

Intellectual Property, Genetic Resources and Associated Traditional Knowledge: Sharing Indigenous and Local community Experiences and Perspectives

Good day Ladies and Gentleman, My Name is Collin Louw the Secretary of the San Council of South Africa. The San Council was established in 2001 to protect the rights of the San Communities of South Africa. The San Community was the first community to negotiate a benefit sharing agreement that resulted in an export permit. Through the negotiations we have had many challenges regarding the Intellectual Property Rights of Genetic Resources, due to the fact that Traditional Knowledge has been in the public domain for thousands of years.

The San Community is of the view that TK is owned collectively and in some cases individually based on the use of the Genetic Resource. Our TK has been protected and exchange from one generation to the next. **The sharing and exchange is generally not based on 'ownership rights' but on "stewardship duties"**. Based on this we do not have a time limit on protecting our TK. Therefore IPR should not be time bound for Indigenous and Local Communities. The current IPR system therefore limits the protection of TK.

Our concern is that users patent new uses of a Genetic Resource and exclude communities when patents are registered. We believe that new uses would not have been found if TK were not taken into consideration. Therefore when it has been identified which Communities TK's is involved the Community should be co-owner of the patent.

Secondly when a Genetic Resource is identified for research and development and where there is TK associated with it, the Community should be involved from the research and development phase. To ensure that the community is aware of any patents that might have been registered.

Thirdly in some or most cases Indigenous or local communities is not aware that patents have been registered, the IPR system should protect Communities through country focal points where the Genetic Resource originates from.

In conclusion we believe that TK should be protected to avoid exploitation. Weather it from part of the Intellectual Property Right systems or some form of protection specially to meet the requirements of Traditional Knowledge.

I Thank You.