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What are Intellectual Property Rights?

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“Instead of private ownership, innovations should be shared. At least with those involved in research and development.”
Utilizing Biodiversity: Ethnobotanical Knowledge

The knowledge associated with the utilization of plants Indigenous communities have discovered useful properties applicable in pharmaceuticals, agriculture, and cosmetics Accessing utilized plants assists in research and development Creates a market for biodiversity
Some Statistics

40,000 plant species have been used for modern medicine
Less than 2% of all plant species have been tested
74% of modern medicine’s plant-based remedies were first discovered by indigenous groups

Pharmaceutical Interest
Using ethnobotanical knowledge increases success rate by 4
R&D costs between $231-500 million dollars
Process from discovery to market takes between 10-15 years
Annual market is between $75-150 billion dollars for pharmaceuticals derived from genetic resources
International Agreements

CBD: Convention on Biological Diversity
- Establishes a nation’s sovereignty over genetic resources
- Goals:
  1. Conservation of biological diversity
  2. Sustainable use of genetic resources
  3. Fair and equitable sharing of benefits

TRIPS: Agreement on Trade Related Aspects of Intellectual Property Rights
- Patents on products or processes
- Requirements:
  1. Novelty
  2. Involve an inventive step
  3. Capable of industrial application
Article 8(j) of CBD: Protection of Indigenous Knowledge

“Respect, preserve, and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for 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, innovation, and practices.”
Access and Benefit Sharing Agreements: the Nagoya Protocol

Resource owner – nation or community – agrees to allow access

Require ‘Prior Informed Consent’ and ‘Mutually Agreed Terms’

Include mechanisms for compensation

Allow indigenous communities to transform tacit knowledge into tangible assets
Benefit Sharing Agreements

“We’re not against science, but we also don’t want to just be suppliers of data. We want to be a part of the whole process, from research to the economic results.”

- Marcos Terena of Brazil’s Terena Tribe

Monetary Benefits: Fees per sample extracted, milestone payments, profit-sharing, royalties

Non-monetary Benefits: Participation in research, medical assistance, local infrastructure development
Kraho Indians and the Federal University of Sao Paulo, Brazil

Kraho Indians consist of 2,000 members in 17 villages.

Months of negotiations to develop an agreement with Kraho leaders.

Researchers collected 400 samples and identified 164 plant species.

Accusations of biopiracy:
- Consent of only 250 of 2,000 Kraho individuals
- $8 million dollar lawsuit filed

“We tried to do things the right way, and instead of helping us it only brought us a lot of problems.”

- Eliana Rodrigues, University Researcher
Solutions

Traditional Knowledge Registries
- Indigenous Communities volunteer their knowledge
- Stored in a restricted database
- Soothes complications arising in case by case negotiations
- Peru enacted this solution in 2002

Compulsory Licenses
- Economic based solution to resolve access to medicine issues
- Generic medicines created with royalty fees paid to patent holder
- Ecuador enacts national legislation to support this in 2009
Questions?