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

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WIPO Seminar
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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
- 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
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