



## FACT SHEET

Presented by the Intellectual Property Issues in Cultural Heritage Project.

# Traditional Knowledge

## WHAT IS TRADITIONAL KNOWLEDGE?

Traditional Knowledge, often abbreviated as TK, refers to the holistic total of an indigenous people's understanding of the world. While the term is often used in relation to oral history, its bounds are much broader. Traditional Knowledge can refer to knowledge of past events, but also encompasses peoples' embodied practices, spirituality, morality, ideologies, modes of artistic (or abstract) expression, and the ways in which knowledge is acquired and passed on through generations. Traditional Knowledge systems extend into the present, and are alive and constantly adapted in order to remain relevant to contemporary indigenous life. The term is predominantly used to designate those knowledge systems that are markedly different from the dominant Western systems of knowledge.

## WHO "OWNS" TK? (TK AS INTELLECTUAL PROPERTY):

- Researchers in fields as such diverse as archaeology, biotechnology, and natural resource management are increasingly seeking out TK as a valuable source of information. Suitable legal methods for protecting the ownership of TK are still being developed and debated. These debates often overlap with wider conversations about ownership over other Indigenous intellectual property (IP), such as physical objects and designs.
- Some researchers have employed Memoranda of Understanding with communities they work with to address some of the challenges of ownership over TK and research results.



## WHY IS TK IMPORTANT TO COMMUNITIES?

- **Connecting to the past:** TK represents a powerful link to a community's past. It offers information about a people's history, the land they have lived on, how they procured and processed resources, and their relationships to other communities, other species, and the cosmos.
- **Expressing the present:** TK informs a community's self-identity—how they understand themselves, each other, and how they fit in the wider world. To know how one's ancestors lived, what they valued, and what they knew is vitally important to understanding who one is in the present. In many cases, practices based on TK—from harvesting plants to telling stories—connect generations, both living and long gone.
- **Anticipating the future:** Retaining and using TK may contribute to a community's future wellbeing. Skills learnt from TK can contribute to concrete endeavours, such as asserting land claims, protecting traditional territory and natural resources, and continuing cultural practices of living on the land. TK can also be key to affirming culture, particularly for indigenous communities living in colonial contexts. TK is the foundation of efforts to keep indigenous languages alive, enrich cultural expressions such as visual and performing arts, and share community cultural values with the wider world.



## WHAT ARE SOME OF THE CHALLENGES WITH USING AND PROTECTING TK?

• **Knowledge-sharing protocols:** All cultures have protocols as to how knowledge is shared. These provide rules and guidelines that help to answer such questions as: Who is allowed to share the knowledge held by a family or community? Under what circumstances should sharing take place? And with whom? Protocols can range from unspoken to explicit. In the case of TK sharing, protocols can provide a check and balance system, keeping knowledge safe against inappropriate distribution and usage. Researchers often must earn the trust of a community before TK is shared. They may be asked to adopt sharing protocols themselves, or to not publish or otherwise use some elements of the knowledge that has been shared with them. And some TK may never be accessible to those outside of a given community.

• **Reciprocal value exchange:** Framing TK as intellectual property helps us to consider it as a valuable resource—both to the communities that hold it and the researchers seeking to access it. When TK holders elect to make that knowledge available to others, what should they expect in return? Recompense may take the form of tangible resources, a reciprocal exchange of knowledge, or a pledge to share the eventual products of research. TK is not simply a value-neutral product of universal heritage—it has great consequences to the communities that, over generations, developed that knowledge, and it has great potential importance to researchers. So it is essential to recognize any use of TK by those outside of a community is an act of sharing valuable cultural legacy, and one that requires reciprocation.

• **Power relations:** Researchers of any kind—academic or commercial—hoping to access TK should be aware of what power relations are at play. This is basic to research ethics in general: one must be cognisant of any imbalance in power between the researcher and those they are working with. Researchers who hold power—economic or social—over TK holders they work with must ask questions such as: Is TK being shared freely and willingly? Are TK holders fully knowledgeable about research goals and procedures (“informed consent”)? Is there agreement over how the results of the study are to be shared? And, is the research collaborative—does the community have any control over its direction, or is it being carried out in such a way that reinforces power

imbalances often deeply rooted in colonial histories?

• **Outcomes:** While advances in law have begun to provide some intellectual property protection for TK holders, particularly in the realm of biomedical research, grey areas remain. Treating TK as intellectual property provides a potential tool for TK holders, both to protect private knowledge and to create a framework for compensation when knowledge is shared. However, treating TK as intellectual property risks inappropriately simplifying and commercializing knowledge systems that have long functioned using their own nuanced sharing protocols. Tying up TK in exclusive rights may also hinder the social gains that could be had as a result of greater knowledge sharing.

Despite positive change, Western science ethnocentrism sometimes still considers TK as a “pseudoscientific” endeavour, and uses it selectively; it may also be misused and misunderstood in public policy settings such as environmental assessment hearings.

As it stands, researchers must currently approach TK with knowledge of the legal requirements, local knowledge-sharing protocols, research ethics guidelines, and their own contextual obligations to TK-holders.

## SOURCES & FURTHER READING

[Ilàà Katì: Traditional Knowledge Festival 2014 Videos.](#)

- Anyon, R., T.J. Ferguson, L. Jackson, and L. Lane. 2000. Native American Oral Traditions and Archaeology. In *Working Together: Native Americans & Archaeologists*, edited by K.E. Dongoske, M. Aldenderfer and K. Doehner, pp. 61-66. Society for American Archaeology, Washington, D.C.
- Brody, B.A. 2010. Traditional Knowledge and Intellectual Property. *Kennedy Institute of Ethics Journal* 20(3): 231-249.
- Bruchac, M. 2014 Indigenous Knowledge and Traditional Knowledge. In *Encyclopedia of Global Archaeology*, pp. 3814-3824. Springer, NY.
- Damm, Charlotte. 2005 Archaeology, Ethno-history and Oral Traditions: Approaches to the Indigenous Past. *Norwegian Archaeological Review* 38(2):73-87.
- Jones, S., and L. Russell. 2012. Archaeology, Memory and Oral Tradition: An Introduction. *International Journal of Historical Archaeology* 16:276-283.
- Karjala, D.S. 2012. Sustainability and Intellectual Property Rights in Traditional Knowledge. *Jurimetrics* 53: 57-70. *International Journal of Cultural Property* 18(2): 143-178.
- Maina, C.K. 2011. Power Relations in the Traditional Knowledge Debate: A Critical Analysis of Forums. *International Journal of Cultural Property* 18(2):143-178.
- Marshall, A., and S. Batten. 2004. [Researching Across Cultures: Issues of Ethics and Power](#). Forum: *Qualitative Social Research* 5(3).

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