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on

**IPR Management in Biodiversity Conservation:
Implications of Access Benefit Sharing, TRIP/CBD
and Biodiversity Acts**

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Intellectual Property Rights- Boon or Bane for Protecting the Farmer's Rights

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Abstract

Indian agriculture is dominated by marginal and small farmers and therefore, development of improved varieties that are scale-neutral would help increase their farm income. The Intellectual property rights (IPRs) facilitate the flow of genetic material and new varieties across the countries as licensing and royalty agreements are widespread world over. The conventional system of plant breeders' rights provides no reward to farmers to their role in the conservation and enhancement of agrodiversity but the UPOV system (Union international pour la protection des obtentions vegetables) as a *sui generis* form of protection is an alternative to the patent system for farmer's benefits. Further, many international agreements by TRIPS, GATT and WTO were made to balance the rights of breeders with a requirement to ensure equitable benefit sharing with farmers. In 2001, Government of India had enacted the Protection of Plant Varieties and Farmers Rights (PPVFR) Act for the protection of plant varieties developed by researchers and plant breeders. Genetic material, biotechnologies and their associated IPRs are in fact leading to a new restructuring of the relations between agrochemical, agro biotechnological, food processing, and seed companies.

Keywords: IPR, *sui generis*, farmer's right, UPOV

Introduction

India is an agriculture based country where more than fifty percent of population is dependent on agriculture. Farmers' are the important part of economic, social, and political status of the society.¹ Agriculture significantly contributes as a source of employment and livelihood for the people who inhabit in the rural areas. Small farmers follow traditional agricultural practices for food production. The rural communities are contributors of land races and farmer's varieties and in breeding of new varieties. Innovative breeding techniques in agriculture resulting in new varieties are rewarded through Intellectual Property Rights (IPR). IPR in the context of agriculture could be provided either through a patent or a *sui generis* system for plant varieties protection. The United States was the first country to institute Intellectual Property protection for

plant varieties.² In European countries as well as India there are separate plant varieties protection laws instead of patent law.³

Since Independence, realizing the importance of food security for the people, the Government took the initiative to improve agricultural productivity. Keeping the focus on agriculture in the Five Year Plans, the Government made various policies which included not only giving subsidy to the farmers but also making heavy inputs in the R & D through Government sectors.

IPR and International Regime for Protection of Plant Varieties

Intellectual property rights (IPRs) can be broadly defined as legal rights established over creative or inventive ideas which allow right holders to exclude the unauthorized