

The Digital Commons: A *CPR Digest Special Issue*

Indigenous Knowledge

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Interest in indigenous knowledge (IK) especially that of biological resources has been increasing over the last two decades, particularly with the advance of information technologies. Individuals, corporations, and nation states compete to file patents on discoveries learned from IK. The number of patents filed has steadily grown over the past ten years. Large transnational corporations like Monsanto, DuPont and others have been investing into biotechnology in such a way that patents have been taken out on indigenous plants which have been used for generations by the local people, without their knowledge or consent. The people then find that the only way to use their age-old knowledge is to buy them back from the big corporations. In Brazil, which has some of the richest biodiversity in the world, large multinational corporations have already patented more than half the known plant species. See:

<http://www.globalissues.org/EnvIssues/GEFood/FoodPatents.asp>

Patent laws do not recognize indigenous knowledge and traditional systems of ownership. The UN HDP reports that two researchers from the University of Mississippi Medical Center were granted a US patent for using tumeric to heal wounds. This was, in essence, theft of a long-standing IK practice in India. In order to repeal the patent, petitioners had to produce an ancient Sanskrit text to prove what was common knowledge to a whole culture! See *The Human Development Report 1999*

http://hdr.undp.org/reports/global/1999/en/pdf/hdr_1999_ch2.pdf

There have been some attempts to safeguard IK. The United Nations Convention on Biological Diversity (1992), <http://www.biodiv.org/convention/articles.asp> recognizes the need to protect indigenous peoples' property rights and requires corporations to obtain prior consent before conducting research but this is often and easily overlooked. Signed by some 169 nations, CBD was drafted to arbitrate competing interests from bioprospecting, work towards the maintenance of national and international genetic stocks, and to introduce standards and ways of measuring genetic diversity. Signatory countries have obligations to preserve native systems of IK, consult the holders of IK prior to its commercial use, and create appropriate systems to compensate the holders of IK equitably for their contributions. Handbook on the Implementation of Conventions Related to Biological Diversity in Africa

<http://www.unep.org/padelia/publications/handbook11.htm>

Negotiating Diversity: A Field Guide to the Convention on Biological Diversity

<http://www.cesagen.lancs.ac.uk/virtual/biodiversity/index.htm>

The WTO Agreement on Trade-Related Aspects of IPRs (TRIPS (1994) required member countries to protect intellectual property rights: copyrights, trademarks, designs, patents etc. but does not take into account local customs and laws. It is generally viewed as an industrialized world agenda. For a perspective from India, see <http://www.indiainfoline.com/lega/feat/wtrr.html>

When the United Nations Draft Declaration on the Rights of Indigenous Peoples

<http://www.cwis.org/drft9329.html> was signed in 1993 many indigenous groups were optimistic.

Mathew Coone Come, Grand Chief of the Grand Council of the Crees wrote in 1995:

The Draft Declaration...began as a cry from the indigenous peoples for justice, and it is drafted to confirm that the international standards which apply to all peoples of the world apply to indigenous peoples. Every paragraph of the Draft Declaration is based upon known instances of the violations of the human rights of indigenous peoples.

Unfortunately, in reality there are no enforcement measures built into to treaty and there continue to be countless violations. See <http://www.nesl.edu/intljournal/vol6/leon.pdf> Regional initiatives include the ASEAN Framework Agreement on Access to Biological and Genetic Resources (2000) <http://www.grain.org/brl/?docid=785&lawid=1261> The Model Law Of The Organisation Of African Unity On Community Rights And On The Control Of Access To Biological Resources (2000) <http://www.twinside.org.sg/title/oau-cn.htm> and the Andean Pact Decision 391: Common System on Access to Genetic Resources (1996) http://www.ipria.org/research/trad_know.html#Andean Many individual nations have also been working to protect their native IK through legislation in the last five years. Despite the fact that there is as of yet no common or universal approach to the protection of IK rights, on a policy level, it is receiving significant attention, primarily from the governments of developing nations, where the most exploitable IK is thought to lie. Much of the attention is focused in this debate on agricultural and medicinal IK, although cultural and expressive IK is commonly also addressed.

IK on the Web:

NUFFIC (*Netherlands Organization for International Cooperation in Higher Education*)

IK Pages <http://www.ik-pages.net/>

The "Gateway to Indigenous Knowledge" with news, conferences, reports, newsletters, networks, organizations, projects, articles, journal information, and more. A very thorough site.

Register of Best Practices on Indigenous Knowledge <http://www.unesco.org/most/bpikreg.htm>

This site is hosted by UNESCO and NUFFIC. It has many links, arranged by region, then country

Traditional knowledge, genetic resources, folklore and biodiversity

http://www.ipria.org/research/trad_know.html This webpage at the Intellectual Property Research Institute of Australia (IPRIA) website is an excellent overview of domestic, regional and international treaties, which aim to safeguard traditional knowledge.

South Asian IK Digital Library

In January 2004, South Asian countries announced they create a digital library of the region's traditional knowledge and develop laws to prevent such knowledge being misappropriated through commercial patents. The plan was announced at a two-day workshop held in Delhi, India, last week by the South Asian Association for Regional Cooperation (SAARC). Participants at the workshop have begun drawing up a technical framework for classifying the region's traditional knowledge and linking it to the international patent classification system. The aim is to create a composite digital library comprising individual Traditional Knowledge Digital Libraries (TKDL) from each country in South Asia. Read More at <http://www.scidev.net/News/index.cfm?fuseaction=readNews&itemid=1840&language=1>

The International Federation of Library Associations and Institutions (IFLA) Statement on Indigenous Traditional Knowledge <http://www.ifla.org/III/eb/sitk03.html>

This statement was signed in 2002. It begins: ings have a fundamental right to access to expressions of knowledge, creative thought and intellectual activity, and to express their views publicly. IFLA acknowledges the intrinsic value and importance of indigenous traditional knowledge and local community knowledge, and the need to consider it holistically in spite of contested conceptual definitions and uses.

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