

Biodiversity and intellectual property rights

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The massive resource of biodiversity is generally observed as a public good. As such, it is seen as indivisible, with a constant amount of public benefit available to all, independent of any single person's consumption. A market for biodiversity can and does exist. One of the most effective ways of establishing property rights in biodiversity is the protection of intellectual property rights (IPRs) in the genetic, chemical and biological materials that constitute biodiversity. When IPRs are inadequately protected, grave financial consequences are suffered by the owner of the IPRs.

The insertion of the western IPR regimes in the area of biodiversity is completely opposed to original knowledge systems. In pursuance to the Convention on Biological Diversity (CBD), India had enacted the Biological Diversity Act in 2002 following a widespread consultative process over a period of eight years. NBA imposes conditions which secure equitable sharing of benefits arising out of the use of biological resources and associated knowledge. These benefits could include monetary gains; grant of joint ownership of Intellectual property Rights (IPRs), transfer of technology, association of Indian scientists in research and development, setting up of venture capital funds etc.

The UPOV (Union for the Protection of New Varieties of Plant) Convention represents a western devised form of plant variety protection, other than patenting. Plant Breeders' Right (PBR), is being promoted as the most favorable form of adoption under the sui generis option for developing nations by the developed nations. This paper provides study of an inter-relationship between Biodiversity and Intellectual Property considering Indian scenario.

Biography

Ujwal Nandekar, has completed his graduation in law at the age of 23 from University's College of Law, Nagpur and pursuing his post-graduation in law (Intellectual Property Rights) from Symbiosis Law School, Pune.

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