

Evaluating the Protection of Traditional Music Under Uganda's Copyright Law: Challenges and Opportunities

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Abstract

Traditional music in Uganda is a vital component of the nation's cultural heritage, embodying various communities' collective identity, history, and values. Protecting traditional music through copyright law offers significant benefits, including safeguarding cultural expression, promoting economic opportunities for communities, and ensuring that traditional knowledge is respected and preserved for future generations. This article explores the current status of traditional music protection under Uganda's copyright law, analysing both the international and national legal frameworks.

The international legal framework, including treaties such as the Berne Convention and the World Intellectual Property Organization (WIPO) agreements, provides a foundational structure for the protection of traditional music. However, these international instruments often fail to address the unique challenges of protecting traditional cultural expressions. At the national level, Uganda's Copyright and Neighboring Rights Act attempts to incorporate these international standards, yet significant gaps remain in effectively safeguarding traditional music.

This article identifies key challenges within the existing legal frameworks, including issues of communal ownership, the inadequacy of Western-based copyright models in protecting intangible cultural heritage, and the difficulties in enforcement. Furthermore, the article discusses the tension between the need for protection and the preservation of cultural heritage in its most authentic form.

To address these challenges, the article offers several recommendations. These include the development of sui generis legal protections tailored to traditional music, enhancing community involvement in the management of intellectual property rights, and strengthening the legal and institutional frameworks to ensure more effective protection and enforcement. By advancing these strategies, Uganda can better safeguard its rich cultural heritage while promoting the rights and interests of the communities that are the custodians of traditional music.

Introduction

Traditional music and folklore are not merely artistic expressions; they are the lifeblood of Uganda's cultural identity, encapsulating the country's rich history, communal values, and ancestral wisdom.¹ As vital components of Uganda's cultural legacy, these expressions play a crucial role in defining the nation's

¹ Simon Musasizi and Aliguma Ahabyona Akiiki, *Endangered Music Heritage: A Case of the Albertine Graben in Uganda* (2023).

character and ensuring the continuity of its historical narratives across generations.² However, the protection of traditional music under the current legal framework, particularly the Copyright and Neighboring Rights Act of 2006, presents significant challenges.³

This article critically examines the status of traditional music under Uganda's copyright law, uncovering key gaps and inconsistencies within the existing legislation. It explores how Uganda's legal approach to traditional music is influenced by and in some cases limited by, the international legal system governing the protection of traditional cultural expressions. By analysing both the international and national legal frameworks, this article seeks to shed light on the shortcomings of the current laws and offer actionable recommendations for strengthening the protection of traditional music and folklore in Uganda. Through this analysis, the article aims to contribute to the ongoing discourse on preserving Uganda's cultural heritage while respecting the rights and interests of the communities that are the custodians of this invaluable cultural treasure.

Definition of traditional music

Traditional music refers to the music that has been passed down through generations within a community, often characterized by its roots in the cultural, social, and religious practices of the people.⁴ This form of music typically exists in oral tradition, and it is often performed using traditional instruments and techniques. Traditional music reflects the historical and cultural identity of a community, and it can vary significantly from one region to another, encapsulating the unique customs, beliefs, and values of its people.⁵ Traditional music is a diverse enterprise given the fact that in Uganda there are many cultural traditions, and languages spread across the country. Some traditions and traditional music may by nature even cross the geographical borders since some tribes and cultural institutions are not limited by the national borders.⁶ This kind of music is used to celebrate different rituals such as rights of passage, and marriage festivals among others.⁷

International Legal Framework for the Protection of Traditional Music and Folklore UNESCO Conventions

a. Convention for the Safeguarding of the Intangible Cultural Heritage (2003):

This Convention seeks to preserve intangible cultural heritage, such as traditional music and folklore, by identifying and protecting cultural traditions passed down through generations. It urges states to create national inventories and lists of intangible cultural heritage, as well as to put policies in place to preserve and promote these cultural traditions. Additionally, it promotes international cooperation and support for the preservation of intangible cultural assets through funding, technical assistance, and capacity building. Uganda has ratified the Convention for the Protection of Intangible Cultural Heritage.

² The Uganda National Culture Policy

³ Uganda Law Reform Commission, *Review of the Copyrights and Neighboring Rights Act, 2006* (October 2022).

⁴ Ibid Note 2

⁵ Graham Dutfield and Uma Suthersanen, *Global Intellectual Property Law* (2nd edn, Edward Elgar Publishing 2019) 234.

⁶ Pluralism Knowledge Program in Uganda, *Managing Diversity: Uganda's Experience, A Collection of Essays* (Pluralism Knowledge Program 2013, Page 36

⁷ <https://www.britannica.com/place/Uganda/Daily-life-and-social-customs> accessed on 13/8/2024

b. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (1970):

This Convention targets the illegal exchange of cultural property, such as traditional music and folklore, by providing mechanisms to prevent and redress the illicit transfer of cultural assets. It calls for the return of stolen or unlawfully exported cultural property and encourages member nations to pass national legislation to combat cultural property trafficking. Uganda ratified the 1970 Convention.

World Intellectual Property Organization (WIPO)**a. WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore (IGC):**

The IGC is dedicated to establishing international legal instruments to preserve traditional information, such as music and folklore, against misappropriation and unlawful use. It develops legal texts and structures for the conservation of traditional cultural manifestations and genetic resources. Although no legal instrument has been adopted, the IGC's work contributes to ongoing discussions and advancements in international intellectual property law. Uganda regularly engages in WIPO initiatives and IGC talks, contributing to the global dialogue on the protection of traditional knowledge.

b. WIPO Traditional Knowledge Division:

The IGC is committed to developing international legal mechanisms to protect traditional content, such as music and folklore, against misappropriation and unauthorized use. It creates legal texts and structures to ensure the preservation of traditional cultural manifestations and genetic resources. Although no legal instrument has been established, the IGC's work contributes to ongoing debates and progress in international intellectual property law. Uganda routinely participates in WIPO efforts and IGC discussions, contributing to the worldwide conversation on the protection of traditional knowledge.

International Labour Organization (ILO) Convention No. 169 (1989)

This division helps to safeguard traditional knowledge and folklore by providing resources, research, and policy suggestions. It encourages information exchange, builds capacity, and aids member states in adopting national policies and legal frameworks to conserve traditional cultural manifestations. Uganda collaborates with WIPO's Traditional Knowledge Division, using its resources and recommendations to shape national policy on traditional knowledge and folklore.

Regional Agreements and Initiatives**a. African Regional Intellectual Property Organization (ARIPO):**

ARIPO encourages the preservation of traditional knowledge and cultural manifestations in its African member states. The group has created rules and principles to conserve traditional cultural manifestations, including as music and folklore, through regional collaboration. Uganda is a member of ARIPO and actively contributes to its efforts to protect traditional knowledge and cultural manifestations through regional mechanisms.

b. The Bangui Agreement (OAPI):

This agreement establishes the African Intellectual Property Organization (OAPI) and a legislative framework for protecting intellectual property rights in its member countries. It includes rules for the protection of traditional knowledge and cultural manifestations, as well as the harmonization of intellectual property laws among members. Uganda is not a member of the OAPI, which mostly serves

francophone African countries. Uganda's intellectual property framework operates within the ARIPO regional system.

c. The Swakopmund Protocol to Protect Traditional Knowledge and Folklore Expressions.

It offers full protection to traditional music and other types of cultural expression. This Protocol protects traditional music, classed as a "musical expression," from misuse and unlawful exploitation (Section 2). These rights belong to the local and traditional communities that produce, conserve, and transmit their knowledge and expressions (Section 18). These communities have the only right to permit or prohibit the exploitation of their traditional knowledge and expressions without their prior informed agreement (Section 19). Uganda has signed the Swakopmund Protocol, committed to its principles and ensuring the protection of traditional music and other cultural manifestations under its control. This accession aligns Uganda with other Africans.

Conclusion

The international legal framework for the protection of traditional music and folklore is made up of UNESCO conventions, WIPO initiatives, regional agreements, and ILO standards. Uganda has recognized key UNESCO treaties and collaborates with WIPO on traditional knowledge concerns, although it has failed to ratify ILO Convention No. 169. Regional frameworks such as ARIPO enhance the conservation of traditional knowledge in Uganda, even though the Bangui Agreement does not apply. Improving international cooperation, developing effective legal processes, and valuing cultural variety are all crucial to the preservation of traditional cultural traditions.⁸

The National Legal Framework

Copyright and Neighboring Rights Act, 2006

The Copyright and Neighboring Rights Act of 2006 governs Uganda's copyright protection. This Act provides for the preservation of literary, musical, and artistic works. Traditional music and folklore are further examples of literary and creative works that fall under its purview.⁹ However, several limitations impact the effective protection of these cultural expressions.

The Requirement of Material Form.

To be protected under the Copyright and Neighboring Rights Act, a work must be permanently fixed in an intangible form of expression.¹⁰ This clause has serious implications for traditional music and folklore, which are frequently transmitted orally and not documented. As a result, these works do not meet the fixation condition and hence fall beyond the scope of copyright protection under existing law.¹¹ This absence is significant for numerous reasons. It leaves a significant amount of cultural content unprotected, enabling for future misuse and exploitation with no legal consequences. Second, it ignores the basic

⁸ It should be noted at this point that the Uganda Cabinet is in the process of harmonizing the national legal framework for protection of traditional resources with the domestic rules. The proposed amendments will most likely be changed to accommodate the changes.

⁹ Section 5(1) j of the Copyright and Neighboring Rights Act

¹⁰ Ibid Section 4 CRNRA

¹¹ W. R. Cornish, D. Llewelyn, & T. Aplin, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (9th edn, Sweet & Maxwell 2019) 417.

importance and relevance of oral traditions, which are essential to many communities' cultural identity and continuity.¹²

Furthermore, the lack of protection for spoken works may have an economic impact. Artists and cultural practitioners who rely on conventional ways of expression may struggle to create monetary rewards since their work is unprotected and susceptible to unauthorized exploitation. Addressing this issue requires a nuanced strategy that recognizes and respects the unique characteristics of oral traditions while providing enough legal protection.¹³

4.1.2 The Scope of Protection

The Act protects copyrighted works for fifty years after the author's death, or, if unpublished, from the date of publication. Traditional knowledge and folklore, which are essentially intergenerational, can last much longer. As a result, the normal duration of protection is inadequate for works that span numerous generations and are constantly evolving. This constraint fails to account for traditional cultural manifestations' dynamic and permanent nature, making them vulnerable to illicit exploitation and reducing their cultural worth.¹⁴

Economic and Moral Rights

The Act protects commercial rights (the right to reproduce, distribute, and publicly perform the work) and moral rights (the right to attribution and protection against unfair treatment). However, these rights are typically based on individual authorship, which goes against the communal and social nature of traditional knowledge and folklore. This mismatch may result in insufficient protection for cultural forms that communities have collectively owned and maintained over generations. Addressing this issue necessitates a legal framework that acknowledges and respects the collective ownership and administration that many traditional cultural forms involve.¹⁵

Institutional Framework

International Institutional Framework

Several prominent international entities play important roles in copyright protection. These organizations strive to create and enforce global standards, promote international collaboration, and assist member nations in enacting effective copyright laws. The following are the main international institutions involved in copyright protection

World Intellectual Property Organization (WIPO)

The World Intellectual Property Organization (WIPO) is a United Nations-specialized entity that promotes worldwide safeguards for intellectual property. WIPO administers numerous global copyright treaties,

¹² J. C. Ginsburg & E. Budiardjo, *International Copyright Law: U.S. and E.U. Perspectives* (Oxford University Press 2018) 235.

¹³ C. Antons, "Traditional Knowledge, Traditional Cultural Expressions and Intellectual Property Law in the Asia-Pacific Region," *The WIPO Journal: Analysis and Debate of Intellectual Property Issues* vol. 1, no. 1 (2009) 74.

¹⁴ Kuruk P., "Protecting Folklore under Modern Intellectual Property Regimes: A Reappraisal of the Tensions Between Individual and Communal Rights in Africa and the United States," *American University Law Review* vol. 48, no. 4 (2002) 769-849.

¹⁵ M. Ficsor, "How Much of What? The 'Traditional Knowledge' Debate and the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore" (2004) 35(3) *IIC* 243.

such as the Berne Convention, the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT). It serves as a forum for international IP discussions, provides technical assistance to member states, and aids in the resolution of IP disputes. WIPO's headquarters are in Geneva, Switzerland.¹⁶

World Trade Organization (WTO)

The World Trade Organization (WTO) oversees global trade legislation, ensuring that trade flows as easily, predictably, and freely as possible. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an important WTO agreement. TRIPS defines minimum standards for the protection and enforcement of intellectual property (IP) rights, including copyright, that all member countries must obey. TRIPS incorporates many of the Berne Convention's provisions, as well as additional enforcement and dispute-resolution mechanisms. The WTO's headquarters are in Geneva, Switzerland.¹⁷

UN Educational, Scientific, and Cultural Organization (UNESCO):

The United Nations Educational, Scientific, and Cultural Organization (UNESCO) promotes global collaboration in education, science, culture, and communications. The Universal Copyright Convention (UCC) is among UNESCO's most significant contributions to copyright law. The UCC was established as a supplement to the Berne Convention, particularly for countries who hadn't become part of Berne at the time. While the Berne Convention and the TRIPS Agreement have replaced the UCC, it remains relevant for some countries, particularly those seeking a simpler framework for international copyright protection. The UNESCO headquarters are in Paris, France.¹⁸

International Federation of the Phonographic Industry (IFPI):

The International Federation of the Phonographic Industry (IFPI) represents the world's recording industry. The IFPI works to increase the value of recorded music, advocate for record producers' rights, and expand the commercial applications of recorded music. Furthermore, the IFPI is a key player in fighting music piracy and advocating for strong copyright legislation and enforcement globally. The headquarters are located in London, United Kingdom.¹⁹

International Confederation of Societies of Authors and Composers (CISAC)

The International Confederation of Societies of Authors and Composers (CISAC) is a global network of author societies dedicated to safeguarding and promoting the rights and interests of artists in a variety of artistic disciplines. CISAC promotes international collaboration among its member societies, establishes a framework for reciprocal representation, and ensures that authors are compensated fairly for the use of their works globally. Its headquarters are in Paris, France.²⁰

African Regional Intellectual Property Organization (ARIPO)

The African Regional Intellectual Property Organization (ARIPO) is crucial in supporting the harmonizat-

¹⁶ Dutfield, Graham and Uma Suthersanen, **Global Intellectual Property Law** (2nd edn, Edward Elgar Publishing 2019) 234.

¹⁷ Gervais, Daniel, *The TRIPS Agreement: Drafting History and Analysis* (4th edn, Sweet & Maxwell 2012) 145.

¹⁸ Geller, Paul Edward, *International Copyright Law and Practice* (Matthew Bender 2012) 123.

¹⁹ Handke, Christian and Ruth Towse (eds), *Handbook of the Digital Creative Economy* (Edward Elgar Publishing 2013) 187

²⁰ Ibid Sherman

ion and development of intellectual property (IP) legislation across Africa. ARIPO oversees regional intellectual property treaties and serves as a forum for collaboration among its member governments. It offers training and capacity-building initiatives to help people understand and implement successful intellectual property regimes across the continent. ARIPO's headquarters are in Harare, Zimbabwe.²¹

Organisation Africaine de la Propriété Intellectuelle (OAPI):

The African Intellectual Property Organization (OAPI) advocates for the protection of intellectual property (IP) in French-speaking Africa. It manages the Bangui Agreement, which establishes a standardized system of intellectual property protection for its member states. OAPI seeks to harmonize intellectual property rules, promote economic development, and foster innovation in the region. Its headquarters are in Yaoundé, Cameroon.²²

Together, these agencies form a complete worldwide framework for copyright protection. They promote international cooperation, set worldwide standards, and ensure that artists' rights are protected across borders.

Domestic Institutional Framework

The Judiciary

The judiciary in Uganda plays a critical role in interpreting and enforcing the Copyright and Neighboring Rights Act 2006. It provides mechanisms for resolving disputes, granting remedies for infringement, and ensuring compliance with copyright law.²³ The courts especially have the power to grant reliefs, including injunctions, damages, orders for seizure, and destruction of infringing copies.²⁴ The court may in addition to delivery for the destruction of infringing materials order that an account of profits be made, and grant exemplary damages.²⁵ The judiciary is only set in motion when a complaint is registered. As such the role of the judiciary is to implement the law as it is at the time when a complaint is filed.

Uganda Communications Commission (UCC)

The Uganda Communications Commission (UCC) regulates the communications sector, encompassing broadcasting, telecommunications, and information technology. The UCC is instrumental in enforcing copyright laws in the digital environment, tackling issues such as Concerns like digital theft and the unauthorized broadcasting of copyrighted content. Additionally, the UCC strives to create a supportive environment for the growth of the creative industry. Its headquarters are located in Kampala, Uganda.²⁶

The Uganda Registration Services Bureau

This institution oversees all intellectual property rights in Uganda. When it comes to copyright protection, the bureau is in charge of appointing a copyright registrar in cooperation with the government. The law also gives the agency the authority to designate additional assistant registrars, copyright inspectors, and

²¹ Okediji, Ruth L., *Copyright Law in an Age of Limitations and Exceptions* (Cambridge University Press 2017) 243

²² Foster, William, 'Harmonization of Intellectual Property Laws in Africa: The Impact of the Bangui Agreement' (2018) 40(2) *International Review of Intellectual Property and Competition Law* 145.

²³ Article 126(2)

²⁴ *Supra* Note 45

²⁵ See the case of *John Muray MK Publishers V GWC Ssenkimbi & Another HCCS No. 1018 of 97*

²⁶ *Ibid* Uganda Law Reform Commission Review

other officials as needed to ensure adequate enforcement.²⁷

The law creates organizations to register copyrights. The Uganda National Registration Services Bureau is the organization in charge of regulating copyright registration and enforcement in Uganda. The bureau under the current law does not have a registrar designated for copyright purposes. It provides that the registrar of copyrights may be appointed upon the board of the Uganda Registration Services Bureau's recommendation.²⁸ In a recent High Court decision²⁹, the applicant brought an application before the High Court seeking to challenge decisions made by the Registrar General of the URSB because there ought to be a registrar designated for that particular office. Although the application was dismissed, the same has been provided for in the proposed amendments to the Copy Rights and Neighboring Rights Amendment Bill of 2013.³⁰

The bureau is also responsible for the regulation and registration of collecting societies which are at the very core of advocating the rights of copyright holders. The bureau is also responsible for registering copyrights, and maintaining the record of rights among others.³¹

Collecting Societies

This is also known as a collecting management organisation (CMO). It is an entity that manages the rights of authors, composers, musicians, and other creators on their behalf. Such societies are established to manage and enforce the rights of their members in the context where individual enforcement would not be practical or efficient.³²

In Uganda, the collecting societies are established in the copyright law specifically part VII. The existing society in Uganda is the Uganda Performing Rights Society which is responsible for music. Their role is among others to issue licenses to users, collect royalties from the works of their members, royalty distribution, and enforcement.³³

Ministry of Justice and Constitutional Affairs:

The Ministry of Justice and Constitutional Affairs in Uganda plays a crucial role in implementing copyright law. It drafts, reviews, and proposes amendments to copyright laws to align with international standards. The ministry formulates policies to promote creativity and economic development, enforces copyright laws to combat piracy, represents Uganda in international copyright forums, and conducts capacity-building initiatives to enhance compliance with copyright laws among stakeholders.

Uganda Police

This is an enforcement institution established under the laws of Uganda, specifically under the Police Act. The functions of the police include among others protecting the life, property, and other rights of individuals and enforcing the laws of Uganda.³⁴ As such it is the mandate of the police to enforce copyright law since copyright is a property that must be protected under the Constitution. Yet it remains to be seen

²⁷ Section 41(1) & (2) of the CRNRA

²⁸ Section 41 of the Copy Right and Neighboring Rights Act

²⁹ Nannozi Ritah Sseruwagi V AG & URSB Misc Cause No.133 of 2021

³⁰ Section 7 of the amendment bill seeks to substitute section 41(1) with a provision to the effect that it establishes the office of the registrar in charge of copyright and in that sense this gap will be addressed once the bill is passed into law.

³¹ Section 43 of the CRNRA

³² Gillian Davies and Kevin Garnett, *Moral Rights*, Sweet & Maxwell 2010 Page 295

³³ As in the case of *Uganda Performing Rights Society V MTN (U) LTD CS 287/2010*

³⁴ Section 4(1) (a) & (c) of the Police Act.

how the police have enforced this right. Under the structure of copyright protection, there is a police unit under the URSB. This is the case although copyright owners of music are all over the country.³⁵

In conclusion, the above are the institutional structures given for copyright protection in Uganda. The institutions work hand in hand to ensure that copyright is offered protection. The judiciary adjudicates the disputes where an aggrieved party files a complaint, the URSB is responsible for regulation and registration, and the collecting societies are involved in advocacy for the musicians, especially through the Uganda Performing Rights. The institutions have both strengths and weaknesses which all stem from the existing law itself.

BENEFITS OF COPYRIGHT IN TRADITIONAL MUSIC

Copyright law is a cornerstone of intellectual property law. It is designed to foster creativity, innovation, and the dissemination of knowledge. Its primary aim is to ensure that creators are recognized and rewarded for their contributions, which in turn encourages further artistic and cultural development. In the context of Uganda, the protection of traditional music and folklore under copyright law is of paramount importance. Safeguarding these cultural expressions not only preserves Uganda's rich heritage but also empowers communities by recognizing and protecting their collective rights. Without clear legal protection, traditional music risks exploitation and misappropriation, which can erode cultural identity and deprive communities of the economic benefits derived from their cultural assets. Therefore, establishing robust copyright protection for traditional music is crucial for preserving Uganda's cultural legacy, promoting sustainable cultural industries, and ensuring that the custodians of these traditions are fairly compensated and respected.

Protection of Creative Works

Copyright law grants musicians' exclusive rights over their original works, encompassing literary, musical, artistic, and other intellectual creations. This protection empowers creators to control the use, reproduction, and distribution of their works, safeguarding their intellectual property.³⁶ Such control is essential in preventing unauthorized exploitation and ensuring that creators receive proper recognition and fair financial compensation for their contributions. This protection is crucial for preserving cultural heritage and ensuring that the communities who are the custodians of these traditions benefit from their cultural expressions.³⁷ For example, Uganda's Copyright and Neighbouring Rights Act of 2006 provides substantial protection to creators, complying with international standards to preserve their rights and develop local creative businesses.³⁸

Encouragement of Creativity and Innovation

Copyright law plays a crucial role in encouraging individuals and communities to invest time, effort, and resources in preserving and creating traditional music by offering legal protection and potential financial

³⁵ The ordinary police officers do not have enough training on matters of Copyright protection. As such they cannot be able to enforce what they do not know.

³⁶ Traditional music is in most cases owned by certain communities, as such, individual ownership of traditional music must be viewed with the understanding that copyright protection should include not only individual but also communal ownership.

³⁷ William Cornish, David Llewelyn, and Tanya Aplin, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (8th edn, Sweet & Maxwell 2013) 423.

³⁸ In line with traditional music, the desire to create more of it can be enhanced in Ugandan society knowing that such work will be offered the requisite protection that it deserves.

rewards. As such, a legal framework for traditional music would foster creativity and innovation within the cultural sphere as it would ensure that traditional music, as a valuable form of cultural expression, continues to thrive. Without such protection, the custodians of traditional music may be less inclined to share and develop these cultural expressions, fearing that their creations could be misappropriated without fair compensation. The assurance that their cultural heritage will be legally protected motivates communities to actively engage in the preservation, transmission, and innovation of traditional music, thereby safeguarding Uganda's rich cultural legacy for future generations.³⁹

Economic Benefits

Copyright law promotes economic growth by allowing creators to profit from their works through licensing, sales, and other commercial activities. Such exclusive commercial rights would allow owners to charge higher prices for their traditional music which otherwise they may not be able to do where there is no clear protection.⁴⁰ This, in turn, benefits the economy by producing cash, providing jobs, and stimulating industries associated to the creation and distribution of creative works.⁴¹ For Uganda, the creative industry contributes significantly to the national economy, providing prospects for economic diversification and development. Copyright law contributes to the realization and maintenance of these economic benefits by safeguarding the rights of creators.⁴²

Cultural Development

The protection of traditional creative works under copyright law encourages cultural diversity and legacy.⁴³ Copyright law helps to preserve and disseminate cultural expressions, traditions, and information by allowing writers or composers to share their works without fear of unauthorized use or reproduction.⁴⁴ In Uganda, where cultural history is rich and diverse, copyright protection is critical to preserving traditional knowledge and cultural manifestations.⁴⁵ In the recent past, Indigenous communities have since resisted, among other things: the use of traditional symbols and designs as mascots, derivative arts and crafts; the use or modification of traditional songs; the patenting of traditional uses of medicinal plants; and the copyrighting and distribution of traditional stories in their quest to promote cultural development.⁴⁶

Education and Knowledge Dissemination

Traditional music is a vehicle by which traditional knowledge and resources are protected and preserved such as traditional agriculture, biodiversity and environment protection. As such the need to protect

³⁹ Jane C Ginsburg and Sam Ricketson, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* (2nd edn, Oxford University Press 2006) 14.

⁴⁰ Tanya Alpin, Jennifer Davis; *Intellectual Property Law, Text, Cases and Materials*, Oxford University Press 1st Edition PP and 4

⁴¹ J A L Sterling, *World Copyright Law* (3rd edn, Sweet & Maxwell 2008) 75.

⁴² Ibid Katerin Gray, Note 12

⁴³ Edgar Tabaro, Copyright Reform In Uganda, Addressing international standards at the expense of Domestic Objectives, ACODE Policy Briefing Paper No. 10, 2005

⁴⁴ Paul Goldstein, *International Copyright: Principles, Law, and Practice* (2nd edn, Oxford University Press 2010) 22.

⁴⁵ This preservation of cultural heritage also promotes Uganda's cultural products globally, fostering cultural exchange and mutual understanding.

⁴⁶ Yu, P, Traditional knowledge, Intellectual Property, and Indigenous Culture: An introduction [2003]11 *Cardozo Journal of International Comparative Law* 239

traditional knowledge and resources is taking centre stage on the global platform in relation to intellectual property and trade.⁴⁷ While copyright law protects authors' rights, it also considers the public's desire to obtain or utilize works for educational and informational purposes. Fair use or fair dealing rules allow for limited use of copyrighted material without permission, encouraging education, research, and knowledge dissemination.⁴⁸ Copyright exceptions play an important role in Ugandan educational institutions, allowing students access to learning materials and resources that are critical for the country's educational progress and literacy advancement.⁴⁹

Moral Rights

Copyright law frequently incorporates moral rights that safeguard creators' personal and reputational interests.⁵⁰ These rights ensure that creators are acknowledged for their work and can object to any disparaging treatment that could hurt their reputation or integrity.⁵¹ Moral rights are especially crucial in preserving the human link between creators and their works, ensuring that their contributions are recognized and honored. This understanding can be particularly important in preserving the cultural integrity and authenticity of traditional and contemporary works.⁵²

International Protection

WIPO negotiates international legal protection of traditional cultural expressions through the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore (IGC). During the committee's sessions, representatives of indigenous and local communities host panels relating to the preservation of traditional knowledge.⁵³

Copyright law therefore extends protection beyond boundaries by international treaties and accords, allowing creators to protect their works worldwide.⁵⁴ This worldwide framework is sponsored by organizations such as the World Intellectual Property Organization (WIPO), and it ensures that authors' rights are recognized and enforced across numerous states.⁵⁵ As a signatory to several international intellectual property treaties, Uganda has global protection, critical for Ugandan creators whose works reach foreign audiences.⁵⁶

⁴⁷ DJ Gervais, *The internalization of Intellectual Property; New Challenges from the very old and the very new* (2001-2) 12 *Fordham Intellectual Property Media and Entertainment Law Journal* 929, 955-65

⁴⁸ Lionel Bently and Brad Sherman, *Intellectual Property Law* (4th edn, Oxford University Press 2014) 188.

⁴⁹ Ibid Section 5 of the Act

⁵⁰ https://www.wipo.int/export/sites/www/sme/en/documents/pdf/ip_panorama_5_learning_points.pdf accessed on 13/8/2024

⁵¹ <https://gowlingwlg.com/en/insights-resources/articles/2023/moral-rights-in-copyright-law/> accessed on 22/6/2024

⁵² Ibid Lionel Bently and Brad Sherman

⁵³ <https://www.wipo.int/tk/en/igc/> accessed on 17th June 2024

⁵⁴ <https://copyrightresource.uw.edu/copyright-law/international-copyright-law/> accessed on 13/8/2014

⁵⁵ Mihály Ficsor, *The Law of Copyright and the Internet: The 1996 WIPO Treaties, their Interpretation and Implementation* (Oxford University Press 2002) 29

⁵⁶ The WIPO Copyright Treaty, the WIPO Performance of Phonograms Treaty, the Beijing Treaty on audio-visual performances, the Marrakesh Treaty for the Visually impaired Persons, and the Bern Convention for the Protection of Literary Artistic Works have been approved by the Cabinet of Uganda which will further enhance protection in the international sphere.

Balancing Interests

Copyright law tries to strike a balance between the interests of artists, users, and the general public. By offering time-limited protection (often for the creator's lifetime plus a defined number of years), works eventually enter the public domain, making them freely accessible and usable by everyone.⁵⁷ This equilibrium is critical for increasing the availability of creative works for public consumption while also creating an environment in which new creations can build on existing ones. In Uganda, this balance is critical for fostering both the creation of new works and the broad transmission of information and culture.⁵⁸

Technological Advancements

Traditional music usually has ancient roots and is frequently passed down orally. It is not protected by traditional intellectual property (IP) regimes.⁵⁹ Under the current Ugandan law on copyright, one of the requirements is that the work which is to be protected must be reduced in material form. As such a law to protect traditional knowledge can open it up to improved technology there by enhancing its protection. In the digital age, copyright law addresses issues raised by developing technologies such as the Internet and digital media. It evolves to protect authors' rights in the face of significant technical breakthroughs, addressing challenges such as digital replication, dissemination, and piracy. In Uganda, the growth of digital platforms has transformed the creation and consumption of creative works, needing robust copyright protection to address the unique difficulties of the digital ecosystem. Effective copyright law reduces digital piracy and ensures that authors may profit from their works in the digital era.⁶⁰

Conclusion

Copyright law is critical for protecting creators' rights, building a lively and dynamic creative ecosystem, and promoting the economic, cultural, and educational advantages of creative works. By balancing the interests of diverse stakeholders, copyright law ensures that creativity and innovation survive in society. In Uganda, effective copyright protection is critical for developing the country's creative skills, maintaining its cultural history, and contributing to economic and educational growth.

Challenges and Limitations in the Copyright and Neighboring Rights Act concerning the protection of Copyright in traditional music.

Lack of Specific Provisions

The Act has no specific measures addressing the unique nature of traditional knowledge and folklore. It fails to recognize communal ownership of traditional works or to establish safeguards for these collective cultural expressions. This absence exposes traditional music and folklore to exploitation and misappropriation. Without sufficient legal protection, these cultural assets can be commercially exploited without the knowledge of the communities that produced and nurtured them. To maintain these cultural

⁵⁷ J. Ginsburg, “‘Une chose publique’? - The Author’s Domain and the Public Domain in Early British, French and US Copyright Law”, in P. Torremans (ed.), *Copyright Law: A Handbook of Contemporary Research*, Edgar Elgar, 2007, p.133.

⁵⁸ Paul Edward Geller and Melville B Nimmer, *International Copyright Law and Practice* (LexisNexis 2015) ch 1

⁵⁹ Catherin Colston and Jonathan Galloway, *Modern Intellectual Property Law*, Routledge, 3rd Edition 2010 at Page 38

⁶⁰ Jessica Litman, *Digital Copyright* (2nd edn, Prometheus Books 2006) 3.

assets, it is critical to create legal frameworks that recognize and defend indigenous and local people's collective ownership and long-standing traditions.⁶¹

Oral Tradition and Documentation:

Traditional music and folklore are frequently passed down orally and may not be documented until they are recorded by outsiders. The Act's requirement for works to be in material form makes it difficult for orally transmitted works to obtain protection unless they are formally recorded and documented. This criterion may undercut the preservation of intrinsically non-material cultural manifestations, making them subject to misappropriation and abuse. As a result, the legal framework fails to account for the specific qualities of oral traditions, which are an important part of many communities' cultural legacy.⁶²

Exploitation Risks

Without specific protections, traditional knowledge and folklore are at serious risk of being exploited by individuals or groups outside of the communities that have them. Unauthorized usage, commercialization, and misuse of traditional music can destroy cultural heritage and violate traditional custodians' rights. This exploitation not only destroys cultural identity, but also deprives communities of possible economic benefits from their cultural expressions. As a result, it is critical to create legal processes that particularly address and safeguard the distinctive features of traditional knowledge and folklore.⁶³

Key Provisions in The Amendment Bill

The Copyright and Neighboring Rights Act is currently undergoing the amendment process. In an era where traditional music advocacy has often been neglected, it is essential to examine whether the proposed amendments address the gaps in the existing law and include provisions that will offer robust protection for the copyrights of traditional music and folklore. This investigation is crucial to ensure that the cultural heritage embodied in traditional music is adequately safeguarded and that the rights of creators and communities are recognized and preserved.

Expansion of The Definition Section

The amendment intends to incorporate into the law definitions that were not included in the Act. Notably, the artistic works will comprise dramatic, dramatic visual, and musical works, audiovisual works, and sound recordings, as well as other similar works.⁶⁴ The composer of artistic works includes the person who creates the work.⁶⁵ The definition part also covers accessible format copy, anonymous work, and beneficiary person. The definition portion was expanded to include beneficiaries who are blind or have a visual impairment, as well as those who are unable to hold a book or manipulate focus with their eyes.

⁶¹ M. Torsen & J. Anderson, "Intellectual Property and the Protection of Traditional Cultural Expressions" (2010) 2(1) *WIPO J* 72.

⁶² J. Blake, "Developing a New Standard-Setting Instrument for the Safeguarding of Intangible Cultural Heritage: Elements for Consideration" (2001) 53(1) *Museum International* 23.

⁶³ T. Greaves, "Intellectual Property Rights for Indigenous Peoples: A Sourcebook" (1994) 18(4) *Cultural Survival Quarterly* 44.

⁶⁴ Section 1 of the amendment (a) (b)

⁶⁵ Section 1(c) of the amendment bill

Works Eligible for Copyright

The modification adds a provision to section 5 of the existing act that broadens the works eligible for protection. Notably, it applies to dramatic musical compositions, audiovisual works or sound recordings, lectures, addresses, and summons that were not previously protected by the Copyright and Neighboring Rights Act 2006. Paragraph (p) describes any more work in the realms of literature, knowledge, science, and art that will become available or known in the future. This function could have been intended to conserve traditional music in a broader sense.

Definition of Musical Works

The amendment defines musical works as any work that contains music, including lyrics, music compositions, music scores, musical notations, or graphical notation of such work in manuscript or print form. Ringtones are also defined as a subscription sound recording or tone that a telecommunications operator plays to the caller, including call-back music. This is an important aspect because composers are not mentioned in the Act.⁶⁶

Protection of Political Speeches and Interviews

The amendment bill proposes to change section 5 of the existing law to add protection for political speeches, interviews, and speeches delivered during court processes.⁶⁷ This will solve previous issues about political speeches being used as caller melodies, and when politicians go to court, they are not permitted remedies until the speech is in some format or reduced in material form.

Technological Protection Measure

The bill prohibits the bypassing of robust digital safeguards, as well as the production, importation, distribution, or sale of business products, components, and amenities that are marketed or publicized in order to avoid technological restrictions. Such behavior will be regarded as a criminal punishable by up to two thousand currency points or a term of no more than seven years in prison. The court can award compensation in addition to the imposed penalty.⁶⁸

Increase in The Parameters for Fair Use of Works.

The change in section 7 expanded the regulations governing the fair use of Ethical utilization of property. under Section 15 of the Act. It now includes any work transcribed into Braille, sign language, or other accessible format copies for cross-border exchange or use by a beneficial individual, as long as it is not for commercial purposes. It also contains works used for online learning by educational institutions, libraries, archives, and musicians. This expansion intends to improve access to copyrighted resources for educational and accessibility reasons while respecting authors' rights. The Marrakesh Treaty has a comparable clause to facilitate access to published works for those who are blind, visually impaired, or print-disabled.⁶⁹

⁶⁶ Section 1(d) of the amendment

⁶⁷ Section 3 of the amendment bill

⁶⁸ Ibid Section 14 B

⁶⁹ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled 2013, Article 4.

Inclusion How to Make Use of Orphan Work.

The amendment establishes a procedure that can be followed when a person seeks to exploit an orphan work. This person may apply to the government for a license to exploit such work. The license will not be granted unless the applicant can establish that the author of the work cannot be found. The individual granted such a license must pay an annual license fee, which will be defined by the minister's regulations. The amendment grants the individual who acquires such a license access to the author's economic rights. If the person is apprehended before the license expires, the author's rights are restored.⁷⁰

Recognition for Performers and Producers

Section 31 is changed to include paragraph 1. The amendment permits the recording of sounds or video fixation that is published for marketing purposes. If a reproduction of such a sound marketing recording or audio-visual preservation is used directly or indirectly for broadcasting or other public communication, the performers and producers must be fairly compensated whenever their work is used, unless otherwise agreed.⁷¹

Contracts Must Be in Writing.

Section 35 is amended to require that contracts for public performance and broadcasting of works be in writing. They must be signed or marked by the contracting parties, registered with the registrar, and include information such as the contract's date, the amount of remuneration to the parties, and the mode of payment. It must specify the parties' duties, the exploitation rights awarded, and any other terms on which the parties may agree. Contracts cannot be registered if they contradict the provisions of the law.⁷²

Rights and Duties of Composers

The bill also grants songwriters the right, among other things, to authorize the replication of artistic work, as well as the dissemination or making available to the public of the original or copies of the artistic work through the sale or transfer of ownership.⁷³ If the piece is utilized for commercial advertising or any other type of public communication, the user is not required to obtain the composer's permission, but the composer and performer must be compensated fairly.⁷⁴ Furthermore, the composer's rights are protected for 50 years after death.⁷⁵ The amendment outlines composers' moral rights in detail.⁷⁶ Allows for income sharing from ringtones with specified percentages.⁷⁷

The Office Registrar of Copyrights

The amendment also seeks to make a provision for an officer in charge of copyright specifying how the

⁷⁰ Ibid Section 8 amendment

⁷¹ Ibid Section 9 amendment

⁷² Ibid section 10 Amendment

⁷³ Ibid Section 34 A of the amendment bill

⁷⁴ Section 34A (4) of the amendment bill

⁷⁵ Section 34A (4) overall this provision is a good move given that in the old Act which is still in force, composers were not provided for yet they play a vital role in the music industry.

⁷⁶ Section 34B

⁷⁷ Section 40B

registrar shall be appointed to manage the office.⁷⁸ The amendment bill also provides for the registrar to directly coordinate and implement the Act and multinational treaties and conventions to which Uganda is a beneficiary of the rights that are recognized under the Act and to settle disputes that come up between copyright holders, collection societies, and the users of copyright works.⁷⁹

Register of Copyright

The bill seeks to introduce the special register of copyrights which shall be maintained as an electronic record system. The said record is required to specify the nature of the registered copyright and Neighboring Rights and the details of the holder of the copyright.⁸⁰

Settlement of Disputes

In addition to section 45, the measure includes a provision that allows aggrieved parties to pursue legal disputes. The complaint is to be submitted before the registrar, who will conduct an initial investigation into the disagreement. Under the same rule, the registrar is given the authority to provide remedies; but, if a person is not contented with the determination of the court, they have the right to appeal or challenge such a decision in already existing courts of law.⁸¹ These among others are the new provisions in the amendment.

Challenges In the Amendment That Are Not Addressed by the CRNRA

Some challenges which are in the Copyright and Neighboring Rights Act persist in the amendment bill. The following is a discussion of some challenges which are in the Copyright and Neighboring Rights Act that still exist in the proposed amendment law.

Awareness and Enforcement

The existence and implications of copyright laws are not widely known among the general public. Many creators, particularly in rural regions, are unaware of their rights and the legal protections available to them under present legislation. There is a lack of comprehensive education initiatives to teach artists, users, and the general public about copyright rules and their significance. The proposed modification demonstrates that this is still true. The current institutional foundation for enforcing copyright rules is poor. The enforcement bodies, such as the URSB and the police, lack the resources and people to enforce the laws. The measure contains no particular provisions for handling these challenges.⁸²

Lack of Protection for Traditional Music

Traditional music and folklore are inherently non-material. It is typically passed down from one generation to the next by word of mouth. Uganda is one of those countries with a diverse cultural heritage, many of which are preserved through traditional music.⁸³ The existing legislation, however, requires that a copyright be in material form. Furthermore, the law protects copyrights for up to fifty years, even though

⁷⁸ Section 7 (Amendment of section 41 of the principal Act)

⁷⁹ Section 8 (Amendment of section 42 of the Principal Act)

⁸⁰ Section 9 (Inserting Section 42A)

⁸¹ Section 44A

⁸² Lydia P. Loren and Joseph Scott Miller, *Intellectual Property Law: Cases and Materials* (5th edn, Semaphore Press 2020).

⁸³ T Oguamanam, 'The Protection of Traditional Knowledge and Folklore: A Comparative Analysis of International and National Approaches' (2014) 9 *Journal of Intellectual Property Law & Practice* 440.

traditional knowledge is often passed down through generations, exceeding the 50 years allowed by law. As a result, the proposed amendment fails to address this critical issue.

Technological Measures

The Copyright Act of 2006 included no provision for digital rights management or protection. Today's world is greatly digitalized, and while the amendment attempts to reference digital inclusion, there are no specific measures for digital enforcement. The amendment law protects technological measures, but the practical implementation of the protections is unknown.⁸⁴ The measure does not go into depth about digital improvements, even though digitalization has risen over time. There is no indication of how the digital reforms relate to the current state of the music industry.

Economic Impact

The 2006 Copyright Act failed to examine the economic impact on consumers, particularly when it came to balancing consumer and author rights with public access. The amendment bill has the potential to increase consumer expenses. This will limit access to digital and creative works, particularly for low-income people. This is because, although improved protection increases authors' and performers' rights, it reduces consumer access to content and raises production costs.⁸⁵

Provisions on Education and Accessibility

The 2006 Copyright Act has a few exceptions and limitations for educational usage and access for people with impairments. Provisions in the amendment bill have been defined, but they are insufficiently precise or practical to adequately address all of the needs. By tightening the legislation, organizations will be limited to producing braille, audio, big print, or digital formats without the explicit authorization of right holders.⁸⁶ This may cause a delay in access because there will be a process for obtaining permission, making it difficult for those who require the materials.⁸⁷

Copyright Registration

The 2006 Copyright Act does not establish explicit requirements for copyright registration. This is stated in the preamble to the amendment; however, the amendment does not specify how the registration will be carried out.⁸⁸ There is a need to add that registration can be done at regional offices to make it easier for musicians who live upcountry and to keep costs down in the long term.⁸⁹ Furthermore, the registrar's office should be decentralized so that it is accessible throughout the country.

Taxation of Copyright

The 2006 Copyright Act did not include copyright as a taxable area, despite the government's persistent

⁸⁴ For example, in Uganda communications are managed by the Uganda Communication Commission. The Bill does not indicate that the commission can work together with URSB so that infringing materials can be taken down from the internet. Such strong measures are necessary to match the current technological advancement which leaves room for infringement to go on unchecked.

⁸⁵ Catheline Colston and Jonathan Galloway, *Principles of intellectual property Law* 4th Edition Routledge 2010 page 217

⁸⁶ It may increase the licensing costs in the process of obtaining licenses to make accessible formats thereby making it costly for Organisations which serve people with disabilities.

⁸⁷ Daniel L. Zimmerman, *Intellectual Property and Disability: A Critical Study*, Oxford University Press 2017, Page 142

⁸⁸ *Supra* Note 119

⁸⁹ Moreso, it does not indicate how proof of a copyright shall be done, for example, the electronic certificate of registration should be included so that the creator can prove ownership digitally from any part of the country.

revenue-generating issues and the desire to broaden the tax base. Identifying copyright as a possible tax source would present a substantial opportunity for the government to increase revenue. However, the present amendment bill does not address this critical issue. Addressing this gap could lead to more effective financial support for creative sectors and ensuring that copyright benefits the national economy.⁹⁰

Recommendations for Improved Protection

Specific Legislative Provisions

Legislative modifications could contain special provisions that acknowledge and protect the cultural relevance of traditional music and folklore, addressing their distinct demands.⁹¹ These laws may include methods for documenting and preserving traditional music and folklore, ensuring that the knowledge and skills related to these cultural manifestations are passed down to future generations. Furthermore, the legislation might grant Indigenous groups the ability to manage and profit from the commercial usage of their Indigenous music and traditions. This could entail developing procedures for equitable pay and obtaining prior informed consent for using these cultural expressions. By implementing such targeted measures, the legislative framework can better promote the long-term viability and integrity of traditional music and culture.⁹²

Recognition of Collective Rights:

The legislation should be changed to explicitly acknowledge the communal and social ownership of traditional knowledge and folklore. This amendment would ensure that rights are assigned to the community as a whole rather than individual writers. By recognizing the collective nature of traditional cultural manifestations, the legislation would lay the groundwork for protecting the interests of the whole community that preserves and upholds these traditions. This move would make it easier for communities to control and benefit from their cultural heritage while also facilitating a more equitable distribution of rights.⁹³

Extended Duration of Protection

Adjust the duration of protection to better reflect the cross-generational nature of traditional works. Current legislation typically offers protection for up to fifty years from the death of the author or from the date of publication, which is insufficient for traditional knowledge and folklore that span multiple generations. To address this, the Act could provide for an indefinite duration of protection for traditional knowledge or at least extend the protection period beyond the current fifty-year limit. Such an adjustment would acknowledge the ongoing cultural significance of these works and ensure that the rights of the communities maintaining them are preserved over the long term. This extended protection could also facilitate the inclusion of provisions for periodic reviews to adapt to the evolving nature of traditional knowledge.⁹⁴

⁹⁰ Ibid Uganda Law Reform Commission Report

⁹¹ <https://crossculturalfoundation.or.ug/docs/@CCFU-Legal-instruments-related-to-Culture-2015.pdf> accessed on 13/8/2024

⁹² Michael Blakeney, 'Protection of Traditional Knowledge by Geographical Indications' (2019) 40(3) *European Intellectual Property Review* 138, 140.

⁹³ G. Dutfield, "The Role of Intellectual Property Rights in Protecting Traditional Knowledge and Folklore" (2004) 11(2) *International Journal of Cultural Property* 158.

⁹⁴ S. Sharma, "Rethinking Copyright Duration: Traditional Knowledge and the Need for Extended Protection" (2007) 2(12) *Journal of Intellectual Property Law & Practice* 837

Inclusion of Oral Traditions

There is a need to amend the Act to accommodate works that are not fixed in material form at the moment of production but are recognized and documented later. This modification would include measures that allow for the conservation of oral traditions once they have been documented. Recognizing that traditional knowledge and folklore are frequently transmitted orally before being documented, such a revision would ensure that these cultural manifestations are legally protected, even if they are initially intangible. This approach would help to bridge the gap between traditional practices and modern intellectual property regulations, protecting oral traditions while also ensuring that their cultural relevance is retained and recognized once they are properly documented.⁹⁵

Documentation and Registration:

Encouraging the documenting and legal registration of traditional music and folklore can greatly improve their protection. Cultural institutions should be supported in establishing or improving initiatives to record and document traditional works. These institutions can work with communities to formally document and preserve traditional music and cultural expressions. Communities can better protect their cultural heritage from illicit usage and preserve traditional works for future generations by developing rigorous documentation and registration procedures. This procedure not only protects these communities' intellectual property but also helps to preserve the cultural integrity of their traditional practices.⁹⁶

Registration Systems

Create registration procedures that allow communities to register their traditional music and folklore, even if they are first conveyed orally. Such systems should be designed to accommodate the specific characteristics of oral traditions while still providing a formal basis for claiming rights and seeking legal protection. These systems can assist in establishing legal recognition and protect communities' intellectual property by making it easier to register oral traditions after they have been documented. This method preserves and protects traditional cultural expressions from unlawful usage, while simultaneously allowing communities to defend their rights to their cultural heritage.⁹⁷

Customary Laws

Recognize and incorporate customary laws and practices governing the preservation of traditional knowledge and folklore into the official legal system. Customary laws, which are based on local customs and cultural practices, can provide crucial extra levels of protection alongside official intellectual property procedures. By incorporating these local customs within the legal system, traditional knowledge and folklore can be better protected while also aligning with the values and norms of the communities who hold this legacy. This strategy ensures that legal protection respects and strengthens traditional traditions, ultimately improving the overall protection of cultural expression.⁹⁸

⁹⁵ B. Barton, "Revisiting Intellectual Property Laws to Protect Oral Traditions and Cultural Expressions" (2013) 6(3) *Cultural Heritage Journal* 115.

⁹⁶ M. Mendoza, "The Role of Cultural Institutions in Protecting Traditional Knowledge: Documentation and Registration Practices" (2016) 6(2) *Journal of Cultural Heritage Management and Sustainable Development* 136.

⁹⁷ E. Kamau & N. Gikonyo, "Designing Effective Registration Systems for Traditional Knowledge and Cultural Expressions: Challenges and Opportunities" (2014) 2(1) *African Journal of Intellectual Property* 25.

⁹⁸ K. Osei-Tutu, "Customary Laws and Intellectual Property: Bridging Traditional Knowledge Protection with Modern Legal Frameworks" (2015) 10(4) *International Journal of Intellectual Property Management* 259.

Community Agreements

Facilitate the formation of agreements between traditional communities and external parties to ensure that traditional music and folklore are used per the community's rights and wishes. These agreements should specify the parameters of use, such as consent, benefit sharing, and preservation of cultural integrity. By formalizing these agreements, communities can have more control over how their traditional cultural manifestations are exploited, assuring proper acknowledgment and recompense. Furthermore, such agreements help prevent illegitimate exploitation while still honoring and preserving the cultural relevance of traditional music.⁹⁹

Conclusion

The existing Ugandan copyright law offers some protection for traditional music and folklore, but it falls short due to its emphasis on material forms and individual authorship. Uganda can better protect its rich cultural heritage and ensure the preservation and respect for traditional music and folklore by enacting specific legislative provisions, encouraging documentation and registration, implementing community-based protection mechanisms, and increasing education and awareness.¹⁰⁰

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