

ABS Webinar: Traditional Knowledge Update

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Traditional Knowledge Laws:



- Cook Islands Traditional Knowledge Act: established in 2013.
 - Allows for registration of different forms of TK (TK, cultural expressions, handicrafts, designs, methods for traditional medicines etc).
 - Once registered, permissions must be obtained for a range of uses: commercial, performance, and derivative works. Does not restrict traditional uses.
 - Not yet in force – regulations not enacted yet

Cook Islands: Permit process for research is separate (operates under ‘National Research Permit Policy’).

ABS Draft Policy was drafted under UNDP project. There would be a separate process for these applicants, through NFP (Environment).

Traditional Knowledge Laws:



- Vanuatu Traditional Knowledge Bill passed in late 2019.
 - Scope includes all expressions of culture, handicrafts, traditional medicines, designs, visual arts, songs etc.
 - applicants who want to use traditional knowledge for non-traditional purposes must apply to a new Traditional Knowledge and EC Authority which would help determine the traditional owners of the TK for approvals.
 - Authority would be CEO of Malvatumauri, Director Vanuatu Cultural Centre, Director of Environment, Vanuatu IP Office, Vanuatu Handicraft Association.
- Separate 'bioprospecting' requirements under Environmental Management Act, requiring permit and ABS agreement as approved by Biodiversity Advisory Committee (chaired by Director Environment).
- <https://www.abc.net.au/radio-australia/programs/pacificbeat/push-for-pacific-countries-to-protect-traditional-knowledge/11808796>



Some possible issues:

- Scope – should TK laws include traditional medicines, as well as cultural expressions, designs (e.g. tattoos, weaving), and folklore. Does it include GRs?
- Aligning against ABS laws. Dual permit requirements (e.g. in Vanuatu- may require both or just one)? Or does TK application just become part of ABS permit application pathway/flowchart?
- Asking local people to register their traditional knowledge – some people may not want to register, or may want to keep knowledge secret. Should the TK law require registration, or is there another way (e.g. Vanuatu)?
- Multiple registrations for the same knowledge – how to allow this and ensure the right permissions/authority, shared benefits, as well as dispute settlement.
- Other issues?

What are Country Experiences with TK Bills, Acts and Processes?

- Please share your experiences...



Community Protocols:



- Community protocols are also encouraged under the Nagoya Protocol (article 12.3C).
- Dr Margaret Raven and I (UNSW) have supported some draft community protocol development in Vanuatu and Cook Islands.
- These are mostly based on customary law.
- These could assist with TK law permissions/authorisations processes and prior informed consent processes.
- These could assist with ABS permit applications for genetic resources from customary land and also associated TK, as well as assisting with ‘enquiries’ from researchers and people coming into communities.

Links:

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- Cook Islands Act: <https://www.wipo.int/edocs/lexdocs/laws/en/ck/ck002en.pdf>
- Vanuatu Bill: https://parliament.gov.vu/images/Bills/2018/2nd_Ordinary_Session/Bill_for_the_Protection_of_Traditional_Knowledge_Act_No._of_2018.pdf



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