

INTELLECTUAL PROPERTY

From an Equity Perspective



"Creation of the mind"

The World Intellectual Property Organization definition of Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

Current System

IP is protected in law by, patents, copyright, and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. The current system of protecting IP places 'creations of the mind' in a dichotomous environment: either it is protected - through contracts, agreements, granted an external designation/recognition - or it isn't.

The original U.S. Constitution excluded both Black women and men from the blessings of liberty. Meanwhile, that same Constitution granted rights to authors and inventors in what is known as the Patent/Copyright Clause of Article I, Section 8.

- Kevin Greene

The Origins

The Patent/Copyright clause laid the foundation for intellectual property ('IP') rights that have become an economic juggernaut. IP rights are inextricably tied to cultural and scientific production, which influences all aspects of society. Thus, before the passage of the major civil rights amendments and acts, the provisions of Article I, Section 8 were unavailable to protect the cultural rights of early black Americans."

Limitations

- unequal impact of IP protections on different cultures: IP protections are not race- or gender-neutral.
- cultural appropriation and plagiarism negatively impacting Black creators/artists while white counterparts profit
- exclusion of traditional knowledge systems
- current IP protections prioritize written words

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Considerations for Title V

Patterns in MCH Practice

- Exploitation and erasure of intellectual property written and created by Black, Indigenous, and people of color.
- Lack of regard for the rights, ownership, credit, and compensation for knowledge and practices directly impact support and care for birthing people of color.
- Lack of appreciation of traditional knowledge systems as form of IP; lacks credibility by institutions, jeopardizing the ownership and practice of traditional birthworker practices

“...citation is not only about inclusion in a bibliography but also about the ways that we reference our work and the ways that we reference others in relation to our work. It is also the way that we acknowledge the intellectual labor that provides the context necessary for our work to exist”

- Dr. Christen Smith

Harmful Practices

- Securing grants and investments using the research and intellectual contributions of people of color without their acknowledgement or equitable recognition and compensation is not only unethical but a direct example of exploitation for financial gain.
- Citational erasure and a racist and sexist value hierarchy of knowledge harms the MCH profession and limits investment in solutions that are known to protect and uplift the health of all families..

Data as IP

Each individual data point is about a person, a life, an experience. This can be easily lost in every day public health practice. This raises important ethical questions pertaining to data 'ownership' and puts the power imbalances in data collection, analysis, and interpretation. In particular, who gets to access data and benefit, including financially, from the knowledge it can impart? Data and IP are inextricably linked to ethical and just engagement with communities.

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Protection Suggestions



Agreement Forms

- Contracts that specify joint work products
- Trademarks
- Policies that include specific use of stories

Questions to Consider

Inspired by Dr Deborah Netolicky and Sara Ahmed

- How does who I cite - whether verbally, in published literature, etc. - situate my work in the field? With what kind of scholarship am I aligning my work? Whose scholarship have I ignored or excluded?
- Do I acknowledge debts to those who came before me?
- How have I engaged the people whose data I have in telling the collective story?
- How does what I consider to be data or evidence influence how I cite or acknowledge the source?
- What values do I place on different types of data and how does that show up in my work?

(re)Sources

1. [What is Intellectual Property?](#)
2. [Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues, Kevin Greene 2008](#)
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4. [Traditional Knowledge and Intellectual Property](#)
5. [Citation, Esasure, and Violence: A Memoir, Christine Smith 2022](#)
6. [‘Health equity tourists’: How white scholars are colonizing research on health disparities, Usha Lee McFarling 2021](#)
7. [Intellectual Property Mural Board](#)