellectual property and the African continental free trade area: lessons and recommendations for the IP protocol. *Journal of Intellectual Property Law & Practice*, 21(2), 105–121. <https://doi.org/10.1108/JITLP-09-2021-0051>
- Njatrijani, R., Rahmanda, B., Prananda, R. R., & Uz Zaman, M. N. (2020). Business

- development of copyright and fiduciary guarantee in Indonesia. *International Journal of Economics and Business Administration*, 8(1), 278–284. <https://doi.org/10.35808/ijeba/439>
- Oguamanam, C. (2026). Information Systems and Digitization of Traditional Knowledge: Trends in Cultural Heritage and Memory Institutions and the WIPO Genetic Resources Treaty. *The Journal of World Intellectual Property*, 29(1), 130-161. <https://doi.org/10.1111/jwip.70005>
- Palar, M. R. A., Rafianti, A. & Muchtar, H. N. (2023). Inclusive rights to protect communal intellectual property: Indonesian perspective on its new government regulation. *Cogent Social Sciences*, 9(2). <https://doi.org/10.1080/23311886.2023.2274431>
- Palar, M. R. A., Ramli, A. M., Sukarsa, D. E., Dewi, I. C., & Septiono, S. (2021). Geographical indication protection for non-agricultural products in Indonesia. *Journal of Intellectual Property Law & Practice*, 16(4–5), 405–414. <https://doi.org/10.1093/jiplp/jpaa214>
- Pradhana, R. I., Gunawan, A. P., Dianti, A. & Hartono, H. (2021). The Development of Acculturation of the Chinese Muslim and Java Culture in Semarang with the Case of Comparison between Sam Poo Kong and Hivara Buddhagaya Watugong. *IOP Conference Series: Earth and Environmental Science*, 716(1). <https://iopscience.iop.org/article/10.1088/1755-1315/794/1/012241/pdf>
- Purwadi, P., Dharma, D. C., & Setini, M. (2023). Festival Economy: The Impact of Events on Sustainable Tourism. *Jurnal Kepariwisataaan*, 7(2), 359–368. <https://doi.org/10.34013/jk.v7i2.1220>
- Puspita, D., Roisah, K., & Lestari, S. N. (2024). Open access institutional repository in the digital era: Preventing or increasing plagiarism?. *Yustisia*, 13(2), 168–188. <https://doi.org/10.20961/yustisia.v13i2.85098>
- Raharjo, E., Herdiati, D., Arsih, U., Lanjari, R., & Hutagalung, F. D. (2024). Gampang Semarang in the Context of Coastal Culture: Revitalizing Local Wisdom for Education and Tourism. *Resital: Journal of Performing Arts*, 25(3), 4–9. <https://doi.org/10.24821/resital.v25i3.14839>
- Rahmanda, B., Sutrisno, P.A., & Berkhmans, G.J. (2024). Effectiveness of Legal Protection of Traditional Cultural Expressions in Indonesia: A Case Study of Pendet Dance. *IJMRA: International Journal of Multidisciplinary Research and Analysis*, 07(10), 4607. <https://doi.org/10.47191/ijmra/v7-i10-04>
- Rifqi, M., Roisah, K., & Lestari, S. N. (2023). The prospects of intellectual property rights as a credit collateral: An Indonesia-Singapore comparative study. *Jurnal Hukum Novelty*,

- 14(2),170–191.
<https://doi.org/10.26555/novelty.v14i2.a270>
 17
- Roisah, K., Al Asy'arie, M. A. H., Rahayu, & Zulfah, S. (2026). Traditional medicine innovation policy: Between the protection of traditional knowledge, genetic resources, and intellectual property. *Legality: Jurnal Ilmiah Hukum*, 34(2), 369–401. <https://doi.org/10.22219/ljih.v34i2.43917>
- Roisah, K., Rahayu, Asy'arie, M. A. H., Mitskaya, E., Wahyudi, B. F. H. (2025). Empowering Cultural Communities in Protecting Traditional Expressions: Legal Challenges in the Digital Age. *Diponegoro Law Review*, 10(2),134-150.
<https://doi.org/10.14710/dilrev.10.2.2025.134-156>
- Roisah, K., Setiyono, J., Prananingtyas, P., & Farida, E. (2017). Trends of global values in legal political formation of intellectual property law in Indonesia. *International Journal of Civil Engineering and Technology*,8(9),391–397.
https://iaeme.com/Home/article_id/IJCIET_08_09_046
- Samsithawrati, P. A., Dharmawan, N. K. S., Putra, M. A. P., Sawitri, D. A. D. (2025). Traditional Knowledge and Traditional Cultural Expressions as Communal Intellectual Property: Are They Protected Under the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge 2024? *Jurnal Pembangunan Hukum Indonesia*, 7(1),1-26.
<https://doi.org/10.14710/jphi.v7i1.1-26>
- Sajeev, A., Panwar, G., Kavalikatta, P. & Gurpur, S. (2023). Protection of Ritualistic Performances and Challenges of Copyright Law in the Digital World: A Case Study of Theyyam. *AIP Conference Proceedings*, 2523(1). <https://doi.org/10.1063/5.0123590>
- Sentanu, I. G. E. P. S., Supriono, S., Yustiari, S. H., Nirmalasandy, F. M., Ferdiansyah, M. R., & Aulia, S. R. (2025). Collaboration as a Capacity for Joint Action in Community-Based Cultural Heritage Tourism Management. *Kolaborasi: Jurnal Administrasi Publik*, 11(2), 120–140.
<https://doi.org/10.26618/xpncbf02>
- Simatupang, T. H., Hartini, S., Mustika, D. A., Purwoto, A., Junef, M., Sanusi, A., Firdaus, F., Nugroho, T. W. A., Mareta, J., Jazuli, A., & Firdaus, I. (2024). Salak from Indonesia: Legal Protection, Potential Geographical Indications and Development Practices toward International Markets. *Cogent Social Sciences*, 10(1). <https://doi.org/10.1080/23311886.2024.2341963>
- Roisah, K., Saraswati, R., Setiyono, J., Christmas, S. K., & Mat Basir, S. (2022). Dynamics and practices of the implementation of international treaties in Indonesian laws. *Res Militaris*, 12(2),

- 2797–2806.
<https://www.scopus.com/pages/publications/85141200826>
- Sony, A. L. R., & Chopra, S. (2025). Safeguarding Yakshagana: Insights from International Case Studies on Protecting Traditional Cultural Expressions through Intellectual Property Laws. *Journal of Intellectual Property Rights*, 30(6). <https://doi.org/10.56042/jipr.v30i6.12724>
- Sreenath, K. P., & Anson, C. J. (2023). Geographical indications and traditional cultural expressions: A comparative legal analysis of the GI laws of Indonesia and India and a case study analysis. *The Journal of World Intellectual Property*, 26(3), 339-356.
<https://doi.org/10.1111/jwip.12274>
- Sudarsana, I. K., Sutriyanti, N. K., Asli, N. L., Selasih, N. N., & Astawa, I. N. T. (2020). The Existence of Education and Culture in the Globalization Era. *Journal of Advanced Research in Dynamical and Control Systems*, 12(6), 731-739.
<https://doi.org/10.5373/JARDCS/V12I6/S20201087>
- Suratno, U., & Faujura, R. P. (2024). Effectiveness of Law Enforcement of National and International Instruments for the Protection of Traditional Cultural Expressions as Intangible Cultural Heritage in Indonesia. *Journal of Ecohumanism*, 3(2), 181–196.
<https://doi.org/10.62754/joe.v3i7.4470>
- Susanti, D. I. (2022). Eksplorasi Perlindungan Kekayaan Intelektual Komunal Berbasis Hak Asasi Manusia. *Media Iuris*, 5(1), 23–40. <https://doi.org/10.20473/mi.v5i3.40174>
- Wagner, A., & de Clippele, M-S. (2023). Safeguarding Cultural Heritage in the Digital Era – A Critical Challenge. *International Journal for the Semiotics of Law*, 36, 1915-1923.
<https://doi.org/10.1007/s11196-023-10040-z>
- Wang, L. (2025). Can the Integration of Cultural and Tourism Development Reduce Regional Income Disparities? Evidence from China. *Journal of Policy Modeling*, 47(2), 225–240.
<https://doi.org/10.1016/j.jref.2025.104294>
- Wulandari, F., Suparman, E., Palar, M. R. A., & Amirulloh, M. (2023). Sui Generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right. *Cogent Social Sciences*, 9(1). <https://doi.org/10.1080/23311886.2023.2176989>
- Xia, N. (2023). Intellectual Property Protection for Traditional Medical Knowledge in China's Context: A Round Peg in a Square Hole?. *Medical Law Review*, 31(3), 358–390.
<https://doi.org/10.1093/medlaw/fwad006>

INTERVIEW

Ekowati, Y. Dance Practitioner and Choreographer; Member of the Dance Commission of the Semarang Arts Council (2022–2027); Teacher at SMAN 16 Semarang. Semarang: 12 November 2025.

Raharjo, E. Vice Dean I, Faculty of Languages and Arts, Universitas Negeri Semarang (UNNES). Semarang: 12 November 2025.