

Traditional knowledge and traditional cultural expressions protections: prospects in Cameroon

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Abstract

This paper is located within global debates about intellectual property. International agencies, mindful that third world/developing world resources are being appropriated by global corporate bodies, seek to intervene to protect countries that are unable to fend off the often subtle alienation of their national and natural assets. In this context, the cultural and intellectual resources of countries, peoples, communities and other collectives have become the subject of policy regulation. This paper focuses on policies developed by the World Intellectual Property Organisation (WIPO). WIPO attempts to protect Traditional Knowledge (TK) and Traditional Cultural Expressions (TCEs) (folklore) against misappropriation and misuse. In this paper, the question asked is whether it is possible or desirable to protect all types of TK and TCEs that are constituent elements of indigenous knowledge and uses the case of Cameroon to provide examples to assist with answering these questions. It is argued that in some cases, it may be both possible and desirable, but that in other cases, there are constraints, as knowledge is secret or sacred. When such knowledge is not in the public domain it cannot be protected. Seeking to protect these types of expression and knowledge might, indeed, endanger them by removing them from the very context which provides their status as indigenous knowledge.

Keywords

traditional knowledge, traditional cultural expressions, World Intellectual Property Organisation, Cameroon

Holders of sacred or secret knowledge may not want it to be protected by any external source.

Introduction

Knowledge, especially within European contexts, has been historically associated with ‘science’ which has occupied an elevated status in epistemology. However, the status of ‘science’, understood as a rigorous process by which what is not known can be discovered by the use of rational research instruments (Malterud 2001), as an infallible source of truth, has been challenged. Science cannot justifiably claim to provide a truthful portrait of reality as “the justification of knowledge claims [for example] depends on conditions or principles that cannot be shown to be universally valid” (Carrier et al. 2004). The acknowledgement that ‘science’ cannot explain everything and that it rests, itself, on a range of assumptions has permitted the acknowledgement that there are forms of knowledge

which may not fit a ‘scientific’ frame. It is within this context that traditional knowledge (TK) and traditional cultural expressions (TCEs) have assumed importance in epistemology debates.

The global trend in international public policy is to regard knowledge “not only [as] a public good but also a global or international public good” (Stiglitz 1999). Knowledge being a public good has to be protected economically, culturally, and religiously against misappropriation and misuse. International

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agencies such as WIPO (World Intellectual Property Organisation), mindful that third world/developing world resources are being appropriated by global corporate bodies, seek to intervene to provide protection for countries that are unable to fend off the often subtle alienation of their national and natural assets. In this context, the cultural and intellectual resources of countries, peoples, communities and other collectives have become the subject of policy regulation within WIPO. WIPO provides a forum for international policy debate that considers the protection of TK and TCEs (folklore) against misappropriation and misuse (United Nations University–Institute of Advanced Studies 2010). WIPO was established in 1967 and became operational in 1970. Its objectives are to “promote the protection of intellectual property throughout the world through co-operation among States and, where appropriate, in collaboration with any other international organizations; ... ensure administrative co-operation between the Unions created by certain international conventions or agreements dealing with various subjects of intellectual property” (Prytherch 2000). However, although it can be said that WIPO is an international body that is a branch of the United Nations Organisation (UNO) that encompass 192 member states (United Nations Member States 2006), it may be difficult if not impossible for WIPO to protect TK and TCEs as its powers are limited, especially in relation to the enormity of the task. Its interventions are primarily at the level of policy and it has little implementation power. In addition to these limitations, its formal brief is complex. Are all knowledges capable of protection? In this paper I focus on this question, specifically considering the question of ‘sacred knowledge’. “Sacred” refers to any expression of traditional knowledge that symbolizes or pertains to religious and spiritual beliefs, practices or customs (Gervais 2003). Sacredness is embedded in the religious aspects of TK and TCEs and this may make it difficult or impossible for WIPO to identify the knowledges it is charged to protect. Exposing the secret knowledge embedded in the religious aspects of TK and TCEs by indigenous people might endanger the knowledge from the very context which provides their status as indigenous knowledge.

Traditional Knowledge and Traditional Cultural Expressions refer to the totality of all economic, cultural and religious knowledge and practices that reflect the identity of a community. Corroborating this view, Sturrock (n.d.) says, TCEs “serve several unique

functions within indigenous communities that ... warrant consideration. ... three such functions [are] economic, religious, and representative” [culture]. However, according to WIPO (n.d. (b)), “traditional knowledge (TK) ... and traditional cultural expressions (TCEs), or expressions of folklore are economic and cultural asserts of indigenous and local communities”. The omission by WIPO of reference to religious aspects may well produce a blind spot in the organization’s approach to indigenous knowledge and ignore the ‘hiddenness’ of particular elements of indigenous knowledge.

Traditional knowledge and TCEs expressions have a particular status in Africa where they have been associated with anti-colonial struggles and to this day act as a buttress against the intrusion of modernist frames of understanding. This is because “it is what Africans do when they are just being Africans” (Chidester et al. 1997). Their significance is not just ‘economic’ and is not simply available for alienation in the way that, for example, indigenous plants might be. For example, as a Cameroonian from the Bakossi clan, there are certain types of knowledge embedded in rituals that I am not permitted to make public. Following that one is not permitted to place certain types of knowledge publicly available makes it impossible to protect the knowledge. For certain knowledge to be protected by an outsider like WIPO, the outsider has to know the knowledge. It is impossible to protect what one does not know. One must know certain rituals (Bloch 1974) in order to know how they can be protected. This paper explores the nature of TK and TCEs in the particular national and multi-ethnic context of Cameroon. Acknowledging that TK and TCEs do not have status as knowledge separate from the contexts in which they exist, the paper seeks to identify various domains and types of TK and TCEs. It unveils the type of TK and TCEs that can and cannot be protected against misappropriation and misuse, using Cameroon as a case study. Furthermore, it exposes the rationale for African sacred religious knowledge and the consequences of breaking the sacred and secret nature of this religious knowledge. Finally, the paper proposes possible measures for TK and TCEs protection.

Cameroon TK & TCEs: Possible protected knowledge?

Cameroon has “about 250 distinct ethnic groups” (Cameroon’s People 2009). These ethnic groups are

alienated into five large regional cultural divisions. The categorizations are the Western highlanders or semi-bantu grass fielders that include tribes such as Bamileke, Bamum and smaller Tikar groups in the north-west; the coastal tropical forest groups that include tribes such as the Bassa, Duala and the smaller groups in the South-West that include “the Mbo-Bakossi” (Destro-Bisol et al. 1992); the Southern tropical forest groups that include Beti-Pahuin, Bulu, Fang, Maka, Njem, and Baka pygmies; the Islamic groups of the northern semi-arid regions like the Sahel and central highlands including the Fulani; and the non-Islamic or recent Islamic groups like the Kurdi found in the northern desert and central highlands areas (Cameroon’s People 2009). Within these ethnic groups are “over 270 native languages” (Anchimbe 2006).

Cameroon’s people have knowledge about local environment and habitat which includes local biological resources and plants, crops and tree species. Following Hansen and VanFleet (2003), TK includes

mental inventories of local biological resources, animal breeds, and local plant, crop and tree species. It may include such information as trees and plants that grow well together, and indicator plants, such as plants that show the soil salinity or that are known to flower at the beginning of the rains. It includes practices and technologies, such as seed treatment and storage methods and tools used for planting and harvesting. . . . TK is dynamic in nature and may include experimentation in the integration of new plant or tree species into existing farming systems or a traditional healer’s tests of new plant medicines.

According to Makwaeba (n.d.), examples of TK are “the weeping wattle tree used for cleansing bad spells in a village or yard; Aloe which can be used for blood cleansing and for the treatment of burns; and the use of Buffalo-thorn tree – *Ziziphus mucronata* – to heal abscesses having mixed the leaves in hot water”. Also, “the use of plao-noi in Thailand for the treatment of ulcers [and] the use of the Hoodia cactus by Kung Bushmen in Africa to stave off hunger” (Hansen and VanFleet 2003).

Since TK includes local biological resources, animal breeds, and local plant, crop and tree species which are all ‘known’ and are publicly available, it can be said that these aspects can and should be protected. Drug industries derive prescription drugs from indigenous traditional knowledge plants by appropriation without acknowledging and remunerating the community. In the South West region of Cameroon

the National Cancer Institute (NCI) “benefited from traditional knowledge of local communities living around Korup Forest Reserve The Institute . . . collected *Ancistrocladus korrapensis* from the reserve to screen for an anti-HIV . . . , Michellamine B.” (Mugabe 1998). According to Hillenbrand (2006), in “*vitro* studies of the alkaloid michellamine B, isolated from the indigenous Cameroonian plant *Ancistrocladus korrapensis*, “showed that the compound is active against two strains of the HIV virus, although it is at present far too toxic to be used as a therapy”.

Also, the *prunus africana* tree species found in the South West region of Mount Cameroon needs economic and cultural protection against misappropriation and misuse because it is exploited commercially by third parties. Following Bodeker (2000), third parties – Plantecam – are exploiting the *prunus africana* that “has important anti-cancer properties” that can be “used in treatment of Benign Prostatic Hypertrophy (BPH)”. Cameroon

made no attempt to develop its own capacity to prepare medicinal plant extracts for sale on the world market, nor to link this trade to conservation and local community development; a French company is the sole holder of a commercial exploitation permit to collect and export the bark to the European market. The European market was estimated at \$150 million in 1992. None of the profits are repatriated to Cameroon, whose citizens are paid only for the collection of the bark (Bodeker 2000).

Here is a case where the plant resources and intellectual property of Cameroonians are being exploited in a highly unequal way with little benefit to the local economy. In this case, WIPO’s intervention would be to secure adequate compensation for the country and persons concerned.

But not all cases of TK have such a clear economic implication. TCEs that are in the form of expressions such as productions of art and verbal expressions such as names and signs do not so readily offer themselves to protection or to economic calculation. TCEs

are handed down from one generation to another, either orally or by imitation, (ii) reflect a community’s cultural and social identity, (iii) consist of characteristic elements of a community’ heritage, (iv) are made by authors unknown and/or by communities and/or by individuals communally recognized as having the right, responsibility or permission to do so, (v) are often not created for commercial

purposes, but as vehicles for religious and cultural expression, and (vi) are constantly evolving, developing and being recreated within the community (WIPO (n.d.(a))).

TCEs include:

- verbal expressions, such as: stories, epics, legends, poetry, riddles and other narratives; words, signs, names, and symbols
- musical expressions, such as songs and instrumental music
- expressions by action, such as dances, plays, ceremonies, rituals and other performances, whether or not reduced to a material form
- tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewelry, baskets, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments; and architectural forms

which are:

- the products of creative intellectual activity, including individual and communal creativity
- characteristic of a community's cultural and social identity and cultural heritage
- maintained, used or developed by such community, or by individuals having the right or responsibility to do so in accordance with the customary law and practices of that community, made by authors unknown and/or by communities and/or by individuals communally recognized as having the right, responsibility or permission to do so (Antons 2009).

TCEs are “considered the property of the entire community, and not belonging to any single individual within the community” (Hansen and VanFleet 2003), and are in the public domain. These art forms can be protected against misappropriation and misuse. Cameroonian drums are decorated to signify, amongst other things, tribal identity and membership. Use of the designs can be protected in order to prevent commercial exploitation and thus the corruption of its signifying role within Cameroon.

On the other hand, although TCEs in the form of art, names and signs can economically and culturally be protected, it may not be possible to protect from misappropriation and misuse certain religious

elements of TCEs like dances, ceremonies and ritual. These religious TCEs encompass private and overt elements. It is important to protect overt religious TCEs of dances, ceremonies and ritual in Cameroon because “many Cameroonians practice traditional religions alongside Christianity or Islam, and spirituality is an important aspect in many Cameroon cultures” (Cameroon Religion (n.d.)). According to Cameroon Travel Deals (1994–2010), “the strong links to the traditional religion [is a] ... visit [to] a celebration or a ceremony” that are often held in “smaller villages across the country” (Cameroon Religion (n.d.)). For example, during ceremonies “when the annual dances of the society (Njoku Male) are held” (Ardener 1959), the Bakweri tribe of the South West region of Cameroon practice the elephant dance that entails private and public manifestations. Members of the society that perform the dance are exclusively men ranked into four grades known as *Love*, *Venjuka*, *Tamba* and *Vekpa*, with an ascending scale of entrance fees. During the manifestations,

a member with an elephant double is thought to be able to trample on the farms of his enemies in elephant form, and to transport himself (and any friends he may link arms with) at tremendous speeds from place to place. Such a member must however take the risk that if his elephant double is killed by a hunter he too will suddenly die. ... The evening before the annual dance ... a bonfire is lit (ewond' a Male), and that night members are believed to enter their elephant bodies and trample through the bush. ... On the next day ... the public is allowed to witness a dim reflection of these activities in the annual dance (Ardener 1959).

Following the Bakweri elephant dance, there are two main events, one that is sacred – private – and the other that is public. The evening events where members are believed to enter their elephant bodies are sacred. The event where the public is permitted to witness the activities in the annual dance are not sacred. The overt form of ceremonies and rituals can be protected because it has been placed in the “public domain” (Mathur 2003), and hence opens “the door to misuse or misappropriation” (World Intellectual Property Organisation 2010). For example, third parties can exploit the ceremonies and rituals through production on audiovisual media and the Internet and distribution for economic gains. This as the rapid expansion of new technologies offers opportunities for production and distribution of media products (La Porte Alfaro and Sabada 2001).

Hence, while the public event can be protected against misappropriation and misuse by third parties because it can be identified with the Bakweri tradition, the sacred activities cannot be protected because only selected members of the tribe are permitted to participate in the event. These selected members do not reveal to the public how they transform themselves into elephants as it is “prohibited information” (Mgqolozana 2009). This is sacred among the members and is not for public consumption. For anyone to know how members enter their elephant bodies, such a person “must undergo a long, elaborate, and expensive initiation ceremony” (Messenger 1960). Also, in Cameroon, traditional healers within certain ethnic groups use sacred “knowledge in their diagnosis to better treat the invalids . . . If a sick person tells [the healer] that he was beaten all night in his bed, the indigenous healer will understand him and help him chase away the spirits” (Hillenbrand 2006). The knowledge used to chase away the spirit is considered sacred because it is only known to the healer or similar healers and “not written down. It is held in [the healer’s head], passed down from one generation to the next by word of mouth” (Mundy and Compton 1991/3). The tradition of the knowledge forbids others to witness how the spirit is chased away.

Sacred religious knowledge

African identity relates to a “sense of belonging to a deep-rooted set of values which forms [their] mental and moral attitude, and gives [Africans] their unique characters” (Idowu 2003). African traditional culture is stubbornly “held to its own concepts, values, institutions, and tools” (Guyer and Belinga 1995). A key feature and constitutive element of this identity is sacred religious knowledge, which is the space that “the core of African identity inheres” (Chidester et al. 1997).

Sacred knowledge is often secret, not least because historically European missionaries aggressively labelled indigenous belief systems as pagan and sought to convert Africans to Christianity. Secrecy was necessary to protect indigenous knowledge from exploitation and denigration by colonialists (Ashforth 2005). Furthermore, the “secrecy is also consonant with a great many features of ritual knowledge in which mysterious powers are mobilised” (Ashforth 2005). The manner that religious TCEs are “practiced in secret broadens the field of imagination in which

the potential . . . people who deploy it play out” (Ashforth 2005).

In African sacred religious knowledge there is “no [separation] between ‘science’ and ‘arts’” (Millar (n.d.). Following Millar (n.d.), “what rural people have is a body of knowledge constructed (and perpetually being reconstructed) from generation to generation and over time and space covering various livelihoods and life-encountered experiences”. For example, African art as “knowledge production involves sundry epistemic engines and contraptions” (Maharaj 2009). Following the example of the Bakweri elephant dance, the evening events where members are believed to enter their elephant bodies and the real dance – which is an art – that is an overt act is an example of where there is no separation between science and art in the African context. Although there is a “congeries of quite divergent activities . . . each with its own kit of objectives and local procedures” (Maharaj 2009), as requires of science, it is a combination of the evening event and the dance proper that amounts to the Bakweri elephant dance.

African sacred religious knowledge rests on the belief that “the ancestors are at the apex of the ontological ladder [and] all knowledges and wisdoms emanate from here and are created and re-created by them” (Millar (n.d.). Most Africans believe that “the development of knowledges is guided by the spiritual influences of the ancestors” (Millar (n.d.). This is because “the ancestors can be contracted directly for guidance” (Fatunmbi 2005), to “give aid to their relatives” (Messenger 1960). The aid can be in the form of rewards that range from “granting an individual many offspring or material wealth” (Messenger 1960), to punishment in the form of “bewitchment . . . [for allowing] unwanted intrusion into the culture of our forefathers” (Mgqolozana 2009).

Africa sacred religious knowledge allows people to relate to both the natural world and the spiritual world (Millar (n.d.). It is alleged that human beings possess two souls (Messenger 1960) that belong to separate worlds and have a “wide range of possible identities” (Idowu 2003). According to Gonesse (1999), the habitat of the spiritual world is the natural world. Following the natural world, it is believed that “the ancestral spirit [is] the owners of humankind and are responsible for their well being. The spiritual world owns both human society and nature because this is where the spirit has their habitat. God is supreme in this hierarchy” (Gonesse 1999). On the other hand, the spiritual world is “composed of different spirits that

have different meeting places and specific responsibilities, tasks and functions. . . . For example, spirits specialized in war strategies, technology development, rainmaking and human health. Some of the spirits warn people about diseases and problems that can affect the entire nation” (Gonese 1999). This is because the ancestral spirits “makes a link between the living, the dead and the yet-unborn” (Millar (n.d.)). Hence, following Millar (n.d.), “the human world, the natural world and the spiritual world are linked. The natural world provides the habitat for the spirits and sends messages from the spiritual world to the human world. The spiritual world provides guidance, punishment and blessing to the human world”.

Consequences for breaking African sacred religious knowledge

There is resistance among those who have African sacred religious knowledge to placing it in the public realm. The knowledge, if shared, can be used for destructive purposes and it is thus kept secret with sanctions threatened against those who share the knowledge (Chidester et al. 1997; Messenger, 1960). Within African religious circles it is believed that sacred knowledge can be used profitably and dangerously. For example, with the aid of magic, sacred knowledge can be used to dismiss diseases as well as inflict diseases (Ogden 2002). Supporting this view Smith (2000) says, “it [is] believed that . . . demons [walk] the Earth creating disease and pestilence. If someone [has] the knowledge to heal, then surely they [have] the power to destroy”.

One can be expelled from the community and be “subject to severe social censure” (Messenger 1960), for having “shamed [the] sacred culture and brought it into unrescueable disrepute” (Mgqolozana 2009). The social censure may involve mobbing which encompasses ganging up against the defaulter and “subjecting him or her to psychological harassment” (Leymann 1990), or physical harassment.

Possible measures for TK and TCEs protection

In order to protect TK and TCEs against misappropriation and misuse, WIPO should set up missions to individual communities – mostly villages – to investigate the type of TK and TCEs that a community would choose to be protected. Where such studies are carried out, WIPO will discover that the community will not

identify sacred portions of their religious traditional knowledge to be protected. It is reported that

indigenous and local communities have called for various forms of protection; these include: protection of traditional literary and artistic productions against unauthorized reproduction, adaptation, distribution, performance and other such acts, as well as prevention of insulting, derogatory and/or culturally and spiritually offensive uses (WIPO n.d. (a)).

Following the types of protections requested by the communities, it can be seen that the community has visualized aspects that are publicly available and omitted certain portions of traditional religious knowledge, as the community may not be willing to dispose certain embedded religious knowledge for public consumption. The community believes that the hidden knowledge is already protected. Selected initiated individuals protect the hidden knowledge.

However, where for example the communities identify possible TK and TCEs to be protected, WIPO should sensitize the community through workshops, colloquiums, seminars, or conferences – preferably in their mother tongue – as to how the identified knowledge can be protected economically, culturally and partially religiously against misappropriation and misuse.

In sensitizing the communities, WIPO, through the Intergovernmental Committee, would have to set up lectures in the communities on TK and TCEs issues raised by the communities. It is reported that WIPO has developed, through the Intergovernmental Committee, draft provisions for the protection of traditional cultural expressions/folklore and traditional knowledge against misappropriation and misuse. The draft provisions were compiled in consultation with WIPO member states, indigenous peoples and other traditional and cultural communities, civil society organizations and a range of other interested parties (WIPO Program Activities (n.d.)). Following this process, the lectures should be administered by those who are versed and are part of the inner cycle in TK and TCEs issues. The people versed with TK and TCEs issues should not necessarily be sourced from WIPO offices. Tertiary and other potential institutions in the country or continent where the studies were carried out should be consulted. During the process of educating the communities, those responsible for the lecture should lobby and convince members of the communities that knowledge of how their TK and TCEs would not be misappropriated and misused is

important because it may curb third parties from exploiting the knowledge of the community. According to WIPO (n.d. (a)), third parties are exploiting knowledge for financial gains. It can be said that where this is explained to the communities, lectures on TK and TCEs would receive serious attention from the communities. Furthermore, the lectures should also concentrate on certain portions of traditional religion knowledge that cannot possibly be protected. It may be difficult to protect certain portions of traditional religious knowledge because such knowledge is meant for a specific group of individuals who must have gone through certain “initiation rights” (United Nations University–Institute of Advanced Studies 2004).

Conclusion

Generally, it can be said that not all types of TCEs can be protected against misappropriation and misuse. There are certain portions of religious traditional knowledge that are not exposed to the public. In instances that there are certain portions of religious knowledge that are not revealed to the public by the community, it may be difficult to protect such knowledge against misappropriation and misuse. Following that the knowledge is meant for a selected audience, it is protected by secrecy and those who have the knowledge may not want it to be protected by any external source. Only selected individuals who have gone through prescribed “initiation rights” (United Nations University–Institute of Advanced Studies 2004), are permitted to know and protect the knowledge. Hence for WIPO to protect TK and TCEs from misappropriation and misuse the communities have to be consulted. In instances that the communities are not consulted, WIPO may continuously be holding the false belief that they can protect all types of TK and TCEs. There are many types of TK and TCEs embedded in various communities that are yet to be made public. One can argue that not until all the hidden TK and TCEs are exposed can an organization such as WIPO claim to protect such practices and knowledges.

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