

# Reconstruction Of Intellectual Property Rights Protection Policy In Indonesia From A Progressive Law Perspective

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## **Abstract**

*Intellectual Property Rights (IPR) protection in Indonesia continues to face significant challenges regarding its effectiveness, accessibility, and alignment with the country's socio-cultural realities. Many IPR regulations are modeled on international legal frameworks that often lack contextual relevance to local needs particularly those of indigenous communities, micro, small, and medium enterprises (MSMEs), and traditional artists. This disconnect reveals the insufficient role of the state in ensuring substantive justice across all layers of society. This study seeks to critically assess IPR protection policies through the lens of progressive legal theory a framework introduced by Satjipto Rahardjo, which posits that law should serve social justice and be responsive to societal dynamics. By employing both normative-juridical and sociological methods, this research underscores the urgent need to reconstruct IPR policies so that they go beyond formal legal protection and function as tools for empowering local creative sectors. The findings indicate that a just and equitable IPR protection system must integrally account for social, economic, and cultural dimensions. Progressive law offers a foundational approach for designing policies that are inclusive and responsive to the lived realities of the Indonesian people. Therefore, the reconstruction of IPR policy is not only a legal necessity but also a moral imperative in creating a legal system that is liberating, human-centered, and socially just.*

## **1. Introduction**

Intellectual Property Rights (IPR) are a vital component of the legal system, playing a significant role in driving innovation, technological advancement, and creativity-based economic growth. In today's era of globalization and the digital economy, protecting

intellectual creations has become increasingly crucial to add value to intellectual works and foster an environment conducive to innovation, art, and the creative industries (Disemadi et al., 2021). Fundamentally, IPR systems aim to grant exclusive rights to creators or rights holders as a form of recognition for their intellectual efforts, while also encouraging further innovation within society. In many developed nations, IPR protection has become a key pillar of sustainable national development strategies.

Despite this, Indonesia continues to face a variety of complex challenges in implementing effective IPR protection. From a regulatory standpoint, several laws such as Law No. 28 of 2014 on Copyright and Law No. 13 of 2016 on Patents have been aligned with international standards, including the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement (Amrikasari, 2019). However, these adjustments have not fully addressed the socio-economic realities on the ground, particularly those affecting marginalized groups such as traditional artists, indigenous communities, and micro, small, and medium enterprises (MSMEs). In other words, while Indonesia has adopted a modern legal framework, its practical implementation has fallen short, as it has yet to adequately meet the needs of the broader population in an inclusive and equitable manner.

Additionally, public awareness regarding the importance of IPR remains low. Many creators and business actors do not fully understand the value of legal protection for their intellectual work, making them vulnerable to exploitation or misappropriation by others. This lack of IPR literacy is further exacerbated by limited access to registration systems, especially in remote regions. The complexity of legal processes and high associated costs for registering rights or resolving disputes further discourage participation. As a result, many choose informal means to protect their intellectual output, avoiding formal legal channels entirely.

In light of these disparities, a progressive legal approach becomes increasingly relevant. Progressive law, as developed by Indonesian legal scholar Satjipto Rahardjo, views law not as a rigid and purely normative system, but as a dynamic social instrument designed to achieve substantive justice. This approach prioritizes fairness over formalistic legal rules and allows for innovative interpretations when existing legal frameworks fail to deliver justice. It particularly emphasizes the need to protect and empower marginalized communities. In this context, the law is seen not merely as a set of rules, but as a

transformative tool for achieving broader humanistic goals.

Within this conceptual framework, Indonesia's IPR protection system needs to be re-evaluated and reconstructed. Reconstruction here refers to the comprehensive reshaping of legal concepts, policies, and institutional mechanisms not only to meet international benchmarks but also to align with the real socio-cultural conditions and needs of Indonesian society. A progressive legal perspective provides the philosophical and methodological foundation for this transformation by emphasizing human dignity, social equity, and support for vulnerable groups. Such reconstruction must go beyond legal reform, encompassing institutional restructuring, procedural simplification, and expanded public access to IPR mechanisms.

This research aims to examine how the progressive legal framework can be utilized as a foundation for reforming Indonesia's IPR policy. The focus is on how the legal system can be reoriented to serve the broader public interest rather than just the elite or large corporate entities. The study also explores how progressive law can drive structural changes within IPR regulations and build a system that accommodates Indonesia's diverse socio-cultural realities. Accordingly, this research adopts an interdisciplinary perspective, considering legal, sociological, and philosophical dimensions of law.

The reconstruction of IPR policy from a progressive legal standpoint will be explored through a multidimensional lens, incorporating philosophical reflections on the purpose of IPR, sociological analysis of its societal impacts, and juridical evaluations of regulatory and institutional practices. This holistic approach is expected to yield a model of IPR policy that is not only legally effective but also socially just and culturally relevant. Such a model must strike a balance between safeguarding individual rights over intellectual works and protecting the collective right to access knowledge and cultural heritage.

In this reconstruction effort, it is essential to recognize the roles of various stakeholders, both at the national and local levels. Government bodies, educational institutions, creative industry actors, civil society organizations, and indigenous communities all have strategic roles in shaping and implementing inclusive IPR policies. Public participation must be a core element in this process. A progressive legal approach advocates for participatory law-making processes that reflect the genuine needs and aspirations of the community.

Ultimately, the urgency to reform Indonesia's IPR policies is not solely driven by international legal harmonization but also by the imperative to address inequality and promote fair recognition and protection of community-based intellectual creations. Amid the growing commercialization and globalization of IPR, the state bears the responsibility of ensuring that the law functions not as an instrument of domination, but as a means of empowerment. This embodies the essence of progressive law and offers a critical framework for redefining the direction of IPR policy in Indonesia. Through this lens, IPR protection can become a genuine instrument of social transformation, empowering communities and supporting national self-reliance.

## **2. Research Method**

This study employs a mixed-method approach by integrating normative legal analysis with a sociological perspective, both of which are examined through a qualitative lens to provide a comprehensive understanding of policy reconstruction in the field of intellectual property rights (IPR) from the standpoint of progressive law. The normative legal approach focuses on the examination of formal legal instruments that regulate IPR in Indonesia, including Law No. 28 of 2014 on Copyright, Law No. 13 of 2016 on Patents, and related implementing regulations. This analysis also includes international legal frameworks that Indonesia has ratified, such as the TRIPS Agreement, the Berne Convention, and WIPO treaties. The objective is to evaluate how far the national IPR system aligns with the principles of substantive justice and whether it offers inclusive and equitable protection particularly for marginalized groups like micro, small, and medium enterprises (MSMEs), local artists, and indigenous communities.

In addition, the research adopts a sociological approach to understand how IPR laws are perceived, applied, and experienced within the societal context. This perspective views law not merely as a set of formal norms but as a social construct that lives within the everyday interactions of the people. The focus is placed on communities often excluded from adequate IPR protection, such as traditional craftsmen, small-scale creative workers, and indigenous groups who possess unique traditional knowledge and cultural expressions. This approach allows the research to explore how social, cultural, and economic structures influence the implementation and effectiveness of IPR regulations at the grassroots level.

The research is qualitative in nature and aims to be both exploratory and analytical. The exploratory aspect seeks to uncover socio-legal realities that are often overlooked in traditional legal studies, while the analytical goal is to dissect systemic issues in the existing IPR regulatory framework. Rather than relying on numerical data, this qualitative research relies on narrative and interpretive insights to capture deeper meanings behind legal practices and social dynamics.

Primary data is collected through in-depth semi-structured interviews with selected key informants who are considered knowledgeable and experienced in IPR and progressive legal thought. These include legal scholars, IPR consultants and practitioners, government officials involved in IPR policymaking (particularly from the Directorate General of Intellectual Property), as well as creative industry players such as artists, MSME actors, and artisans. A purposive sampling technique is used to ensure informants have the authority, competence, or direct experience related to the research topic. Meanwhile, secondary data is gathered from a range of scholarly and legal sources, such as academic books, peer-reviewed journal articles, government documents (including national development plans and IPR agency reports), research publications from institutions like LIPI or BRIN, and reports from international bodies like WIPO and the WTO. These secondary materials provide both a theoretical and contextual foundation to support and enrich the research analysis.

The data collection process combines documentation and interviews, carried out simultaneously to provide both formal legal data and personal, experience-based perspectives. Document analysis focuses on collecting and reviewing laws, regulations, treaties, and policy documents, while interviews aim to capture subjective viewpoints from stakeholders across the IPR ecosystem. This combination allows for a more holistic and contextualized understanding of IPR policy implementation.

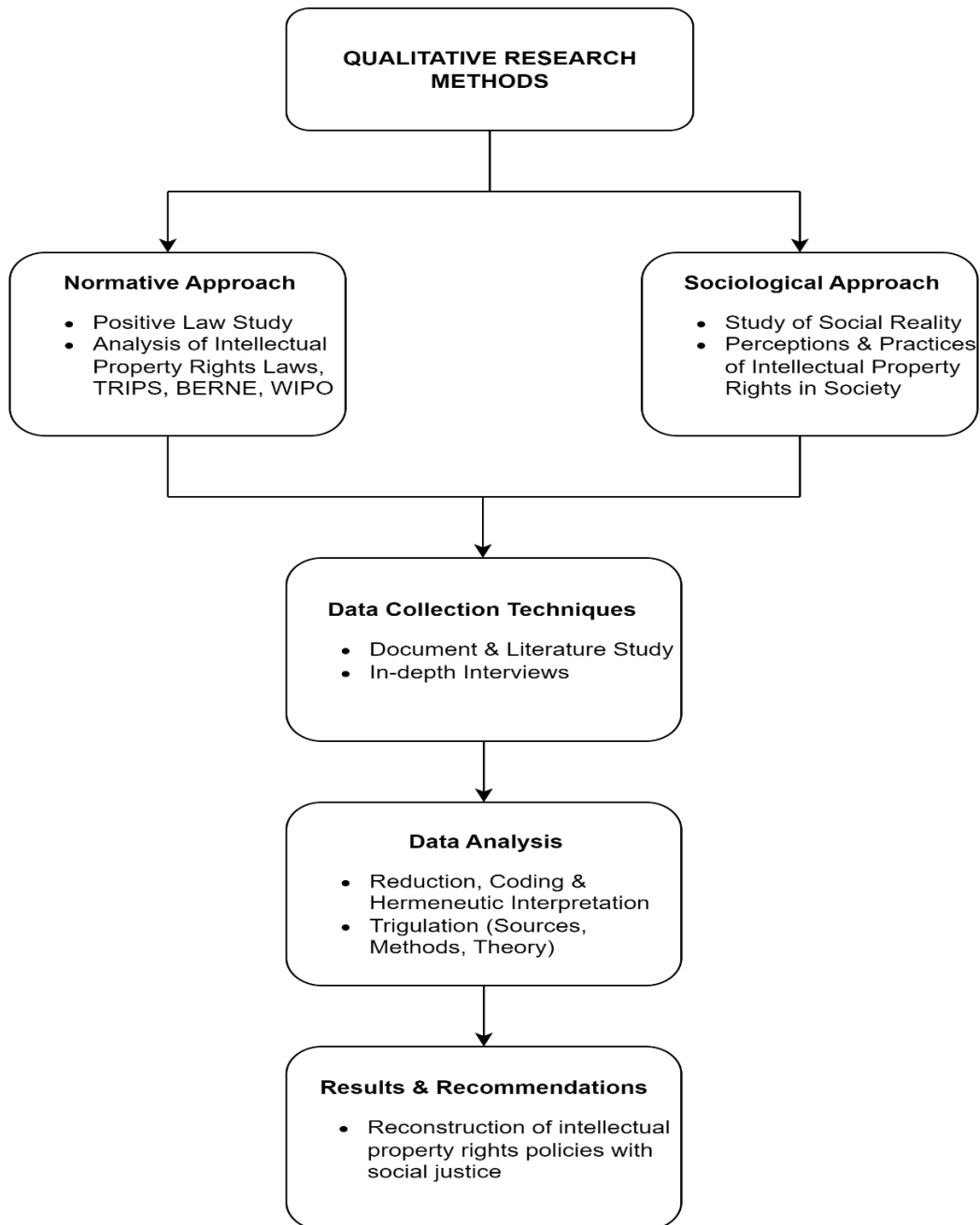
The analysis of collected data follows a qualitative interpretive methodology, involving processes of reading, coding, categorizing, and interpreting information. To ensure the validity and reliability of the findings, the research applies triangulation in three forms: source triangulation (cross-checking information from multiple informants), methodological triangulation (comparing results from interviews and document reviews), and theoretical triangulation (using multiple theoretical lenses such as

progressive legal theory, social justice theory, and critical legal studies). This triangulated approach is intended to avoid bias and produce balanced, well-rounded conclusions.

Moreover, the study incorporates a hermeneutic approach to interpret legal texts and policy documents. Hermeneutics enables the researcher to uncover deeper meanings embedded in legal language, considering the socio-political and cultural settings in which the law operates. It allows legal interpretation to go beyond the literal wording of legal texts and uncover how laws are understood, implemented, and adapted within real-life societal contexts an important consideration given Indonesia's plural legal culture, where written laws do not always align with actual practices.

By combining normative legal and sociological methods with in-depth qualitative and hermeneutic analysis, this study seeks to deliver a comprehensive and critical understanding of the current state of IPR protection in Indonesia. The chosen methodology aims not only to describe and analyze legal phenomena but also to offer practical and solution-oriented insights that can inform the formulation of more inclusive and justice-oriented IPR policies. Ultimately, the research aspires to contribute toward building a progressive legal framework that supports social justice, community empowerment, and equitable protection of intellectual property rights.

**Figure 1. Flowchart of the Research Method for Reconstructing IPR Protection Policy from a Progressive Legal Perspective**



### 3. Results and Discussion

#### 1. Intellectual Property Rights (IPR) Policies Remain Elitist and Centralized

The Intellectual Property Rights (IPR) system in Indonesia continues to reflect an elitist, centralized, and legalistic approach that fails to adequately consider the country's socio-economic and cultural diversity. Predominantly rooted in a modern, formal legal paradigm, the current framework emphasizes individual and commercial protection primarily benefiting large businesses and multinational corporations. This orientation is evident in key national regulations such as Law No. 28 of 2014 on Copyright, Law No. 13 of 2016 on Patents, and Law No. 20 of 2016 on Trademarks and Geographical Indications. These laws heavily incorporate principles from the global IPR regime shaped by the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which Indonesia has adhered to since joining the World Trade Organization (WTO) in 1995 (Setiady, 2014).

While alignment with international standards is necessary for boosting national economic competitiveness, attracting foreign investment, and fulfilling global trade obligations, this strategy has significant drawbacks when applied within Indonesia's socio-economic realities. A large segment of the population, including those in informal sectors, micro, small, and medium enterprises (MSMEs), and indigenous communities, rely heavily on traditional knowledge and cultural heritage for their livelihoods. The existing IPR system is generally only accessible to individuals or entities with substantial financial resources, legal expertise, and access to technology. In contrast, smaller businesses and local communities face numerous structural obstacles such as high registration costs, complex procedures, limited legal assistance, and lack of awareness about intellectual property (Suprayitno & Suharti, 2024).

Additionally, the administration of IPR in Indonesia remains highly centralized. The Directorate General of Intellectual Property (DGIP), under the Ministry of Law and Human Rights, is the sole national authority responsible for managing IPR applications. Although the DGIP has introduced online registration systems, these digital services have yet to reach remote and rural areas effectively. Many local artists and entrepreneurs still struggle with poor digital infrastructure, low legal literacy, and limited support from local governments or civil society organizations (Jatnika et al., 2024). This reinforces the perception of a top-down

system disconnected from the grassroots needs and realities of local communities.

Even more concerning is the incompatibility between the modern IPR system which is inherently individualistic and exclusive and the communal and collective nature of Indonesia's traditional cultural expressions and indigenous knowledge. In many customary communities, artistic works such as traditional dances, batik and weaving motifs, wood carvings, traditional medicine, and sustainable agricultural practices are created collectively and passed down across generations. However, current IPR laws only recognize individual or legal entities as rights holders, thereby excluding community rights from formal legal protection (Wahyufi, 2022). This results in legal exclusion, where marginalized groups are left unprotected by a system that should ensure justice for all.

This legal gap opens the door for external parties including foreign companies and individuals to exploit Indonesian cultural assets that have not been formally registered. Numerous cases have emerged where Indonesian cultural elements, such as batik, angklung, or Reog Ponorogo, have been claimed by other countries or commercially used by foreign entities without proper authorization or benefit sharing. When collective cultural rights are not acknowledged by the state, it loses the capacity to defend its cultural sovereignty. Reactive responses such as government statements or cultural diplomacy are insufficient to prevent further harm (Marasabessy, 2014).

This situation highlights how a rigid, overly normative legal framework is inadequate for addressing the complex social demands for justice. As Satjipto Rahardjo (2005) argued, law should not be seen merely as a static set of rules, but as a tool for social emancipation that addresses inequalities and empowers marginalized groups. From a progressive legal standpoint, the law should be responsive and adaptable to societal realities rather than serving the interests of capital or political power alone.

Therefore, Indonesia must begin rethinking and reconstructing its IPR policy paradigm. A new, inclusive, and decentralized approach is urgently needed one that supports local communities and small-scale entrepreneurs. The government should develop mechanisms such as subsidized registration fees, simplified administrative procedures, and community-based legal assistance. Establishing regional IPR service centers at provincial, municipal, and district levels would further democratize access. Local governments could

play a vital role in education, outreach, and facilitation of IPR registration and protection.

Moreover, Indonesia must establish a legal framework that recognizes communal intellectual property rights based on cultural and indigenous knowledge. Models of community-based intellectual property rights (CB-IPR) already adopted in countries like India, Peru, and Kenya can offer a valuable reference. These models enable indigenous communities to be formally acknowledged as collective rights holders and provide legal safeguards against unauthorized exploitation by outsiders (Nasional, 2015). With such reforms, IPR would no longer serve the interests of a privileged legal or economic elite but become a living instrument of justice for all Indonesian citizens.

## 2. Lack of Intellectual Property Literacy at the Grassroots Level

A fundamental challenge in the implementation of Indonesia's intellectual property rights (IPR) system lies in the low levels of awareness and education regarding IPR among grassroots communities. This issue is systemic and has wide-ranging implications, as it limits access to legal protection and diminishes the economic potential of local communities. Many micro, small, and medium enterprises (MSMEs), traditional artisans, local artists, and indigenous groups lack adequate understanding of basic IPR concepts, registration procedures, and the strategic advantages of protecting their creations, brands, innovations, or cultural expressions under intellectual property law.

This lack of awareness places these communities in highly vulnerable positions, leaving them open to exploitation by larger domestic businesses or foreign actors who possess superior access to legal knowledge, financial capital, and technology. When local creators or entrepreneurs are unaware of the legal and economic value of their work, they often fail to take steps to protect their intellectual contributions. As a result, when their works are plagiarized, commercialized, or even claimed by others, they lack the legal standing and resources to assert ownership or seek justice.

Such cases are widespread across Indonesia. For example, a traditional weaver in East Nusa Tenggara who produces ikat fabrics with culturally significant motifs may be unaware that these designs can be registered as copyrights or protected as geographical indications. Likewise, an MSME owner in Central Java selling regional culinary products under a distinctive brand may never formally register their brand. If the brand gains popularity, others

could appropriate or even register it first, causing the original creator to lose their exclusive rights. This represents not only an economic loss but also a symbolic one rooted in legal ignorance.

This situation is not solely due to personal negligence but reflects a broader failure in the government's legal education and communication strategy. Public campaigns about IPR are typically concentrated in major urban centers and rely on top-down approaches. They are often conducted through formal seminars or academic forums that use technical legal terminology, which is poorly suited to the socio-cultural context of rural communities or informal economic actors unfamiliar with legal jargon and bureaucratic procedures (Suhardiman et al., 2023).

The problem is further exacerbated by the absence of localized educational strategies. Given Indonesia's vast cultural, linguistic, and social diversity, effective legal education must be tailored to each community's specific context. For instance, educating Dayak indigenous groups about IPR requires a different approach than working with urban entrepreneurs in Surabaya or Bandung. Communication should be carried out in local languages, rooted in cultural values, and delivered by trusted community figures. Without culturally sensitive methods, government outreach will remain disconnected and ineffective.

Low IPR literacy also inhibits economic transformation at the community level. When people are unaware of the economic value embedded in their innovations or cultural products, they tend to release them to the market without legal protection, reducing their value and making them vulnerable to appropriation. In contrast, individuals and communities who understand IPR can leverage their legal rights to strengthen their market positions, establish fairer partnerships, and use IPR as a tool for branding and product differentiation.

In line with Satjipto Rahardjo's (2005) vision of progressive law, legal systems should not be confined to serving elite interests but must function as tools of social empowerment. Law should be accessible, enabling, and participatory especially for marginalized groups. Legal literacy, including knowledge of IPR, must be seen as a fundamental right for all citizens, not a privilege reserved for legal professionals or the middle class. The state has a responsibility not only to formulate regulations but also to ensure that people understand and can effectively utilize their legal rights.

Therefore, solving the IPR literacy gap at the grassroots level requires structural, systemic, and transformative measures. First, the government must promote community-based legal education strategies that emphasize dialogue and participation rather than one-way dissemination. This can be achieved through partnerships between government agencies, universities, civil society organizations, and customary institutions to develop culturally appropriate training modules tailored to each region's social, economic, and linguistic context. These materials should be presented in local languages, use visual or audiovisual media, and incorporate relatable narratives or case studies.

Second, the digitization of IPR services by the Directorate General of Intellectual Property must be accompanied by digital literacy programs and technical assistance. Without this support, the online system risks widening the digital divide between large-scale businesses with advanced technology and smaller entrepreneurs with limited access. Establishing local IPR service centers at the regency or sub-district level should be a key priority to decentralize legal services and ensure equitable public access.

Third, the government should introduce affirmative incentives to empower grassroots creative and cultural actors. These incentives could include subsidized IPR registration fees, tax exemptions for IPR-registered products, free legal aid, and support for marketing and promotion efforts. The formation of cooperatives or creative industry associations at the local level should also be encouraged to help facilitate collective IPR registration and advocacy.

Fourth, IPR education should be integrated into both formal and non-formal education systems, starting from secondary school to vocational higher education. This would equip future generations who will be the next wave of economic actors with foundational knowledge about intellectual property protection. Moreover, involving respected local figures such as traditional leaders, religious authorities, and community influencers in IPR campaigns would help enhance message acceptance and community engagement.

### 3. Progressive Law as a Tool for Social Transformation

Progressive law, as conceptualized by Satjipto Rahardjo, represents a legal philosophy that views law not merely as a static and closed normative system, but as a dynamic tool for achieving substantive justice. Within this framework, legal enforcement cannot rely solely on rigid procedures or written statutes. Instead, the law must be responsive to social realities and

willing to depart from strict legal formalism when such formalism perpetuates injustice (Rahardjo, 2005). This perspective is particularly relevant in the context of intellectual property rights (IPR) in Indonesia, where the legal framework often remains formalistic and inaccessible to marginalized groups.

In practical terms, the progressive legal approach encourages judges, prosecutors, law enforcement officers, and policymakers to move beyond being mere "guardians of legal texts." Instead, they are called to act as agents of social change interpreting the law in ways that are inclusive, context-sensitive, and rooted in the lived experiences of the people. This is crucial in the realm of IPR, as many of Indonesia's copyright and patent laws are heavily influenced by international frameworks such as the TRIPS Agreement. These legal instruments often fail to reflect local cultural values and social norms, thus favoring corporate interests and well-capitalized actors over traditional communities, small-scale creators, and local innovators.

From a progressive standpoint, justice is not synonymous with legal certainty. In the realm of IPR, legal protection should extend beyond those who have the resources to formally register their work. The state must also recognize and safeguard traditional cultural expressions, indigenous knowledge, and collective community creations that are transmitted across generations even if these are not formally documented within the state's intellectual property system. For example, an indigenous community that possesses unique medicinal knowledge or traditional textile patterns deserves legal protection, regardless of whether such knowledge has been registered administratively. This reflects the principle that legal justice under a progressive paradigm is substantive rather than procedural.

In this light, the restructuring of IPR policy must adopt a participatory and democratic approach. Lawmaking processes should not be confined to state and private-sector actors but must actively involve local communities, indigenous institutions, and grassroots creative producers. One practical manifestation of this idea is the development of Community-Based Intellectual Property Rights (CB-IPR) systems. These systems would offer legal protection aligned with communal values and cultural identities, counterbalancing the highly individualistic and market-oriented nature of conventional IPR frameworks. Such an approach resonates with Indonesia's deeply rooted social traditions of mutual cooperation

(gotong royong) and collective ownership of knowledge and cultural heritage.

Progressive legal theory also asserts that the state cannot maintain neutrality in the face of social inequality. Neutral laws, when applied in an unequal society, tend to reproduce and reinforce existing injustices. Thus, in protecting IPR, the state must adopt affirmative policies that support historically marginalized groups. These policies could include waivers for IPR registration fees, free legal assistance, official recognition of collective rights, and institutional support for local communities. Law, in this view, must serve as an instrument of social engineering that protects not only the powerful but also uplifts the disadvantaged so they may compete more fairly in an increasingly globalized economy.

As a catalyst for social transformation, progressive law demands a fundamental shift in the mindset and practices of legal professionals. Legal education must evolve to produce lawyers and scholars who are committed to social justice, not just legal compliance. Law students and academics should be encouraged to view law as a tool for social reform rather than a self-contained normative system. In this context, intellectual property protection presents a valuable case study an empirical platform upon which to test and apply the principles of progressive law in real-world scenarios.

#### 4. The Urgency of a Community-Based Intellectual Property Model

Intellectual Property Rights (IPR) protection in Indonesia has long been dominated by an individualistic and formalistic approach, largely modeled after international legal frameworks such as the TRIPS Agreement. However, this model fails to accommodate the socio-cultural complexities of Indonesia, a nation rich in traditional cultural expressions and indigenous knowledge systems. Given this reality, there is a pressing need for a more inclusive and context-sensitive approach a Community-Based Intellectual Property Rights (CB-IPR) model. This alternative framework prioritizes the recognition and protection of creative works, innovations, and traditional knowledge that are collectively developed and passed down within communities, rather than solely attributed to individual authors or inventors (Sanusi & SH, 2023).

Many traditional practices and local knowledge systems such as Toraja wood carving, region-specific batik motifs, Javanese herbal medicine, or the Subak irrigation system in Bali have evolved through long-standing social processes involving multiple generations.

Unfortunately, these cultural assets often fall outside the scope of formal IPR protection due to rigid administrative requirements, such as the need for identifiable individual creators or strict patent specifications. This legal gap exposes traditional cultural expressions to exploitation, especially by corporate actors who can patent or commercialize these traditions without acknowledging or compensating the communities from which they originate. Such dynamics create structural injustice that must be addressed through a more equitable and community-oriented IPR framework.

The CB-IPR model aligns closely with the principles of progressive law, as it fosters a more inclusive, participatory, and justice-driven legal environment. It recognizes indigenous peoples and local communities as active legal subjects in the IPR system moving beyond a preservationist view that treats them merely as custodians of tradition. Under this model, collective rights to traditional knowledge and cultural expressions are acknowledged and protected without imposing rigid and exclusionary bureaucratic hurdles. Importantly, the protection extends beyond economic value, encompassing cultural identity, spiritual significance, and community sustainability embedded within these traditions.

To make this model effective, the state must take a proactive role in creating both legal and institutional frameworks that support community-based IPR. This includes establishing a national registry for traditional cultural expressions and indigenous knowledge, co-managed by the government and community representatives. Additionally, fair benefit-sharing mechanisms should be instituted to ensure that communities receive equitable returns when their cultural elements are used for commercial purposes whether by domestic or international actors. These steps would safeguard communities' economic rights while preserving the intrinsic cultural values of their intellectual heritage.

Public awareness and legal education also play a vital role in this model. Many indigenous groups, traditional artisans, and local artists remain unaware of the rights they hold over their collective works. Therefore, empowerment strategies led by government agencies, academic institutions, and civil society organizations must be culturally grounded and participatory. Customary institutions, with their deep-rooted cultural authority, can serve as key partners in promoting and enforcing community-based IPR protections.

By adopting a CB-IPR framework, Indonesia can build an IPR protection system that

reflects its diverse socio-cultural landscape, while also ensuring the sustainability of its cultural heritage amid growing global commercialization pressures. This model is consistent with the ideals of progressive law, which emphasizes substantive justice and the empowerment of marginalized groups. Thus, integrating community-based protection into the national IPR system is not just a legal necessity it is a moral and political imperative for creating a culturally sovereign and socially just legal order.

#### 5. Redefining the State's Role in Intellectual Property Protection

The role of the state in protecting Intellectual Property Rights (IPR) must evolve beyond a passive, regulatory function. In the face of structural inequalities between large corporations and small-scale economic actors, the state must adopt a more proactive and interventionist stance to ensure justice within the IPR system. These disparities stem not only from unequal access to resources and information but also from legal frameworks that often prioritize market interests and global corporate agendas. Under a progressive legal approach, the state must not remain neutral or act merely as a bystander it must serve as a transformative agent that actively safeguards the rights of vulnerable groups, including Micro, Small, and Medium Enterprises (MSMEs), indigenous communities, local artists, and grassroots innovators (Hakim & Amnesti, 2022).

Reformulating the state's role involves three primary dimensions: facilitation, subsidization, and legal protection. First, facilitation requires the state to create enabling mechanisms that ensure equitable access to the IPR system. This includes simplifying registration procedures, increasing public understanding of IPR regulations, and improving market accessibility. For instance, the government could establish regional IPR legal aid centers, provide training and technical assistance, and digitize administrative processes to better serve those in remote or underserved areas.

Second, subsidization is critical in addressing the financial barriers that often prevent small actors from securing their intellectual property rights. The government should allocate dedicated funds or develop fiscal incentives to cover costs related to registration, renewal, and legal enforcement of copyrights, patents, or trademarks. These measures are essential in leveling the playing field for creators and entrepreneurs with limited resources.

Third, legal protection forms the cornerstone of this redefined state role. The

government must ensure that small-scale actors have access to fair, affordable, and timely dispute resolution mechanisms in cases of IPR violations. This also includes enforcing laws in a non-discriminatory manner so that smaller rights holders receive the same level of protection as large entities. Despite having registered their intellectual property, many MSMEs still feel inadequately protected due to weak law enforcement and the high cost of legal proceedings. In such instances, the state must offer substantive support not just through regulations, but also by providing legal representation through public defenders or legal aid institutions to help defend the rights of marginalized creators.

In today's digital economy and liberalized trade environment, globalization introduces new challenges to IPR protection. The influx of foreign goods and the pressure of free market competition often place local products at a disadvantage especially those lacking robust IPR coverage. To counter this, the state must establish strong legal safeguards, including the use of international diplomacy, to protect local intellectual assets in global markets. One strategic approach is to strengthen Indonesia's bargaining position in bilateral and multilateral IPR negotiations not merely aligning with international standards, but also advocating for the recognition and protection of local cultural and creative assets as part of the nation's collective rights.

From the standpoint of progressive law, state alignment with the interests of the people is not optional it is a normative obligation. The state must act as an empowering force, not merely a regulator of formal procedures. Therefore, redefining the state's role in IPR protection entails more than regulatory reform; it requires a fundamental shift in legal philosophy toward a more egalitarian, participatory, and responsive legal system. In this way, IPR can function as a tool for social justice, rather than a mechanism that reinforces economic dominance by a privileged few.

#### 6. Integrating Intellectual Property Rights into Creative Economy Policy

Intellectual Property Rights (IPR) play a crucial role in driving the growth of the creative economy, which is built on ideas, innovation, and artistic expression. In today's era of globalization and digital transformation, intangible assets have become key sources of added value, enabling creative products and services to achieve long-term competitive advantages. As such, it is imperative for governments to embed IPR protection and

management into the core of national creative economy policies. This integration should not be treated as a mere bureaucratic addition, but as a foundational element of development strategies centered on creativity. In the context of Indonesia, strengthening IPR as a pillar of the creative economy is essential for shifting the national economic paradigm from dependence on commodities to a knowledge- and innovation-based economy (SIP Law Firm, 2025).

The first step in this integration is to recognize IPR protection and utilization as central performance indicators for creative economy sub-sectors such as music, film, fashion, culinary arts, crafts, design, and digital games. Government policies should be designed to support this, including fiscal incentives like tax breaks, simplified licensing procedures, and financial subsidies for creative entrepreneurs who own active intellectual property assets. Additionally, business incubation and training programs must go beyond production techniques and focus on IP asset management covering monetization strategies, licensing models, and sustainable innovation practices.

Another key aspect is the development of local innovation ecosystems. National and regional governments must collaborate to create an enabling environment for creative industries. This involves investing in digital infrastructure, providing incubation centers, establishing science and technology parks, and forming partnerships with universities and private sector actors. In this framework, institutions such as the Directorate General of Intellectual Property, the Creative Economy Agency, and the Ministry of Communication and Information Technology should work together to build an integrated platform that connects creators, industry players, and investors. Such an ecosystem must empower communities especially youth and MSMEs to protect and scale their ideas into high-value economic outputs.

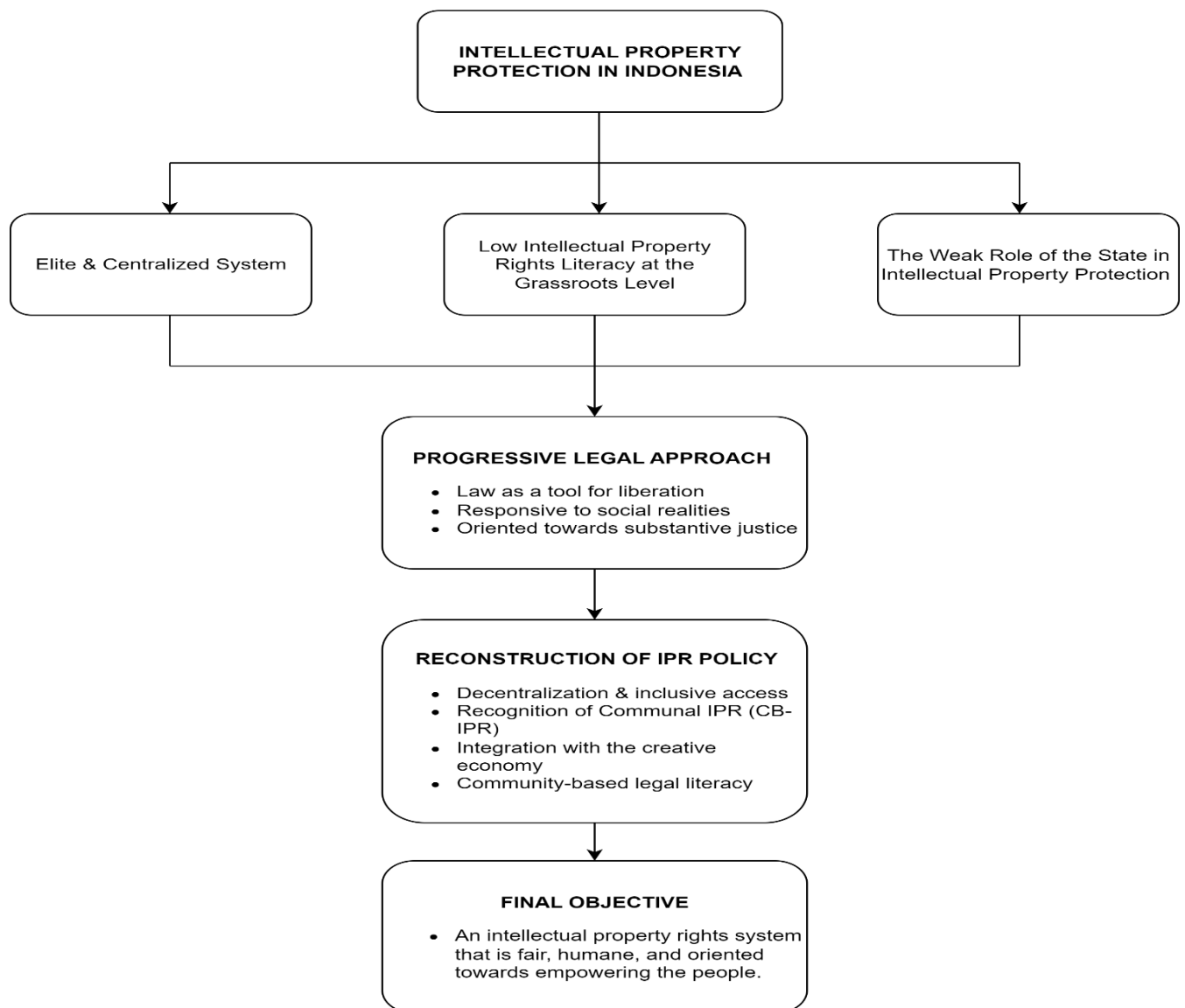
Furthermore, integrating IPR into creative economy policies must include the rich potential of traditional cultural expressions and local knowledge. Indonesia's vast cultural heritage including batik, wayang, weaving, herbal medicine, folklore, and traditional music can become new economic drivers when approached through the lens of intellectual property. The state should encourage the registration of Geographical Indications (GIs), protection of traditional cultural expressions (TCEs), and the development of a comprehensive national

database to document and preserve these assets. This would not only prevent misappropriation by foreign entities but also enable fair and sustainable commercialization that benefits local communities.

Strengthening IPR literacy is equally important. Many creative workers particularly youth and those in rural areas possess great potential but lack awareness of how IPR can protect and commercialize their work. Therefore, educational programs on IPR should be expanded into schools, universities, and local creative hubs, helping foster early legal awareness about intellectual property as a vital tool for building creative careers and businesses.

From a progressive legal perspective, the integration of IPR into creative economy policy must aim not just at economic growth, but at achieving more equitable benefit distribution. The state has a responsibility to ensure that economic gains from intellectual property are not monopolized by large corporations, but are also accessible to small creators, indigenous communities, and marginalized innovators. In doing so, IPR can become a tool for social transformation promoting cultural sovereignty, strengthening local economic independence, and advancing a more just and inclusive economic system.

**Figure 2. Conceptual Framework for the Reconstruction of Intellectual Property Rights Protection Policy Based on Progressive Law**



#### 4. Conclusion

Reforming intellectual property rights (IPR) protection policies in Indonesia requires a fundamental shift from a rigid, formal-legalistic framework to a more progressive legal approach one that prioritizes substantive justice, supports marginalized communities, and aligns with Indonesia's diverse sociocultural landscape. The current IPR system, which tends to be elitist and favor large capital owners, must be restructured to become more inclusive providing equitable protection and empowerment for micro, small, and medium

enterprises (MSMEs), local artists, indigenous communities, and grassroots innovators. A just legal system should not only offer normative protection but also uplift communities by enabling them to fully benefit from their intellectual creations.

In this progressive legal context, the state must take on an active role not as a neutral observer, but as a facilitator, protector, and enabler of justice. The government is expected to implement affirmative policies such as subsidizing IPR registration fees, offering legal assistance, and building institutional frameworks that ensure easier access for the public to IPR protection mechanisms. Moreover, integrating IPR into creative economy strategies must be strengthened through skill development programs, fiscal incentives, the reinforcement of local innovation ecosystems, and the safeguarding of traditional cultural expressions and indigenous knowledge.

In essence, IPR policy reconstruction within a progressive legal framework goes beyond regulatory reform it represents a broader socio-economic transformation. Law must function as a tool of empowerment and social equity. A fair and inclusive IPR system should address structural inequalities, protect national cultural heritage, and ensure that the economic benefits derived from intellectual property are distributed more equitably across all sectors of Indonesian society.

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