

Traditional Cultural Expressions, Copyright, Cultural Diversity and Human Rights

Professor Christoph Beat Graber

Outline

As a consequence of economic globalisation, the efficient protection of Traditional Cultural Expressions (TCE) has become an important issue of academic debate and international policymaking. The most important political fora responding to this concern on the international level have been established *inter alia* within WIPO and UNESCO. WIPO has been discussing TCE since 2000 within a special committee concerned with the protection of traditional knowledge and folklore (folklore is synonym for TCE) in a framework of IP law, and in particular copyright law. UNESCO has negotiated several legal instruments protecting cultural heritage and cultural diversity. The major flaws of these efforts are their fragmentation and lack of a holistic perspective. Each forum seems to be focusing on its area of work and competence, without giving adequate consideration to the developments in other relevant international fora. Almost completely absent in these debates have been reflections on the human rights bases of traditional cultural expressions. This is deplorable for two reasons: first, human rights theory might allow for a better understanding of the moral cultural rights of indigenous peoples and second, such reflections might contribute to a more coherent and comprehensive picture of the issue.