

# IN THE KNOWLEDGE *BAZAAR*

'Protecting' India's (biodiversity) know-how?

Shalini Bhutani  
India

[emailsbhutani@gmail.com](mailto:emailsbhutani@gmail.com)

# *Bazaar*

Institutionalised mercantile establishment -  
global venue

Juxtaposed With

informal places of exchange -  
local space

# *Bazaar*

Place of price(s)

Process of power

# Knowledge *Bazaar*

FROM

World Trade Organisation

'Biodiversity Amendment'

TO

THE 'TRIPS-plus' scenario

# Knowledge in Capitalism

KNOWLEDGE being

- (mis)appropriated
  - commodified
  - commercialised

sold back to *original* innovators  
for e.g.in *agricultures*

# The intangible

Convention on Biological Diversity  
(CBD):

Knowledge, Innovation, Practices  
Article 8(j) discussion

...and 'bio piracy'

# Indian ABS (pre-CBD)

Kannikar Tribe in Kerala & Arogya Pacha



# 'Indian' cases

Basmati Rice still  
'Grown in The USA'!

Apart from India  
Basmati is also  
originally  
grown by farmers in  
Nepal and Pakistan.





# Intellectual Heritage

How (agricultural) societies organise themselves around what they know about the living world, determines their social standing, ecological ethos and value systems

**KNOWLEDGE AS IDENTITY**

# 'Privatise' Know-How

## PRIVATISATION

to transfer (the production of goods or services)

from the public sector of an economy

into private ownership and operation

# Intellectual 'Property'

PATENTS

PLANT VARIETY PROTECTION

GEOGRAPHIC INDICATIONS

TRADEMARKS

& DATA EXCLUSIVITY

# Protectors

Department of Indian Systems of Medicine and Homoeopathy  
(ISM&H) created in March 1995

Re-named:

November 2003

**Department of Ayurveda, Yoga &  
Naturopathy, Unani, Siddha and  
Homoeopathy**  
(AYUSH)

Under

Ministry of Health & Family Welfare<sub>12</sub>

# Protectors

Initiative of  
AYUSH  
+ CSIR

Under the Ministry of Science, Technology  
and Earth Sciences

# Technology and...

## *Knowledge Management*

TRADITIONAL KNOWLEDGE  
DIGITAL LIBRARY

(TKDL)

# TKDL and Australia

TKDL Access Agreement signed with  
Intellectual Property Australia  
(IP Australia)

Jan 2011

# TKDL and Australia

Natbio Pty Ltd. withdrew application  
no.EP1729593

Dynamiclear Pty Ltd. amended the claims of  
application no.2009217410

Quinn Pharmaceuticals' application no.CA  
2697020 declared 'Dead' by CIPO



# 'Protection'

*Under India's*

Biological Diversity Act, 2002  
& its Rules, 2004

Protection of Plant Varieties and Farmers'  
Rights Act, 2001  
& its Rules, 2003

# Protectors

October 2003

**National Biodiversity Authority  
(NBA)**

Under  
Ministry of Environment and Forest

# 'Protection'

The Central Govt. under NBA  
recommendations to

Respect and protect the biod knowledge of  
local people through:

- registration...local, state, national
- 'other' measures of protection
- *sui generis* system

# Access u/BDA

## *Manufacturing consent*

### *PROCESS:*

- *Applicant fill form*
- *pay fee (INR 10K)*
- *Consultation = 'Yes' from BMC*
- *NBA approval/SBB tell*
- *Agreement/Revocation/Conditions*

<http://nbaindia.org/content/26/23//application.html>

# Fairness & Equity

*Sharing 'benefits'*

## *PROCEDURE:*

- *5% to NBA or SBB*
- *direct to person(s)/orgn.s or via NBA*
- *Biodiversity Fund(s)*
- *'Benefit claimers'*
- *DRAFT Guidelines*

# Trade Aspects

*Section 40*

*On Normally Traded Commodities*

Biological Diversity Act, 2002

Issues: HS Codes, IPC, etc.

# 'Protectors'

Proposed  
**Traditional Knowledge Bill**

Under  
Ministry of Commerce & Industry

# Aus-India Trade

## *Proposed Free Trade Agreement*

...Given the importance of the subject, and in order to enhance cooperation in the field of Intellectual Property Rights, an FTA between India and Australia may address issues of capacity building, human resources development, public awareness, and outreach activities.

*- Final JSG Report May 2010*



# Aus-India Trade

*(Under the 1986 Agreement)*

*2006 MOU between DBT & DEST  
extended till 2016*

*Joint Biotechnology Committee*

*Protection of Intellectual Property*

# Close

**We must stay close to the ground or  
maybe we will get lost.**

*- Narritjin Maymuru*

*(Source: Spirit Country 2002, 2004)*

# Going further

## *Campaign for Conservation and Community Control Over Biodiversity, India*

[biodcampaign@gmail.com](mailto:biodcampaign@gmail.com)

[BiodWatch@yahoogroups.com](mailto:BiodWatch@yahoogroups.com)



WWF

REPORT

IND

2012

## Prized Or Priced?

Shalini Bhutani

Protection of India's Traditional Knowledge  
related to Biological Resources  
and Intellectual Property