



Traditional Knowledge: As Intellectual Property, It's Protection and Role in Sustainable Future

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Abstract: The knowledge that is created traditionally by the relevant communities, though known to the public at large or not, has somewhere went into the fog of non-cautiousness in the international picture. The phenomenon is very pure in its existence as it is needed to be protected and preserved by the state, the reason is the person who has created the knowledge is itself not in the position to use the knowledge and make the commercial use of it, therefore, it is difficult to anticipate that he would rather be capable to protect his traditional knowledge from its exploitation. In view of this it is necessary that the state as a representative and the protector of its people strive for and facilitate for their necessities.

Keywords: Perpetual Protection, Sustainable Future, Sui Generis system, indigenous knowledge & Protection to Traditional Knowledge.

I. INTRODUCTION

Traditional knowledge (TK), indigenous knowledge (IK), traditional ecological knowledge (TEK) and local knowledge by and large allude to knowledge frameworks implanted in the social customs of territorial, indigenous, or local groups. Traditional Knowledge Systems date back to two million years, once man started creating his tools and interacting with nature. Since the dawn of history, completely different people have contributed to different branches of science and technology, typically in a manner involving interactive contacts across cultures separated by massive distances.¹

Developing countries have long advocated for international protection of traditional knowledge while developed countries have resisted movement on the issues. Most of the international dialogue about the traditional knowledge has been taken place within the concept of intellectual property framework. The WIPO has been the primary facilitator of the discussion.

Protections of the Traditional Knowledge of the local and indigenous groups appear to be a standout amongst the most argumentative and muddled issue. The chronicled advancement of the protection of intellectual property in the wake of individual private property rights, nudged, the traditional knowledge and the innovative practice focused around it outside the domain of the formal intellectual property protection system. The new millennium poses genuine test to the worldwide legitimate group to set new global lawful standard for tackling the issue of intellectual property protection toss open by the engineering advancements. Traditional Knowledge was dealt with as Knowledge in general society demeans for free of charge misuse without demonstrating any appreciation or sympathy towards the struggle by the groups to safeguard and advertise the same.

There are around 100 million woods inhabitants in India, the majority of whom fit in with tribal groups. The backwoods furnish them with sustenance, giving both timber and non-timber woods produce. Thus, the woods inhabitants have throughout the hundreds of year's accumulated information from the characteristic environment around their group. This group has in one sense been gratefully protected from the methods for advanced man and has carried on the conventions of their progenitors. Overall, the woods and its tenants provide for India plentiful information about the customary estimation of different timberland items.

II. UNDERSTANDING TRADITIONAL KNOWLEDGE

Traditional knowledge is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity

i. Meaning:

As per the official definition published by the World Intellectual Property Organization (WIPO), traditional knowledge is defined as, "tradition-based literary, artistic, or scientific works; performances; inventions; scientific discoveries; designs; marks, names, and symbols; undisclosed information; and all other tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields."²

¹ 'The Traditional Knowledge System', available at http://www.infinityfoundation.com/mandala/tks_overview_frameset.htm.

² Intergovernmental committee on intellectual property and genetic resources, traditional knowledge and folklore Third Session Geneva, June 13 to 21, 2002.



Traditional knowledge refers to the knowledge, innovations and practice of indigenous communities round the world. This is often the information that has been preserved in human recollections and not written in any place, it's accessible through recall on apply of learned skills in a very helpful method in day to day life.

ii. **Traditional Knowledge as Intellectual Property:**

Traditional knowledge might be depicted as artistic or experimental works that are the consequence of educated movement, and that have been passed on through generations. Given the destinations of the WIPO, the meaning of traditional knowledge rejects any thing that is not the effect of learned action in the mechanical, exploratory, abstract, or masterful fields. This wide and adaptable definition leaves space for a huge class of impalpable merchandise to be described as traditional knowledge.

The traditional knowledge framework is additionally by and large seen as relating to a specific ethnic gathering or domain. As characterized, traditional knowledge is an idea that is entwined with the thought of "indigenous" or "traditional" people groups. In spite of the fact that there is no concurred upon meaning of indigenous individuals in universal law, they have been recognized by an accumulation of regular characteristics. The absence of clarity in pointing out the protectable groups raises different issues, incorporating in the region of human rights. For example, if the traditional knowledge-holding groups are not plainly depicted, it can make difficulties in regards to the extent of use of the right.

The main challenge and issue is the protection of Traditional knowledge as Intellectual Property. The primary beneficiaries of this kind of protection are indigenous people and community groups. However the state should also preserve such Traditional Knowledge as a guardian of its people's culture and heritage.

iii. **Existing Regime and Traditional Knowledge:**

Traditional knowledge could be ensured protection, to some degree, under different intellectual property laws. However, there is no efficient and compelling law assuring security for this topic. A *sui generis* regime for traditional knowledge is one of the recommended and prospective choices. A few pundits view it as a need.³ This is on the grounds that traditional knowledge does not effortlessly fit inside the intellectual property framework. The exact forms of the right are yet to be resolved; however a *sui generis* right could incorporate unending insurance i.e. perpetual protection. It could additionally bring about security for ancient communal works and for knowledge that may be valuable yet that is not inventive as per the gauges of intellectual property law. Albeit traditional knowledge and intellectual property overlap to some degree, there are similar numerous courses in which they are truly unique from one another. Subsequently, some kinds of traditional knowledge could be protected as intellectual property, while others can't. In this manner, traditional knowledge won't fall inside the framework of the current intellectual property system in the event that it is already in the public domain, or in the event that it can't generally meet the criteria for intellectual property protection. In any case, some traditional knowledge is fit for being secured and protected under existing laws. For instance, traditional knowledge holders make utilization of the trademark system to recognize products, goods etc as arising or originating from a specific community. Trade secret law might be utilized to protect traditional knowledge that has not been publicly unveiled, and geographical indications enable groups to distinguish goods in connection to a territory or community⁴. Geographical indications seem to set a point of reference for a geographically and culturally characterized never-ending intellectual property right. However, there are imperative contrasts between traditional knowledge and geographical indications that warrant an alternate approach to a traditional knowledge right.

Developing nations have been ancillary to international traditional knowledge than developed nations. Concurrently, developing nations have been critical of the effect of intellectual property rights on social issues, for example, access to drugs and access to informative materials. In light of developing nation worries about the negative impacts of solid global intellectual property rights, this paper utilizes a development focused, instrumentalist methodology to survey the implications of a *sui generis* traditional knowledge right. Albeit intellectual property can assume a part in ensuring traditional knowledge, a *sui generis* intellectual property style right may obstruct the equity-oriented objectives of some traditional knowledge groups.

³ "Traditional Knowledge: is Perpetual protection of good idea" by J. Janewa Oseitutu, available at ipmall.info/fosted_resources/IDEA/idea-vol50-no4-oseitutu.pdf.

⁴ TRIPS Agreement, art. 22(1) defines "geographical indications" as "indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin." TRIPS Agreement, *supra* note 4, art. 22(1), 33 I.L.M. at 1205. Article 22 of the TRIPS Agreement requires protection for regular geographical indications while Article 23 of TRIPS requires the World Trade Organization [hereinafter WTO] member states to provide enhanced protection for geographical indications for wines and spirits. *Id.* art. 22, 23, 33 I.L.M. at 1205–06. See TRIPS Agreement, Article 22.2(a), which provides that Members shall provide legal means to prevent: "the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good." *Id.* art. 22(2)(a), 33 I.L.M. at 1205. Under Article 23(1) of the TRIPS Agreement, WTO Member States must protect geographical indications for wines and spirits "even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as 'kind', 'type', 'style', 'imitation' or the like." *Id.* art. 23(1), 33 I.L.M. at 1205.

**iv. Patent and Traditional Knowledge:**

The way Patent rights have been composed in advanced trade, traditional knowledge can't be ensured security. For example, traditional knowledge can't be patented on the grounds that such knowledge does not pose inventive character, on account of the characteristic absence of novelty. Traditional knowledge is also mostly held on the whole by groups, instead of by individual holders. This traditional knowledge is information that is transmitted from generation to generation for the most part inside the group or in the families within the group in an oral form without any satisfactory or consolidated documentation. This has resulted in traditional knowledge being undervalued and minimized. Indeed, one of the apprehensions in these groups is that if the knowledge were to be documented it would have been lost to the group by expropriation.

Broadly speaking, patents can be defined as exclusive rights granted for an invention, either a product or a process that offers a new technical solution to a specific problem. A patent intimates the award of a monopoly to an inventor who has utilized his knowledge and abilities to deliver a product or process which is new, includes an inventive step and is fit for industrial application. The TRIPS Agreement likewise has a few provisions having limited application to the security and protection of Traditional Knowledge. Unveiling traditional knowledge which structures part of an invention and of the state of the art or prior art will push the advancement of science by creating a motivation for maintaining traditional knowledge frameworks. This will happen by traditional knowledge being broadly and universally acknowledged within "western" or "present day" invention protection systems and turning into a reference point inside the general operations of the international patent system

III. IMPORTANCE OF TRADITIONAL KNOWLEDGE

Traditional knowledge has been a constituent part of the lives of children of the soil and subsequently all the indigenous community. Utilization has been done of Traditional Knowledge by these groups in their regular lives however all the more imperatively as a device towards better and cautious administration of scarce resources. This Knowledge has been acknowledged by these indigenous groups for a sustainable development and is vital to their presence and their survival and the survival of their natural surroundings for utilization by their future generation.

For developing nations, traditional knowledge is a key for guaranteeing food security and health of individuals in the developing world. As per the World Health Organization, in numerous nations traditional system of medicine gives the only economical cure to poor people. Numerous contemporary drugs have been determined from the knowledge of mending properties of plants, animals and so on. Traditional practices and deliberations of local agriculturists have prompted the advancement of latest farming strategies.

IV. REQUISITE TO PROTECT TRADITIONAL KNOWLEDGE**❖ Background:**

In recent times, indigenous groups, local groups, and governments—mostly in developing nations have requested Intellectual Property security for traditional manifestations of creativity and innovation, which, under the ordinary Intellectual Property framework, are by and large viewed as being in public domain, and along these lines free for anyone to use. Indigenous people groups, local communities and numerous nations reject a "public domain" status of Traditional knowledge and contend that this opens them up to undesirable misappropriation and exploitation.

For Example; an indigenous folk song could be adapted and someone may copyright it and not give any acknowledgement to the community which created the song and also the benefits arising from the exploitation of the song may not be shared with the community; or inventions derived from Genetic Resources⁵ could be patented by third parties, raising questions as to the relationship between the patent system and the conservation and sustainable use of biodiversity and the equitable sharing of benefits⁶. Perceiving the traditional components as protectable Intellectual Property would empower their holders to have a say over their utilization by others.

❖ Need and Object of Protection:

Protection of traditional knowledge has dependably been a matter of importance in perspective of the countries like India. The Turmeric patent case and the Neem patent case are the Landmark Cases whereby one can see how medicinal plants and Traditional Knowledge are exploited by Commercialist. The knowledge of this kind has perpetually been in the hands of the indigenous and local groups which are, no doubt abused and exploited without a share of benefit being given to them. These assets are utilized within such a fashion, to the point that prompts bio theft i.e. bio piracy. The rare and unique nature of such knowledge makes it unsuitable for protection by the current legal structure. Traditional knowledge not only provides as a means of livelihood to the local and indigenous groups but also functions as a tool which enables better management of their eco-system.

Traditional knowledge is utilized as an input to present day commercial enterprises, for example, pharma, organic medicines, modern wear, beauty care products, natural pesticides, agriculture etc. Accordingly ensuring protection of traditional knowledge has the potential to enhance the economic performance of numerous developing nations by enabling more noteworthy commercial

⁵ Article 2 of the Convention on Biological Diversity (1992) defines "genetic resources" as "genetic material of actual or potential value."

⁶ http://www.wipo.int/edocs/pubdocs/en/tk/933/wipo_pub_933.pdf page 6



utilization of their organic and biological wealth and expanding export of commodities, merchandise, produces etc identified with traditional knowledge. A huge part of the planets crop diversity is in the care and keeping of agriculturists, farmers who pursue age old cultivating and land use practices in ecologically complex agricultural systems which facilitate the protection and preservation of bio diversity.

Protection of Traditional Knowledge is not to be embraced as an end in itself, but as a medium to achieve more extensive and larger policy objectives and to cater to the needs of their holders. Stakeholders have asserted an array of schemes, strategies, policy goals underlying the protection of Traditional Knowledge, including⁷:

- Wealth creation, trading opportunities and sustainable economic development, including promotion of equitable benefit-sharing from use of TK;
- Preservation, promotion and development of TK;
- Prevention and repression of misappropriation and unauthorized exploitation, illicit use and abuse, as well as other unfair and inequitable uses of TK;
- Protection of tradition based creativity and innovation;
- Recognition of value and promotion of respect for TK and the communities that preserve them; including prevention of insulting, derogatory and/or culturally and spiritually offensive uses;
- Safeguarding of the cultural identity and values of communities;
- Prevention of false and misleading claims to authenticity and origin; prevention of third party failure to acknowledge the source.

V. INDIA'S EFFORT IN PROTECTION OF TRADITIONAL KNOWLEDGE

Some Specialist are of the opinion that Traditional Knowledge should be secured and protected under the patent regime but then the criteria of Novelty and Inventive step will not be fulfilled in case of Traditional Knowledge. Since there is absence of Trade Secret related law in India the Trade Secret method will also fail to protect Traditional Knowledge. These circumstances clear the fog that current Intellectual property system is not well equipped to protect Traditional Knowledge. In any case, certain steps are taken by India in promotion of protecting traditional knowledge after understanding its importance and considering various threats of bio piracy, in the form of following initiatives.

1) Enactments of Various Legislations:

a. The Patents (Amendment) Act, 2005:

This law makes it mandatory for the patent applicants to disclose in the patent applications the source of origin of the biological material and associated knowledge used in the invention⁸. It also encompasses provision for the protection of biodiversity and traditional knowledge by refusing to grant patent or revoke it if the application wrongfully mentions the source of geographical origin of biological material⁹, or the invention claimed was related to traditional knowledge oral or otherwise, of any local or indigenous community in India or otherwise. This measure is taken to ensure the protection of folklore or knowledge belonging to local or indigenous community of any country¹⁰.

Thus there is an effort made by the Legislature albeit small yet important in view of encompassing the protection of the traditional knowledge. Since there exists some aspects of Traditional knowledge that could be included in the universe of Patent law though not completely but to some extent, it is necessary to ensure that any efforts that could be made are contributed and there is strict implementation of the same.

b. The Protection of Plant Variety and Farmers' Rights Act (Ppvr Act), 2001:

The PPVFR Act though not directly related to protection of Traditional Knowledge, has important provisions of benefit sharing and farmers' rights. The plant varieties not patentable under the Patents Act are specifically dealt with under the PPVFR Act. This law protects the interest of the farmers for their contribution in conserving improving and making available plant genetic resources in order to develop new plant varieties. The main focus of this Act is on defining plant breeder's rights (PBRs). The act contains provisions in furtherance of equitable sharing of benefits emanating from the usage of plant genetic resources that may accrue to a breeder from the sale and disposal of seeds or planting, material of a protected variety.

c. The Biological Diversity Act, 2002:

This act gives effect to the mandate of CBD and to some extent, to the Plant Genetic Resources for Food and Agriculture (PGRFA) Treaty. This legislation is more explicit in its approach towards Traditional Knowledge. Any person intending to apply

⁷ http://www.wipo.int/edocs/pubdocs/en/tk/933/wipo_pub_933.pdf Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions page 20 and 21.

⁸ Patents (amendment) act (India) 2005 (No.15 of 2005), Under s. 10.4(d) D

⁹ Under the new provision, s. 64(p), a patent can be revoked when 'the complete specification does not disclose or wrongly mention the source or geographical origin of biological material used for the invention'.

¹⁰ Traditional Knowledge, Traditional Cultural Expressions, and Intellectual property law in the asia-pacific region, edited by Christoph Antons, page no.330.



for any Intellectual Property in India or outside the country, has to provide for benefit sharing as determined by the National Biodiversity Authority which regulates access to usage of biological resources.

2) Traditional Knowledge Digital Library (Tkdl):

Documentation of already existing knowledge, accessible in public domain, on different traditional frameworks of medicine has become crucial to protect the supremacy and the sovereignty of this traditional knowledge and to secure it from being abused in the form of patents on non-original innovations, and which has been an issue of national concern. In 1999, an interdisciplinary task force was constituted for creating an approach paper on establishing a Traditional knowledge Digital Library (TKDL). The project TKDL was initiated in the year 2001 by the Government of India, to ward off incidences of piracy. India's TKDL is a collaborative project between the Council of Scientific and Industrial Research (CSIR), and the Department of AYUSH, it is a home-grown effort to ensure patent offices around the world do not grant patents for applications founded on India's wealth of age-old Traditional Knowledge. It facilitates data and information on Traditional knowledge existing in the country, in languages and format intelligible to patent examiners at International Patent Offices. Presently, the TKDL contains data on 65,000 formulations in ayurveda, 70,000 in Unani and 3,000 in Siddha, from 14 ancient books¹¹. Access to TKDL is regulated through an 'Access Agreement', on condition of confidentiality.

VI. PERPETUAL PROTECTION AND ITS IMPLICATIONS

In the year 2009, an African Group submitted a paper which incorporated the different stands taken by the WIPO IGC participants and made recommendations for moving forward¹². The 2009 African Group proposal noted that a few members look for perpetual protection whereas others recommend that there is a need to balance the rights of the innovators and people in general. The African Group suggests, as part of the future road, that traditional knowledge should obtain perpetual protection. This proposal is consistent with the views of many other developing nations.

In order to confirm the adequate protection of traditional knowledge, it's steered that the right ought to be indefinite and even retroactive to safeguard historical works. Owing to the inter-generational nature of the traditional knowledge, perpetual protection is seen as a vital component in making an efficient legal regime. Moreover, because some communities might object to the utilization of works associated with their cultural identity, indefinite protection is paramount for certain traditional knowledge holders. Clearly, a number of the declared objectives of traditional knowledge protection are distinct from the incentivizing role of intellectual property. This could be another excuse why traditional knowledge doesn't work among a classic intellectual property model. However, because Traditional Knowledge, like intellectual property, is regarding the legal treatment of intellectual creations and know-how, some parts of the legal structure of intellectual property law stay relevant. Specially, the term limitation is pertinent to the concern regarding the impact of rights in intangible merchandise or goods on human development factors that rely on continual access to knowledge and knowledge-based commodities.

However, as a result of its intergenerational nature, traditional knowledge may be protected indefinitely and even retroactively. This might not be in step with the equity-oriented objective of access to affordable traditional knowledge commodities. Thus, any indefinite right acknowledged ought to be comparatively less restrictive so as to not offend the principle of a balance between the interests of the right holder and also the public.

As a type of internationally recognized intellectual property without any term of protection, geographical indications appear to be notably relevant to the traditional knowledge discussion. However, a vital distinction between traditional knowledge and geographical indications is that a geographical indication, like a trademark, provides security to the reputation of a specific item but not any underlying knowledge. A perpetual term of protection for traditional knowledge would seemingly extend not only to the utilization of names, for example, but also to the relevant substantive knowledge. Thus, the impact of a perpetual traditional knowledge right would not be akin to the indefinite protection enjoyed by geographical indications. The traditional knowledge right would arguably be stronger. Currently, there is no intangible property right that offers indefinite protection over uses relating to substantive knowledge¹³

VII. TRADITIONAL KNOWLEDGE AS A MEANS OF SUSTAINABLE DEVELOPMENT FOR SUSTAINABLE FUTURE

1) Benefit Sharing

Provisions for the equitable distribution of any benefits arising out of inventions and innovations and practices associated with the use and applications of knowledge are also incorporated in the legal framework. The benefit-sharing includes the following¹⁴:

¹¹ Traditional knowledge, traditional cultural expressions, and intellectual property law in the asia-pacific region, edited by christoph antons, page no.336.

¹² Graham dutfield & uma suthersanen, global intellectual property law 47–48 (2008);

¹³ The patent right, for example, allows the right holder to prevent others from using the invention and effectively, therefore, from utilizing the knowledge underlying the patent. However, the patent term is limited to 20 years from the date of filing. See TRIPS Agreement,

¹⁴ The Realities Of Traditional Knowledge And Patents in India Dr. Mohan Dewan



1. Grant of joint ownership of Intellectual Property Rights to the benefit claimers which include all the conservers of the biological resources, creators and holders of knowledge and information and individuals or communities practicing such benefits.
2. Transfer of technology for adequate consideration from the benefit sharers to bodies wanting to use the technology.
3. Locating of production, research and development facilities which will provide employment to and otherwise facilitate the betterment of living standards of the benefit claimers.
4. Asking upon the bodies who are applying for a patent to associate Indian scientists, benefit claimers and the local people with the research and development in the biological resources, bio-surveys and bio-utilization and finally;
5. Direct payment of monetary compensation and other non-monetary benefits to the benefit claimers.

2) A Narrow Right- Limited Control

The traditional knowledge right, which is incited to render the potential protection more attractively limited to control over the commercial use of it. In this context, the 'commercial use' is needed to be defined so that it would be clear what is included in the prohibited acts. For example, 'a right holder should probably not be able to prevent the private resale of a traditional knowledge good or the private use of traditional know-how'. For example, an argument could be made that preventing patents related to the medicinal uses of turmeric ensures that the know-how remains publicly available. In the case of turmeric, two Indian nationals sought an American patent based on Indian know-how. A traditional knowledge right could have been utilized to ensure that the know-how remains available to the Indian and global community rather than becoming subject to a patent held by two individuals.

Secondly, the synthetic compound which is created based upon the traditional knowledge regarding the uses of a naturally occurring substance, with the series of scientific progress could be hindered by the inability to develop and commercialize it.

Further, it is focused that the inability to commercialize the know-how traditional knowledge adversely affects the utilization of the traditional based knowledge to the public. If the know-how is not widely known by the public at large, the utility of that knowledge is said to be limited to the knowledge holder of small group of the relevant community. In such an instance, it may only be through commercialization that the public would benefit from the know-how and subsequently access traditional knowledge related goods. Consequently, in this case, control over the commercialization of such knowledge would be inconsistent with human development goals, such as accessibility and affordability with respect to traditional knowledge products. Thus, it is provided that there are no spiritual or religious aspects to the traditional knowledge, a right that provides for control over the commercial uses of the traditional knowledge should be time limited.

VIII. NEED FOR A SUI GENERIS SYSTEM

The protection of traditional knowledge contains number of policy problems, notably the objectives and modalities of such protection, and its impact and implications for its supposed and intended beneficiaries. Such problems are very complicated since there are broad differences regarding the definition of the subject matter, the reason for protection, and the instrument for achieving its aim. The problems concerning traditional knowledge ought to be addressed in a completely different manner, including moral, ethical, and environmental and socio economic issues as well as at the international level conjointly, all the countries need to safeguard their ancient and traditional knowledge and indigenous knowledge by an appropriate and suitable sui generis legislations. In most cases, conventional IP systems and adaptations thereof are not considered sufficient to cater to the unique character of Traditional Knowledge. For example, when community members innovate within the Traditional Knowledge framework, they may use the patent system to protect their innovations. However, Traditional Knowledge "as such"—knowledge that has ancient roots and is often informal and oral, is not protected by conventional IP systems. This has prompted a number of countries and regions to develop their own distinct sui generis (specific, special) systems for protecting Traditional Knowledge. Sui generis measures are specialized measures aimed exclusively at addressing the characteristics of specific subject matter, such as Traditional Knowledge. What makes an Intellectual Property system a sui generis one is the molding of its features to properly accommodate special characteristics and specific policy needs. Therefore India also needs to enact an appropriate legislation for the protection of traditional knowledge.

IX. CONCLUSION AND SUGGESTIONS

It is thereby concluded that Indigenous knowledge is the local knowledge that is unique to a culture or society. Other names for it include: 'local knowledge', 'folk knowledge', 'people's knowledge', 'traditional wisdom' or 'traditional science'. This knowledge is passed from generation to generation, usually by word of mouth and cultural rituals, and has been the basis for agriculture, food preparation, health care, education, conservation and the wide range of other activities that sustain societies in many parts of the world.

Taking into consideration human development factors such as access to affordable traditional knowledge products; it appears that global perpetual protection of traditional knowledge would not be beneficial for developing countries or indigenous peoples. In the international context, a time-limited right would be preferable to perpetual protection of this inter-generational knowledge.



The knowledge which is immortal in nature, and subsisted from the time immemorial or, may be in the recent time is necessary to be protected; as it is the obvious phenomenon that anything available anywhere is somewhere created by a person or more than one person, but the knowledge still first belongs to them, so prior protection of right must be guaranteed to them as to their intellectual property so that no one else could infringe their right and name the property as his property. This practice of naming another's property as one's own property is being seen widely in today's scenario.

In the light of the conclusion, these suggestions are being made as Future directions, which are as:

- Future directions are fundamentally dependent upon changes in political will by nation states and the commercial sector. The development of frameworks that enhance and embodies indigenous peoples' perspectives and participation is long overdue. Indigenous knowledge can no longer be considered a raw resource from which others benefit. Indigenous peoples' contribution to critical issues like environmental sustainability, climate change and resource management mean that it is in everyone's best interest to develop better equitable and ethical frameworks and partnerships.
- Indigenous people are asking that their cultural systems and ways of governing knowledge access and use be recognized as legitimate. That they be respected as custodians/owners/nurturers of knowledge that is valuable to many. That the dominant intellectual property framework, which has excluded their interests, be reconfigured so that it can protect their interests too. Indigenous groups are insisting that they also have right to receive benefits from knowledge that derives from their contexts and is based on their historical knowledge. All of these requests are mainstream, reasonable and legitimate and require immediate action.
- Rethinking how we do research, how we conceptualize knowledge, how we share knowledge, how we recognize legitimate overlaps in knowledge use and circulation, and the extent of the role of law in influencing our social orders of knowledge exchange are starting points.
- An improved Indian Patent Act giving space to the regime on Traditional Knowledge can facilitate effective protection to the knowledge as well as the groups from where the knowledge has developed. Also under the existing Act, Prior art comprises not only disclosure of earlier art but whatever was earlier known by the public or was used anywhere in the world, so if the criteria for patentability are properly applied the granting of erroneous patents would be avoided, thus there would be no exploitation of knowledge without any rewards to the holders.

Hence, there is need to formulate the rules governing the Traditional Knowledge protection and also proper mechanism to punish the violators and to preserve the traditional knowledge available with the relevant communities.

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