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**COMPARATIVE ANALYSIS OF CULTURAL SENSITIVITY
IN CONTRACT DESIGN FOR TRADITIONAL
KNOWLEDGE PROTECTION**

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ABSTRACT

Traditional Knowledge (TK) represents indigenous knowledge and local traditions developed through sustained interaction with nature. Communities cherish and protect traditional knowledge as a part of their cultural heritage. It plays a crucial role in natural resource management, biodiversity conservation and environmental sustainability. In recent years, with rapid commercialisation and globalisation, we have seen that the traditional knowledge of indigenous communities is exploited by big corporations for scientific research and exploration without due recognition to their rights.

The study adopts a comparative approach to understand the crucial elements of a culturally sensitive contract by studying legal models in jurisdictions such as the United States, Australia, India, and Brazil. It evaluates the role of international instruments like the Convention on Biological Diversity and the TRIPS Agreements, alongside domestic statutory laws like India's Biological Diversity Act and Patents Act in the protection of traditional knowledge. The paper underscores the judiciary's role in preventing biopiracy and promoting fair contracts for the industrial application of traditional knowledge. The central theme around which the research is based is the reasoning that culturally sensitive contract designs, which includes features

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like prior informed consent, fair benefit-sharing, and respect for customary laws, is a pre-requisite condition for ensuring fairness, equity, and protection of tribal rights in TK governance.

KEYWORDS: Traditional Knowledge, TK, intellectual property, IPR, indigenous knowledge, tribal communities, contract, IPR licensing, comparative study, benefit sharing, prior consent, Convention on Biological Diversity, Patents Act, Biological Diversity Act, cultural sensitivity.

INTRODUCTION:

Traditional Knowledge (TK) simply means the traditional wisdom, innovations, and practices of indigenous people and local communities gathered over centuries of close interaction with nature. It includes knowledge related to, inter alia, agricultural and horticultural methods, medicinal procedures, clothing styles, and cooking techniques. ²In biodiversity-rich regions like the Indian Subcontinent, Amazon Forests, and Sub-Saharan Africa, TK plays an essential role in ensuring biodiversity conservation through maintenance of gene assets and ecological sustainability. TK not only forms the part of cultural and spiritual identity of indigenous communities but is also an accessible handbook in the hands of environmentalists that provides resource management techniques that simultaneously promote societal progress and sustainability.

There is a dearth of adequate benefit sharing mechanisms that promote the growth and development of tribal areas. The rewards of economic exploitation of traditional knowledge are not shared with the tribal communities. In some cases, there is a lack of prior informed consent. This dilemma forms the basis of our legal research wherein we explore the need of cultural sensitivity in the contract design process for fair and equitable appraisal of indigenous and tribal communities' rights. We shall

²[WIPO, Traditional Knowledge](#). (last visited: 1 February 2026)

commit to a comparative study approach to understand the best contract design practices to draft TK sharing agreements.

Intellectual property rights protect creation of the human mind which includes among other things art forms, dance styles, music and dramatics. According to WIPO, TK as an IPR has two main aspects, namely defensive protection (prevention of misuse of patents) and positive protection (recognition of indigenous rights over community knowledge). Modern IP tools like trademarks, patents, copyright and GI tags play a crucial role in the protection of rights of indigenous communities³.

The interface between traditional knowledge and IPR is quite complicated. TK is often communal and intergenerational in character. It is dynamic and constantly evolving and it often fails to meet the IP requirements for protection. IP is designed to grant protection to known inventors or authors for their inventions or authorship. Hence, TK runs at a high risk of misappropriation as outsiders often obtain patents over TK and exploit their knowledge without consent and sharing of economic benefits. This calls for the need of a Sui generis legal system for the protection of TK holders⁴.

LEGAL FRAMEWORK FOR PROTECTION OF TRADITIONAL KNOWLEDGE:

The international framework for the protection of TK which encompasses indigenous knowledge and practices includes numerous WIPO conferences and agreements. WIPO plays a crucial role in protecting IPR worldwide. IGC (Intergovernmental Committee) concentrates upon the protection of traditional knowledge (TK), traditional cultural expressions (TCE) and genetic resources. The development of a legally binding instrument for the WIPO signatories is still in process⁵.

³ Ibid.

⁴ Nisha Dhanraj and Mamta Sharma, An interface between traditional knowledge and intellectual property rights (IPR): An Indian Perspective, IGI Global, 2020

⁵ [WIPO. Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions](#), (last visited: 1 February 2026)

Convention on Biological Diversity (CBD) was adopted in 1992 to recognise the rights of indigenous communities and tribal people over their knowledge. It covers crucial issues like fair sharing of rewards arising out of commercial exploitation of genetic resources through Access and Benefit Sharing (ABS) mechanisms and promotion of conservation of biodiversity⁶. Nagoya Protocol supplements CBD by creating an obligation on the part of contracting parties to include measures related to fair sharing of benefits from use of genetic resources and protection of associated traditional knowledge for the welfare of local communities⁷.

United Nations Educational, Scientific and Cultural Organization (UNESCO), as an agency of the United Nations works for the promotion and protection of intangible cultural assets which form a part of heritage like traditions, rituals, dance styles and diverse art forms. The 2003 Convention for Safeguarding Intangible Cultural Heritage is an important step in this direction⁸. The TRIPS Agreement, administered by WIPO, is the most recent advancement in the direction of protection of IPR worldwide. It sets out the minimum standards of protection for IPR like patents, trademarks, copyright and so on but is often criticised for not fully acknowledging and protecting indigenous knowledge and cultures⁹.

India has its own legal traditions to protect traditional knowledge. The Biological Diversity Act 2002 was enacted by the Indian government in response to CBD. It regulates access to biological resources by foreign individuals and corporations by ensuring fair benefit sharing with local communities through well-negotiated agreements. It establishes the National Biodiversity Authority (NBA) as the statutory body under the Act¹⁰. Traditional Knowledge Digital Library (TKDL) was developed

⁶ [United Nations, Convention on Biological Diversity, key international instrument for sustainable development](#), accessed at: (last visited: 1 February 2026)

⁷ [CBD, United Nations, Nagoya Protocol](#), accessed at: (last visited: 2 February 2026)

⁸ [UNESCO, Text of the Convention for the Safeguarding of the Intangible Cultural Heritage](#), accessed at: (last visited: 2 February 2026)

⁹ [World Trade Organisation, Overview: the TRIPS Agreement](#), accessed at: (last visited on: 2 February 2026)

¹⁰ Biological Diversity Act, 2002 (Act no.18 of 2003)

as a digital database of Ayurveda, Unani, Siddha and Yoga knowledge to prevent biopiracy and misappropriation of traditional knowledge¹¹.

The Patents Act 1970 (amended) prevents patents on traditional knowledge explicitly under Section 3(p). Traditional knowledge is not novel and hence it is non-patentable¹². The Protection of Plant Varieties and Farmers Rights Act 2001 ensures protection and promotion of farmers' rights over seeds. It recognizes traditional agricultural knowledge. The Geographical Indications of Goods (Registration and Protection) Act, 1999 protects specific goods that have certain unique characteristics attributed to a certain region, for example, Darjeeling Tea and Banarasi Saree. It ensures protection of those products which have roots in traditional knowledge belonging to a local community living in a designated area or region¹³.

Judicial Role in the Protection of TK:

The Judiciary plays a critical role in protecting TK against biopiracy and misappropriation. In multiple instances, it has interpreted traditional knowledge as patents. The Courts have adopted a balanced approach through a harmonious construction of commercial interests of multinational corporations and interests of indigenous communities.

[1] A constant stress is laid over adequate benefit-sharing agreements that provide reasonable compensation to indigenous communities from profits derived out of commercialisation of their knowledge. This mindset propels us towards innovation and growth in technology while allowing opportunities to traditional knowledge holders to regulate and maintain their ancestral heritage. The Court has been proactive in acknowledging the communal nature of Traditional Knowledge. It

¹¹ [About TKDL](#), accessed at: (last visited 20 February 2026)

¹² The Patents Act, 1970 (Act no. 39 of 1970)

¹³ The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act no. 48 of 1999)

recognizes that TK is owned by communities and not by individuals and hence it cannot be patented.

[2] Various case laws in India and abroad have been discussed to critically evaluate the role of judiciary in the protection and management of traditional knowledge.

The Case of Neem and Turmeric:

Turmeric has been well-known by the Indian population for its healing properties. A patent was obtained on the wound healing properties of turmeric by two Indian-based researchers at the Mississippi Medical Centre. CSIR filed an objection to the patent citing documentary evidence of traditional knowledge. Ancient Sanskrit texts often mention turmeric for its wound healing features and hence in no way it was a novel invention. USPTO cancelled the patent and recognized biopiracy as a major legal challenge these days¹⁴.

On similar lines, EPO granted a patent on anti-fungicidal properties of Neem to W.R. Grace but it was challenged on the ground that it lacked novelty. Neem had been used for centuries by Indian farmers to protect crops from pests. The patent was revoked on the basis of above-mentioned objections. This case again sheds light on protecting and managing traditional knowledge as a major challenge¹⁵.

The Kani Tribes (Arogyapacha) Case:

In the case of Kani, a tribe based in the lush green forests of Thiruvananthapuram, researchers developed an anti-fatigue drug, which they named as "Jeevani" from the tribe's secret plant Arogyapacha (*Trichopus zeylanicus*). The scientists belonging to Tropical Botanic Garden and Research Institute (TBGRI) agreed to share the license fee and royalties with the members of the Kani tribe community through creation of

¹⁴ [TKDL, Biopiracy of Traditional Knowledge](#), (last visited on: 7 February, 2026)

¹⁵ Ibid.

a trust. It lays down a significant precedent on equitable benefit-sharing mechanisms for traditional knowledge¹⁶.

The Ayahuasca (Banisteriopsis caapi) Case (1999):

Loren Miller, an American plant scientist was granted a patent on an ayahuasca vine variety which he named "Da Vine" Plant. Miller made a claim in the USPTO that he found this plant variety in a domestic garden in the Amazon. On behalf of the Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA), the Center for International Environmental Law (CIEL) made a request for re-examination of the plant patent. CIEL claimed that the plant was neither "new" nor "distinct" and had been known by the indigenous communities for centuries. Miller's patent was rejected by the US Patent and Trademark Office (USPTO) on the ground that the patented plant variety was a "prior art". It was known and held in U.S. herbarium collections decades before the patent was filed. The claims made by traditional communities won but due to presentation of additional arguments by Miller, the patent was reinstated before it expired in 2003 itself and entered the public domain¹⁷.

Bikram Choudhary's copyright claim over yoga poses:

Bikram Chowdhary is a yoga guru who claimed copyright protection over a set of 26 yoga asanas and breathing exercises to be practiced in a hot room for 90 minutes for optimising health benefits in the case of Bikram's Yoga College of India v. Evolution Yoga. He specified that this particular type of yoga sequence was akin to a dance choreography and deserved exclusive ownership as it was a creation of his own mind, i.e, his intellectual property. Evolution Yoga had used its unique yoga sequence without permission and hence it was a case of copyright infringement¹⁸.

¹⁶ [R.V. Anuradha, Sharing with the Kanis: A case study from Kerala](#), available at: (last visited on: 7 February, 2026)

¹⁷ [Center for International Environmental Law, Legal elements of Ayahuasca Patent Case](#), accessed on: (last visited on: 2 February, 2026)

¹⁸ [Maegen Sincclair, Bikram's Yoga College of India v Evolution Yoga](#), accessed on: (last visited on: 3 February, 2026)

The US Court rejected Chowdhary's claims. The Court reasoned that yoga is an uncopyrightable art. It is to be noted that an idea cannot be copyrighted. Only a unique expression of an idea is copyrightable. Only books and video recordings describing Bikram sequence can be copyrighted and the yoga exercises themselves¹⁹. Additionally, yoga is a part of Indian Traditional Knowledge system and has been recognised by UNESCO as Indian Cultural Heritage. It includes postures, meditation and breathing techniques that unify body, mind and soul. It has its original roots in Vedic traditions and has been attributed to Sage Patanjali in the Yoga Sutras²⁰.

These cases illustrate the role played by Judiciary in developing traditional knowledge and protecting it against biopiracy and misappropriation. It also elaborates on how the benefits derived out of traditional knowledge must be shared in a reasonable manner by all stakeholders in the contract design and enforcement process.

CULTURAL SENSITIVITY IN CONTRACT DESIGN PROCESS:

Recognising cultural differences and respecting them by cultivating a sense of mutual understanding and tolerance is essential for appreciation of diversity and laying the foundation for effective and respectful acts that reduce ethnocentrism and chances of animosity between diverse cultural groups²¹. Cultural sensitivity is a crucial element of the contract design and enforcement process. Cultural sensitivity is a unique mindset that is based on the premise that no single way of life is superior and accepts differences without adverse judgments.

Cultural sensitivity in the contract design process for traditional knowledge sharing comprises features like culturally appropriate prior informed consent, reasonable benefit-sharing mechanisms in form of royalties and other capacity building activities, protection of sacred indigenous knowledge and practices, elaboration on

¹⁹ Ibid.

²⁰ [Discourse, Yoga is an Indian heritage](#), accessed on: (last visited on: 3 February, 2026)

²¹ [Bobel MC, Al Hinai A, Roslani AC, Cultural Sensitivity and Ethical Considerations. Clin Colon Rectal Surg. 2022 Sep 13](#), accessed on: (last visited: 11 February 2026)

the rights and obligations of the licensor and licensee, the use of language that is culturally accessible, and contract negotiation processes that are participative and accountability building clauses in licensing arrangements. In stark contrast, a culturally insensitive contract treats TK as a commodity and fails to understand its communal, intergenerational and spiritual character. A contract based on western notions concentrates largely on monetary profits, imposed conventional IP standards that fail to recognise the community decision making structure²².

COMPARITIVE JURISDICTIONAL ANALYSIS:

United States: Contract-Based and IP-Oriented Model:

In the international arena, the United States is of the opinion that traditional knowledge and expressions of folklore must be protected under the existing intellectual property law which include patents, copyrights and trademarks. Emphasis is more on legal enforceability of contract than on cultural continuity. The beneficiaries for the protection of TK involve a complex web of a multitude of stakeholders like the government and their citizens, immigrant communities, and the traditional indigenous communities. The US, through multiple official documents, has declared the importance of promoting an atmosphere that builds upon preservation and protection of TCEs/EoF for the promotion of authentic tradition-based creativity and innovation²³.

The US has recognised specific forms of behaviours which the indigenous communities consider as inappropriate or illegal. It has been called misappropriation and includes behaviours like unauthorized reproduction, adaptation and commercialization of TCEs/EoF for industrial profits with no substantial benefit sharing mechanisms and their utilisation in an degrading or insulting manner. It also

²² Marina Tsikun, Shang-Jyh Liu and Kuei-Jung Ni, A Review on Contractual Arrangement Regarding Protection of Traditional Knowledge Holders, European Society of International Law, Conference Papers, 2011

²³ WIPO IGC on Intellectual Property and Genetic Resources, Comments of the United States of America on Traditional Cultural Expressions/ Expressions of Folklore and Traditional Knowledge, accessed on: 8 February, 2026

includes unauthorized access and disclosure of sacred art forms and knowledge systems²⁴. For the protection of TCEs and EoF, the current IPR regime works well. A unique piece of visual art like a painting or sculpture made by a community artist who is influenced by a traditional design can seek copyright protection. To address complicated problems and concerns of indigenous and local populations relating to the commercialisation of their traditional knowledge, other IPR theories and principles could be modified. For example, the Berne Convention's provisions on moral rights could be modified to meet certain non-economic problems and issues pertaining to TCE/EoF. An amalgamation of modern-day IPR doctrines and principles with customary law can promote innovation while simultaneously protecting indigenous rights. The remedies against misappropriation must be envisaged under the current IPR regime²⁵.

In a trade promotion agreement dated 12 April 2006, an understanding was reached between Governments of the United States of America and the Republic of Peru regarding biodiversity and traditional knowledge protection. It had several crucial dimensions like prior informed consent from the stakeholders of genetic resources, equitable sharing of the benefits arising from the use of traditional knowledge and genetic resources and patent examination to ensure the satisfaction of the patentability criteria. The contracting parties shall endeavor to build publicly accessible databases that contain relevant information relating to traditional knowledge and genetic resources which provides an opportunity to mention in a written form to the patent examination body prior art that impacts patentability²⁶.

Australia: Recognition of Indigenous Cultural and Intellectual Property (ICIP):

There is an increasing policy recognition of Indigenous Cultural and Intellectual Property (ICIP) for cultural continuity and economic opportunities for the local

²⁴ Ibid.

²⁵ Ibid.

²⁶ United States - Peru Trade Promotion Agreement, Understanding Regarding Biodiversity and Traditional Knowledge, April 12, 2006.

people. Cultural sustainability is attained through a free, prior and informed consent from Aboriginal and Torres Strait islanders for the use of ICIP. The Australian government officially endorsed UNDRIP and commits itself for the development of a National Cultural Policy. There has been a steady incorporation of contractual clauses to protect sacred knowledge and maintain cultural integrity through self-determination and consultation processes²⁷.

The TK licensing agreements are increasingly being drafted in a culturally sensitive manner that respects the secrecy and privacy of TK and grants the holders of traditional knowledge a fair share from the profits derived out of its commercialisation. There has been an unwavering movement towards community-controlled agreements with the inclusion of explicit clauses in the TK sharing contracts that acknowledge traditional custodianship²⁸. It has been a trend to establish cultural protocol guidelines in TK sharing contracts. The TK licensing arrangements recognise that ICIP is dynamic and living and hence individual ownership of such a knowledge system is not possible. But such a system has its own limitations²⁹.

There is no holistic law backing ICIP against misappropriation and there is a heavy reliance on IP laws including patents and copyright and contractual solutions. Hence, there are significant enforcement challenges. Hence, we are of the view that Australia displays a level of cultural reflexivity greater than that of the United States of America. But there is a need for structural legal reform for greater protection of TK due to heavy reliance on negotiated goodwill³⁰.

²⁷ [Court Health Consulting, Indigenous Cultural and Intellectual Property](#), accessed on: (last visited: 12 February 2026)

²⁸ Ibid.

²⁹ [Emma Fitch, Dylan Bender and Luca Sawyer developed for Reconciliation Australia, Guide – Respecting and Protecting Indigenous Cultural and Intellectual Property \(ICIP\), 2025](#), accessed on:(last visited: 12 February 2026)

³⁰ Ibid.

India: Sui Generis and Defensive Protection Model:

India aims at developing a *sui generis* model of TK protection which builds upon the defensive protection model of IPR. The goal of defensive protection is to prevent outsiders from obtaining intellectual property rights on traditional knowledge. For instance, India has developed a searchable database of traditional medicine that has been assembled by India that can be used by patent examiners as proof of prior art by patent examiners while evaluating applications. This initiative was a response to USPTO granting patent to turmeric for healing wounds, which was a well-known property of the turmeric by traditional communities and has been recorded in Sanskrit texts³¹.

The creation of such a database ensures that the sacred cultural expressions, like sacred phrases or symbols can be protected from third parties that might register them as trademarks by employing defensive tactics. This database has been named as Traditional Knowledge Digital Library (TKDL) by the Indian government and its major objective is to prevent wrongful patents³². Biological Diversity Act (2002) provides for benefit-sharing mechanisms and mandatory prior approval for access to biological resources. It specifically includes disclosure requirements³³.

A thorough cultural sensitivity assessment helps us in recognising community rights in biodiversity law which prevents biopiracy and misappropriation of knowledge by including adequate benefit sharing mechanisms and capacity building efforts. However, in numerous instances, excessive governmental control may marginalize indigenous communities and traditional knowledge holders by reducing their autonomy and the bureaucratic process may not reflect customary decision-making.

³¹ [WIPO. Traditional Knowledge and Intellectual Property. Background Brief no.1](#), accessed on: (last visited: 10 February 2026)

³² [About TKDL](#), Accessed on: (last visited: 10 February 2026)

³³ The Biological Diversity Act, 2002 (Act no. 18 of 2003)

Brazilian Model of Traditional Knowledge Sharing through MTAs:

Brazil's model for sharing Traditional Knowledge (TK) through Material Transfer Agreements (MTAs) is a part and parcel of its Access and Benefit-Sharing (ABS) legal framework governing genetic resources and traditional knowledge built upon Convention on Biodiversity and Nagoya Protocol. MTAs work under the supervision of Genetic Heritage Management Council (CGEN). There is a requirement of registration via SisGen (National System for Genetic Heritage and Associated Traditional Knowledge) which is a virtual platform to which only Brazilian nationals have access. Hence, foreign researchers require a Brazilian partner to further their research³⁴. An MTA is needed in instances of genetic material being sent to a foreign location, transfer of samples to third parties for research and it involves associated traditional knowledge. MTA typically identifies contacting parties, including the provider and recipient, description of genetic resources and derivatives with associated traditional knowledge (if any), the purpose of transfer and limitations such as prohibition of transfer to third parties without permission and an obligation to notify about commercial use of TK. MTA includes benefit-sharing options like monetary rewards, technology transfer and capacity building. It offers protection against misappropriation through a culturally sensitive process. The Brazilian ABS Model is uniquely framed. It is a well-structured, state-controlled ABS system which includes strict regulatory mechanisms on sending material abroad.

Contract Design Attributes that Respect TK holders' Customary Values and Traditions:

Through an extensive comparative study, we identify numerous contract design attributes that inherit and respect indigenous values and traditions. We can build contract clauses to fit in local values and traditions to ensure accountable and

³⁴ [German Nagoya Protocol Hub, Brazil Easy ABS Guide, 2024](#), accessed on: (last visited: 10 February 2026)

transparent TK governance. The first and foremost step in the contract design process should be the inclusion of TK holders in the development of contract terms like definition clause, terms of payment, rights and duties of the parties, indemnification, confidentiality of the agreement and so on. It is not mere consultation with TK holders but a conscious effort to develop a fair and equitable contract jointly³⁵.

For co-designing TK licensing agreements, it is necessary to identify the relevant TK holder which may include community leaders and institutions like a council of elders, for example, Panchayati Raj in India. Contract signatories must have dual authority of customary law and domestic statutory law. A specific clause must be incorporated stating that relevant TK holders have the responsibility to determine effective implementation of the contract including any modifications in the agreement at a later stage³⁶.

The licensee in an IP-sharing agreement must obtain free, prior, and informed consent from the licensors which may be community leaders or other indigenous institutions as per the standards prescribed by international instruments like Nagoya Protocol. The consent is based on the will of the entire community rather than a group of elders. The members of the community must actively discuss the prospects of the TK sharing through meetings. There is an ardent need for disclosure of objectives, purpose, stakeholders, forecasted industrial outputs, further commercial expansion, and related risks³⁷.

The benefits of commercialisation of TK must be shared with the indigenous communities. Wherever appropriate, it shall include provisions for sharing of industrial profits, community-level trust funds and contributions to cultural or

³⁵ Krystyna Swiderska, IIED, 'Protecting community rights over traditional knowledge: Implications of customary laws and practices', London, 2004

³⁶ Ibid.

³⁷ [WIPO, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Contractual Practices and Clauses relating to Intellectual Property, access to genetic resources and benefit sharing](#), accessed at: (last visited: 26 March 2026)

ecological development. Capacity building activities like funding cultural activities and youth learning programs shall also be financed by licensees. Clearly certain terms of use shall be laid which explicitly exclude uses that are inappropriate in a sacred or ceremonial context. It is essential to define “permitted uses” and “non-permitted uses”. It shall specify if sub-licensing is allowed in a particular context or not³⁸.

Confidentiality must be maintained in the licensing agreement. The secrecy clause should match customary norms related to who can know what, whether knowledge can be recorded or copied and how it shall be handled and transmitted from one person to another. TK holders must be actively acknowledged for their contributions in the industrial application of indigenous knowledge. TK holders must enjoy data sovereignty, which includes active decision making power on what materials can be recorded, digitized, transferred to third parties, and modified or combined with other datasets³⁹.

The licensees have certain environmental obligations. They shall use TK in a sustainable manner and hence certain restrictions may be imposed on natural resource exploitation and harm prevention methodologies. There shall be a community led effort of environmental monitoring and evaluation⁴⁰. The dispute resolution mechanism shall include a tiered approach like negotiation between diverse stakeholders, community review and final resolution through litigation or arbitration⁴¹. TK holders shall enjoy oversight over the utilisation of indigenous knowledge in the industries. It involves periodic reporting on use and outcomes including audit compliance. Such a clause must be necessarily included in the

³⁸ Ibid.

³⁹ [Government of North West Territories, Traditional Knowledge Data Sharing Agreement](#), accessed at: (last visited on: 26 March 2026)

⁴⁰ Md. Uddin, Traditional Knowledge, International Environmental Law, and Bangladesh (July 27, 2023). [Yale Journal of International Law-Online, Vol. 48, No. 1, 2023](#).

⁴¹ [WIPO, Background brief no. 8, Alternate Dispute Resolution for Disputes related to Intellectual Property and Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources](#), accessed at: (last visited: 26 March 2026)

drafted contract. The termination clause shall provide authority to TK holders to end the licensing agreement for breach of necessary conditions like non-permitted use of indigenous knowledge and withdrawal of community consent. If possible, the contract shall convey issues like what happens to existing commercial goods after termination⁴².

The publication of output of industrial application of traditional knowledge requires prior approval by TK holders. There shall be a strict prohibition on publishing sensitive details or materials of sacred nature. The licensees shall be debarred from claiming patents over TK explicitly. The contract terms shall define how derivatives are handled so that authority of TK holders over their knowledge is recognised. It specifies whether improvements require new consent and the issues related to ownership and profit sharing⁴³.

CONCLUSION:

Through a comparative legal study, we identify the best practices relating to contract designs for traditional knowledge sharing. It provides a platform for law development and reform. It helps in formalizing the recommendations for the formation of contract designs that suit the needs of indigenous communities. It includes culturally appropriate PIC procedures, recognition of intergenerational rights, multilingual documentation of TK with rights and obligations of contracting parties that are mutually agreed and dispute resolution mechanisms including ADR that adhere to community traditions.

True cultural sensitivity in the contract design and enforcement process has a reach beyond Western contractual formalities for IP sharing and leans towards recognition of indigenous epistemologies, collective identity of traditional community and intergenerational development of knowledge. TK licensing agreements in order to be

⁴² [WIPO, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Contractual Practices and Clauses relating to Intellectual Property](#), access to genetic resources and benefit sharing, accessed at: (last visited: 26 March 2026)

⁴³ Ibid.

effective and legally durable must contain specific clauses that ensure cultural integrity by offering strict arrangements for protection against biopiracy and misappropriation of traditional knowledge.

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