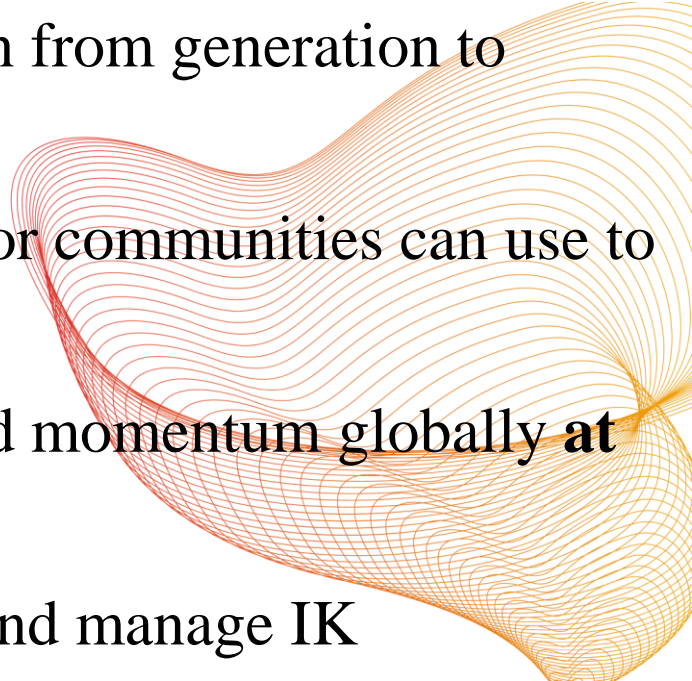

Harnessing the economic value of Indigenous Knowledge in Kenya: Challenges and opportunities in the Legal Framework

By

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Background

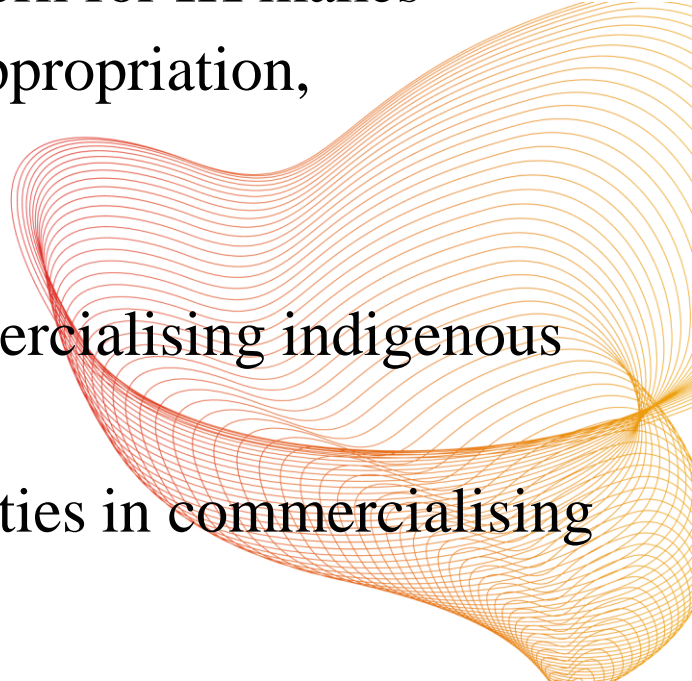
- Indigenous knowledge (IK) holds immense **cultural and economic value**; as such, it needs to be protected
 - IK is **communally owned** and passed down from generation to generation.
 - IK is a unexploited **asset** that the global poor communities can use to uplift their life
 - Recently, tendency to **exploit** IK has gained momentum globally **at the expense** of poor host communities
 - There's need for a **framework** to protect and manage IK
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Rationale & Objective of the study

Rationale

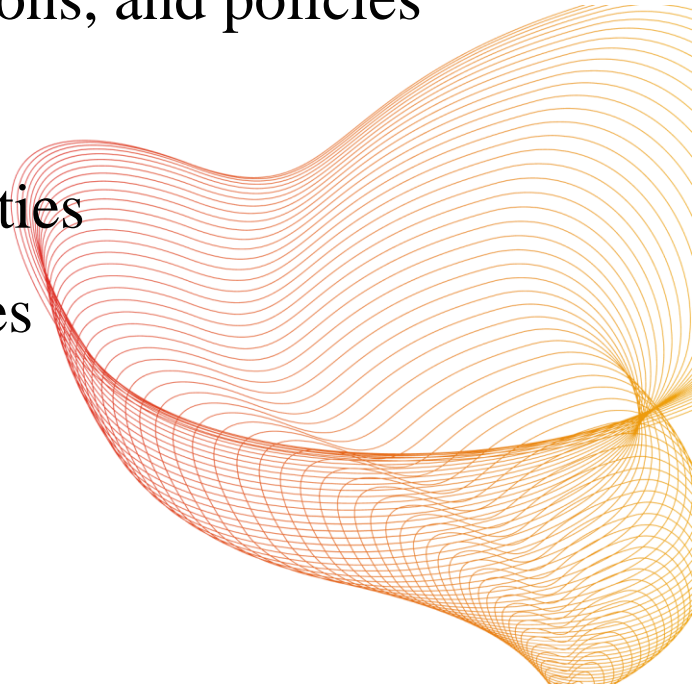
Lack of a robust commercialization framework for IK makes indigenous communities vulnerable to misappropriation, exploitation, and inadequate compensation

Objectives

1. To assess the legal framework for commercialising indigenous Knowledge (IK) in Kenya.
 2. To identify the challenges and opportunities in commercialising Indigenous Knowledge (IK) in Kenya.
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Methodology

- Qualitative
- Extensive review of existing laws, regulations, and policies
- Findings analyzed thematically
 - Global bodies e.g. UN Initiatives/Treaties
 - Continental – e.g AU initiatives/ treaties
 - Local laws – Kenyalaw.org





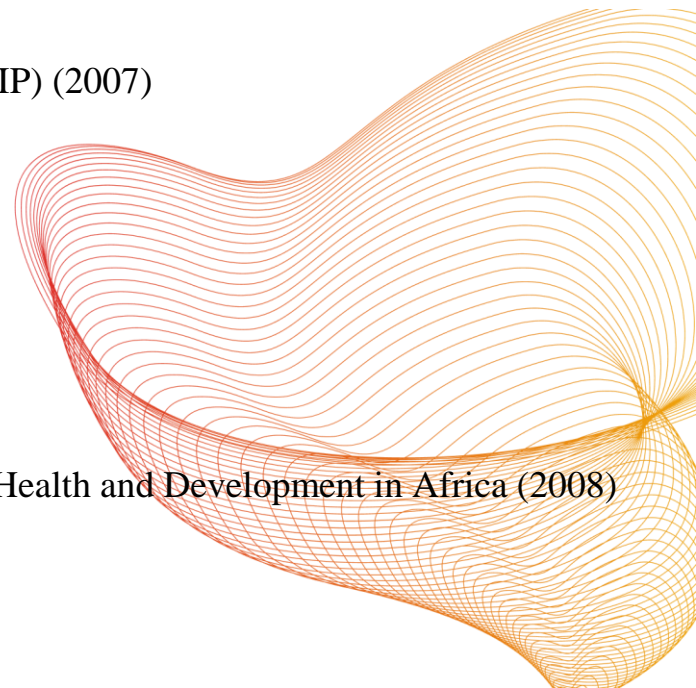
Legal Landscape for IK

Global

- UN Nagoya Protocol (2010)
- World Intellectual Property Organization (WIPO) (1970)
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)

Continental

- African Regional Intellectual Property Organization (ARIPO) (1976)
- The ECOWAS Cultural Framework Agreement (1987)
- The African Charter for African Cultural Renaissance (2006)
- The Maputo Declaration on the Contribution of Traditional Medicine to Health and Development in Africa (2008)
- The African Union's Agenda 2063 (2015)



The Legal Framework for IK in Kenya

2.4 The Forest Conservation and Management Act No. 34 of 2016 - indigenous forests in public forests

2.3 The Seeds and Plant Varieties Act (2015)- acknowledges indigenous seeds



1) The Constitution of Kenya 2010

- Article 11 recog. culture as the "foundation of the nation"
- Article 63 guarantees the community the right to own

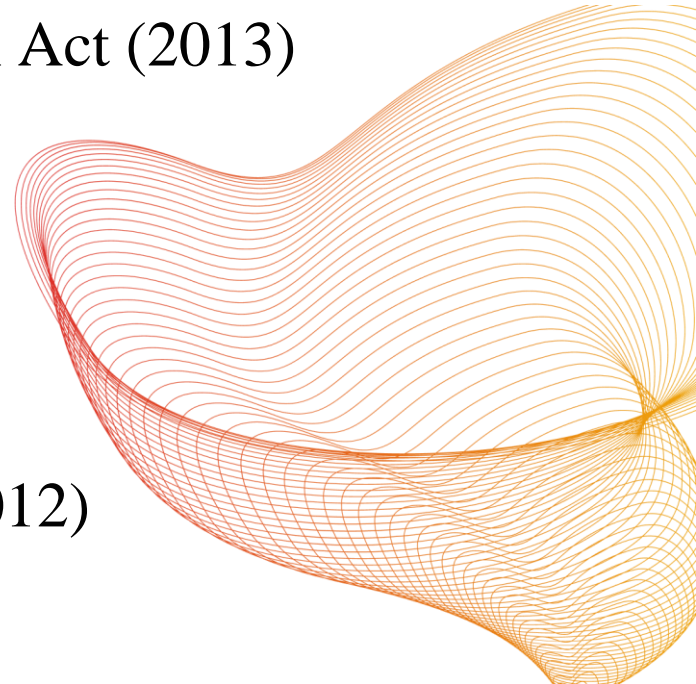
2) ACTs of Parliament

2.1 The Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016 - gives communities the power

2.2 The National Museum and Heritage Act of 2009 – protects heritage

Other Legislation that affect IK

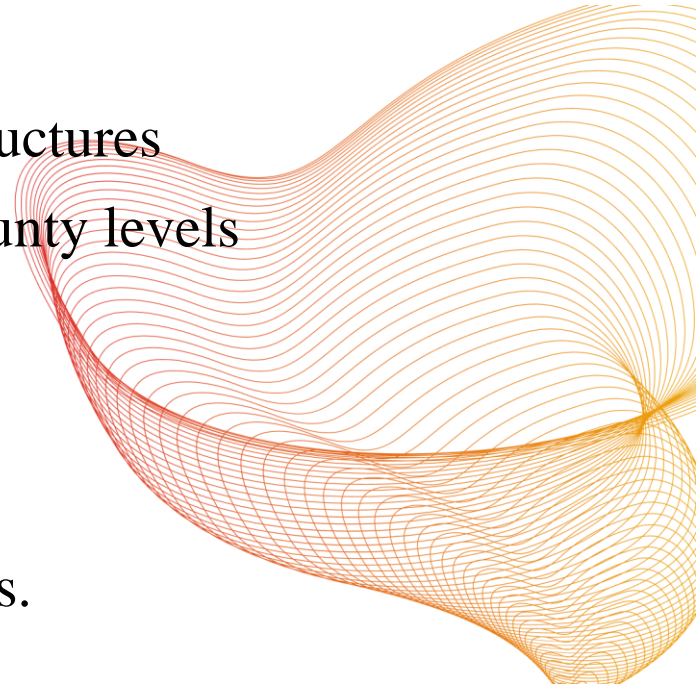
- Devolution Act (2012)
- The Science, Technology, and Innovation Act (2013)
- Copyright Act (2001),
- Industrial Property Act (2001)
- Data Protection Act (2019)
- Information and communication ACT (2012)





Challenges in legislating for IK

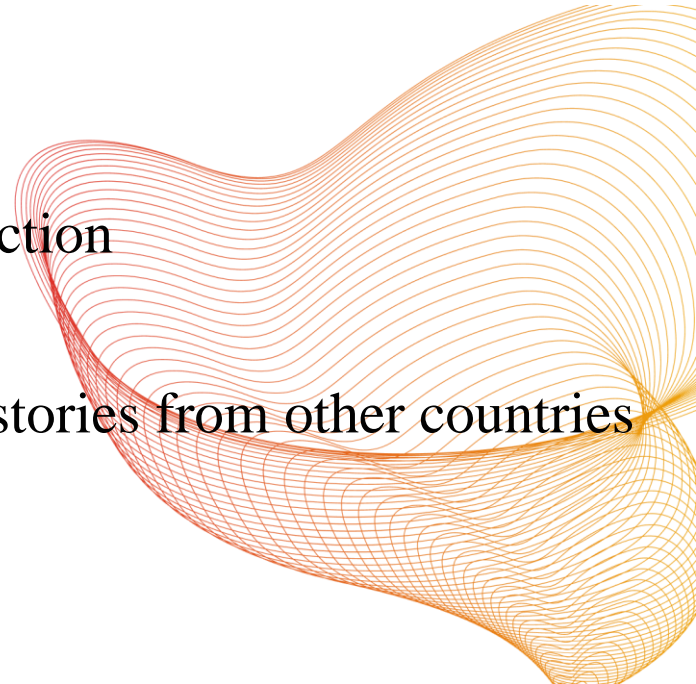
- Lack of an inventory of IK
- Limited resources for documentation and preservation .
- Ownership of Indigenous knowledge
- Weak/ unavailable community governance structures
- Lack of legal recognition and protection at county levels
- Cultural and linguistic barriers.
- Decolonize the mind and religion
- Conflicts within Indigenous communities.
- Exploitation and misappropriation by the elites.



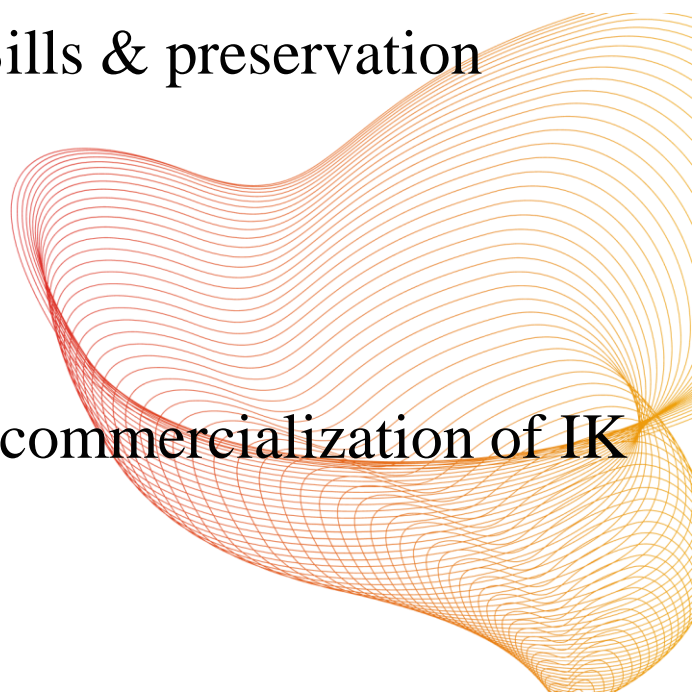


Opportunities for more legislation to Harness IK

- Constitution 2010 and The Protection of Traditional Knowledge and Cultural Expressions Act No. 33 of 2016
- Changing consumer habits
- Strong ICT infrastructure in the country
- The devolution of the management of IK function
- Existing Laws that support and promote IK
- Existing frameworks/best practices/ success stories from other countries
- Vibrant vernacular media
- Increased interest/ update of IK



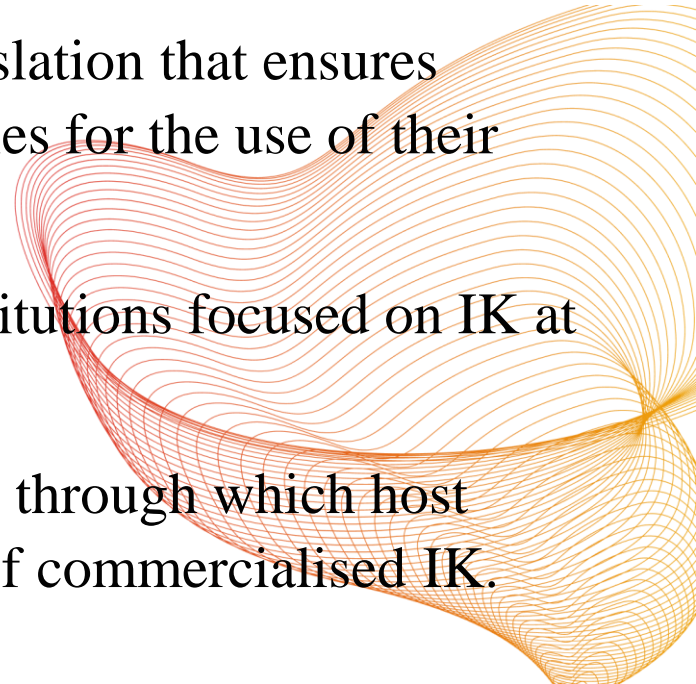
Conclusions

- IK is recognized & legislated at the national Government
 - IK devolved but limited evidence of Bills & preservation activities at the county level.
 - Notable IK assets are in the Market.
 - Inadequate legislation to facilitate the commercialization of IK
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Recommendations

1. All stakeholders should work together to identify, document, & preserve IK assets in their jurisdiction.
2. Consolidate legislations into one robust legislation that ensures communities receive compensation or royalties for the use of their cultures and cultural heritage
3. Establishment or strengthening of strong institutions focused on IK at the national and county levels.
4. Determine avenues and provide a framework through which host communities can benefit from the proceeds of commercialised IK.





Thank you for your time and attention 😊