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# TRADITIONAL KNOWLEDGE V PATENT RIGHTS INDIGENOUS RIGHTS AND COMMERCIAL INTEREST

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## ABSTRACT

Traditional Knowledge is a knowledge derives from the long-standing traditions and practices of certain regional, indigenous, or local communities. These technical concepts, which are intrinsically connected with the beliefs of the communities which had developed them, are the way indigenous people have in order to survive in the surrounding environment. This paper deals with the problems associated with the protection of Traditional Knowledge and codification in registers and databases. This paper aims to reduce the conflict of interest between the traditional knowledge and the claims of the commercial entity over those innovations. This paper examines legal cases, policy gaps, and reform options to harmonize patent law with indigenous rights, fostering innovation that respects both biodiversity and cultural integrity. Finally, this study focused on the solutions and recommendations to fill those research gaps.

**Keywords:** Traditional Knowledge, intellectual property right, cultural diversity, CBD, TRIPS Agreement, Disclosure of Origin, sui generis, bio piracy.

## **1. Introduction:**

WIPO: “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.”

Traditional knowledge is a community ownership, innovation, and practices which was developed by indigenous and local community over the years. It covers wide range of areas includes use of medicinal plants, agricultural methods and other cultural expressions.

The Traditional Knowledge encompasses both formalized traditional knowledge and information passed down orally. The above-mentioned traditional knowledge referred as the knowledge is only known by the specific group of communities or peoples which is mostly transmitted orally and is available in public domain. Traditional knowledge is transmitted orally and embedded within the indigenous community and sustained through community ownership rather than individual ownership. This serves as a main resource for conservation of biodiversity, pharmaceutical, and other industries.

Moreover, the incorporation of traditional knowledge into world markets led to more conflict with patent system, which gives an exclusive right to individual or companies. The patent wants some of the following requirements such as novelty, inventive step, documentation and other requirements. Those gaps created the instance of biopiracy by deriving the patent products from the indigenous communities without their consent or benefit sharing. This type of practice is not only affected the availability of opportunities but also threaten the cultural identity and biodiversity.

There were many comments to change the laws and policies on national and international levels because of the issues in protecting the rights of peoples and developing business. The Convention on Biological Diversity and the Nagoya Protocol are two conventions that try to solve the issue by giving importance to “access and benefit-sharing” and “prior informed consent” agreements. But there were issues in enforceability and holes in patent laws, and problem in owning it. For understanding this issue, analyse the history and case studies, and the change in frameworks that traditional knowledge holders get equity in recognition and payment, even though the business is with corporates.

80% of our world still depends on traditional knowledge to for healthcare (WHO, 2014). In recent years, an increased use of natural products in the biotechnology, pharmaceutical and health care sectors have refuelled interest in traditional knowledge and its associated genetic resources. Other industries also seek to use traditional knowledge to enhance their technology or gain a deeper understanding of the underlying science. Because of the increased interest in traditional knowledge and its potential benefits, further clashes between Intellectual Property Law and Human Rights have emerged<sup>1</sup>.

## **2. Research Questions:**

1. How the community ownership concept is different from individual ownership in protecting traditional knowledge?
2. How the international instruments such as Convention on Biological Diversity and Nagoya Protocol effective in protecting the traditional knowledge?
3. How the prior informed consent helps to protect and strengthen the indigenous communities' rights?
4. How the traditional knowledge and patent conflict is protected under different countries laws?
5. How to achieve the balance between encouraging innovations and safeguard the indigenous rights?
6. Whether the Honey Bee Network which documented the traditional knowledge should be protected under existing intellectual property rights or sui generis system?

## **3. Research Objectives:**

1. International efforts and why stronger frameworks are needed.
2. To explore mechanisms like prior informed consent (PIC) and access–benefit-sharing

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<sup>1</sup> Traditional Knowledge Versus Intellectual Property Rights: Who are the True Victims of this Conflict?, (Aug 16, 2025, 11.22 AM), <https://thehaguepeace.org/site/traditional-knowledge-versus-intellectual-property-rights-who-are-the-true-victims-of-this-conflict/>

(ABS) in preventing misappropriation.

3. To identify the loopholes in existing patent law which allows the misappropriation of traditional knowledge.
4. To investigate the losses faced by tribal societies by patenting Traditional Knowledge without giving benefits.
5. To impose policies that equalize innovation with tribal rights and their protection.

#### 4. Research Methodology:

This research is based on the doctrinal method, which means the resources were collected through secondary information. This research involves analysing and examining the existing literature and other legal materials rather than collecting the primary data. The secondary data sources include books, research articles, journals, newspaper, e- libraries and other commentaries related to this research topic. The duration of this research was approximately one month and this research is confined to India and other countries.

#### 5. Literature Review:

1. **Aiswariya Venugopal B (2025)**<sup>2</sup>- “Traditional Knowledge and Its Protection Under Indian Intellectual Property Laws: Challenges and Prospects” this paper provides criticism for India’s legality on traditional knowledge, find gaps between customary system and individual patent systems, and gave importance for sui generis models.
2. **R. M. Dungawat, (2004)**<sup>3</sup>- “Protection of Traditional Knowledge – National and International Perspectives” It provides comparative & national perspectives (including India) on how TK is protected or not, vs patent rights and commercial exploitation.

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<sup>2</sup> Aiswariya Venugopal B, Traditional Knowledge and Its Protection Under Indian Intellectual Property Laws: Challenges and Prospects, ResearchGate, (Sep 19, 2025, 12.02 PM), [https://www.researchgate.net/publication/393249831\\_Traditional\\_Knowledge\\_and\\_Its\\_Protection\\_Under\\_Indian\\_Intellectual\\_Property\\_Laws\\_Challenges\\_and\\_Prospects](https://www.researchgate.net/publication/393249831_Traditional_Knowledge_and_Its_Protection_Under_Indian_Intellectual_Property_Laws_Challenges_and_Prospects)

<sup>3</sup> Suhail KK, Analysis on the Protection of Traditional Knowledge with Patents, International Journal of Law Management and Humanities, (Sep 19, 2025, 12.02 PM), <https://ijlmh.com/paper/analysis-on-the-protection-of-traditional-knowledge-with-patents/>

3. **Bency Baby T & Timmakkondur Narasimman Kuppusami Suriyaprakash (2021)<sup>4</sup>**- “Intellectual Property Rights: Bioprospecting, Biopiracy and Protection of Traditional Knowledge – An Indian Perspective” A chapter that gives an overview of bioprospecting, biopiracy in India; examines how Indian law treats patenting of genetic resources / traditional compounds; discusses IPR, benefit-sharing, disclosure, etc.

## 6. Content of Research:

The traditional knowledge represents the adaptation of the surroundings require that the indigenous people to find out new solutions. In other words, traditional knowledge is not a static knowledge, it requires a innovation hence it is always on development. The term “traditional” does not mean the knowledge is old, but it has been transmitted through generations based on the traditions. It means the way knowledge is created, preserved and disseminated and this was not connected with the nature of knowledge.

One of the important feature of traditional knowledge is that the knowledge is a collective knowledge as a result it is a collective property of indigenous communities or peoples and not treated as the individual property.

Initially patents were granted by lack of proper documents and after that they were cancelled. There is a strong need which recognised by patent offices of the world, in order to make a defensive protection of traditional knowledge, its preservation and equitable use over knowledge. Due to various changes and facts of traditional knowledge, different forms of intellectual property should be examined in order to protect such kind of knowledge.

### Biopiracy:

Biopiracy refers to the behaviour of some corporations, or entities belonging both to the developed countries and to the traditional knowledge holders countries, which commercially exploit the information which was taken from the traditional knowledge, as the specific knowledge about a topic, without any compensatory benefit to the stakeholder of such a knowledge. Sometimes, the traditional knowledge has been duplicated as such, in patents.

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<sup>4</sup> Bency Baby T and Timmakkondur Narasimman Kuppusami Suriyaprakash, Intellectual Property Rights: Bioprospecting, Biopiracy and Protection of Traditional Knowledge - An Indian Perspective, IntechOpen, (Sep 19, 2025, 12.03 PM), <https://www.intechopen.com/chapters/78249>

The new and inventive ideas only protected under patent law. But the traditional knowledge is usually owned by a indigenous communities collectively and it was passed down orally, then it will not met the requirements of novelty and inventive steps. There are many cases like patent on neem, turmeric, and basmati rice which shows how the companies or entities claimed the ownership over the knowledge owned by those communities. Exploitation of traditional knowledge by companies without giving a benefit sharing and recognition is called biopiracy.

The indigenous communities have the valuable knowledge about the treatment and healing sources to cure those problems with some properties of plants and other resources. Commercial entities and other companies rely on this traditional knowledge as the initial or starting point for the development of product. If the traditional knowledge is used without any benefit sharing or prior consent it will led to biopiracy. As a result, the communities will lose control over this knowledge and other resources.

**Bioprospecting:**

Bioprospecting is a process of exploration of biological resources including plant, animal and other microorganism for commercial purposes such as discover new medicine, organic products, agricultural products and cosmetics. It is the search of traditional knowledge of indigenous communities to produce a useful product. It should be used or regulated to prevent biopiracy and protect those knowledge with fair and equitable benefit sharing.

Patent laws are find difficult to address this issue such as protecting the traditional knowledge, but the international instruments and other national laws aimed to protect those knowledge, prevent the unauthorised use and to ensure the fair and equitable sharing of benefits for local communities or peoples. The main goal is to protect the traditional knowledge from unauthorised use while giving respect to the rights of the indigenous communities without forcing them.

**Result and findings:****1. Recognizing and Upholding Indigenous Rights**

Most of the traditional knowledge is collectively owned by indigenous communities. The international framework for the protection of traditional knowledge insist their cultural knowledge and intellectual property rights and their identity, dignity. There are some

innovations which is based on the traditional knowledge such as herbal medicine, agricultural products, handicrafts and others can create a significant commercial profit.

There is no uniform recognition for protection of traditional knowledge across the world. The reason for this is traditional knowledge is usually oral and owned by those communities, but the intellectual property laws like copyright, patent and others require the individual ownership rather than community ownership. In order to overcome this problem a uniform harmonized legal framework is needed globally to recognise collective rights and to ensure enforcement through cross border, then only the traditional knowledge can be protected even though it was used.

There is a need for stronger laws to ensure the communities receive the fair compensation, equitable benefit sharing and royalties. This will automatically helps to reduce the exploitation of knowledge. Now a days, the protection in every countries not the same, some may have strong laws, others may not.

## **2. International Instruments**

### **WIPO: Genetic Resources and Associated Traditional Knowledge (GRATK Treaty) (May 24, 2024)**

The World Intellectual Property Organization (WIPO) adopted the Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge (GRATK Treaty) on May 24, 2024. This is one of the major international instrument which addresses these patent for traditional knowledge conflict. This mandate a patent disclosure requirement for inventions which is based on the genetic resources and other associated traditional knowledge. This treaty was established after 25 years of negotiations, aimed to incorporate traditional knowledge into the world intellectual property system.

This treaty requires patent applicants to disclose the country of origin or the associated traditional knowledge, genetic resources which is provided by the indigenous or local communities. This treaty aims to prevent the patents being granted for traditional knowledge which is not novel or inventive.

This was aimed to prevent biopiracy, where the traditional knowledge is used by companies or other research entities for profit without getting prior consent from the indigenous communities

and with no compensation or recognition to them. There are some genetic resources found in the medicinal plants and other agricultural crops are used in patent inventions even though they themselves cannot be patented.

Prior to this treaty section 10 of the Indian Patents Act, 1970 governs about this disclosure requirements. This section made an inventor to explain about the idea with clear details, claims, and other supporting things. It safeguard the investors rights at the same time it allows the invention open for others also to read, understand and learn about those things. Along with this, it also mandates an abstract, use of drawings if the controller ask to disclose the origin of the biological resources.

### **Convention on Biological Diversity (CBD) & Nagoya Protocol:**

These international instruments requires the prior informed consent and benefit sharing in order to access the genetic resources and associated traditional knowledge. Even though this treaties will not directly force the patent office to reject or dismiss the patent claims, they generate obligations at the national level which may change the national patent laws.

### **Convention on Biological Diversity (CBD, 1992)**

This was the first major international treaty which recognises the traditional knowledge was valuable and it needed protection. The main objective of the Convention of Biological Diversity is to give and ensure a fair and equitable benefit sharing from genetic resources for those communities. It also encourage the participation and involvement of indigenous peoples in biodiversity governance.

### **Provisions on traditional knowledge:**

**Article 8(j):** Calls on Parties to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities and to promote their wider application with the approval and involvement of the knowledge holders and encourage equitable benefit-sharing.

Even though it has some advantages on other hand it has demerits also. Because the obligations are soft which means they are not legally binding. There is no separate or specific enforcement or dispute settlement mechanism for traditional knowledge misuse. It does not define ownership or rights over traditional clearly, leaving ambiguity.



## **Nagoya Protocol on Access and Benefit-Sharing (ABS, 2010)**

This protocol regulates the access to genetic resources and other associated traditional knowledge (TKGRs) through a formal and clear procedures. It also creates international compliance mechanisms like checkpoints to monitor genetic resource use.

### **Requirements:**

#### **1. PIC: Prior Informed Consent**

PIC refers that before accessing genetic resources or any other associated traditional knowledge, the user such as researcher or companies must first get permission from the country or the indigenous or local community who owned or used it.

#### **2. MAT: Mutually Agreed Terms**

MAT refers to a legal agreement which exist between the provider that is a country or community giving access to genetic resources or traditional knowledge and the user that is the researcher, company, or institution using it.

#### **3. ABS: Access and Benefit Sharing**

ABS is the core principle of the Nagoya Protocol. It states that when someone uses genetic resources like plants, animals, or other microorganism or traditional knowledge, then the benefits arising out of this resources should be shared fairly and equitably with the country or community that provides them. It also encourages the countries to set up national focal points and to appoint the competent authorities for ABS.

This protocol is not ratified by all major user countries like US. Moreover, the implementation of this procedure is not equal which is uneven and slow. Because many of the countries do not have the clear national law relating to this. Once the resources crossed the border the enforcement of those benefit sharing agreement will become weak. It is mainly focused on genetic resources, traditional knowledge is addressed only when linked to genetic resources, standalone traditional knowledge often left out.

At finally, the above mentioned international instruments like CBD and Nagoya raised awareness, set principles, and promoted national action, but they are not fully effective in

protecting traditional knowledge because of some of the vague provisions, weak enforcement, limited ratification, gaps for traditional knowledge not tied to genetic resources.

### **3. Prior Informed Consent:**

Strengthening of prior informed consent will ensure the fair and equitable benefit sharing, prevent the unauthorised use of traditional knowledge, and protect the rights of the indigenous communities over their cultural and biological heritage. This aligns with Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and also it creates a balance between the rights of indigenous peoples and commercial interest.

To enact the national legislation which makes prior informed consent as legally mandatory before granting any patent or access which permits using the traditional knowledge or genetic resources. Incorporating the prior informed consent into intellectual property and biodiversity laws like Convention on Biological Diversity (CBD) and Nagoya Protocol.

It requires that the prior informed consent procedures to use the local language, and other culturally respectful communication. It mandates that it should be written and documented. And the same was to be disclosed in public, while protecting the sensitive cultural information.

### **4. National laws in different countries:**

#### **4.1 India:**

##### **Traditional Knowledge Digital Library:**

India has built a large database of traditional medicinal formulations (Ayurvedic, Siddha, Unani, etc.). The traditional knowledge digital library helps the patent examiners in the worldwide to find out the prior art, so that it helps to reject the patents for already known traditional knowledge.

TKDL has been used by Indian patent examiners and many foreign offices to oppose, reject or prevent patents that claim already known uses. TKDL acts as a prior-art prevention tool in patent law rather than a granting rights to those claims. In the academic studies side it shows that the TKDL will help to reduce granting of patent wrongfully and thereby stopping biopiracy and defending the India's traditional knowledge systems.

TKDL does not itself provide the benefit-sharing or recognition of customary knowledge; enforcement of those knowledge is still depends on patent examiner's diligence.

### **Biological Diversity Act, 2002**

This Act admit that the local communities and indigenous groups were holding the valuable knowledge about the use, preservation, and management of biodiversity. This act treats this kind of knowledge as an integral part of biological resources. It also prevents the misappropriation of traditional knowledge, specifically by the foreign companies or researchers, by obtaining approval from the National Biodiversity Authority (NBA) before acquiring the biological resources and associated knowledge. This Act also mandates that the equitable benefit-sharing with the indigenous communities if their knowledge is used for gaining profit.

### **Indian Patent Act, 1970**

Section 3(p) of the Indian Patent Act which prevents the granting of patents for any invention which is based on the traditional knowledge or an aggregation of known traditional knowledge, even though it is slightly modified. In India the Patent Act does not allow the patent for traditional knowledge itself because traditional knowledge is usually fails to comply with the requirement of novelty, inventiveness criteria. And also, there are some of the legal tools to challenge or oppose patents by using evidence of traditional knowledge.

### **4.2 Brazil:**

Law No. 13,123/15 & Decree 8,772/16 (Biodiversity / Genetic Heritage Law) which covers the access to genetic resources and associated traditional knowledge (ATK). This also distinguishes whether the associated traditional knowledge has an identifiable origin or not. If it is identifiable, then the prior informed consent (PIC) must be obtained from the indigenous communities.

Communities which are having the associated traditional knowledge and genetic resources have to share the benefits to those communities when the traditional knowledge, genetic resources are commercially exploited by the business entities. There is also a fund which is established to channel monetary benefits.

Under the Brazilian system, in order to get patent, there are some requirements is needed to be satisfied in certain cases, the applicants need consent for using the associated traditional knowledge in the inventions.

#### **4.3 Australia:**

Australia is having the changing patent law system to require that when a patent or plant breeder's rights application uses traditional knowledge or genetic resources, then the patent applicant must disclose the source of the resources of those traditional knowledge.

WIPO's new treaty (2024) which has been signed by Australia. This treaty imposes certain disclosure requirements for the traditional knowledge or the genetic resources in patent related applications.

#### **4.4 United States:**

The U.S. patent law is generally need the requirement of novelty and non-obviousness. But the traditional knowledge that is not well documented may not be "found" during examination, which led to granting of patent event though the community knowledge is already exists. There is no general U.S. law which requires the disclosure requirement of origin or source of the traditional knowledge in patent applications still now. And the U.S. does not have any specific federal law which directly protects the traditional knowledge.

U.S. patent law (under the Patent Act) can possibly grant patents on inventions which is based on the traditional knowledge if it satisfied the requirement of novelty and non-obviousness.

Some famous cases like the neem case, turmeric case, basmati rice case which illustrate how traditional knowledge holders have challenged patents granted abroad using evidence of showing the prior traditional knowledge.

#### **4.5 Kenya:**

Kenya also recognizes the importance of protecting the traditional knowledge which is hold by the indigenous and local communities, especially related to biodiversity and cultural heritage. The Constitution of Kenya, 2010 which guarantees the cultural rights and it promotes the protection of community heritage (Article 11 & 44).

The Kenya Biodiversity Act, 2009 also governs about the access to biological resources and associated traditional knowledge. This act requires that communities which hold the traditional knowledge and genetic resources should be given the prior informed consent before their knowledge or the biological resources are accessed by others.

#### **5. Encouraging innovation and safeguarding indigenous rights:**

In order to achieve the balance between the encouraging innovation through the patent law and protecting the indigenous rights over their knowledge which requires a legal, ethical and policy framework. It provides a legal protection in the name of sui generis system for the traditional knowledge. And also it creates a standalone legal system which recognises the collective ownership of traditional knowledge. It ensures that the traditional knowledge is not treated as a public domain without the consent of those communities.

It reduces and prevents biopiracy and promotes recognition of the innovations of indigenous communities. Indigenous communities are not just subjects they are treated as a partners to the joint research and development projects. This may integrate the traditional knowledge with the modern scientific methods whole allowing the shared intellectual property rights and other profits.

Building capacity through training, legal aid and other institutions supports will help the communities to understand and claim their rights in national and international forum. Finally, this balance can be achieved by harmonizing intellectual property law with some human rights principles and ensuring that innovation does not affect those rights but collaborate with traditional knowledge and respect their cultural ideas and practices.

#### **6. Honey Bee Network:**

Grassroots level innovation and the knowledge of indigenous communities which is a traditional knowledge documented by the Honey Bee Network should be protected under sui generis system rather than protecting under the intellectual property laws like copyright, patent etc.

There are some requirements in order to get patent protection under patent law. They are novelty, inventiveness and capable of industrial applications. Most of the grassroots level

innovations and traditional knowledge does not fulfill these requirements. Because they are owned by indigenous communities rather than individual ownership, orally passed.

A sui generis system can ensure that the communities are recognised, rewarded and share benefits fairly when the knowledge is been commercialized by some of the business entities. It also recognises the concept of prior art and prior use, preventing the unauthorised use of this knowledge which led to biopiracy.

Only some of the innovations may be protected under the intellectual property law but the most of grassroots innovation needed the sui generis system of protection for those innovation. This system specifically designed to give respect to those community ownership and ensuring the fair and equitable benefit sharing.

## **7. Bio prospecting and Bio piracy**

### **Bio prospecting:**

#### **Arogyapacha Case (India – Kani Tribe)**

In this case kani tribe of kerala used the Arogyapacha plant (*Trichopus zeylanicus*) traditionally to increase the stamina. In 1990s, scientists at the Tropical Botanic Garden and Research Institute (TBGRI) know about the plant after studying about it. Then they developed a drug called “Jeevani”, later they commercialized the drug. TBGRI get into a benefit-sharing agreement with the Kani tribe, agreed to pay royalties into a community trust. This became one of the first benefit-sharing models in India, comply with the Biodiversity Act 2002.

#### **Hoodia Case (San People, Southern Africa)**

The San people of the Kalahari Desert had long used the Hoodia plant to suppress hunger and thirst during long time hunts. In 1990s, The Council for Scientific and Industrial Research (CSIR) of South Africa patented the plant's properties without initially prior information and consult with those communities. Then after some international pressure, the CSIR signed a agreement for benefit-sharing in 2003 with the San people, for granting them a part of profit as a royalties. After this incident this case became globally famous because of issues of bio-piracy, lack of prior informed consent, and the want of fair and equitable benefit-sharing agreement under the CBD and Nagoya Protocol.

In above cited cases the traditional knowledge led to scientific discoveries with commercial potential. The Arogyapacha case is often seen as a positive model (with early benefit-sharing), while the Hoodia case exposed initial exploitation and only later corrected through negotiations.

### **Bio piracy:**

#### **Neem Patent Controversy (India vs. W.R. Grace & the US Patent Office)**

Neem has been used in India for centuries in agriculture, medicine, and cosmetics for its antifungal and antibacterial properties. The farmers of India is traditionally used neem extracts as natural pesticides and fertilizers. In 1990s, the American based company W.R. Grace and the US Department of Agriculture obtained a European Patent (EPO Patent No. 0436257 B1) for a method of extracting neem oil from neem and to use it as a pesticide.

Even though knowledge was not new; it was based on traditional practices in India. Granting the patent meant that it will directly affect the Indian farmers to restricted from using their own traditional practices unless they paid royalties.

After some times this case was challenged by Indian NGOs, scientists, and the Government of India at the European Patent Office (EPO). In 2000, the EPO revoked the patent, which is granted on neem and ruling by stating that the method lacked novelty and it was already part of prior traditional knowledge of India community.

#### **Turmeric Case (Curcuma longa Patent Dispute)**

Turmeric has been used in India especially for its wound-healing and anti-inflammatory properties. In 1995, the University of Mississippi Medical Center was granted a US Patent (No. 5,401,504) for the use of turmeric powder in healing. This healing was not a new knowledge because in India, turmeric had been applied to wounds as a household remedy.

The Council of Scientific and Industrial Research (CSIR), India initially filed a case against the granting of patent for turmeric. In 1997, the US Patent and Trademark Office (USPTO) revoked the patent, and recognizing that the turmeric's wound-healing property was traditional knowledge and it lacked novelty as a requirement for granting patent.

**7. Suggestion and recommendations:**

1. By having the separate legal system such as sui generis frameworks to protect that indigenous knowledge from commercial exploitation.
2. Educating the indigenous community peoples about right to control, to get benefits from the traditional knowledge etc.
3. Allowing the indigenous communities to participate more effectively in intellectual property policymaking.
4. Imposing penalties or non-acceptance of patents if prior informed consent was not done properly. It helps in preventing from biopiracy and it protects traditional knowledge.
5. A community rights registry should be established to record to their practices as prior art and to prevent the misuse of traditional knowledge.

**8. Conclusion:**

Section 3(p) of the Patents Act aims to protect traditional knowledge from biopiracy while allowing room for patenting genuine innovation. However, the ambiguity of the term “in effect” and lack of clear guidelines to examine traditional knowledge patents, especially non-medicinal traditional knowledge patents, present challenges. Therefore, there is a need to provide nuanced, comprehensive and clear guidelines, and judicial interpretation, to clearly mark the contours of patentability of innovative traditional knowledge.

Although intellectual property law has driven innovation through competition and enhanced the lives of many people, it has also negatively impacted certain communities. We must thus ensure that any inequalities resulting from our current approach be addressed. The international community must balance people’s needs with profits by prioritizing human rights and equal progress for all.

Due to our interconnected global society, traditional knowledge management is vital not only for developing countries but also for developed nations. Local governments and international organizations must reaffirm their commitment to the preservation of traditional knowledge by establishing proprietary rights for the holders of traditional knowledge. In relation to the



sharing of commercial benefits from traditional knowledge, a human rights-based approach that goes beyond the current intellectual property framework must be adopted, integrated and enforced, either within the WTO or another multilateral forum.

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