



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

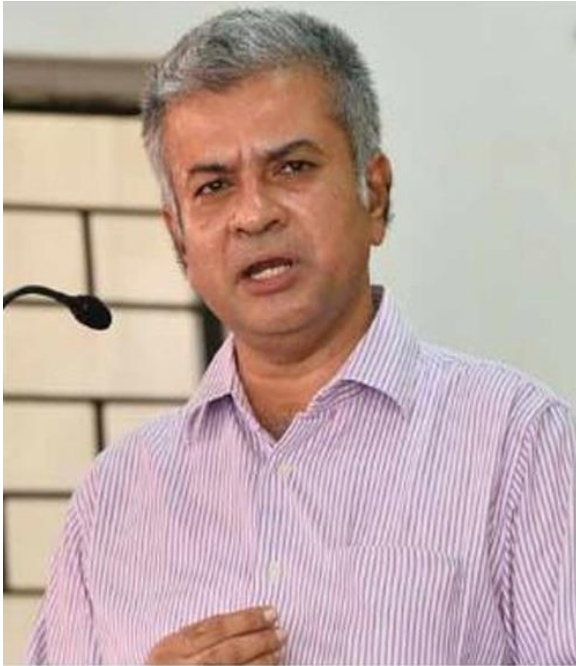
DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and diploma in Public

a professional Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

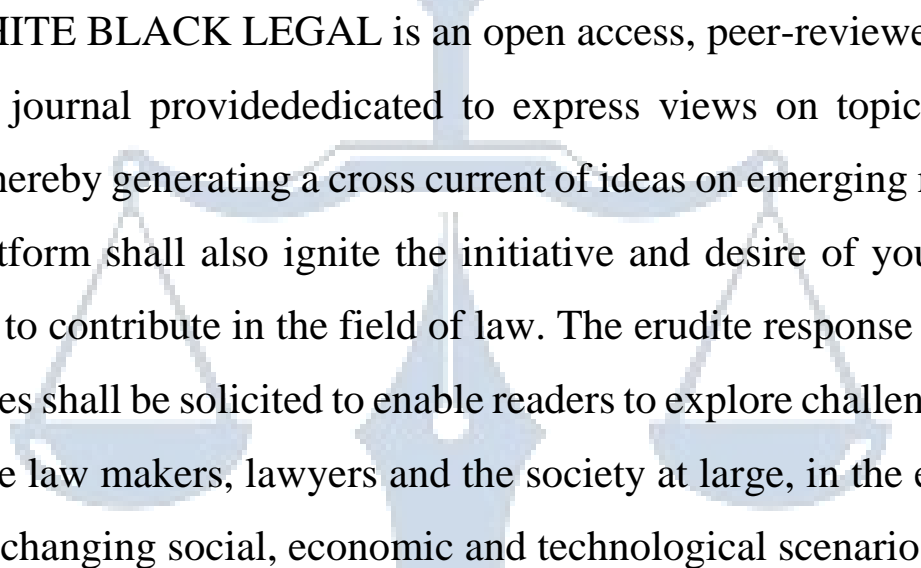


Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

DEMYSTIFYING THE WIPO TREATY: PROTECTING TRADITIONAL KNOWLEDGE

AYTHORED BY - ASHUTOSH RATURI
CO-AUTHORED - RAMAKANT TRIPATHI

ABSTRACT

The WIPO Treaty on Intellectual Property, Genetic Resources, and Traditional Knowledge aims to defend the rights of indigenous communities and protect their cultural heritage. The complex legal and ethical issues pertaining to the use and ownership of genetic resources and the traditional knowledge they are associated with are addressed in this historic agreement. The treaty aims to guarantee equitable benefit-sharing and prevent misappropriation through international cooperation and legal frameworks. Nevertheless, there are difficulties in putting it into practice, such as defining terminology and juggling conflicting interests. This article highlights the importance of the treaty in defending the intellectual property rights of indigenous peoples around the world by giving a succinct summary of its goals, ramifications, and difficulties.

The WIPO Treaty on Intellectual Property, Genetic Resources, and Traditional Knowledge¹ is a milestone in the field of Intellectual Property, Genetic Resources and Traditional Knowledge. It was signed at the World Intellectual Property Organisation (WIPO) in Geneva from May 13 to May 24, 2024. A noteworthy development in international intellectual property law is the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge. This is the first of its sort, having been adopted at the Diplomatic Conference to Conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources, and Associated Traditional Knowledge with Genetic Resources.

This treaty's primary goal is to resolve the complex interrelationships among genetic resources, traditional knowledge, and intellectual property rights. It is noteworthy because it is the first WIPO

treaty with explicit provisions for local communities and Indigenous Peoples. This convention will herald in a new era in international law, specifically in patent regulations

¹ WIPO, *WIPO Member States Adopt Historic New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge*. PR/2024/919. Available at https://www.wipo.int/pressroom/en/articles/2024/article_0007.html. (Visited on June 05, 2024). concerning genetic resources and associated traditional knowledge. Once it is ratified by 15 contracting parties.

A crucial disclosure requirement is now in place for patent applications whose inventions depend on genetic resources or related traditional knowledge, according to the treaty. In particular, it requires patent applications to reveal the nation of origin or source of genetic resources as well as the Indigenous Peoples or local communities engaged in the case of traditional knowledge. Genetic resources are used as the foundation for many discoveries that are protected by intellectual property rights, mostly through patents. These resources can be found in medicinal plants, agricultural products, and animal breeds. The treaty also recognises the complex relationship that exists between genetic resources and traditional knowledge, which is frequently used and conserved by Indigenous Peoples and local communities for many generations. When combined with scientific study, this information can greatly aid in the creation of patentable inventions. The conference was classified in two committees, namely Main Committee I and Main Committee II. They were the two main committees of the WIPO diplomatic conference held in Geneva. In contrast to the former, which concentrated on negotiating substantive intellectual property provisions, the later dealt with concluding clauses and administrative issues. Leading this historic occasion were notable individuals like Ms. Vivienne Katjuongua, who chaired Main Committee II, and Ms. Jodie McAlister, who chaired Main committee II.

More committees were established during the meeting to guarantee that the negotiations proceeded without hiccups. These committees included the Drafting Committee, which was in charge of coordinating the wording of the treaty throughout its six iterations, and the Credentials Committee, which was in charge of confirming delegate credentials. These committees' dedication, coupled with the combined efforts of the participating countries, resulted in the treaty's development and approval. Signing the treaty at the end of the conference shows a strong commitment to its ideas,

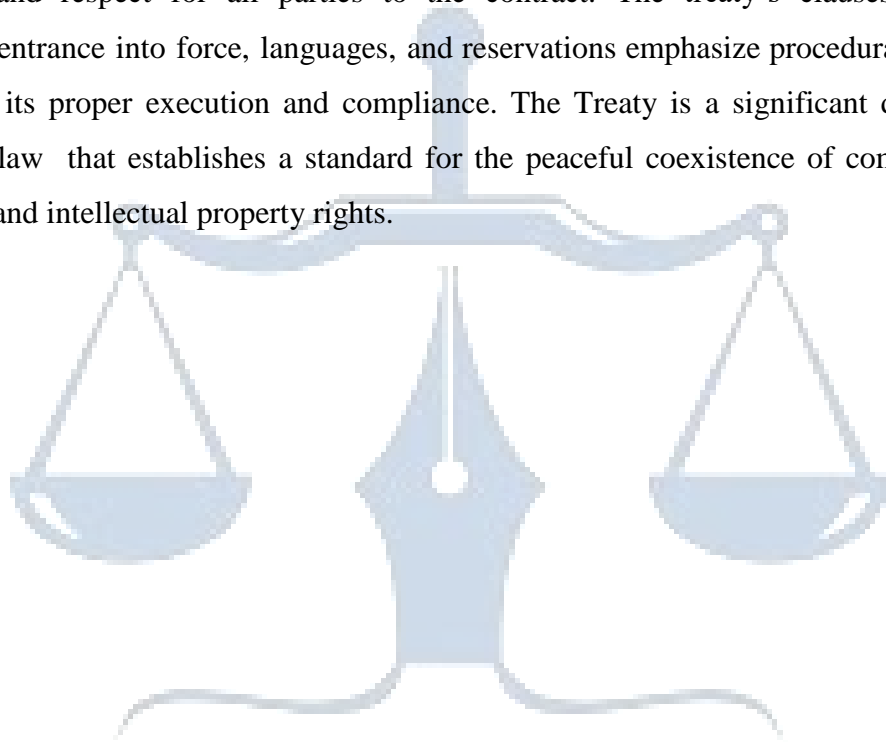
even though it does not legally bind countries to its contents. Furthermore, the Final Act, which functions as a conference record, is still available for signature after adoption. Article 1 of the treaty deals with the goals of the treaty, which are improving the quality, effectiveness, and transparency of the patent system with regard to traditional knowledge and genetic resources. Avoiding the wrongful issuance of patents for innovations pertaining to genetic resources and traditional knowledge related with genetic resources that lack originality or ingenuity. Article 1 essentially lays the foundation for maintaining a just and equitable intellectual property environment, protecting the interests of all parties concerned.

The complete framework of the treaty is designed to promote accountability, equity, and transparency in the domain of intellectual property rights. Article 3 establishes a rigorous disclosure standard for patent applicants, guaranteeing openness over the source of genetic resources and related conventional knowledge. It requires the nation of origin or source to be disclosed, which creates a vital connection between inventions and their basic components. In addition, the treaty's commitment to complete documentation and contribution acknowledgment is emphasized by the provision for situations in which this information is unknown. As per the article, patent applications must disclose the source of genetic resources and related conventional knowledge. The article encourages transparency and makes sure that the contributions of different countries and knowledge holders are recognised and valued by mandating patent applications to submit this data. Through the facilitation of informed decision-making during the patent granting process, it prevents the misuse of traditional knowledge resources. Article 4 states that patent applications submitted before the treaty's entry into effect are protected by the principle of non-retroactivity, which guarantees a fair transition into its regulations. This clause establishes a precise limit for the applicability of the treaty's commitments while respecting current national legislation. It guarantees that patent applications lodged prior to the treaty's entry into effect will not be subject to retroactive duties. This clause gives patent applicants legal certainty while respecting current country legislation. By exempting prior patent applications from the new disclosure requirements, it protects the interests of countries and knowledge holders and helps to prevent potential legal problems. Article 5 outlines the procedures for enforcing disclosure requirements and highlights the significance of appropriate penalties. The exclusion clause recognises instances of fraudulent conduct and ensures accountability without unduly penalizing, while the possibility for rectification prior to punishment highlights a constructive attitude toward compliance. The article lays out steps

to address instances of necessary information being omitted from patent applications. The article encourages adherence to the disclosure obligations outlined in Article 3 by instituting suitable penalties and remedies. By discouraging fraudulent activity and guaranteeing that patent applications meet their responsibilities, it preserves accountability and advances the intellectual property rights of states and knowledge holders.

Article 8 states the periodic review commitment, which illustrates how flexible the treaty is in response to changing IP environments and new technological advancements. This particular section highlights the treaty's dynamic nature and commitment to ongoing improvement by discussing future expansions of the disclosure requirement as well as other significant topics. Contracting parties are required by Article 8 to evaluate the treaty's contents and scope in order to address new challenges and possible extensions of the disclosure requirement. Parties may adjust the treaty to new technology and changing intellectual property environments by revising it on a regular basis. This guarantees that, in the face of evolving opportunities and challenges, the treaty will continue to be applicable and effective in defending the rights of states and holders of intellectual property. Article 10 talks of the assembly which was established to act as the governing body in charge of the upkeep and advancement of the treaty. Its inclusive structure, which accepts local communities and Indigenous Peoples as observers, shows a dedication to collaboration and involvement from a variety of stakeholders. Financial assistance provisions also stress on fair participation, guaranteeing representation from all parties involved in the contract. The Assembly is designated in this article as the governing body in charge of the treaty's upkeep and development. The Assembly fosters inclusivity and collaboration by giving all contracting parties a forum to engage in decision-making processes. Furthermore, the clause allowing for the active engagement of Indigenous Peoples and local communities as observers guarantees that their viewpoints are taken into account during the treaty's implementation, protecting their rights to traditional knowledge. Article 11 deals with the International Bureau's administrative role highlighting the treaty's centralized coordination and operational efficiency. The Bureau facilitates meetings and offers logistical support to improve the efficacy of the treaty's implementation and continued administration. Article 11 delegated to the International Bureau of WIPO administrative responsibilities pertaining to the treaty. Through meeting facilitation and logistical support, the Bureau guarantees the smooth operation of the pact. This guarantees the effective implementation and enforcement of the treaty's terms, thereby promoting the intellectual property rights of states

and knowledge holders. In conclusion, every article in the treaty advances and defends the rights of countries and knowledge holders regarding their traditional knowledge and intellectual property. They create systems of openness, responsibility, and collaboration, guaranteeing that the advantages of intellectual property are shared fairly and that traditional knowledge is valued and conserved. It is imperative to underscore the collaborative spirit that is the foundation of the treaty's execution, given its multinational structure and the vast range of stakeholders involved. The Assembly's emphasis on consensus-based decision-making upholds its commitment to inclusive government and respect for all parties to the contract. The treaty's clauses pertaining to denunciation, entrance into force, languages, and reservations emphasize procedural elements that are crucial to its proper execution and compliance. The Treaty is a significant development in international law that establishes a standard for the peaceful coexistence of community rights, biodiversity, and intellectual property rights.



WHITE BLACK
LEGAL