

# Indigenous Panel



Tukano braided toy

“Protection of Different Forms of Traditional Knowledge/Traditional Cultural Expressions: Perspectives of Indigenous Peoples and Local Communities”

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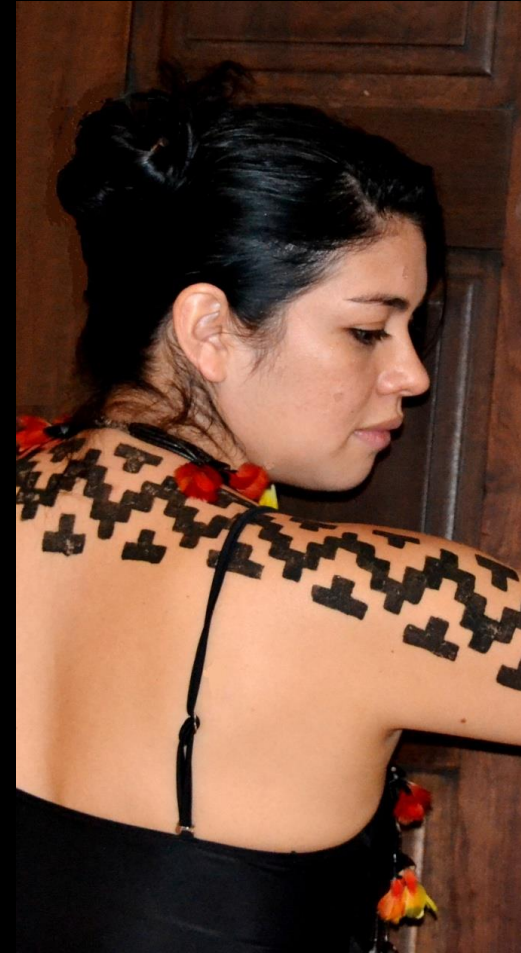
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Lucia is from the Kaingáng People: 60,000 people living in 4 states in the south and southeast of Brazil.

3rd largest Indigenous People of Brazil. IBGE 2010 CENSUS.



Kaingáng ring. Traditional Cultural Expression:  
Handcraft from Kaingáng Indigenous People.  
Rio Grande do Sul. South of Brazil.



## Asurini mammal teeth necklace

1972 - Direct Management Model Creation of the Indigenous Handicrafts Program (Artíndia) by Administrative Rule 94N on December 13, 1972 (ordinance of creation) Separate administrative unit, subordinate to the General Department of Indigenous Heritage (DGRI), and technical support from the General Department of Studies and Research (DGEP) Purpose "to stimulate indigenous handicrafts, supervising the execution of programmes of this nature in order to safeguard the cultural heritage of the 'forest dwellers' and improve their artistic values and means of cultural expression".





## Patterns Asurini

1986 Directive 1096/86 approves the Manual of Commercialization of Indigenous Handicrafts, with the aim of regulating the purchase and sale of handicrafts. 1994 Artíndia Program "donates" 3,500 artifacts from Indigenous Peoples of the northern region to the Museum of the Indian and 2,500 pieces from the central-western region to the Artíndia Shop in Cuiabá, selected by coordinator Vera Santos



1998

The Environmental Crimes Law, Law no. 9.605 of 12/02/1998, suspends commercialization of handicrafts with parts of wild animals

1980-2003

Artíndia Program experienced resounding success in the 1980s until the mid-1990s, when it maintained 7 shops in operation, including three located at airports in Rio de Janeiro, Brasilia and Recife

2003

Fire at the Central Warehouse located at the Funai headquarters in Brasilia destroys practically all the stock for sale, the collections of ethnographic pieces and the photographic collections

2008

On an exceptional basis, resources were allocated from the 2008-2011 PPA to replenish the stock

Kaxinawá Blanket



2009

Restructuring of FUNAI, Ordinance 1.733, transfers management of the remaining Stores to the MI, under the direct responsibility of the Indigenous Income and Own Resources Management Service (SEGER)

2013

Transfer of the balance of stocks to the Indian Museum's Usina unit

2020

Accounting and organization of the stock at the Plant

2021

Consultation with the Regim system of the Board of Trade of the State of Rio de Janeiro (Jucerja), which granted the request for viability to exercise the activities of the Shop at the premises of the Museum of the Indian Museum

The request for State Registration (IE) linked to the CNPJ of the Museu do Índio was denied

Waiwai two-stemmed single comb





## Quadrupedemorph seat Yudjá

2021 (continued)

SEFAZ Resolution No. 720/2014, defines the obligation of IE for all "entity of the Direct or Indirect Public Administration of the Union (...), which exercises economic activities of sale of goods that it acquires or produces"

Consultation with Dages about the viability of including the activity of the Store in the CNPJ of the Museum of the Indian.

Dages informs that any inclusion of secondary economic activity "requires that this alteration first occur in the CNPJ of the Funai Headquarters (matrix), which may be in dissonance with the Funai Statute".



## Kayapó Helmet

2022

Legal, structural and operational problems of the Artíndia Store reveal the unfeasibility of the direct management model.

Study cycle focused on the feasibility of signing a strategic and symbiotic partnership with a civil society organisation (CSO)

2022 (continued) Seger identifies potential legal instruments of partnership: collaboration term, fomentation term and cooperation agreement (Law No. 13.019, of July 31, 2014 -MROSC); public-private partnership (Law No. 11.079, of December 30, 2004); management contract (Law No. 9.637, of May 15, 1998), concession, permission, among others





## Paneiriform basket Menkrangnotí

The first proposal for the hiring of consulting services was born with the purpose of

- (i) elaborate the economic modeling of the Store as a social business for partnership;
- (ii) propose a form of corporate composition and governance that respects the rights and **protagonism** of Indigenous Peoples, and specificities of the Indigenous Heritage Income (RPI)
- (iii) policy of acquisition and management of the cultural heritage of the Indigenous Peoples
- (iv) elaborating the legal architecture of the Artíndia Store
- (v) preparing draft contracts
- (vi) elaborating and monitoring the Public Call for Proposals

At first four thematic axes were identified: (i) legal-administrative; (ii) tax; (iii) indigenous, cultural and environmental; (iv) economic



## ARTÍNDIA'S STORE REVITALIZATION PROCESS REQUIRES:

CONSULTATION WITH INDIGENOUS PEOPLES;  
FULL AND EFFECTIVE PARTICIPATION OF INDIGENOUS  
PEOPLES;  
NATUREZA COLECTIVE NATURE OF TK AND TCEs;  
SELF DETERMINATION;  
PROTAGONISM;  
CAPACITY BUILDING AND AWARENESS RAISING



Huni Kuin woven bag



## WIPO - IGC PROCESS

Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore was created on 2000.

MANDATE - FUTURE





USE OF TERMS

OBJECTIVES

PROTECTION CRITERIA

BENEFICIARIES

SCOPE OF PROTECTION

ADMINISTRATION OF RIGHTS

EXCEPTIONS AND LIMITATIONS

TERM OF PROTECTION

FORMALITIES

SANCTIONS, REMEDIES AND  
EXERCISE OF RIGHTS

TRANSITIONAL MEASURES

RELATIONSHIP WITH INTERNATIONAL  
AGREEMENTS

NATIONAL TREATMENT

TRANSBOUNDARY COOPERATION

CAPACITY BUILDING AND AWARENESS RAISING



## Waimiri braided toy

### USE OF TERMS

- Consistent with international legal frameworks of rights recognized to indigenous peoples and local communities

### OBJECTIVES

- Effective and adequate protection for TK and TCEs;
- Preventing the misgranting of intellectual property rights on TK and TCEs;
- Recognize that indigenous peoples and local communities are owners and possessors of TK and TCEs



## Yanomami feather earrings

### PROTECTION CRITERIA

- Collective and dynamic nature of TKs and TCEs;
- Imprescriptible, inalienable and unavailable rights;
- Part of the heritage and cultural identity of indigenous peoples and local communities

### BENEFICIARIES

- Indigenous Peoples and Local Communities





## Marubo woven anklet

### SCOPE OF PROTECTION

- The concept of public domain can only be applied to TKs and TCEs provided that free, prior and informed consent and fair and equitable benefit sharing with indigenous peoples and local communities are implemented

### ADMINISTRATION OF RIGHTS

- In consultation with and with the full and effective participation of indigenous peoples and local communities



## EXCEPTIONS AND LIMITATIONS

- No reduction of rights recognized to indigenous peoples and local communities

## TERM OF PROTECTION

- TK AND TCES ARE COLLECTIVE, INALIENABLE AND IMPRESCRIPTIBLE



Menkrangnotí mother of pearl disc earring

## Xikrin occipital disc

### DURATION OF PROTECTION

### FORMALITIES

- Respect the oral traditions of indigenous peoples and local communities

### SANCTIONS, REMEDIES AND EXERCISE OF RIGHTS





## Xikrin woven bracelet



### TRANSITIONAL MEASURES

### RELATIONSHIP WITH INTERNATIONAL AGREEMENTS

- UNDRIP;
- Ilo Convention 169;
- Unesco Conventions;
- Biodiversity Convention.

Asurini braided hoop

NATIONAL TREATMENT



## Braided bracelet Kuben-Krân-Krên



**TRANSBOUNDARY COOPERATION**

**CAPACITY BUILDING AND AWARENESS RAISING**

- Linguistic diversity and equity of participation of indigenous women



## INDIGENOUS PEOPLES PERSPECTIVE AND LEGAL CHALLENGES TO PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS AND TRADITIONAL KNOWLEDGE

RESPECT FOR THE INTERNATIONAL SYSTEM OF RIGHTS OF INDIGENOUS PEOPLES: (NO REDUCTION OF RIGHTS);  
SELF DETERMINATION;  
THE COLLECTIVE, INALIENABLE AND IMPRESCRIPTIBLE NATURE OF TK AND TCEs  
SECURING THE INDIGENOUS PEOPLE'S RIGHTS TO TERRITORY  
FULL AND EFFECTIVE PARTICIPATION OF INDIGENOUS PEOPLES AT ALL LEVELS;  
TO PROVIDE INDIGENOUS PEOPLES AND LOCAL COMMUNITIES WITH LEGAL, POLITICAL AND ADMINISTRATIVE RESOURCES FOR:  
IMPLEMENTATION OF THE RIGHT OF CONSULTATION TO PREVENT MISAPPROPRIATION OF TRADITIONAL CULTURAL EXPRESSIONS, TRADITIONAL KNOWLEDGE;  
CONTROL IN THE USE OF TRADITIONAL CULTURAL EXPRESSIONS, TRADITIONAL KNOWLEDGE BEYOND TRADITIONAL AND CUSTOMARY CONTEXT;  
GUARANTEE FREE, PREVIOUS AND INFORMED CONSENT AS WELL AS THE FAIR AND EQUITABLE SHARING OF BENEFITS DERIVED FROM THE USE OF TRADITIONAL CULTURAL EXPRESSIONS AND TRADITIONAL KNOWLEDGE



Menkrangnotí feather front band

## Hixkaryána feather earring



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Wajãpi woven sling

Photos from Artíndia's collection of the Indian Museum. National Foundation of Indigenous Peoples (Rio de Janeiro, Brazil)