

Traditional Knowledge, Intellectual Property Rights and the Patenting of Life

TRADITIONAL KNOWLEDGE

Traditional Knowledge plays a crucial role in economic, social and cultural life and development, not only in traditional societies but also in “modern” societies. In the future this will continue to be so, particularly considering the role of modern technologies, production methods and products in contributing to the global environmental crisis.

Traditional knowledge is generally commonly owned - i.e. owned by the community, e.g. knowledge about plants that are used for healing.

INTELLECTUAL PROPERTY RIGHTS (IPR)

These include patents, copyrights, trade secrets ... and were meant for non-living applications, e.g. a patent for a brick making machine. However, the biotechnology / pharmaceutical industry is increasingly using IPR to patent living organisms e.g. the patent on the *Hoodia* plant found in South Africa and GM seeds.

GM seeds and plants belong, through patent rights, to the company that created them! When you use these seeds you sign a contract with the company that you will not save them for the next season or share them with other people. You are also required to pay a yearly fee for using the company's patented product. Monsanto has sued farmers in the USA & Canada, whose crops have been contaminated by GM grains falling off trucks into their fields, for violating their patent.

Under the WTO (World Trade Organisation), and in particular the TRIPS agreement (Treaty on Trade Related Aspects of Intellectual Property rights), IPRs are strictly controlled. Many people think TRIPS conflicts with another international agreement, the CBD (Convention on Biological Diversity) - which South Africa is signatory to - that defines how genetic resources and traditional knowledge should be exchanged and used.

Bioprospecting

Biodiversity prospecting or “bioprospecting” is the exploration of biodiversity for commercially valuable genetic resources and biochemicals. Companies can patent the active compounds they find in plants, use traditional knowledge without Prior Informed Consent (PIC) or even exclude the people who have shared their traditional knowledge with a company or researchers from benefits derived from their knowledge such as the sale of a product. When this happens, it is **biopiracy**.

SOME IMPLICATIONS OF INTELLECTUAL PROPERTY RIGHTS (IPR) ON TRADITIONAL KNOWLEDGE SYSTEMS

- Loss of spontaneous sharing and exchanges of resources and knowledge among communities
- Commodification of biological resources and traditional knowledge

KEY QUESTION: No patents on life?



Zapiro's Farmer Pig cartoon (Mail & Guardian, 19 February 2004)

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