

Forty-Fourth Session of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Geneva 12th to 16th September 2022

Presentation Panel on Collective Nature of Traditional Knowledge and Traditional Cultural Expressions: Perspectives of Indigenous Peoples and Local Communities.

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One of the most important aspect of being an Indigenous Person and working with Indigenous Peoples, is that it gives you a lot of strength and motivation to the fact that all what you do and all what is around gives you hope and joy that you have a collect responsibility to think of the next living being, plant or animal that has life and a right to be where it. It is this holistic approach of that give us the knowledge to keep protecting nature. Indigenous Peoples are socialized around our traditions, cultures and values. Traditional knowledge is rooted in our Indigenous relationships with the environment and is valuable not only to Indigenous Peoples and our local communities, but to all our societies in our respective countries. Our collective nature makes us live in Harmony with nature and have continued mainstreaming our lives with what we do both in our lands and territories and protecting our natural resources is guided by that collective action this is closely related to their environment and land and thus important for the identity and well being

Cultural expression help to build the community and the growth of the young generation. The Traditional Knowledge expression are a process shared among the Indigenous Peoples communities for use orally, through saying , advice, songs and phrases acts and the ornaments like beads and cloth, how and who builds our houses and how we greet and talk are all expressions that remind us who we are as indigenous community

In is important to note that Indigenous Peoples are very proud of their heritage that include their language knowledge and cultural expressions that they use all the time. They do this while they know that it is their identity and that it is well related to their land and territories. This is important because it keeps the community together and help generation after generation grow with a perspective of who they are. There is need to have the Traditional knowledge, culture believes and values be well protected and supported and emphasis must be placed in

transmitting that knowledge to future generations. It must be acknowledged that it is no coincidence that 80 percent of the world's biodiversity is found on Indigenous territories. Indigenous languages, skills, and techniques provide valuable information to the global community and serve as a useful model for solutions to contemporary issues.

In the past years, have faced a lot of challenges in that we have been faced by Climate Change and Conflict in the world that has caused many communities move from their original lands and territories, and impacted on the encouragement and destruction of Forest and lands and territories of Indigenous Peoples. Population growth has come with its own land and resource demands of lands and other resources. It has also been clear that Government / Member states have not put in serious legislation to protect the right of indigenous peoples, their land resources. That has continued further the distraction and lose of the Traditional Knowledge.

Traditional knowledge has led to the development of unique species of plants and animals. Many widely used products, such as plant-based medicines, health products and cosmetics, are derived from traditional knowledge. Traditional knowledge may also provide valuable information to researchers and others regarding the specific properties and value of genetic resources and their potential use

The Mo' otz Kuxtal Voluntary Guidelines provide a framework for guiding Parties, other Governments, relevant organizations and indigenous peoples and local communities in building fair partnerships and fostering positive engagement between the potential users and the holders of traditional knowledge. It is a tangible tool in keeping with the greater emphasis now placed by Parties to the Convention on practical results with a view to developing, by 2020, a post-2020 global biodiversity framework and achieving Target 18, on traditional knowledge, of the current Strategic Plan for Biodiversity 2011-2020. Traditional knowledge, innovations and practices are valuable not only to those who depend on it in their daily lives, but to modern industry, research, agriculture and animal husbandry. Most

indigenous peoples and local communities inhabit areas where the vast majority of the world's genetic resources are found. Many of them have cultivated and used biological resources in a sustainable way for thousands of years. By doing so, they have developed a wealth of knowledge linked with the conservation and sustainable use of biological resources. However, research and other activities that require access to the traditional knowledge, innovations and practices of indigenous peoples and local communities have been a source of concern to these communities.

Despite the fact that we know Traditional knowledge refers to: knowledge or practices passed down from generation to generation that form part of the traditions or heritage of Indigenous Peoples, knowledge or practice for which Indigenous communities act as the guardians or custodians, we also need to know and think how this traditional knowledge , expressions can be protected, and also passed on from one generation to the next? We are in a time that we have a new generation that does not understand the concepts and we need to have continuous learning process to ensure that this knowledge is not lost and the expressions and language used by our elders is keep intact for generations to come

During this year 2022 , the United nations' Permanent forum on Indigenous issues, the theme was *“Traditional Knowledge: Generation, Transmission and Protection.”* Most of the discussions at the Forum highlighted the urgency to protect, promote, and revitalize Indigenous languages as they are rapidly disappearing, and the need for Member States to protect Indigenous Peoples' traditional knowledge systems as they directly contribute to sustaining biological diversity, food security, conflict resolution, and cultural diversity, and are key in fighting the impacts of climate change.

At the same process and in the past two year or so Indigenous Peoples have been collectively working together in the development of the Biodiversity Strategic plan - Post 2020 Global Biodiversity Framework. This Framework is expected to be approved in upcoming COP15 of the convention on Biological diversity to be held in Montreal Canada in De ember 2022.

IIFB has looked at the framework comprehensively and has among other recommendations picked up areas on traditional knowledge which are crucial in the framework Principles and Approaches Guidance for the Implementation of the framework. The global biodiversity framework is to be implemented based on scientific and other evidence, recognizing the role of science, technology and innovation and that of other knowledge and innovation systems, and in line with and full respect of the precautionary approach and the ecosystem approach.

Additionally, potential users of traditional knowledge have expressed a desire for certainty and legal clarity regarding the access and use of traditional knowledge.

To address this concern in a manner that avoids any inconsistencies with the Nagoya Protocol, avoids duplication and overlap of work undertaken in other international forums, and takes into account relevant developments, the Conference of the Parties decided to develop guidelines for the development of mechanisms, legislation or other appropriate initiatives for prior informed consent or approval and involvement of indigenous peoples and local communities and for fair and equitable benefit-sharing as well as guidelines for the reporting and prevention of unlawful appropriation. This decision led to the adoption of the Mo' otz Kuxtal Voluntary Guidelines in December 2016.

The reason that when we look and emphasise the need for the protection Collective Nature of Traditional Knowledge and Traditional Cultural Expressions: Perspectives of Indigenous Peoples and Local Communities , we recognize that science and many researchers are doing a lot of work on research while at the same time including the knowledge of Indigenous Peoples and local communities where they have found the importance of that knowledge in the protection of Biodiversity. This has been clearly confirmed by IPBES which has been doing a lot of work with Indigenous peoples:

The use of wild species by indigenous peoples and local communities, as well as their extensive knowledge, practices and beliefs about such uses, are also explored in the Report. Indigenous peoples manage fishing, gathering, terrestrial animal harvesting and other uses of wild species

on more than 38 million km² of land, equivalent to about 40% of terrestrial conserved areas, in 87 countries. The Report finds that policies supporting secure tenure rights and equitable access to land, fisheries and forests, as well as poverty alleviation, create enabling conditions for sustainable use of wild species.

*“Indigenous stewardship of biodiversity is often embedded in local knowledge, practices and spirituality,” said Dr. Emery. “The sustainable use of wild species is central to the identity and existence of many indigenous peoples and local communities. These practices and cultures are diverse, but there are common values including the obligation to engage nature with respect, reciprocate for what is taken, avoid waste, manage harvests and ensure the fair and equitable distribution of benefits from wild species for community well-being. Globally, deforestation is generally lower on indigenous territories, in particular where there is security of land tenure, continuity of knowledge and languages, and alternative livelihoods. Bringing scientists and indigenous peoples together to learn from each other will strengthen the sustainable use of wild species. This is especially important because most national frameworks and international agreements largely continue to emphasize ecological and some social considerations, including economic and governance issues – while cultural contexts receive little attention - **IPBES report on Sustainable Use Assessment of Wild Species 2022***

Implementation of the framework requires transformative, innovative and transdisciplinary education, formal and informal, at all levels, including science-policy interface studies and lifelong learning processes, recognizing diverse world views, values and knowledge systems of indigenous peoples and local communities

On the discussion going on Post 2020 Global biodiversity framework anticipated to be approved in COP15 of CBD, IIFB on

Target 20. *” Ensure that the best available quality data, information and knowledge, IS available and accessible to decision makers, practitioners and the public AND traditional knowledge, innovations, practices and technologies of indigenous peoples and local communities with their free, prior and informed consent, IS RESPECTED AND guideS decision-making for effective governance, integrated*

and participatory management of biodiversity, and strengthen communication, awareness-raising, education, monitoring, research and knowledge management.”

The IIFB considers it positive that the traditional knowledge of indigenous peoples and local communities will guide decision-making for the effective management of biological diversity

The IIFB also considers that the inclusion of free, prior and informed consent of indigenous peoples and local communities, when considering traditional knowledge for biodiversity management, is positive in keeping with international standards pertaining to the use of TK.

Target 1: The IIFB considers that the inclusive integrated spatial planning process should recognize the rights of indigenous peoples and local communities over lands, territories, water and resources, including their own management plans

On target 5 among other recommendation The IIFB also proposes respect for customary sustainable use in accordance with Article 10(c) of the Convention on Biological Diversity to ensure that harvesting, trade and use of wild species is based on respect for customary laws and practices.

Recommendations

- Important for Member States to work closely with WIPO to see how traditional knowledge which had ancient roots and which is often oral can be protected by conventional IP) systems.
- Member states and friends of Indigenous Peoples should continue contributing funding to ensure the participation of IPLCs not only in meetings and forums but at the National Local level to develop projects and awareness activities
- Member states who have developed Traditional Knowledge laws should ensure implementations and Fully involved indigenous and other stakeholders
- It is important for Member States and WIPO plan a support process for the development of Guidelines that will be IPLCs to use the instruments that is being discussed. This is important as this guidelines help the understanding from the local to the International levels by all key players
- There is need for Linkages, learning and mainstreaming of TK in development strategies at the national and regional levels

- There is need for close Linkages in discussions with key players in development developer (UNDP, UNESCO, WIPO, FAOUNEP with its Conventions (CBD, UNFCCC, UNCCD and others) IPBES and Member states at their own Country and regional levels..

References

-Summary for policymakers of the thematic assessment of the sustainable use of wild species of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) July 2022

-Mo'otz Kuxtal Gudielines- ISBN: 9789292256685 – convention on Biological diversity publication 2019

-IIFB contribution to the work of convention on Biological diversity – visit website [https:// iifb-indigenous.org](https://iifb-indigenous.org)

Peoples United Nations Convention on Biological Diversity (1992)- Preamble, article 8j and related provisions

UN SCBD (2011) Nagoya protocol on access to genetic Resources and the fair equitable sharing of benefits arising from their utilization to the convention on biological diversity