

**PAPER 13: SPECIALISATION PAPER VII:**  
**LAW OF INTELLECTUAL PROPERTY AND BIODIVERSITY**

**Objectives:**

The laws relating to intellectual property (IP) and biodiversity are recent one. Both the IP and biodiversity concepts have their own historical roots. While, biodiversity evolved with the evolution of nature and civilisations, the intellectual property system has been evolved through statutes to protect the improvements made to the biological resources and grant monopoly rights to the inventor. To understand and become familiar with the system of IP and biodiversity, the students are required to study the subject by going through the historical background of both concepts and national and international laws governing them in a right perspective.

**Course Outcomes:**

On successful completion of the course the student will be able to –

1. Acquaint with the basic terminologies such as ‘genetic material’, ‘genetic resources’, ‘biological resources’, ‘benefit-sharing, etc
2. Analyse the impact of TRIPS Agreement and Convention on Biological Diversity on Indian biodiversity.
3. Evaluate the provisions of access to biological material and benefit sharing in Indian scenario
4. Examine the scope of protection given to traditional knowledge under biodiversity law and patent Act.

**Course Content:**

**UNIT: I** – Conceptual analysis of biodiversity, significance of biodiversity, meaning of ‘genetic material’, ‘genetic resources’, ‘biological resources’, and ‘benefit-sharing’; reasons for loss of biodiversity, the importance of technological growth and its impact on socio-economic growth of the country, impact of IPR on biodiversity conservation.

**UNIT: II** –Salient features of international legal instruments governing the biodiversity: The International Plant Protection Convention, 1951, Declaration on the Permanent Sovereignty over Natural Resources, 1962, International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), 2001, the Convention on Biological Diversity (CBD), 1992, the Cartagena Protocol on Bio-safety to the Convention on Biological Diversity, the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits arising out of their utilization; the interrelationship between the CBD and TRIPS Agreement and the CBD and UPOV.

**UNIT: III**- Evolution of biodiversity law in India, Objects of the Biological Diversity Act, 2002, the salient features of the Biological Diversity Act, 2002, interface between the IPRs, PBRs, Farmers’ Rights, Indigenous Peoples Rights and Community Rights.

**UNIT: IV** –Regulation of Access to Biological Diversity: composition, powers, functions and duties of the National Biodiversity Authority (NBA), State Biodiversity Boards (SBB) and Biodiversity Management Committees (BMCs);

Prior Approval, Prior Intimation, Prior Approval for making application for obtaining IPR, Benefit-sharing.

**UNIT: V** – Powers, functions and duties of the Central and State Governments under the Act; Offences and Penalties, Appeals; the interrelationship between the Biological Diversity Act, 2002 and the Patents Act, 1970, the protection of Plant Varieties and Farmers' Rights Act, 2001 and Geographical Indications of Goods (Protection and Registration) Act 1999.

### **Prescribed Books:**

1. Philippe Cullet, Intellectual Property Protection and Sustainable Development, Lexis Nexis, 2005.
2. Elizabeth Verkey, Intellectual Property Rights, Eastern Book Company, 2007.
3. Vandana Shiva, Biopiracy: The Plunder of Nature and Knowledge, South Press, 1997.
4. Vandana Shiva, Protect or Plunder: Understanding Intellectual Property Rights, Zed Books Ltd., London, 2001.
5. Shiv Sahai Singh (Ed.), "The Law of Intellectual Property Rights" (Deep and Deep Publications Pvt. Ltd, New Delhi, 2005).
6. Suman Sahai, "Biodiversity Act Falls Short of National Needs" in Kanchi Kohli (Ed.) Understanding the Biological Diversity Act 2002: A Dossier (Kalpavriksh, GRAIN and IIED publication, 2006).
7. V. K. Ahuja, Intellectual Property Rights, Lexis Nexis, New Delhi.

### **Reference Books:**

1. W.R. Cornish, Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights, Universal Law Publishing Co. Pvt. Ltd., Delhi (2001).
2. Ranabhir Singh, Law relating to Intellectual Property, Vols. 1-3, Universal Law Publishing Co. Pvt. Ltd., Delhi.
3. Bibek Debroy (Ed.), Intellectual Property Rights, B.R. Publishing Corporation (India) Ltd. (1998).
4. F.H. Erbisich and K.M. Maredia (Eds.), Intellectual Property Rights in Agricultural Biotechnology, CAB International, Wallingford, Oxon, UK (1998).
5. Ashok Soni, A Complete Reference of Intellectual Property Laws, Vols. 1&2.
6. S. K. Verma & Raman Mittal (ed.), Intellectual Property Rights a Global Vision, Indian Law Institute, New Delhi, 2004.
7. Lionel Bently & Brad Sherman, Intellectual Property Law, Oxford University Press, 3rd edn., 2008.
8. N.S. Gopalakrishnan & T.G. Ajitha, Principles of Intellectual Property, Eastern Book Company, 2nd edn., 2014.
9. Watal Jayashree, Intellectual Property Rights in the World Developing Countries

(Oxford University Press, New Delhi, 2001).

10. CEERA, A Primer on Biological Diversity and Access and Benefit Sharing (CEERA and UNDP Publications, 2019). Available at, <https://ceerapub.nls.ac.in/wp-content/uploads/2019/05/A-Primer-on-Biological-Diversity-and-Access-and-Benefit-Sharing.pdf>.
11. CEERA, Handbook on Biodiversity Law, Access and Benefit Sharing (CEERA Publications, 2019). Available at, <https://ceerapub.nls.ac.in/wp-content/uploads/2019/05/Handbook-on-Biodiversity-law-Access-and-Benefit-Sharing.pdf>.