INTELLECTUAL PROPERTY AND TRADITIONAL KNOWLEDGE, GENETIC RESOURCES AND TRADITIONAL CULTURAL EXPRESSIONS: AN OVERVIEW OF POLICY AND LEGAL ISSUES FROM AN INTELLECTUAL PROPERTY PERSPECTIVE

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WHAT IS INTELLECTUAL PROPERTY?

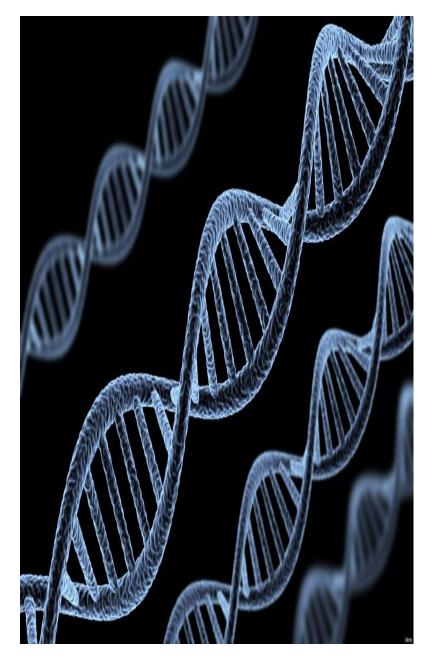
- Historically, property has been related to tangible goods, such as land, chattel, cars, commodities, etc.
- Easily traded and have known worth according to the market value;
- Intellectual property (IP) relates to the creations of the mind – thus – intangible! We cannot touch them, per se;
- Placing worth on them is rather difficult because at times no known market for them, e.g. how do you value an intangible? Who decides what it is worth?

WHAT IS INTELLECTUAL PROPERTY? CON'T

- Two categories of intellectual property rights based on the need for registration:
 - Industrial property (patents; trademarks; designs, etc.);
 - Copyrights
- Due to the various types of creations there can be, there are equally different types of IP;
- Have different terms of protection and registration requirements.

• WIPO:

- "TK is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity";
- Therefore, TK encompasses all aspects of knowledge within a community, such as, traditional medicine, traditional cultural expressions and traditional ecological knowledge;
- Can be found in a wide variety of contexts including: agriculture, scientific, technical, ecological and medicinal knowledge as well as biodiversity-related knowledge;
- All are intertwined to create a wholistic knowledge system.







- Genetic resources refer to *"genetic material of actual or potential value. Genetic material is any material of plant, animal, microbial or other origin containing functional units of heredity";*
- *Th*e raw materials on which the world relies to improve the productivity and quality of crops, livestock, forestry and fisheries, as well as to maintain healthy populations of wild species;
- The conservation and sustainable use of genetic resources for food and agriculture is therefore at the core of food security and nutrition;

- Through traditional ecological knowledge, this is a viable option, given that communities have known how to respect, conserve and sustain the earth for centuries;
- The future of meeting basic human food and nutritional needs, depends primarily on the adequate conservation and sustainable use of genetic resources across the world.



- Traditional cultural expressions are the section of traditional knowledge that generally fall under the literary, artistic and musical productions, often broadly and collectively referred to as intangible cultural heritage;
- They include music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts and narratives, or many other artistic or cultural expressions;
- A community's culture or tradition is what sets it apart from other cultures – gives it its unique identity and heritage.

WHY PROTECT TK?

- Why not continue protecting it the way our forefathers did thousands of years ago through their own protection mechanisms?
- GLOBALISATION!
- Diffusion of the knowledge; can't be contained in the communities anymore;
- Equity;
- Prevention of bio-piracy;
- Fair and equitable distribution of benefits;
- Conservation and sustainable use;
- Recognition of spiritual, cultural social and economic value of TK.

Policies and laws

- IP protects creations of the mind, i.e. intellectual and intangible activities transmitted through tangible forms;
- IP boosts socio-economic development;
- Existing policies and laws;
 - Are they relevant to meet current societal needs?
 - Is there proper dialogue between the policy-makers and the policy-takers?
 - What changes need to be made?
- TK communities are they being heard?
 - Any laws or policies being made are to their benefit so they must be heard.