

Commission on Human Rights
Sub-Commission of Prevention of
Discrimination and Protection of Minorities
Working Group on Indigenous Populations
19-30 July 1993

**First International Conference on the
Cultural & Intellectual Property Rights of Indigenous Peoples
Whakatane, 12-18 June 1993 Aotearoa, New Zealand**

**The Mataatua Declaration on Cultural and Intellectual Property Rights of
Indigenous Peoples
June 1993**

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

The **Nine Tribes of Mataatua** in the Bay of Plenty Region of Aotearoa New Zealand convened the First International Conference on the Cultural and Intellectual Property Rights of Indigenous Peoples. (12-18 June 1993, Whakatane).

Over 150 delegates from fourteen countries attended, including indigenous representatives from Ainu (Japan), Australia, Cook Islands, Fiji, India, Panama, Peru, Philippines, Surinam, USA, and Aotearoa.

The Conference met over six days to consider a range of significant issues, including: the value of indigenous knowledge, biodiversity and biotechnology, customary environmental management, arts, music, language and other physical and spiritual cultural forms. On the final day, the following Declaration was passed by the Plenary.

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; UNCED 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/CN.4/Sub. 2/1992/131);

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;

Declare 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 cultural and intellectual property

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

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

Recognise 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'

Insist that the first beneficiaries of indigenous knowledge (cultural and intellectual property rights) must be the direct indigenous descendants of such knowledge;

Declare that all forms of discrimination and exploitation of indigenous peoples, indigenous knowledge and indigenous cultural and intellectual property rights must cease.

1. RECOMMENDATIONS TO INDIGENOUS PEOPLES

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

- 1.1 Define for themselves their own intellectual and cultural property.
- 1.2 Note that existing protection mechanisms are insufficient for the protection of Indigenous Peoples Intellectual and Cultural Property Rights.
- 1.3 Develop a code of ethics which external users must observe when recording (visual, audio, written) their traditional and customary knowledge.
- 1.4 Prioritise the establishment of indigenous education, research and training centres to promote their knowledge of customary environmental and cultural practices.
- 1.5 Reacquire traditional indigenous lands for the purpose of promoting customary agricultural production.
- 1.6 Develop and maintain their traditional practices and sanctions for the protection, preservation and revitalization of their traditional intellectual and cultural properties.
- 1.7 Assess existing legislation with respect to the protection of antiquities.
- 1.8 Establish an appropriate body with appropriate mechanisms to:
 - a) preserve and monitor the commercialism or otherwise of indigenous cultural properties in the public domain
 - b) generally advise and encourage indigenous peoples to take steps protect their cultural heritage
 - c) allow a mandatory consultative process with respect to any new legislation affecting indigenous peoples cultural and intellectual property rights.
- 1.9 Establish international indigenous information centres and networks.
- 1.10 Convene a Second International Conference (Hui) on the Cultural and intellectual Property Rights of Indigenous Peoples to be hosted by the Coordinating Body for the Indigenous Peoples Organisations of the Amazon Basin (COICA).

2. RECOMMENDATIONS TO STATES, NATIONAL AND INTERNATIONAL AGENCIES

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

- 2.1 Recognise that indigenous peoples are the guardians of their customary knowledge and have the right to protect and control dissemination of that knowledge.
- 2.2 Recognise that indigenous peoples also have the right to create new knowledge based on cultural traditions.
- 2.3 Note that existing protection mechanisms are insufficient for the protection of Indigenous Peoples Cultural and Intellectual Property Rights.
- 2.4 Accept that the cultural and intellectual property rights of indigenous peoples are vested with those who created them.

2.5 Develop in full co-operation with indigenous peoples an additional cultural and intellectual 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
cooperative rather than competitive framework
first beneficiaries to be the direct descendants of the traditional guardians of that knowledge
multi-generational coverage span

BIODIVERSITY AND CUSTOMARY ENVIRONMENTAL MANAGEMENT

2.6 Indigenous flora and fauna is inextricably bound to the territories of indigenous communities and any property right claims must recognise their traditional guardianship.

2.7 Commercialization of any traditional plants and medicines of Indigenous Peoples, must be managed by the indigenous peoples who have inherited such knowledge.

2.8 A moratorium on any further commercialisation of indigenous medicinal plants and human genetic materials must be declared until indigenous communities have developed appropriate protection mechanisms.

2.9 Companies, institutions both governmental and private must not undertake experiments or commercialisation of any biogenetic resources without the consent of the appropriate indigenous peoples.

2.10 Prioritise settlement of any outstanding land and natural resources claims of indigenous peoples for the purpose of promoting customary, agricultural and marine production.

2.11 Ensure current scientific environmental research is strengthened by increasing the involvement of indigenous communities and of customary environmental knowledge.

CULTURAL OBJECTS

2.12 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.

2.13 Museums and other institutions must provide, to the country and indigenous peoples concerned, an inventory of any indigenous cultural objects still held in their possession.

2.14 Indigenous cultural objects held in museums and other institutions must be offered back to their traditional owners.

3. RECOMMENDATIONS TO THE UNITED NATIONS

In respect for the rights of indigenous peoples, the United Nations should:

3.1 Ensure the process of participation of indigenous peoples in United Nations fora is strengthened so their views are fairly represented.

3.2 Incorporate the Mataatua Declaration in its entirety in the United Nations Study on Cultural and Intellectual Property of Indigenous Peoples.

3.3 Monitor and take action against any States whose persistent policies and activities damage the cultural and intellectual property rights of indigenous peoples.

3.4 Ensure that indigenous peoples actively contribute to the way in which indigenous cultures are incorporated into the 1995 United Nations International Year of Culture.

3.5 Call for an immediate halt to the ongoing 'Human Genome Diversity Project' (HUGO) until its moral, ethical, socio-economic, physical and political implications have been thoroughly discussed, understood and approved by indigenous peoples.

4. CONCLUSION

4.1 The United Nations, International and National Agencies and States must provide additional funding to indigenous communities in order to implement these recommendations.