



Research Article

## INTELLECTUAL PROPERTY RIGHTS AND BIO RESOURCES ASSOCIATED WITH TRADITIONAL KNOWLEDGE OF INDIGENOUS COMMUNITIES OF NORTH-EASTERN STATES OF INDIA

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### ABSTRACT

The use of plant as bio resource is widely used all over the world and the Intellectual Property Right are associated with their use and protection. Northeast India being a hotspot region of the world many traditional knowledge of extraction of medicine from the plants needs to be learned, protected and conserved.

#### Key words:

Intellectual Property Rights; Conservation on Biological Diversity; Hot spot

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### INTRODUCTION

The use of Intellectual Property Rights over living organism and biological resources is a relatively new phenomenon. The local and indigenous communities play an important role in the protection, conservation and development of genetic resources for various purposes i.e. food, medicine etc. through traditional knowledge. The developing countries like India possesses the rich biological diversity associated with traditional knowledge whereas developed countries i.e. USA, European Union have technological resources to exploit these natural bio resources commercially. In the recent years biotechnology shows the significance and usefulness of traditional knowledge for the development of new products of commercial important. Therefore the issue becomes equitable sharing of benefits from the use of biological and genetic resources. However it is pertinent for the international and national legal community to set new legal standards for tackling the problem of international protection owing to technological developments.

In India the north eastern region is very rich in biological resources and constitutes one of the hot spots of biological diversity of the world. The protection of traditional knowledge of local and indigenous communities is one of the most serious issues before us. Therefore there is an urgent need to protect the fragile traditional knowledge through national policies and international understanding linked to IPRs to ensure recognition and protection of traditional knowledge and proper use for the benefits of its holder.

### INTERNATIONAL SCENARIO

Conservation on Biological Diversity (CBD) 1992 has recognized the importance of traditional knowledge of local and indigenous community in genetic materials and share the benefit derived out its use. Article 8(D) of Convention provides that, "Each contracting party shall as far as possible and as appropriate subject to international legislation respect, preserve and maintain knowledge, innovation and practices of indigenous and embodying traditional life style relevant for the conservation and sustainable use of biodiversity and promote wider application with the approval and involvement of the holder of such knowledge, innovations and practices and encourage equitable sharing of benefits arising out such knowledge, innovations and practices". However still the ownership of traditional knowledge is not well defined.

WTO-TRIPS Agreement (1994) also has some provisions having limited application for protection of traditional knowledge through Geographical Indication to protect traditional knowledge if associated with Indication used for production and sale of goods.

The Doha Ministerial Declaration on November 19, 2001 had instructed the Council for TRIPS (Para 19) to examine the relationship between TRIPS Agreement and production of traditional knowledge and other new development. In TRIPS Council in June 2002 several developing countries including India raised the key issue that TRIPS Agreement should be amended in order to provide that Members shall require that

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an application for a patent relating to biological material or to traditional knowledge shall meet several conditions to acquire patent right i.e. (i) disclosure of the source and country of origin of biological resources and of traditional knowledge used in the invention (ii) prior information consent through approval of authorities and (iii) evidence of fair and equitable benefit sharing under the relevant national regime of the country of origin. Thereby it may help in preventing the misuse of knowledge and resources.

Another effort is the International treaty on plant genetic resource for food and Agriculture adopted in 2001 under FAO which is in harmony with CBD looking for sustainable use of plant genetic resources relating to Food and Agriculture and Article 9 also dealing with farmer's right. The Conference of Parties to the Convention on Biological Diversity (2002) has adopted the guidelines on Access to Genetic Resources and Fair and Equitable sharing of the Benefits arising out of their utilization which is one of the important breakthrough in the sustainable use of genetic resources and sharing of benefit for the use of traditional knowledge associated with it.

In order to have uniform norms, an Inter-Government committee on Intellectual Property and Genetic Resources, Traditional knowledge and Folklore was set up by WIPO (World Intellectual Property Organization). WIPO has made significant contribution to the development in the area of traditional knowledge and their bio-prospection through intellectual property rights route.

Thus there is a general agreement within international community that there is need to recognize the traditional knowledge and wherever possible it must be identified with community and treat them as the holders of such knowledge.

## **INDIAN SCENARIO**

India is one of the sixteen mega biodiversity countries of the world possessing 7-8% of earth's total biodiversity through occupies 2% of the total earth surface. More than 47,000 species of plants and 89,000 species of animal have been recorded by BSI and ZSI of India respectively. Northeastern region constitute one world hot spots of biodiversity and forms of part of Indo-Burma hot spots designated by Myers et al.,20001. India is also the Centre of origin of several plants and animal species and very rich in biodiversity as well as traditional and indigenous knowledge.

Recently the Biological Diversity Act, 20002 has been enacted as India being a signatory to the Convention on Biological Diversity (CBD),1992. This legislation provides the conservation of biological diversity, sustainable use of its component and fair and equitable sharing of benefits arising out of the use of biological resources. This, of course, requires a prior approval of the National Biodiversity Authority (NBA) ensuring sharing of benefit out of use of biological resources and may impose terms and conditions.

Prior approval of NBA is also required for seeking IPRs on a research based upon Biological resources obtained from India. Another important function of NBA is to take any measures necessary to oppose the grant of IPRs in any country outside India on biological sources obtained from India or knowledge associated with such biological source. India has already got set aside the patents on turmeric and Neem in

recent past were obtained by other countries; Legislation for the Protection Plant Varieties and Farmer Right Act,2001 also advocates the conservation, exploitation, collection, characterize, evaluation of plant genetic resources for food and Agriculture to meet the goal of natural food security and sustainable development of Agriculture for the future generation. According to this Act amount of benefit sharing between the provider and recipient of the plant genetic resources and development of variety and its commercial use. It will be mandatory to disclose the geographical location from where the material taken and information provider if any, of the farming community in evolving such variety.

The Geographical Indications Act 1999 (Registration and Protection) is another aspect of IPRs concerning genetic resources involves geographical Indication (GIs) which are products owing their origin or reputation to a geographical region. Any traditional product can be registered as GIs and given GIs protection. GIs registration for their products. For example, Kashmiri Carpets, Moradabadi brass, Mysore saree, Darjeeling tea etc.

Traditional Knowledge Digital Library (TKDL) has already been set up and documenting formulation in the Ayurvedic system of medicine in India. TKDL has already transcription of 35,000 formulation used in Ayurvedic system of medicine and details are being converted into patent application format. Recently in some states preparation of Village Biodiversity Registers has been initiated local community. Therefore some mechanism may have to evolve for the protection of the knowledge.

## **NORTH EASTERN REGION PERSPECTIVE**

North-eastern region is very rich in biological diversity and harbors large number of plant species of Agriculture crops, horticulture crops, vegetable crops, medicinal and aromatic plants and dye yielding plants. Myers et al., 20001 has recognized this region as one of the Global Hot Spots of biological diversity and designated as Indo-Burma hot spot of biological diversity. Most of the local and indigenous communities earn their livelihood through by utilizing the bio resources for various purposes such as food, medicine etc. Plant dyes are generally used for dyeing clothes in Manipur which are now being replaced by synthetic dyes available at cheaper rates. Black rice variety of Manipur is very tasty and having a good flavor of making sweet dishes (Kheer).

## **STRATEGIES**

Following steps may be undertaken for the protection of traditional knowledge, innovations, practices in the north eastern region: (i) Documentation of traditional knowledge different indigenous and local communities of all the states of north eastern regions regarding medicinal and aromatic plants species, agro-biodiversity of cereal crops, horticulture crops, floriculture, dye yielding plants etc. by involving the scientists from ICAR and Universities of north eastern states through network or Co-ordinate projects, (ii) Awareness programme may be organized on the issues of registration and patent systems on traditional knowledge innovations, (iii) Appropriate action should be taken for the development of sue generis legislation to protect traditional knowledge of biological resources and GIs product, (iv) Some mechanism

may be involved for prevention of bio-piracy of bio-resources from north eastern states and (v) To enhance participation of NGOs representing indigenous and local communities.

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