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ROLE OF INTELLECTUAL PROPERTY RIGHTS IN SAFEGUARDING CULTURAL HERITAGE

AUTHORED BY - ANJALI¹ & AKANKSHA²

ABSTRACT

Cultural heritage consists of customs, traditions, artistic expressions, beliefs and knowledge systems preserved and transmitted to the new generations by a community. It is an embodiment of the identity of societies and an important element of cultural diversity in the world. The world today full of globalization and technological advancement is experiencing increased exploitation, misuse and misappropriation of traditional cultural expressions and indigenous information. They do not always consider the use of their cultural resources by the local communities and provide them with due recognition and economic returns.

Intellectual Property Rights (IPR) is one such concept in this context that can be regarded as a foundation of legal protection of Traditional Knowledge (TK) and cultural heritage. This study explores the relevance of various forms of protection of Intellectual Property (IP), including copyright, trademarks, patents and geographical indications to Traditional Cultural Expressions and Indigenous Knowledge systems protection. The paper further explores how international institutions such as the World Intellectual Property Organization (WIPO), UNESCO and World Trade Organization (WTO), have been involved in enhancing the international protection of cultural heritage via law.

Another area of study is the Indian legal system pertaining to protection of cultural heritage and in particular, Geographical Indications of Goods (Registration and Protection) Act, 1999, Biological Diversity Act, 2002 and Traditional Knowledge Digital Library (TKDL). Another problem which is discussed in the paper is the biopiracy, lack of legal protection, enforcement and the ignorance of the indigenous people.

Lastly, in the paper it is possible to argue that the best way to protect cultural heritage is to

¹ Anjali, Research Scholar, Department of Law, Maharishi Markandeshwar (Deemed to be University), Mullana, Ambala, Haryana, India.

² Akanksha, Research Scholar, Department of Law, M.M.H. College, Ghaziabad, Uttar Pradesh, India.

have a balanced approach, which will consider the right of traditional communities and at the same time ensure no misuse of this heritage, as a commercial or any other way. In the case of cultural heritage and TK, more implementation mechanisms, international collaboration, awareness about the law and the community involvement are required among the future generations.

Keywords: Intellectual Property rights, Cultural heritage, Traditional knowledge, Geographical indication, Biopiracy.

1. INTRODUCTION

The human civilization includes cultural heritage as it is traditions, customs, values and history that communities have been identifying with over the course of time. It entails both the tangible and the intangible such as monuments, manuscripts, handicrafts, paintings, music, folklore, dance forms, oral tradition, rituals, festivals, traditional knowledge systems and the traditional craftsmanship. The two functions of cultural heritage that wield the effect of sustaining the historical continuity and promoting cultural diversity, social cohesion and sense of identity. It is a connection to the past and to the present and transfers the knowledge, art and culture of one generation to another. The livelihood of the artisans, tribal people and indigenous people whose traditional knowledge and skills have been applied to the sustainable development and economic growth of the developing countries such as India have been interrelated with cultural heritage.³

In the previous decades, traditional knowledge and cultural expressions have been transformed to objects of value and are at an inauguration of globalization, digitization and technology. Corporations and industries utilize the traditional medicinal systems, the indigenous art forms, folklore, handicrafts “agricultural systems and innovations based on the biodiversity more and more in commercial applications. This usage, though, is frequently accomplished without the previous informed consent of indigenous individuals or with insufficient regards to the advantages to indigenous people. This leads to the exploitation of the local economy, usurpation of culture and eventual loss of the local identity. Bio-piracy, theft of traditional medicinal knowledge and the commercialization of indigenous cultures has added to the identity of the importance of the development of effective national and international law on the

³ Janete S. B. Laraia, *Cultural Heritage and Human Identity*, 12 Int'l J. Heritage Stud. 221, 224–26 (2010).

subject.⁴

The issue of commercialisation of traditional knowledge is on the rise and as such good legal mechanisms need to be established so that protection of traditional knowledge is achieved. Here, Intellectual Property Rights (IPR) have taken center stage as important tools of legal protection of creativity, innovation and cultural expressions. The copyright, trademarks, patent, geographical indication, industrial designs and plant varieties balance are used to deter unauthorized use, to recognize the rights of the creators and traditional communities. Though the practice of traditional intellectual property rights is mostly a result of the desire to stimulate innovation and individual creativity, it is also been used in more and more legal actions to preserve traditional knowledge and cultural heritage by protecting traditional products, artistic expressions and community-based innovations.

The traditional IP laws, though, cannot yet manage to deal with the uniqueness of TK. A majority of the systems of intellectual property have been based on the premise of personal sovereignty, originality, novelty, inventiveness and a finite protection period. However, traditional knowledge is shared and one generation to another, is continuously being changed and is not owned by a single person, but rather a group of indigenous people. As such, legal grey areas work against traditional IP principles applied to the traditional cultural expression and safeguarding such expression remains imperfect as concerns misappropriation and unauthorised commercialisation. This has prompted demands to have special legal means that will safeguard TK and traditional cultural manifestations. Therefore, the intellectual community and policy makers have been demanding development of sui generis law systems to safeguard TK and traditional cultural expressions.⁵

The Constitution of India also emphasises on the importance of conserving the cultural heritage of the nation. Article 29(1) ensures that each group of citizens with a particular language, script and culture have the right to preserve their language, script and culture. Protection of monuments, places and objects of art or historical significance proclaimed to be of national interest by Article 49 shall be carried out by the State. Moreover, Article 51A(f) also has a Fundamental Duty for every citizen to cherish and protect rich heritage of India composite

⁴ Graham Dutfield, *Protecting Traditional Knowledge and Folklore* 14–18 (Intell. Prop. Rts. & Sustainable Dev. Series, 2003).

⁵ Madhavi Sunder, *Intellectual Property and Identity Politics: Playing with Fire*, 4 J. Gender Race & Just. 69, 73–75 (2000).

culture. Cultural heritage preservation is not the role the state entrusted with, but rather a shared constitutional obligation of the State together with its citizens and this can be seen by these constitutional provisions.

India equally possesses a very strong legal system to protect cultural heritage and traditional knowledge. Copyright Act of 1957 Coen compasses literary works, artistic works, musical and dramatic works whereas Trade Marks Act of 1999 is the Act of protecting the distinctive mark and collective identity of traditional goods. Section 3(p) of the Patents Act, 1970 carries a negative connotation and out of the cool of patenting inventions deemed to be traditional knowledge or cumulative known properties of components traditionally known are sidelined by the act itself, particularly Section 3(p). The Geographical Indications of Goods (Registration and Protection) Act, 1999 is concerned with the protection of products with unique characteristics because of its geographical origin and The Biological Diversity Act, 2002 is aimed at regulating the access to biology resources and profit sharing with indigenous people. The existence of Traditional Knowledge Digital Library (TKDL) has continued to support the biopiracy battle by registering TK as prior art with patent authorities on an international scale before it is stolen. The Traditional Knowledge Digital Library (TKDL) has also provided further impetus to the biopiracy struggle by registering TK as prior art before patent systems the world over.

The international level has some efforts to protect the TK and Cultural Heritage including the initiative of the World Intellectual Property Organization (WIPO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Trade Organization (WTO). The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994, the Convention on Biological Diversity (CBD), 1992 and the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, 2003 all highlight the importance of safeguarding traditional knowledge, equitable benefit-sharing, and non-appropriation of indigenous cultural resources for commercial purposes. In fact, Article 8(j)⁶ of the Convention on Biological Diversity recognizes the role of indigenous people in conserving biodiversity, and obliges States to respect, preserve and maintain their traditional knowledge.

⁶ Convention on Biological Diversity art. 8(j).

The protection of TK has also been particularly influenced by the judicial developments. This was further emphasized by the Supreme Court in *Novartis AG v. Union of India* that there should be no monopoly that is devoid of any real innovation, further reinforcing protection against misuse of IP. Similarly, in the *Turmeric Patent Case*, the patent in the U.S. was canceled after it was proved that, medical application of turmeric is part of the traditional knowledge of India. On the same note, in the *Neem Patent Case*, European Patent Office revoked a patent that covered fungicides using neem due to the recognition that the discovery was not fresh due to the traditional knowledge. The *Basmati Rice Patent Dispute* (RiceTec Inc.) also highlighted the need for the protection of geographical indications and traditional agricultural knowledge from misuse on the international market.

Within this institutional and legal framework, the current paper critically examines how IPR has been used to safeguard the cultural heritage and TK⁷ It analyzes the constitutional, statutory, judicial and international legal institutions and systems that relate to the protection of cultural heritage and the assessment of the effectiveness of the currently existing IP institutions, the current issues in the protection of cultural heritage such as biopiracy, low enforcement and commercialisation of traditional knowledge and proposes the reform of the IP framework so as to not only enhance the protection of cultural heritage, but also fair recognition, benefit-sharing and encouragement of the traditional communities.⁸

1.1 Research Objectives

1. To discuss the idea and importance of cultural heritage and traditional knowledge.
2. To study the significance of IP Rights in protecting Cultural Heritage.
3. To learn about the international legal system of protection of TK and cultural expressions.
4. To analyze the legal regime in India with regard to cultural heritage.
5. To recognize problems with current IP laws.
6. To recommend ways to enhance protection against illegal exploitation of cultural heritage.

⁷ (2013) 6 SCC 1.

⁸ World Intellectual Property Organization, *Traditional Knowledge*, <https://www.wipo.int/tk/en/> (last visited July 16, 2026).

1.2 Research Methodology

Doctrinal and analytical approach has been taken in the current study. The sources of information that the research is based upon include secondary documents like books, journal articles, statutes, international conventions, judicial decisions, reports of international organizations and information of online academics. The paper employs analytical and comparative approaches to find out the efficacy of the IP laws to guard the cultural heritage and TK.

2. CONCEPT AND NATURE OF CULTURAL HERITAGE

Cultural heritage refers to the physical objects, traditions and knowledge systems that have been passed to the generations preceding and continued to be preserved to the generations that succeeded. It is a re-creation of the social, historical, artistic and intellectual talents of societies and is important in safeguarding cultural identity.

In general, cultural heritage may be categorized into two types which include tangible and intangible cultural heritage.⁹

2.1 Tangible Cultural Heritage

The material cultural heritage is physical expressions of the culture such as monuments, sculptures, manuscripts, paintings, historical buildings, archaeological sites, textiles and handicrafts. These cultural resources are of historical, artistic and social value and they show the creativity and achievements made by civilizations.

India has a legacy of rich and diverse tangible cultural heritage, including monuments like Ajanta and Ellora caves, Qutub Minar, Red Fort and Taj Mahal. The cultural identity and history of India is also marked with traditional paintings, sculptures and handicrafts.

2.2 Intangible Cultural Heritage

The Intangible Cultural Heritage can be found in oral traditions, folklore and performing arts, rituals, music, dance, language, traditional craftsmanship and indigenous systems of knowledge which descend through generations.

Another important aspect of intangible cultural heritage is the traditional medicinal systems such as Ayurveda, Siddha and Unani. There are also traditional methods of preserving biodiversity through agricultural practices and methods.

⁹ UNESCO, *Convention for the Safeguarding of the Intangible Cultural Heritage*, art. 2, Oct. 17, 2003, 2368 U.N.T.S. 35.

The problems concerning intangible heritage are even more vulnerable to exploitation than tangible heritage because they are not well documented, and can be utilized by people across several generations.

3. IPR AND CULTURAL HERITAGE

Intellectual Property Rights are legal rights that are allocated to protect intellectual creativity and innovations. All types of IP protection are significant to protect TK and cultural heritage.

3.1 Copyright Protection

Literary, artistic, musical and dramatic works are some of the areas of copyrights that prevent the commercial use and reproduction of the work without authorization. Customary art objects, including paintings, folk songs or folklore, dances or art manifestations can be safeguarded by copyright provided they fulfill legal requirements of originality and fixation.

Copyright protects against using and commercialisation of cultural works unlawfully. Nevertheless, the copyright law has limitations: historically, it is not an individual or a group that owns cultural expressions, but they are preserved as an oral tradition transmitted between generations within a community.¹⁰

3.2 Trademark Protection

Trademark right is applied to protect names, symbols, logos and signs which are utilized to differentiate goods and services. An indigenous community and artisans have a right of trademark and collective mark to prevent misused of their traditional signs and culture.

Tradition protection also helps in safeguarding the authenticity and reputation of traditional products and cultural expressions.

3.3 Patent Protection and Traditional Knowledge

Patent law offers safeguard to novel, innovative and commercially useful innovations. In their respective field of threatening to bio-pirate TK and patenting indigenous peoples biomaterials, however, patent systems have received numerous criticisms.

(i) Turmeric Patent Case

The best example of biopiracy that had taken place was the patenting of the wound healing effect of turmeric in the US. Indian scientists subsequently demonstrated that the Turmeric has

¹⁰ Shamnad Basheer, *Protection of Traditional Knowledge: An Indian Perspective*, 50 J. Indian L. Inst. 100, 110–15 (2008).

been used in India medically since ages and hence, invalidating the patent. Later on, it cancelled this patent since the invention being patented was not new.

(ii) Neem Patent Case:

The other large controversy pertains to patent on neem based pesticides. Indian organizations opposed such patents claiming that neem was already a part of Indian traditional knowledge with pesticidal properties. Subsequently a number of patents were canceled. These cases shed light on how international protection of traditional knowledge should be strengthened and identified shortcomings in the international patent system.¹¹

3.4 Geographical Indications Protection

The protection of traditional products and cultural heritage can be achieved with some of the most powerful intellectual property solutions – geographical indications (GI). A GI identifies merchandise in a geographical region that has characteristics or fame that relates to that geographical region.

It is the Government of India that has given GI tag to some of the traditional products including Darjeeling tea, Banarasi Sarees, Kanchipuram Silk, Madhubani Paintings and Pashmina Shawls. GI protection prevents the misappropriation of traditional products, and assists in sustainable traditional knowledge and in traditional craftsmanship.

Along with the protection of cultural heritage, GIs also can help to promote the economic growth and livelihoods of local artisans and producers.¹²

4. INTERNATIONAL FRAMEWORK FOR PROTECTION OF CULTURAL HERITAGE

With the growing globalisation, commercialisation and technology, conserving cultural heritage and traditional knowledge is the new challenge before the world. In most locations around the globe, indigenous knowledge is found, but it concerns medicine, agriculture, biodiversity, folklore and cultural practices. This is often commercialised by such resources without due approval and sharing of the benefits. Nonetheless, international bodies and agreements are critical in the protection of cultural diversity, prevention of biopiracy and the acknowledgment of the rights of indigenous peoples on their traditional resource.

¹¹ Prabuddha Ganguli, *Intellectual Property Rights: Unleashing the Knowledge Economy* 274–82 (Tata McGraw-Hill 2001).

¹² Rajendra Kumar, *Geographical Indications and Rural Development in India*, 18 J. Intell. Prop. Rts. 399, 405–09 (2013).

4.1 Role of WIPO

One of the most important international institutions which pay attention to traditional knowledge and traditional intellectual property rights is World Intellectual Property Organization (WIPO). WIPO is aware that the community cannot adequately protect TK using the old systems of intellectual property.¹³

To solve such issues, WIPO established in 2000 the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The committee is meant to work out international laws to protect international culture expressions, traditional knowledge and genetic resources against illegal use.

Awareness-rising, policy discussions, and research activities on intellectual property and cultural heritage have also been carried out by WIPO. It has been very influential in the promotion of the idea of a sui generis law regime in particular to protect traditional knowledge. WIPO continues to be an important platform upon which to further international discourse and legal evolution of the protection of cultural heritage within the framework of member states despite ongoing challenges of the breadth of protection.¹⁴

4.2 TRIPS Agreement

The WTO in 1994 adopted the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) that provides the generally accepted principles which are to be applied by member governments to IPRs protection. The agreement deals in many areas such as copyright, trademarks, patents, industrial designs and geographical indications. Traditional knowledge is not specifically covered by TRIPS, but it has a major impact on national IP laws on biodiversity and cultural heritage.¹⁵

One of the main weaknesses of the TRIPS Agreement was that it enhanced patent protection without wholesomely safeguarding TK and indigenous resources. Pharmaceutical and biotechnology companies have long been taking advantages of the indigenous communities by claiming some new patents based on biological resources and medical knowledge employed by the indigenous communities, as early as centuries ago. There have been consistent calls, however, by India and other third world nations that the TRIPS framework needs to be modified in a manner that would keep off biopiracy, unpatenting of TK.

¹³ World Intellectual Property Organization, *Traditional Knowledge*, <https://www.wipo.int/tk/en/> (last visited July 10, 2026).

¹⁴ Shamnad Basheer, *Protection of Traditional Knowledge: An Indian Perspective*, 50 J. Indian L. Inst. 100, 112–18 (2008).

¹⁵ V.K. Ahuja, *Law Relating to Intellectual Property Rights* 549–67 (3d ed., LexisNexis 2017).

4.3 Convention on Biodiversity (1992)

The Rio de Janeiro Earth Summit resulted in the adoption of the Convention on Biological Diversity (CBD) in the year 1992 to share the benefits of using genetic resources fairly, encourage sustainable use of biological resources and to protect biological diversity.¹⁶

Among other things, the role of indigenous peoples in the preservation of traditional knowledge and biodiversity and the sovereign rights of the governments over its biological resources are highlighted in the treaty. The importance of preserving and maintaining indigenous knowledge that is relevant to the conservation and sustainable use of biodiversity is highlighted in Article 8(j).

Also, the CBD recommends just and equal benefit sharing systems. Hence the need to identify and have indigenous informers compensated through money when biological resources and TK are utilized in a commercial way such as by a business or researcher.

Some countries including India were profoundly affected by the convention bearing effects on their country laws on biodiversity.

4.4 UNESCO Convention on Intangible Cultural Heritage

In 2003, UNESCO started protecting oral traditions, folklore, performing arts, rituals, festivals, traditional craftsmanship and traditional cultural practices by adopting the Convention on the Safeguarding of the Intangible Cultural Heritage.

The convention acknowledges the significance of the intangible cultural heritage in the human creativity and cultural diversity. It further recognises that social change and globalisation have led to increased possibility of the disappearance of the old cultural practices. They are the four fundamental components of the convention: Identification, documentation, preservation and promotion of the Intangible Cultural Heritage domestically among member states. There will also be involvement of communities and groups in the preservation of historical heritage.¹⁷

5. INDIAN LEGAL FRAMEWORK FOR PROTECTION OF CULTURAL HERITAGE

India is a very culturally diverse country with the knowledge that has been lived in ages. Traditional medicinal systems, handicrafts, folklore, knowledge of biodiversity and culture are an important part of the cultural heritage of India. In response to the increasing

¹⁶ Convention on Biological Diversity arts. 1–3, June 5, 1992, 1760 U.N.T.S. 79.

¹⁷ UNESCO, *Representative List of the Intangible Cultural Heritage of Humanity*, <https://ich.unesco.org> (last visited July 13, 2026).

commercialization and globalization, a number of laws and regulations are enacted in India to secure TK protection and prevent its misuse.

5.1 Copyright Act, 1957

The Copyright Act, 1957 covers both Dramatic, Musical, Artistic and Literary works. It grants exclusive rights to the authors and the right to reproduce, publish, adapt and distribute his work. The law may extend its protection to folk songs, paintings, folklore, dance performance, and handicrafts under copyright protection, of course, assuming that they fulfill legal criteria of protection.¹⁸

However, there are restrictions to the copyright law and most of the traditional works are archived as collectives and transmitted through oral tradition over generations, where no author can be identified. This implies that not all indigenous cultural expressions or folk types are easily safeguarded by the copyright laws.

5.2 Geographical Indications of Goods Act, 1999

Among the most significant legal tools to safeguard the traditional products and the cultural heritage in India is Geographical Indications of Goods (Registration and Protection) Act, 1999. Geographical indication refers to products whose characteristic or reputation are based on a certain geographical location.¹⁹

GI protection prevents the counterfeiting of traditional products by other people and preserves the authenticity and credibility of the cultural products. A number of traditional products, such as Darjeeling tea, Banarasi sarees, Kanchipuram Silk, Chanderi Fabric, Madhubani paintings and Pashmina Shawls are under Geographical Indication in India. Besides protecting and preserving cultural heritage, the benefit of GI conservation goes to the local communities and rural craftsmen in terms of their economic development and their living.²⁰

5.3 Biological Diversity Act, 2002

To meet the requirement of India to the Convention on Biological Diversity, the Biological Diversity Act, 2002 was established. The Act attempts to provide fair and equitable distribution of benefits of use of the biological resources and traditional knowledge.

¹⁸ Shamnad Basheer, Protection of Traditional Knowledge: An Indian Perspective, 50 J. Indian L. Inst. 100, 112–18 (2008).

¹⁹ The Geographical Indications of Goods (Registration and Protection) Act, No. 48 of 1999, §§ 2, 11, INDIA CODE (1999).

²⁰ Geographical Indications Registry, Gov't of India, Registered Geographical Indications (last visited July 16, 2026).

To control the use of biological resources and the safeguarding of the native knowledge regiment, the Act formulated the concept of national bio-diversity authority (NBA), state bio-diversity boards and bio-diversity Management committees. Foreign nations and organizations using Indian biological resources or other traditional knowledge should want permission before the resources are used in business or research.²¹

5.4 Traditional Knowledge Digital Library (TKDL)

The Traditional Knowledge Digital Library (TKDL) is one of India's most important initiatives to protect TK from the threat of biopiracy and misappropriation of patents.

A partnership of the Council of Scientific and Industrial Research (CSIR) and the Ministry of AYUSH, TKDL is. The Ayurvedic, Siddha, Unani and Yoga medicines are all traditional and are in the library in some of the different languages of the world. It bars the issuance of patents and pre-existing knowledge in traditional Indian systems and submits information of prior art to patent authorities all over the world. Incarcerating the turmeric and neem patent case were controversial issues that contributed majorly to the TKDL formation.

Various instances of misappropriate patenting have been prevented through TKDL and TKDL is an important tool of protection against biopiracy and illegal use of the local medicinal knowledge.

6. THE CHALLENGES IN PROTECTING CULTURAL HERITAGE

Several legal systems have been put in place to safeguard cultural heritage and TK, but there are still legal and practical challenges to effective preservation and enforcement of TK.

6.1 Biopiracy and Misappropriation

Bio piracy entails the appropriation and commercialisation of biological resources and traditional knowledge in the absence of an informed consent and involvement of the communities which have been maintaining and developing it over generations. Traditional healing methods and traditional farming techniques are also used in the production of commercially valuable goods and the people who have preserved the knowledge and culture of traditional healing methods are barely recognized and hardly benefited from the use of their knowledge. Biopiracy results in economic losses and infringes cultural identity and rights to traditional knowledge systems.

²¹ N.S. Gopalakrishnan & T.G. Agitha, Principles of Intellectual Property 451–53 (2d ed., E. Book Co. 2014).

6.2 Lack of existing IP laws

The use of traditional IP systems is inherently based on the notion of monopoly and time bound safeguarding of inventions and creativity. The traditional knowledge on the other hand is commonly shared by communities and it is passed to a new generation as time goes by. In turn, the ideas of novelty, uniqueness and personal possession are not protective enough of indigenous knowledge and cultural manifestations.

6.3 Lack of Awareness Among Indigenous Communities

Most other communities, many indigenous and rural communities lack knowledge on the notion of intellectual property and the currently available legal instruments to safeguard TK and cultural resources.

Communities do not always have awareness in insisting on their rights to the unauthorized use of their TK and cultural expressions.

6.4 Weak Enforcement Mechanisms

Where laws cover, there is a poor system of implementation and enforcement that exists which limits effective protection. Intellectual property rights related to cultural heritage are usually less efficient due to issues with the legal process” institutional coordination, and lack of proper monitoring mechanisms and strong legal support.

7. SUGGESTIONS AND RECOMMENDATIONS

It requires legal modifications, improved protection mechanisms and greater participation of indigenous communities to have effective protection of cultural heritage.

7.1 Development of a Sui Generis Legal Framework

Some special sui generis legal system in relation to TK and traditional folklore needs to be developed. The framework should acknowledge the community rights of the communities, offer legal protection of the communities over a long period, have an informed consent of any use of traditional resources and the benefits of such use should be fairly and equally divided between the community in any commercial or non-commercial use of those such resources.

7.2 The awareness and capacity building programs

Awareness campaigns and education activities by Governments and international organizations should be done on the issue of intellectual property rights and legal protection of traditional

communities.

Legal aid and institutional support should also be given to natives to make sure that their cultural resources are well preserved.

7.3 Strengthening International Cooperation

The possibility of cross-border exploitation of TK is high and there should be international cooperation. It is required to come up with the standard action by the states within the umbrella of WIPO, UNESCO and WTO to curb biopiracy and illegal commercialization of the cultural background.

7.4 Documentation and Digitization of TK

Documentation and digitization of traditional knowledge may prove immensely valuable in terms of preserving threatened and vanishing traditional practices, as well as in the process of avoiding potential patent claims.

Prospective schemes like the TKDL should be promoted for the protection and preservation of folklore, indigenous art forms, traditional medicinal systems, agriculture systems and so on.

7.5 Fair Benefit-Sharing Mechanisms

The equitable sharing of economic benefits derived in such a commercial use must go hand in hand with protection and conservation of such traditional knowledge and traditional knowledge practices and resources.

The legal systems ought to come up with a clear and transparent scheme of benefit sharing whereby the indigenous communities are noticed and compensated.

8. CONCLUSION

Cultural heritage is the identity of a group, shared practice, creativity and knowledge systems of communities and it is an inseparable constituent of human civilization. The continuity of culture is traditionally expressed through traditional knowledge, folklore, indigenous forms of art as well as culture and has been an important aspect of cultural diversity. Nowadays, the cultural resources are more susceptible to unlawful exploitation, abuse, and commercialization in the globalization and commercialization process. IPR is an important legal tool to safeguard Cultural Heritage by means of copyright, trademark, patents and geographical indications.

The existing legal instruments fail to address sometimes the collective nature and

intergenerational transmission of TK despite the existing legal instruments that protect the IP rights. Besides, the illegal exploitation of the traditional resources, poor law implementation, and ignorance among the local and Indigenous population in terms of conservation and protection of cultural heritage have also become problematic.

Although various international organisations and governments (national) have introduced a series of initiatives towards protecting TK, further reforms are essential in offering effective recognition and protection of rights of communities.

To guarantee cultural heritage safeguarding, a successful mechanism must involve lawful defense, rigorous implementation, international collaboration, communities and preservation policies and procedures. Cultural heritage conservation is not merely needed in preserving cultural identity, promoting cultural diversity but also in promoting social justice and sustainable development in future.

