

# Intellectual Property Models for Sustainable Development

## EXECUTIVE SUMMARY

Prepared by:



For:



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## 1. Introduction

Since the launch of UNDP Accelerator Labs Network in 2019 and within each of the four phases of their work,<sup>1</sup> there has been a persistent challenge related to how Intellectual Property Rights (IPR) feature in the work of the Accelerator Labs. At present, the system that governs how solutions are invested in presents burdensome challenges when it intersects with IPR.

In this context, UNDP has hired the Center for Music Ecosystems (CME) to conduct a body of research on the current IPR setup in UNDP that governs the UNDP Accelerator Labs Network and identify findings inspired on other leading industries with regards to IPR management. The result of the research is a set of findings that challenges the current IPR setup in the organization, striving to optimize the benefits and cooperation with all parties involved (UN agencies; governments; UNDP Accelerator Labs; grassroots innovators; startups; universities and others), based both on the IPR administration model in the music industries but also on the current IPR management setup in multiple instances in the UN System such as UNICEF DPGA, UN Global Pulse and Digital X Accelerator led by UNDP's Chief Digital Officer.

This work included interviewing several UNDP Accelerator Lab members and subject matter experts, all of which is detailed in the full version of the study.

## 2. Setting the Stage - Accelerator Labs Network and Innovation

The Accelerator Labs Network is a critical mass of social innovators inside UNDP. This mass of social innovators is constantly building ideas, creating work and solutions from their initial phases (sense and explore), medium phases (test) and final phases (grow), whilst building new ways of working. Within the wide **range of knowledge, ideas, work and solutions**, the **key knowledge gap** across stakeholders is the **distinction on what of all of that range is bound by Intellectual Property Rights (IPR)**.

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<sup>1</sup> UNDP Accelerator Labs' learning cycle consists of four steps: sense, explore, test and grow.

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## IPR definitions

For the purposes of this report, there are two categories of intellectual property: **Industrial Property** and **Copyright and Related Rights** (WIPO, 2020). The former includes patents for inventions, industrial designs, trademarks and geographical indications and the latter refers to literary, artistic and scientific works, including performance and broadcasts.

In the context of the UNDP Accelerator Labs, Gupta and Dey (2021) identified that out of around 1,500 solutions, not all have IPR implications. However, copyright applies to every single work (e.g. documents, data).<sup>2</sup> A key element to highlight is how the Accelerator Lab context works within the distinction on what copyright law protects and what it does not: (...) ***“Copyright law, however, protects only the form of expression of ideas, not the ideas themselves. The creativity protected by copyright law is creativity in the choice and arrangement of words, musical notes, colors, shapes and so on. Copyright law protects the owner of rights in artistic works against those who “copy,” that is to say those who take and use the form in which the original work was expressed by the author.”*** WIPO (2004)

Determining what is considered to be bound by IPR is the first step in building a framework for IPR, however it is also necessary to establish a framework to administer and/or manage those rights.

## IPR administration

To ensure the implementation and exercise of copyright and related rights, the administrative role of the State is fundamental, but some countries lack robust structures (WIPO, 2016). However, States should have a minimum role related to the policy level function, monitoring of the legislation and the enforcement of strategies. Some of their administrative tasks include: a. A **system of registration of works** and subject matter protected by related rights and/or b. The operation of private organizations that exercise copyright and related rights collectively or jointly on behalf of rights-holders represented by them (known as **Collective Management Organizations, CMOs**).

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<sup>2</sup> The other intellectual property rights (Industrial Property) such as patents, trade or service marks, trade secrets, geographical indications, plant variety protection and industrial design, amongst others, may apply in specific cases.

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The above-mentioned context is of most relevance for Accelerator Labs and UNDP in general. Where there is a more robust IPR national framework, the higher the probability of local innovators to have a wider understanding on the implications of IPR and the higher the chances are of having an adequate institutional framework to ensure their IPR is properly administered. **Many Accelerator Labs, however, are not in states with robust national frameworks.**

### 3. Key Findings - Accelerator Labs and IPR pain points

The solutions the Accelerator Labs uncover are subject to the UNDP's Procurement and Legal framework:

- Any **IPR resulting from UNDP assistance belongs to UNDP** (SBAA, UNDP-recipient Government, n.d.).
- **Governments** signing the agreement have the right to use the discovery or work bound by IPR, within the country, **free of royalty or charge** (SBAA, UNDP-recipient Government, n.d.).
- Any outcome from intellectual activity from a worker hired by UNDP in the context of the Accelerator Labs will be considered **'work for hire'** and the copyright of such work will be under the **ownership of UNDP** (General T&C of the Contract; UNDP, n.d.).
- In principle, the provision of **monetary prizes is not allowed**, however it may be realized via the framework of an **Innovation Challenge, limited to an amount of USD \$40,000**. (Innovation Challenges Policy; UNDP, 2015).

**This creates pain points that negatively impact the solution from developing.**

Our research identified 12 of them. They are below:

#### 1. **IPR knowledge gap:**

UNDP personnel in the field, dealing with IPR, have a knowledge gap with regards to IPR regarding the difference of an idea and work bound by IPR. Little guidance is provided to UNDP staff fieldwork commences, creating misunderstandings related to the role of IPR in what they find and support.

- (...) *"You have to be able to explain Ts and Cs over and over again to people who are not experts in IP. They just want to know what they should expect."* (Accelerator Lab Bosnia and Herzegovina).

#### 2. **No available IPR UNDP central knowledge center**

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UNDP personnel dealing with IPR do not have an official UNDP Global IPR framework to use as a guideline. Even though the Legal Support Office of UNDP is responsible for Legal matters in the UNDP, the scope of IP in the Accelerator Labs is not part of their specific mandate and therefore there is a gap to address these issues at the field level.

- (...) *"We are always trying to 'grasp at straws' internally regarding how we deal with guidance for IP, under a legal framework which is paradoxical."* (Accelerator Lab Philippines)
- (...) *"We kept asking questions to legal and got no response or definite advice on what we could do. So we kept it in the Country Office, but there was no guidance in the programs and operations policies and procedures (our bible). Nothing on intellectual property."* (Accelerator Lab Philippines)
- (...) *"One of the pain points handling the issues of IP within UNDP, is that UNDP has not yet come up with any policy guidelines for us to tackle."* (Accelerator Lab Uganda)

3. **No visibility** of all the IPR related issues by the **Accelerator Labs Global Team**

The UNDP Accelerator Lab Global Team does not have access to a comprehensive compendium of concrete issues that are happening on the ground with regards to IPR - available at the regional and global levels and managed by legal teams. The UNDP Accelerator Lab Network Global Team has created a channel in MS Teams for the Accelerator Labs but currently it is not adopted in its full capacity. Such infrastructure requires a more robust solution in order to ensure wider UNDP use and management. Country Offices also lack this access.

4. **Capacity gap** across innovators: grassroots innovators and start-ups

There are cultural and practical differences across the grassroots innovators (which bring traditional knowledge as a core element of the solution) and start-ups operating in metropolitan areas. The latter are formal organizations which usually have more knowledge over IPR, whilst the former are individuals who are not represented by an organization.

- (...) *"If people are not institutionalized, we don't know how to engage with them. If they aren't registered, have a company name, we can't really engage other than inviting them to a meeting. One of my greatest challenges is working with the informal sector. I'm trying to figure out how to give someone in the field an allowance to do field work, but I can't, because they aren't in a group. I need to look for an institution to house that person."* (Accelerator Lab Zimbabwe)

5. Fear of **no retribution to grassroots communities** from the developed IPR work

Grassroot innovators, when sharing traditional knowledge, are often at a disadvantage where their traditional knowledge is misappropriated, transformed into a derivative work and subsequently turned into an IPR-bound work. There is a fear of being taken advantage of and the local

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community does not see any benefits being brought back to them through IPR.

- (...) *"When you are working on the ground - you are working to face challenges, rather than working for money... so the neighbor says you can do this, then another neighbor adds this - so IP starts to be a big challenge, because it is the IP of a lot of people."* (Accelerator Lab Colombia)
- (...) *"We are trying to create the future using a tool coming from the past - the IP has been around maybe 200 years, but it is not going to be on the radar in 200 years. If we look around, some of the biggest contributions are coming from the anonymous - the grassroots innovators - who are not connected with institutions."* (Accelerator Lab Colombia)

6. Innovators as **original creators must give up the IPR** of their work to UNDP  
UNDP is the owner of the IPR for any work framed under the Accelerator Labs, as per established in the General T&C of the Contract (UNDP, n.d.). Innovators whose work which, during their relationship with UNDP becomes a work bound by IPR, will be owned by UNDP.

- (...) *"It becomes a power dynamic issue - we have the info and access - so we're going to teach you how to trademark and register your idea - and then they become the person you are fighting with, because they now know what they are supposed to get. So we are the teachers of how things are supposed to work for them, but then when they work with us, the game changes. Don't know how we can fix it."* (Accelerator Lab Zimbabwe)

7. **Limitation to modify contractual statement** where ownership of IPR remains with UNDP statement in the UNDP General T&C

The UN and UNDP, as a part of the UN system, are not able to modify the definition of ownership of IPR, where the individual authors' work is considered 'work-for-hire'. Modifications in the General T&C of the Contract (UNDP, n.d.) are not feasible. Some Accelerator Labs use workarounds such as strictly working with companies or individuals who already have a sufficiently developed solution bound by IPR (pre-existing IPR) (see limitation 8). **This limits innovation.**

8. Limitations to share IPR for co-created work leads to **workarounds**  
Since UNDP cannot share any IPR due to the ownership statement in the General T&C of the Contract (UNDP, n.d.), the innovators often are required to take a secondary route where the development of an idea into a work bound by IPR is co-created without UNDP, avoiding this way to be subject to UNDP owning the IPR.

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9. With the current set-up of the Accelerator Labs as Engagement Facilities, with limited resources, **monetary incentives for innovators are limited**, which is even more challenging with solutions that come from individuals, rather than groups or firms

UNDP Engagement Facility (UNDP, 2018) establishes that the Accelerator Labs cannot fund low-value or micro-capital grants. Often the approach with innovators is done via Innovation Challenges, which allows them to grant a monetary prize up to US \$40,000. The receipt of grants to test/validate a solution is prohibited (without a competition).

- (...) *"We have a lot of 'bedroom developers' who don't have degrees. They don't qualify (for challenges) - the concept and flexibility of what talent is, needs to change."* (Accelerator Lab Zimbabwe)

10. UNDP as owner of **dormant IPR**

UNDP as the owner of the IP has multiple works that are currently not being maximized in their direct use or derivative modifications for other contexts or countries. Such work has a high potential to serve as a means to support worldwide issues that are part of UNDP and across the UN system's mission and vision.

11. **No formal IPR licenses** defined for UNDP owned IPR

UNDP does not have an IPR framework that includes the types of licenses applicable for the IPR they own (e.g., copyright or permissive licenses). Such a framework limits the possibility for other potential end users or intermediate users (who can create derivatives from such work) to exploit such IPR work.

12. Local **IPR administration systems are not homogenous** across countries

The administrative role of Governments for IPR differs across countries leaving some innovators with unclear local IPR rules and processes to adhere to. If an innovator wants to register a patent (Industrial Property related) but there is not an official national process or whenever the innovator wants to reach out to a national administrator of their copyright work to ensure all the royalties derived from the use of such copyright are realized and transferred to them, but there is none (e.g., by a Collective Management Organization, CMO).

**These challenges are not exclusive to UNDP.** There are other initiatives in the UN system which have faced similar limitations but have found alternatives on how to deal with IPR. Next, we have explored initiatives which can serve as a leading example for UNDP Accelerator Labs IPR framework.

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## 4. What We Can Learn From - Comparative Analysis

The management of IP created within the UNDP Accelerator Labs is contrasted with the IPR framework in the other UN-driven initiatives and the case study of music industries. Following are the examples which UNDP Accelerator Labs can take inspiration from:

- UNICEF DPGA<sup>3</sup> knowledge sharing: they have an **expert advisor** to support innovators with several topics including **IPR** and have set IPR related content in **Agora Platform** (UNICEF's global hub for learning).
- CMOs in the music industries: can use a **percentage of collected royalties to reinvest** in the authors and copyright owners/holders.
- UNICEF DPGA's legal annex to T&C: this was done to ensure that the **IPR** does not remain with UNICEF but is **owned by the innovator**.<sup>4</sup>
- UNDP OIC<sup>5</sup> and Global Pulse intentionally **work with innovators with pre-existing IPR**: this workaround is done to avoid UNDP owning the work's IPR. This ensures that innovators can work with other partners (e.g., private investors) who would require the IPR to belong to the innovator to be later commercialized (depending on the objectives).
- UNICEF DPGA, UNDP OIC and UNESCO IFCD<sup>6</sup> **monetary prizes above USD \$40,000**: UNDP OIC specifically obtained an approval from the UN CPO.
- UNICEF DPGA and Global Pulse **registry**: example of how to provide a dissemination platform for the IPR financed by them.<sup>7</sup>
- UNICEF DPGA's **license standard**: establishes the requirements that determine if a nominated software, data, AI models, standards or other content can be considered a digital public good (e.g. open licenses that the solutions can adhere to: permissive/copyleft or public domain).<sup>8</sup>

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<sup>3</sup> Digital Public Goods Alliance (DPGA).

<sup>4</sup> Annex D Contract for Funding Support for the UNICEF Innovation Fund, complementary to Annex A with the Terms and Conditions.

<sup>5</sup> Oceans Innovation Challenge (OIC).

<sup>6</sup> International Fund for Cultural Diversity (IFCD).

<sup>7</sup> See UNICEF DPGA Registry at <https://digitalpublicgoods.net/registry/>

<sup>8</sup> See UNICEF DPGA Standard at <https://digitalpublicgoods.net/standard/>

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- CMOs in the music industries: act as **intermediaries** between the users of IPR and the owners of the copyright, collecting the monetary outcome on the owner's behalf.

## 5. Evidence-Based Findings to Take Forward

The following evidence-based findings have been proposed to the UNDP Accelerator Labs Global Team informed by the insights gathered on their main objectives. There is no workable one-size-fits-all approach. As such, findings are focused on four different groups: 1. Grassroots innovators, 2. Start-ups, 3. Universities (or other third-sector stakeholders) and 4. the UN System. Each finding is discussed in significant detail in the final report. The implementation of each finding can be addressed in the short, medium and long term. **See Table 1:**

- **Short term:** can focus on topics that do not require immediate modifications in UN or UNDP specific policy and where resources or infrastructure is already in place.
- **Medium term:** can focus on the implementation of prototypes for findings.
- **Long term:** can focus on structural policy modifications and full embedding of findings from the medium term. These require an update of the Procurement Manual and/or of the UN General Terms and Conditions Contract, which shall be done in consultation with the UN Office of Legal Affairs, OLA.

	Table 1. Suggested short, medium and long-term implementation of Findings
Short	<p><b>Finding 1:</b> Support the creation of a Knowledge Center in UNDP including IPR topics (<b>Grass Roots Innovators</b>)</p> <p><b>Finding 7:</b> Leverage from existing data platforms Action Learning Plan Platform, the Solution Mapping Platform and MS Teams Global Channel (<b>Start-ups</b>)</p> <p><b>Finding 9:</b> Establish a strong and meaningful relationship with regards to IPR with other instances in the UN System (<b>UN System</b>)</p>

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Medium	<p><b>Finding 2:</b> Support the creation of a UNDP Infrastructure to manage IPR, such as a Collective Management Organization (trial CMO), for grassroots innovators. <b>(Grass Roots Innovators)</b></p> <p><b>Finding 6:</b> Use global network repository and leverage from existing local partnerships to ensure UNDP deals with pre-existing IPR in cases of desired commercial exploitation of the IPR and attraction of private investors <b>(Start-ups)</b></p>
Long	<p><b>Finding 3:</b> Increase monetary prices beyond limits established in the Innovation Challenge Policy <b>(Start-ups)</b></p> <p><b>Finding 4:</b> Create an IPR standard and embed it in the UNDP organization under the responsibility of a centralized team <b>(Start-ups)</b></p> <p><b>Finding 5:</b> Setup legal Annexes to the UNDP Terms and Conditions to transfer ownership of the IPR back to the innovator <b>(Start-ups)</b></p> <p><b>Finding 8:</b> With an IPR standard in place (findings 4, 5 and 6) provide licensing alternatives such as permissive and copyleft <b>(Universities and other collaborators)</b></p>

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