

**Perspectives and Experiences on Sanctions & Remedies,
Management of Rights,
Term of Protection, Formalities, Transitional Measures,
Relationship with other International Agreements,
National Treatment & Transboundary Cooperation**



Ann Marie Chischilly, Executive Director
Institute for Tribal Environmental Professionals

**NORTHERN
ARIZONA
UNIVERSITY**



**FLAGSTAFF
FOUNDED 1899**

**25 November 2016
WIPO Seminar
Geneva, Switzerland**

Local Tribal Customary Law: “If you know 1 tribe; You know 1 tribe”



- Navajo Nation – Diné
 - 1868 Treaty
 - Largest Pop./Land
- Hōzhó
 - Beauty / Balance
- K'é
 - Harmony / Whole
- Peacemaking Courts
 - Express Feelings
 - Achieve K'é
 - Settlement



Transboundary Cooperation: US Federal Law



Native American Graves Protection and Repatriation Act (NAGPRA)

- Law v Art
- Allows for remains and artifacts to come back to tribal nations
- However, burden on tribes to prove relationship to or historic connection

Sanctions/Remedies

- Sue or Buy them back
- Ceremonies held to restore harmony



Source: Native News Online



Source: BBC.com

Sanctions: US Federal bills



Tribes to Stop the Export of Cultural and Traditional Patrimony Resolution (PROTECT)

- Department of Commerce
- Homeland Security
- Department of Interior
- US Attorney General

Take affirmative action to stop illegal practices
Secure repatriation items to tribes.



Safeguard Tribal of Patrimony (STOP) Act

- July 2016 – Congressional Bill
- Stop illegal export of Cultural & Traditional items
- Asks Gov Accountability Office for a report on illegally trafficked objects
- Increase the penalties for violations of NAGPRA
- Prohibit export of any objects obtained in violation of NAGPRA & Acts 4
- Bipartisan Support

Remedies: US Federal Law



Native American Arts and Crafts Act

- Prevents non Natives from marketing things as Native American art
- However, doesn't prevent the use of traditional methods and materials for personal gains
- 11-22-16: Urban Outfitters Settles with Navajo Nation
 - Unauthorized appropriation = infringement lawsuit in 2012
 - Navajo Nation = 20 registered trademarks
 - Falsely suggests it is Indian produced
 - "Navajo" = not famous enough
 - Settled
 - Undisclosed amount
 - Collaborating on a licensed jewelry line



Ecote Navajo Wool Tote Bag
\$39.00



Wide Navajo Scarf
\$29.00



Navajo Print Fabric Wrapped Flask



Jeffrey Campbell Navajo Fringe Crossbody Bag

National Treatment



- Transitional Measures
 - All Sides need Transitional Measures
 - Slow process
 - Build Capacity
 - Educate at all levels
 - Be Very Respectful
- National Consultation
 - Based on current processes
- Database
 - Very difficult to develop
 - Lack of Trust = Time & Education
 - Breaking the Stewardship

Criminal Punishment



- Willful acts
- Theft
- Intentional Misappropriation
- Cease & Desist
- Commercial Use
 - Allowable?
 - Discourage:
 - Use it & pay fine
- Define at a domestic context
- Arizona Board of Regents
Informed Consent Policy



