

FIRST INTERNATIONAL CONFERENCE
(HUI) ON THE CULTURAL
AND INTELLECTUAL PROPERTY RIGHTS
OF INDIGENOUS PEOPLES
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WHAKATANE, AOTEAROA

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The Mataatua Declaration On Intellectual and Cultural Property Rights of
Indigenous Peoples.

PREAMBLE

Recognising that 1993 is the United Nations International Year for the World's
Indigenous Peoples;

Reaffirming the undertaking of United Nations Member States to:

*"Adopt or strengthen appropriate policies and/or legal instruments that will protect
indigenous intellectual and cultural property and the right to preserve customary and
administrative systems and practices." - United Nations Conference on Environmental
Development; Agenda 21 (26.4b);*

Noting the Working principles that emerged from the United Nations Technical
Conference on Indigenous Peoples and the Environment in Santiago, Chile from 18 -
22 May 1992 (E/NC.4/Sub. 2/1992/31);

Endorsing the recommendations on Culture and Science from the World conference of
Indigenous Peoples on Territory, Environment and Development, Kari-Oca, Brazil, 25-
30 May 1992;

[Endorsing the summary of international concerns as agreed at the International
Conference for Indigenous Women of the World held in Christchurch, New Zealand,
3 - 7 February 1993;]

States that Indigenous Peoples of the world have the right to self determination; and in exercising that right must be recognised as the exclusive owners of their intellectual and cultural property.

Affirms that the knowledge of the Indigenous Peoples of the world is of benefit to all humanity;

Acknowledges that Indigenous Peoples have a commonality of experiences relating to the exploitation of their intellectual and cultural property;

Recognises that Indigenous Peoples are capable of managing their traditional knowledge themselves, but are willing to offer it to all humanity provided their fundamental rights to define and control this knowledge are protected by the international community;

Declares that the first beneficiaries of indigenous knowledge must be the direct descendants of such knowledge;

Declares that all forms of discrimination and exploitation of indigenous peoples, particularly against women and children, must cease.

Calls upon States, National and International Agencies, as well as Indigenous Peoples to:

1. RECOMMENDATIONS TO STATES, NATIONAL AND INTERNATIONAL AGENCIES

In the development of policies and practices, States, National and International Agencies should:

- 1.1 Recognise that indigenous peoples are the guardians of their customary knowledge and have the right to protect and control dissemination of that knowledge.
- 1.2 Note that the existing protection mechanisms are insufficient for the protection of Indigenous Peoples Intellectual and Cultural Property Rights.

- 1.3 Take into account that the intellectual and cultural property of indigenous peoples are versed with those who created them.
- 1.4 Develop in full co-operation with indigenous peoples an additional intellectual and cultural property rights regime incorporating the following:
 - collective (as well as individual) ownership and origin
 - retroactive coverage of historical as well as contemporary works
 - protection against debasement of culturally significant items
 - co-operative rather than competitive framework
 - first benefactors to be the direct descendants of the traditional guardians of that knowledge
 - multi-generational coverage span

BIODIVERSITY

- 1.5 Indigenous flora and fauna is inextricably bound to the territories of indigenous communities and any property right claims must recognise their traditional guardianship.
- 1.6 Commercialisation of any traditional plants and medicines of Indigenous Peoples, must be managed by the indigenous peoples who have inherited such knowledge.
- 1.7 A moratorium on any further commercialisation of indigenous medicinal plants should be declared until indigenous communities have developed appropriate protection mechanisms.
- 1.8 Companies, institutions both governmental and private may should undertake experiments or commercialisation of any biogenetic resources without the consent of the appropriate indigenous peoples.

CULTURAL OBJECTS

- 1.9 All human remains and burial objects of indigenous peoples held by museums and other institutions must be returned to their traditional areas in a culturally appropriate manner.

- 1.10 Indigenous Cultural objects held in museums and other institutions must be returned to their traditional owners.
- 1.11 Museums and other institutions must provide, to the country and indigenous peoples concerned, an inventory of any indigenous cultural objects in their possession.

2. RECOMMENDATIONS TO INDIGENOUS PEOPLES

In the development of policies and practices, indigenous peoples should:

- 2.1 Define for themselves their own intellectual and cultural property.
- 2.2 Note that the existing protection mechanisms are insufficient for the protection of Indigenous Peoples Intellectual and Cultural Property Rights.
- 2.3 Develop a code of ethics which external users must observe when recording their traditional and customary knowledge.
- 2.4 Prioritise the establishment of indigenous education, research and training centres to promote their knowledge of customary environmental and cultural practices.
- 2.5 Reacquire land holdings for the purpose of promoting customary agricultural production.
- 2.6 Develop and maintain their traditional practices and sanctions for the protection, preservation and revitalisation of their traditional intellectual and cultural properties.
- 2.7 Assess existing legislation with respect to the protection of antiquities.

- 2.8 Establish an appropriate body with appropriate mechanisms to consider the:
- a) preservations, commercialism or otherwise of indigenous cultural properties in the public domain.
 - b) to generally advise and encourage indigenous peoples to take steps to protect their cultural heritage.
 - c) allow a mandatory consultative process with respect to any new legislation affecting indigenous peoples cultural and intellectual property rights.
- 2.9 Establish international indigenous information centres and networks.
- 2.10 Converse a Second International Conference (Hui) on the Cultural and Intellectual Property Rights of Indigenous Peoples (to be held in the Amazon Basin).

States, National and International Agencies should provide additional funding to indigenous communities in order to implement these obligations.