

**BUILDING BRIDGES WITH TRADITIONAL KNOWLEDGE II**  
**Intellectual Property Rights Working Group – Follow Up Discussions**  
**May 29 - 31, 2001**

- Unofficial summary of key points discussed.
- Recorded by Kelly Bannister and Jo Render without attribution.
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- Not for citation purposes.

**May 29 –30, 2001**

1. Proposal:

Form an independent international body to advocate on behalf of Indigenous and traditional communities and to counter-balance World Intellectual Property Organization (WIPO). This body would seek to protect underlying traditional VALUES of cultures that are the protectors of biological diversity (i.e., put the SPIRIT back into how we manage resources).

2. Rationale:

WIPO has a mandate from nation states to develop a framework for how to incorporate traditional knowledge into Intellectual Property Rights (IPR's). But IPR laws were developed to protect discrete inventions – incorporating traditional knowledge into IPR law is fitting a round peg into a square hole. We need to fit the square peg into the round hole.

IPR violations are largely related to ignorance; i.e., not knowing or respecting the origins of traditional knowledge and the cultures and systems that embody this knowledge (e.g., Biologo case presently under dispute by Maori communities).

The key underlying assumption that enables appropriation of traditional knowledge is that the knowledge is seen as in the public domain – and the public domain is a free-for-all for private enterprise. This assumption is unacceptable and must be contested internationally.

However, there are no legal mechanisms to protect traditional knowledge at the international level. WIPO's mandate is only to protect legal rights and economic aspects – not cultural values and obligations that are integral to traditional knowledge. (Note: But how can you take values into account if you don't understand what those values are?) It is up to Indigenous and traditional peoples to make sure their values are protected.

3. Further Comments and Questions Discussed:

- Literacy, education, information sharing on these issues must be directed to local communities as well as to institutions
- Need to bring IPR discussion back down to the ground level:
  - What is working on the ground from local peoples' perspective?

- What are the “North” and “South” discussions amongst themselves and how can the dialogue between North and South be bridged?
- Where is the “middle ground” upon which to make decisions”
  - There is too much polarization between national/international law and local/grassroots level.
  - How can we build bridges here?
- Sharing and exchanging information and knowledge is the basis of change
- Need to acknowledge duality in political systems (e.g., western vs. customary law) and which has decision-making authority
  - What are the opportunities to work at the national level? At the local level?
- Most efficient health system is in situ; i.e., support existing cultural systems and health and biodiversity management regimes within these traditional societies
- An attitude of servicing is integral to developing a reciprocal relationship
- Initiatives need to be multilingual, therefore we need translators
- We should think about supporting a moratorium on patenting of life forms
- Go back to “canoes” rather than use “bridges”
- Communication is the basis of bridge-building
- Desires to build rather than tear down bridges – maybe bridges need to be deconstructed and then rebuilt on a better foundation
- Is the solution to dismiss IPR law completely or are certain elements acceptable for certain applications? (E.g., is patenting of plant compounds acceptable if the purpose is to create drugs that will be made free/inexpensive to local communities for local diseases, such as malaria?)
- Indigenous peoples do not perceive “ownership” and “property rights” as in IPR law
- Money (e.g., compensation for knowledge use) can cause big problems within communities
- The real issue is not compensation but regaining control
- Good intentions to protect rights have led to systems that diminish rights; e.g., property system in Hawai`i.
- We may need to step outside our conventional roles and engage in alternative approaches to make this work

#### 4. Possible Actions For Working Group:

- Identify existing organizations that may be supportive
  - Each person here could contribute some information on organizations and projects by email or mail
- Create a collecting agency/clearinghouse for models (both good and bad) so we know better what is out there already and where to direct our questions
- Develop our own models that take into account regional or cultural specificity and share these models with the group
- Develop a framework that advocates responsibilities of researchers with respect to the public domain
- Develop a monitoring/evaluation system or agreed protocol for research involving traditional knowledge

- Create an international body of concerned people to:
  - Communicate with one another on concerns
  - Use Internet as a tool
  - “Rapid response network” idea to create a united voice
  - provide approval for activities
- Create a body equivalent to United Nations in scope
- Create a “learning network”
- Assist communities in self-organizing (i.e., provide a capacity building element)
- Need to establish a good process for sharing that is balanced before any negotiations take place
- Focus on broad framework rather than details at this point
  - Need translators
  - Someone to handle financial aspects
  - Someone to head communications

5. Question:

What can we each bring to the table? What services, skills, resources, etc. can we each provide realistically?

People agreed to come to the next and final meeting prepared to discuss this.

**May 31, 2001**

1. Proposal to form a group to work on issues of IPR and to proactively develop/propose models
2. Despite different levels of awareness and concern, there are a CORE set of cross-cutting values that unite. These values need to be the basis of a new protection strategy/regime.
3. Tree as a conceptual model:
  - We are rooted in different places, cultures, perspectives, ideas, etc.
  - The trunk represents a core set of values
  - Branches can represent specific activities or aspects of group; e.g., perhaps IPR system can be grafted on to this trunk?
4. What are the core values?
  - We each need to do our homework on this; i.e., find out what are core values on both sides of the bridge in our own homelands.
  - We can send in this information to the organization so we can identify the core values. It can be a repository and resource.
  - Organization should be a liaison for Indigenous peoples (Stuart proposed a conceptual model)
  - Set up a Task Team to work on establishing an organizational structure

5. Motion:

To create an independent, international Indigenous and traditional peoples' body that can advocate, negotiate, liase, and mediate at the request of Indigenous and traditional peoples' organizations and in relation to traditional knowledge systems and intellectual property rights/traditional resource rights issues.

6. Consensus was reached on acceptance of the above motion on May 31, 2001.

7. Ho`oipo Pa of the Ke Kiai (Native Hawaiian Advisory Council) will post these notes on their website: [www.kekiai.org](http://www.kekiai.org)

She may also be reached at email: [hooipopa@hawaii.rr.com](mailto:hooipopa@hawaii.rr.com)