

# MEXICO 2022

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## FIELDWORK AND CONSULTATIONS WITH INDIGENOUS ARTISANS IN CHIAPAS REPORT



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# **MEXICO 2022: FIELDWORK AND CONSULTATIONS WITH INDIGENOUS ARTISANS IN CHIAPAS REPORT**

("the Report")

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Consultation with NGO Impacto in Tenejapa, Chiapas.



## ABOUT THIS REPORT

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This Report is an outcome of the [Fieldwork and Consultations with Indigenous Artisans in Mexico](#), conducted by the Cultural Intellectual Property Rights Initiative® (CIPRI) core team in October 2022 ("the **Actions**"). These Actions are part of the regional dissemination strategy of the **3Cs' Rule: Consent. Credit. Compensation**® Framework ("the **3Cs' Rule Framework**") in Latin America. Focusing on the Los Altos region in Chiapas, this work involved the translation and interpretation of [The 3Cs - Get Weaving! Campaign](#) ("the **3Cs' Campaign**") by Indigenous women from Chiapas into Tsotsil and Tzeltal, two Mayan languages, as well as its socialisation amongst artisans.



## INDIGENOUS ARTISANS IN MEXICO AND CHIAPAS

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According to the IWGIA - The Indigenous World 2022<sup>1</sup> - Mexico is home to 68 Indigenous Peoples, each speaking their own native language. Based on data from the 2020 Census, 11.8 million people in Mexico were living in Indigenous households, the majority of them women. The real number is believed to be much higher than reflected in public records.

Indigenous women in Mexico face discrimination, racialisation and structural violence. Despite the systemic barriers to their development and wellbeing, such as access to education and healthcare, and economic difficulties, Indigenous women in Mexico play a fundamental role as key agents in the production, dissemination, reproduction and protection of their culture, promoting grassroots actions that raise awareness of, and address the problems they face<sup>2</sup> (IWGIA, 2022).

Economically, Chiapas is Mexico's poorest state<sup>3</sup>, and has the second highest Indigenous population in the country after Oaxaca. The textile and craft production of Indigenous Artisans in Chiapas is a reflection of the cultural richness that lives in this territory, and proof of its peoples' need to sustain their Traditional Cultural Expressions (TCEs).

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<sup>1</sup> The International Work Group for Indigenous Affairs (IWGIA), 2022. *The Indigenous World 2022*. Ed. Dwayne Mamo. pp: 424 - 428. Available online.

<sup>2</sup> The International Work Group for Indigenous Affairs (IWGIA), 2022. *The Indigenous World 2022*. Ed. Dwayne Mamo. p. 426. Available online.

<sup>3</sup> Consejo Nacional de Evaluación de la Política de Desarrollo Social. (2022) *Medición de la Pobreza: Comunicado de Prensa*. p.12. Available online.



## WHAT IS THE ROLE OF THE CULTURAL INTELLECTUAL PROPERTY RIGHTS INITIATIVE® (CIPRI) IN MEXICO?

CIPRI's role in the Mexican context, aligned with its **vision**<sup>4</sup> and **mission**<sup>5</sup>, is to **support** the work and efforts of local actors at an international level and **provide legal support and legal education** to Indigenous-led initiatives and projects working in the benefit of Indigenous Artisans. CIPRI is independent, apolitical and currently self-funded, but working towards co-creating funded projects with local allies. CIPRI has no connection with the Mexican Government, any government representatives in Mexico or government-led initiatives. CIPRI does not promote third party agendas. CIPRI worked with a local Ambassador of the 3Cs' Rule Framework, and for these Actions, she and the CIPRI core team have worked pro-bono.



## OBJECTIVES OF THE 2022 FIELDWORK AND CONSULTATIONS WITH INDIGENOUS ARTISANS IN CHIAPAS

Fieldwork and Research is one of the four CIPRI [Action Pillars](#). The Actions were organised against the backdrop of the recent adoption in Mexico of the *Federal Law for the Protection of the Cultural Heritage of Indigenous and Afro-Mexican People and Communities*<sup>6</sup> ("the **new Law**"), which entered into force on 18 January 2022.

The three main objectives of the Actions were:

- 1) Approaching key actors at grassroots level to understand cultural context complexities, hear the interpretations of the Law by Indigenous Artisans, understand the impact its adoption had in communities and on their relationships with designers, and observe the existence or absence of collective decision-making processes at community level;
- 2) To introduce the 3Cs' Campaign translated in two local Mayan languages to Indigenous Artisans directly and assess how the 3Cs' Rule Framework supports current and ongoing community-led processes for legal protection and equitable collaboration;
- 3) To develop alliances for international partnerships on grassroots-led actionable tools that ensure local communities can exercise their right to self-determination in controlling the processes of legally protecting their Traditional Textile Cultural Expressions and the Intangible Cultural Heritage linked to textiles.

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<sup>4</sup> The **Vision** of the Cultural Intellectual Property Rights Initiative® (CIPRI) is to create a system that nurtures, sustains and protects Traditional Knowledge and Traditional Cultural Expressions.

<sup>5</sup> The **Mission** of the Cultural Intellectual Property Rights Initiative® (CIPRI) is to act as a **mediator** in relationships between different stakeholders in the fashion and craft ecosystem to enable **cultural sustainability**.

<sup>6</sup> *Ley Federal de Protección del Patrimonio Cultural de los Pueblos y Comunidades Indígenas y Afromexicanas*. Published in the Official Gazette of the Federation on January 17, 2022. Available online: [here](#).





## WHY ARE CONSULTATIONS ON THE 3CS' RULE: CONSENT. CREDIT. COMPENSATION® FRAMEWORK IMPORTANT?

The 3Cs' Rule Framework is an actionable tool proposed by CIPRI in the benefit of Indigenous Artisans. It is meant to translate legal theory into practice and to be legally bound in an international context. It is inspired by article 31 of the [UN Declaration on the Rights of Indigenous Peoples](#) ("UNDRIP") which recognizes their *right to maintain, control, protect and develop their Cultural Heritage, Traditional Knowledge and Traditional Cultural Expressions*, the rules of attribution or acknowledgement of the source, and the benefit-sharing provisions related to access to and use of genetic resources provided by the [Nagoya Protocol to the Convention on Biological Diversity](#). The right to [Free Prior and Informed Consent](#) ("FPIC") is also guaranteed by the UNDRIP. The 3Cs' Rule Framework was developed and proposed by CIPRI in the context of the lack of an international legal instrument for the protection of Traditional Textile Cultural Expressions and the Intangible Cultural Heritage linked to textiles.

Within this context, consultations on the 3Cs' Rule Framework with Indigenous Artisans are essential in the process of acquiring international recognition of collective cultural intellectual property rights due to:

- ♦ Acknowledgement of the nature of the concepts of Consent, Credit and Compensation that may not have equivalents in Indigenous languages;
- ♦ The importance of dialoguing about the translations and interpretation of the concepts and their applicability to the realities in the communities;
- ♦ The added value of the input of non-artisan Indigenous women in the conversations to provide a more inclusive community perspective on legal protection of Intangible Cultural Heritage;
- ♦ The need to ensure that the intended beneficiaries of the tool are engaged in and have control over the process of applying the tool;
- ♦ The need to identify how the tool can support and elevate the legal protection-focused efforts already developed at grassroots level;
- ♦ The need to understand grassroots experiences and worries about how the lack of legal protection affects their current realities and how will legal protection mechanisms affect these realities in the future.





Consultation with Malacate Taller Experimental Textil in Nachig, Chiapas.





## ACTIONS AND IMPACT

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Preparatory work was conducted to facilitate the Consultations. This included translating and interpreting the 3Cs' Campaign by three members of the Chiapas Photography Project - Antonia Girón, Martha López and Juana López ("**members of CPP**") - under the coordination of Helena Rojas, CIPRI Ambassador of the 3Cs' Rule Framework in Chiapas, and Mónica Parra, CIPRI Latin America Liaison.

500 brochures containing the translations of the 3Cs' Campaign in Tsotsil and Tseltal languages were printed in Mexico City and taken for distribution in Chiapas.

**Three consultations were held during the week of October 17 - 23 2022** by the CIPRI core team alongside the CIPRI Ambassador of the 3Cs' Rule Framework in Chiapas and the members of the CPP. The first one was hosted by *NGO Impacto* - an organisation based in San Cristóbal de Las Casas - in Tenejapa, gathering 32 Indigenous women Artisans from Tenejapa, Aguacatenango and San Juan Cancuc. The second one was hosted by *Sna Jolobil* - the first artisans' collective in San Cristóbal de Las Casas - in the presence of four representatives of the leadership of the organisation. The third consultation was hosted by *Malacate Taller Experimental Textil* in Nachig, Zinacantán, with the participation of 12 Indigenous women Artisans from three different communities and one representative from the *Maya Mam Chmool B'ee* collective from Huehuetenango, Guatemala.

In total, the consultations lasted over 15 hours. Altogether, these three organisations work directly with over 800 artisans in the region with whom they have committed to disseminate the booklets of the 3Cs' Campaign.

In addition to the interactions with consultees, the CIPRI core team engaged with diverse actors of the local ecosystem including designer Margarita Cantú and the Na Bolom museum. A radio interview in Spanish language was recorded by El Gato Centinela with the CIPRI core team for 17 Radio.

Findings from the consultations were complemented by desk research by the CIPRI core team on materials written in Spanish and English languages on community decision-making processes and the symbolism of textiles in Chiapas, a visit to the National Museum of Anthropology and History in Mexico City and cultural context immersion in the period **6 - 30 October 2022**.



## FINDINGS ON THE 2022 FEDERAL LAW FOR THE PROTECTION OF THE CULTURAL HERITAGE OF INDIGENOUS AND AFRO- MEXICAN PEOPLE AND COMMUNITIES BASED ON CIPRI OBSERVATIONS AND THE PERSPECTIVES EXPRESSED BY THE CONSULTEES

The new Law recognizes Indigenous and Afro-Mexican People and Communities as subjects of law - *rightholders*. All consultations were held with groups who were already acquainted with, and had reflected internally, in their collectives, about the new Law;

A common criticism of the new Law expressed by the consultees in all three consultations was that **the process of elaborating the new Law was not inclusive of the perspectives and realities of Indigenous Artisans**, potentially creating tension and abuse of power at community-level. For example, in article 8 the new Law provides that any use of or exploitation of Intangible Cultural Heritage - this includes Traditional Cultural Expressions (TCEs) and Traditional Knowledge (TK) related to textiles - shall be made *with the Free, Prior and Informed Consent of the community*, and in article 9 it provides that *any contracts or agreements related to the use of or exploitation of Intangible Cultural Heritage entered into by individuals, are considered null and void*. Articles 8 and 9 of the new Law, although well-intentioned, create instability in the commercial relationships between Indigenous Artisans and their commercial collaborators in Mexico and abroad. Most collaborations are based on individual verbal agreements and none of the consultees could explain or imagine how a collective agreement could be reached or who the new Law refers to when mentioning the FPIC of "the community". It has been unanimously agreed that defining who "the community" is requires the input of both political and traditional authorities as well as artisans, especially women;

In all three consultations concerns were expressed as to the "legality" of their existing, individual collaborations with fashion stakeholders;

In all three consultations concerns were expressed as to the decisions regarding the use of and exploitation of Traditional Cultural Expressions (TCEs) and Intangible Cultural Heritage related to textiles not being entrusted to the *de facto* custodians and transmitters of this knowledge - the Indigenous Artisans;

In all three consultations it was expressed that mediation with specific cross-disciplinary knowledge between communities and commercial creative industries is required in order for the new Law to benefit Indigenous Artisans in practice and not just in theory;

In all three consultations the consultees explicitly mentioned the need for legal education and legal support to be able to operate with legal concepts and understand the provisions of the new Law.





## **FINDINGS ON ISSUES RELATED TO CONSENT, CREDIT AND COMPENSATION BASED ON CIPRI OBSERVATIONS AND THE PERSPECTIVES EXPRESSED BY THE CONSULTEES**

The concept of Free Prior and Informed Consent, both individual and collective consent, was well understood by the consultees during the discussions.

In all consultations the need for dialogue in communities to solidify their own collective decision-making processes prior to engaging in commercial agreements with external stakeholders and collaborators was explicitly mentioned;

In two of the three consultations, the consultees shared experiences of misappropriation of their Traditional Cultural Expressions (TCEs). Many questions were raised about who to go to or what to do when cultural misappropriation happens, and the need for guidance and support to identify the cases of misappropriation and how to respond to them was expressed. To the best of their knowledge, there is currently no program or mechanism available to them locally, to provide them the necessary support. It was concluded that applying the 3Cs' Rule Framework could be a way to engage in future collaborations, decreasing the possibility of misappropriation;

Regarding the concept of credit, questions were raised about distinguishing between acknowledgement of authorship in the case of Indigenous Artisans who create new designs (i.e. individual intellectual property) and acknowledgement of custodianship in the case of textile creations based on collective Intangible Cultural Heritage (i.e. collective intellectual property) - the new Law does not distinguish between the two;

Regarding the concept of compensation, in two of the three consultations negative experiences regarding monetary compensation were shared. These included non-compliance to verbal agreements, theft of compensation and violence against Indigenous women Artisans. The notion of non-monetary compensation was well understood and equated to exchange of goods or services. In two of the three consultations questions were raised about mechanisms of valuing the consultees' creative work and the need for support on this matter was expressed.





Women from San Juan Cancuc, Tenejapa and Aguacatenango during Consultation with NGOimpacto.





## NEXT STEPS AND RECOMMENDATIONS

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From all consultations with Indigenous Artisans and discussions with representatives of the host organisations in Chiapas it resulted that the 3Cs' Rule Framework is considered an effective soft law tool that can:

- ♦ provide ethical guidance for the fashion industry,
- ♦ protect the interests of Indigenous Artisans,
- ♦ enable legal education and legal literacy at community level, and
- ♦ balance the inequities of the existing international legal system.

All parties participating in the Actions agreed that work on the international protection of Traditional Cultural Expressions (TCEs) and the Intangible Cultural Heritage linked to textiles is a long term commitment process that requires involvement of diverse stakeholders and support from independent experts. In this context, the CIPRI core team committed to creating **an action agenda for 2023 - 2025 to assist the work of Indigenous Artisans in Chiapas by providing legal education, cultural sustainability strategy and international legal support.**

The development and implementation of legal literacy and legal support programs requires funding. **The CIPRI core team and the local allies in Chiapas committed to join forces for securing non-governmental funding** from private individuals, for-profit companies, charitable foundations, national or foreign, or international agencies, **to guarantee non-interference in the exercise of the communities' right to self-determination.**

**All communities involved in the consultations committed to distribute the 3Cs' Campaign booklets in their collectives and provide further conclusions and interpretations on how the 3Cs' Rule Framework can be beneficial for the community.** Discussions around the 3Cs' Rule Framework were seen as incentivising dialogue within the community and stimulating discussions on collective decision-making processes and exercise of the right to self-determination with regards to the legal protection of Traditional Cultural Expressions (TCEs) and associated Traditional Knowledge.

The printed materials in Indigenous languages were well appreciated as they allowed for the knowledge to be disseminated within the community and be accessible to a larger number of people. Based on this observation, it is recommended that more materials are made available and more consultations are facilitated in Indigenous languages. **Co-creating legal education content in Tzeltal and Totsil enables cultural sustainability and cross-generational transmission of knowledge which in turn enables cultural continuity.**

Political and traditional authorities co-exist at the governance level of the communities. The political authorities often assign decision-making power to men who are not directly involved in the custodianship, practice and transmission of Traditional Cultural Expressions (TCEs) and the Intangible Cultural Heritage linked to textiles. Indigenous women ask for the freedom to make decisions in aspects that involve them directly.

It is therefore recommended that consultations on women-led decision-making processes are facilitated both at the level of communities internally, and amongst different communities and state apparatus representatives who are in charge of elaborating the Regulation of the new Law<sup>7</sup>.

This Regulation should have been published within 180 calendar days from the publication of the new Law in the Official Gazette of the Federation on January 17, 2022 however, it has not yet been published on the date this Report was published<sup>8</sup>.

The feedback on the Actions made it explicitly clear that legal protection of Traditional Cultural Expressions (TCEs) is aligned with the goals and objectives of organisations working closely with Indigenous Artisans in Mexico. **A Case Study on the plagiarism of the Traditional Cultural Expressions (TCEs) of the community of Aguacatenango will be conducted in partnership with NGO Impacto to provide an actionable solution for legal education in Chiapas and international legal protection, justifying the importance of the 3Cs' Rule Framework.**



Consultation with Sna Jolobil in San Cristobal de Las Casas, Chiapas.

<sup>7</sup> Third paragraph of the *Transitory Dispositions of la Ley Federal de Protección del Patrimonio Cultural de los Pueblos y Comunidades Indígenas y Afromexicanas*. Published in the Official Gazette of the Federation on January 17, 2022. Available online: [here](#).

<sup>8</sup> Carla Angélica Gómez Macfarlan, 2022. *La Ley Federal de Protección al Patrimonio Cultural de los Pueblos y Comunidades Indígenas y Afromexicanas ¿Qué falta?*. p. 20, Instituto Belisario Domínguez, Senado de La República. Available online: [here](#).





# ACKNOWLEDGEMENTS

The CIPRI core team would like to thank the following people and institutions for their support in bringing these Actions to fruition:

To our **regional 3Cs' Rule Framework Ambassador Helena Rojas** for being a great ecosystem connector, translation coordinator and co-designer of our agenda.

To all **contributors to the translation and realisation of the 3Cs' Campaign booklets in Tsotsil and Tseltal:**

- ♦ **Antonia Girón, Martha López and Juana López** members of **CPP** for their translation efforts and photographs that illustrate the Campaign,
- ♦ The **Creative Matterz Fund** for funding the initial stages of the translation,
- ♦ **Sna Tz'ibajom** for supporting the translations with their expertise,
- ♦ **Ruth Ladwig** and **Chiapas Maya Project** for their generous donations towards the printing of the booklets.

To all the **organisations that hosted us and shared their time and knowledge** with us :

- ♦ **NGOimpacto:** Andrea, Karla, Imelda, Elva and the women from Tenejapa, San Juan Cancuc and Aguacatenango,
- ♦ **Sna Jolobil:** Pedro Meza, Juan Girón, Petrona Gómez and Zenaida Aguilar representing their communities,
- ♦ **Malacate Taller Experimental Textil:** Karla, Lola, Daniela, the **compañeras** from Nachig and María Isidora from **Colectivo Maya Mam Chmool B'ee** from Guatemala who joined this discussion.

To all **contributors** to our welcome kits and our cultural context immersion experience:

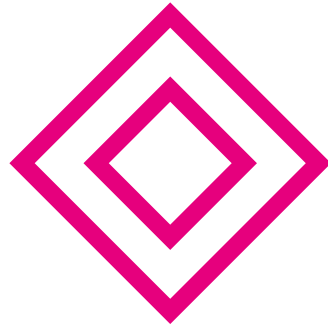
Casilda Mut, Folklor, Abuelita Borrego, Sofia from Poxna, Patricia from Na Bolom, Mujeres Sembrando Vida, Margarita Cantú and Paula and Alberto from El Gato Centinela.





Group pictures from all Consultations of CIPRI core team, local 3Cs' Rule Framework Ambassador in Chiapas, members of Chiapas Photography Project with (from top to bottom) NGO Impacto, Sna Jolobil, Malacate Taller Experimental Textil and Colectivo Maya Mam Cmool B'ee.





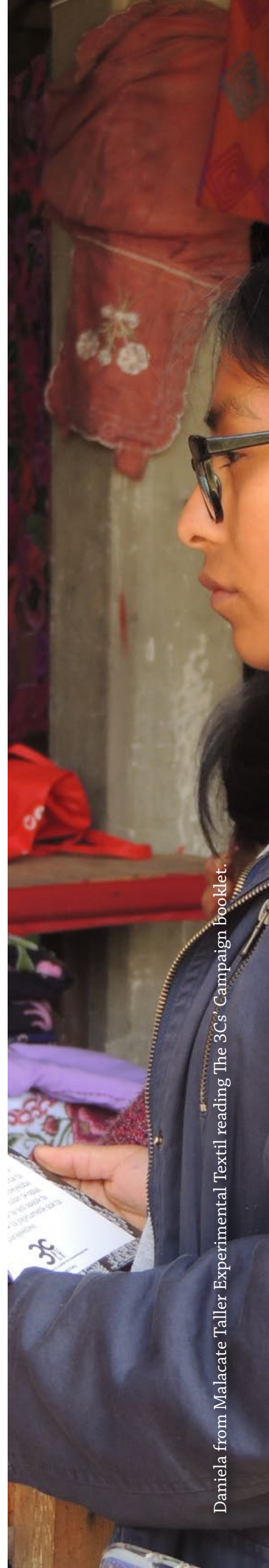
## DONATE TO SUPPORT THIS INDEPENDENT WORK

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This Fieldwork and Consultations were funded personally by the CIPRI team to maintain a neutral agenda.

Financial support is a valuable contribution to CIPRI efforts and aids in securing the ongoing viability of this work. You can financially contribute to our funding efforts by donating through this [Fundraising Campaign](#).

We are grateful to all those who contributed so far and to all those who will!



Daniela from Malacate Taller Experimental Textil reading The 3Cs' Campaign booklet.





**2022**

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