



# SHAPING LOCAL KNOWLEDGE AND AGROBIODIVERSITY

## Policies, institutions and processes

How do international laws affect those working with plant genetic resources (PGR) managers<sup>1</sup> in national (government) programmes? How far are they obliged to obtain the prior informed consent (PIC) of indigenous peoples and local communities? When and how can plant genetic resources in food and agriculture (PGRFA) be accessed, used or exchanged? How can the associated related knowledge be used? In order to attempt to answer the above questions both existing international instruments, and those currently under development/negotiation are examined.

### THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

This international agreement has the highest profile of accords addressing this issue. The Convention on Biological Diversity (CBD), Article 8(j) requires that signatories ‘shall, as far as possible and as appropriate’ and ‘subject to [their] national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity, and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices’. Article 10(c) commits contracting parties, ‘as far as possible, and as appropriate ... [to] protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with the conservation or sustainable use requirements’.

Both of these articles are relatively vague. They do not actually spell out what states can or should do to fulfill their obligations. Part of the reason for this, is that parties negotiating the CBD did not agree on how far signatories should be obliged to go to protect traditional knowledge.

In the period leading up to 1992, when the CBD was finalized, the idea of protecting traditional knowledge was still new; no one had any fixed ideas about how it should be done. Partly, as a consequence of this ambiguity, the Conference of the Parties to the CBD (COP–CBD) established two Ad Hoc Open Ended Intersessional Working Groups to investigate, among others, the means member states could use ‘as appropriate’ and ‘subject to their own legislation’ to protect traditional knowledge.

In May 1998, the Fourth COP–CBD created the Ad Hoc Open Ended Intersessional Working Group on the Implementation of Article 8(j) to advise the Parties on the ‘development of legal and other appropriate forms of protection of the knowledge of indigenous and local communities’. In May 2000, the Fifth Conference of the Parties extended the mandate of this working group, and directed it to take steps towards the development of parameters for such legal systems.

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<sup>1</sup> Plant genetic resource managers are, primarily, farmers and farming communities throughout the world who have been, and continue to be, in charge of the management of genetic resources. In this section we refer to PGR managers as those who interact with farming communities in the management of their resources (breeders, scientists, gene bank managers).



The Working Group's mandate was renewed by the Sixth Conference of the Parties (COP VI) in April 2002. In fact, this group's progress has been slow. However, it must be appreciated that the 8 (j) Working Group's mandates is extraordinarily broad, as it attempts to work through largely uncharted territory. Furthermore, its very existence is an important stage in the potential evolution of a better defined international norm for the protection of traditional knowledge.

In October 2001, the Ad Hoc Open Ended Working Group on Access and Benefit Sharing created the draft Bonn Guidelines. This was for State Parties developing national legislation to regulate access to genetic resources and benefit sharing. A variation of these guidelines was adopted by the COP VI in April 2002 through Decision VI/24.

Though they are not binding, they still have great potential for influencing the way countries develop their access laws. Among others, the Bonn Guidelines recommend that 'respecting established legal rights of indigenous and local communities associated with the genetic resources being accessed or where traditional knowledge associated with these genetic resources is being accessed, the prior informed consent of indigenous and local communities and the approval and involvement of the holders of traditional knowledge, innovations and practices should be obtained, in accordance with their traditional practices, national access policies and subject to domestic laws.'

This is significant, because the CBD does not explicitly state that it is necessary to get the PIC of constituent communities. It has been argued that the requirement to obtain such consent is implicit in the text of the Convention; nonetheless, it is not an explicit requirement. Consequently, it could be argued that the Bonn Guidelines go one step further than the CBD in this regard. In other words, they offer an interpretation of the CBD that clarifies an outstanding ambiguity.

Furthermore, COP VI recommended that state parties should include, in their national laws, requirements for parties to provide the origin of genetic resources and traditional knowledge used when developing innovations over which they seek IP rights (Decisions VI/10 and I/24).

## **OBLIGATIONS FOR NATIONAL PGRFA PROGRAMME MANAGERS**

How much does this add up to concerning the obligations of national PGRFA programme managers? There are two answers to this question: one is legal (1) and the other is political/moral (2).

(1) The preliminary legal issue, to be considered by national genetic resources programme managers, is whether or not the country, in which programme activities are taking place, has ratified the CBD. If not, the convention does not apply, and national genetic resources programme managers do not need to follow the CBD, when taking into account their obligations towards indigenous and local communities. If the country concerned has ratified the CBD, the national genetic resource programme managers must consider a few related issues.

First, as agents or representatives of the national government, they are bound by the standards established by the CBD, even if the country concerned has not created laws to implement the CBD.

Second, if the country has implemented legislation, they should look to those laws for guidance as to how to conduct their operations. However, they may not be able to rely on the national laws. It is always possible that national legislation may not implement all the standards established by the CBD. In such cases, the national programme



manager must voluntarily consider complying with higher standards of conduct than those required by national law. This will ensure compliance with the Convention. Unfortunately, for national programme managers, these are very difficult judgements to make and are complicated by the facts set out above. In particular, the CBD does not explicitly state that national implementing laws must require access-seeking parties to obtain PIC from indigenous and local communities or traditional knowledge holders. In addition, the implementing guidelines, developed by the CBD Working Group on Access and Benefit Sharing – which include this requirement – are not legally binding. Consequently, national governments have a great deal of latitude in the interpretation and implementation of the CBD.

Strictly speaking, from a legal viewpoint, and with such precedents before them, national genetic resources programme managers are unable to ascertain if they must obtain PIC from indigenous and local communities during programme activities. As stated above, it has been argued that the CBD requires the PIC of communities, but there is no universal consensus on this point.

(2) While the CBD may not include many concrete legal obligations, it has given rise to an unprecedented level of political sensitivity to genetic resources related issues. In the court of public opinion there is no defense for parties accused of taking and using genetic resources associated with indigenous communities, without their permission. Charges of bio-piracy are not tempered by technical legal explanations, that the activity in question took place in a country that:

- ⊗ has not yet signed or ratified the CBD; or
- ⊗ determined that the CBD did not entail their requiring access, or seeking parties to obtain the PIC of indigenous and local communities.

As far as the general public is concerned, the CBD creates standards of conduct applicable to everyone, everywhere in the world. The reputations of programmes and institutions can be lost overnight through allegations of violating the spirit of the CBD. Complicating this situation, once again, are the vague terms of the CBD covering what can and should be done to advance its objectives. One party's interpretation of the CBD's definition of compliant behaviour may be another's definition of bio-piracy.

The term bio-piracy is often used to describe the misappropriation of knowledge and/or biological materials from traditional communities. The case presented below, on traditional medicines, is just one example of bio-piracy taking place. The commercial and research enterprises, involved in such activities, often use the term bio-prospecting for their screening activities. However, if the benefits obtained from such activities are not equally shared, with the local communities, bio-prospecting can rightly be considered to be bio-piracy.

### [Box 1] **USE OF LOCAL KNOWLEDGE FOR BIO-PROSPECTING – the case of drug development**

The knowledge and use of specific plants for medicinal purposes, often referred to as traditional medicine, is an important component of local knowledge. Once, traditional medicines were a major source of materials and information for the development of new drugs. However, in the 20<sup>th</sup>-century, new sources for pharmaceuticals led to a decline in the importance of ethnobotany in drug discovery programmes. Nonetheless, new discoveries of potentially potent anti-cancer agents in plants (such as turmeric and taxol), as well as a rapidly growing herbal remedies market, has revived industry interest in traditional medicinal knowledge and practices. The rekindling of interest in traditional medicine has resulted in an alarming increase in the exploitation of indigenous knowledge of the cultivation and application of genetic resources. In this regard, world sales of herbal medicine alone were estimated at US\$30 billion in 2000.

Source: Svarstad and Dhillon, 2000.



The short example above shows that local knowledge can be ‘mined’ or ‘extracted’ through research processes. Its ‘wisdom’ can then be incorporated by scientists into formal research methods and commercially oriented programmes. It is doubtful, in these cases, whether the ‘owners’ of the original knowledge benefit from the commercial gains made.

On the other hand, external and local actors can bring together their respective knowledge to produce an output, which is greater than the sum of its parts. The following examples from Cameroon and Kenya illustrate the positive impacts of collaborative research based on local knowledge.

**[Box 2] LOCALLY AVAILABLE INDIGENOUS EDIBLE SPECIES OF PLANTS  
ENHANCE COMMUNITY HEALTH, PROVIDE INCOME AND CONSERVE  
BIODIVERSITY IN KENYA**

The National Museum of Kenya is compiling a database of indigenous food plants of Kenya. This is to compile agronomic, nutritional, cultural and market data on priority species; to promote the cultivation, consumption and marketing of these foods through field demonstrations, educational materials and the media. People had abandoned their traditional foods in favour of exotic foods. This was most common among the younger generation, who took pride in their ‘modern’ patterns of consumption. However, despite the fact that local foods were readily available, poverty, famine and malnutrition were common in rural areas. Much local knowledge of the nutritional value and cultivation of local edible plants was in the process of being lost. Most people no longer knew, for example, when and where to collect seeds. Having never been written down, the indigenous knowledge of the elderly was slipping away day-by-day. A number of important species, or varieties of species, were on their way to extinction. Indigenous knowledge was thus the starting point. Specialists in nutrition, ecology, and botany based their research on it because there was simply not enough time, money or human resources to duplicate all that knowledge. The scientific, economic, and socio-cultural significance of the indigenous knowledge becomes apparent as specialists and practitioners work with it. The practice is beneficial in several ways. It improves the local communities’ living standards and health, enhances the knowledge extension workers put into daily use, generates knowledge useful to NGOs seeking ways to alleviate poverty and improve public health. Scientific knowledge is generated that is useful for the preservation of both cultural and biological diversity. By raising the status of indigenous knowledge, in the eyes of local communities, the practice helps alleviate poverty and increases people’s respect for their own culture. There are some dangers. Commercial interest may result in a selection of species and varieties and reduce the present diversity. Moreover, research may expose local knowledge to piracy.

Source: World Bank.



### [Box 3] **TRADITIONAL ETHNO-VETERINARY MEDICINE AND MODERN MEDICINE WORK AS PARTNERS IN CAMEROON**

The modern veterinary sector is plagued by numerous constraints. This includes the erratic supply and prohibitive expense of veterinary drugs and supplies, poor communication facilities and shortage of labour. The project promoted complementary use of indigenous and conventional veterinary medicine for sustainable livestock production and the conservation of medicinal plant resources. Through interdisciplinary collaboration, with governmental and non-governmental organizations, the project documented the indigenous treatment of various diseases and livestock ailments. Diseases are now treated using effective remedies, which were used by local communities many years before the arrival of modern drugs. The practice depends on indigenous farmers' knowledge. Modern drugs complement the indigenous and are used for certain diseases, if no effective indigenous remedies are available. Farmers are now using more local remedies, which are several times cheaper than modern drugs. Low investment costs and increased livestock productivity improve farmers' profits and their nutrition. Because the practice builds on indigenous knowledge and practices, it enjoys a high rate of acceptance. There is sustainable preservation of indigenous knowledge and farmers are empowered and encouraged to participate in development. Finally, there is an increased awareness of the importance of environmental conservation.

A popular misconception assumes that 'benefits' are purely monetary. In these cases, where the use of genetic resources is commercial, any royalties arise between ten and twenty years after the original access to genetic resources. Since the probabilities of an individual sample succeeding on the market are very small, only a tiny proportion of individual access transactions would give rise to such benefits. However, the examples above show that benefits are not necessarily monetary. The collaborative ventures in Cameroon and Kenya contribute to the empowerment of local communities, their re-evaluation of existing local knowledge and the improvement of local food security and resilience.

Politically and morally speaking, it is advisable that national genetic resources programme managers be extremely diligent in obtaining PIC from indigenous and local community representatives. This must be done before obtaining, exchanging and using genetic resources and related information associated with these communities.

## **THE 1991 ACT OF THE UNION POUR LA PROTECTION DES VARIÉTÉS VÉGÉTALES (UPOV)**

The 1991 Act of the UPOV provides a *sui generis* intellectual property protection for plant varieties. Exclusive rights are provided to commercial plant breeders. Plant breeder's rights are granted for a period of 15 to 30 years for plant varieties that are new, distinct, stable and homogeneous. Plant breeder's rights have been highly criticized by non-governmental organizations dedicated to the conservation of genetic diversity and the protection of small farmers' communities. The UPOV system has been accused of 'playing the game' of giant seed companies that promote intensive monoculture, and the replacement of traditional seeds by highly productive and resistant seeds. Also, the 1991 UPOV Act limits the exercise of the breeder's privilege. Indeed, Article 15 (2) provides that 'each Contracting Party may, within reasonable limits, and subject to the safeguarding of the legitimate interests of the breeder, restrict the breeder's right in relation to any variety in order to permit farmers to use for propagating purposes, on their own holdings, the product of the harvest which they have obtained by planting, on their own holdings, the protected variety'.



Conversely, pro-UPOV opinions argue that it is the most efficient current legal tool for triggering research and development on biotechnology for food and agriculture. In the review process of Article 27 of the TRIPS agreement, some industrialized countries are in favor of designating the UPOV Act of 1991 as the *sui generis* regime for the protection of plant varieties.

At the regional level, the members of the Office Africain de la Propriété Intellectuelle have joined the revised Bangui Agreement<sup>2</sup> of the 28<sup>th</sup> of February 2002. This generally adheres to the principles and obligations of the UPOV Act of 1991.

## **INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE (ITPGRFA OR INTERNATIONAL SEED TREATY)**

This international treaty was adopted by the Food and Agriculture Organization of the United Nations (FAO) General Assembly in November 2001 and came into force in June 2004. The Treaty was developed and adopted, after a long negotiating process of seven years at the international level, and responds to outstanding issues not covered by the CBD<sup>3</sup>. The ITPGR deals specifically with the nature and needs of the agricultural sector. It sought to find a balance between the interests of developing and developed countries and between the rights of farmers (farmers' varieties) and breeders (commercial varieties, breeders' lines). However, it is in harmony with the CBD and reflects some of its major principles, including:

- ⦿ the sovereign rights of states over their plant genetic resources;
- ⦿ the sustainable conservation and use of plant genetic resources;
- ⦿ access to an exchange of information on 'scientific, technical and environmental matters related to plant genetic resources for food and agriculture', with a view to contributing to the sharing of benefits there from;
- ⦿ participation in decision-making on plant genetic resources.

What makes the ITPGRFA a major achievement, is the formal endorsement of Farmers' Rights through a legally binding instrument at the global level. This is a significant landmark as it is an important step towards acknowledging and implementing the rights of informal innovators (farmers). It places them on an equal footing with the rights already granted to formal innovators (modern breeders). Article 9 of the International Treaty states that: 'In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including:

- ⦿ protection of traditional knowledge relevant to plant genetic resources for food and agriculture; and
- ⦿ the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture...'

Farmers' Rights are based on the recognition of the enormous contribution made by local and indigenous communities and farmers in all regions of the world. This particularly includes those who are at the centres of origin and crop diversity. Furthermore, Farmers' Rights cover the conservation and development of plant genetic resources that constitute the basis of food and agriculture production throughout the world.

<sup>2</sup> The Bangui Agreement is the African response to UPOV.

<sup>3</sup> Access to *ex situ* collections are not required to be in accordance with the CBD or Farmers' Rights.



#### [Box 4] FARMERS' RIGHTS

Farmers' Rights include:

- ⑥ protection of traditional knowledge, relevant to plant genetic resources for food and agriculture;
- ⑥ the right to participate equitably in sharing benefits, arising from the utilization of plant genetic resources for food and agriculture; and
- ⑥ the right to participate in decision-making at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture.

In this case, the entire principle of Farmers' Rights is explicitly made subject to national legislation. As a consequence, legally speaking, national genetic resources programme managers can simply look to the legislation of the country, in which the relevant programme activities are taking place, to determine what his or her responsibilities are. Despite the limiting legal effect of making Farmers' Rights subject to national laws, there is little doubt that the inclusion of these provisions in the international treaty will underscore the political pressure that already exists by virtue of the CBD (and less so, the United Nations Convention to Combat Desertification - UNCCD). This is particularly in reference to obtaining PIC when acquiring, exchanging and using genetic resources and related knowledge associated with indigenous peoples and local communities. Art 4 and 6 stipulate that domestic policies, and laws relating to agrobiodiversity, need to be designed or adjusted to meet the Treaty's requirements. As Farmers' Rights are so innovative, new legislation is often required. Some countries, such as India, have already passed new laws such as the Protection of Plant Varieties and Farmers' Rights Act No. 53 of 31 August 2001.

Another important breakthrough connected to the Treaty is the sharing of benefits that accrue from the use of plant genetic resources in a fair and equitable way. In particular, the sharing of monetary benefits arising from commercial use<sup>4</sup>.

*It is believed that 'Farmers' Rights are crucial to food security in providing an incentive for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world. Making those rights a reality, under the Treaty and other relevant legal instruments, at the national level as well as between nations, will represent a challenge for years to come...' (Mekoaur, 2002).*

## THE AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES

Adopted at the Summit of the African Union in Maputo, Mozambique, on 11 July 2003, the revised African Convention on the Conservation of Nature and Natural Resources commits member states to the conservation and sustainable use of natural resources. The African Convention requires parties to provide for fair and equitable access to genetic resources, on mutually agreed terms, as well as the fair and equitable sharing of the benefits arising from biotechnologies, based on genetic resources and related traditional knowledge, with the providers of such resources.

<sup>4</sup> For more information on sharing mechanisms, partnerships and collaboration between private and public sectors, mandatory and voluntary payments, please see Mekoaur, A. 2002. A global instrument on agrobiodiversity: The International Treaty on Plant Genetic Resources for Food and Agriculture. FAO Legal Papers Online, #24 (available at [www.fao.org/Legal/prs-ol/lpo24.pdf](http://www.fao.org/Legal/prs-ol/lpo24.pdf)).



Acknowledging the traditional rights of local communities and indigenous knowledge, the Convention compels member states to enact national legislation to ensure that the traditional rights, intellectual property rights of local communities including farmer's rights, are respected. Also, the Convention requires that access to traditional knowledge be subject to the prior informed consent (PIC) of the communities and that communities participate in the process of planning and management of natural resources.

## **OTHER INTERNATIONAL AGREEMENTS AND DECLARATIONS**

Other international agreements, although they do not explicitly mention indigenous and local knowledge, certainly support the notion that countries are under a growing obligation to introduce policies to deal with indigenous and local knowledge. For example, the International Covenant on Social and Cultural Rights (ICESR) includes the right to the development and diffusion of science and culture. It further obliges signatories to provide measures for the enjoyment of the cultural heritage of indigenous peoples.

The International Labor Organization (ILO) Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169) states that member states should promote 'the full realization of social, economic and cultural rights [of indigenous and tribal peoples] with respect to their social and cultural identity, their customs and traditions, and their institutions.' While neither of these instruments creates an explicit obligation, for nation states to implement means of vesting exclusive forms of protection rights in traditional knowledge holders, it could be argued that they support this kind of legislative measure.

## **DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

Article 19 of the Draft Declaration on the Rights of Indigenous Peoples states that indigenous peoples 'are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property. They have the right to special measures to control, develop, and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literature, designs and visual and performing arts.'

## **THE INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY, GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE**

Among others, the Intergovernmental Committee (IC) will develop recommendations for a non-binding model for intellectual property clauses. These will be included in contractual agreements governing exchanges of PGRFA between various public and private institutions and national gene banks. It will also look at other types of exchange, e.g. the supply of a wild plant with medicinal uses from an indigenous community to foreign research institutes. The IC is also examining means by which traditional knowledge (TK) can be included in patent offices' searches for prior art. For the time being, the IC is considering working towards recommending a number of TK-related journals that should be included in such searches. In preparation for the next meeting, the Secretariat will assemble a list of TK-related journals, and make an initial effort at establishing the most important for inclusion.



## THE TRADE-RELATED INTELLECTUAL PROPERTY AGREEMENT

Article 27(3)(b) of the TRIPS agreement requires all World Trade Organization (WTO) members to offer intellectual property protection for plant varieties in the form of patents or ‘effective *sui generis* protection.’ There is no mention in the TRIPS agreement of traditional knowledge, but it is flexible enough to allow some forms of protection. However, there was a review of Article 27(3)(b) (in 1999), and a review of the progress of member states in implementing the TRIPS agreement (in 2000), wherein it may be possible to introduce amendments to protect traditional knowledge.

Many developing countries have attempted to interject consideration of traditional knowledge protection in the context of these reviews. Their efforts have coincided with, and consequently been included in, the decision to launch a new comprehensive round of trade negotiations under the aegis of the WTO. To this end, Article 19 of the Doha Ministerial Declaration instructs the TRIPS Council to examine: ‘the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore,’ in the context of its review of Article 27.3 (b) and the review of the implementation of the TRIPS Agreement. Meanwhile, it seems unlikely that the WTO member states will arrive at the consensus necessary to alter the TRIPS agreement. This would oblige members to provide some form of intellectual property protection for indigenous and local knowledge (including, presumably, farmers’ varieties that satisfied the new *sui generis* criteria for protection). Until such time, there is nothing explicit in the TRIPS agreement that obliges PGR managers to obtain PIC from indigenous communities if collecting or exchanging those communities’ plant varieties.

## CONCLUSION

In recent years there has been a proliferation of international fora considering different aspects of the protection of indigenous peoples’ and local communities’ technologies and knowledge. There is a growing trend towards the recognition/creation of rights of control in these communities over genetic resources, with which they are associated, and related knowledge. For the time being, the international law has not gone so far as to set minimum standards for the creation and enforcement of *sui generis* indigenous people’s rights of communities over their technologies and associated knowledge. Nor is it explicitly stated, in any currently binding international legal instrument, that it is necessary to obtain the PIC of indigenous peoples and local communities before collecting, using or exchanging these resources and knowledge. It could certainly be argued that international law is definitely moving in this direction; it is not there yet. Meanwhile, given the political climate, it should be argued that it is incumbent upon all national genetic resources programme managers to exceed their strict legal obligations. Particularly, in living up to higher standards of behaviour, and obtaining the PIC of indigenous peoples and local communities, when accessing, exchanging and using genetic resources and related information with which these groups are associated.



## Key points

- In recent years there has been a proliferation of international fora considering different aspects of the protection of indigenous peoples' and local communities' technologies and knowledge.
- The Convention on Biological Diversity (CBD) addresses the issue of local knowledge in two articles. However, both articles are relatively vague. They do not actually spell out what states can or should do to fulfill their obligations. Part of the reason for this is that parties negotiating the CBD did not agree on how far signatories should go to protect traditional knowledge.
- The Conference of the Parties to the CBD (COP—CBD) established two Ad Hoc Open Ended Intersessional Working Groups to investigate, among others, means by which member states could 'as appropriate' and 'subject to their own legislation' protect traditional knowledge.
- The International Treaty on Plant Genetic Resources was an important breakthrough, as it formally endorsed Farmers' Rights through a legally binding instrument at the global level. Farmers' Rights are based on the recognition that farmers play an important and crucial role in the management and conservation of plant genetic resources. They include the protection of traditional knowledge, participatory decision-making and the right to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture.
- Other existing international instruments support the protection of traditional knowledge, though they do not mention it explicitly. These include the International Labour Organization (ILO) Convention Concerning Indigenous and Tribal Peoples in Independent Countries and the International Convention on Social and Cultural Rights (ICESR).
- There is a growing trend towards the recognition/creation of rights of control in these communities over genetic resources, with which they are associated, and related knowledge.
- International law has not gone so far as to set minimum standards for the creation and enforcement of sui generis indigenous people's rights for communities over their technologies and associated knowledge.



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- World Bank. Traditional knowledge case studies (available at [www.worldbank.org/afr/ik/casestudies](http://www.worldbank.org/afr/ik/casestudies)).

## Web sites

- Convention on Biological Diversity: [www.biodiv.org/convention/articles.asp](http://www.biodiv.org/convention/articles.asp)
- World Bank Web site on indigenous knowledge: [www.worldbank.org/afr/ik/what.htm](http://www.worldbank.org/afr/ik/what.htm)
- The 1991 Act of the Union pour la Protection des Variétés Végétales (UPOV): [www.upov.int/en/publications/conventions/1991/content.htm](http://www.upov.int/en/publications/conventions/1991/content.htm)
- ITPGRFA or International Seed Treaty: [www.fao.org/AG/CGRFA/ITPGR.htm](http://www.fao.org/AG/CGRFA/ITPGR.htm)
- The African Convention on the Conservation of Nature and Natural Resources: [www.dfa.gov.za/foreign/Multilateral/africa/treaties/nature.htm](http://www.dfa.gov.za/foreign/Multilateral/africa/treaties/nature.htm)
- Web site for the International Covenant on Social and Cultural Rights (ICESR): [www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm)
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- The Trade Related Intellectual Property Agreement: [www.wto.org/english/tratop\\_e/trips\\_e/wtowip\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/wtowip_e.htm)

## Additional background papers

- GRAIN. 2003. Good ideas turned bad? A glossary of right-related terminology (available at [www.grain.org/seedling/seed-04-01-2-en.cfm](http://www.grain.org/seedling/seed-04-01-2-en.cfm)).
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- Hansen, S., Van Fleet, J./American Association for the Advancement of Science (AAAS), 2003. Traditional Knowledge and Intellectual Property: A Handbook on Issues and Options for Traditional Knowledge Holders in Protecting their Intellectual Property and Maintaining Biological Diversity.



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