

## **BIRKBECK AHRB COPYRIGHT RESEARCH NETWORK**

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### **Abstract**

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#### **“Freedoms and Knowledge, Access and Silence: Traditional Knowledge and Freedom of Speech”**

Copyright models, when applied to traditional expressions of culture, attempt to simplify creativity and traditional cultural production as uniform in origin and identifiable as objects. In other words, proceeding from intellectual property as a logical starting-point for protection presumes that constructed categorical abstractions are natural and inevitable for the protection of traditional knowledge. The consequences of constraining traditional knowledge within the categories of intellectual property are greater than mere inadequacy of protection; this process is likely to have undesirable consequences for traditional cultures and different knowledge practices. Whether or not it is characterised in the language of human rights, the facilitation of culture is arguably the fundamental subject matter of traditional knowledge protection, and that culture is facilitated and made meaningful through recognition within and between communities. That recognition of community, of each other, operates through cultural expressions.

Thus, where use of cultural symbols, dress, or artistic method, for example, occurs outside the community of knowledge-holders, this potentially dishonest use or misappropriation may lead to inaccurate “recognitions,” and ultimately the devaluing and exhaustion of those means by which to recognise community. Arguably, the effective protection of traditional knowledge is therefore an exclusion of such use, rather than regulated access, as would be achieved through copyright models. This paper examines access to knowledge, and arguments for freedom of expression and speech, and the conflict with protection of traditional knowledge.

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