

Chapter 16

Survival of the Fittest Protection of Indigenous Knowledge

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ABSTRACT

This chapter reflects on numerous protections that are available for indigenous knowledge from those who misappropriate it for personal aggrandizement without regard of the holders of the knowledge. The chapter is underpinned on the Afrocentricity and Sankofa theories. A socio-legal methodology was adopted to ground the work to enable students studying indigenous knowledge systems to have a foundation and be able to follow the interdisciplinarity in the writing. As such, a doctrinal approach and qualitative design were engaged to buttress the philosophical reasoning and capture the rich and unrecorded knowledge of inorganic intellectuals. The chapter's standpoint is that the protection of indigenous knowledge requires African-tailored legislation that resonates with indigenous communities' beliefs and are pragmatic yet innovative to bring benefit sharing. In pursuing this, a normative legal framework that could be utilised in the protection of indigenous knowledge is explored.

INTRODUCTION

Lately, the world has seen the unrelentless ability and scramble of unscrupulous individuals and corporate entities to gain virtually unregulated access to African indigenous knowledge for personal aggrandizement (Bettig, 2018). In other words, indispensable and sacred knowledge related to the African customs and practices derived from bioresources have fallen prey to unregulated appropriation. In an era of digitisa-

DOI: 10.4018/978-1-7998-7492-8.ch016

tion where knowledge management has become popularised, very little and/or nothing has been done in Africa to restrict the flow of knowledge from the indigenous communities and continent at large.

Despite the standing mandate contained in the Cultural Charter for Africa, which many countries are signatories to, that calls and advocates for the legal and practical protection of African cultural heritage, the misappropriation of the knowledge goes unabated (Zhang, Gu, Jang, Wu, Stoecklin, Huang, & Molloy, 2018). The latter is ascribed to two reasons: the neglect of indigenous systems that protect the knowledge and the dominance of western systems in the governance of African issues. Regarding the latter, the outward siphoning of African indigenous knowledge is vehemently argued and attributed to the dominance of the western world in the sphere of technological innovation and the ability to usurp intellectual capacity. Within the African indigenous worldview, almost all African indigenous societies view this sacred knowledge as a communal entity, to be meticulously placed in the public domain to usher palliatives and not necessarily as a profit-spinning commodity. On the contrary, outsiders do not share this generous view but manipulate acquiring this knowledge to obtain biodiversity-related knowledge and profit from it to the exclusion of others, including the original holders of the knowledge (Kihwelo, 2009). Consequently, a regulatory vacuum (either African or Western) exists thereby leaving African indigenous knowledge largely unprotected and vulnerable to annexation by mainly outsiders who at times collaborate with some greedy insiders.

The chapter outline is as follows:

- The first part of this chapter provides a general outlook of African indigenous knowledge.
- Secondly, the chapter appraises the introduction of a digital library.
- Thirdly, it gives the African ways used to protect indigenous knowledge from misappropriation.
- Fourthly, the chapter examines the current state of protection of African indigenous knowledge and the associated shortcomings.

THEORETICAL BASE AND METHODOLOGY

This chapter was premised upon the Afrocentricity and Sankofa theories. A socio-legal methodology was adopted to ground the work to enable students studying Indigenous Knowledge Systems (IKSs) to have a foundation and be able to follow the interdisciplinarity in the writing. As such, a doctrinal approach and qualitative design were engaged to buttress the philosophical reasoning and capture the rich and unrecorded knowledge of inorganic intellectuals.

Afrocentricity

Afrocentricity is a paradigm based on the idea that African people should re-assert a sense of agency in order to achieve sanity (Asante, 2013). In other words, it contends that the main problem of African people is their usual unconscious adoption of the Western worldview and perspective in their day to day living at the expense of their indigenous worldview. Therefore, their failure to recognise the genesis of African indigenous knowledge and preferring western or foreign paradigms and legislation depicts African indigenous peoples as copycats of foreign cultural values and norms (Henderson & Laman, 2020). This theory is adopted to ground this chapter in the African worldview and envisage to articulate indigenous norms and values so that they also not be side-lined in areas of intellectual property. Finally,

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