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# WORLD ANTHROPOLOGY CONGRESS-2023

BHUBANESWAR, INDIA | 9-14 AUGUST 2023

24IC - INDIGENEITY, CULTURAL RIGHTS AND HERITAGES  
24IC - 3. INDIGENOUS KNOWLEDGE SYSTEM AND CULTURAL HERITAGE

## SYMPOSIUMS: INTELLECTUAL PROPERTY IN INDIGENOUS KNOWLEDGE AND EXPRESSIONS

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### ABSTRACT

United Nations Declaration on the Rights of Indigenous Peoples, Article 31, 2007 categorically states:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, and traditional cultural expressions, as well as the manifestations of their sciences, technologies, and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

The cultural and intellectual heritage of indigenous peoples comprises the traditional practices, knowledge, and ways of life, that are unique to a particular people. The guardians of an indigenous peoples' cultural and intellectual property are determined by the customs, laws, and practices of the community, and can be individuals, a clan, or the people. The heritage of indigenous people includes:

- Language, art, music, dance, song, and ceremony
- Agricultural, technical, and ecological knowledge and practices
- Spirituality, sacred sites, and ancestral human remains.
- Documentation of the above

Indigenous intellectual property includes the information, practices, beliefs, and philosophy that are unique to each indigenous culture. Once traditional knowledge is removed from an indigenous community, the community loses control over the way in which that knowledge is used. In most cases, this system of knowledge evolved over many centuries and is unique to the indigenous peoples' customs, traditions, land, and resources. Indigenous peoples have the right to protect their intellectual property, including the right to protect that property against its inappropriate use or exploitation.

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The relationship between intellectual property (IP) and the protection of Indigenous knowledge and cultural expressions is complex and challenging. It is important to recognize that the IP is associated with artistic and innovative creations. Over the years it has been usurped by unethical commercial agents, making profit, and denying any patent rights to the local communities. This is an area of concern and challenge for Indigenous creators, innovators, and communities. Indigenous knowledge and the IP system are based on different worldviews and approaches, recognizing that neither is monolithic or all-encompassing. Mechanisms for the protection of IP are based on protecting the rights of identified individual creators and innovators over their creations and innovations that exist in physical format; this is not easily adapted to protecting collectively-owned TK (Traditional Knowledge) or TCEs (Traditional Cultural Expressions) of significance to communities, dating back generations. Such differences result in potential gaps where the protections under the formal IP system do not extend to some types of Indigenous knowledge and cultural expressions. Indigenous peoples may also find that barriers hinder their use of the formal IP system.

The symposium will discuss how Indigenous knowledge and Expressions can be called the newest member of the IP family. Focus will be laid on making decisions on tackling this informal sector information network, i.e., indigenous knowledge must take into consideration several factors. India has taken a step forward and built a repository of its age-old information though periodically. There is need for a legal instrument and it is becoming increasingly urgent both at the national and international level. The panel will address the question of interest in the integration of conventional information structures with a modern IPR system.

**Keywords:** Indigenous knowledge, Cultural Expressions, Intellectual Property, Commercial Exploitation

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