

RECOMMENDATIONS OF THE CIVIL SOCIETY CONSULTATION ON INDIGENOUS KNOWLEDGE

NEW DELHI, 4 APRIL, 2002

- o Indigenous knowledge is a valuable and sophisticated knowledge system developed over generations by local communities in various parts of the world. This knowledge is validated over time in a way that is different to the western empirical system.
- o IK has been developed in many fields and is still evolving. It is a technology or know-how capable of providing sustainable solutions to many modern day problems. This fact should be acknowledged and the commercial use of IK should be handled in the same way that other technologies are.
- o The economic value of IK is to be seen in the herbal medicine and nutraceutical sector which is estimated to touch roughly 5 trillion by the year 2020. The share of benefits accruing to communities from the commercialisation of IK should reflect this figure.
- o The phenomenon of biopiracy is cause for great concern and calls for action at both national and international level.
- o It is important to develop an indigenous paradigm to discuss the issues related to IK, identify the problematic areas and develop solutions. The debate and its content must be generated indigenously.
- o We need a national legislation specifically to protect IK. This should be followed by negotiations at the international level for an International Agreement to protect IK and the rights of local communities.
- o The real challenge before us is to develop a *sui generis* system to protect the Intellectual Property of communities in the field of IK related to biological resources. This is the new, least understood and most controversial area and needs the most attention.
- o Patents on genetic resources and IK should not be allowed on ethical, social and economic grounds. Existing IPR (like trademarks and certification) should be used to protect IK only when unambiguous protection can be granted to the community. The concept of public domain must be maintained in the IPR system (as in the ITPGR where anyone who restricts access to material in the public domain has to pay into a common conservation fund.)
- o Conservation of IK and bioresources has to be taken up on a priority basis. Strategy for protection should take into account the fact that genetic resources and IK are inextricably linked.
- o Documentation of (oral) IK of communities and their legal protection is urgently needed in view of the rapid erosion of this knowledge base. Special attention needs to be paid to

thousands of undeciphered manuscripts. Legally protected databases with suitable contractual agreements based on CBD principles should be set up.

- o The herbal drug industry should be allowed to use plants only from cultivated sources. Collections from nature should only be permissible for local communities and traditional healers and monitored for sustainability.
- o Disclosure, informed consent and equitable benefit sharing should be mandatory for any commercial use of IK and genetic resources. Concrete and specific methods of sharing benefits should be worked out in the event of commercialisation. Develop a community-industry-national authority interface to work out these modalities. Concrete & specific methods of sharing benefits in the case of commercialisation should be worked out in favour of communities.
- o There is a need for greater investment in research in IK by both the government and the private sector. A special focus on taxonomy is needed to understand and classify the bioresource base. Investment is needed in the standardisation and quality control of IK derived products.
- o To conserve IK, it is crucial to accord it prestige and value. Integrate the Indigenous Systems of Medicine into the mainstream health and veterinary care system on par with the conventional system. Involve local communities in policy formulation and decisions. Work to give the youth a stake in the conservation and use of IK.
- o Develop a system of rewards and recognition for creators and holders of IK, as we do for other achievers.
- o Keep transmission of IK alive, both among the local people and outsiders, in a variety of ways. Include IK in all development programmes. Create awareness at the local panchayat level, particularly among women and the youth, about the value of IK. Generate awareness among the community, as also mainstream youth, about the long-term sustainability of IK and the attendant economic rewards. Lobby with the scientific (particularly medical) elite about the need for dialogue with IK. Organise local practitioners in combination with middle class activists/scientists around IK research issues.

Action needed at the international level

1. Implement sincerely the relevant provisions of the international commitments like the ILO Convention, the IUPGR, the UNESCO/WIPO Guidelines for Protection of Folklore, the UN Draft Declaration on the Rights of Indigenous Peoples, and the CBD.
2. Remove Article 27.3.b from TRIPS. To start with, retract the demand for patents on life forms.
3. Do not remove the flexibility of countries to draft their own *sui generis* legislation for plant varieties by now insisting on compliance with UPOV.

4. Apply Article 29 of TRIPs which requires disclosure in the case of patent applications, to genetic resources and traditional knowledge used in inventions for which IPRs are claimed.
5. In the CBD, give primacy to conservation since that is what will conserve the basis of IK and continue to provide livelihoods and value addition opportunities to communities.
6. Enhance the scope of Article 23 of TRIPs to strengthen protection of geographical indications for goods other than wine and spirits, such as Darjeeling tea.
7. Ensure that any agreement on databases like the proposed Database Treaty (which will govern databases like the Indian TKDL) recognises the ownership of communities and includes provisions for PIC, MTA and benefit sharing when granting access.