

Legal aspects of traditional ecological Knowledge

Carole Martinez

WCPA Member, IUCN France, 26, Rue Geoffroy Saint-Hilaire, 75005 Paris – France
carole.martinez@uicn.fr

Since 1970, a call highlights the respect of indigenous rights and a new offense is now denounced Biopiracy ! As, the new Convention on Immaterial Heritage was adopted in 2003, a question is emerging: is there a place for a new multicultural law on traditional ecological knowledge?

Cultural heritage, values and practices strengthen identities and are also a rich and diverse source of creativity and innovation which are essential in the face of rapid changes taking place in the World and particularly in Pacific Community. But, natural and cultural heritages can not be dissociated. The UNESCO's Convention on World Heritage underscores this reality like the Convention on Biological Diversity (CBD) that puts together Biodiversity and traditional knowledge (Art.8J). Twenty years later, Pacific Islands Ministers of Culture proclaimed "protection of traditional knowledge and culture is a priority" and endorsed the Regional Framework for the Protection of Traditional Knowledge and Expressions of Culture.

Behind numerous international instruments, what is the real state of legal art on traditional ecological knowledge? Facing "spontaneous economic law", traditional knowledge needs to be understood as a social function not only a patentable content.

While discussions are continuing at WIPO IGC on a *Sui generis* system, the Working Group on Access and Benefit-Sharing of the CBD debates on Certificate of Origin. Relevant and efficient measures need still to be taken to recognize the status and economic support for the indigenous and local communities that are the creators, the repository of traditional knowledge, which have collective ownership. A Model Law is developed under the auspices of the Pacific Regional Environment Programme (SPREP) for the protection of traditional ecological knowledge. At the level of national laws, several States have enacted or are enacting legislation in the area of traditional knowledge protection, for instance Brazil, India and Vanuatu.