

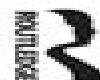
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# BIODIVERSITY & THE LAW



INTELLECTUAL PROPERTY,  
BIOTECHNOLOGY &  
TRADITIONAL KNOWLEDGE

*Edited by Charles McManis*



# Biodiversity And The Law Intellectual Property Biotechnology And Traditional Knowledge

**Graham Dutfield**



## **Biodiversity And The Law Intellectual Property Biotechnology And Traditional Knowledge:**

*Biodiversity and the Law* Charles R. McManis, 2012-05-04 How do we promote global economic development while simultaneously preserving local biological and cultural diversity This authoritative volume written by leading legal experts and biological and social scientists from around the world aims to address this question in all of its complexity The first part of the book focuses on biodiversity and examines what we are losing why and what is to be done The second part addresses biotechnology and looks at whether it is part of the solution or part of the problem or perhaps both The third section examines traditional knowledge explains what it is and how if at all it should be protected The fourth and final part looks at ethnobotany and bioprospecting and offers practical lessons from the vast and diverse experiences of the contributors

Biodiversity and the Law Charles R. McManis, 2007\* Intellectual Property, Biogenetic Resources and Traditional Knowledge Graham Dutfield, 2010-09-23 Biogenetic resources the critical biological and chemical materials that underpin so much of medicine both modern and traditional agriculture and wider economic activity in so many fields are at the centre of heated debate regarding their use development and ownership and the issues of ethics and equity that impinge on all of these factors This book is a comprehensive examination of the key issues institutions and ideologies in this area presenting definitions and explanations of the fundamentals of intellectual property rights IPRs biogenetic resources and traditional knowledge It uses the insights from this to build a picture of how these factors interact in practice bringing to the surface issues such as the conservation and sustainable use of biodiversity benefit sharing from the commercial use of biodiversity biotechnological innovation and the transfer of technology agriculture food security rural development health and international justice Part 1 describes the relevant international IPR laws highlights the extent to which modern commerce depends on such resources and traces the way in which modern IPR law has evolved to accommodate this dependence Part 2 shows how stronger IPR protection in the area of life science innovation has given rise to controversies such as biopiracy terminator genes and genetic uniformity Part 3 focuses on traditional knowledge its nature its importance and the applicability of IPR style protection Part 4 covers the international negotiation and policy making of the WTO WIPO and CBD and the legislative initiatives of national governments of Asia Africa and Latin America Finally Part 5 focuses on two developing country case studies of India and Kenya assessing whether they will be able to gain economic benefit from development of their natural resources within the current regulatory system and whether this will encourage the conservation and sustainable use of the resource base With its multidisciplinary approach and breadth of coverage this book will appeal both to those new to the subject and to those with professional and specialist interest including students academics legal practitioners government policy makers and the private sector The Protection of Biodiversity and Traditional Knowledge in International Law of Intellectual Property Jonathan Curci, 2010 Analyses the methods of protection of biodiversity and related traditional knowledge in the international and comparative national intellectual property systems

**Intellectual Property Rights Trade and Biodiversity** Graham Dutfield, 2000-03 It provides an account of how to integrate the requirements of the CBD into an equitable global IPR regime taking into account ethical concerns environmental and social impacts technology transfer and traditional knowledge Jacket Global Biopiracy Ikechi Mgbeoji, 2006 Biopiracy raises serious issues pertaining to the conservation of biological diversity and genetic resources in agriculture the integrity of plant life forms a just international economic order and development Since the emergence of the biotechnology industry biopiracy has become a lightning rod for activists from the Introduction The appropriation of plants and traditional knowledge by corporations and other entities is often called biopiracy Such practices arise from a cultural milieu that systematically marginalizes non Western forms of knowledge which are devalued as folk knowledge or characterized as inferior Global Biopiracy rethinks the role of international law and legal concepts global patent systems and international agricultural research institutions as they affect legal ownership and control of plants and the knowledge that makes them valuable Ikechi Mgbeoji first examines the Western assumptions and biases that inform the patent system international law and institutions affecting farmers around the globe He next analyzes the cultural and economic traits that divide the industrialized world and the developing world Finally Mgbeoji confronts the phenomenal loss of human cultures and plant diversity that has already occurred and that will continue in the future unless protective measures are implemented and enforced

**Genetic Resources and Traditional Knowledge** Tania Bubela, E. Richard Gold, 2012-01-01 This fascinating study describes efforts to define and protect traditional knowledge and the associated issues of access to genetic resources from the negotiation of the Convention on Biological Diversity to the Declaration on the Rights of Indigenous Peoples and the Nagoya Protocol Drawing on the expertise of local specialists from around the globe the chapters judiciously mix theory and empirical evidence to provide a deep and convincing understanding of traditional knowledge innovation access to genetic resources and benefit sharing Because traditional knowledge was understood in early negotiations to be subject to a property rights framework these often became bogged down due to differing views on the rights involved New models developed around the notion of distributive justice and self determination are now gaining favor This book suggests through a discussion of theory and contemporary case studies from Brazil India Kenya and Canada that a focus on distributive justice best advances the interests of indigenous peoples while also fostering scientific innovation in both developed and developing countries Comprehensive as well as nuanced Genetic Resources and Traditional Knowledge will be of great interest to scholars and students of law political science anthropology and geography National and international policymakers and those interested in the environment indigenous peoples rights and innovation will find the book an enlightening resource

*Biodiversity, Biotechnology and Traditional Knowledge* Aravind Kumar, Govind Das, 2010 Consulting a broad collection of well researched articles Kumar augments the reader's understanding of medicinal plants and their therapeutic use in health care and healing in addition to the role of IPRs in the protection of Intellectual Capital

Indigenous Peoples and International Trade John Borrows, Risa Schwartz, 2020-06-18 The United Nations Declaration on the Rights of Indigenous Peoples is seen primarily as an international human rights instrument. However, the Declaration also encompasses cultural, social, and economic rights. Taken in the context of international trade and investment, the UN Declaration is a valuable tool to support economic self-determination of Indigenous peoples. This volume explores the emergence of Indigenous peoples' participation in international trade and investment, as well as how it is shaping legal instruments in environment and trade, intellectual property, and traditional knowledge. One theme that is explored is agency. From amicus interventions at the World Trade Organization to developing a future precedent for a Trade and Indigenous Peoples Chapter, Indigenous peoples are asserting their right to participate in decision making. The authors, both Indigenous and non-Indigenous experts on trade and investment law, provide needed ideas and recommendations for governments, academia, and policy thinkers to achieve economic reconciliation.

**Beyond Intellectual Property** Darrell Addison Posey, Graham Dutfield, 1996 Cultural property, aboriginal people, ethnobiology, legal status, laws. Efficiency, Sustainability, and Justice to Future Generations Klaus Mathis, 2011-08-13 Fifty years after the famous essay *The Problem of Social Cost* 1960 by the Nobel laureate Ronald Coase, Law and Economics seems to have become the lingua franca of American jurisprudence, and although its influence on European jurisprudence is only moderate, by comparison it has also gained popularity in Europe. A highly influential publication of a different nature was the Brundtland Report 1987, which extended the concept of sustainability from forestry to the whole of the economy and society. According to this report, development is sustainable when it meets the needs of the present without compromising the ability of future generations to meet their own needs. A key requirement of sustainable development is justice to future generations. It is still a matter of fact that the law, as well as the theories of justice, are generally restricted to the resolution of conflicts between contemporaries and between people living in the same country. This in turn raises a number of questions: what is the philosophical justification for intergenerational justice? What bearing does sustainability have on the efficiency principle? How do we put a policy of sustainability into practice, and what is the role of the law in doing so? The present volume is devoted to these questions. In Part One, Law and Economics, the role of economic analysis and efficiency in law is examined more closely. Part Two, Law and Sustainability, engages with the themes of sustainable development and justice to future generations. Finally, Part Three, Law, Economics, and Sustainability, addresses the interrelationships between the different aspects.

**"The" Legal Protection of Traditional Knowledge in the Pharmaceutical Field** Tobias Kiene, 2009 *Biodiversity, Access and Benefit-Sharing* Daniel F. Robinson, 2014-11-13 The Nagoya Protocol to the Convention on Biological Diversity (CBD) is rapidly receiving signatures and ratifications. Many countries are preparing to implement the protocol through national research permit systems and/or biodiversity laws. Yet there is still considerable confusion about how to implement the Protocol regarding access and benefit sharing (ABS) procedures and minimal experience in many countries. This book seeks to remedy this gap in

understanding by analysing a number of ABS case studies in light of the Nagoya Protocol. The case studies are wide ranging with examples of plants for medicinal, cosmetic, biotech and food products from or for development in Australia, North Africa, Madagascar, Switzerland, Thailand, USA and Oceania. These will encourage countries to develop national systems which maximise their benefits both monetary and non monetary towards conservation and support for local communities that hold traditional knowledge. In addition, the author analyses new expectations raised by the Nagoya Protocol such as the encouragement of the development of community protocols by indigenous and local communities. As a result, stakeholders and policy makers will be able to learn the steps involved in establishing ABS agreements, issues that arise between stakeholders and the types of benefits that might be realistic.

*Genetic Resources as Natural Information* Manuel Ruiz Muller, 2015-09-16. Demonstrating the shortcomings of current policy and legal approaches to access and benefit sharing ABS in the Convention on Biological Diversity (CBD), this book recognizes that genetic resources are widely distributed across countries and that bilateral contracts undermine fairness and equity. The book offers a practical and feasible regulatory alternative to ensure the goal of fairness and equity is effectively and efficiently met. Through a legal analysis that also incorporates historic economic and sociological perspectives, the book argues that genetic resources are not tangible resources but information. It shows that the existing preference for bilateralism and contracts reflects resistance on the part of many of the stakeholders involved in the CBD process to recognize them as such. ABS issues respond very well to the economics of information yet, as the author explains, these have been either sidelined or overlooked. At a time when the Nagoya Protocol on ABS has renewed interest in feasible policy options, the author provides a constructive and provocative critique. The institutional policy and regulatory framework constitute bounded openness under which fairness and equity emerge.

*Intellectual Property, Community Rights and Human Rights* Marcelin Tonye Mahop, 2010-06-10. This book considers the issue of biodiversity in developing countries in relation to intellectual property rights, community rights and human rights. Drawing together a number of case studies of developing countries rich in biological and genetic resources including India, South Africa and Brazil, the book examines the access to PGRs and their utilizations in the contexts of scientific and commercial oriented activities pursued both in the source and user countries. Exploring how community rights are protected in national biodiversity related regulations and some international legal instruments, Marcelin Tonye Mahop also discusses the relationship between community rights and human rights in the context of biodiversity. The book looks at the issue of bio piracy, asking whether this phenomenon should only be seen as a North-South clash whereby biodiversity rich countries of the Southern Hemisphere blame developed countries and their actors as its principal perpetrators. While recognizing that developing countries' actors play a role in this bio piracy phenomenon, the book goes on to suggest alternative measures for the legal protection of community rights at the national level with the possibility of national and international enforceability. Essential reading for students and scholars of intellectual property rights, biodiversity regulations.

and human rights this book will also be of great value to researchers and members of professional organizations working in these subject areas National and regional negotiators in the international processes dealing with the issues covered in the book will find it a useful tool that can help them to understand various facets of these processes *The Property Regime of Biodiversity and Traditional Knowledge* Nicolas Brahy, 2008-02-19 How can we simultaneously conserve biodiversity and use its components genetic resources to create new medicines and better seeds Signed in 1992 at the Earth Summit in Rio the Convention on Biological Diversity answers this question by resorting to intellectual property rights on living material with the objective to create a market for genetic resources Fifteen years later we cannot but observe that biodiversity keeps eroding and that the proliferation of intellectual property rights hinders research and innovation on new medicines and seeds Combining legal economical and historical approaches this book explains in simple terms how the Biodiversity Convention came into existence and how the providing countries and bio industries pharmaceutical and seeds industry are striving to implement it and why the Convention and its project of a market for genetic resources do not work properly The book then examines new orientations and suggests avenues for solutions What makes this book different It puts the Convention on Biological Diversity back in the wider context of the organization of both innovation and conservation of nature This approach highlights what is really at stake Financing innovation and conservation what should be the distribution of tasks between the market and public funding Coordinating the agents of conservation and innovation providing countries local communities universities firms etc what should be the distribution of tasks between the market and regulation **Confronting Biopiracy** Daniel Robinson, 2010-02-24 Biopiracy refers either to the unauthorised extraction of biological resources such as plants with medicinal properties and associated traditional knowledge from indigenous peoples and local communities or to the patenting of spurious inventions based on such knowledge or resources without compensation Biopiracy cases continue to emerge in the media and public eye yet they remain the source of considerable disagreement confusion controversy and grief The aim of this book is to provide the most detailed coherent analysis of the issue of biopiracy to date The book synthesises the rise of the issue and increasing use of the term by activists and negotiators in the World Trade Organization WTO and the Convention on Biological Diversity CBD to form a critical understanding of the themes implications and politics of biopiracy Taking a case study based approach derived from interviews and fieldwork with researchers government industry local farmers healers and indigenous people the author sequentially documents events that have occurred in biopiracy and bioprospecting controversies Implications and ethical dilemmas are explored particularly relating to work with local communities and the power relations entailed Detailing international debates from the WTO CBD and other fora in an accessible manner the book provides a unique overview of current institutional limitations and suggests ways forward Options and solutions are suggested which are relevant for local communities national governments international negotiators NGO and interest groups researchers and industry Genetic Resources, Equity and International Law Camena

Guneratne, 2012-01-01 This book provides a clear analysis of the multi level impacts of the existing international law regime related to genetic resources on developing countries. It does so through a cogent exposition of the different areas of the law pertaining to genetic resources that are relevant and impact on people's rights and livelihoods. Its focus on equity is a welcome addition to the literature. Philippe Cullet, University of London, UK. Camena Guneratne's thought provoking book critically evaluates the clash between the private property approach to genetic resources embedded in international intellectual property conventions and the competing values embedded in a variety of other conventions and laws. She contests key assumptions behind intellectual property regimes supporting genetic commerce, distinguishing the genetic commons from other types of resource. This book provides a comprehensive scholarly dealing with the topics noted in its title but also should increase debate about policy failures in responding to the risks to the underprivileged of the instruments we use to pursue our economic interests of the majority. Paul Martin, University of New England, Australia. This is a wonderful book. All too often in the quest to preserve biodiversity we forget that the equation of equity has to be at the forefront of the debates on sustainable development. Dr Guneratne rectifies this mistake. In doing so she shows us that in many of the most importance instances we are not only losing large parts of the natural basis on which humanity depends but also the ability to control the political and legal processes of which many of the world's poorest people depend. This linkage between biodiversity politics and international law is of such a high calibre that it is likely that this work will become a key text for students and scholars alike. Alexander Gillespie, University of Waikato, New Zealand. This book examines current developments in international law which regulate the uses of plant genetic resources for food and agriculture and the various property regimes which are applied to these resources by these international agreements. In the current context of the global food crisis the development and stability of national agricultural systems is an urgent concern particularly among developing countries. This stability and national food security will potentially be threatened if these countries are unable to have free access to agricultural crop plants. This book analyses a range of international agreements including the recently adopted Nagoya Protocol and demonstrates that in their current implementation they favour private ownership of these resources rather than free access. The book takes the position that this is inherently inequitable and these resources should be maintained in the public domain. This book will be of use to a wide range of readers from students and scholars to those working in the fields of trade and intellectual property, human rights, environmental conservation and advocacy on international issues. It contains a rigorous legal analysis of current international law development on the issue based on the negotiations which have taken place in the relevant forums and will therefore be particularly useful to lawyers and legal scholars. It is also written in an uncomplicated style which makes it readily accessible to non lawyers and the case studies and empirical data used throughout the book adds to its interest. Genetic Resources, Traditional Knowledge and the Law

Evanson C. Kamau, Gerd Winter, 2009 The need to regulate access to genetic resources and ensure a fair and equitable



sharing of any resulting benefits was at the core of the development of the Convention on Biological Diversity CBD

**Conservation Policies for Agricultural Biodiversity** Lekha Laxman, Abdul Haseeb Ansari, 2023-08-16 Conservation Policies for Agricultural Biodiversity A Comparative Study of Laws and Policies focuses on the challenge of securing the ecological future of the planet and its inhabitants by exploring the Convention of Biological Diversity and the Nagoya Protocol on Access and Benefit Sharing and WTO laws such as SPSS TBT GATT This book demonstrates how the urgent problem of biodiversity loss can be addressed by challenging notions of national self interest and security for the purpose of implementing policies that will benefit humanity and more importantly ensure the future of our planet Delves into the current approaches adopted in the framework of global environmental governance Investigates the origins operations and effects of legal regimes policies and practices related to the conservation of biodiversity Presents a comparative study of laws and policies providing an in depth understanding of the factors behind the lack of success in conserving agricultural biodiversity

## Decoding **Biodiversity And The Law Intellectual Property Biotechnology And Traditional Knowledge**: Revealing the Captivating Potential of Verbal Expression

In an era characterized by interconnectedness and an insatiable thirst for knowledge, the captivating potential of verbal expression has emerged as a formidable force. Its capability to evoke sentiments, stimulate introspection, and incite profound transformations is genuinely awe-inspiring. Within the pages of "**Biodiversity And The Law Intellectual Property Biotechnology And Traditional Knowledge**," a mesmerizing literary creation penned by way of a celebrated wordsmith, readers set about an enlightening odyssey, unraveling the intricate significance of language and its enduring effect on our lives. In this appraisal, we shall explore the book's central themes, evaluate its distinctive writing style, and gauge its pervasive influence on the hearts and minds of its readership.

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