

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

AN ANALYTICAL STUDY ON THE TRADITIONAL CULTURAL EXPRESSIONS IN AN INDIAN JURISDICTION

AUTHORED BY - MADHUMITHA GOPINATH¹

ABSTRACT

Traditional Cultural Expressions have emerged as a significant subject of discussion within the intellectual property legal domain. The World Intellectual Property Organization Intergovernmental Committee (2020–2021) has committed to examining and determining the current status, protection mechanisms, and legislative requirements within the existing framework. With these ongoing deliberations, important decisions are anticipated. Traditional Cultural Expressions possess wide scope and diverse forms in a country like India. With cultural ethnicity and diversity at their peak, there exists not only a strong foundation for the growth of Traditional Cultural Expressions in all their forms, but also an urgent need for an effective remedy in the form of proper protection and conservation.² This paper gives an overview of Traditional Cultural Expressions and looks at their protection on national and international levels. It also examines the connection between Traditional Cultural Expressions and Intellectual Property Rights, citing relevant case studies. Additionally, the study addresses the challenges in implementing and protecting TCEs and suggests solutions to fill the gaps in the current legal framework.

KEYWORDS: *Traditional Cultural Expressions, Intellectual property, WIPO, cultural ethnicity, International Protection.*

INTRODUCTION

According to the World Intellectual Property Organization, Traditional Cultural Expressions (TCEs), also known as expressions of folklore, include forms like music, dance, art, designs, names, signs, and symbols, as well as performances, ceremonies, architectural works, and other cultural and artistic forms. Essentially, they are any way traditional knowledge is shared. They

¹ Author is an Advocate at Bar Council of Tamil Nadu & Puducherry, India

² Sabrina Bath & Sachchidanand Prasad, *Legal Protection of Traditional Knowledge and Traditional Cultural Expressions under Copyright Laws*, 24 IJTK 1125 (2025)

are a vital part of the identity and heritage of specific indigenous communities and are usually passed down from one generation to the next. Yoga, for example, is a legacy of our country, with historical evidence of its existence found in the Pre vedic civilization. In today's world, instant global communication has become essential. However, technology is a double edged sword for TCEs. It can either bring them into mainstream society or separate them from their rightful guardians. For indigenous communities, protecting cultural expressions means achieving social and economic justice and the chance to preserve, protect, and strengthen their cultural heritage. Additionally, TCEs hold great potential to generate fair economic returns for the collective knowledge of these communities, which can help improve economic stability for many indigenous groups living in underdeveloped areas. Currently, TCEs, which should remain the shared property of indigenous communities, are increasingly misused by large commercial businesses. This happens through the use of traditional art techniques, the mixing of traditional music with digital elements, or the borrowing of indigenous names for handicrafts that are mass-produced using non-traditional methods. In the midst of this exploitation, rightful recognition is often denied to the actual custodians. Creating a strong legal framework to regulate and protect TCEs would improve the living standards of indigenous communities and also aid in the overall economic development of the country.³ Despite gaining more international recognition, the legal protection of Traditional Cultural Expressions in India is still inconsistent and not well-structured. Current intellectual property laws focus on individual ownership, short time frames, and commercial use. These ideas clash with the collective, intergenerational, and identity-based nature of TCEs. This paper looks closely at these structural issues and discusses the need for a unique legal framework within Indian law.

RESEARCH QUESTIONS

1. How far the National and International Frameworks helpful in Protecting the Traditional Cultural Expressions?
2. How can IPR protect TCEs from exploitation by Third Parties?
3. What are the challenges in the Implementation of Traditional Cultural Expression?

³ Molly Torsen, *Intellectual Property and Traditional Cultural Expressions: A Synopsis of Current Issues*, 3 IHLR 230 (2008)

RESEARCH OBJECTIVES

1. To discuss the National and International Protection on Traditional Cultural Expressions
2. To analyse the Relationship between Traditional Cultural Expressions and Intellectual Property Rights
3. To examine the case studies related to Traditional Cultural Expressions.
4. To understand the challenges in the Implementation of Traditional Cultural Expression and to Bring out the Solutions for bridging the gaps in Existing System

HYPOTHESIS

The current Intellectual Property System in India does not fit well with the collective, intergenerational, and changing nature of Traditional Cultural Expressions. Without a unique framework, indigenous communities do not have enough protection against the commercial use and theft of their cultural heritage.⁴

RESEARCH METHODOLOGY

The researcher has relied on doctrinal type of research while making this research project. The researcher has referred to secondary sources only which are commentaries on law, case laws and research articles pertaining to said topic of law. The researcher has not gathered any primary data or has not been involved in empirical findings for making this research project. Research methodology is strictly doctrinal in nature.

REVIEW OF LITERATURE

Tabassum Iqbal, *Exploring the Jurisprudence behind Traditional Cultural Expressions in India: A Juridical Study*, IJAR (2019)

The author explores the legal basis for protecting Traditional Cultural Expressions in India. The study shows that for indigenous communities, the protection of folklore is based on fundamental justice and the right to maintain and develop their cultural heritage. It also emphasizes the need for fair economic returns from collective knowledge. The paper critiques how Indian societies have faced exploitation of their cultural expressions and traditional

⁴ Protection Of Traditional Cultural Expressions As Intellectual Property In Light Of The Movie “Kantara”, <https://www.khuranaandkhurana.com/2022/12/27/protection-of-traditional-cultural-expressions-as-intellectual-property-in-light-of-the-movie-kantara/> (Last visited on Jan 16, 2026)

knowledge by Western multinational corporations and entertainment sectors. It argues that current Indian laws are inadequate and explains why they do not effectively protect TCEs.

Ann Rose Jojo, *Protection against Cultural Misappropriation: Analysis of Intellectual Property Law in India and the International Scenario*, IJLMH (2021)

This paper assesses the protection provided to Traditional Cultural Expressions under national and international intellectual property laws. It questions how well traditional IP laws fit the nature of TCEs. In India, the author notes that folklore lacks enough legal recognition, leading to frequent misappropriation by foreign companies and individuals. This misuse denies communities economic benefits and reinforces stereotypes. The paper suggests looking at measures from other countries to strengthen India's legal framework without changing its core structure.

Dr. Nidhi Saxena, *Parsing the Protections Accorded to 'Traditional Cultural Expressions' of Sikkim in the Context of Community Ownership of IPRs*, SU (2020)

This study examines the protection of TCEs in Sikkim, focusing on community ownership of intellectual property rights. The author identifies the conflict between communal ownership and the individualistic nature of IP laws. Since IP law typically recognizes specific individual or corporate owners, community ownership poses a conceptual challenge. The paper compares community ownership with sole and joint ownership models and discusses how legal protections for TCEs in Sikkim can be understood in this context.

Komal Kothari, *Copyright of Folk and Indigenous Art Forms – Need for Accountability* (2004)

Komal Kothari raises the key question: "Who owns folk music?" He claims that folk expressions belong to cultural regions and communities instead of individuals. While a group or region may assert legal rights over its cultural expressions, these rights cannot be held by a single person. Drawing comparisons with India's claims over traditional knowledge like neem, tulsi, haldi, and basmati, he argues that smaller cultural communities should also claim rights over their expressions. He concludes that protecting TCEs requires a new property system recognizing community-based ownership.

OVERVIEW OF TRADITIONAL CULTURAL EXPRESSIONS

Meaning

The term Traditional Cultural Expressions refers to the creative works of indigenous peoples and traditional communities. However, no clear or widely accepted definition exists for this term. In international discussions, TCEs are often called “folklore,” and several countries include this term in their national copyright laws. “Folklore” generally refers to the traditional beliefs, myths, stories, customs, and practices of a group that are passed down orally through generations. William Thomas coined the term “folklore” in 1846 to encompass manners, customs, observations, superstitions, ballads, proverbs, and similar traditional aspects, describing it as the “lore of the people.” Traditional Cultural Expressions appear in both tangible and intangible forms. These include: Verbal expressions or symbols: stories, epics, legends, tales, riddles, etc, Musical expressions: songs and instrumental music, Expressions by action : dance forms, plays, rituals, and similar performances, Tangible expressions : drawings, designs, paintings, body art, carvings, sculptures, pottery, terracotta, Warli paintings, mosaics, woodwork, rockwork, metalwork, jewellery, baskets, needlework, glassware, textiles, carpets, etc. Intangible expressions that reflect traditional thought systems, Architectural forms.⁵

TCEs reflect the cultural and social background of a community and include elements that are part of its heritage. They are often created by unknown authors or by individuals and communities recognized as having the right or responsibility to create them according to customary practices and laws. TCEs are not fixed; they evolve, develop, and are recreated within their source communities.

TCEs play an essential role in shaping the cultural and social identities of indigenous and local communities. They incorporate traditional knowledge, skills, and practices while transmitting important values and collective benefits. Protecting TCEs is closely linked to encouraging creativity, promoting cultural diversity, and maintaining cultural heritage.

At the international level, TCEs are often called “Traditional Knowledge” or “Indigenous Knowledge.” These terms refer to the long-standing traditions, customs, and practices of regional and native communities. Traditional knowledge also includes the understanding, teachings, and wisdom passed down through generations. This knowledge is often expressed

⁵ Traditional cultural expressions, , <https://www.lexology.com/library/detail.aspx?g=a806fd78-711e-4811-a881-ed269533b635> (Last visited on Jul 21, 2024)

through stories, legends, folklore, rituals, songs, and customary laws.⁶

Characteristics of TCEs

The key characteristics of Traditional Cultural Expressions or folklore include:

1. They are passed down from one generation to another, either orally or through imitation.
2. They reflect the cultural and social identity of a community.
3. They contain distinct features that are part of a community's heritage.
4. They are created by unknown authors and/or by individuals who are collectively recognized within the community as having the right or responsibility to create them.
5. They are typically not created for commercial gain, but serve as means of religious and cultural expression.
6. They are dynamic and continually evolving and being recreated within the community.⁷

Why Preserve Traditional Cultural Expressions?

Indigenous communities have long sought legal rights to protect their culture from clear misuse, especially in light of technological advances. There is a need to stop the improper exploitation of cultural heritage under the pretense of drawing “inspiration” for commercial profit. While integrating traditional knowledge with modern trends is not always exploitative, it often leads to misuse.

Commercialization often occurs without proper respect for the economic and cultural interests of the affected communities. Protection is necessary to end the ongoing marginalization of indigenous peoples in the post-colonial context.⁸ While tourism has helped economic growth in developing nations, it has also made folklore vulnerable to misuse, leading indigenous communities to seek protection for the creative works handed down by their ancestors. The main goal is to ensure that the intellectual vision and creativity in Traditional Knowledge or TCEs are not wrongfully appropriated.

⁶ Kamani Perera, HERITAGE AT RISK: DIGITAL PRESERVATION OF TRADITIONAL CULTURAL HERITAGE (TCH) IN SRI LANKA, 8 ISPRS 1197 (2023)

⁷ Irwin L Hnamte, PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS: THEN AND NOW, 1 DJCL 57(2023)

⁸ Do TCEs form a part of copyright works, <https://blog.ipleaders.in/tces-form-part-copyright-works/> (Last visited on Jan 19, 2026)

INTERNATIONAL AND NATIONAL PROTECTION OF TCEs

INTERNATIONAL EVENTS RELATING TO TRADITIONAL CULTURAL EXPRESSIONS

- In 1967, the Berne Convention for the Protection of Literary and Artistic Works⁹ was changed to introduce optional copyright protection for folklore at the national level under Article 15(4). This amendment aimed to improve international protection for expressions of folklore or Traditional Cultural Expressions. However, the Berne Convention framework is based on individual authorship and a limited duration of protection. This structure does not effectively address the collective ownership and lasting nature of Traditional Cultural Expressions. As a result, it creates significant limitations in its ability to apply to folklore and community based heritage.
- In 1976, the Tunis Model Law on Copyright for Developing Countries was adopted. This Model Law included specific protection for expressions of folklore.
- In 1982, an expert group organized by the World Intellectual Property Organization (WIPO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) created a model for protecting TCEs, known as the WIPO-UNESCO Model Provisions for National Laws on the Protection of Expressions of Folklore. These Model Provisions identified two main categories of acts that should be protected “Illicit exploitation” and “Other prejudicial actions.”¹⁰
- In December 1996, WIPO Member States adopted the WIPO Performances and Phonograms Treaty (WPPT), which provides protection to performers of expressions of folklore.
- In April 1997, the UNESCO-WIPO World Forum on the Protection of Folklore was held in Phuket, Thailand. The forum discussed issues related to the protection of folklore. The talks under the UNESCO, WIPO initiative showed the importance of community recognition and protecting moral rights. However, the lack of enforceable rules limited its practical effect on local legal systems.
- In 1999, WIPO organized regional meetings on the protection of expressions of folklore: For African countries (March 1999), for countries in Asia and the Pacific region (April 1999), for Arab countries (May 1999) and for Latin American and Caribbean countries (June 1999). Each meeting adopted resolutions or recommendations urging WIPO and UNESCO to strengthen their efforts in folklore

⁹ The Berne Convention for the Protection of Literary and Artistic Works, 1886

¹⁰ Unesco-WIPO World Forum on the Protection of Folklore, 1997

protection. The recommendations clearly highlighted the need to develop an effective international system for protecting expressions of folklore.

- In late 2000, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)¹¹ was created. The Committee has made notable strides in examining the connections between the intellectual property system and the needs of those who practice and safeguard traditional cultures. Its studies have informed ongoing international policy discussions and have aided in creating practical tools. Building on this varied experience, the Committee aims to establish a shared understanding of common goals and guiding principles for protecting TCEs. Despite long negotiations, the lack of a binding international treaty shows the ongoing global tension between traditional intellectual property rights and community-based cultural rights.
- In 2007, the United Nations adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).¹² This declaration stressed the need to develop legal approaches that go beyond the Berne Convention to effectively protect indigenous cultural expressions.¹³ While UNDRIP acknowledges the rights of indigenous peoples to their cultural heritage, its non-binding nature reduces enforceability within national systems, including in India.

LEGAL PROTECTION TO TCEs UNDER INDIAN LAWS

India is a country rich in diverse cultures and religions. Urban culture and rural traditions coexist smoothly. Tribal culture is one of the most important symbols of India's heritage. The strong values of tribal communities self respect, honesty, integrity, sincerity, and contentment help them tackle the complex challenges of life even today.

Tribal communities in India are the main guardians of folk culture and traditions. Their contributions, including rich folk literature, handicrafts, handlooms, folk paintings, and other art forms, are essential parts of India's folklore. The folklore traditions in India show how tribal, non-tribal, and urban cultures coexist and influence each other, creating a shared cultural

¹¹ World Intellectual Property Organization, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

¹² U.N. Declaration on the Rights of Indigenous Peoples (2007)

¹³ Lily Martinet, *Traditional Cultural Expressions and International Intellectual Property Law*, International Journal of Legal Information (Cambridge University Press, 2019)

identity.¹⁴

Constitutional Protection

The Constitution of India is the highest law of the land but does not directly protect folklore. Article 29 of the Constitution acknowledges the protection of minority culture as a Fundamental Right under Part III. Article 29 states that: “Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.”¹⁵

Based on this provision, folklore from distinct cultural groups may receive protection. However, much of the folklore currently misused in India comes from small communities that may not fit clearly within Article 29’s scope. Moreover, no specific law exists to safeguard such folklore. Another relevant constitutional provision is Article 51A (f), which places a fundamental duty on every citizen to value and preserve the rich heritage of India’s composite culture. While this reflects constitutional intent, it does not provide enforceable legal protection against exploitation. Despite constitutional recognition of cultural preservation, India lacks a special law that prohibits the unauthorized use of folklore belonging to indigenous or traditional communities. Many communities follow customary norms that limit the use of certain folklore by outsiders. Some folklore expressions are strictly meant for religious or social contexts, such as marriage ceremonies, death rituals, or birth ceremonies. These expressions are not intended for use outside their traditional context. However, because there are no legal restrictions, such folklore is increasingly used for commercial purposes without permission.

The Copyright Act, 1957¹⁶ governs rights related to literary and artistic works, sound recordings, films, and the rights of performers and broadcasting organizations in India. The Copyright Act does not include specific provisions for protecting folklore or Traditional Cultural Expressions. Additionally, India has not established separate laws based on frameworks like the WIPO-UNESCO Model Provisions to provide legal protection for expressions of folklore. Like many other countries, India lacks clear provisions within its intellectual property laws or any other legislation that specifically protect expressions of folklore. As a result, using folklore without permission from the relevant communities or

¹⁴ Ravisha Sodha and Dimple Jodha, Legal Contours of Traditional Cultural Expressions in India, 5 IJLSI 167-183(2020)

¹⁵ The Constitution of India

¹⁶ The Indian Copyright Act, 1957

compensating them is not explicitly illegal. Many businesses treat folklore as public domain material and freely exploit it for commercial gain.¹⁷

Reasons for Inadequate Protection

A key reason for the lack of adequate protection of Traditional Cultural Expressions and folklore in India is insufficient awareness about the importance of intellectual property protection for these cultural expressions. Recognizing the expectations and needs of the communities that own and protect TCEs is essential.

Important Factors to be considered

When developing a protection framework, the following factors should be considered, the existence of an appropriate legal system in the country of origin or the country where protection is sought. The goodwill and reputation attached to a particular TCE. The costs involved in securing protection. The time needed to establish an effective protection system. The support of relevant stakeholders. The ability to effectively promote and implement the protection system. Ensuring that the values and cultural sensitivities of TCE holders receive meaningful consideration.

Legislators may refer to the policies and frameworks developed by the World Intellectual Property Organization (WIPO) and create national guidelines to regulate the use and exploitation of Traditional Cultural Expressions.¹⁸

TRADITIONAL CULTURAL EXPRESSIONS AND IPR

Protecting TCEs under the Copyright Act, 1957

Firstly, the need for clear authorship makes things difficult because Traditional Cultural Expressions are developed collectively over generations. Secondly, the focus on written traditions leaves out those shared orally. Thirdly, the short protection period clashes with the ongoing nature of cultural heritage. Finally, the rule of public domain allows free use of traditional expressions without the community's consent.

If we look at different Traditional Cultural Expressions like drawings, paintings, costume designs, folk stories, legends, poetry, folk songs, and folk dances, we see that some of these

¹⁷ Kaavya Shandilya. "Exploitation and Need to Protect Traditional Knowledge", 4 ACCLAIMS 5 (2018)

¹⁸ Tabassum Iqbal, Exploring the jurisprudence behind traditional cultural expressions in India: A juridical study, 5 IJAR 236 (2021)

may fit within the protection offered by the Copyright Act, 1957. According to the Act, a “work” can include an original literary, dramatic, artistic, or musical work.¹⁹ It also covers films and sound recordings. Furthermore, the term “author” in Section 2(d) includes the composer, writer, artist, photographer, producer, or any other person who creates the work.

Section 13(1) of the Act gives copyright protection to original works. Since the Act does not clearly define “original,” some TCEs might be able to claim copyright protection. However, to claim such protection, the authorship must be clear, as required by Section 2(d). The primary challenge is that many TCEs are created collectively, passed down through generations, and do not have a clear individual author. Moreover, the unclear definition of “originality” under the Act adds to the complexity. As a result, it becomes hard to provide effective copyright protection to TCEs under the current system.²⁰

TCEs Protection under Trademark Law

Trademark law helps differentiate the goods and services of one person from another. It also allows consumers to recognize the source of products and the goodwill linked to them. Under the Trade Marks Act, 1999,²¹ Section 29 offers protection against infringement. Even if a trademark is unregistered, protection may still be available through the common law remedy of passing off.

Traditional goods and services such as paintings, handlooms, weaving works, and other culturally significant items can be protected through collective marks or certification marks. These marks help build a brand identity linked to traditional goods and confirm their authenticity. India has a rich array of Traditional Cultural Expressions, but unlike countries like Australia and the Philippines that have special laws, India relies on existing intellectual property laws for protection. Even the United States has specific laws for indigenous cultural expressions. India has yet to create a dedicated law for TCE protection. Trademark law mainly protects commercial identity, not cultural integrity. While collective and certification marks provide some communal protection, they fail to recognize the important cultural and spiritual aspects of Traditional Cultural Expressions.

¹⁹ TCE protection in India, <https://www.biswajitsarkar.com/blog/traditional-cultural-expression-protection-in-india.html> (Last visited on Jan 20, 2026)

²⁰ Anurag Dwivedi and Monika Saroha, Copyright Laws as a Means of Extending Protection to Expressions of Folklore, 10 JIPR 312 (2005)

²¹ The Trademark act, 1999

Non-Conventional Trademarks

Traditional trademarks include word marks, device marks, numerical marks, and similar identifiers that signify the source of goods. In contrast, non-conventional trademarks cover shape marks, colour marks, sound marks, and other unique indicators that can distinguish one person's goods or services from another's. For a mark to qualify, it must indicate the source of the goods or services and be able to tell them apart from others in the market.

Protection of TCEs through Non-Conventional Trademarks

The Trade Marks Rules allow for the registration of certain non-conventional marks under Rule 26(5). Sound marks can be registered by submitting a sound clip along with musical notations. Colour marks are registered by providing a graphical representation of the colour combination. The applicant must demonstrate distinctiveness and secondary meaning gained through continuous and good-faith use. Smell marks currently do not have specific registration provisions in India. The topic of smell marks has been discussed internationally due to difficulties in graphical representation. Article 15 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) allows member states to require visual perceptibility for trademark registration. In India, Section 2(1)(zb) of the Trade Marks Act requires a trademark to be “capable of being represented graphically.” This rule makes it hard to register smell marks, as they cannot be easily graphically shown. Even if a mark is not inherently distinctive, it can be registered once it gains distinctiveness through long-term use. This principle is especially relevant for colour combinations tied to traditional goods.²²

Protecting TCEs under the Geographical Indications of Goods (Registration and Protection) Act, 1999

The Geographical Indications of Goods (Registration and Protection) Act, 1999²³ protects geographical indications (GIs) as described in Article 22.1 of the TRIPS Agreement.²⁴ Under this Act, “goods” can include natural, agricultural, or manufactured products. For GI protection, the goods must come from a specific area, region, or locality and have qualities, reputation, or characteristics mainly linked to their geographical origin. For manufactured goods, at least one aspect of production, processing, or preparation must occur in the relevant

²² Understanding the term Traditional Culture Expression Through the lens of Trademark Law, <https://www.lexology.com/library/detail.aspx?g=4ad73c40-54a3-41c6-bbd5-1f3f6d79adc2> (Last visited on 25 Jul, 2024)

²³ The Geographical Indications of Goods (Registration and Protection) Act of 1999

²⁴ Article 22.1 of the TRIPS agreement

area.

The registered owner of a GI can be an association of people, producers, or an organization. Tangible TCEs like traditional handicrafts, artefacts, traditional toys with engravings, and traditional jewellery can thus receive protection under the GI Act. The initial protection term for a registered GI is ten years, which can be renewed indefinitely for ten-year periods. While some TCEs might qualify for protection under patent, design, or copyright law, they often lack novelty because they are already part of the public domain.²⁵

Protecting TCEs under the Designs Act, 2000

Under the Designs Act, 2000, industrial designs related to features such as shape, configuration, pattern, ornament, or colour composition applied to an item in two-dimensional or three-dimensional form can be protected. The term “article” under the Act includes any manufactured item and any substance, whether artificial or partly artificial and partly natural, including any part that can be made and sold separately. When traditional artistic works, drawings, or paintings are applied to products or items, those products may qualify for protection under the Designs Act.²⁶ However, Section 4(a) and 4(b) of the Act prevent the registration of designs that are not new or original, have been disclosed to the public before filing, or are not significantly different from known designs. Since most TCEs are already public and lack novelty, they typically do not qualify for protection under the Designs Act, 2000.²⁷ The Designs Act emphasizes novelty and industrial use. This focus clashes with the nature of cultural expressions, which are often traditional and pre-existing. As a result, many traditional motifs do not receive protection under this act.

CASE STUDIES RELATED TO TCEs

1. *Bulun Bulun v R & T Textiles Pty Ltd (1998) 41 IPR 513(FCA) (The “T-Shirt Case”)*²⁸

In this case, T-shirts featuring the artwork of Aboriginal artist Bulun Bulun were copied and sold in stores without authorization. The Federal Court of Australia (Darwin Registry) ordered damages to be paid and directed that the unsold T-shirts be returned

²⁵ Sreenath kp, Geographical indications and traditional cultural expressions: A comparative legal analysis of the GI laws of Indonesia and India and a case study analysis, 26 JWIP 137 (2023)

²⁶ Sameer Kumar Swarup and Sachin Rastogi, Industrial Designs and Folklore: A Comparative Study in Indian perspective, 28 JIPR 276- 277 (2023)

²⁷ The Designs Act, 2000

²⁸ [1998] FCA 1082;

to the artist. This case represented a successful assertion of copyright protection for Indigenous artwork and strengthened the recognition of cultural ownership in the copyright system.

2. *Milpurrurru & Ors v Indofurn Pty Ltd (1994) 30 IPR 209 (FCA) Cultural Harm Recognition*²⁹

In *Milpurrurru v Indofurn Pty Ltd*, commonly called the “Carpet Case,” Aboriginal artists found out that their sacred artworks were copied without permission on carpets made overseas and sold in Australia. The Federal Court of Australia decided that this copying was a violation of copyright. The Court recognized not just the economic loss but also the cultural harm that the indigenous artists faced. It awarded damages that included exemplary damages, acknowledging that the unauthorized use caused spiritual and cultural injury. This case is seen as a landmark in recognizing Indigenous cultural harm in traditional copyright law, although the protection was limited to individual copyright holders instead of the community as a whole.

3. *Attorney General v Ngati Tuhoe (2009) NZSC 114*

The Tuhoe Hauora Charitable Trust represents the Tuhoe tribe of New Zealand, known for its rich cultural heritage and traditional knowledge. The Trust created a medicinal plant garden where traditional herbal remedies, used for generations, were grown and shared. The Trust aimed to protect its traditional knowledge from unauthorized use while ensuring that it remained accessible to the community and respectful users.

This example illustrates the challenge of balancing preservation, control over access, and intellectual property protection. The Trust sought to prevent misuse while also maintaining community access to traditional knowledge.

4. *Wai 262 Claim – New Zealand (Waitangi Tribunal Report, 2011)*³⁰

The Wai 262 claim before the Waitangi Tribunal in New Zealand is one of the most thorough legal reviews of Maori rights regarding traditional knowledge, cultural expressions, and biodiversity. The Tribunal recognized that standard intellectual property laws do not adequately protect collective cultural heritage. It recommended changes to better acknowledge Maori custodianship. While the report is not a binding

²⁹ (1994) 30 IPR 209 (FCA)

³⁰ Waitangi Tribunal Report, 2011

court ruling, it has greatly impacted discussions on protecting indigenous intellectual property and emphasizes the need for unique systems.

5. Maasai and Intellectual Property Rights

The Maasai people of East Africa have a rich cultural heritage that includes unique practices, designs, and artwork. In the past, companies used Maasai traditional designs for commercial products without permission. In response, the Maasai took legal action and advocated to protect their cultural expressions. They looked into using intellectual property tools like trademarks and copyrights to safeguard their heritage and ensure that economic benefits from commercialization went back to the community.³¹ This case shows community-led efforts to assert control over traditional cultural expressions through contemporary IP frameworks.

These comparative developments demonstrate that effective protection requires recognition of community ownership, perpetual duration, and benefit-sharing mechanisms, elements that are currently insufficiently embedded within the Indian legal framework.

CHALLENGES TO TRADITIONAL CULTURAL EXPRESSIONS

The protection of Traditional Cultural Expressions faces several legal and institutional challenges. These issues stem from the mismatch between current intellectual property laws and community based cultural heritage.

1) Inefficiencies of Existing IPR Laws

A central challenge in protecting Traditional Cultural Expressions is the philosophical clash between traditional intellectual property systems and community based cultural ownership. Modern intellectual property law focuses on individual authorship, limited duration, fixation, and profit driven use. On the other hand, TCEs are created collectively, passed down through generations, and deeply rooted in spiritual, social, and customary practices. This mismatch leads to tensions that current laws find hard to address, leaving indigenous communities facing gaps in legal protection.

(a) Geographical Indications

The Geographical Indications of Goods (Registration and Protection) Act, 1999 protects certain tangible TCEs. It was initially suggested that this Act could be

³¹ G. Nasieku Tarayia, THE LEGAL PERSPECTIVES OF THE MAASAI CULTURE, CUSTOMS, AND TRADITIONS ,21 AJICL 185(2020)

a suitable way to protect TCEs in India. However, GI protection is limited to specific areas and does not sufficiently address the need for protection abroad. Furthermore, TCEs are connected to the communities that recognize and practice these traditions, not just tied to a geographical location. Not all TCEs are commercial products. Many intangible expressions, like languages, scripts, or traditional knowledge systems, fall outside the GI framework.

(b) Copyright

TCEs often overlap with copyrightable works, including literary, dramatic, artistic, and musical creations, as well as sound recordings and films. However, culture evolves through repeated use over generations. Originality is not just in the idea of the performance but in its link to a specific cultural identity. While copyright protects particular expressions, it does not cover the ongoing cultural practices. Copyright mainly grants economic and moral rights, which may not fully address the collective and preservation needs of TCE holders. Additionally, since much of the material is already in the public domain, adaptations and reinterpretations across cultures are common. Copyright protects only specific unique expressions, not broad styles or themes. For example, the Kaalbeliya dance form is recognized as a style, but its cultural significance is tied to a specific community and heritage. Copyright law cannot adequately protect this cultural association.

(c) Patents

Novelty is a key requirement for patent protection. Since TCEs and Traditional Knowledge (TK) are generally well established and known, they do not meet the novelty standard. Moreover, TK is usually considered non-patentable. As a result, the Patents Act offers little protection for TCEs.³²

(d) Designs and Trademarks

Design protection only covers specific aesthetic features applied to items and only represents a limited aspect of TCEs. Trademark protection is limited to marks that identify goods and services. Thus, only TCEs related to commercial activities may receive minimal protection under trademark law. The overall level of protection remains narrow.

³² An analytical study of legal regime on traditional cultural expressions under intellectual property rights in India, <http://hdl.handle.net/10603/319601> (Last visited on Jan 25, 2026)

2) Effects of Migration

The migration of entire communities does not necessarily create issues. However, when individual members leave, questions about ownership and stewardship arise. Culture is dynamic and cannot be rigidly contained. While formal protections might restrict cultural fluidity, the goal of preserving community heritage takes priority over these limitations.

3) Public Domain

Not all TCEs are meant for public usage or disclosure. Some are sacred and intended to stay confidential, while others need structured preservation through institutions like museums or libraries. Applying a single legal framework to all TCEs could lead to conflicting claims. Therefore, it is important to clearly define the scope of protection and determine how TCEs should interact with intellectual property systems.

While the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) acknowledges the link between TCEs and intellectual property rights, it is not legally binding and cannot be enforced directly. Culture is fundamentally a public concept. Its uniqueness stems from its role in forming a distinct cultural identity. This leads to questions about when a TCE becomes so widespread that it enters the public domain and loses exclusivity. For instance, the Panchatantra folktales have long been in the public domain. Numerous adaptations appear in children's storybooks, making it tough to trace the original version. It is nearly impossible to restrict existing adaptations to restore exclusive rights to the original community.

4) Role of Media and Communication Industry in Relation to TCEs

Popular cinema has frequently drawn inspiration from regional folk traditions. For instance, the song “Nimbuda” from the film *Hum Dil De Chuke Sanam* was adapted from Rajasthani folk traditions. Similarly, songs such as “Man Dole Mera Tan Dole” from *Nagin* incorporated musical styles associated with snake charmer traditions. More recently, debates emerged surrounding the depiction of Bhoota Kola traditions in the Kannada film *Kantara*. These examples do not necessarily establish legal misappropriation, but they illustrate the broader structural issue: while commercial adaptations of folk expressions are protected under copyright law, there are no structured mechanisms to ensure benefit-sharing or attribution to the original custodial communities. This reflects the limitations of the current intellectual property framework

in addressing collective cultural ownership.³³

5) Ownership Issues in TCEs

Ownership is one of the most complicated issues in protecting TCEs. It is hard to assign ownership to a specific group or community, especially without clear documentation showing its history and continuity. Moreover, licensing systems and rights assignments are tightly connected to ownership determination. The World Intellectual Property Organization (WIPO) looks at TCEs primarily from the view of member states rather than individual communities. This creates disconnect between international recognition and local control. The situation highlights the need for a special legal framework specifically designed for the protection of TCEs.

Additionally, practical issues come up when trying to grant collective intellectual property rights to indigenous groups. These communities often have large and complex social structures, which makes managing and administering rights difficult and costly. Setting up collective intellectual property rights would require significant changes to current intellectual property systems and might disrupt established legal and political systems. For these reasons, some researchers suggest creating special guidelines within the intellectual property system to distinguish the rights of indigenous communities from conventional private rights. Given the unique and delicate identity of indigenous groups, special legal attention is necessary to ensure proper protection of their Traditional Cultural Expressions.³⁴

6) Identity of the Author

Another important issue is the difficulty in identifying the author of Traditional Cultural Expressions. Because these expressions have ancient origins, it is hard to know who originally created a specific one. Some argue that just as India has claimed rights over neem, haldi, and basmati, smaller regional and cultural communities should also have the right to claim their own TCEs. To recognize rights in TCEs, the community that has developed and maintained its cultural heritage according to its own traditions may be seen as the rightful holder. This would allow the community to have collective property rights in their inherited intellectual creations. Therefore, there is a strong need to

³³ Traditional Cultural Expression and IP, <https://legaldesire.com/traditional-cultural-expression-and-ip/> (Last visited on Jan 27, 2026)

³⁴ Akriti Gupta, Traditional Cultural Expressions: Analysis of Culinary Custom, 27 JIPR 52-60 (2022)

establish a separate intellectual property system to ensure proper protection of this area of knowledge.

7) No Protection for an Indefinite Period

TCEs may have originally been created by individual ancestors, but over time, community members have carried them forward, changing them through repetition, recreation, and adaptation. As a result, these expressions have become collective products of the entire community. Because of this gradual evolution, it is very hard to pinpoint when a specific expression was first created. This complicates the process of setting a definite protection period under current intellectual property laws. If TCEs are protected under the existing IPR framework based on current standards, there is a risk of misunderstanding their basic nature. The short duration of protection provided under traditional IP law does not match the essential characteristics of TCEs, which are living, dynamic, and always changing forms of human intellectual creativity. It is unrealistic to set a fixed period for protecting such cultural expressions.

8) Copyright Royalties

Practical issues also arise when determining copyright royalties for TCEs. It is challenging to figure out the amount of compensation owed, identify the rightful recipients, and determine how shares should be divided among stakeholders. Questions come up about whether indigenous communities and outsiders deserve shares, who should make payments, and whether benefits should be distributed collectively or individually and if individually, to whom. While copyright law may recognize multiple claimants, sorting out these claims becomes complicated due to inter-cultural marriages, migration, and immigration, which further muddle the identification of beneficiaries.

9) Misappropriation

Misappropriation of TCEs often happens because traditional stakeholders lack literacy and awareness about protecting their knowledge. Social and economic disadvantages limit their access to legal solutions. As a result, outsiders sometimes secure intellectual property protection for derivative or secondary works based on traditional creations before the communities realize such exploitation is occurring. This leads to the loss of rights for indigenous communities over their own cultural creations and results in social

and cultural misappropriation.³⁵

Major Challenges in Protecting Cultural Knowledge

Three main factors create challenges for indigenous communities in protecting their cultural knowledge:

- (a) Digitalization allows commercial industries to monopolize existing cultural knowledge, separating indigenous communities from both cultural and economic benefits.
- (b) Globalization encourages multicultural integration, which may gradually weaken or dilute unique cultural identities.
- (c) The formal intellectual property systems of states often justify appropriation and are inadequate to handle the cross border flow of cultural expressions.

OBSERVATIONS

Australia has shown concern and taken steps to protect its indigenous communities. This approach can serve as a model for other countries. Protecting a cultural community helps preserve heritage and supports the country's economic growth. Economic development is important when creating protective measures. There may not be a need for a completely new system; instead, existing laws can be updated and strengthened to make an effective Act or Model Provisions that have real meaning rather than being just symbolic. After reviewing various documents from the World Intellectual Property Organization (WIPO) and other resources about Traditional Cultural Expressions (TCEs) and their protection, this paper concludes that TCE is not a new idea. It has been discussed and examined for over twenty years. This issue remains important because the preservation and protection of TCEs are necessary both globally and nationally, ensuring future generations can benefit from them. The Intergovernmental Committee (IGC) has held twenty eight sessions to discuss the protection of TCEs under intellectual property laws. These discussions have included not only talks but also surveys and research across several countries.

TCE protection may cover literary and artistic works like traditional dances, music, visual arts, performances, designs, community secrets, and indigenous names, marks, and symbols. Desired protections include safeguards against unauthorized use, preventing offensive or derogatory representations, stopping false claims of authenticity, requiring acknowledgment of

³⁵ Legal protection of the traditional knowledge and traditional cultural expression in India an appraisal, <http://hdl.handle.net/10603/66828> (Last visited on July 31, 2024)

sources, preventing unauthorized disclosure of secret expressions, and defensive measures to discourage exploitation.

However, like other intellectual property issues, TCE protection faces challenges. These include questions about originality, duration of protection, ownership, exceptions and limitations, and fixation requirements. These points are crucial to any IP framework and need careful attention in the context of TCEs. Australia has had some success in protecting its indigenous communities, and its system serves as a model for improving national laws to extend IP protection to local communities. In contrast, India has not provided even basic protection to local communities with rich traditional knowledge and cultural expressions. Much of India's diverse cultural heritage remains unprotected, except to a limited degree through Geographical Indications. However, relying on GIs alone has not fully safeguarded communities. For instance, makers of Banarasi sarees in Varanasi have suffered significant economic losses, showing gaps in the government's efforts to support and protect traditional industries.

India seems largely indifferent to comprehensive TCE protection. One major challenge is that local communities are spread across the country, making it difficult to identify them and fairly distribute benefits. Still, this doesn't justify denying rights to these communities. In North-East India, various tribal groups keep traditional secrets and artistic skills in handicrafts and handlooms alive through their own rules that limit outside interference. Despite these internal protections, they don't have enough government support, and their legal standing is weaker than that of Australian indigenous communities. Thus, in terms of Traditional Cultural Expressions, India remains relatively weak in providing effective legal protection.

CONCLUSION

The protection of Traditional Cultural Expressions needs a shift from just modifying existing intellectual property laws to acknowledging the different philosophical bases of community held cultural heritage. This study shows that the individual focused, time limited, and market based nature of current intellectual property laws does not adequately reflect the collective, intergenerational, and changing essence of TCEs. While tools like copyright, geographical indications, trademarks, and designs provide some protection, they do not tackle more significant issues related to cultural integrity, moral recognition, and fair benefit-sharing. Without structural changes, including creating a tailored sui generis framework, Indian law

will keep falling short in addressing the economic and cultural challenges faced by indigenous communities. A fair and culturally aware legal model is crucial for ensuring preservation and justice for custodial communities. The protection of Traditional Cultural Expressions needs to move beyond simply applying existing rules of intellectual property. It should adopt a rights based approach that focuses on cultural justice, dignity, and the sovereignty of communities.

SUGGESTIONS

1. India should create specific laws to protect Traditional Cultural Expressions (TCEs). This law must clearly define TCEs, identify the communities that qualify, and clarify ownership and enforcement. It should reflect the principles recognized in the United Nations Declaration on the Rights of Indigenous Peoples and include these rights in the intellectual property framework.
2. The Definition of TCEs must expand to encompass oral traditions, rituals, performances, folklore, craftsmanship, and other intangible cultural elements. A limited view would leave out many authentic cultural expressions that are essential to indigenous identity and heritage.
3. The Proposed Act should include penalties and measures for compensation to address unauthorized use, while making sure all parties are treated fairly. Providing balanced solutions would help prevent abuse without turning the law into a biased system.
4. India should also create a legal system for Collective Rights Management (CRM), allowing communities to manage, license, and negotiate the use of their cultural expressions together. This would support royalty collection, stop unauthorized use, and encourage ethical commercialization, while ensuring that original custodians receive their fair share.
5. A special panel with government officials and members of indigenous communities should oversee negotiations, trade deals, and actions that impact TCEs. This group would make sure that commercialization does not harm community interests or cultural values.
6. Additionally, establishing a specialized tribunal to focus exclusively on Traditional Knowledge, Genetic Resources, and TCEs would provide quick and knowledgeable resolution of issues. Given the delays in standard court systems, this specialized body would improve enforcement and access to remedies.
7. A structured legal aid program should also be set up to offer free legal support and awareness campaigns for indigenous communities. Many of these communities do not

know their rights, and dedicated legal assistance would help them fight exploitation effectively.

8. Improving the Traditional Knowledge Digital Library (TKDL) to include organized documentation of TCEs would protect against misuse and provide evidence in legal matters.
9. Finally, India could look to examples like Canada's community-based approach and Peru's recognition of intangible cultural heritage. By adopting useful practices from these models and adjusting them to fit India's cultural diversity, the country could establish a strong and sensitive legal framework for TCE protection.
10. Implement Geographical Indications (GIs) for Cultural Products. Expand GIs to include cultural products like music, dance, and rituals. This will protect these expressions from unauthorized use. It will also ensure communities receive recognition and economic benefits.
11. Improve Community Participation. Create legal frameworks that require indigenous and local communities to be involved in decision-making about protecting and commercializing their cultural expressions.

SUI GENERIS SYSTEM FOR TCE PROTECTION

Sui generis means unique. So far, after twenty eight detailed sessions of the IGC, no consensus has been reached on a proper legal framework for Traditional Knowledge, Genetic Resources, and Traditional Cultural Expressions. Initially, three tasks were proposed in this area:

- a) updating the Model Provisions,
- b) improving the protection of handicrafts,
- c) protecting other tangible expressions of folklore and reviving efforts to create an international protection system.

During the twenty fourth session, IGC members agreed on the need for Model Provisions in countries to protect the arts held by indigenous communities. A Sui Generis Model should be adopted for the protection of TCEs. All suggestions should be considered while drafting it. A unique framework in India should include:

- (i) Recognition of community authorship;
- (ii) Ongoing protection;
- (iii) Mandatory prior informed consent for commercial use;
- (iv) Fair benefit-sharing mechanisms; and
- (v) Protection against derogatory or culturally offensive usage.

BIBLIOGRAPHY

JOURNALS

Sabrina Bath & Sachchidanand Prasad, *Legal Protection of Traditional Knowledge and Traditional Cultural Expressions under Copyright Laws*, 24 IJTK 1125 (2025).

Molly Torsen, *Intellectual Property and Traditional Cultural Expressions: A Synopsis of Current Issues*, 3 IHLR 230 (2008).

Kamani Perera, *HERITAGE AT RISK: DIGITAL PRESERVATION OF TRADITIONAL CULTURAL HERITAGE (TCH) IN SRI LANKA*, 8 ISPRS 1197 (2023).

Irwin L Hnamte, *PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS: THEN AND NOW*, 1 DJCL 57 (2023).

Lily Martinet, *Traditional Cultural Expressions and International Intellectual Property Law*, International Journal of Legal Information (Cambridge University Press, 2019).

Ravisha Sodha and Dimple Jodha, *Legal Contours of Traditional Cultural Expressions in India*, 5 IJLSI 167-183 (2020).

Kaavya Shandilya, *Exploitation and Need to Protect Traditional Knowledge*, 4 ACCLAIMS 5 (2018).

Tabassum Iqbal, *Exploring the Jurisprudence Behind Traditional Cultural Expressions in India: A Juridical Study*, 5 IJAR 236 (2021).

Anurag Dwivedi and Monika Saroha, *Copyright Laws as a Means of Extending Protection to Expressions of Folklore*, 10 JIPR 312 (2005).

Sreenath K.P., *Geographical Indications and Traditional Cultural Expressions: A Comparative Legal Analysis of the GI Laws of Indonesia and India and a Case Study Analysis*, 26 JWIP 137 (2023).

Sameer Kumar Swarup and Sachin Rastogi, *Industrial Designs and Folklore: A Comparative Study in Indian Perspective*, 28 JIPR 276-277 (2023).

Akriti Gupta, *Traditional Cultural Expressions: Analysis of Culinary Custom*, 27 JIPR 52-60 (2022).

G. Nasieku Tarayia, *THE LEGAL PERSPECTIVES OF THE MAASAI CULTURE, CUSTOMS, AND TRADITIONS*, 21 AJICL 185 (2020).

WEBSITES

An analytical study of legal regime on traditional cultural expressions under intellectual property rights in India, <http://hdl.handle.net/10603/319601> (Last visited on Jan 25, 2026).

Legal protection of the traditional knowledge and traditional cultural expression in India an

appraisal, <http://hdl.handle.net/10603/66828> (Last visited on July 31, 2024).

REPORTS / INTERNATIONAL INSTRUMENTS / STATUTES

The Berne Convention for the Protection of Literary and Artistic Works, 1886.

U.N. Declaration on the Rights of Indigenous Peoples (2007).

Article 22.1 of the TRIPS Agreement.

UNESCO-WIPO World Forum on the Protection of Folklore, 1997.

World Intellectual Property Organization, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

The Constitution of India.

The Indian Copyright Act, 1957.

The Trademark Act, 1999.

The Geographical Indications of Goods (Registration and Protection) Act, 1999.

The Designs Act, 2000.

Waitangi Tribunal Report, 2011.

CASE LAWS

Milpurrurru & Ors v Indofurn Pty Ltd, (1994) 30 IPR 209 (FCA).

Yumbulul v Reserve Bank of Australia, [1991] FCA 332.

Bulun Bulun & Anor v R & T Textiles Pty Ltd, (1998) 41 IPR 513 (FCA 1082).

IJLRA