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Globally, local and indigenous approaches to conserving biodiversity, crop improvement, and managing precious natural resources are under threat. Many communities have to deal with 'biopiracy,' for example. As well, existing laws are usually unsuitable for protecting indigenous and traditional knowledge and for recognizing collective rights, such as in cases of participatory plant breeding, where farmers, researchers and others join forces to improve existing crop varieties or develop new ones, based on shared knowledge and resources. This book addresses these issues. It outlines the national and international policy processes that are currently underway to protect local genetic resources and related traditional knowledge and the challenges these initiatives have faced. In particular these themes are addressed within the context of the Convention of Biological Diversity and the International Treaty on Plant Genetic Resources for Food and Agriculture. The authors broaden the policy and legal debates beyond the sphere of policy experts to include the knowledge-holders themselves. These are the 'custodians of biodiversity': farmers, herders and fishers in local communities. Their experience in sharing access and benefits to genetic

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resources is shown to be crucial for the development of effective national and international agreements. The book presents and analyzes this experience, including case studies from China, Cuba, Honduras, Jordan, Nepal, Peru and Syria. Copublished with the International Development Research Centre (IDRC). With exponentially increasing population across the globe and shrinking resources, the concern of food security is looming large over the world community. To catch up with the fierce pace of growth in all the sectors of development, ensuring uninhibited availability of food resources is a prime agenda. The growing global demand for food, feed, fiber and bio-based renewable materials, such as bio-fuels, is changing the conditions for genetic resources development and bio-resource production worldwide. The crucial role in ensuring food security is played by the agro-based industries and enterprises. Advances in plant genetic resources coupled with traditional knowledge of the local tribes and native practices facilitate achievement of food security. Debates about Access and Benefit Sharing (ABS) have moved on in recent years. An initial focus on the legal obligations established by international agreements like the United Nations Convention on Biological Diversity and the form of obligations for collecting physical biological materials have now moved to a far more complex series of disputes and challenges about the ways ABS should be implemented and enforced: repatriation of resources, technology transfer, traditional knowledge and cultural expressions; open access to information and knowledge, naming conventions,

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farmers' rights, new schemes for accessing pandemic viruses and sharing DNA sequences, and so on.

Unfortunately, most of this debate is now crystallised into apparently intractable discussions such as implementing the certificates of origin, recognising traditional knowledge and traditional cultural expression as a form of intellectual property, and sovereignty for Indigenous peoples. Not everything in this new marketplace of ABS has been created de novo. Like most new entrants, ABS has disrupted existing legal and governance arrangements. This collection of chapters examines what is new, what has been changed, and what might be changed in response to the growing acceptance and prevalence of ABS of genetic resources. Biodiversity, Genetic Resources and Intellectual Property:

Developments in Access and Benefit Sharing of Genetic Resources addresses current issues arising from recent developments in the enduring and topical debates about managing genetic resources through the ABS regime.

The book explores key historical, doctrinal, and theoretical issues in the field, at the same time developing new ideas and perspectives around ABS. It shows the latest state of knowledge and will be of interest to researchers, academics, policymakers, and students in the fields of intellectual property, governance, biodiversity and conservation, sustainable development, and agriculture.

This text examines the international agreements governing trade in genetic resources - crucial resources for world agriculture, food security and large industries such as pharmaceuticals. Intellectual Property Rights

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(IPRs) in these resources are critical for those involved in the trade, including industry and developing countries.

The book analyzes the Convention on Biological Diversity (CBD), World Trade Organization agreements and other agreements. It explains how they can be integrated into an equitable trading regime.

There is growing interest in documenting the wealth of traditional knowledge (TK) that has been developed by indigenous peoples and local communities around the world. But documenting TK can raise important issues, especially as regards intellectual property. This Toolkit presents a range of easy-to-use checklists and other resources to help ensure that anyone considering a documentation project can address those issues effectively.

National implementation of the Convention on Biological Diversity (CBD) provisions has yielded enough challenges for providers and users of genetic resources and associated traditional knowledge alike. The Nagoya Protocol brings novel ideas for resolving the challenges plaguing the Access and Benefit-Sharing (ABS) process in general and non-commercial research in particular.

This is one of the first books to address research cooperation and facilitated access for non-commercial biodiversity research. It uniquely offers concrete and practicable solutions based on experiences of researchers and administrative officials with ABS, and on the interpretation of the Nagoya Protocol on how free and lively taxonomic research can be ensured while at the same time observing obligations of obtaining prior informed consent and sharing of benefits. This book will

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be useful to students of International Environmental Law, International Biodiversity Law, Intellectual Property Law, Climate Law and Law of Indigenous Populations. With foreword from Executive Secretary CBD, Braulio Ferreira de Souza Dias.

Biogenetic resources - the critical biological and chemical materials that underpin so much of medicine, both modern and traditional, agriculture, and wider economic activity in so many fields - are at the centre of heated debate regarding their use, development, and ownership, and the issues of ethics and equity that impinge on all of these factors. This book is a comprehensive examination of the key issues, institutions and ideologies in this area, presenting definitions and explanations of the fundamentals of intellectual property rights (IPRs), biogenetic resources and traditional knowledge. It uses the insights from this to build a picture of how these factors interact in practice, bringing to the surface issues such as: the conservation and sustainable use of biodiversity, benefit sharing from the commercial use of biodiversity, biotechnological innovation and the transfer of technology, agriculture, food security, rural development, health and international justice. Part 1 describes the relevant international IPR laws, highlights the extent to which modern commerce depends on such resources, and traces the way in which modern IPR law has evolved to accommodate this dependence. Part 2 shows how stronger IPR protection in the area of life science innovation has given rise to controversies such as 'biopiracy', 'terminator' genes and genetic uniformity. Part 3 focuses on traditional

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knowledge, its nature, its importance, and the applicability of IPR-style protection. Part 4 covers the international negotiation and policy-making of the WTO, WIPO and CBD and the legislative initiatives of national governments of Asia, Africa and Latin America. Finally, Part 5 focuses on two developing country case studies - of India and Kenya - assessing whether they will be able to gain economic benefit from development of their natural resources within the current regulatory system and whether this will encourage the conservation and sustainable use of the resource base. With its multidisciplinary approach and breadth of coverage, this book will appeal both to those new to the subject and to those with professional and specialist interest, including students, academics, legal practitioners, government policy-makers and the private sector.

"Transparency through the disclosure of patented inventions has been a defining feature of the modern patent system since its inception. As modern innovation continues to build upon and further advances the diversity of genetic resources, recent discussions have identified questions as to whether existing patent disclosure requirements should be additionally expanded through specific disclosure requirements for genetic resources and traditional knowledge to further improve the transparency and efficacy of the patent system....The current publication is an update and improvement of the original WIPO Technical Study from 2004, incorporating the latest practical and empirical information provided by Member States and stakeholders. It provides a purely technical account of the legal and operational questions

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that have been identified as arising in the context of patent disclosure requirements related to genetic resources and traditional knowledge, and does not promote or propose any particular position, approach or perspective on this matter. The study looks at the key questions identified from the point of view of the patent system and in relation to other relevant legal and policy frameworks"--Page 5.

Traditional knowledge protection methods are becoming increasingly out-dated in the face of modern challenges. Focusing on the protection of traditional knowledge and related genetic resources, this book is the first of its kind to amalgamate a novel theoretical framework with the practical applications of the combined theories of Rawls and Coase. The Protection of Traditional Knowledge on Genetic Resources analyses various means of protection for traditional knowledge that cohere with Rawls' and Coase's specific objectives regarding fairness and efficiency. It utilizes flexibilities provided by binding international conventions in the field in order to propose alternative methods to protect different forms of traditional knowledge-based innovation. Frantzeska Papadopoulou reaches the conclusion that property, liability and reward systems are forms of protection that fulfil the fairness and efficiency criteria whilst remaining compliant with the general international legal framework. This book is ideal for intellectual property law and development academics and policymakers, especially those working on intellectual property rights (IPRs), as it proposes a novel methodological framework for the evaluation of new as well as existing IPRs.

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Policymakers and other stakeholders often raise operational questions and seek practical and empirical information about patent disclosure requirements in relation to genetic resources and traditional knowledge. This authoritative study offers a comprehensive and scrupulously neutral overview of key legal and operational questions arising within this context. General information on the interface between intellectual property (IP) and traditional knowledge (TK), traditional cultural expressions (TCEs), and genetic resources (GRs). It briefly addresses the most important questions that arise when considering the role that IP principles and systems can play in protecting TK and TCEs from misappropriation, and in generating and equitably sharing benefits from their commercialization, and the role of IP in access to and benefit sharing in GRs. This volume provides a reference textbook and comprehensive compilation of multifaceted perspectives on the legal issues arising from the conservation and exploitation of non-human biological resources. Contributors include leading academics, policy-makers and practitioners reviewing a range of socio-legal issues concerning the relationships between humankind and the natural world. The Routledge Handbook of Biodiversity and the Law includes chapters on fundamental and cutting-edge issues, including discussion of major legal instruments such as the Convention on Biological Diversity and the Nagoya Protocol. The book is divided into six distinct parts based around the major objectives which have emerged from legal frameworks concerned with protecting biodiversity. Following introductory

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chapters, Part II examines issues relating to conservation and sustainable use of biodiversity, with Part III focusing on access and benefit-sharing. Part IV discusses legal issues associated with the protection of traditional knowledge, cultural heritage and indigenous human rights. Parts V and VI focus on a selection of intellectual property issues connected to the commercial exploitation of biological resources, and analyse ethical issues, including viewpoints from economic, ethnobotanical, pharmaceutical and other scientific industry perspectives.

Traditional knowledge protection methods are becoming increasingly out-dated in the face of modern challenges. Focusing on the protection of traditional knowledge and related genetic resources, this book is the first of its kind to amalgamate a novel theoretical framework with the practical applications of the combined theories of Rawls and Coase. Genetic Resources and Traditional Knowledge Case Studies and Conflicting Interests Edward Elgar Publishing

Biodiversity research and prospecting are long-standing activities taking place in a new legal and ethical environment. Following entry into force of the Convention on Biological Diversity in 1993, and other recent policy developments, expectations and obligations for research and prospecting partnerships have changed. However, to date there are few guides to integrating these concepts with practice. This book offers practical guidance on how to arrive at equitable biodiversity research and prospecting partnerships. Drawing on experience and lessons learned from around the world, it provides case studies, analysis and recommendations in a range of areas that together form a new framework for creating equity in these partnerships. They include researcher codes of ethics, institutional policies, community research

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agreements, the design of more effective commercial partnerships and biodiversity prospecting contracts, the drafting and implementation of national 'access and benefit-sharing' laws, and institutional tools for the distribution of financial benefits. As part of the People and Plants initiative to enhance the role of communities in efforts to conserve biodiversity and use natural resources sustainably, Biodiversity and Traditional Knowledge will be invaluable to students, researchers and local communities, academic institutions, international agencies, government bodies and companies involved in biodiversity research, prospecting and conservation.

For indigenous cultures, property is an alien concept. Yet the market-driven industries of the developed world do not hesitate to exploit indigenous raw materials, from melodies to plants, using intellectual property law to justify their behaviour. Existing intellectual property law, for the most part, allows industries to use indigenous knowledge and resources without asking for consent and without sharing the benefits of such exploitation with the indigenous people themselves. It should surprise nobody that indigenous people object.

Recognizing that the commercial exploitation of indigenous knowledge and resources takes place in the midst of a genuine and significant clash of cultures, the eight contributors to this important book explore ways in which intellectual property law can expand to accommodate the interests of indigenous people to their traditional knowledge, genetic resources, indigenous names and designations, and folklore. In so doing they touch upon such fundamental issues and concepts as the following: collective rights to the living heritage; relevant human rights norms; benefit-sharing in biological resources; farmers rights; the practical needs of documentation, assistance, and advice; the role of customary law; bioprospecting and biopiracy; and public domain. As a

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starting point toward mutual understanding and a common basis for communication between Western-style industries and indigenous communities, Indigenous Heritage and Intellectual Property is of immeasurable value. It offers not only an in-depth evaluation of the current legal situation under national, regional and international law including analyses of the Convention on Biological Diversity and other international instruments, as well as initiatives of the World Intellectual Property Organization (WIPO), the UN Food and Agriculture Organization (FAO), and other international bodies but also probes numerous further possibilities. While no one concerned with indigenous culture or environmental issues can afford to ignore it, this book is also of special significance to practitioners and policymakers in intellectual property law in relation to indigenous heritage. This book, here in its second edition, presents the most recent state of knowledge in the field.

The Nagoya Protocol is an unprecedented international environmental agreement that equally addresses development, distributive justice, and environmental sustainability. With a balanced view of the various possible interpretations of the Protocol provisions, in light of different national and regional perspectives, and a systematic highlighting of its legal innovations, *Unraveling the Nagoya Protocol: A Commentary on the Nagoya Protocol on Access and Benefit-sharing to the Convention on Biological Diversity* will serve as a seminal work for all those interested in the environment, human rights, economics and both legal and scientific innovations.

How do we promote global economic development, while simultaneously preserving local biological and cultural diversity? This authoritative volume, written by leading legal experts and biological and social scientists from around the world, addresses this question in all of its complexity. The first

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part of the book focuses on biodiversity and examines what we are losing, why and what is to be done. The second part addresses biotechnology and looks at whether it is part of the solution or part of the problem, or perhaps both. The third section examines traditional knowledge, explains what it is and how, if at all, it should be protected. The fourth and final part looks at ethnobotany and bioprospecting and offers practical lessons from the vast and diverse experiences of the contributors.

When the oral history of a medicinal plant as a genetic resource is used to develop a blockbuster drug, how is the contribution of indigenous peoples recognized in research and commercialization? What other ethical, legal, and policy issues come into play? Is it accurate for countries to self-identify as users or providers of genetic resources? This edited collection, which focuses on Canada, is the result of research conducted in partnership with indigenous peoples in that country, where melting permafrost and new sea lanes have opened the region's biodiversity, underscoring Canada's status as a user and provider of genetic resources and associated indigenous knowledge. This work is an important resource for scholars, corporations, indigenous peoples, policymakers, and concerned citizens as Canada and other countries take on the implementation of Access and Benefit Sharing policies over genetic resources and associated indigenous knowledge. This book is also available as Open Access.

Analyses the methods of protection of biodiversity and related traditional knowledge in the international and comparative national intellectual property systems.

The current publication is the second update and improvement of the original WIPO Technical Study from 2004, incorporating the latest practical and empirical information provided by Member States and stakeholders.

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The study looks at the key questions identified from the point of view of the patent system and in relation to other relevant legal and policy frameworks.

The need to regulate access to genetic resources and ensure a fair and equitable sharing of any resulting benefits was at the core of the development of the Convention on Biological Diversity (CBD). The CBD established a series of principles and requirements around access and benefit sharing (ABS) in order to increase transparency and equity in the international flow of genetic resources, yet few countries have been able to effectively implement them and ABS negotiations are often paralysed by differing interests. This book not only examines these complex challenges, but offers workable, policy-oriented solutions. International contributors cover theoretical approaches, new significant national legislation, the concept of traditional knowledge, provider and user country measures and common solutions. Exploring specific, salient examples from across the globe, the authors provide lessons for national regulation and the ongoing negotiations for an international ABS regime. Uniquely, this book also looks at the potential for 'horizontal' development of ABS law and policy, applying lessons from bilateral approaches to other national contexts.

This fascinating study describes efforts to define and protect traditional knowledge and the associated issues of access to genetic resources, from the negotiation of the Convention on Biological Diversity to the Declaration on the Rights of Indigenous Peoples and the Nagoya Protocol. Drawing on the expertise of local specialists from around the globe, the chapters judiciously mix theory and empirical evidence to provide a deep and convincing understanding of traditional knowledge, innovation, access to genetic resources, and benefit sharing. Because traditional knowledge was understood in early negotiations to be subject to a property

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rights framework, these often became bogged down due to differing views on the rights involved. New models, developed around the notion of distributive justice and self-determination, are now gaining favor. This book suggests – through a discussion of theory and contemporary case studies from Brazil, India, Kenya and Canada – that a focus on distributive justice best advances the interests of indigenous peoples while also fostering scientific innovation in both developed and developing countries. Comprehensive as well as nuanced, *Genetic Resources and Traditional Knowledge* will be of great interest to scholars and students of law, political science, anthropology and geography. National and international policymakers and those interested in the environment, indigenous peoples' rights and innovation will find the book an enlightening resource.

This Brief provides general and basic information on the interface between intellectual property and traditional knowledge, traditional cultural expressions, and genetic resources.

The Convention on Biological Diversity (CBD) strives for the sustainable and equitable utilization of genetic resources, with the ultimate goal of conserving biodiversity. The CBD and the Nagoya Protocol which has since been elaborated suggest a bilateral model for access to genetic resources and the sharing of benefits from their utilization. There is concern that the bilateral exchange "genetic resource for benefit sharing" could have disappointing results because providers are left out of the process of research and development, benefits are difficult to be traced to sources, and providers owning the same resource may complain of being excluded from benefit sharing. Thus, the CBD objective of full utilization

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and equitability may become flawed. Common Pools of Genetic Resources: Equity and Innovation in International Biodiversity Law suggests common pools as a complementary approach to bilateralism. This is one of the first books to reply to a number of complex legal questions related to the interpretation and implementation of the Nagoya Protocol. Taking an inductive approach, it describes existing pools and analyzes how they are organized and how they perform in terms of joint R&D and benefit sharing. It presents case studies of the most characteristic types of common pools, provides suggestions for further developing existing pools to cope with the requirements of the CBD and NP and, at the same time uses the clauses these conventions contain to open up for commons approaches. Written by a team of expert academics and practitioners in the field, this innovative book makes a timely and valuable contribution to academic and policy debates in international environmental law, international biodiversity law, intellectual property law, climate law and the law of indigenous populations.

This book discusses the means, instruments and institutions to create incentives to promote conservation and sustainable use of traditional knowledge and plant genetic resources for food and agriculture, in the framework of the world trade order. It approaches these topics on a broad basis: it analyses in depth the option to create specific sui generis intellectual property rights of the TRIPS Agreement. It then discusses the ways to support the maintenance of information which cannot be allocated to specific authors, and examines alternative

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concepts within the trade of traditionally generated information and related products. This book will be of significant interest to those studying and researching biotechnology, plant breeding, genetic resources, intellectual property law and agricultural economics. Implementing the Nagoya Protocol compares existing ABS regimes in ten European countries, including one non-EU member and one EU candidate country, and critically explores several cross-cutting issues related to the implementation of the Nagoya Protocol in the EU. This is the first comprehensive review of the Intergovernmental Committee (IGC) of the World Intellectual Property Organization (WIPO) established in 2000. It provides an in-depth consideration of the key thematic areas within WIPO discussions – genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs) through the perspectives of a broad range of experts and stakeholders, including indigenous peoples and local communities. It also looks at how these areas have been treated in a number of forums and settings (including national systems and experiences, and also in trade agreements) and the interface with WIPO discussions. Furthermore, the book analyses the process and the negotiation dynamics since the IGC received a mandate from WIPO members, in 2009, to undertake formal text-based negotiations towards legal instruments for the protection of GR, TK and TCEs. While there has been some progress in these negotiations, important disagreements persist. If these are to be resolved, the adoption of these legal instruments would be a

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significant development towards resolving key gaps in the modern intellectual property system. In this regard, the book considers the future of the IGC and suggests options which could contribute towards achieving a consensual outcome.

This global primer surveys international initiatives on traditional knowledge, folklore, cultural heritage and genetic resources, and describes in a comprehensive manner regional and national principles of protection in Asia, Europe, Africa, Oceania, the Middle East, the United States and the Americas. The most innovative parts of the book discuss three key approaches. First, the book highlights the relevance of customary law, describes how it is recognized and applied in legal systems and assesses its effectiveness as an enforcement mechanism. Second, through selected cases, the book illustrates the problem of biopiracy to which the disclosure requirement has been proposed as a policy response. It traces the origins of the disclosure requirement to instruments developed jointly by WIPO and UNESCO. Third, the book proposes a novel approach to protecting traditional knowledge premised on the principle of reciprocity and the use of mutual recognition agreements (MRAs) and assesses the scope of such MRAs. Libraries and universities will find this work is an invaluable resource for scholars and researchers. The material will also be important for government officials and organizations developing policy. Furthermore, the information available in these pages can empower indigenous peoples and local communities looking to promote awareness and protect traditional

