

## Safeguarding Cultural Heritage: Protecting Traditional Knowledge in view of the Intellectual Property Framework in Rwanda

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### Abstract

Rwanda boasts an array of rich traditional knowledge (TK), but such TK is not well protected in the current legal setting, which is based on the Law n° 055/2024 and mainly focuses on individual ownership, novelty, and fixed periods that do not fit TK's communitarian, eternal, and intergenerational characteristics. The primary aim of the paper is to analyze the possibility of TK protection being a supporting factor to the IP framework of Rwanda through the application of doctrinal research methods. It shows that the existing laws on cultural heritage do not include enforceable benefit-sharing and prior informed consent, thus opening the door to misappropriation, as in the case of Akagera Medicine, which patented the usage of community therapies. A distinct legal system that is compatible with Rwanda's IP regime is proposed by the paper; among its features are legislative amendments that recognize communal ownership, unlimited protection, exclusions for misappropriated TK, a secure TK registry, a specialized Rwandan Traditional Knowledge Authority (RTKA) for supervising and settlement of disputes, and making it consistent with international flexibilities (TRIPS, Nagoya Protocol) and best practices (India's TKDL, Kenya's community rights). A hybrid approach is recommended, which would combine cultural conservancy and innovation, whereby the former would be achieved by cutting down on the use of the TK through the promotion of TK-based business and giving the latter compliance. The paper finally states that once these actions are put in place, the communities will be empowered, will not suffer from biopiracy, and Rwanda will be recognized as a forerunner in the ethical use of TK for sustainable development under Vision 2050.

**Keywords:** Traditional Knowledge, Intellectual Property, Benefit-Sharing, Cultural Heritage, Rwanda

## 1. Introduction

Rwanda's cultural heritage is composed of a variety of both tangible and intangible resources which are beautiful and characteristic of the people's identity, history, and worldview. The very nature of the Rwandan people is portrayed through the traditional structures of knowledge and practice that have existed for centuries and are still strongly affiliated with the social, spiritual, and environmental context of the country<sup>1</sup>. This includes, among other things, the application of herbs for healing purposes during the making of herbal concoctions, the artistic and symbolic productions that are culturally associated with Imigongo (cow dung paintings famous for their geometric and cultural symbolism), and traditional farming practices carried out in accordance with the natural seasonal patterns. Moreover, storytelling was a way to keep historical memory alive and to grant one's moral authority. Among the examples of different kinds of performances and dances are the Intore warrior dance and gushayaya, which is an energetic and joyful performance<sup>2</sup>. All those contribute to the picture of the colorful and ongoing Rwandan culture together. The cultural examples and not only Rwandan culture, but perhaps many aspects of it, because they are so intertwined with the future of the Rwandan people, hence, intangible cultural heritage<sup>3</sup>. All those together show that Rwanda has an impressive intangible cultural heritage made up of diversity, unity, and the resilience factor that connects the past to the present and future.

Rwanda's traditional knowledge and cultural practices, although very lively, are still very much threatened in the modern world. The powerful forces of globalization, urbanization, and technology at an accelerated pace are eroding the indigenous knowledge systems and greatly reducing the passing on of traditional practices from one generation to another<sup>4</sup>. Moreover, the lack of proper documentation and poor legal protection have made the limited efforts of integrating cultural heritage into the national development and educational frameworks even more difficult, thus leaving these practices in danger of loss and misappropriation. Besides, the coming pressures and the commodification of cultural practices and knowledge, with no equitable benefits for the communities, have made it a challenge in the protection of Rwandan traditional cultural heritage practices<sup>5</sup>. To this end, it is necessary to take action for the enhancement of institutional mechanisms, the legal frameworks for intellectual property protection, and the policy frameworks to protect Rwandan cultural heritage and ensure that traditional knowledge is still around to contribute to sustainable development, national identity, and intergenerational continuity in a meaningful way.

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<sup>1</sup> J. Blake, "From Traditional Culture and Folklore to Intangible Cultural Heritage: Evolution of a treaty" (2017)2 *Santander Art and Culture Law Review*, 3:41–60. <<https://doi.org/10.4467/2450050XSNR.17.017.8422>> Accessed May 3, 2025.

<sup>2</sup> Ibid

<sup>3</sup> Catherine B, "Protection of Traditional Knowledge & Traditional Cultural Expressions Practical initiatives and Projects: Kenya's Journey", September 14th, 2021

<sup>4</sup> Gaitenidis N, 'Indigenous Peoples, Cultural Heritage, and Traditional Knowledge: Untying the Gordian Knot of Human Rights and Intellectual Property in International Law' (2025) 1 *International Journal on Minority and Group Rights* (aop) 1–45.

<sup>5</sup> Kuti TB, *Towards Effective Multilateral Protection of Traditional Knowledge within the Global Intellectual Property Framework* (University of the Western Cape 2018).

In this perspective, it is imperative to safeguard this cultural wealth through comprehensive and culturally sensitive legal measures as a promising response to address the nuances of TK and expressions of folklore, though the new IP law still focuses on individual rights, fixed-durations, and formal documentation, which are often incompatible with the nature of Traditional Knowledge system.<sup>6</sup> However, coping with this concern will need bridging the gap between international obligations, domestic cultural realities and legal coherence by developing and establishing a sui generis TK legal framework together with a hybrid one, purposely to integrate statutory IP protection with community protocols and customary norms for the sake of recognition and safeguard of TK.<sup>7</sup> In essence, by delving into the understanding of TK concept, Current IP legal framework, analytical assessment between TK and modern IP as well as legal issues and challenges in terms of recognition, appropriation, preservation and use and benefit-sharing of the TK, The present paper concludes with a call suggesting for action and reflection on the path forward toward Rwanda's cultural and legal sovereignty.

## 2. Method

The research titled "Protecting Traditional Knowledge with Modern Intellectual Property Framework in Rwanda: A Pathway to Safeguarding Cultural Heritage" employs a doctrinal research approach involving a detailed and systematic assessment of existing materials to decipher the existing legal framework and analyze the sufficiency of legal protection for traditional knowledge (TK) in Rwanda. The research is primarily based on primary legal sources such as the Rwandan Constitution, national intellectual property laws, and laws on traditional medicine and cultural heritage. In addition, the research examines the broader range of international and regional instruments demonstrating obligations on Rwanda, including potential binding instruments such as the Convention on Biological Diversity (CBD), the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore, and relevant treaties administered by the World Intellectual Property Organization (WIPO). By the rigorous interpretation and comparative method of the works mentioned, the research attempts to assess the extent to which the existing intellectual property protection framework meets the needs for protecting indigenous knowledge systems and cultural expressions. Judicial decisions, policy documents, and administrative guidance will also be reviewed in order to assess how legal principals are being upheld, as well as expose possible gaps or inconsistencies in enforcement.

Besides primary sources, the doctrinal approach requires careful review of the second-order sources found in academic publications, articles and reports, books in print, and other commentaries made by authorities in the law of intellectual property, heritage or cultural heritage, and human rights law. These sources are the academic and theoretical basis for comparative analysis. Moreover, they also expose how other jurisdictions have approached the idea of TK and the protection of TK and

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<sup>6</sup> Republic of Rwanda. (2024). *Law n° 055/2024 of 20/06/2024 on the protection of intellectual property*. Official Gazette no. Special of 20/06/2024.

<sup>7</sup> World Trade Organization. (1994). *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)*, 1994. Available at: < [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf) > Accessed May 12, 2025.

intellectual property. It will be necessary to combine these national and international viewpoints to obtain a complete picture of Rwanda's position in global TK protection legal frameworks. The doctrinal method allows the research to suggest practicable and culturally adaptable reforms, and to point out how Rwanda could indeed align its IP with the normatively characterized traditional rights of knowledge ownership, community rights, and sustainable goals for development. The doctrinal approach is especially suitable for legal research as it stresses interpretation, coherence, and normative assessment, and firmly relies on recommendations that would secure the cultural heritage of Rwanda. To put it differently, the doctrinal approach is well-suited to the politicized legal analysis that is at the foundation of modern legal frameworks.

### 3. Analysis or Discussion

#### 3.1. Conceptual Discussion and Analysis of Traditional Knowledge Protection in Rwanda

In Rwanda, Traditional Knowledge (TK) is understood as a collective body of skills, practices, innovations, and cultural beliefs as they arise in any one community. Traditional knowledge evolves over long-established cultural practices and is passed down through generations. It may also comprise knowledge that has been formally recorded by an individual for the benefit of their family, which is passed down generationally.<sup>8</sup> Traditional knowledge is deeply embedded in Rwanda's rich cultural heritage, encompassing traditional medicine, folklore, music, dance, artisanal craftsmanship such as *Imigongo* art, baskets (*udutebo*, *ibyibo* and *udusobane*), and agricultural practices. In nature, TK is intergenerational and often orally transmitted, held communally rather than individually, and provides both cultural identity and socio-economic resilience for rural communities.<sup>9</sup>

Rwandan Traditional Knowledge (TK) is integral to the nation's cultural and socio-medical systems, especially in health and wellbeing. Examples of indigenous knowledge and practices include practices such as Komora for wound treatment, Kunga for dressing sprains, Kugombora in response to snake or insect bites, and Gutsirika for the use of herbal remedies to stop bleeding or combat infection<sup>10</sup>. All these examples demonstrate an intricate understanding of natural resources and healing practices that have been passed down through the generations. Traditional healing practices rely on local biodiversity and the healer, considered a custodian of knowledge of their ancestors, uses locally sourced plants, herbs, and minerals for

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<sup>8</sup> Art. 2, Para 9, of the Law No. 28/2016 of 22/07/2016

<sup>9</sup> S. Hansen & J. VanFleet, *Traditional Knowledge and Intellectual Property: A Handbook on Issues and Options for Traditional Knowledge Holders in Protecting their Intellectual Property and Maintaining Biological Diversity*, (American Association for the Advancement of Science, 2003), 15-17.

<sup>10</sup> Munyithya JM, *Intellectual Property Rights in East Africa: Harmonization of Patent Laws and Policies for the East African Community* (University of Nairobi 2017).

curative and preventative purposes<sup>11</sup>. Traditional medicine is a dominant factor in rural healthcare, where modern medical facilities are often unaffordable, and this is mainly because it collaborates with the contemporary medical systems. Apart from their therapeutic use, the indigenous approaches to health or wellness consist of social interconnectedness, intergenerational trust, and cultural values and a belief that health or well-being is the same as the restoration and maintenance of balance with nature and society<sup>12</sup>.

Rwandan traditional knowledge is not just restricted to medicine but also includes forms of art, social interaction, and intellect that are considered to be the signature of the nation and its collective memory<sup>13</sup>. One such example is the art of Imigongo, which is characterised by its use of cow dung to produce geometric designs in natural colours. Imigongo has survived as a source of national pride, creativity, and resilience. Imigongo has moved on from being merely a traditional decorative art of the home to being a symbol of national identity, and it is now appreciated worldwide both for its aesthetic and ecological value. Similarly, they tell stories, recite proverbs, and engage in oral poetry, which are their unique ways of keeping historical, moral, or social wisdom living<sup>14</sup>. These verbal arts further the transmission of values like honesty, bravery, politeness, and community responsibility, which lead and affect one's social behaviour, assist the practice of ethics as one of the cultural principles and support the reinforcement of the culture. All these different forms of the Rwandan traditional knowledge (TK) not only keep the country's rich culture alive for the future generation but also help in the country's sustainable development through the identity and innovation that come up in the community, and also through the protection of the communities against the encroachment that they fear.

### **Current IP framework in Rwanda**

Rwanda's legal protection for intellectual property (IP) has evolved in tandem with its development goals and regional integration. The new Law n° 055/2024 of 20/06/2024 on the Protection of Intellectual Property supersedes the 2009 IP law and represents a remarkable step toward a modern IP regime. This law provides a comprehensive structure for the protection of patents, trademarks, copyrights, and related rights. However, it remains grounded in Western IP principles, emphasizing individual ownership, fixed terms, and originality requirements, none of which align with the communal nature of Rwandan Traditional Knowledge.

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<sup>11</sup> Commonwealth Secretariat, 'The Role of National Intellectual Property Laws in Promoting Innovation, Scientific and Technological Development' (2017) 43(3–4) Commonwealth Law Bulletin 471–488.

<sup>12</sup> Al Furqon MS, 'Safeguarding Heritage: Preserving Traditional Knowledge in Global Patent Law' (2024) 7(6) International Journal of Current Science Research and Review 3556–3566;

<sup>13</sup> Ibid

<sup>14</sup> Adebola T, 'Mapping Africa's Complex Regimes: Towards an African Centred AfCFTA Intellectual Property (IP) Protocol' (2020) 1 African Journal of International Economic Law 233–290;

In addition, Law No. 22/2016 on the Preservation of Cultural Heritage and Traditional Knowledge provides a parallel framework aimed at safeguarding Rwanda's intangible and tangible cultural heritage<sup>15</sup>. This law defines cultural heritage broadly to include expressions of folklore, rituals, practices, as well as the traditional knowledge, as under its Chapter III, Section II, in its current form, Article 38 outlines the criteria Traditional Knowledge must meet to acquire the status for protection. Traditional knowledge needed to be derived from, be maintained within, and passed on by traditional and intergenerational settings; be uniquely associated with the Rwandan community; and be regarded as being part of the cultural identity of a group of people inhabiting a specific location. Traditional Knowledge is necessary to be identified as belonging to a community by way of being associated with a form. Article 39 of this law also provides for the rights conferred to a holder of TK such as preventing anyone from exploiting their TK without the prior consent and to institute legal proceedings against any person who exploits the TK without a written permission, then its Article 40 further provides for Moral rights including the rights of attribution of ownership in relation to TK, rights not to have ownership of TK falsely attributed to them, and the right not to have their TK subject to derogatory treatment. Such moral rights continue in force in perpetuity and are inalienable, and cannot be waived or transferred<sup>16</sup>.

Despite all these provisions as discussed above, there is still a non-filled gap in regard to its implementation mechanisms, which remain underdeveloped, and lack the detailed enforcement tools and rights-granting capacity found in the current IP Law.<sup>17</sup> In essence, while the law acknowledges expressions of folklore and related rights under cultural works, there is no sui generis framework specifically dedicated to TK or community ownership, which apparently results in limited enforcement and awareness among rural communities, who are normally considered to be the primary custodians of the TK.<sup>18</sup>

### **3.2. International legal obligations and influences**

Rwanda is a party to international agreements that create obligations for the national intellectual property regime<sup>19</sup>. These obligations consist of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Nagoya Protocol on Access and Benefit-Sharing (ABS), and the Swakopmund Protocol on the Protection of Traditional Knowledge<sup>20</sup> and Expressions of Folklore

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<sup>15</sup> Sinjela M and Ramcharan R, 'Protecting Traditional Knowledge and Traditional Medicines of Indigenous Peoples through Intellectual Property Rights: Issues, Challenges and Strategies' (2005) 12 International Journal on Minority and Group Rights 1.

<sup>16</sup> Bolin AG, A Country without Culture Is Destroyed: Making Rwanda and Rwandans through Heritage (Stanford University 2019).

<sup>17</sup> Law No. 28/2016 of 22/07/2016 on the Preservation of cultural Heritage and Traditional Knowledge

<sup>18</sup> See WIPO, 2020, pp. 35-36.

<sup>19</sup> Nwauche E, The Protection of Indigenous Knowledge in Africa (Springer Nature Switzerland 2025).

<sup>20</sup> TRIPS Agreement, Article 27(3)(b), World Trade Organization.

under ARIPO. Notably, Article 27(3)(b) of TRIPS permits WTO member States to exclude from patent protection "plants and animals other than microorganisms, and essentially biological processes," and thus facilitates States' ability to adopt sui generis systems for the protection of Traditional Knowledge. The Nagoya Protocol (of which Rwanda is a party) obliges State Parties to require the prior informed consent of a community before traditional knowledge associated with genetic resources is accessed, and any benefit-sharing arrangement<sup>21</sup>.

The Swakopmund Protocol, ratified by Rwanda, provides for the legal recognition of traditional knowledge and folklore as protectable subject matter under a sui generis system. It clearly articulates rights for traditional communities, including the right to prevent misappropriation, to benefit-sharing, and to be recognized as custodians of their heritage. Despite its potential, the protocol has not yet been fully domesticated in Rwanda's IP regime.<sup>22</sup> Modern intellectual property frameworks are often ill-suited to safeguard traditional knowledge, which is rooted in collective heritage, orally transmitted, and often lacks a single identifiable Author. This section analyzes these legal tensions while highlighting emerging opportunities for reform and innovation in Rwanda.<sup>23</sup>

Conventional IP laws, especially those concerning patents and copyrights, prioritise novelty, individual authorship, and fixed durations of protection<sup>24</sup>. However, TK is typically communal, timeless, and culturally embedded. For instance, herbal healing practices passed down within a community over generations cannot satisfy the requirement of novelty under patent law.<sup>25</sup> Similarly, oral storytelling and artistic expressions such as *Imigongo* art, which are maintained through community practice, fall outside the scope of traditional copyright protection that requires fixation in a tangible medium and individual attribution.<sup>26</sup> This misalignment has led to the systemic exclusion of indigenous communities from benefiting from their own knowledge. Moreover, IP systems fail to address intergenerational custodianship, a key feature of TK, which demands perpetual protection rather than the limited terms offered by IP statutes.<sup>27</sup>

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<sup>21</sup> Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization 2010, Articles 5 and 6.

<sup>22</sup> See Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore 2010, Articles 3 and 5.

<sup>23</sup> Ibid

<sup>24</sup> Nwauche E, *The Protection of Traditional Cultural Expressions in Africa* (Springer International Publishing 2017); Graber CB and Nenova MB, *Intellectual Property and Traditional Cultural Expressions in a Digital Environment* (Edward Elgar Publishing 2008).

<sup>25</sup> E. C. Kamau & G. Winter, *Genetic Resources, Traditional Knowledge and the Law: Solutions for Access and Benefit Sharing*. Earthscan, 2009, 129.

<sup>26</sup> L. Li, *Intellectual Property Protection of Traditional Cultural Expressions: Folklore in China*. Springer, 2014, 92.

<sup>27</sup> S. Biber-Klemm & T. Cottier, *Rights to Plant Genetic Resources and Traditional Knowledge: Basic Issues and Perspectives* (eds.), (CABI, 2006), 86–87.

### 3.3. Case Studies of Misappropriation and Inequalities

A very powerful and enlightening example that highlights the conflict between scientific progress and the safeguarding of traditional knowledge is the emergence of Akagera Medicines, a private pharmaceutical company that set up its base in Kigali, Rwanda and was incorporated in Delaware, USA. The company has created and patented new liposomal formulations for treating infections such as tuberculosis, Lassa fever, and HIV through collaboration with global health partners such as the Gates Foundation, NIH Vaccine Research Centre, and CEPI. Although Akagera's innovations are scientifically advanced and morally acceptable, since they are intended to cure diseases that mainly affect the poor, there are still doubts about the knowledge and data that are the basis of these therapeutics. According to their mission statement, the Akagera team took advantage of local knowledge, especially the knowledge gained from the experience of individuals and families who lived with or treated TB, to learn the disease progression, treatment practice, and drug resistance patterns.

This situation brings up an important point in TK law about how the profit-sharing would be organized when the community-held medical knowledge that has been acquired and maintained for generations without formal documentation contributes significantly to scientific innovation. In this situation, it is both an ethical and legal duty to recognize and pay the traditional knowledge holders whose input is often hidden under the terms of “anecdotal data” or “ethnographic inputs.” The current intellectual property regime allows Akagera to patent the liposomal drug formulations, but there is no corresponding legal mechanism in Rwanda to ensure that the communities who contributed tacit knowledge, e.g., local herbal combinations, healing rituals, and intergenerational insights on disease patterns are recognized or compensated. This is emblematic of the bioprospecting-to-biopiracy pipeline, where community-based knowledge serves as a foundation for profitable scientific discovery without prior informed consent or access and benefit-sharing (ABS) agreements in place. By failing to require transparency in the origins of “supporting knowledge” used in R&D, and in the absence of a traditional knowledge registry or a national ABS framework, Rwanda risks alienating the very communities whose knowledge underpins its biomedical advances. This legal and ethical blind spot reveals why the creation of *sui generis* legislation for traditional knowledge, modelled perhaps on the Swakopmund Protocol or Kenya’s TK Act, is urgently needed to prevent future inequities and foster a culture of trust and collaboration in biomedical innovation.

Similarly, there have been concerns about the unauthorized reproduction of *Imigongo* designs on commercial textiles sold internationally, with no acknowledgement or compensation to the originating communities. These cases illustrate how existing IP systems often operate against the interests of TK holders.

This has created the urgent need for sui generis systems and mechanisms for legal redress when TK is exploited without consent or access and benefit-sharing (ABS) agreements.<sup>28</sup>

### **3.4. Comparative insights from other Jurisdictions**

In addressing the legal disconnect between traditional knowledge (TK) and conventional intellectual property (IP) systems, Rwanda can draw meaningful lessons from jurisdictions that have pioneered frameworks tailored to safeguard indigenous and community-based knowledge systems. While no universal solution exists, the comparative experiences of India, Kenya, and Peru offer blueprints that Rwanda can contextualize and build upon.

#### **3.4.1. India Traditional Knowledge Digital Library (TKDL)**

India's Traditional Knowledge Digital Library (TKDL) is famously regarded as an international model in safeguarding indigenous wisdom. Established in 2001 through Collaboration between the Council of Scientific & Industrial Research (CSIR) and the Ministry of AYUSH, TKDL emerged in response to high-profile biopiracy cases involving patents on Turmeric, Neem, and Basmati rice.<sup>29</sup> Over time, the database has codified hundreds of thousands of formulations from Ayurveda, Unani, Siddha, Sowa Rigpa, and Yoga, formally documenting upwards of 418,000 entries by 2022, including over 119,000 Ayurvedic and 236,000 Unani formulations.<sup>30</sup> These entries are translated and classified into five major international languages English, German, French, Japanese, and Spanish and organized using the custom Traditional Knowledge Resource Classification (TKRC) system, aligning with global patent classification standards (e.g., IPC A61K). Patent examiners at key global offices (EPO, USPTO, UKIPO, Japan, Canada, Australia, etc.) have non-disclosure access to TKDL, serving as a defensive barrier: it flagged dozens of suspect patent applications, leading to withdrawal or rejection of invalid claims without expensive litigation.<sup>31</sup>

In Rwanda's context, adopting a similar TK registry could enable documentation of imiti gakondo or imiti ya Kinyarwanda (herbal medicines), crafts, agricultural lore, and oral traditions in multilingual, scientifically structured formats. This could help safeguard against biopiracy, support legal recognition of prior art, and empower TK holders with transparent, enforceable rights.

#### **3.4.2. Kenya Protection of Traditional Knowledge and Cultural Expressions Act (2016)**

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<sup>28</sup> Rwanda Environment Management Authority. 2019. Guideline and Toolkit for Access and Benefit Sharing of Traditional Knowledge Associated with Genetic Resources in Rwanda: Information for Providers, Users, and Regulatory Institutions. Kigali, Rwanda.

<sup>29</sup> <https://www.csir.res.in/document/about-tkd/> Accessed on July 14<sup>th</sup>, 2022

<sup>30</sup> Ministry of AYUSH, Traditional Knowledge Digital Library, September 1<sup>st</sup>, 2022

<sup>31</sup> Idem, Note 17

Kenya's Protection of Traditional Knowledge and Cultural Expressions Act (No. 33 of 2016) sets up a strong *sui generis* legal system that not only acknowledges but also allows for the collective ownership of traditional knowledge (TK) and cultural expressions by communities, which, in a way, conforms to the practice of sharing and caring that is deeply rooted in Kenyan culture. This requirement also leads to the establishment of a National TK and Folklore Registry that lists the communities or county governments as the official owners of the shared knowledge that they possess<sup>32</sup>. The Act further stipulates that before using the knowledge, the user must obtain prior informed consent from the community, give proper recognition to the source community, and enter into arrangements for sharing the benefits, which may comprise money or contributing to community development<sup>33</sup>. The communities are legally empowered to file complaints and claim remedies for unauthorized or derivative uses of their cultural assets.<sup>34</sup>

The African country Kenya's model upholds community involvement as one of the most important aspects, so it gives a chance for the communities to manage their own heritage and decide the conditions under which the said heritage will be used through licensing arrangements controlled by customary law<sup>35</sup>. This community-centred collective rights framework is very much in line with Rwanda's communal values. Implementing such legal tools as community representation in decision-making, a TK registry, mechanisms for prior informed consent, and equitable benefit-sharing alongside will open up Rwanda's horizons more widely in terms of safeguarding such intangible heritage as the Intore dance, Imigongo art, and traditional medicinal knowledge. Thus, by adapting Kenya's institutional design and legal protocols to Rwandan context, Rwanda can ensure that both the material and immaterial cultural expressions are protected, honored, and utilized sustainably.

### **3.4.3. Peru Law No. 27811 on the Protection of Collective Knowledge of Indigenous Peoples.**

Peru offers another successful model, especially in the context of genetic resources and bio-cultural knowledge. It established the National Commission for the Protection of Access to Peruvian Genetic Resources and requires benefit-sharing agreements when traditional knowledge is commercialized. Notably, Peru's law gives communities legal personality to negotiate with corporations and researchers. This model illustrates how legal empowerment of Traditional knowledge ensures respect and reciprocity. A similar approach could benefit Rwanda's traditional

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<sup>32</sup> Protection of Traditional Knowledge and Cultural Expressions Act, 2016 (No. 33 of 2016) herein after TK/CE Act.

<sup>33</sup> WIPO, *WIPO Member States Adopt Historic New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* (24 May 2024)

<sup>34</sup> Mathilde Pavis, *Kenyan Reform on Traditional Knowledge and Traditional Cultural Expressions: Two Years on*, February 4<sup>th</sup>, 2019

<sup>35</sup> *Ibid*

custodians of agricultural, medicinal, and ecological knowledge. The Swakopmund Protocol under ARIPO gives comprehensive protection to TK and expressions of folklore, offering perpetual rights, recognition of collective authorship, and prior informed consent (PIC) requirements for use tools that Rwanda could domesticate into national law.<sup>36</sup>

The given scenarios are proof that the creation of models that are legally enforceable, context-sensitive, and compatible with international obligations such as TRIPS is possible. The latter under article 27(3)(b) allows such flexible measures. Rwanda, although there are challenges in reconciling traditional knowledge systems with the modern intellectual property (IP) frameworks, is in the right time and place for such an opportunity. There are number of reasons, among which the country's rapid development, rich cultural heritage, and the international acknowledgement of its traditions, why Rwanda is considered by many as a possible continental leader in the development of a just, functional, and future-oriented legal framework for TK protection. Rwanda's cultural scene is extremely varied and deeply intertwined with ancient customs concerning everything from medicinal and agricultural knowledge to oral literature, crafts, and dance. These are not just past remnants but lively components of the national identity and social unity. Thus, the traditional knowledge and folklore can be regarded as the stimulating factors for the growth of the areas of tourism, arts, wellness, and even pharmaceuticals. One of the manifestations of the international recognition of Rwanda's cultural expressions is the UNESCO listing of the Intore dance as an element of intangible cultural heritage. On the other hand, national recognition should be accompanied by national mechanisms, among which a TK Registry is to be established for adequate documentation, benefit-sharing, and community control over the knowledge and expressions that have been passed from one generation to another. In case Rwanda manages to make the most out of these developments, it can be the leader in TK protection in the region, taking advantage of its heritage to stimulate innovation, draw cultural tourists, and support native entrepreneurs.

### **3.5. Legal Issues and Challenges**

Legal issues in relation to the traditional knowledge in Rwanda are all about to find out whether there is a legal framework governing the recognition, appropriation, preservation and use of the traditional knowledge; whether the holders have rights to exploit their traditional knowledge and prevent unauthorized exploitation; and whether there is a way to seek legal redress in case of infringement and derogatory treatment of traditional knowledge. These legal issues hinge on the existence of clear laws that recognize the rights of holders to attribute, preserve and exploit their knowledge, to prevent misuse or appropriation without consent, and to demand

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<sup>36</sup> African Regional Intellectual Property Organization (ARIPO). (2010). *Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore*, Articles 4–8.

remedies when their traditional knowledge is infringed, misattributed, or treated in a derogatory way. In the Rwandan context, examining whether National legislation such as the Law on the Preservation of Cultural Heritage and related IP policy actually provides such framework recognises holder rights, and enables legal recourse is central to addressing and resolving those legal concerns.

Rwanda is confronted with a major legal and policy problem that is at the heart of the matter. This problem concerns the need to align traditional knowledge (TK) systems with modern intellectual property (IP) laws. The latter are very poorly equipped to protect knowledge that is collective, oral and not formally documented or novel. Consequently, there is the risk of under-protection, loss of cultural control, and missed chances of bringing about community-driven innovation. The issue is indeed a very delicate one as on the one hand, there is the need to keep oral traditions, while on the other, there is the need to document TK. The latter can only be done through the recording of knowledge, which is a very risky undertaking in the context of cultural appropriation. This risk is made worse by the lack of proper community consent, access controls, and benefit-sharing. At the moment, Rwanda does not have a centralized TK registry, and there are no clear legal protocols for access and use, not to mention the lack of an institutional framework to manage disputes or promote TK-based businesses. Misappropriation and bio-piracy are still major problems, and the situation has been made worse by the lack of awareness among TK holders of their rights and the inability of the current infrastructure to support their claims. On top of that, the country has not yet implemented a *sui generis* legal system that is specifically tailored to protect the unique characteristics of TK, which in turn hinders the effective safeguarding and use of this knowledge.<sup>37</sup>

#### **4. Conclusion**

It is very important for Rwanda to create a proper legal framework that is specifically designed for traditional knowledge (TK) so that the differences between the modern intellectual property systems and the collective and evolving nature of TK can be eliminated. It is suggested that policymakers place the drafting of legislation that combines *sui generis* elements with the existing IP laws in the list of their actions. Such legislation would make sure that the practices, crafts, medicines, and agricultural knowledge of the indigenous groups are recognized and protected. The very presence of such a system would not only affirm the community's identity and status but also encourage the responsible use of TK in the context of the world's knowledge economies. Moreover, setting up a specific authority like the Rwanda Traditional Knowledge Authority (RTKA) that would be in charge of the registration, management, and enforcement of TK rights is necessary. This organization will be responsible for all aspects of the TK documentation and protection, from access regulation to disputes and TK capital support for enterprises. With the establishment of a central registry and well-defined legal procedures, Rwanda will

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<sup>37</sup> Guideline and Toolkit for Access and Benefit sharing of Traditional Knowledge with Genetic Resources in Rwanda, January 19<sup>th</sup>, 2022

have the ability to grant TK holders the rights to their cultural properties that are both secure and enforceable.

Raising public awareness is another important recommendation since the imposition of educational programs to make the rights of TK holders and the processes through which those rights can be claimed known will not only allow the communities, especially the rural and the indigenous ones, to protect their knowledge but also aid the legal procedures and the whole atmosphere of respect for TK through awareness campaigns that are meant to demystify legal procedures. On the other hand, the strengthening of benefit-sharing mechanisms is also highly important in that it is going to pave up the way for clear and fair compensation guidelines for the TK holders in case of commercial use of their knowledge; and once this is done, it will open up the way to sustainable partnerships, local development, and reduced risks of misappropriation and biopiracy. Besides, the alignment of Rwanda's TK safeguards with international norms is inevitable since by satisfying the requirements of treaties like the Convention on Biological Diversity and the Nagoya Protocol, Rwanda will be able to portray itself as a reliable global actor using its cultural heritage for inclusive growth and resilience.