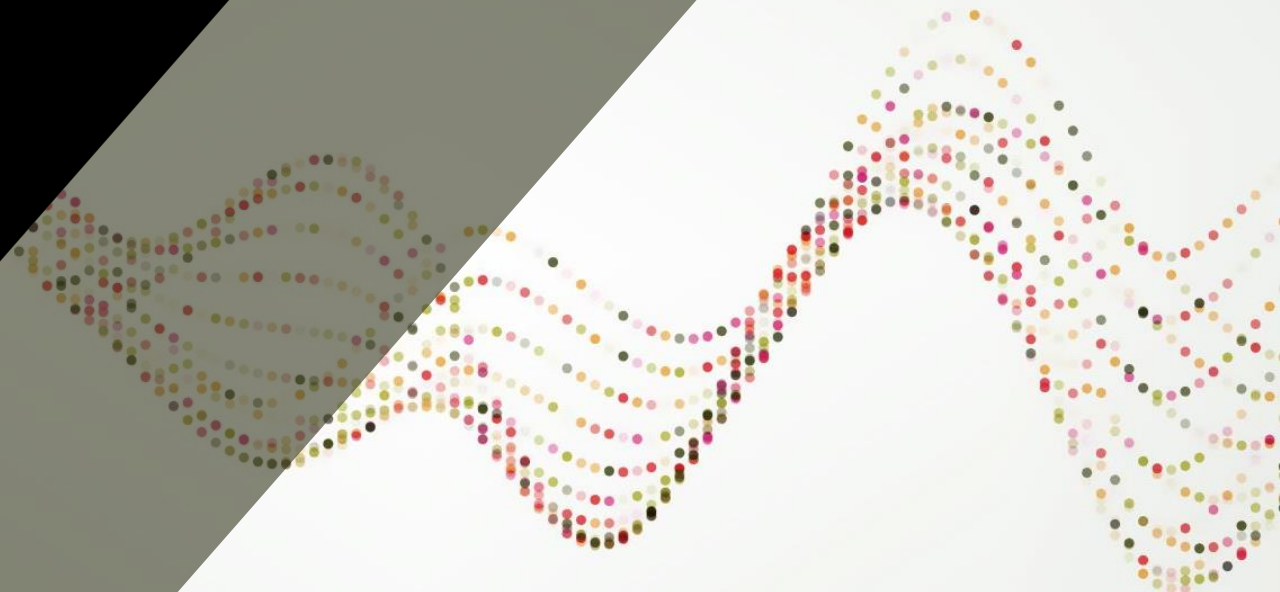



# PROTECTION OF TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS RELATED TO INDIGENOUS LANGUAGES IN THE USA

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Pueblo of Laguna/ Diné

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INDIGENOUS  
LANGUAGES AS  
TK

INDIGENOUS  
CREATION  
NARRATIVES AS  
TCES

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SPANISH  
COLONIALISM

1598- 1680

1692- 1821

*IMPOSITION OF SPANISH  
RELIGION- ON PUEBLO  
PEOPLES*

*BUILT OVER SACRED  
PLACES*

*FORBADE TRADITIONAL  
PRACTICES*

*LEGACY OF SECRECY*



# Gov't Policy Impact on Indigenous Languages

## Policy of Assimilation (Cultural Genocide)

- Boarding  
Schools
- Loss of Land –  
General  
Allotment Act

1880's to 1934

## American Bureau of Ethnology – Collected TCEs

1930's

## Termination

- End Fed trust  
relationship
- Urban  
Relocation

1940's – 1960's

# Shift in Use of Indigenous Languages (Did Indigenous Peoples benefit?)

- WWI – Choctaw Phone Squad
- WWII – Active recruitment - Navajo Code Talkers
- Use of other Indigenous Languages (14) in Pacific and Europe
- Translation of Bible into Indigenous Languages

ESTIMATED OVER 100  
INDIGENOUS LANGUAGES  
EXIST TODAY IN USA

LESS THAN HALF OF WHAT  
EXISTED BEFORE  
COLONIZATION



# Pueblo of Acoma Origin Narrative

- 1928 – Recorded Acoma Origin Narrative without consent

*Rush by American Bureau of Ethnology to gather tk and tces*

1946 – Matthew Sterling, director of BAE, published “The Origin Myth of Acoma and Other Records”

Identity of “informant” revealed

2007 - Acoma contacted Nabakov when they learned of his intent to republish; asked him to appear before Pueblo Council; asked for copy of manuscript

2015- Acoma Pueblo discovered book available for ordering and repeated demands. Nabakov sent manuscript after book published.

- Nabokov: original 1946 version is in the public domain, it has been republished before (e.g., by Forgotten Books in 2008), and the text is widely available online.
- Sept 25, 2015 - Nabakov appeared before Acoma Council and offered them royalties. They refused.
- 2d Lt. Governor Kurt Riley: ritual knowledge is conveyed on a need-to-know basis, and that the Pueblo leadership should decide what to share and what to conceal.

“Controversy erupts over Peter Nabokov's publication of ‘The Origin Myth of Acoma Pueblo’, Santa Fe New Mexican, Jan 21, 2016, Khristaan D. Villela



# Indian Country Today, Sept 15, 2016

## Alex Jacobs

“Don’t Buy this Book! Acoma Pueblo vs Peter Nabokov:

When the Sacred is Made Profane

Peter Nabokov insults the Acoma Pueblo with Origin Myth of Acoma Pueblo”

# Theresa Pasqual – Pueblo of Acoma Historic Preservation Office Director



- Acoma wanted Nabakov , a well known scholar to understand the Acoma position and ideally become an advocate and example for other authors.
- Wanted Penguin Publishing, like a curator in a museum, to have the ethical obligation to ask whether they were perpetuating the taking of our intellectual property by publishing the book.
- We know better but don't do better.

# PRESERVING AND MAINTAINING INDIGENOUS LANGUAGES : COPYRIGHT ISSUES

WHO DOES THE  
LANGUAGE BELONG  
TO?

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# Case of the Language Conservancy and Indigenous Languages

- Standing Rock Sioux Tribe

Dictionaries, textbooks and recordings – decades of work

Consortium asserted copyright control over access to materials

Not free and accessible to communities who helped to create the products

Other Indigenous Peoples who want to preserve languages in similar situation

“Lakota elders helped a white man preserve their language.  
Then he tried to sell it back to them.”

NBC News , June 3, 2022, Graham Lee Brewer

- “No matter how it was collected, where it was collected, when it was collected, our language belongs to us. Our stories belong to us. Our songs belong to us,” Ray Taken Alive, Lakota teacher, to SRST Council in April 2023..



# International Decade of Indigenous Languages

- What measures can be taken to protect Indigenous languages in conformity with the UN Declaration on the Rights Of Indigenous Peoples?



# Music Works Modernization Act -2018

- Establishes a system to find and compensate artists whose music was recorded before 1972 whenever their work is streamed online today.
- If performer cannot be located, allows early folk and ceremonial songs to become public for non-commercial purposes. Artists who are located can appeal the use of their recordings.
- Those who cannot be found? May not even know the recordings exist. (!)
- Numerous recordings of Indigenous ceremonies and events in early 1900's – **without consent**. Could be released to the public by museums holding them - in online catalogs.



# Facilitator's Alt for Article 5- Scope of Protection in TK and TCE Texts

- 5 (c): In other cases, where it appears traditional knowledge/ a traditional cultural expression is being used without free , prior and informed consent, Member states, Contracting parties shall/ should provide mechanisms for Indigenous Peoples, local communities or other beneficiaries to seek the protections as set out under paragraph 5(a).