



PC: Rebbelin, W. M. Edwards
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PC: Vaka Taumako,
Simon Salopuka



PC: Roy Mata Heritage Site,
Vaka'uta, 2015



Marovo © A. Liligeto, 2015

Pacific Pathways: Protecting Indigenous & Traditional Knowledge in a Digital World



PC: ie toga sāmōa (Fine Mat), Samoa Observer, 2019

Regional, National and Community Policies & Legislations regarding the Intellectual Property of TK and TCEs

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Pacific Pathways to protecting TK and TCEs



- Pacific Context
- Small economies of scale
- Basic needs & vulnerabilities
- Longstanding Pacific engagement with WIPO/ UNESCO from late 1990s
- Positive development shifts & enabling policy environment for culture & ITK
- Regional and International recognition of the value of TK/TCE
- Limited resources, capacity and capabilities
- Varied degrees of congruence between State and Traditional Custodians



Why this matters now more than ever

- ITK (TK & TCEs) are living heritage, knowledge systems
- International momentum (WIPO-GRATK, 2024; BBNJ) and broader recognition
- Opportunity for Pacific alignment & leverage
- Pacific leadership & Gaps
- Recognition and intention vs. reality of disparate national approaches
- Leading to uneven protection and enforcement capabilities & risks



PC: Sandroing at Vanuatu Cultural Centre, F Vaka'uta, 2015.

Where we are

- **Cook Islands Traditional Knowledge Act (2013).**

TK Advisory Committee, Registers, community/knowledge holders' approval, moral rights, commercial returns, rights holders, restricted use, application, public notification

- **Vanuatu Protection of TKEC (2019).**

TKEC Authority, TKCE Fund, identification of T/owners, PIC, benefit sharing, Customary use, Cultural rights and Moral rights, prohibited use, User agreements,

- **Nauru Protection of TK & TCE Act (2026).**

Nauru Cultural Authority, Customary use, Traditional cultural rights & Moral rights, identification of T/owners, FPIC, Authorised User agreements.

- **Palau Constitution, Article V. Traditional Rights, Section 2.**

“Statutes and traditional law shall be equally authoritative. In case of conflict between a statute and a traditional law, the statute shall prevail only to the extent it is not in conflict with the underlying principles of the traditional law”

- **Palau National Framework Act (2018)** for Access and Fair and Equitable Sharing of Benefits of Genetic Resources and Traditional Knowledge Associated with GRs within the Republic of Palau and for other related purposes

Traditional Heritage (Knowledge & Experience), Traditional community-based approach, User-Agreements, Public notification, ABS Committee & Fund



Cook Islands traditional
welcome at Va'a ceremony,
FestPAC13 © SPC, 2024



Cook Islands Delegation, FESTPAC 2016 F. Vaka'uta



I Fanlalian Oral History Project, Chamorro orator/Dance Group, FESTPAC 2016, F. Vaka'uta

- **Fiji TKCE Bill (IP)**

Review and fresh consultations conducted in 2023 – 2024. Pending presentation for Parliament.

- **PNG National Protection of Pasim Ples Policy and Standards 2025-2035**

Validated & endorsed in 2025. Launch anticipated in March 2026.

- **Kiribati TK Policy (IP)**

Cultural Mapping exercise and policy plans for 2026

Practical Insights: Opportunities

- **Community Authority at the centre:**

Vanuatu, Cook Is & Nauru highlight important foundation of state- community mandates to build legitimacy, increase awareness and reduce misappropriation.

- **Whole of government approach (Multisectoral):**

Vanuatu People's Plan, Culture as a pillar of SD, Wellbeing indicators, strong alignment and relationship between Malvatumauri and Government processes.

- **Tying TK to ABS and Cultural Governance**

Vanuatu's authority model, and Palau's recognition of how to operationalise benefit sharing and governance.



Challenges

- **Silo-ed approaches:** too often ministries that carry the culture /TK mandate are left out of discussions relating to TK e.g. in relation to trade and climate change. Culture sits outside of IP, biodiversity, archives, education – leading to fragmented standards etc
- **Limited TK legal expertise** across the region
- **Failure to recognise TK technical expertise** as development capacity gap
- **Political will and shifting positions** relating to Indigenous peoples and ITK
- General **lack of TK/TCE & IP Literacy**
- **Inability to respond to commercial exploitation** e.g. Entertainment (Disney), Pharmaceutical/Cosmetics Industry etc



PC: Living Heritage display at Solomon Is booth, FestPAC 2016

Samoa Tanoa Hotel, Va'a, 2017, F. Vaka'uta

New and emerging issues



- **Review of 2002 Pacific Modal Laws**

Need for review in light of shifting discourse and global trends

- **Data sovereignty & governance of TK/TCEs**

Digitization, access control, reuse and AI training models, digital rights and permissions

- **Technology & AI**

Web-scraping & generative AI could distort, misrepresent & harm (cultural/ commercial exploitation)

- **Capacity, Capability & Formal Education**

Limited IP/TK practitioners, community negotiators, curators, archivists, digital rights & AI lawyers and policy specialists

- **State/Whole of Govt & Traditional Custodians**

Siloed policy approaches unable to manage cross-cutting risks (Digital, AI, Tourism, Environmental, Climate, Branding etc)

- **Role of Regional Organisations (CROP)**

Pacific Islands Forum (Trade and Policy) and Pacific Community (Culture), Pacific Regional Environment Programme (Environ/ Climate Change) key actors for Modal law and Technical Assistance. What role in strengthening Pacific-action for the protection of TK/TCE?

Ethical Engagement, Data Sovereignty & AI

Positive Signs at the regional level and what we hope to build on

- **SPC:** Digital Flagship, Data Hub & Data Governance Strategy, advancing ITK discourse and awareness, working with Culture Ministers
- **SPREP:** TK and Climate Change protocols and standards
- **Global standards:** WIPO GRATK, BBNJ, IPCC 2025 Report *Recommendations for the Ethical and Equitable Engagement of Indigenous Knowledge Systems within the IPCC.*
- **World Bank & ADB** recognition of ITK in climate policy & programmes, advocating for FPIC, benefit-sharing, ethical data processes and safeguards
- **BBNJ:** Leveraging national interest and domestication pathways through BBNJ engagement & awareness
- **Pacific ITK coordination** plans (forthcoming, 2026)



What these efforts mean



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- **Pacific-led & -driven multimedia stewardship**

Recognition of TK as a separate, protected information/data category with its own data governance rules around “access”. Clarity around deposit forms, data license agreements, access tiers, anonymisation tools for audiovisual and 3D content/ custodian defined clearance layers, no-AI training clauses and renewable consent for forward access

- **Rethinking FPIC beyond entry and access, to data sovereignty and digital rights**

FPIC processes that ensure IPs retain their data sovereignty rights and digital rights to directly govern TK submission, access, modification, and withdrawal.

- **Forward access & interoperability**

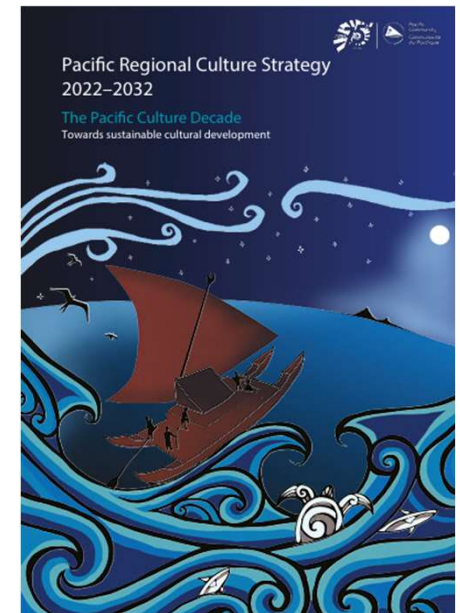
How access rules and data lineage apply between and across systems e.g. Pacific data hub and Blue Pacific 2050 etc

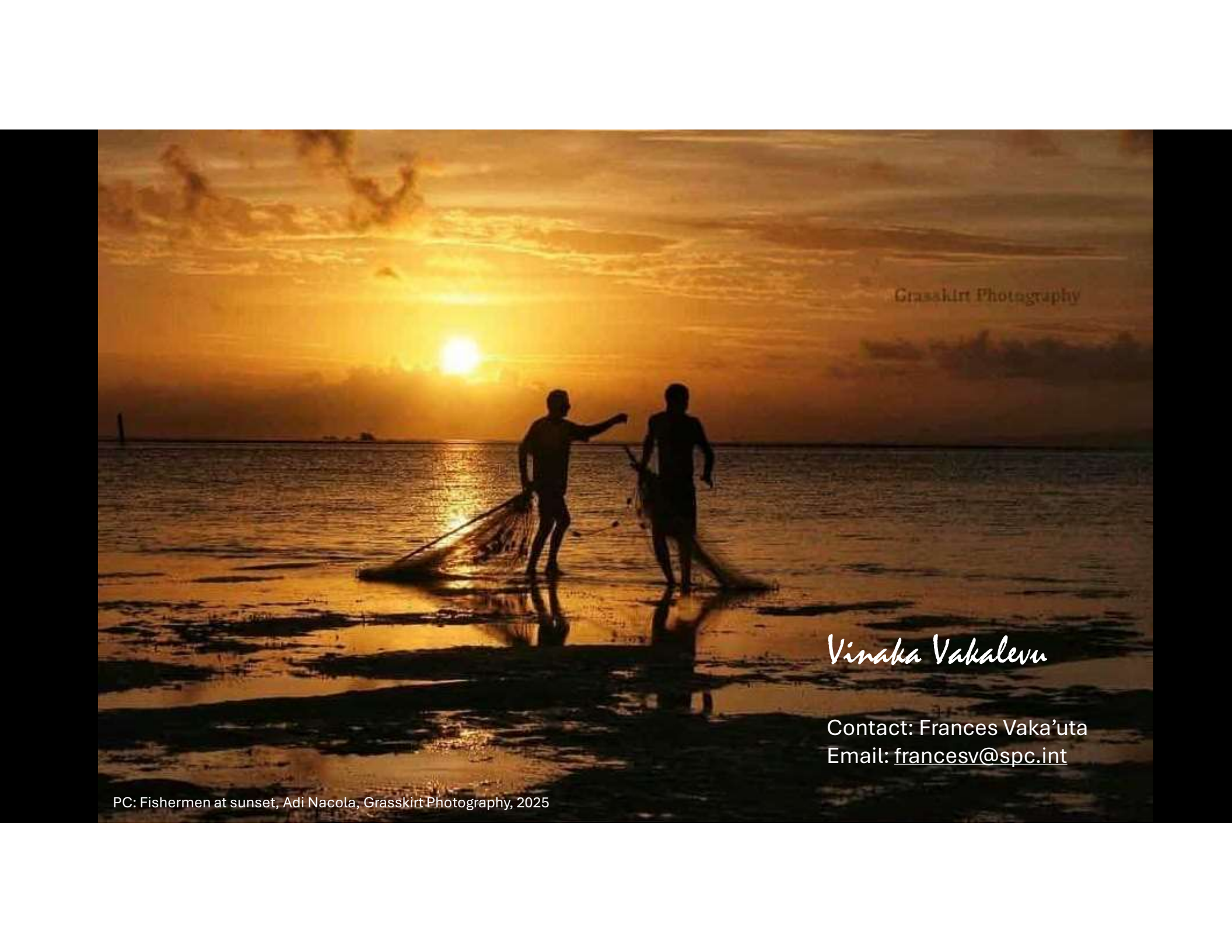
- **ABS and FPIC where community governance is prioritised**

Disclosure of origin principle and standards to require FPIC and track equitable benefits when TK linked resources inform patents, models or adaptation projects and how this may link to national TK/TCE laws and policy processes. BBNJ Clearing House Mechanism is a particularly interesting case in point which, if done properly, can inform and strengthen TK/TCE processes and protocols.

“Our future is in our past”

1. **Lessons** from Vanuatu model (Govt + Malvatumauri/ Custodians) as an ethical engagement standard
2. **Regional guidelines & National Policy** for ethical engagement with knowledge holder communities and their knowledge systems
3. **SOPs:** Standard and procurement rule for all agencies, incl. govt, public and private enterprises (incl. FPIC, ABS, deposit-classification-access tiering and licensing), no AI-training by default, and aligns with WIPO treaty disclosure requirements for IP filings or research outputs.
4. **Regional Frameworks:** AI, Data Governance (data deposit forms, community approved terms of use, access & data license agreements, AI-use declarations, and TK labels
5. **Architecture:** Sovereign or regional hosted storage with custodian/ community control and audit logs, custodian representation in governance committees/boards
6. **Capacity strengthening:** Development scholarships, short & micro-qualifications on IP for TK/TCEs, data/ AI Governance, ABS & FPIC, Multi-media archives and digital storage platforms.
7. **Leveraging political will:** Culture Ministers request for awareness and training on WIPO treaties and domestication





Grasskirt Photography

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PC: Fishermen at sunset, Adi Nacola, Grasskirt Photography, 2025