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**The Manifestation of National Traditional Cultural
Expressions through Works of Mas and Carnival**

By

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Indigenous art copied onto carpets, T-shirts and greeting cards; traditional music fused with techno-house dance rhythms to produce best-selling ‘world music’ albums; hand-woven carpets and handicrafts copied and sold as ‘authentic’; the process for making a traditional musical instrument patented; indigenous words and names trademarked and used commercially. . . . these are the kinds of examples that indigenous and other traditional and cultural communities cite when arguing that traditional creativity and cultural expressions require greater protection in relation to Intellectual Property. (WIPO, Booklet No.1: IP and TCEs 1)

Since 1967, when the Berne Convention for the Protection of Literary and Artistic Works was being amended to provide, in part, international protection for Expressions of Folklore, the World Intellectual Property Organisation (WIPO) began examining the unique relationship that exists between Intellectual Property Rights (IPRs) and the preservation, promotion and protection of traditional knowledge and Folklore, otherwise known as Traditional Cultural Expressions (TCEs). Since that time, WIPO has made great progress in promoting concerns for the protection of TCEs through the development of appropriate cultural policies and the drafting of model laws.

In 1982, for example, an expert group, convened jointly by WIPO and the United Nations Educational, Scientific and Cultural Organisation (UNESCO) developed a set of model laws containing IP type Model Provisions for the protection of TCEs. The Model Provisions, which have influenced the national laws of some countries, established two principal types of acts against which TCEs ought to be protected, “illicit exploitation and other prejudicial actions.” In 2000, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore was established. The Committee has since made great strides in addressing the issues pertaining to TCEs from a policy perspective.

Today we will visit a definition of TCEs as proposed by the IGC following which we will then examine Trinidad and Tobago’s carnival with a view to determining its TCE

content. Specifically, we will examine the many ways in which TCEs are manifest in the annual carnival celebrations. In our review of the IGC's definition of TCEs, it is useful for us to recall that the IGC has not completely settled on a fixed and formal definition of TCEs. In so far as the IGC is a committee comprising persons who represent different types of countries and their governments, arriving at consensus, as is to be expected, is a slow and very gradual process. The IGC, none the less, has proposed a definition in which it has highlighted "the points of disagreement" among member states. These points of disagreement are in fact reflective of clear policy differences. The IGC approach, therefore, allows for easy identification of those "areas of convergence and divergence."

In presenting the IGC's definition, however, I propose to eliminate, as far as possible, those highlighted disagreements. We are dealing here with a single country, one in which policy differences and disagreements can be more easily resolved. I propose, therefore, based on the IGC construct, to present a complete definition of TCEs, one that, in my view, best applies to TCEs in the Republic of Trinidad and Tobago. In doing so, I will link the IGC's *Definition of Traditional Cultural Expressions* with its *Criteria for Eligibility* into one seamless whole to create a single unified definition.

Definition of Traditional Cultural Expressions (TCEs)

Traditional cultural expressions are any form of tangible and/or intangible artistic and literary expression, , or a combination thereof, that is the result of creative, intellectual activity in which traditional culture and knowledge are embodied, including, but not limited to:

- a) phonetic or verbal expressions (such as stories, epics, legends, poetry, riddles and other narratives, words, signs, names, and symbols);
- b) musical or sound expressions (such as songs, rhythms, instrumental music, and
- c) sounds that are an expression of ritual);
- d) expressions by action (such as dances, works of mas, plays, ceremonies, rituals,
- e) games, traditional sports, and puppet performances whether fixed or unfixed);
- f) tangible expressions of art, handicrafts, architecture, and tangible spiritual forms, and sacred places; and
- g) adaptations of the expressions referred to in the above categories.

National TCEs in Carnival

Professor Hollis “Chalkdust” Liverpool, in his book, *Rituals of Power and Rebellion: The Carnival Tradition in Trinidad and Tobago*, identifies the roots of the carnival tradition as masking or masquerade (57), music and dance (69). John Cowley too, in *Carnival, Camboulay and Calypso: Traditions in the Making*, supports this view (1-10). So too does Errol Hill in his classic *The Trinidad Carnival: Mandate for a National Theatre*. Over time, and given the passage of various ordinances that saw the drum and other aspects of the Mas being outlawed, the music, dances, instrumentation and masquerade of Carnival evolved to its present form. In Trinidad and Tobago, the modern carnival is represented by the three artistic pillars of steelband music, calypso, and the masquerade in both its traditional and modern forms. And within more recent times Soca, Chutney-Soca and Chutney complete the range of music that fuel the revelry at carnival time. The question we need to ask ourselves is: What TCEs reside in the various artistic expressions that are brought together to create the Trinidad and Tobago carnival, calypso, the steelband, chutney-soca and the various works of mas?

The Steelband

Perhaps the most obvious aspect of the steelpan that relates to TCEs is the construction and tuning practices which were painstakingly perfected over several years in the barrack yards and depressed communities of Trinidad and Tobago. Whereas the new musical arrangements of calypso and other musical forms, as played on the steelpans, can benefit from protection under existing copyright laws, the same cannot be said about the tuning methods (including the practice of sinking, firing, and grooving the pans) that go into the making of the instrument. At issue here are the specific ownership requirements along with timely filing procedures that must be put in place before a patent or some other form of Intellectual Property protection may be issued. Of interest here too would be the ways in which other musical instruments that form part of steelband history (such as the Tamboo Bamboo) and their usage may also fall under the category of steelpan TCEs. It is not just the practice of tuning and blending the instruments, but the various methods employed and the processes involved as well.

Calypso, Soca and Chutney-Soca

Although calypso, and the more contemporary soca and chutney-soca may now be classified as popular musical forms and benefit from protection under existing copyright laws, there is no denying the folk roots of such music. That folk base is the raw material from which contemporary rhythms and other musical patterns draw inspiration, imagery and their sustaining quality. Most times that transference from folk to contemporary takes place as a silent, almost unrecognised phenomenon, particularly in this age when, like magic, everything appears to be happening anew, as the product of one or another computer programme. Occasionally, however, calypsonians and other musicians turn consciously to the folk to locate new rhythms, or recall older musical patterns, or to recreate a particular style of phrasing. Classic examples in recent times are “Old Lady Walk a Mile and a Half” and “When ah Dead Bury Me Clothes.” These folk melodies and rhythms are manifestations of TCEs.

Works of Mas

The definition for a “work of mas” is to be found in Section 3 of The Copyright Act, 1997 of the Laws of Trinidad and Tobago (No. 8 of 1997, as amended by Act No. 18 of 2000) which states that:

[A] work of mas” is an original production intended to be performed by a person or a group of persons in which an artistic work in the form of an adornment or image presented by the person or persons is the primary element of the production, and in which such adornment or image may be accompanied by words, music, choreography or other works, regardless of whether the production is intended to be performed on stage, platform, street or other venue.

It follows that Works of Mas are entitled to protection under existing Copyright laws. Carnival in Trinidad and Tobago, however, dates back to as early as the 18th century and early records of traditional masques of carnival, according to Dan Crowley, in his seminal article of the same name, date as far back as the middle of the 19th century

(44). It must be noted that in much the same way as traditional folk music feeds into and nourishes contemporary calypso, chutney and soca, the traditional masques of carnival provide the source material and inspiration for many of the contemporary “works of mas.” Mas man Peter Minshal’s prize-winning, contemporary designs are testimony to this fact. It is this residue of the traditional (including the use of props, song, elements of costuming, ritual, movement and dances), that finds its way into the contemporary designs of “works of mas” that can be considered the manifestation of TCEs in “works of mas.”

Admittedly, it may be difficult at times, though not impossible, to identify such residual flavourings but they do exist. And often, the traditional presence (Midnight Robber, Dame Loraine, Bat, Moko Jumbie, Burroket, Blue Devil, or Warragoon) may even transcend minor flavourings and serve instead as an anchoring motif for some new contemporary design. One must further bear in mind that all of the traditional masques of carnival fall automatically into the category of TCEs and this includes all of their accompanying paraphernalia: songs, rhythms, sounds, props, stories, costume, dances, movement, and innovative combinations of form.

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