

CLASS:- LL.M. 3rd SEMESTER

OPTIONAL PAPER

**CONSERVATION AND INNOVATION IN IPR: PROTECTION OF TRADITIONAL
KNOWLEDGE AND PLANT VARIETIES**

Paper: 303-A

Max. Marks: 100

Credits: 5

Time: 3 Hours

Note:

1. There shall be total Five Units in the question paper.
2. Unit-I shall contain one compulsory question having four parts of five marks each. This question shall be spread over the entire syllabus.
3. There shall be two questions in each Unit i.e. Unit-II to Unit-V.
4. The student is required to attempt four questions by selecting one question from each Unit i.e. Unit-II to Unit-V. Each question shall carry twenty marks.

COURSE OBJECTIVES:

- To engage students in interdisciplinary and multidisciplinary knowledge across three vital disciplines, fostering their interest and understanding in these interconnected areas;
- To enable students to explore and analyze the relationships among intellectual property rights, biodiversity regimes, and traditional knowledge regimes, emphasizing their interconnectedness;
- To raise awareness among students about the significant roles of international institutions in shaping the interplay between IP rights, biodiversity, and traditional knowledge, focusing on key organizations such as the WTO, TRIPs Agreement, CBD, Nagoya Protocol, ITPGR of FAO, WIPO, and other relevant bodies;
- To equip students with a comprehensive understanding of the practice and significance of intellectual property, biodiversity, and traditional knowledge in developing countries, particularly in India;
- To prepare students to critically evaluate the challenges and opportunities in the protection of traditional knowledge and plant varieties within the framework of international and national regulations.

UNIT-I

History and Jurisprudence of Plant Variety and Bio-Diversity Protection

- Philosophical Foundations of Plant Variety and Bio-Diversity Protection
- Historical Development of Plant Patents, Variety, Bio-Diversity Protection
- Intellectual Property Justifications and UPOV Compliance
- Registration Procedures under Protection of Plant Varieties and Farmers Rights Act, 2001
- Convention on Biological Diversity (CBD), 1992; Nagoya Protocol, 2010
- Bio-Piracy; control of Bio-Piracy under Biological Diversity Act, 2002

UNIT-II

Rights, Limitations & Infringement in Plant Variety

- Exclusive Rights
- Breeders' Rights and Farmers' Rights
- Researcher's Rights
- Rights of Communities
- Compulsory Licence
- Infringement & Remedies under Protection of Plant Varieties and Farmers Rights Act, 2001

UNIT-III

International Framework for Traditional Knowledge

- Understanding Traditional Knowledge: Meaning and Characteristics
- Classification of Traditional Knowledge Protection
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007.
- Institutions and Organizations in Traditional Knowledge Protection

UNIT-IV

Interface of Traditional Knowledge and IPR

- Protection of Traditional Knowledge under Existing IPR Regime: Patent, Geographical Indication and Copyright
- National Policy Framework for Traditional Knowledge Protection: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Traditional Knowledge Digital Library (TKDL)
- *Sui Generis* Protection of Traditional Knowledge; Prior Informed Consent, Access and Benefit Sharing (PIC-ABS) in TK Preservation
- Traditional Knowledge in Different Sectors; Traditional knowledge and engineering, Traditional medicine system, TK and biotechnology, TK in agriculture, Ayurved, TK and Sustainable Development, TK and Food security

COURSE OUTCOMES:

- Students will be able to trace the historical evolution and jurisprudence of plant variety protection, understanding the philosophical foundations, development of plant patents, and compliance with UPOV requirements;
- Students will develop an in-depth understanding of the rights, limitations, and infringement issues related to plant varieties, including the distinctions and conflicts between breeders' rights, farmers' rights, and community rights;
- Students will gain a comprehensive understanding of the international framework for traditional knowledge, including the meaning, characteristics, and rationale for its protection, as well as key global efforts and agreements in this domain;
- Students will be able to analyze the interface between traditional knowledge and intellectual property rights, exploring national legal frameworks, the role of the

Traditional Knowledge Digital Library (TKDL), and mechanisms for sui generis protection, prior informed consent, and access and benefit sharing (PIC-ABS);

- Students will possess the ability to critically evaluate registration procedures, the concept of bio-piracy, and the significance of essential requirements such as novelty, distinctiveness, uniformity, and stability in plant variety protection.

SUGGESTED READINGS

1. Suman Sahai - Micro Organisms and Intellectual Property Rights (1998).
2. S.K. Verma - Protecting Traditional Knowledge: Is Sui Generis System an Answer? (2004)
3. Phillipe Cullet - Intellectual Property Protection and Sustainable Development (2005)
4. Steven D. Anderman - Interface Between Intellectual Property Rights and Competition Policy (2005).
5. L. Helfer - Non-consensual International Lawmaking (2008)
6. Basanta Kumar Mohanta and Vipin Kumar Singh - Traditional Knowledge System and Technology in India (2012)
7. Amit Jha - Traditional Knowledge System in India (2002)
8. R.R. Hanchinal and Raj Ganesh - Protection of Plant Varieties & Farmers' Rights (2018)