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# PROTECTION OF INDIGENOUS PROPERTY IN ILISHAN-REMO COMMUNITY, NIGERIA

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# **PROTECTION OF INDIGENOUS PROPERTY IN ILISHAN-REMO COMMUNITY, NIGERIA**

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## **Abstract**

This research has attempted to examine the role of intellectual property law on the protection of indigenous knowledge in Ilishan-Remo land. The objective of this study is to investigate the state of indigenous knowledge in Ilishan Remo, Ogun State and whether it has any protective measure in place for the protection of indigenous knowledge from misappropriation and illegitimate acquisition.

The use of structured interview guide comprising open ended questions was used to gather data from the field. Findings from this study show that Ilishan Remo has peculiar indigenous knowledge such as the use of herbs for treatment of diseases, farming, trading in cola nuts, weaving of baskets, calabash making, plaiting of hair, wood carving, goldsmithing, and pottery which the community appreciates as it provides them with security, identity and livelihood.. It also shows that Indigenous Knowledge in Ilishan Remo at various points in times has been misappropriated and that Ilishan community protects its IK by restricting non indigenes from viewing and participating in their indigenous practices. Findings also show that local laws used in deterring third parties from having knowledge of the community's culture is not supported by the government's law.

***Keywords:* indigenous Knowledge (IK), Intellectual Property, Ilishan-Remo, Nigeria**

## **INTRODUCTION**

Nigeria has a rich body of indigenous knowledge developed over many centuries. This body of accumulated knowledge has played a vital role in agriculture, animal and human health, natural resources management, education, and other activities (Aliyu, 2008)

Indigenous Knowledge (IK) is local knowledge that is unique to a given culture or society. It is the systematic body of knowledge acquired by local people through accumulation of experiences, informal experience and intimate understanding of the environment in a given culture (Warren, 1995). It is knowledge accumulated through periods of living in close interaction with nature. It covers religion, music, poetry, dance, art, architecture and many more. IK is the very foundation of traditional cultures and it is indivisible from a community's identities, value systems and laws. Therefore, cultural obligations towards communicating, sharing, using and applying this knowledge should be legally recognized and respected by the non-Indigenous actors of the Information Society (Commission on Human Rights, 2005).

Different mechanisms can serve as protective paradigms to different issues or ideas at different times. In any discussion on the protection of indigenous knowledge, the intellectual property law inevitably comes up. The ability and desirability of intellectual property law to become the main mechanism to address and redress matters as comprehensive and interdependent as protection of indigenous knowledge needs to be thoroughly considered.

Intellectual Property law refers to a group of legal regimes, each of which, to different degrees, confers rights of ownership in a particular subject matter. It is a product of human intellect considered as personal property, especially works protected under the law of copyright and inventions protected by patents (Feather & Sturges, 2003). Intellectual property law also deters others from copying or taking unfair advantage of the work or reputation of another and at the same time provides remedies should this happens. (Bainbridge, 1999).

### **Historical Description of Ilishan Remo**

Ilishan Remo is situated in Ogun State, one of the 36 states in Nigeria. A study by Nwaomah, Audu, and Dickson (2010), revealed that Ilishan Remo, the fourth largest of the thirty-three towns in Remo Division of the State, is one of the first five towns (Akarigbo, Elepe, Alalisan, Alara and Alado) that resulted from the migration from Iremo quarters in Ile-Ife between 1400 and 1438 A.D, and one of the 33 towns made up of the ethnic group called Remo in Yoruba land popularly called Remo *metalelogbon*.

Ilishan Remo town as known today started as a hamlet at an undated period, with the coming of Liworu from Ile-Ife, with his wife Uren. Liworu or Olomu as he was also called arrived at Odokule to Igborule and later to the present Iworu due to the problem of erosion. The present day Ilishan comprises of the following settlements: Iworu, Idogan, Idokosi, Molado, Orubo, Ile, and Orubo Oko. These settlements were formerly separate villages with separate leadership and deities but with the Yoruba inter-tribal wars most of them became extinct or desolate, thereby forcing most of the people to join other settlements, some of these people are now at Ilishan, Ilara Irolu, Ikenne and Iperu townships.

Previously surrounded by virgin forests, Ilishan Remo appears to be the most centrally located town in the heart of Remo Land, even though politically it is part of Remo North of Remo land. Because of its shape, almost two thirds of its population inhabits the center of the town.

Badmus (2002) asserted that though culturally active, the community is highly religious. Majority of its people are Christians. There are also Muslims whose origin is linked with migration from Ijebuland.

Most indigenes of Ilishan Remo community are farmers, while others are traders. There are also artisans. Ilishan farmers are noted for their food crops such as various types of yam especially the one called *alo* pepper of different kinds, cassava, cocoyam, maize, oranges and groundnut, cocoa, cashew and kola nuts.

Apart from farming, Ilishan indigenes practiced various forms of craftsmanship both in smelting of minerals, goldsmithing, pottery, calabash making and basket weaving. Woodcarving is also very common in Ilishan.

### **Statement of the Problem**

For Indigenous Knowledge to be viewed as unique, it has to be specific to a locality and be readily passed on orally or through experience from one generation to the next. This knowledge contributes to the quality of life in the places they are produced, and can enhance the image and prestige of the local area. Hence Indigenous Knowledge could serve as a source of income to the community.

It has been observed that the indigenous knowledge accumulated over generations by local communities is sometimes appropriated by so called experts without any compensation to the producers of such knowledge in spite of its tremendous potential to yield economic returns. Rarely are indigenous people able to lay claim to the special knowledge they possess and to yield economic benefits from it through intellectual property law.

This research therefore sought to find out the state of indigenous knowledge in Ilishan Remo, Ogun State and whether there are any protective measure in place for the protection of indigenous knowledge from misappropriation and illegitimate acquisition.

### **Objectives of the Study**

The general objective of this study is to investigate the state of indigenous knowledge in Ilishan Remo, Ogun State and whether there are any protective measure in place for the protection of indigenous knowledge from misappropriation and illegitimate acquisition of intellectual property right. In doing this, the specific objectives will be:

1. To find out the types of Indigenous Knowledge in Ilishan Remo Land.
2. To identify the importance/use of the knowledge
3. To find out instances where IK has been misappropriated in Ilishan Remo
4. To identify measures that are being used to protect Indigenous Knowledge from misappropriation and illegitimate acquisition in Ilishan Remo land.
5. To find out the challenges faced in the implementation of this protection.

### **Significance of the Study**

The result of this study will help indigenous people especially Ilishan Remo community to avoid the idea of thinking that indigenous knowledge is 'old-fashioned,' 'backward,' 'static' or 'unchanging.' It will help them to appreciate and guide their indigenous knowledge jealously, thereby seeking means to avoiding and preventing their natural heritage from misappropriation and illegitimate acquisition.

### **Research Questions**

For the purpose of data collection, the following questions have been formulated:

1. What are the types of indigenous knowledge in Ilishan Remo?
2. What are the importance of the use or practice of IK in Ilishan Remo land?

3. What are the factors that limit the use of Indigenous Knowledge in Ilishan Remo?
4. Has there been an instance where IK has been misappropriated by an outsider in Ilishan Remo Land?
5. What measures, especially law exist to protect it from misappropriation?
6. What are the challenges and prospect faced in the implementation of the protection?

## **REVIEW OF LITERATURE**

### **Importance of Indigenous Knowledge**

Indigenous Knowledge refers to the vast and largely undocumented body of knowledge, wisdom, skills and expertise that a given community has developed over time, and continues to develop as it grapples with the challenges of its environment, with outside ideas, and with constantly changing conditions (Sillitoe 1998).

Oguamanam (2009) posits that IK is manifested in arts, design, music, education – oral and written, religious and diverse cultural rituals, history, political craft, social relations etc. In addition, IK has been expressed through stories, folklore, rituals, songs, laws, agriculture, animal husbandry, ethnic veterinary medicine, use and management of natural resources, primary health care (preventive medicine and psychosocial care), saving and lending, community development, and poverty alleviation (Sithole, 2006).

Bamiro (2009) stated that IK is an important component of a country's knowledge system. It encapsulates the skills, experience and insights of people, and is applied to maintain or improve their livelihood. According to Sithole (2006) Indigenous Knowledge is an essential resource to any development process. It informs decision making at any level. It has been used for many years in natural resources management and to solve a plethora of social problems including health, poverty, agriculture production and food security. Hence, African communities are using this knowledge to respond and manage the HIV and AIDS pandemic in the care and treatment of opportunistic infections.

Indigenous Knowledge is cheap and readily available to most communities and social groups compared to outside knowledge: It is socially desirable, economically affordable, a sustainable resource and involve minimum risk to rural farmers, improves understanding of local condition, and assures that the end users of specific development projects are involved in developing technologist appropriate to their needs (Warren 1993).

According to the study carried out by Anyira (2010) IK enables indigenous communities to sustain agriculture, acquire education and vocational skills, and conserve their environment, as well as resolving conflicts, controlling pests, maintaining good health, and ensuring the security of lives and property. It can also contribute to local empowerment and development, increasing self-sufficiency and strengthening self-determination so that utilizing IK in research projects and management plans gives it legitimacy and credibility in the eyes of both local people and outside scientists, increasing cultural pride and thus motivation to solve local problems with local ingenuity and resources.

It was further observed that IK technologies and know-how have an advantage over introduced forms in that they rely on locally available skills and materials and are thus often more cost-effective than introducing exotic technologies from outside sources (IIRR, 1996a).

In a study conducted by Nwaka (n.d) it was observed that IK promotes good governance through anti-corruption and human right crusade; reform of civil service, electoral and judicial system.

Literature has established the all-embracing range of Indigenous Knowledge; it underlines local society's value system, impacting every sector of indigenous society live.

### **Challenges on the Protection of Indigenous Knowledge**

Sithole (2006) asserted that the most difficult aspects of indigenous knowledge in relation to property rights have been the communality of the knowledge; that is, since indigenous knowledge in this context is owned and shared by a community, it will be difficult for a particular individual to claim ownership of it.

Nwaka (n.d) affirms that the local people themselves who are the custodians and practitioners of indigenous knowledge must overcome doubts and diffidence about the merits of their ideas, skills and practices. While they should not idealize or romanticize the merits of their cultural practices and traditions, they must be encouraged to appreciate the strong and weak points of their knowledge, and seek, through experimentation, to improve and modify them appropriately in the light of change and new ideas, especially in the vital areas of agriculture and food security, human and animal health care, education and natural resource conservation/management.

Indigenous and local communities often do not have strong traditions of ownership over knowledge that resembles the modern forms of private ownership. Many have clear traditions of custodianship over knowledge, and customary law may guide who may use different kinds of knowledge at particular times and places, and obligations that accompany the use of knowledge. From their perspective, misappropriation and misuse of knowledge may be offensive to traditions, and may have spiritual and physical repercussions in their cosmological systems. (Traditional Knowledge, n.d)

Chuma-Ibe (2009) noted the following challenges as factors militating against the protection of indigenous knowledge:

1. Lack of adequate legal and institutional framework of protection for cultural property in Nigeria.
2. Lack of personnel with training in the protection of cultural property
3. Lack of comprehensive list of items in the heritage reserve
4. Most practitioners are not aware intellectual property rights, especially on intangible heritage (proverbs etc.)
5. inadequate financial support for cultural heritage centers

### **Methodology**

Based on what the community is known for, the investigation sampled three major groups: the human health group, the farmers group, and the artisans group. The major instrument used was interviews through the use of interview guide. The intention was to form a focus group. However, focus group could not be formed on grounds that the researchers are not initiated members of the various groups. Therefore, interview was conducted on the leaders of the health group, farmers' group, artisans' group, and twelve (12) members of the various groups, totaling fifteen (15) persons (two human health care workers, six farmers, and seven artisans. All the three groups gave their responses which constitute the focus of the analysis below.

### **Data Analysis and Discussion**

An analysis of the responses given by the three groups selected for the study is presented in tables below:

**Table 1: Types of Indigenous Knowledge**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
What are the types of indigenous knowledge known to you?	The use of herbs for treatment of diseases. Other indigenous knowledge known are in the areas of farming, trading in cola nuts, and weaving of baskets.	The types of indigenous knowledge known are farming, carving, weaving of basket, processing of local medicine, and blacksmithing.	The types of indigenous knowledge known are farming, wood carving, trading, goldsmithing, pottery, calabash making, basket weaving and plaiting of hair.
What knowledge would you say is unique to Ilishan?	The knowledge unique to Ilishan is the one we are specialized in. And that is the use of herb for the treatment of malaria, typhoid, any stomach related issues, fibroid and child delivery. Oro festival is also unique to us.	The knowledge unique to Ilishan are Oro festival, cultivation of wrapping leaf called <i>ewe</i> which has two types: <i>gbodigi</i> and <i>aiba</i> . <i>Gbodigi</i> is for the preservation of cola nut while <i>aiba</i> is used for the wrapping and preservation of moi moi, ebiripo, rice, eko, and fufu. We also cultivate cocoyam, cola nut, cassava, and yam. And we practice <i>aro</i> . <i>Aro</i> is a group of farmers who come together to cultivate each other's farm land in turns.	The knowledge unique to Ilishan is carving. We carve band set, doors for our chiefs with the chiefs' name inscribed on the door. We engage in other artistic works like carving of walking stick, and stools. We also weave baskets.

From the different respondents' responses in Table 1, it could be inferred that Ilishan Remo community is known for farming, (cultivation of crops like cocoyam, colanut, wrapping leaf, cassava), craftwork, the use of local herbs for treatment of different types of diseases. This agrees with the findings of Sithole (2006) who found that traditional knowledge are often expressed through different means like agriculture, animal husbandry and ethnic veterinary medicine, primary health care, saving and lending, community development and poverty alleviation. Oguamanam (2009) also concluded in his study that indigenous knowledge is manifested in arts, design, and craft.

**Table 2: Benefits of Indigenous Knowledge**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
In what ways has	Indigenous knowledge has benefited us in several	Indigenous knowledge has helped in the area of	There is no much benefit because people around here

indigenous knowledge been of benefit to you?	ways. For example, indigenous knowledge has helped us in the treatment of sickness like malaria, stomach ache, typhoid, and fibroid with the use of our local herbs. Apart from that we have our own way of delivering mothers of their babies. We sell these herbs to generate income for our livelihood. We also use the money generated to train our children.	food. We do not buy our food stuffs; we harvest them from our various farms to feed our families. We sell some of the proceeds to buy other food items we do not cultivate. We also use the income generated from the proceeds to train our children.	do not appreciate the work. No value is placed on the type of job we do. As a result, they do not patronize us as such. Though our work is valued by foreigners but we do not have the means to get it to them. What we do to sustain ourselves is to look for some other menial jobs around.
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From Table 2, it may be inferred that Indigenous knowledge has been beneficial to the Ilishan Community in the area of health issues, agriculture production and food security. It has also assisted in acquiring educational and vocational skills for their children. This accord with the finding of Warren (1991) who reported that indigenous knowledge contributes significantly to crop production of poor farmers. Bamiro (2009) has also found that indigenous knowledge is an important component of a country's knowledge system that encapsulates the skills, experience and insights of people, and applied to maintain or improve their livelihood.

However, it is deduced from the third group of artisans that indigenous knowledge has little or no benefit to them as not locally appreciated.

**Table 3: Documentation of Indigenous Knowledge in Ilishan-Remo**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
Has anyone been able to document the IK in Ilishan Remo Community?	No one has been able to document the indigenous knowledge in Ilishan Remo Community.	No one has been able to document the indigenous knowledge in Ilishan Remo Community.	No one has been able to document the indigenous knowledge in Ilishan Remo Community.

Is anyone trying to document IK?	Yes, people are trying to document it because they have discovered that it is helping in the treatment of different diseases (that is, in the area of health).	No one is trying to document it. Our young ones do not have interest in farm work. They see it as a waste of time.	No one is trying to document the community's indigenous knowledge because the means of documenting it is not within our reach.
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Table 3 above shows that Ilishan Remo land is gradually losing its indigenous knowledge. This is because the younger generation does not have interest in IK, coupled with the fact that it is not being documented. However, the health group believes that the community is not losing its IK in the area of health care as it is being documented.

**Table 4: Misappropriation of Indigenous Knowledge**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
Has there been an instance where IK has been misappropriated by an outsider?	There are times some persons come to us for assistance in the area of herbs. We assist them in providing some herbs from our forest and at the same time explain their various functions. We later discovered that, that is what the medical people turn into tablet and syrups they administer to patients in the hospitals.	We do not have any occasion where indigenous knowledge in Ilishan Remo land has been misappropriated. We exchange our produce for money	Some of our art works are displayed at the National Theatre in Lagos. Even though our names are inscribed on them yet they took them outside the country without our consent. Some persons that visited outside the country have come back to tell us that they saw our art work displayed in the European countries.

From the various responses in Table 4, it is inferred that indigenous knowledge in Ilishan Remo land has been misappropriated in one time or the other by some unidentified persons.

**Table 5: Restrictions on Indigenous Knowledge**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
Does the community set restrictions in the use of indigenous knowledge	The community does not set restrictions in the use of indigenous knowledge. It is open to anybody who is willing to learn. However, there are restrictions when it comes to some unique rites.	There are generally no restrictions in the way we do our farm work, and other things. But there are some practices we do not allow non indigenes to witness. You must be initiated into our group to be a part of it.	There are no restrictions. It is made available to other people since our young ones do not value it. But we have some rituals that we do not allow outsiders to be a part of. It is strictly for Ilishan indigenes

<p>What are the challenges in the implementation of these restrictions</p>	<p>In the process of implementing these restrictions we step on people's toes which at times leads to physical combat that could result to death. And since the law of the land (the country's law) does not support taking the law into one's hand, our actions are seen as barbaric.</p>	<p>There are times we have innocent people (persons who do not reside in Ilishan Remo Community) who are victims of circumstance. At that point in time, we are confused on whether or not to implement the consequence of the violation of the law coupled with the fact the government does not support killing without trial in the court of law.</p>	<p>Many a times, we find it difficult to distinguish between the sons of the soil and non indigenes who are born and bred up in our community and these individuals know the in and out of the community's culture</p>
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It could be inferred from Table 5 above that the laws used in deterring non indigenes from having knowledge of the community's culture is not consistent with government's law. This agrees with the finding of Chuma-Ibe (2009) who noted a lack of adequate legal and institutional framework for the protection of cultural property in Nigeria.

**Table 6: Benefits in Protection of Indigenous Property**

<i>Interview question</i>	<i>Health Group</i>	<i>Farmers Group</i>	<i>Artisans Group</i>
<p>What do you think will be the benefit of protecting this particular indigenous knowledge?</p>	<p>The protection of this knowledge will help us to safeguard our indigenous knowledge from misuse by non-indigenes. And this will go a long way in preserving it for future generations.</p>	<p>It will boost the economy of the land in the sense that if it is well protected to the extent that there will be need for outsiders to pay money before having knowledge of our culture, then such money paid could serve as a means of income for the community.</p>	<p>When our indigenous knowledge is protected from outsiders, it will retain its originality which will serve as a social identity. i.e it will become something we are known for.</p>

The various responses captured in Table 6 indicate that the ilishan community find the protection of IK to be beneficial. These benefits include originality, preservation for future generation, protection from misuse, and it serves as a source of income. These findings correspond with the supposition of Okujagu (2009) who enumerated the benefits that could flow from the protection

of traditional knowledge to include prevention of use of knowledge in a way objectionable to the originators, greater recognition of the value of traditional knowledge, and respect for those who have preserved it, more resources for the custodians, raising standards of living and degrees of development, in particular in the developing world, wider application of useful traditional knowledge throughout the world, preservation of traditional, protection or preservation of the environment, etc.

### **Conclusion**

Nigeria is rich in expressions of folklore, traditional knowledge and biological resources, which are an important part of cultural and natural heritage. Indigenous communities depend on indigenous knowledge for their livelihoods and wellbeing. Even today, many of the local and indigenous communities in Nigeria meet their basic needs from the products they manufacture and sell based on their traditional knowledge. The economic significance of these resources has played a role in the need to protect it.

Since indigenous knowledge is the very foundation of our cultures and knit to our identities and value systems, our duties towards using and applying this knowledge should be legally recognized and respected by third parties.

When indigenous knowledge is protected it could give benefits to the custodian of such knowledge and some recognition and control over how it is used. And this in turn can help in raising the standard of living for local community, particularly in the developing world.

### **Recommendations**

In line with the findings, the researchers would like to recommend as follows:

1. The Nigerian government should look into possible ways to improve the situation for indigenous knowledge and those dependent on it for livelihood by sustaining the traditional skill base and protecting traditional knowledge resources.
2. The economic value of indigenous knowledge is important to the economic development of Nigeria. Therefore, creating a market for products based explicitly on indigenous economic activities may provide a place for indigenous products.
3. The Nigerian government should set up measures for the protecting the countries' indigenous knowledge from misappropriation.

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