INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed JournalMulti Disciplinary
Peer Reviewed Edition :

www.ijlra.com

 ISSN: 2582-6433

DISCLAIMER

ISSN: 2582-6433

EDITORIAL TEAM

EDITORS

Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

ISSN: 2582-6433

Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India.India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020).Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi.Formerly Assistant professor of Law,Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration.10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.

Avinash Kumar

Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ISSN: 2582-6433

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANLAYSIS ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

www.ijlra.com
Volume 2 Issue 7 | March 2024
ISSN: 2582-6433

"PRESERVING HERITAGE: STRATEGIES FOR PROTECTING TRADITIONAL KNOWLEDGE IN IP LAW"

AUTHORED BY - ANKITA SRIVASTAVA

Abstract

Traditional Knowledge constitutes skills, and practices that are created, maintained, and transmitted from generation to generation within a society and frequently constitute a component of its cultural or spiritual identity.

Traditional knowledge is a significant characteristic of the most native cultural identities.It is composed of most needed and vital elements required to achieve sustainable development of the environment. There have been endless efforts to exploit the nature of traditional knowledge in pursuance of financial and commercial gains therefore misappropriating the authentic holders of their recognition .Hence preservation of the social and physical environment of the traditional knowledge is of utmost importance. The community that has amassed the information throughout time is the rightful owner of collective knowledge. It is made up of customs, guidelines, and knowledge that have been transmitted within an indigenous society from one generation to the next. The Indian government's Council for Scientific and Industrial Research took the initiative to record traditional knowledge (TK) in the Traditional Information Digital Library (TKDL) in order to safeguard TK, which has since shown to be beneficial for the preservation of traditional knowledge

The paper discusses many strategies that have been used to secure TK through positive and defensive protection. The paper lists the feature of the traditional knowledge , rationale behind its protection and significance of intellectual property law in protection of traditional knowledge. The paper also discusses the role of international organisations in safeguarding traditional knowledge. Pertaining to specific flaws in the current IPR system, bio pirates exploit intellectual property rights (IPR) as a weapon to misuse biological resources and steal conventional knowledge. The conclusions of this paper bring out gaps in the current IPR system with reasonable and possible suggestions.

ISSN: 2582-6433

INTRODUCTION

India is a country of culture , traditions and invaluable heritage. India ranks 12[th1]under super biodiversity countries. It is known for its rich biological diversity heritage and has recorded over 91200 animal species and 45500 plant species in its 10 bio geographic regions. It is a hub of crop and wild varieties. This reassuring environment makes India rich in traditional knowledge of the properties and uses of this various biological assets. The indigenous and local population have their habitat in this natural bounty area and they possess conventional environmental information and sustainable importance. Traditional knowledge is hard to achieve and open to vulnerabilities. The invaluable traditional knowledge is a treasure for sustainable future hence vulnerable to misappropriation therefore demands protection.

Traditional knowledge refers to the Knowledge that has been transmitted orally via experience and teachings from one generation to the next. There are very few written accounts of these customs; instead, this kind of information is stored in a community's collective memory and is always changing. Many ancient tribes' senses of cultural and spiritual identity is deeply ingrained in their traditional wisdom, which is sometimes even revered.

The fact that TK has no proprietors and that the identity of its original creator(s) is unknown is one of its main characteristics. Rather, every generation has custodians who protect it for the good of the entire community The extensive collection of knowledge known as traditional knowledge (TK) encompasses a wide range of topics, including the properties of various plants, animals, minerals, and soils; combinations of organic and inorganic materials; medical knowledge; and folklore expressed through crafts, music, dance, poetry, and other artistic mediums.

Traditional knowledge also safeguards all intellectual creations made by ancestors and progressively improved by succeeding generations in a traditional community, including science, technology, ecology, medicine, agriculture, and biodiversity. TK is utilized to maintain the necessary genetic capital for the community's continuous survival as well as the population and its culture. The need for an efficient defence of traditional information has grown, either as a result of the establishment of the conventional IPR framework or through a modern sui generis system[2], such as the traditional rights of the group or the rights of group land. There is also a need to encourage societies to leverage traditional perception for their progression and

[1] [1] http://www.nbaindia.org/faq.htm.
[2] T Cottier and M. Panizzon, "Legal Perspectives on Traditional Knowledge," Journal of International Economic Law, Vol. 7, 2004, p. 387.

ISSN: 2582-6433

improvement.

FEATURES OF TRADITIONAL KNOWLEDGE

Peoples with long histories of interacting with the natural environment have retained and produced a cumulative body of information, know-how, practices, and representations that is collectively known as traditional knowledge. These intricate webs of knowledge, interpretations, and meanings are a component of a larger cultural complex that includes worldviews, language, naming and classification schemes, rituals, and the utilization of resources.

1- Embedded with context-Indigenous knowledge is transmitted by "doing" and observation. The skills and information required for survival are part of the knowledge that is inherent in the natural world.
2- Holistic knowledge -Every piece of knowledge is related. Indigenous knowledge is crafted from myths, tales, customs, abilities, and values that collectively paint a complete picture of how interdependent humans and their environment are.
3- Living Interdependence -Native Americans are aware of the unbreakable bond between humanity and the land. The traditional wisdom of Indigenous people views "all my relations" as including all species and the planet, preserving sacrosanct, respectful, and long-lasting relationships with the ground.
4- Long term perspective – Indigenous people circle time with "a long-term sustainable viewpoint and a multigenerational perspective for decisions".
5- Dynamic culture -While preserving their connection to the land, indigenous cultures have been fast to adopt new technology, work to better their lot in life, and change and adapt colonial systems to suit their needs.

RATIONALE TO PROTECT TRADITIONAL KNOWLEDGE

Indigenous people provide the rationale for maintaining traditional centres of expertise on social justice issues and the right to preserve, manage, and control one's cultural heritage. Additionally, those communities have a right to a just reward for their development. Furthermore, because TK has so much to offer contemporary society, even non-Indigenous people are deeply motivated to see to it that it is used equally. It is being utilized more and more to support decision-making in a number of areas, including food and diversity, health, commerce, and economic expansion. On this basis, TK should be safeguarded for five reasons.

a-Equity

ISSN: 2582-6433

b-Conservation of biodiversity

c-Preservation of established practices

d-Prevention of bio piracy, and

e-TK's significance in development

Equity

Interest generated by traditional knowledge is not appropriately recognized or compensated for. For instance, by consistently choosing the best kinds that are suited to their needs, traditional[3] farmers have enhanced the value of plant genetic resources by caring for, using, and enhancing both plants and animals. At this point, seed businesses gather the varieties, prepare them, and market them for purchase. They are also allowed to protect the varieties and profit from them while the farmers are left out thanks to Plant Breeders Rights. Hence, the genetic diversity found in agricultural plants—variants that have amassed, documented, selected, multiplied, traded, and preserved over hundreds of generations—is what farmers and scientists rely on. The paradox is that although scientists may defend and profit from their discoveries, conventional farmers' efforts are Ignored.

Conservation of biodiversity

Indigenous peoples and local societies showcase their cultures via innovative applications of their knowledge and customs. Thus, preserving the relationship between humans and other members of the natural world, such as plants and animals, is essential to the preservation of human civilization. Thus, the preservation of TK will promote food security, sustainable agriculture, and environmental preservation.

Preservation of established practices

The foundation for maintaining traditional living habits and awareness will be provided by TK security. Preserving traditional knowledge can ensure the survival of indigenous and traditional people as well as aid safeguard people's right to self[4]-identification. This function undoubtedly extends beyond the protection of intellectual property rights (IPRs) afforded by TRIPS or any other international agreement. When TK is protected by the right kinds of intellectual property rights, its value and desirability rise, earning it additional recognition and preservation value.

[3] Carlos Correa, "Traditional Knowledge and Intellectual Property: Issues and options surrounding the protection of traditional knowledge", 35 (3rd Ed., November 2001).
[4] Ibid

ISSN: 2582-6433

Prevention of biopiracy

Numerous patents on genetic resources and knowledge obtained from poor nations in Africa and elsewhere have been granted. The application of patent number 5, 401, 5041, which was awarded for the ability of turmeric acid to heal wounds, is one instance of this. Before the USA licensed the patent, the invention was in use for centuries in India. The repeal application was successfully filed by the Indian Council for Science and Industrial Research (CSIR). The Japanese patent for Kenya's kiondo was not revoked, nor were the patents for the microorganism that prevents jeans from fading or the energy-saving jiko, to mention a few other.

Traditional knowledge in development

It Is necessary to safeguard TK from theft and unauthorized use. Local groups may share their TK and genetic resources as a means of defence. Additionally, information owners will be incentivized to make their TK easily accessible if they get payment. They might also be urged to keep it up to date so that access and use can continue in the future. In terms of traditional medicine, the application of intellectual property rights (IPRs) for protection may limit access to goods and services that are crucial to a society. Additionally, the government must to think about promoting TK use in order to prevent misappropriation.

ROLE OF INTELLECTUAL PROPERTY RIGHTS IN PROTECTION

Intellectual property rights are meant to safeguard investments made in research and development (R&D) and to encourage invention by giving inventors incentive. However, the interpretation and creation of IPR has prioritized altering other people's willingness to participate. Private companies use intellectual property rights to profit from our natural resources and use conventional knowledge. Biopiracy deprives tribal communities and rural farmers of their natural resources and related expertise. Conventional knowledge-based commodities are too expensive for bio-pirating enterprises because they are charging exorbitant prices for these goods. Many disagreements about the protection of indigenous people's rights, the sustainability of the region's flora and fauna, the state of the world's climate, and even the nation's capacity to produce food are brought about by biopiracy. The World Trade Organization's (WTO) TRIPS agreement emphasizes patent rights, while also disregards the rights of traditional knowledge holders. IPRs can be utilized as TK security tools if they can be improved and interpreted in a legitimate and just manner. Despite numerous flaws in the current IPR regime, there are still some essential principles that can be used either way, i.e., as a defensive or constructive security mechanism to

ISSN: 2582-6433

protect conventional information. National intellectual property rights laws and international treaties should be pursued in order to safeguard the rights of indigenous peoples, their biological resources, and related knowledge.

- **PATENT ACT ,1970**

The patent statute Is relevant for the protection of technological solutions that are uniformly new, scientifically significant, and need a creative stage. Patents on genetic resources and traditional knowledge (TK) related to inaccessible, synthesized, or created items derived from genetic structures, microorganisms, plants, animals, or species living in their natural environments, for instance, may be withdrawn. Processes related to the use and exercise of those assets are accorded patent protection, as are procedures that are well-known to indigenous communities and satisfy the same standards. Section 3(p) of the Indian Patent Act, 1970 prohibits the protection of traditional knowledge under Indian patent laws. A combination or replication of known properties of traditionally known components, or an innovation that is effectively traditional knowledge, is not an invention and is not subject to patent protection. For instance, the method of preparing an improved herbal product described in the patent application comprises chopping, roasting, and combining dry fruits with the product; nevertheless, this procedure does not qualify as an invention under Section 3(p) of the Patents Act 1970 (as amended in 2005). Since this invention relies on conventional knowledge, it cannot be patented under the Act.

2005 Amendment

The purpose of the 2005 Patents (Amendment) Act was to defend the rights of indigenous people. It requires patent applicants to reveal where the biological resources used in their ideas came from. The patent office may decline to award the patent if the information relates to TK.

- **COPYRIGHT ACT ,1957**

The means of speech and expression are protected by copyright, not the ideas themselves. Any of the activities listed in section 14 of the Copyright Act, 1957, are authorized to be carried out by the copyright holder. Copyright can be utilized to protect the creative expression of TK holders, particularly artists who are members of indigenous and indigenous groups, against unauthorized use and illicit replication. Moral rights govern the connection between authors,

ISSN: 2582-6433

artists, and creators and their works[5].

The expression form—rather than the ideas themselves—is protected by copyright. Any action permitted by Section 14 of the 1957 Copyright Act may be taken by holders of a copyright. Copyright can be used to protect the artistic expressions of TK holders from misuse and unauthorised copying, especially for artists from migrant and indigenous cultures. The link between creators, artists, and authors and their work is the subject of moral rights. These rights might offer a crucial means of defending the rights of indigenous peoples to works that are produced using their knowledge.

- **THE PROTECTION OF PLANT VARIETIES AND FARMER'S RIGHTS ACT, 2001**

The Act became operative in September of 2001. This sui generis law was created in accordance with the WTO's TRIPS agreement. The following criteria apply to plant varieties that are eligible for preservation: cultivator's variety, unique variety, contemporary variety, and primarily derived variety. Conventional farming techniques are employed by farmers and tribal communities to cultivate and conserve a variety of traditional crops. The main element of the legislation is outlined by the concept of an effective profit-sharing agreement between the provider and the recipient of plant genetic resources. If a new variety satisfies the critical requirements of being distinct, stable, uniform, and novel, the plant breeder can get the plant breeder's right (PBR) for that variety. PBR is now available for traditional plant diversity[6].

- **GEOGRAPHICAL INDICATIONS OF GOODS (Registration and Protection) Act, 1999**

Locals have traditional knowledge cooperatively, and the best format for preserving it is geographic indications (GI). The Geographical Indications of Products (Regulations and Preservation) Act governs a community in a certain locality. While GI security is good for ten years, it can be extended indefinitely to protect GI for an indefinite amount of time. The processes used in product manufacturing are changing with time to produce goods of higher quality. Traditional medicinal medicines can also be protected by GIs.

GIs recognize and compensate farmers for their long-standing cultural dedication to social

[5] The Copyright Act, Section 57.
[6] PPV& FR Act, Section 2(j).

ISSN: 2582-6433

networking, conservation, lateral learning, and survival by placing a premium value on their products. By recognizing the cultural values and inventiveness of TK holders, GIs will aid in the survival and advancement of civilization.

- **INDUSTRIAL DESIGN AND TRADITIONAL KNOWLEDGE**

One sort of intellectual property is an industrial design, where the aesthetic function of the object is emphasized by its visual appearance. Industrial designs might include the shape and style of traditionally created items prepared by indigenous people or associations on their behalf, such as clothing, furniture, receptacles, wooden objects, leather pottery, etc. For safety reasons, traditional handcrafted goods like cotton bed linens and carpets that are woven by hand may also be categorized as industrial design. India's rich cultural legacy is ingrained in a plethora of traditional patterns.

- **GLOBAL PROTECTION OF TRADITIONAL KNOWLEDGE**

Global recognition of the importance of preserving knowledge, uniqueness, and customs of indigenous and local groups is growing. The first attempt to protect traditional knowledge under the IP regime was made in 1978 through a joint initiative by WIPO and the United Nations Educational, Scientific, and Cultural Organization (UNESCO). This effort led to the further fortification of folklore expressions against illegal exploitation and other detrimental conducts in 1982. Since the Convention on Biological Diversity (CBD) was ratified in 1992, there has been an increasing focus on the safeguarding of conventional information

i. WORLD HEALTH ORGANIZATION (WHO)

The World Health Organization—a specialized body of the United Nations—was established on April 7, 1948. The WHO's work in traditional medicine is informed by its contribution to traditional knowledge. As the economic and commercial value of traditional knowledge, particularly the knowledge of traditional medicine and medicinal plants, has become increasingly recognized, more and more WHO member states are becoming concerned about the need to protect it and the organization's constitutional goal of achieving the highest standard of health for all citizens

ii. CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

The Convention on Biological Diversity (CBD) was finalized on June 5, 1992. It was the outcome

ISSN: 2582-6433

of discussions held in Rio de Janeiro in 1992 under the auspices of the United Nations Environment Programme (UNEP). Under the direction of the United Nations Environment Programme (UNEP), the CBD creates guidelines for environmental preservation that also support ongoing economic expansion, biodiversity awareness, sustainable usage, and equitable distribution of the proceeds from the use of inherited resources. The CBD also recognizes the importance of the traditional use of genetic resources in the long-term preservation of biological variety. It confirms the right to exploit biological transfer from developing nations and highlights the fact that intellectual property rights (IPRs) should not impede biodiversity conservation and sustainable usage. Likewise, clauses pertaining to creation, promotion.

iii. WORLD INTELLECTUAL PROPERTY ORGANISATION (WIPO)

In 1978, WIPO and UNESCO collaborated to develop the Sui generic model for national folklore protection, marking the beginning of WIPO's work on traditional knowledge and folklore. A fresh proposal from WIPO was launched in 1998. It included a fact-finding contact mission to 28 countries in both IP and TK, which formed the basis of an international research on the goals of TK holders and the demands of IP. The IGC was established by the WIPO General Assembly during its 26th meeting. It has also done a commendable job of producing an impressive array of documents, such as the Conventional Information Security documentation toolkit, model clauses for contracts pertaining to genetic resources, and an effort to establish the foundations of a potential sui generis scheme for the security of traditional knowledge.

TRADITIONAL KNOWLEDGE PROTECTION

Traditional knowledge in IPR is usually protected through two methods – positive protection and defensive mechanism.

- **POSITIVE PROTECTION**

Giving holders of traditional knowledge the legal authority to take appropriate action and pursue redress in the event that their knowledge base is misused is known as protection. It entails the adoption of particular laws, rules, and regulations in addition to having access to benefit-sharing plans, royalties, etc. Typical knowledge holders who obtain intellectual property rights directly through patents or other forms of protection are considered to be beneficiaries of positive protection. In this regard, states have adopted a variety of actions. Certain states consider that using the current IP laws is a suitable means of protecting traditional knowledge. Others think

ISSN: 2582-6433

that because traditional knowledge is unique, we need a new system that works in tandem with the current intellectual property system. The "sui-generis" processes are what are used to protect conventional knowledge. Additionally, states have occasionally modified or increased new intellectual property rights in light of general awareness.

- **DEFENSIVE PROTECTION**

Conversely, defensive mechanism describes the actions traditional knowledge holders take to stop others from obtaining their intellectual property rights. This technique of knowledge protection aids those who possess traditional knowledge in defending their illegally obtained intellectual property rights. This approach guards against third parties obtaining unauthorized intellectual property rights on traditional knowledge. The privileges are: Provision in the patent application for disclosure of the source of genetic resources and associated traditional knowledge relevant to the innovation. Creation of a database that is available to patent reviewers and includes all available information on conventional knowledge in a scientific and technological way. A database like this will make it easier to assess how original the invention in question is.

RECOMMENDATIONS

a. It Is important to fully establish and employ national and international intellectual property enforcement tools that guarantee lawful access to genetic resources and traditional knowledge.
b. It is important to preserve and strengthen the political and legal flexibility in the current international agreements and talks to create and put into place defensive and protective structures to safeguard traditional knowledge.
c. Widespread and productive involvement of native communities and other nearby groups in all talks and agreements about genetic resources and traditional knowledge.
d. According to the People's Biodiversity Registers, the Botanical Survey of India (BSI) and Zoological Survey of India (ZSI) should ascertain the validity of the plants and animals that are used by their respective societies.
e. It should be permitted for the traditional communities to create a database containing their TK. The TK would thus be considered "prior art" in light of these data.

LANDMARK JUDGMENTS OF TRADITIONAL KNOWLEDGE IN IPR

ISSN: 2582-6433

The Turmeric case

East India is home to the cultivation of the tropical plant turmeric. Turmeric powder is extensively utilized in India for a variety of purposes, including food additive, medication, and colouring. For instance, it is used as an antiparasitic for numerous skin infections and as a blood purifier in the treatment of the common cold. It is a crucial component of many Indian dishes as well. The University of Mississippi Medical Center received a patent for the use of turmeric in wound healing from the United States in 1995. The use of "turmeric powder and its administration" for topical and oral wound healing was the claimed subject matter. It was granted the sole authority to market and distribute.

The Indian Council for Science and Industrial Research (CSIR) filed a written protest with the USPTO challenging the issued patent and supplying evidence of prior art. Although the use of turmeric has long been acknowledged in Indian households, it has proven to be an arduous task to locate written information regarding the application of turmeric powder topically and orally for wound healing. As a result of thorough investigation, 32 references—in Sanskrit, Urdu, and Hindi—were found in different languages. Consequently, the USPTO revoked the patent, ruling that the claims made in it were clear and expected, acknowledging that using turmeric to cure wounds was an age-old practice. Consequently, the Indian-owned TK was protected in the turmeric case.

The Basmati rice case

A US patent was awarded to the American company "RiceTec." For basmati rice .the corporation asserted that it's their unique innovation that makes this rice. India threatened to take the case to the WTO on the grounds that it violated TRIPS, stating that the invention they are claiming is untrue. Later, RiceTec retracted the patent's claims. RiceTec was granted permission to patent their innovation in the form of a basmati rice variety.

CONCLUSION

Conventional wisdom possesses a remarkable capacity to address the new issues facing humanity. Although using this information is very Important, it must be balanced with security, advertising, and benefit sharing. One could refer to traditional knowledge as the newest IP member. However, in addition to the (un)will of nations, judgments about how to handle this child must take into account a number of issues. Put more accurately, traditional knowledge, or the informal sector information network, is primarily oral, poorly documented, and thus not defendable. Although

ISSN: 2582-6433

India has made progress and established a repository of its ancient knowledge, the necessity for a legal instrument is become more pressing on a global scale.

By reducing the likelihood of bio piracy, traditional knowledge documentation shields it from exploitation and theft by outside parties. The Traditional Knowledge Digital Library (TKDL), which should be maintained by a team from the federal government or the state government, should be updated on a regular basis as the preventive measure outlined above. TKDL contributes to protection through current systems. WIPO members seek to compel resource origin disclosures, proof of prior informed permission, and benefit-sharing agreements to be included in patent applications. India is a developing nation, hence efforts to further its growth should also focus on preserving its innate knowledge.

REFRENCES

- **https://www.wipo.int/edocs/mdocs/tk/en/wipo_unhchr_ip_pnl_98/wipo_unhchr_ip_pnl_98_4.pdf**
- **https://www.manupatra.com/roundup/363/articles/ipr%20and%20traditional%20knowledge.pdf**
- **https://www.researchgate.net/publication/228123573_Traditional_Knowledge_and_Intellectual_Property_Rights_A_Note_on_Issues_Some_Solutions_and_Some_Suggestions**
- **https://www.scconline.com/blog/post/2020/06/22/intellectual-property-rights-and-protection-of-traditional-knowledge-a-general-indian-perspective/**
- **https://shodhganga.inflibnet.ac.in/bitstream/10603/22605/11/11_chapter4.pdf**