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GLOBALIZATION- SOCIO AND LEGAL THREAT TO THE INDIGENEITY OF HIMALAYAN NATIVE

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Abstract

Indigeneity refers to the life-style of a certain people who are natives of a particular region. They are also identified as a geo- cultural category. People of the Sub- Himalayan region is a case in point. Globalization as everywhere, has significantly affected the indigeneity of Himalayans. However, Himalayan indigenous population seeks to maintain and preserve traditional social norms. As globalization has transformed the traditional social world, Himalayan indigenous population too feels the pressure of global modernity. However, they have chosen to resist the modernity by exploring the possibilities of indigenous life.

This paper reflects into the indigeneity of pressure of modernity and resistance to modernity of the sub- Himalayan natives along with the analysis of Kumaon region of Uttarakhand. It is a comprehensive overview on how Himalayan natives with contemporary study of Kumaon region of Uttarakhand are resisting globalization with a desire to get back to indigeneity as well as on traditional norms of Himalayan with changes happening around them and making Himalayan indigenous population to resist globalization.

Part I of this article deals with the theories of Indigeneity and its relation with Himalayan population. Part II discuss the detail observation of traditional norms of Himalayan population and sub- Himalayan natives of the Kumaon region of Uttarakhand. Part III examines the pressure of global modernity over Himalayan. Part IV deals with the legal impact of Globalization on the indigenous life of Himalayan population. Whereas Part V concludes the way they have chosen to resist the modernity.

Keywords: Indigenous, traditional knowledge, agriculture, culture, environment, globalization, modernity, climate change, resistance, environment issues

Theories of Indigeneity and its relation with Himalayan population

Indigenous people are inhabitants of certain geographical area who shares common culture, specific food habits, lifestyles. They have a specific and diverse cultures and identity. Indigenous people enrich their identity from time immemorial before the rising of nation states and politically they exercise self-government to regulate their community in a proper manner. But with the rise of globalization it tends to make indigenous peoples work within its framework. They believe in self-government, land and cultural autonomy. Indigenous people's knowledge, conservation beliefs and values, environmentally adaptive and sensitive land use, resource management practices and determined defence of territory and natural resource have enabled many of them to inhabit their homelands for centuries without devastating their ecosystems and biodiversity¹. For Himalayan Indigenous population nature and everything in connected with nature is sacred. It can be sacred places, forest, mountains, springs, rivers, lakes, caves and other areas. They follow traditions of honouring and respecting such sacred things on a larger scale along with their cultural knowledge and values, customary systems². They are the original and oldest surviving inhabitants of an area, in a traditional homeland for many generations. Their sense of belongingness among themselves as well as their homeland remains in a very strong manner, which embody their identity. Their practices basically rely on their local resources which is traditionally imbibed among themselves which make them special. The Himalayas has its natural beauty which attracts tourists and is rich in flora and fauna. It is situated in Indo- Gangetic plain of North India which covers Jammu and Kashmir, Himachal Pradesh, Uttarakhand to part of North- East which include Nepal, Tibet and Bhutan, where it serves as home to various indigenous community, tribes, practice their own traditions, norms and values and customs³.

¹ Rizwana Aleem Quereshi and Gilani, Zaheer Yousaf, 'Indigenous Medicinal plants used by Local Women In Southern Himalayan Regions Of Pakistan'(2009) Pak. J. Bot 41(1)<[http://www.pakbs.org/pjbot/PDFs/41\(1\)/PJB41\(1\)019.pdf](http://www.pakbs.org/pjbot/PDFs/41(1)/PJB41(1)019.pdf)>

² Robert F. Schroeder, 'Himalayan Subsistence Systems: Indigenous Agriculture in Rural Nepal' (2017) 14 International Mountain Society< <http://www.jstor.org/stable/3673221>>

³ Sanjoy Hazarika and Reshmi Banerjee, 'Gender, Poverty and Livelihood in the Eastern Himalaya'<<https://books.google.co.in/books>>

Traditional norms of Himalayan population and sub- Himalayan natives of the Kumaon region of Uttarakhand

The Central Himalayan region of India are located the states of Uttarakhand and Himachal Pradesh, where important valleys are Garhwal and Kumaon. It is very interesting to see that each community has its own socio- cultural method, which they follow since time immemorial and tackle all challenges of life, which makes them unique from rest of the world. Somewhere, this distinct cultures are similar to one another and it is an important identity that they still preserve their centuries old- knowledge. Another significant part is the dwellers of Himalayan are nature-dependent, which can be experienced after exploring those places. With regard to their traditional knowledge which is enrich in medicine, architecture and agriculture as well horticulture, forestry are spreads across world which attracts archaeologists, scientists to discover. In terms of occupation they can be categorised as nomadic and pastoralists as well as farmers, depending on their specific location and agro- climatic conditions. Their main survival occupation is agriculture and animal husbandry.

In case of socio- culture it is quite conservative. Women's are engage in gathering fuelwood, farming and cooking while men are responsible for trade activities, managing agriculture and animal herds.

Sub- Himalayan natives of Kumaon region depends on agriculture as a means of survival, which is one of the major occupations. The cultivated land is mainly divided into three categories i.e. Katil means land of forest edges, Upraon means Land of hill sides and Talaon means land of valley bottom. Their traditional agriculture system which they used to practice was mixed cropping of species with complementary requirement, depending on climate and soil condition and use of less inputs of fertilizer but modern agriculture is change they believe in high fertilizers and irrigation. Their farming system is quite scientific and also they practice shift cultivation. It is believed that inhabitants of Kumaon are the descendants of Indo- Aryans and Indo- Iranians and have inherited a mixed food culture which is based on seasonal ingredients⁴.

⁴ C P Joshi and B B Singh, 'Indigenous Agricultural Knowledge in Kumaon Hills of Uttaranchal'(2006) 19,24 Vol 5(1) Indian Journal of Traditional Knowledge<
[http://www.niscair.res.in/sciencecommunication/researchjournals/rejour/ijtk/Fulltextsearch/2006/January%202006/IJTK-Vol%205\(1\)-January%202006-pp%2019-24.htm](http://www.niscair.res.in/sciencecommunication/researchjournals/rejour/ijtk/Fulltextsearch/2006/January%202006/IJTK-Vol%205(1)-January%202006-pp%2019-24.htm)>

They practice their traditional knowledge in medicines. They have their own way to cure and treat any disease or infection with herbal medicines. Almost all poor families depend on traditional medical plants due to lack of medical facilities in rural areas.

With respect to cultures Kumauni's are fond of music, folk dance and songs accompanied by local musical instruments. During celebrating any festivals, they visit one place to another place singing and narrating the praise of their god and goddesses. During fairs and festivals at the time of harvest they celebrate their occasion in the form of folk dance like Malushahi, Bair. With regard to marriage, it is simple, they do not follow dowry but family background is important⁵.

Pressure of global modernity or Globalization over Himalayan

With the pressure of global modernity there has been some changes in the traditional lifestyles of Himalayan. Modernisation has affected their social and cultural system in both positive as well as negative way. Improvement in transportation system and communication in recent years has led to increase in trade and tourism, which has become the source of development. It led to improve their source of income. However, it creates much imbalance in their traditional lifestyle with modernity. Another impact over there is, an air pollution caused by vehicles which increases in the peak tourist season. Due to increase in tourist activities it has resulted overuse of water resources, which led to scarcity in some areas of Himalaya. Another issue is noise pollution due to tourist engagement activities. The impact of globalization is somewhere developing their lifestyle in much more advance and easier to carry out whereas it also affecting their indigeneity. The traditional pattern of agriculture practice is change with impact of modernity in Kumaon region. High input technologies in agriculture has increased the agriculture production, but there are serious effects on environment. For the promotion of their modern agriculture, they are ignoring traditional practices, operating low external inputs, which is one of the indigenous knowledge acquired by the local people through past experience. Moreover, problem of poor production system which is unable to meet the present requirement of the farmers in terms of production and also pressure of modernity, the new generation is losing interest in agriculture occupation. Now crop diversity also declined due to changes in ecosystem, over harvesting, land degradation. Farmers are only concentrating on commercial demand crops, whereas, it has

⁵ Marie Lecomte- Tilounie, ' Nature, Culture and Religion at the Crossroads of Asia' <https://books.google.co.in/books?id=OlsvDwAAQBAJ&pg=PT126&lpg=PT126&dq=kumaon+indigenous+and+modernity+impact&source>

replaced traditional crop by high yield varieties. Although, pressure of modernity also made changes in food habit of local people. Construction of multipurpose dams and road has effected in environment very badly.

Pressure of modernity also led to climate change, which affected bird population. Bees and butterflies are considered to be an indicators of ecosystem change and use for predicting environmental and seasonal changes. Similarly, the habitat of the bees is change due to rise in temperature and growth of modern infrastructure and use of insecticides. It had a huge impact in flora and fauna⁶. Their life is based on forestry, agriculture, medicinal plants and all traditional knowledge's are vanishing. Inhabitants innocently disclose their ideas of using all medicinal herbs to outsiders and they steal their ideas and get patent. With national park and other protected areas attempting to change inhabitants of Kumaon, for which they are losing their identities. Their traditional concept of oneness with nature is getting vanished.

Migration is also affecting the indigeneity of Himalayan. The young men prefer to move metropolitan or nearby cities for employment and better livelihood. They face tough livelihood and working condition and send back money to their families. Migration makes absence of belongingness. Globalization creates free flow of goods and services and movement of labour which can be seen in the changing pattern of Himalayan dwellers. And they are losing their traditional knowledge. Food and additional sources of income has created durable exchange across Himalayan region⁷.

Legal Impact of Globalization on Indigenous population of Himalaya:

Entire Himalayan region is a biodiversity hotspot. The herbal, organic and ethnic product is the natural resources of the region. It could be used as a medicinal product which is an advantage for the mountainous community. However, the major threat is to preserve the Traditional Knowledge and intellectual resources of the community from the commercial usage by agencies or MNCs.

⁶ Piyoosh Rautela and Bhavna Karki, 'Impact of Climate Change on Life and Livelihood of Indigenous People of Higher Himalaya in Uttarakhand, India'(2015) Vol 3, No.4, 112- 124 American Journal of Environment Protection http://gbpihedenviis.nic.in/PDFs/Disaster%20Data/Disaster%20Data%20Uttarakhand/Papers/Impact_of_Climate_Change.pdf

⁷ Parul Rani and Nagendra Kumar, 'Man- Eaters of Kumaon: a Critique of Modernity'(2017) Vol.IX, No.1, Rupkatha Journal on Interdisciplinary Studies in Humanities <https://dx.doi.org/10.21659/rupkatha.v9n1.21>

The legal impact on traditional knowledge in the Himalayas, as in many other regions around the world, is a complex and evolving issue.⁸ Traditional knowledge (TK) refers to the knowledge, innovations, and practices of indigenous and local communities that have been developed over generations and passed down orally or through other traditional means.⁹ In the context of the Himalayas, this knowledge encompasses a wide range of subjects, including traditional medicine, agriculture, biodiversity conservation, and cultural practices.

Here are some key legal considerations and impacts on traditional knowledge in the Himalayas:

Intellectual Property Rights (IPR): One of the primary legal issues related to traditional knowledge is the protection of this knowledge through intellectual property rights. Some communities in the Himalayas have sought to protect their traditional knowledge through patents, copyrights, or trademarks.¹⁰ However, this can be a contentious issue, as it raises questions about the ownership of collective knowledge and the potential for bio-piracy,¹¹ where outsiders exploit traditional knowledge for profit without benefitting the communities that hold it.

Access and Benefit-Sharing (ABS) Agreements: In response to concerns about bio-piracy and the exploitation of traditional knowledge, there have been efforts to establish ABS agreements. These agreements aim to ensure that communities that hold traditional knowledge receive fair and equitable benefits when their knowledge is used for commercial purposes, such as in the development of pharmaceuticals or agricultural products.¹²

National and International Laws: Various national and international laws impact traditional knowledge in the Himalayas. For example, the Convention on Biological Diversity (CBD) includes provisions on ABS and the protection of traditional knowledge. Additionally, some countries in the region have enacted specific laws and policies to protect and promote traditional knowledge.¹³

⁸ Ghanshyam Sharma and Bharat K. Pradhan, 'Traditional Knowledge and Access and Benefit Sharing in the context of Himalayan States' (2002) ISBN: 978-3-031-16185-8

⁹ Ulia Popova, 'Conservation, Traditional Knowledge, and Indigenous Peoples' 2013 Volume 58 Issue 1, Sage Journal <https://doi.org/10.1177/0002764213495043>

¹⁰ Gunvi Ratra, 'Indigenous Intellectual Property Rights' Legal Service India E Journal

¹¹ Deepthi Rodda, 'Biopiracy Analysis of Existing International and Indian Legal Framework' (2020) Volume III, Issue II International Journal of Law, Management And Humanities

¹² Gurdial Singh Nijar, 'The Nagoya Protocol on Access and Benefit Sharing of Genetic Resources: Analysis and Implementation Options for Developing Countries' (2011) South Centre

¹³ Stephen B. Brush, 'Indigenous Knowledge of Biological Resources, and Intellectual Property Rights: The Role of Anthropology' (1993) 63 95 American Anthropologist

Cultural and Environmental Conservation: Traditional knowledge in the Himalayas often plays a crucial role in biodiversity conservation and sustainable resource management. Legal frameworks that promote environmental conservation can indirectly support the preservation of traditional knowledge by protecting the ecosystems and practices that are intertwined with it.

Indigenous and Local Rights: Efforts have been made to recognize the rights of indigenous and local communities in the Himalayas to their traditional knowledge and cultural heritage. Some countries in the region have established laws and mechanisms for the protection of these rights.¹⁴

Challenges and Conflicts: Despite legal efforts to protect traditional knowledge, there are still challenges and conflicts. These may include disputes over ownership and benefit-sharing, inadequate legal frameworks, and the encroachment of modern practices and technologies that threaten traditional knowledge systems.

Ethical Considerations: Beyond legal frameworks, there are ethical considerations regarding the use of traditional knowledge. Many argue that respecting and preserving traditional knowledge is not just a legal obligation but a moral one, rooted in principles of cultural diversity, human rights, and social justice.

There are some examples of case laws and legal developments related to traditional knowledge and its impact on the Himalayas up to that point. The legal landscape may have evolved based on the latest information. Here are a few notable cases and legal developments:

1. **Neem and Basmati Patents Case (1995-2000):** This case revolved around the grant of patents by the United States Patent and Trademark Office (USPTO) to companies for neem and basmati rice, both of which are traditional crops in India and the Himalayan region. The patents were eventually challenged, and in 2000, the USPTO revoked the patents following protests and legal actions by India and various advocacy groups.¹⁵
2. **Turmeric Patent Case (1995-1997):** Another case involving the grant of patents by the USPTO, this time for the medicinal properties of turmeric. Traditional knowledge holders in India contested the patent, leading to its eventual withdrawal.

¹⁴ Adarsh Kishore, 'Towards an Indian Approach to Globalization'(2020) Manupatra

¹⁵ Ayushman Sagar, 'INTELLECTUAL PROPERTY LAW TRADITIONAL KNOWLEDGE & PATENT ISSUES: With reference to Turmeric, Neem & Basmati Rice'(2021) Manupatra

3. **Biodiversity Act of India (2002):** Although not a case, the Biological Diversity Act of India is a significant legal development that impacts traditional knowledge in the Himalayan region. The act aims to regulate access to biological resources and associated traditional knowledge, ensuring equitable benefit-sharing for communities.
4. **Land Rights and Indigenous Rights:** Indigenous and local communities in the Himalayas have historically used traditional knowledge to manage their lands and resources. Cases related to land rights, displacement due to development projects, and indigenous rights may involve arguments and legal actions centered around the preservation and recognition of traditional knowledge.
5. **Convention on Biological Diversity (CBD):** While not a case, the CBD is an international treaty that has implications for the Himalayas and the protection of traditional knowledge associated with biodiversity. The Nagoya Protocol, a supplementary agreement to the CBD, specifically addresses access and benefit-sharing related to genetic resources and traditional knowledge.
6. **Community Forest Rights in India:** While not specific to the Himalayas, the recognition of community forest rights in India has implications for traditional knowledge in forest-dependent communities across the country, including the Himalayan region. The Forest Rights Act of 2006 aims to empower local communities and recognize their traditional knowledge in forest management.
7. **Geographical Indications (GIs):** Various products from the Himalayan region, such as Darjeeling tea and Himachal Pradesh apples, have been granted Geographical Indication status in India. These GIs protect the traditional knowledge and reputation associated with these products.

These cases and legal developments represent efforts to protect traditional knowledge in the Himalayan region and prevent its misappropriation. However, challenges remain in effectively implementing and enforcing these legal measures and in addressing issues of biopiracy and equitable benefit-sharing.

In summary, the legal impact on traditional knowledge in the Himalayas is multifaceted and

involves a combination of international agreements, national laws, and community-level initiatives. While legal frameworks can play a role in protecting and promoting traditional knowledge, there are ongoing challenges and debates about how to strike the right balance between protecting traditional knowledge and facilitating its responsible use for the benefit of all stakeholders.

As globalization brings increased economic activity, infrastructure development, and resource extraction to the Himalayas, the enforcement of environmental laws becomes essential to protect the fragile ecosystem and ensure sustainable development. Here are some key legal impacts of environmental laws on the Himalayas in the context of globalization:¹⁶

Climate Change Mitigation: The Himalayan region is particularly vulnerable to climate change impacts. Environmental laws that address greenhouse gas emissions, renewable energy, and climate adaptation measures are critical for mitigating the effects of global climate change in the region.

International Trade and Conservation: Some environmental laws and agreements regulate the international trade of wildlife and plant species found in the Himalayas. These laws aim to prevent illegal wildlife trafficking and protect endangered species.

Transboundary Cooperation: The Himalayas span multiple countries, and environmental issues often cross borders. Legal frameworks for transboundary cooperation are crucial for addressing issues like pollution, water resource management, and conservation that affect multiple nations.

Conclusion: Resistance to Globalization:

The Himalayan region's natives are increasingly beginning to understand the effects of globalization. Natural resources, culture, and traditional farming knowledge are all disappearing. The impact of multipurpose initiatives and technologies is distancing people from their sense of self. Throughout the Himalayan range, protests in various forms were sparked by the pressure of modernity such as demonstrations against hydropower and dam development projects, as well as

¹⁶ Shaila Seshia Galvin, 'Becoming Organic: Nature and Agriculture in the Indian Himalaya' https://books.google.co.in/books?id=F98mEAAAQBAJ&lpg=PA278&ots=-v46n_i1DG&dq=globalization%20and%20legal%20impact%20in%20himalaya%20region&pg=PA260#v=onepage&q=globalization%20and%20legal%20impact%20in%20himalaya%20region&f=false

international firms' patent rights over Himalayan vegetation. They have somewhere realised the difference between local and global, how to protect their selfhood from external force. The Himalayan protest movement now became a part of political debates and conference. It shows globalization cannot be a one-way process¹⁷. Movements also focused on protecting minority cultures, local languages and religions. NGOs, political parties and media are taking active part to protect their indigeneity. With pace of development they are accepting the modernity but on other side they are resisting external intrusion¹⁸.

With the analytical study of traditional norms and values of indigenous population of Himalayas as well as contemporary study of Kumaon culture we can infer that how they were engaged in traditional culture but with the pressure of globalization they lose their indigeneity and brought down their traditional knowledge and became a part of modern global village which created a huge generation gap. This rich intellectual heritage has frittered away, either by small or multinational agencies. Capitalist market has negative impact on indigenous culture and on the production of their artistic work. Indigenous craft has declined and people of Himalayas became the puppets of modern global village. But after realizing that they are existing and working in the framework of globalization and felt the pressure of modernity they started resisting globalization by contributing to maintain relationship with external actors for protecting their indigeneity by aiming on some projects to implement in a well manner.

In conclusion, globalization has both positive and negative impacts on Himalayan native communities, and their responses to this phenomenon are complex and multifaceted. While some Himalayan natives may embrace certain aspects of globalization for economic opportunities, technological advancements, and cultural exchange, many also resist it to protect their traditional way of life, cultural heritage, and the fragile Himalayan ecosystem. Their resistance takes various forms, including the preservation of culture and traditions, protection of land and resources, political activism, promotion of local industries, education and awareness, legal actions, and resistance to consumerism.

¹⁷ Payal Arora, 'Dot Com Mantra: Social Computing in the Central Himalayas'(2016) 206 <https://books.google.co.in/books?id=0f4oDAAAQBAJ&dq=kumaon+indigenous+and+modernity+impact>

¹⁸ Gerard Toffin and Joanna Plaff- Czarnecka, 'Facing Globalization in the Himalayas: Belonging and the Politics of the Self' (2014)484 Sage Publications India https://books.google.co.in/books?id=1Ho6BAAAQBAJ&dq=globalization+impact+on+Himalayan+indigenou&source=gbs_navlinks_s

The Himalayan region's rich diversity means that the responses to globalization vary among different communities, reflecting their unique histories, values, and priorities. However, it is crucial to acknowledge that these responses are often driven by a deep desire to maintain their identity, autonomy, and the sustainable relationship they have with their environment.

As globalization continues to evolve, it is essential to consider the perspectives and interests of Himalayan natives and other indigenous communities worldwide. Sustainable development, cultural preservation, and environmental protection should be prioritized in order to ensure that the benefits of globalization are shared equitably and that the unique contributions of these communities to our global cultural and ecological heritage are safeguarded.

