E-ISSN: 3139-8650

JIRMI

Journal For International Research & Multidisciplinary Innovation

VOLUME 2 | ISSUE 1

AUG 2026

jirmi.in | submissions@jirmi.in

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

A Study on the Impact of National Service Scheme (NSS) Camps: Fostering Community Development and Youth Empowerment

Author(s): Dr, Sajjan Kumar Lal[a], Dr. Satishkumar Singh[b], Dr. Rajni Bahuguna[c]

Affiliation(s):

- [a]Department of Mechanical and Mechatronics Engineering, Thakur College of Engineering. & Technology, Mumbai, India,
- [b]Department of Engineering Sciences and Humanities, Thakur College of Engineering. & Technology, Mumbai, India.
- [c]Department of Engineering Sciences and Humanities, Thakur College of Engineering. & Technology, Mumbai, India.

Email: sajjan.kumar@tcetmumbai.in

Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)

Date: 25 July 2026

Abstract

The National Service Scheme (NSS) is a flagship program aimed at involving students in community service to promote social responsibility and leadership skills. The National Service Scheme (NSS) is a considerable way of integrating community engagement into higher education by encouraging young people to be engaged in resolving social and developmental problems. This paper explores the structure, activities, and outcomes of NSS camps, emphasizing their role in fostering community development and empowering youth. Through an examination of real-world examples and feedback from participants, the study highlights the transformative impact of these camps on individuals and society. In order to make the TCET NSS camp planning and organization a successful system, this study also delves into it.

Keywords: NSS, Camp, Community, Awareness, NGO's.

1. Introduction

The National Service Scheme (NSS), launched in 1969 to commemorate the birth centenary of Mahatma Gandhi, is a government initiative under the Ministry of Youth Affairs and Sports. The scheme aims to channel the energy and potential of Indian youth toward constructive social service. With the motto "Not Me, But You," NSS emphasizes selfless service, empathy, and responsibility as key values for holistic development [1].

Experiential learning opportunities for students during NSS camps help them to identify community needs, work cooperatively with local partners, and transform their knowledge and abilities into social work. Activities in camps that focus on health, education, sanitation, environment, gender equality, social equity, and welfare of the community help build a community of a better and more developed constituency, while at the same time developing youth skills of leadership, team spirit, communication, empathy, and problem solving and encouraging civic duty. NSS camps move students out of the protection of the classroom and facilitate learning about social issues. In this sense, NSS camps could be seen as opportunities for planned interventions to achieve community development and the empowerment of youth. NSS camps are an integral component of the program, offering a unique opportunity for students to engage with rural and urban communities. These week-long residential camps serve as platforms for addressing pressing societal issues, from literacy and healthcare to environmental conservation and disaster preparedness. By combining theoretical knowledge with hands-on experience, NSS camps strive to instill a sense of civic responsibility and leadership in students while contributing to nation-building. This paper aims to shed light on the objectives, activities, and outcomes of NSS camps, focusing on their transformative impact on both participants and the communities they serve.

The authors of this paper focus on the activities of NSS camps in bringing about greater community participation, youth empowerment, stronger social concern, and more effective work for community development in a way that is sustainable and encompasses all.

In 2005, the NSS unit was created by TCET (Thakur College of Engineering & Technology, Mumbai) with the explicit purpose of uplifting society. There are 150 students enrolled today. The NSS camp was held in December of A.Y. 2024–2025. TCET - NSS Special Residential Camp was organized from 25th December 2024 to 31st December 2024 at village- Saiwan, Ghateghar, Shirsad, Vajreshwari, Taluka Vasai, District Palghar. In this camp along with POs and staff a total number of 54 NSS volunteers, 8 Council members from SE/ST & TE/ TT of all branches participated and performed various social activities in adopted village.

2. Objectives of NSS Camps

The primary objectives of NSS camps are designed to align with broader national goals of community development and youth empowerment. These include:

1. Community Engagement: To involve students in addressing societal challenges, including education, healthcare, and environmental sustainability, while fostering a spirit of collaboration and mutual understanding [3].

2. Skill Development: To provide participants with opportunities to develop essential life skills such as leadership, teamwork, effective communication, and problem-solving through experiential learning [2].

3. Awareness Creation: To educate communities about critical issues such as hygiene, nutrition, literacy, waste management, and the importance of sustainable living practices [7].

4. Youth Empowerment: To nurture socially conscious and responsible citizens by instilling values of service, patriotism, and ethical behavior. The camps encourage participants to think critically about social issues and motivate them to be active agents of change [4].

5. Social Inclusion: To promote inclusivity by bridging socio-economic and cultural gaps between volunteers and communities, fostering unity in diversity. This fosters a sense of belonging and mutual respect among all stakeholders [5].

6. Leadership and Initiative: To encourage students to take the initiative and lead projects that bring tangible benefits to the community. The camps serve as a training ground for developing future leaders who are empathetic and solutions-oriented [10].

These objectives collectively contribute to building a stronger, more inclusive society while preparing the youth to lead with integrity and compassion in various spheres of life.

3. Methodology

The study employs a mixed-method approach, combining qualitative and quantitative analysis to evaluate the effectiveness of NSS camps. The research design is structured as

E-ISSN: 3139-8650
JIRMI

follows:

1. Data Collection:

Primary Data: Surveys and structured interviews were conducted with NSS participants, program coordinators, and community members. These instruments were designed to capture qualitative feedback on the experiences, challenges, and perceived impact of the camps [2].

Secondary Data: Reports from the Ministry of Youth Affairs and Sports, academic studies, and published case studies on NSS activities were analyzed to provide a comprehensive understanding of the program's objectives and achievements [1].

2. Participant Observation: Field visits to select NSS camps were undertaken to observe their functioning and interactions between volunteers and community members. This first-hand observation provided valuable insights into the operational dynamics and outcomes of the camps [7].

3. Focus Group Discussions: Group discussions with camp participants and local stakeholders were organized to gather diverse perspectives on the program's impact and identify areas for improvement. These discussions encouraged collaborative brainstorming and deeper engagement [3].

4. Quantitative Analysis: Statistical tools were used to analyze survey responses, focusing on parameters such as skill development, community engagement, and social awareness. Trends and patterns were identified to assess the overall effectiveness of the camps [5].

5. Case Study Approach: Specific NSS camps that demonstrated exceptional outcomes were selected as case studies. These included initiatives in areas like disaster relief, afforestation, and literacy drives, which serve as benchmarks for best practices [4].

By integrating these methodologies, the study ensures a holistic evaluation of NSS camps, capturing both their immediate and long-term impacts on participants and communities.

4. Structure and Activities of NSS Camps

1. **Orientation and Training:** Participants receive an introduction to the objectives and planned activities of the camp. Workshops on leadership and communication skills are conducted [2].

2. **Community Interaction:** Students interact with local residents to understand their needs and aspirations [7].

3. **Thematic Projects**: Camps often focus on specific themes such as health and sanitation, literacy drives, afforestation, or disaster management [5].

4. **Cultural Programs:** Cultural exchange activities foster a sense of unity and appreciation for diversity [4].

5. **Evaluation and Feedback:** Camps conclude with a review of activities, feedback sessions, and planning for future initiatives [3].

The various activities conducted by TCET NSS volunteers at camp is depicted through Fig. 1 to Fig. 6. Fig.1 shows the sports activities organized by volunteers for school students at Saiwan village. Fig. 2 shows Tree plantation drive conducted at Saiwan Village by volunteers. Fig. 3 depicts the school teaching done by NSS team wherein they have imparted their knowledge to village students. Fig. 4 shows Joy of Giving organized by NSS students wherein they distributed various items to villagers & children.

Fig. 1: Sport organization for BMC School students

E-ISSN: 3139-8650

Fig. 2: Tree plantation at Saiwan Village.

E-ISSN: 3139-8650
JIRMI

Fig. 3: Village School Teaching

Fig. 4: Joy of Giving in Saiwan village

Fig.5: Health Awareness through village school students

Fig.6: Green Initiative awareness

5. Findings and Discussion

1. **Community Impact:** NSS camps address critical issues such as illiteracy, health awareness, and environmental degradation. For instance, a 2024 NSS camp in rural Maharashtra organized health check-ups for over 100 residents, significantly improving access to basic healthcare.

2. **Youth Development**: Participants report enhanced interpersonal and organizational skills. Survey data reveals that 85% of participants felt more confident in public speaking and leadership roles post-camp [2].

3. **Challenges**: Limited funding and logistical hurdles often constrain the scope of NSS activities. Furthermore, cultural and linguistic barriers between volunteers and local communities can pose challenges [7].

6. Recommendations

1. **Increased Funding:** Allocating more resources to NSS programs can expand their reach and impact.

2. **Collaboration with NGOs**: Partnering with non-governmental organizations can enhance expertise and resource sharing.

3. **Technology Integration:** Using digital tools for training, monitoring, and feedback can improve program efficiency.

4. **Diversity Training:** Preparing volunteers to work in culturally diverse settings can mitigate communication barriers.

7. Conclusion

The residents of Saiwan village have been greatly benefited from the varied programs carried out by TCET NSS groups. To a greater extent, it has resolved their health, education and other social problems.

NSS camps served as a powerful bridge between academic learning and societal engagement, providing participants with the skills, experiences, and values necessary to become responsible citizens. These camps address immediate community needs while fostering long-term capacity building among volunteers and residents. Through their emphasis on inclusivity, leadership, and sustainability, NSS camps contribute to creating a more equitable and informed society.

The transformative impact of NSS camps is evident in the enhanced confidence, empathy, and leadership skills among participants. They also provide a platform for addressing critical societal issues, such as health awareness, education, and environmental conservation, ensuring tangible benefits for underserved communities.

However, to fully realize their potential, NSS programs must overcome challenges such as limited funding, logistical constraints, and cultural barriers. Strategic collaborations with NGOs, increased investment in training and technology, and a stronger focus on diversity can further amplify their impact.

In conclusion, NSS camps are not just community service initiatives; they are transformative experiences that shape socially conscious leaders and empower communities. Strengthening these programs can significantly contribute to nation-building efforts, ensuring a more sustainable and inclusive future for India.

Declaration of Competing Interest

The authors declare that they have no conflict of interest to this work.

Acknowledgments

We sincerely express our gratitude to the Principal and Head of the Department, Thakur College of Engineering & Technology (TCET), Mumbai, for providing us with the opportunity and institutional support to undertake this work. Their constant motivation, encouragement, and guidance have been invaluable in completing this study. We are also thankful to all NSS volunteers, faculty members and community participants whose cooperation and active involvement contributed to the successful completion of this work.

References

[1] Ministry of Youth Affairs and Sports, Government of India. (2023). Annual Report on NSS Activities.

[2] Singh, A. (2021). "The Role of NSS in Promoting Social Responsibility." Journal of Youth Development, 12(3), 45-56.

[3] Sharma, P. (2020). "Community Service as a Tool for Empowerment." Indian Journal of Social Work, 81(2), 112-123.

[4] Mehta, R. (2019). "NSS and Leadership Development: A Case Study Approach." Education and Society Quarterly, 8(4), 67-74.

[5] Kumar, S., & Verma, N. (2022). "Sustainability Practices in NSS Camps." Journal of Environmental Education, 19(1), 89-102.

[6] National Service Scheme Cell, University Grants Commission. (2021). Guidelines for NSS Program Implementation.

[7] Rao, K. (2018). "Youth and Community Development: Insights from NSS Initiatives." Global Perspectives on Service Learning, 15(2), 34-49.

[8] Patel, D. (2021). "Innovative Practices in NSS: Case Studies from Rural India." Social Innovations Journal, 7(1), 22-29.

[9] Gupta, V. (2020). "Measuring the Impact of NSS Activities on Community Development." Journal of Social Impact Studies, 10(3), 56-71.

[10] Thomas, L. (2019). "Challenges and Opportunities in NSS Implementation." Indian Journal of Community Engagement, 5(4), 91-100.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

The Fragmented Structure of Copyright Administration in India's Music and Film Sectors

---

Author: Sanjana Singh

Affiliation: Amity School of Law, Mumbai

Email: singh.sanjana1610@gmail.com

Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)

Date: 4th August 2026

Introduction

A single popular film song in India is rarely governed by one copyright. It typically involves at least three distinct rights: the sound recording (owned by the producer or record label), the musical composition (owned by the composer), and the lyrics (owned by the lyricist or their publisher). When the film itself is considered, a fourth layer emerges — the producer's rights over the cinematograph film as a whole. Each of these rights can be licensed, assigned, and enforced separately, and each has historically been represented by a different institution. This essay argues that the fragmentation commonly observed in India's copyright regime for music and film is not primarily a defect in the statutory text of the Copyright Act, 1957, but a consequence of how collecting societies, licensing intermediaries, and courts have administered that text in practice.

Existing literature on the subject largely converges on this diagnosis. Academic reviews of enforcement in the Indian music industry have found that while the statutory provisions are reasonably comprehensive, actual compliance and enforcement remain inconsistent and poorly coordinated. A related strand of scholarship, based on surveys of working musicians, has pointed to the informal and fragmented character of industry practice itself — noting that limited institutional support and uneven awareness of royalty mechanisms compound the problems created by overlapping collecting societies. This essay builds on both strands by tracing how the collecting-society system

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

and the film-specific royalty provisions introduced in 2012 have generated recurring litigation, and what that litigation reveals about the gap between the law as written and the law as administered.

The Layered-Rights Problem

The starting point for understanding fragmentation is the structure of ownership itself. Under the Copyright Act, a sound recording is a separate copyrightable work from the underlying musical work (the composition) and the literary work (the lyrics). A record label that owns the sound recording does not automatically control the composition or lyrics embedded within it; those rights typically remain with, or are licensed by, the composer, lyricist, or a publisher acting on their behalf.

This separation matters commercially because a party wishing to use a song might need to clear rights with more than one party before the use is lawful. In practice, this has meant that a licence obtained from a record label covering the sound recording does not necessarily extend to the underlying musical and literary works, leaving the licensee exposed to a separate claim from the society or publisher representing the composer and lyricist. This structural feature is the root of much of the fragmentation discussed in the remainder of this essay: it is not a single point of licensing failure but a permanent multiplicity built into the ownership structure of a song.

Collecting Societies: Overlap, Withdrawal, and Litigation

India's copyright collecting societies were intended to simplify this multiplicity by acting as centralised licensing bodies. In practice, they have added a further layer of institutional fragmentation.

Three societies are relevant to music: the Indian Performing Right Society (IPRS), representing composers, lyricists, and music publishers; Phonographic Performance Limited (PPL), representing record labels and sound recording owners; and the Indian Singers' Rights Association (ISRA), representing performers. Each was set up to license a different layer of the same commercial transaction, meaning that a single broadcaster or venue may need separate licenses and separate royalty payments to two or three different bodies for the same piece of music.

This system was significantly disrupted by the Copyright (Amendment) Act, 2012, which tightened the regulatory framework governing copyright societies, including provisions requiring registered societies to operate with greater transparency and government oversight under the Copyright Rules, 2013. Rather than accept this oversight, both IPRS and PPL withdrew their applications for re-registration as copyright societies, effectively operating outside the formal Section 33 framework for a period, even as they continued to issue licenses and collect royalties under other provisions of the Act, such as Sections 18 and 30. IPRS was subsequently re-registered as a copyright society in 2017, while PPL's status has shifted more than once, with reports of it being reinstated as a registered copyright society more recently. This episode illustrates a recurring pattern: rather than resolving disputes over licensing authority through the statutory registration process, the major rights-holder bodies have at times stepped outside that process, leaving licensees uncertain about which body's demands carry legal force.

Alongside IPRS and PPL, private licensing entities such as Novex Communications have also entered the market, seeking to collect royalties on behalf of rights holders without being registered as copyright societies under Section 33. This has produced direct litigation over standing: licensees have argued that only a duly registered copyright society can lawfully issue licenses and demand royalties for the broadcast or public performance of works, and that unregistered entities lack this authority. Courts have had to resolve these disputes on a case-by-case basis, effectively performing a regulatory function that the collecting-society framework was designed to make unnecessary.

Two recent decisions illustrate how this uncertainty plays out for commercial users. In litigation between Vodafone Idea Limited, Saregama India Limited, and IPRS, the Calcutta High Court was asked to determine whether a telecom company that had obtained a licence from a sound recording owner also needed a separate license from IPRS to use the underlying musical and literary works incorporated in that recording — a question that goes to the heart of the layered-rights problem described above. Separately, in a dispute between PPL and a small business, the Delhi High Court examined a petition for a compulsory licence under Section 31 of the Act, after the business argued that PPL's licensing fees for a modest corporate event were disproportionate and arbitrarily set. Both cases show courts, rather than the collecting societies or a sector regulator, being asked to determine basic questions of licensing scope and pricing fairness, a sign that the administrative apparatus has not resolved these questions on its own.

Film-Specific Fragmentation: The Producer–Composer Divide

Film music introduces an additional and distinct source of fragmentation. Under the Copyright Act, the producer of a cinematograph film is generally treated as the first owner of copyright in the film, which historically allowed producers to also control the exploitation of the music composed for that film without further payment to composers or lyricists once the initial contract was fulfilled.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

The 2012 amendment altered this balance for a specific category of use. It introduced a proviso protecting the right of composers and lyricists to receive an equal share of royalties when their work is exploited in ways other than as part of the film itself — for example, when a film song is played on the radio, streamed independently of the film, or used in advertising. This right was made statutorily unwaivable, meaning composers and lyricists cannot contractually sign it away, even under pressure to do so as a condition of being hired.

In practice, compliance with this proviso has been inconsistent, and it has generated its own stream of disputes distinct from the collecting society litigation described above. Because this royalty share depends on tracking how and where a song is used outside the film — a task that again typically falls to collecting societies such as IPRS — the film-specific right is entangled with the same institutional uncertainty already affecting the collecting-society system generally. The result is that a right created specifically to correct the traditional imbalance between producers and creative contributors is itself administered through the same fragmented institutional structure it was meant to work around.

Consequences of Fragmentation

The practical consequences of this fragmented structure fall on both rights holders and licensees. For composers, lyricists, and performers, fragmentation has been associated with delays and inconsistency in royalty distribution, as royalties collected by one society for a particular layer of rights do not guarantee that a corresponding claim by another society will be honoured or even recognised by a given licensee. For businesses seeking to use music lawfully — broadcasters, telecom companies, hotels, and event organisers — the uncertainty over which body holds valid licensing authority increases compliance costs and litigation risk, as illustrated by the compulsory-licence dispute over PPL's tariffs. Smaller users are disproportionately affected, since they are less able to absorb the cost of separate negotiations with multiple societies or the risk of an infringement suit brought by a licensing entity whose own authority may later be challenged in court.

Conclusion

The fragmentation of copyright administration in India's music and film sectors is not primarily a story of legislative gaps. The Copyright Act, 1957, as amended in 2012, establishes a reasonably coherent structure of layered rights and a specific mechanism for protecting composers and lyricists in film music. The fragmentation instead arises from how that structure has been administered: overlapping collecting societies representing different layers of the same work, episodes of societies

4

withdrawing from formal registration, the entry of unregistered private licensing entities, and the resulting reliance on litigation to settle basic questions of licensing authority and scope. Until collecting societies operate within a more stable and transparent registration framework, and compliance with the film-royalty proviso is more consistently enforced, courts are likely to continue performing the coordinating function that the statutory framework was designed to provide.

5

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

References

Primary legislation

- Copyright Act, 1957 (as amended by the Copyright (Amendment) Act, 2012). Available at: India Code, https://www.indiacode.nic.in
- Copyright Rules, 2013. Available at: Department for Promotion of Industry and Internal Trade / Copyright Office, https://copyright.gov.in

Case law (available via Indian Kanoon, https://indiankanoon.org, free access, no login required)

- *Vodafone Idea Limited v. Indian Performing Right Society Limited*, connected with appeal involving Saregama India Limited, Calcutta High Court, A.O. (COM) No. 17 of 2024
- *Phonographic Performance Limited v. Al-Hamd Tradenation*, Delhi High Court, CS (COMM.) No. 564 of 2024
- *Indian Performing Right Society Ltd v. Union of India*; *Hasan Kamal v. Union of India*, Bombay High Court

Open-access academic sources

- Study on copyright violations and enforcement gaps in the Indian music industry, JETIR (Journal of Emerging Technologies and Innovative Research). Available at: https://www.jetir.org/papers/JETIRTHE2203.pdf
- Survey-based study on musician awareness of copyright and royalty mechanisms in India. Available at: https://theacademic.in/wp-content/uploads/2024/10/46.pdf
- Case-study analysis of judicial approaches to music copyright infringement in India, *Library Progress International*. Available at: https://bpasjournals.com/library-science/index.php/journal/article/view/2144

Practitioner commentary (open access, no paywall)

- S.S. Rana & Co., "IPRS Hits All Right Notes by Demanding Royalty from Vodafone." Available at: https://ssrana.in/articles/iprs-hits-all-right-notes-by-demanding-royalty-from-vodafone/

- Conventus Law, "India – Calcutta High Court Clarifies IPRS's Right to Claim Royalties for Underlying Musical and Literary Works in Sound Recordings." Available at: https://conventuslaw.com/report/india-calcutta-high-court-clarifies-iprss-right-to-claim-royalties-for-underlying-musical-and-literary-works-in-sound-recordings/

7

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

The Role of Indigenous Knowledge in Biodiversity Conservation: Bridging Traditional Ecological Knowledge and Modern Conservation Frameworks

---

Author: Lavanya Singh

Affiliation: Lynx Legal Partners LLP

Email: singh.lavanya1608@gmail.com

Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)

Date: 4 August 2026

Abstract

Communities holding customary rights over their own land account for at least a quarter of the world's land area, and a 2019 global assessment found that biodiversity loss on this land has generally been slower than elsewhere. This finding has pushed traditional ecological knowledge, the practical knowledge communities build up over generations about their own land, water, plants, and animals, toward the centre of conservation policy. International instruments, including Article 8(j) of the Convention on Biological Diversity, the Nagoya Protocol, and Target 3 of the Kunming-Montreal Global Biodiversity Framework, now ask governments to recognise this knowledge and the rights of the people who hold it. India offers a detailed, rarely examined domestic attempt to answer that call. Without using the term "Indigenous Peoples," which its government generally avoids, India has built laws - the Forest Rights Act, the Panchayats (Extension to the Scheduled Areas) Act, the Wildlife Protection Act's community and conservation reserves, and the Biological Diversity Act - meant to connect traditional ecological knowledge to modern, state-run conservation. This paper asks whether these legal bridges actually work, or mostly exist on paper

1

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

while older, exclusionary habits of conservation continue underneath them. It examines this through three illustrations chosen for contrast, not representativeness: the Bishnoi community's customary tree-protection practices in Rajasthan, the Soliga community's court-recognised forest rights inside Karnataka's BRT Tiger Reserve, and Jharkhand's Sarna sacred groves alongside its unresolved Saranda forest dispute. The paper sets out the resulting research gap, questions, objectives, and method.

1. Introduction

In May 2019, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) — the biodiversity equivalent of the IPCC — published its first global stocktake, warning that nature was declining faster than ever before. A quieter finding matters more for this paper: land traditionally owned, used, or managed by Indigenous Peoples covers at least a quarter of the world's land area, and biodiversity on this land has generally declined more slowly than on land under other forms of control.[1] The finding gave institutional weight to an argument ecologists and anthropologists had made for decades: the practical knowledge communities build up over generations about their own land, water, plants, and animals — traditional ecological knowledge, or TEK — works as a genuine system of resource management, not merely a cultural artefact to be respected alongside modern science.[2]

International law has been trying to catch up with this evidence. Article 8(j) of the 1992 Convention on Biological Diversity asks states to respect, preserve, and maintain the knowledge of indigenous and local communities and to share fairly in the benefits of using it.[3] The 2010

[1]Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), *Summary for Policymakers of the Global Assessment Report on Biodiversity and Ecosystem Services* (S. Díaz et al. eds., 2019), https://doi.org/10.5281/zenodo.3553579.

[2]Fikret Berkes, *Sacred Ecology: Traditional Ecological Knowledge and Resource Management* (4th ed., Routledge 2018).

[3]Convention on Biological Diversity art. 8(j), June 5, 1992, 1760 U.N.T.S. 79, https://www.cbd.int/doc/legal/cbd-en.pdf.

Nagoya Protocol turned this general request into a more specific set of obligations on consent and benefit-sharing.[4] The 2022 Kunming-Montreal Global Biodiversity Framework went further still: its best-known commitment, the pledge to conserve 30 percent of the planet's land and water by 2030, explicitly recognises indigenous and traditional territories and the rights of the people who hold them, rather than treating conservation and community occupation as opposites.[5]

One clarification about India comes first: unlike many other countries, its government does not generally use the term "Indigenous Peoples" for its tribal citizens, holding instead — in domestic law and in international forums alike — that all Indians are indigenous to India. The terms used at home instead are "Scheduled Tribes" (the Constitution's term for communities formally recognised as historically marginalised), "Adivasi" (meaning original inhabitants, and the term most common in Indian public and academic writing), and "forest-dwelling communities." This paper follows Indian usage, while still drawing on the international TEK literature where relevant.

At home, India has built a detailed attempt to connect this knowledge to modern conservation. The Forest Rights Act, 2006 gives forest-dwelling communities rights over land they depend on, and, less well known, a specific community right to their own traditional knowledge connected to biodiversity.[6] PESA, 1996 gives the Gram Sabha — the village assembly — real authority over local natural resources in tribal-majority areas.[7] A 2002 amendment to the Wildlife Protection Act, 1972 created "community reserves": protected land declared around a community's own "traditional or cultural conservation values and practices," a phrase that echoes the definition of

[4]Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity, Oct. 29, 2010 (entered into force Oct. 12, 2014), https://www.cbd.int/abs/text/.

[5]Convention on Biological Diversity, Conference of the Parties, *Kunming-Montreal Global Biodiversity Framework*, Decision 15/4 (Dec. 19, 2022), https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222; Target 3 text at https://www.cbd.int/gbf/targets/3.

[6]The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, No. 2 of 2007, Acts of Parliament, 2007 (India), https://www.indiacode.nic.in/bitstream/123456789/8311/1/a2007-02.pdf.

[7]The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, No. 40 of 1996, Acts of Parliament, 1996 (India), https://tribal.nic.in/actRules/PESA.pdf.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

TEK itself.[8] Internationally, this kind of land is known as an Indigenous and Community Conserved Area, or ICCA; India's community reserve gives that idea formal, statutory footing.[9] The Biological Diversity Act, 2002 sets up a three-tier system of biodiversity authorities meant to record community knowledge and share the benefits of its use.[10]

Whether this architecture actually closes the gap between traditional knowledge and modern conservation, or mostly restates it in the language of statute, is the question this paper takes up. It does so through three illustrations chosen for contrast, not because any one can represent a country as tribally and ecologically varied as India: the centuries-old, informally enforced tree-protection customs of Rajasthan's Bishnoi community;[11] the Soliga community's formally recognised forest rights inside Karnataka's Biligiri Rangaswamy Temple (BRT) Tiger Reserve;[12] and, from Jharkhand, the Sarna faith's sacred sal-tree groves[13] alongside the more strained, still unresolved Saranda forest dispute.[14] Jharkhand's role here is illustrative rather than central: one working example and one contested one, not the paper's main subject.

[8]The Wild Life (Protection) Act, 1972, No. 53 of 1972, Acts of Parliament, 1972 (India) (as amended by the Wild Life (Protection) Amendment Act, 2002, inserting ss. 36A, 36C, 36D), https://www.indiacode.nic.in/bitstream/123456789/6198/1/the_wild_life_(protection)_act,_1972.pdf.

[9]IUCN & ICCA Consortium, *Territories and Areas Conserved by Indigenous Peoples and Local Communities (ICCAs)*, IUCN/CEESP Briefing Note (2010), https://portals.iucn.org/library/efiles/documents/2010-048.pdf; see also IUCN, *ICCAs for Biological and Cultural Diversity* (2019), https://iucn.org/news/protected-areas/201905/iccas-biological-and-cultural-diversity.

[10]The Biological Diversity Act, 2002, No. 18 of 2003, Acts of Parliament, 2003 (India), https://www.indiacode.nic.in/bitstream/123456789/2046/4/a2003-18.pdf.

[11]S. Natesh, *When Amrita Devi and 362 Bishnois Sacrificed Their Lives for the Khejri Tree*, Sahapedia (Sept. 11, 2020), https://www.sahapedia.org/when-amrita-devi-and-362-bishnois-sacrificed-their-lives-khejri-tree.

[12]Down To Earth, *Court Upholds Soliga Tribe's Community Forest Rights* (2013), https://www.downtoearth.org.in/environment/court-upholds-soliga-tribes-community-forest-rights--41256.

[13]Down To Earth, *Nature Worshippers: How Sarna Rituals Propagate Forest Conservation to New Generations & Other Communities* (Apr. 19, 2024), https://www.downtoearth.org.in/forests/nature-worshippers-how-sarna-rituals-propagate-forest-conservation-to-new-generations-other-communities-93656.

[14]*In re Saranda Wildlife Sanctuary*, 2025 INSC 1311 (India) (13 Nov. 2025), official judgment at https://api.sci.gov.in/supremecourt/1995/2997/2997_1995_1_1501_65898_Judgement_13-Nov-2025.pdf.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

2. Research Gap

India's laws recognise traditional ecological knowledge further than most countries' laws do: the Forest Rights Act gives communities a right to their own knowledge,[15] the Wildlife Protection Act's community reserves are built around customary practice,[16] and the Biological Diversity Act is meant to record and reward it.[17] Yet the literature on traditional ecological knowledge and the literature on these specific laws rarely meet, and rarely asks whether community reserves — a small fraction of India's protected areas[18] — are actually used, or whether the 2023 amendment's exemption for "codified" knowledge quietly weakens the control documentation was meant to protect.[19]

3. Research Questions

Overarching question: Do India's legal mechanisms for connecting traditional ecological knowledge with modern conservation actually change conservation decisions, or do they mainly provide formal recognition that leaves older, exclusionary habits unchanged?

RQ1: How much existing research tests whether India's bridging mechanisms change real outcomes for communities, rather than simply describing what these mechanisms are meant to do?

RQ2: What conditions — secure land tenure, an active Gram Sabha, a visible community practice — explain why this bridge holds in some Indian settings and comes under strain in others?

---

[15] Forest Rights Act, 2006, supra note 6.
[16] Wild Life (Protection) Act, 1972, supra note 8.
[17] Biological Diversity Act, 2002, supra note 10.
[18] Press Information Bureau, Government of India, *India's Wildlife Conservation Milestones* (Nov. 27, 2023), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2107821&reg=3&lang=2.
[19] The Biological Diversity (Amendment) Act, 2023, No. 10 of 2023, Acts of Parliament, 2023 (India), https://egazette.gov.in/WriteReadData/2023/247815.pdf; Pallavi Mishra, *The Biological Diversity (Amendment) Act 2023: A Gateway to Sustainable Access?*, Env't L. Rev. (Mar. 2025), https://doi.org/10.1177/14614529251328784.

RQ3: Does documenting a community's traditional ecological knowledge, as under the Biological Diversity Act's 2023 amendment, strengthen its control over that knowledge, or make the knowledge easier for others to use instead?

RQ4: Why has the gap between formal legal recognition and real community control persisted, and what indicators could future research use to test whether a conservation initiative genuinely bridges the two?

4. Research Objectives

O1: Review the literature on traditional ecological knowledge and Indian conservation law, separating work that tests real bridging outcomes from work that only describes legal design.

O2: Compare the Bishnoi, Soliga, and Jharkhand illustrations on land tenure, Gram Sabha involvement, and visible community practice, to identify which conditions the bridge needs to hold.

O3: Assess, against Article 8(j) of the Convention on Biological Diversity and the Nagoya Protocol, whether the 2023 amendment's treatment of codified knowledge protects or weakens community control.

O4: Identify why this gap has persisted administratively, and propose indicators future research can use to test whether a given initiative genuinely bridges traditional knowledge with modern conservation.

5. Methodology

This paper relies on doctrinal, desk-based research rather than fieldwork, given its scope and the ethical care that fieldwork with tribal communities properly requires. It draws on primary legal and treaty texts, read from official government and treaty-body sources; case material —

principally the Niyamgiri judgment[20] and the Supreme Court's continuing supervision of the Saranda matter, tracked through case trackers and contemporaneous reporting as the dispute unfolds;[21] and secondary literature spanning Berkes's foundational work on TEK,[22] Indian scholarship on exclusionary conservation,[23] commentary on the 2023 amendment,[24] and reporting from established Indian outlets.[25]

The three illustrations — the Bishnoi community, the Soliga community, and Jharkhand's Sarna groves and Saranda dispute — were chosen for contrast, not statistical representativeness. Together they span informal customary protection with no statutory backing (Bishnoi), formally recognised rights inside a modern conservation category (Soliga), and a mixed case pairing an

[20] *Orissa Mining Corp. Ltd. v. Ministry of Env't & Forest*, (2013) 6 SCC 476 (India) (18 Apr. 2013), judgment text at https://indiaenvironmentportal.org.in/in-court/supreme-court-judgement-dated-18042013-in-wpc-no1802011-orissa-mining-corpn-vs-moef-ors.

[21] Supreme Court Observer, *Declaration of Saranda Forest as Sanctuary (In re: Saranda Wildlife Sanctuary)*, case tracker, https://www.scobserver.in/supreme-court-observer-law-reports-scolr/declaration-of-saranda-forest-as-sanctuary-in-re-saranda-wildlife-sanctuary/; Down To Earth, *Declare Saranda Forest as Wildlife Sanctuary Within 90 Days, SC Directs Jharkhand* (Nov. 15, 2025), https://www.downtoearth.org.in/forests/declare-saranda-forest-as-wildlife-sanctuary-within-90-days-sc-directs-jharkhand; Press Trust of India, *Jharkhand Govt Filed Review Plea in SC on Saranda Sanctuary Order, Claims MLA Saryu Roy*, ThePrint (Feb. 26, 2026), https://theprint.in/india/jharkhand-govt-filed-review-plea-in-sc-on-saranda-sanctuary-order-claims-mla-saryu-roy/2864350/; *How Much More Will Saranda Forest Sanctuary Suffer?*, HinduPost (May 25, 2026), https://hindupost.in/environment/how-much-more-will-saranda-forest-sanctuary-suffer/.

[22] Berkes, *Sacred Ecology*, supra note 2.

[23] Asmita Kabra, *Ecological Critiques of Exclusionary Conservation*, 2(1) Ecology, Econ. & Soc'y — The INSEE J. 9 (2019), https://doi.org/10.37773/ees.v2i1.51; Ajit Menon & Nitin D. Rai, *The Mismeasure of Nature: The Political Ecology of Economic Valuation of Tiger Reserves in India*, 26(1) J. Pol. Ecology 652 (2019), https://doi.org/10.2458/v26i1.23194.

[24] Mishra, *The Biological Diversity (Amendment) Act 2023*, supra note 19.

[25] Scroll.in, *How a Tribe in Karnataka Fought and Won a Legal Battle to Stay Within a Tiger Reserve* (Oct. 5, 2018), https://scroll.in/article/896580/how-a-tribe-in-karnataka-fought-and-won-a-legal-battle-to-stay-in-a-tiger-reserve; Mongabay India, *Protecting Sarna, Jharkhand's Groves of Faith* (Dec. 18, 2019), https://india.mongabay.com/2019/12/protecting-sarna-jharkhands-groves-of-faith/; LSE Religion and Global Society Blog, *The Role of "Sarna" in Forest Conservation and Wildfire Prevention: An Indigenous Tribal Religion of India* (Dec. 2023), https://blogs.lse.ac.uk/religionglobalsociety/2023/12/the-role-of-sarna-in-forest-conservation-and-wildfire-prevention-an-indigenous-tribal-religion-of-india/.

informal practice that works with a formal, contested one (Jharkhand) — closer to a most-different-systems comparison than a representative sample.

This method has clear limits: it cannot capture how these communities experience these laws in their own words, since that would need fieldwork beyond this paper's scope; three illustrations cannot stand in for India's full range of tribal and forest-dwelling communities; and because the Saranda matter is still unfolding, some material here may later be superseded.

6. Literature Review

The literature that touches this paper's subject splits fairly cleanly into two kinds of writing, and the split itself is part of the research gap this paper is trying to fill.

The first kind is about traditional ecological knowledge as a general idea. Fikret Berkes's now-standard account treats TEK not as folklore or superstition but as a working system: knowledge, practice, and belief built up through direct experience with a particular place, then handed down and adjusted as conditions change.[26] This body of work gave the IPBES finding its intellectual backing — the 2019 assessment's headline number, that biodiversity loss has generally been slower on land traditionally held by Indigenous Peoples, only makes sense if TEK actually does the management work Berkes describes, rather than being incidental to it.[27] Most of this literature is not about India specifically. It supplies the baseline claim the rest of this paper tests against Indian evidence: that TEK is a genuine management system, not a symbolic one.

The second kind is legal and policy writing about India's own statutes, and here the pattern is more uneven. A good deal of it is descriptive: explaining what the Forest Rights Act does,[28] what PESA does,[29] how the Wildlife Protection Act's community reserve category works,[30] and how the

[26]Berkes, *Sacred Ecology*, supra note 2.
[27]IPBES, *Global Assessment Report*, supra note 1.
[28]Forest Rights Act, 2006, supra note 6.
[29]PESA, 1996, supra note 7.
[30]Wild Life (Protection) Act, 1972, supra note 8.

Biological Diversity Act's three-tier authority structure is supposed to record and reward community knowledge.[31] This writing is useful for establishing what the law says. It is much less useful for answering whether the law does what it says, because most of it stops at description.

A smaller set of writing asks the harder question, and tends to answer it less optimistically than the descriptive literature implies. Asmita Kabra's work on exclusionary conservation argues that even after legal reform, Indian conservation practice keeps reproducing an older pattern: treating the presence of people, including people with formally recognised rights, as a problem to be managed around rather than a form of management in its own right.[32] Ajit Menon and Nitin Rai's study of tiger reserves makes a related point from a different angle, showing how the economic case for excluding communities from reserves rests on valuation methods that quietly assume exclusion is the only serious conservation option, crowding out community-based management before it is properly weighed.[33] Neither paper is about the Forest Rights Act or the Biological Diversity Act directly. Both are about the same gap this paper investigates: the distance between what a law recognises on paper and what conservation practice does on the ground.

Government data adds a third, thinner strand. The Ministry of Environment's own account of India's conservation milestones lists a little over 220 community reserves against several hundred wildlife sanctuaries and national parks[34] — a small fraction of the protected-area estate, for a category the Wildlife Protection Act itself frames around community values and practice. That imbalance is a fact, not an argument, but it is a fact the descriptive legal literature does not explain. It sits closer to Kabra's and Menon and Rai's account of persistent exclusion than to the assumption, implicit in most legal commentary, that a new statutory category automatically becomes the new default choice.

[31] Biological Diversity Act, 2002, supra note 10.

[32] Kabra, *Ecological Critiques of Exclusionary Conservation*, supra note 23.

[33] Menon & Rai, *The Mismeasure of Nature*, supra note 23.

[34] PIB, *India's Wildlife Conservation Milestones*, supra note 18.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

The most recent addition to this literature responds directly to the 2023 amendment to the Biological Diversity Act. Pallavi Mishra's review sets out what the amendment changed — most relevantly here, a new exemption for "codified" traditional knowledge from some of the Act's approval requirements — and asks whether the change makes access easier at the cost of community control.[35] This sits closer to the second, evaluative kind of writing than the first, but it is also recent enough that it has not yet been tested against how community reserves, forest rights titles, or biodiversity registers actually operate in named places.

That is the gap Research Question 1 asks about directly: not whether India's laws exist, which the descriptive literature already answers, but how much existing research tests what those laws actually change. On the evidence above, the answer is: not much, and what does exist points toward a bridge that holds more securely in law than it holds in practice — which is the question the rest of this paper takes up through three specific illustrations.

7. The Legal Framework and the Three Illustrations

India's attempt to connect traditional ecological knowledge to conservation law rests on four statutes, passed over sixteen years, which were not designed together but which fit into a rough sequence: recognise land rights, recognise local political authority, recognise conservation practice, and record the knowledge itself.

The Forest Rights Act, 2006 is the foundation. It responds to a long-standing problem: forest law in India, going back to the colonial Indian Forest Act of 1927, treated forest-dwelling communities as encroachers on state land, even where those communities had lived on and managed that land for generations. The Forest Rights Act reverses the starting assumption. It gives individual households rights to land they already cultivate, and it gives whole communities a right to manage and protect forest resources they traditionally used, through a category called community forest resource rights. Less widely discussed, but directly relevant here, is Section 3(1)(k): a specific

[35] Mishra, *The Biological Diversity (Amendment) Act 2023*, supra note 19.

community right to "intellectual property and traditional knowledge related to biodiversity and cultural diversity".[36] On paper, this is the clearest possible statutory bridge between TEK and modern rights language: it names the knowledge itself as something the community holds a right to, not merely the land it comes from.

PESA, 1996 supplies the political machinery that makes the Forest Rights Act workable in tribal-majority areas. It extends India's system of local self-government to Scheduled Areas, but with real teeth: the Gram Sabha, the assembly of all adult residents of a village, must be consulted before land is acquired, and holds a say over the management of local natural resources and minor forest produce.[37] Without PESA, forest rights recognised on paper would still be administered largely by state forest officials with little local input. With it, at least in principle, the community that holds the knowledge also holds a seat at the table where decisions about that knowledge's use get made.

The Wildlife Protection Act's community reserve category, added by a 2002 amendment, works differently again. Rather than granting rights over existing forest land, it lets a state government declare a new protected area on private or community land specifically because of "the community's traditional or cultural conservation values and practices"[38] — language that echoes, almost word for word, how TEK gets defined in the international literature.[39] Internationally, this kind of area is called an Indigenous and Community Conserved Area, or ICCA: land conserved not because a government designated it a park, but because the people living there already conserve it, and the law simply recognises that fact.[40] India's community reserve category gives that idea a formal, enforceable footing — the only one of the four statutes discussed here built around TEK from the outset, rather than adapted afterwards to include it.

---

[36]Forest Rights Act, 2006, supra note 6.
[37]PESA, 1996, supra note 7.
[38]Wild Life (Protection) Act, 1972, supra note 8.
[39]Berkes, *Sacred Ecology*, supra note 2.
[40]IUCN & ICCA Consortium, *ICCAs*, supra note 9.

The Biological Diversity Act, 2002 is the odd one out, because its purpose is closer to documentation than to rights. It sets up a three-tier structure — National, State, and local Biodiversity Management Committees — whose job includes preparing People's Biodiversity Registers: written records of local biological resources and the knowledge associated with them.[41] Where the other three statutes ask what a community is entitled to do with its own land or knowledge, the Biological Diversity Act asks what should be written down about that knowledge, and on what terms outsiders can then use it. That distinction becomes central in Section 9 below.

Three illustrations test how this architecture works once it meets an actual community, actual land, and actual competing pressure.

The Bishnoi community of Rajasthan represents the oldest and least formal end of the spectrum. Guru Jambheshwar founded the Bishnoi faith in the fifteenth century around twenty-nine core principles, several of which forbid cutting green trees or harming wildlife. The community's most famous act of enforcement long predates any of the statutes discussed above: in 1730, Amrita Devi and 362 other Bishnois were killed protecting khejri trees from being felled on the orders of the Maharaja of Jodhpur, an event still marked every year and still cited as the reason the khejri tree remains protected across Bishnoi villages.[42] No statute created this practice, and none is needed to sustain it: it survives through social enforcement within the community itself, not through any of the four laws discussed above. That makes Bishnoi a useful check on the rest of the paper — a reminder that TEK can function as a real conservation system with no legal bridge at all, which sharpens the question of what the legal architecture actually adds where it does apply.

The Soliga community, inside Karnataka's Biligiri Rangaswamy Temple (BRT) Tiger Reserve, sits at the opposite end. The Soliga had lived in and managed this forest — including through controlled use of fire to encourage native grasses and fruiting trees — long before it became a tiger reserve in 2011, at which point the usual pattern in Indian conservation law would have required

[41] Biological Diversity Act, 2002, supra note 10.

[42] Natesh, *Amrita Devi and 362 Bishnois*, supra note 11.

their relocation outside the reserve boundary. Instead, following sustained legal action, the Soliga became the first community in India to have their forest rights formally recognised inside a tiger reserve, allowing them to continue living in and managing the BRT forest rather than being displaced from it.[43] Their continued harvesting of forest produce, including wild honey, has since been documented as compatible with — and in some respects supportive of — the reserve's conservation goals, rather than working against them.[44] Soliga is the case where the Forest Rights Act, PESA, and community practice appear to have lined up successfully, and it is the illustration this paper returns to most often as a working example of the bridge functioning as intended.

Jharkhand supplies a mixed case, split between one practice that works quietly and one dispute that has not been resolved. The Sarna faith, followed by several tribal communities across Jharkhand and neighbouring states, treats certain forest patches — sarna sthal, most often centred on sal trees — as sacred, and prohibits their disturbance. As with Bishnoi, these groves survive mainly through religious practice and social expectation, not through any of the four statutes above, though scholars have noted that Sarna belief functions as an effective, largely unrecognised form of forest protection, and even wildfire prevention, in the areas where it is observed.[45] The unresolved half of the Jharkhand picture is Saranda, an iron-ore-rich forest in West Singhbhum district, home to the Ho community and one of the last substantial habitats for wild elephants in the state. Proposals to declare Saranda a wildlife sanctuary have run for years against the interests of mining operations already active in the area, leaving both the community's rights and the forest's protected status unsettled. In November 2025, the Supreme Court directed the Jharkhand government to declare Saranda a wildlife sanctuary within ninety days;[46] as of early 2026 the state government had reportedly filed a review petition against that order,[47] and by May 2026 the

---

[43]Down To Earth, *Soliga Tribe's Community Forest Rights*, supra note 12.
[44]Scroll.in, *How a Tribe in Karnataka Fought and Won*, supra note 25.
[45]Down To Earth, *Nature Worshippers*, supra note 13; Mongabay India, *Protecting Sarna*, supra note 25; LSE Blog, *The Role of "Sarna" in Forest Conservation*, supra note 25.
[46]*In re Saranda Wildlife Sanctuary*, supra note 14; Down To Earth, *Declare Saranda Forest as Wildlife Sanctuary*, supra note 21.
[47]Press Trust of India, *Jharkhand Govt Filed Review Plea*, supra note 21.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

sanctuary's status remained unresolved on the ground.[48] Saranda is the illustration this paper leans on most heavily in Section 10, because it is the case where every favourable condition present in the Soliga example — secure tenure, an empowered Gram Sabha, an uncontested community practice — is instead missing, contested, or actively opposed by a competing economic interest.

8. The Problem in Practice

Put the three illustrations side by side and a pattern appears that the descriptive legal literature does not capture. The law recognises TEK in two different ways at once, and the two do not always pull in the same direction. One strand is about documentation: writing knowledge down, most directly through the Biological Diversity Act's registers, so that it can be tracked, consulted, and — where someone else wants to use it commercially — licensed on agreed terms. The other strand is about control: giving the community that holds the knowledge the standing to decide, and if necessary refuse, what happens to its own land and practices, through the Forest Rights Act, PESA, and the community reserve category.

These two strands raise two different questions, and the illustrations above answer them in different sections of this paper. The first is whether documenting knowledge actually strengthens a community's control over it, or whether writing something down — especially once it counts as "codified" under the 2023 amendment to the Biological Diversity Act — makes that knowledge easier for others to use instead. Section 9 takes up that question directly, reading the Act's own text against the international benchmarks in Article 8(j) and the Nagoya Protocol. The second is broader: under what conditions the bridge between recognition and real control holds at all, tested by comparing land tenure, Gram Sabha involvement, and community practice across Bishnoi, Soliga, and Jharkhand. Section 10 takes up that comparison, and by the end of it, the Saranda dispute in particular shows what happens when several of those conditions are missing at once.

[48] HinduPost, *How Much More Will Saranda Forest Sanctuary Suffer?*, supra note 21.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

9. Documentation versus Control

The Biological Diversity Act's core instrument is the People's Biodiversity Register: a written record, compiled by a local Biodiversity Management Committee, of the plants, animals, and associated traditional knowledge found in a given area.[49] The idea behind it is sound enough. Article 8(j) of the Convention on Biological Diversity asks states not just to respect traditional knowledge but to encourage its wider application, with the approval and involvement of the communities that hold it, and to share the benefits of that application fairly.[50] The Nagoya Protocol turns that general principle into a working procedure: before anyone accesses genetic resources or associated traditional knowledge for commercial use, they need the prior informed consent of the community holding it, on mutually agreed terms.[51] Read together, both instruments treat documentation as a means to an end — a record that makes consent and benefit-sharing enforceable — not as an end in itself.

The 2023 amendment to the Biological Diversity Act complicates that picture. Among its changes is a new exemption: traditional knowledge that has been "codified" — recorded in registers, published research, or similar accessible form — no longer requires the same prior approval before commercial use that uncodified, purely oral knowledge does.[52] Pallavi Mishra's review of the amendment reads this as a deliberate loosening, intended to make India's systems of documented traditional knowledge, particularly in Ayurveda and related fields, easier for industry to access.[53] The logic is not unreasonable on its own terms: knowledge that is already published is, in a narrow legal sense, already public, so treating it as requiring the same consent process as knowledge still held only within a community can look like an unnecessary barrier to legitimate use.

---

[49]Biological Diversity Act, 2002, supra note 10.
[50]CBD art. 8(j), supra note 3.
[51]Nagoya Protocol, supra note 4.
[52]Biological Diversity (Amendment) Act, 2023, supra note 19.
[53]Mishra, *The Biological Diversity (Amendment) Act 2023*, supra note 19.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

The trouble is what this does to the incentive facing a community deciding whether to let its knowledge be documented at all. Before the 2023 amendment, registering knowledge in a People's Biodiversity Register and gaining a stronger claim to future benefit-sharing were, roughly, the same act. After the amendment, they are not: registering the knowledge can instead move it into a lighter-touch category, with less say for the community over how it gets used next. None of the three illustrations in Section 7 show this mechanism playing out directly — Bishnoi and Sarna knowledge survives almost entirely outside any biodiversity register, and the Soliga's honey-harvesting practice is documented mainly in ecological research rather than in a formal register — but that absence is itself informative. If the communities this paper examines have largely stayed outside the Biological Diversity Act's documentation system, informal social enforcement and secure land tenure under the Forest Rights Act may be doing more real protective work for them than registration under the Biological Diversity Act would.

That is the answer Research Question 3 was after. Documentation, as the Act currently defines it, is not the same thing as control, and the 2023 amendment widens rather than narrows the gap between the two. It makes access to India's traditional knowledge somewhat easier for outside users, without a matching increase in what a community can insist on in return once its knowledge is written down. Whether that trade-off is worth making is a policy judgment this paper does not attempt to settle; what the text of the amendment does settle is that documentation, on its own, is not a substitute for the control that land tenure and local political authority provide.

10. Critical Analysis

Comparing the three illustrations against three conditions — secure land tenure, an active Gram Sabha, and a visible, ongoing community practice — explains why the bridge between traditional ecological knowledge and Indian conservation law holds in some settings and comes under strain in others, which is the question Research Question 2 and Objective 2 set out to answer. The Soliga case has all three. Their community forest rights inside the BRT Tiger Reserve give them a form of land tenure recognised under the Forest Rights Act, not merely tolerated by forest officials;

PESA and the reserve's own governance provisions give the Gram Sabha a working role in decisions about the reserve; and the Soliga's continued harvesting of forest produce, including honey, keeps their traditional practice visible and, on the ecological evidence available, broadly compatible with the reserve's conservation aims.[54] None of the three conditions here is perfect or permanent — tiger reserve management in India still tends, as a matter of institutional habit, to treat resident communities as an exception to be managed rather than a partner in management[55] — but all three are present and functioning well enough that the Soliga's rights have held since formal recognition, rather than eroding.

Saranda sits at the other end. The Ho community's presence in the forest is long-standing, but their land tenure has never been placed on the same secure statutory footing as the Soliga's: Saranda's status has been contested for years between conservation designation and mining interest, and the Supreme Court's own intervention — ordering the state to declare a wildlife sanctuary within ninety days[56] — is itself evidence that the ordinary administrative process had not resolved the question on its own. A Gram Sabha with real authority over land use, of the kind PESA is meant to guarantee, is of limited use when the competing claim comes not from another local actor but from an economically significant mining operation with its own political weight; and a reported review petition filed by the state government against the Supreme Court's order suggests that even a direct judicial order has not settled the matter.[57] Visible community practice is present in Saranda too — the Ho community's relationship with the forest predates any of the current legal disputes — but visibility of practice, on its own, has not been enough to secure either land tenure or an enforceable say in outcome. Saranda is, in other words, the case where the legal architecture exists in principle, and has even been invoked by the country's highest court, and still has not converted

---

[54] Scroll.in, *How a Tribe in Karnataka Fought and Won*, supra note 25.

[55] Menon & Rai, *The Mismeasure of Nature*, supra note 23.

[56] *In re Saranda Wildlife Sanctuary*, supra note 14; Down To Earth, *Declare Saranda Forest as Wildlife Sanctuary*, supra note 21.

[57] Press Trust of India, *Jharkhand Govt Filed Review Plea*, supra note 21; HinduPost, *How Much More Will Saranda Forest Sanctuary Suffer?*, supra note 21.

into secure, working control on the ground — exactly the distance between formal recognition and functioning practice that this paper set out to measure.

The Bishnoi and Sarna cases complicate the comparison in a useful way, because neither depends on any of the three statutes discussed in Section 7 to keep functioning. Bishnoi tree protection has survived for nearly three centuries on social enforcement alone, and Sarna sacred groves persist through religious practice rather than statutory land tenure.[58] Neither community needed a Gram Sabha resolution or a forest rights title to keep their practice alive, because neither practice faced the kind of sustained, well-resourced competing claim that Saranda faces from mining, or that the Soliga faced from standard tiger-reserve relocation policy before their rights were recognised. This suggests a refinement to the three conditions rather than a contradiction of them: land tenure and Gram Sabha authority matter most, and the legal architecture adds most of its value, precisely where a community's practice is under external pressure serious enough that social enforcement alone cannot hold the line. Where no comparable pressure exists, as with Bishnoi and Sarna so far, the law's absence is not obviously a problem, because informal enforcement is doing the necessary work on its own — though this also means both communities remain more exposed than the Soliga if a serious competing claim to their land ever does arise, since neither has built the same statutory backing to fall back on.

This same dynamic helps explain a pattern noted in Section 6: the small number of community reserves declared under the Wildlife Protection Act relative to conventional sanctuaries and parks.[59] A community reserve, unlike a sanctuary or national park, requires a state government to choose to recognise a community's existing conservation practice rather than assert direct administrative control over the land. Where that choice conflicts with no significant competing land use, it is a fairly low-cost decision for a state government to make. Where it conflicts with an

[58] Natesh, *Amrita Devi and 362 Bishnois*, supra note 11; Down To Earth, *Nature Worshippers*, supra note 13; Mongabay India, *Protecting Sarna*, supra note 25; LSE Blog, *The Role of "Sarna" in Forest Conservation*, supra note 25.

[59] PIB, *India's Wildlife Conservation Milestones*, supra note 18.

economically significant one — mining, large-scale tourism, or a state's own preference for centralised control — the low national number of community reserves suggests the choice is not being made nearly as often as the underlying pattern of TEK-based practice, visible in cases like Bishnoi and Sarna, would justify.

Kabra's account of exclusionary conservation and Menon and Rai's critique of tiger-reserve economics both point toward the same underlying explanation for why Saranda has fared worse than the Soliga, despite both communities having a comparably strong traditional connection to their forest.[60] Indian conservation institutions, even after two decades of legal reform aimed at including rather than excluding resident communities, still default to treating community presence as something to be resolved rather than built on, and that default asserts itself most strongly exactly where the financial stakes of an alternative land use — mining at Saranda, historically tourism and exclusive access at BRT before 2011 — are highest. The Soliga case shows that this default can be overcome, but only through sustained legal action reaching the higher courts, not through the ordinary operation of the statutes as written. That is the clearest finding this comparison supports: the four statutes discussed in Section 7 create the possibility of a working bridge between traditional ecological knowledge and modern conservation, but they do not create that bridge automatically, and where the competing economic interest is strong enough, as at Saranda, formal recognition on paper has so far proven compatible with the practical situation on the ground remaining unresolved for years at a time.

11. Conclusion

This paper set out to test whether India's legal architecture for connecting traditional ecological knowledge with modern conservation actually changes how conservation decisions get made, or mainly restates recognition already available informally, without changing much in practice. The

[60]Kabra, *Ecological Critiques of Exclusionary Conservation*, supra note 23; Menon & Rai, *The Mismeasure of Nature*, supra note 23.

answer, on the evidence of three deliberately contrasting illustrations, is neither wholly one nor the other. The architecture is real, and it can work: the Soliga's forest rights inside the BRT Tiger Reserve show that the Forest Rights Act, PESA, and the community reserve idea can combine to secure both land tenure and a genuine role in decision-making for a community whose traditional practice was, at one point, treated as an obstacle to conservation rather than a form of it.[61] But the same architecture, applied to Saranda, has so far coexisted with years of unresolved dispute, a Supreme Court order that has not yet settled the underlying land-use conflict, and a community whose standing remains less secure than the Soliga's despite a comparably long-standing relationship with their forest.[62] And at Bishnoi and in Jharkhand's Sarna groves, the strongest examples of traditional ecological knowledge actually protecting biodiversity over long periods needed no statute at all, surviving instead on social enforcement that predates, and does not depend on, any of the four laws this paper examined.[63]

Why has this gap persisted, given that the relevant statutes are now, in some cases, two decades old? Three explanations run through the sections above. First, formal recognition under the Forest Rights Act or the community reserve category still depends on state governments and forest officials choosing to grant it, and Section 6's evidence — a little over 200 community reserves against a far larger number of conventional sanctuaries and parks[64] — suggests that choice is being made narrowly rather than as a matter of course. Second, where a competing economic interest is significant enough, as mining is at Saranda, legal recognition of community rights has not, on its own, been strong enough to resolve the underlying conflict, even after direct intervention by the

[61] Down To Earth, *Soliga Tribe's Community Forest Rights*, supra note 12; Scroll.in, *How a Tribe in Karnataka Fought and Won*, supra note 25.

[62] *In re Saranda Wildlife Sanctuary*, supra note 14; Supreme Court Observer, *Saranda* case tracker, supra note 21; Down To Earth, *Declare Saranda Forest as Wildlife Sanctuary*, supra note 21; Press Trust of India, *Jharkhand Govt Filed Review Plea*, supra note 21; HinduPost, *How Much More Will Saranda Forest Sanctuary Suffer?*, supra note 21.

[63] Natesh, *Amrita Devi and 362 Bishnois*, supra note 11; Down To Earth, *Nature Worshippers*, supra note 13; Mongabay India, *Protecting Sarna*, supra note 25; LSE Blog, *The Role of "Sarna" in Forest Conservation*, supra note 25.

[64] PIB, *India's Wildlife Conservation Milestones*, supra note 18.

country's highest court.[65] Third, the 2023 amendment to the Biological Diversity Act shows that the direction of legal change is not uniformly toward stronger community control: the new exemption for codified knowledge moves at least one part of the architecture toward easier outside access, not toward more secure community control, which cuts against the assumption that the gap will simply close over time as more law accumulates.[66]

None of this means the legal architecture is not worth having. It means the architecture is a necessary but not sufficient condition for the bridge this paper set out to examine, and that whether it functions in a given case depends heavily on local conditions — land tenure, an empowered Gram Sabha, and a visible ongoing practice, together with the absence of a well-resourced competing claim — rather than on the existence of the relevant statute alone. Future research, moving beyond this paper's doctrinal method into fieldwork that the ethical and practical limits of this project ruled out, could test that claim directly. Useful indicators would include: the proportion of eligible community forest resource claims under the Forest Rights Act that are actually granted and then implemented, rather than merely approved on paper; the number of Biodiversity Management Committees that have both compiled a People's Biodiversity Register and reached an enforceable benefit-sharing agreement from it, rather than treating registration as an end in itself; how often a Gram Sabha's consent is genuinely sought and honoured before a change in land use goes ahead, particularly where a competing commercial interest is involved; and how long it typically takes for a community reserve or comparable recognition to be granted once a community applies for it, as a rough measure of how much administrative discretion still stands between recognition on paper and recognition in practice.

India's four statutes show that a state can build detailed legal machinery for recognising traditional ecological knowledge without using the term "Indigenous Peoples" at all, and without pretending

[65] Press Trust of India, *Jharkhand Govt Filed Review Plea*, supra note 21; HinduPost, *How Much More Will Saranda Forest Sanctuary Suffer?*, supra note 21.
[66] Biological Diversity (Amendment) Act, 2023, supra note 19; Mishra, *The Biological Diversity (Amendment) Act 2023*, supra note 19.

that recognition alone settles the older, harder question of whose decision counts when land, knowledge, and competing economic interests meet on the same ground. The Bishnoi, the Soliga, and Jharkhand's two very different stories show that the machinery works best exactly where it is needed least — where community practice was already strong enough to protect itself — and comes under the most strain exactly where it is needed most.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

References

A. International Instruments and Materials

1. Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), *Summary for Policymakers of the Global Assessment Report on Biodiversity and Ecosystem Services* (S. Díaz et al. eds., 2019), https://doi.org/10.5281/zenodo.3553579.

3. Convention on Biological Diversity art. 8(j), June 5, 1992, 1760 U.N.T.S. 79, https://www.cbd.int/doc/legal/cbd-en.pdf.

4. Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity, Oct. 29, 2010 (entered into force Oct. 12, 2014), https://www.cbd.int/abs/text/.

5. Convention on Biological Diversity, Conference of the Parties, *Kunming-Montreal Global Biodiversity Framework*, Decision 15/4 (Dec. 19, 2022), https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222; Target 3 text at https://www.cbd.int/gbf/targets/3.

9. IUCN & ICCA Consortium, *Territories and Areas Conserved by Indigenous Peoples and Local Communities (ICCAs)*, IUCN/CEESP Briefing Note (2010), https://portals.iucn.org/library/efiles/documents/2010-048.pdf; see also IUCN, *ICCAs for Biological and Cultural Diversity* (2019), https://iucn.org/news/protected-areas/201905/iccas-biological-and-cultural-diversity.

B. Indian Statutes

6. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, No. 2 of 2007, Acts of Parliament, 2007 (India), https://www.indiacode.nic.in/bitstream/123456789/8311/1/a2007-02.pdf.

7. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, No. 40 of 1996, Acts of Parliament, 1996 (India), https://tribal.nic.in/actRules/PESA.pdf.

8. The Wild Life (Protection) Act, 1972, No. 53 of 1972, Acts of Parliament, 1972 (India) (as amended by the Wild Life (Protection) Amendment Act, 2002, inserting ss. 36A, 36C, 36D),

https://www.indiacode.nic.in/bitstream/123456789/6198/1/the_wild_life_(protection)_act,_1972.pdf.

10. The Biological Diversity Act, 2002, No. 18 of 2003, Acts of Parliament, 2003 (India), https://www.indiacode.nic.in/bitstream/123456789/2046/4/a2003-18.pdf.

16. The Biological Diversity (Amendment) Act, 2023, No. 10 of 2023, Acts of Parliament, 2023 (India), https://egazette.gov.in/WriteReadData/2023/247815.pdf.

C. Case Law

14. *In re Saranda Wildlife Sanctuary*, 2025 INSC 1311 (India) (13 Nov. 2025), official judgment at https://api.sci.gov.in/supremecourt/1995/2997/2997_1995_1_1501_65898_Judgement_13-Nov-2025.pdf.

18. *Orissa Mining Corp. Ltd. v. Ministry of Env't & Forest*, (2013) 6 SCC 476 (India) (18 Apr. 2013), judgment text at https://indiaenvironmentportal.org.in/in-court/supreme-court-judgement-dated-18042013-in-wpc-no1802011-orissa-mining-corpn-vs-moef-ors.

D. Books and Scholarly Articles

2. Fikret Berkes, *Sacred Ecology: Traditional Ecological Knowledge and Resource Management* (4th ed., Routledge 2018).

17. Pallavi Mishra, *The Biological Diversity (Amendment) Act 2023: A Gateway to Sustainable Access?*, Env't L. Rev. (Mar. 2025), https://doi.org/10.1177/14614529251328784.

23. Asmita Kabra, *Ecological Critiques of Exclusionary Conservation*, 2(1) Ecology, Econ. & Soc'y — The INSEE J. 9 (2019), https://doi.org/10.37773/ees.v2i1.51.

24. Ajit Menon & Nitin D. Rai, *The Mismeasure of Nature: The Political Ecology of Economic Valuation of Tiger Reserves in India*, 26(1) J. Pol. Ecology 652 (2019), https://doi.org/10.2458/v26i1.23194.

E. Reports, News, and Government Data Sources

11. S. Natesh, *When Amrita Devi and 362 Bishnois Sacrificed Their Lives for the Khejri Tree*, Sahapedia (Sept. 11, 2020), https://www.sahapedia.org/when-amrita-devi-and-362-bishnois-sacrificed-their-lives-khejri-tree.

12. Down To Earth, *Court Upholds Soliga Tribe's Community Forest Rights* (2013), https://www.downtoearth.org.in/environment/court-upholds-soliga-tribes-community-forest-rights--41256.

13. Down To Earth, *Nature Worshippers: How Sarna Rituals Propagate Forest Conservation to New Generations & Other Communities* (Apr. 19, 2024), https://www.downtoearth.org.in/forests/nature-worshippers-how-sarna-rituals-propagate-forest-conservation-to-new-generations-other-communities-93656.

15. Press Information Bureau, Government of India, *India's Wildlife Conservation Milestones* (Nov. 27, 2023), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2107821&reg=3&lang=2.

19. Supreme Court Observer, *Declaration of Saranda Forest as Sanctuary (In re: Saranda Wildlife Sanctuary)*, case tracker, https://www.scobserver.in/supreme-court-observer-law-reports-scolr/declaration-of-saranda-forest-as-sanctuary-in-re-saranda-wildlife-sanctuary/.

20. Down To Earth, *Declare Saranda Forest as Wildlife Sanctuary Within 90 Days, SC Directs Jharkhand* (Nov. 15, 2025), https://www.downtoearth.org.in/forests/declare-saranda-forest-as-wildlife-sanctuary-within-90-days-sc-directs-jharkhand.

21. Press Trust of India, *Jharkhand Govt Filed Review Plea in SC on Saranda Sanctuary Order, Claims MLA Saryu Roy*, ThePrint (Feb. 26, 2026), https://theprint.in/india/jharkhand-govt-filed-review-plea-in-sc-on-saranda-sanctuary-order-claims-mla-saryu-roy/2864350/.

22. *How Much More Will Saranda Forest Sanctuary Suffer?*, HinduPost (May 25, 2026), https://hindupost.in/environment/how-much-more-will-saranda-forest-sanctuary-suffer/.

25. Scroll.in, *How a Tribe in Karnataka Fought and Won a Legal Battle to Stay Within a Tiger Reserve* (Oct. 5, 2018), https://scroll.in/article/896580/how-a-tribe-in-karnataka-fought-and-won-a-legal-battle-to-stay-in-a-tiger-reserve.

26. Mongabay India, *Protecting Sarna, Jharkhand's Groves of Faith* (Dec. 18, 2019), https://india.mongabay.com/2019/12/protecting-sarna-jharkhands-groves-of-faith/.

27. LSE Religion and Global Society Blog, *The Role of "Sarna" in Forest Conservation and Wildfire Prevention: An Indigenous Tribal Religion of India* (Dec. 2023), https://blogs.lse.ac.uk/religionglobalsociety/2023/12/the-role-of-sarna-in-forest-conservation-and-wildfire-prevention-an-indigenous-tribal-religion-of-india/.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

The Hidden Influence of Third-Party Funding on Arbitrator Selection: Conflict, Strategy or Legitimate Commercial Interest?

Author: Deepak singh Yadav

Affiliation: Lynx Legal Partners

Email: deepak@lynxlegal.in

Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)

Date: 4th August 2026

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2   Issue: 1   Month: August 2026

ABSTRACT

Third-party funding (TPF) in international arbitration has grown from a niche financing arrangement into a structural feature of the global dispute resolution landscape. While its commercial utility is well-documented, a comparatively underexplored dimension concerns its influence on arbitrator selection — the process by which parties nominate, challenge, or seek to disqualify arbitrators. This paper examines whether the participation of a third-party funder introduces conflicts of interest that compromise arbitral impartiality, or whether such concerns, though legitimate in appearance, ultimately reflect strategic behaviour dressed in the language of procedural fairness. Drawing on an analysis of institutional rules, investment arbitration jurisprudence, and scholarly discourse, the paper argues that the relationship between TPF and arbitrator selection occupies a grey zone between genuine conflict, tactical manoeuvre, and legitimate commercial interest. The paper finds that current disclosure regimes remain inadequate, that arbitral institutions have responded unevenly, and that no uniform global standard governs funder-arbitrator relationships. It concludes with reform proposals directed at arbitral institutions, domestic legislatures, and the international arbitration community, aimed at achieving systemic transparency without unduly burdening the commercial viability of TPF.

Keywords: Third-Party Funding; Arbitrator Selection; Conflict of Interest; Disclosure Obligations; International Arbitration; Arbitral Impartiality; IBA Guidelines; Investment Arbitration

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

I. INTRODUCTION

International arbitration has long prided itself on procedural flexibility, party autonomy, and the capacity of disputing parties to select decision-makers best suited to resolve their disputes. This distinguishing feature — the right to participate in the constitution of the tribunal — forms a cornerstone of the arbitral legitimacy that draws sophisticated commercial actors to the forum in preference to national courts. Yet this very feature has become increasingly vulnerable to distortions introduced by the rise of third-party funding (TPF), a practice whereby an entity with no direct stake in the dispute finances a party's legal costs in exchange for a share of any eventual recovery.

The intersection of TPF and arbitrator selection raises questions that are at once procedural, ethical, and commercial. When a funder with an economic interest in the outcome has pre-existing relationships — financial, institutional, or social — with an arbitrator, can the neutrality of the tribunal be assured? Conversely, when arbitrator challenges are deployed not out of genuine concern for impartiality but as a dilatory tactic or a means of constituting a more favourable tribunal, does the mechanism of challenge itself become a tool of strategic manipulation?

This paper undertakes a balanced inquiry into these tensions. It does not proceed from the assumption that TPF is inherently problematic, nor does it dismiss concerns about funder influence as jurisprudential alarmism. Instead, it examines the available evidence — institutional rules, decided cases, and comparative regulatory frameworks — to identify where genuine gaps in the conflict-of-interest architecture exist and where procedural safeguards are being instrumentalised for strategic ends.

II. BACKGROUND OF THE STUDY

Third-party funding in international arbitration emerged as a formalised practice in Australia and the United Kingdom in the early 2000s, initially as a mechanism to enable access to justice for claimants who lacked resources to pursue meritorious claims.[1] Over the following two decades, the practice underwent a qualitative transformation: from an access-to-justice instrument to a sophisticated asset class, with dedicated litigation finance funds managing billions of dollars in deployed capital across international arbitration matters, particularly investor-state disputes and high-value commercial claims.[2]

Funders such as Burford Capital, Omni Bridgeway, and Litigation Capital Management now operate on a global scale, providing financing not only to individual claimants but to law firms and portfolios of cases.[3] The commercial logic of TPF rests on the non-recourse nature of the financing — the funder bears the risk of an adverse outcome — in exchange for a contractually agreed return on a successful recovery, typically calculated as a multiple of the funded amount or a percentage of the award.

Within this commercial structure, arbitrator selection assumes heightened significance for funders. Unlike a passive lender, a TPF provider has a direct financial stake in the outcome of the proceedings and, consequently, an interest in the composition of the tribunal. The arbitrator's approach to damages, liability, and procedural questions can materially affect the size — or existence — of any recovery. It would be commercially naïve to suppose that funders are entirely indifferent to who sits on the tribunal.

Simultaneously, the growth of TPF has produced what scholars have described as a "repeat player" problem within the international arbitration community.[4] A small and relatively interconnected community of arbitrators, funders, and arbitration practitioners means that pre-existing relationships — co-authorship, shared institutional affiliations, prior appointments, cross-investments — are not unusual. Whether such relationships rise to the level of disqualifying conflicts is a question that neither institutional rules nor arbitral jurisprudence has answered with consistency.

III. STATEMENT OF THE PROBLEM

The central problem this paper addresses is the absence of a coherent, internationally consistent framework governing the relationship between third-party funders and arbitrators in the context of arbitrator selection and challenge. This gap produces three distinct categories of difficulty.

First, there is the **disclosure problem.** Most arbitration rules require arbitrators to disclose circumstances that may give rise to doubts about their impartiality. However, these rules were drafted before the institutionalisation of TPF. They do not explicitly address whether an arbitrator must disclose prior or existing financial relationships with a funder, nor do they resolve whether a funder's identity must be disclosed to the tribunal at all. Without identity disclosure, an arbitrator who has received a retainer from the funder, served as an expert in a funder-backed matter, or sits on the funder's advisory board cannot make the disclosures that the conflict-of-interest architecture demands.[5]

Second, there is the **challenge problem.** Arbitrator challenges predicated on TPF-related conflicts have multiplied in investment arbitration. Some of these challenges appear to reflect genuine procedural concern; others appear designed to delay proceedings, secure the removal of an arbitrator whose track record is unfavourable to the challenging party, or destabilise a tribunal midway through proceedings. Arbitral institutions have handled these challenges with inconsistency, producing an unpredictable body of decisions that provides little guidance for future cases.[6]

Third, there is the **strategic selection problem.** If funders — possessing superior information about the track records, methodologies, and dispositional tendencies of arbitrators — are in a position to influence their clients' selection choices, the party-nomination system may no longer operate as it is designed to. The party with a funder effectively has access to a sophisticated, data-driven arbitrator intelligence function that the unfunded counterparty lacks, creating an informational asymmetry that may compromise the perceived equality of the parties.

IV. RESEARCH QUESTIONS

This paper is guided by the following research questions:

1. In what ways does the participation of a third-party funder in international arbitration affect, directly or indirectly, the process of arbitrator selection and nomination?
2. What existing institutional and regulatory mechanisms govern potential conflicts of interest arising from funder-arbitrator relationships, and are they adequate?
3. Can arbitrator challenges predicated on TPF-related concerns be distinguished from strategic or dilatory challenges, and if so, how?
4. What reforms to disclosure requirements, challenge procedures, and institutional rules are necessary to address identified deficiencies?

V. RESEARCH OBJECTIVES

The objectives of this study are:

(i) To map the intersection between TPF and arbitrator selection across major arbitral institutions and jurisdictions;

(ii) To critically evaluate the adequacy of current disclosure standards in addressing TPF-related conflicts of interest;

(iii) To analyse how arbitral institutions have decided funder-related arbitrator challenge applications and to assess the consistency of that jurisprudence;

(iv) To distinguish genuine conflict-of-interest concerns from strategic invocations of the challenge mechanism; and

(v) To advance concrete, workable reform proposals calibrated to the distinct needs of commercial and investment arbitration.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

VI. SIGNIFICANCE OF THE STUDY

The significance of this inquiry extends across multiple dimensions. For practitioners, a clearer understanding of when TPF relationships generate disclosure obligations and challengeable conflicts is essential to advising clients on arbitrator selection and managing the risk of mid-arbitration challenges that can delay and inflate the cost of proceedings. For arbitral institutions, the study identifies systemic gaps in existing rules and proposes specific interventions.

For regulators and legislators — particularly in jurisdictions such as Singapore, Hong Kong, and India, which have recently enacted or are considering TPF legislation — the analysis provides a comparative framework for informed policymaking. More broadly, the study contributes to the structural legitimacy of international arbitration at a moment when the system faces growing scrutiny from within the practitioner community and from states that participate in investment arbitration as respondents.

A rigorous examination of the TPF-arbitrator selection interface is therefore not merely an academic exercise but a contribution to the institutional health of a system that adjudicates disputes worth hundreds of billions of dollars annually.

VII. LITERATURE REVIEW

A. Third-Party Funding: General Framework

The literature on TPF in international arbitration has grown substantially since the early 2010s, with initial scholarship focused primarily on access-to-justice justifications and ethical concerns.[7] The foundational contributions of Maya Steinitz[8] and Judith Resnik[9] examined TPF through the lens of procedural fairness and the commercialisation of litigation. Steinitz, in particular, argued that the transformation of claims into tradeable assets fundamentally altered incentive structures, raising questions about who truly controls the conduct of a case and in whose interests decisions are made.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

B. Conflict of Interest in Arbitration

The scholarship on arbitral conflicts of interest predates the TPF debate and is anchored in the foundational work on arbitral impartiality and independence. The IBA Guidelines on Conflicts of Interest in International Arbitration[10] — first published in 2004 and revised in 2014 — provide the most widely referenced soft-law framework. As Bernardo Cremades and David Arias have noted,[11] the Guidelines were not designed with the TPF relationship in mind, and their categories of waivable and non-waivable conflicts do not map cleanly onto the funder-arbitrator dynamic.

C. TPF and Disclosure

William Park's scholarship on arbitral disclosure obligations[12] argued that disclosure serves two functions: it enables the parties to make informed decisions about whether to waive a potential conflict, and it ensures the integrity of the process by creating a verifiable record. The problem with TPF is that it introduces a conflict with an entity whose identity may itself be confidential, making disclosure structurally incomplete. More recent contributions by Rachael Kent[13] and Catherine Rogers[14] have directly addressed the TPF-disclosure nexus. Rogers' work on the systemic dimensions of the "repeat player" problem is particularly germane, arguing that opacity surrounding funder-arbitrator relationships is not merely a bilateral problem but a systemic failure.

D. Arbitrator Challenges in Practice

Empirical analysis of arbitrator challenges by Bernd Ehle and Monica Alberti[15] reveals that the rate of successful challenges remains low across all major institutions. Their data suggest that institutions apply a high threshold for disqualification, typically requiring demonstrable evidence of actual bias rather than mere appearance of conflict. This conservative approach has been criticised as inadequate in the TPF context, where the conflict may be structural — embedded in a financial relationship — rather than attitudinal.

E. Strategic Use of Challenges

Jan Paulsson's influential writing on arbitral legitimacy[16] touches on the pathological uses of party-nomination rights, while Gary Born's comprehensive treatise[17] addresses the challenge mechanism in institutional context. Neither, however, directly addresses the extent to which TPF-related challenges may be pretextual — a gap this paper seeks to address.

F. Institutional and Regulatory Responses

The SIAC Practice Note on TPF,[18] the ICC's disclosure framework, and the ICSID Rule amendments of 2022[19] represent the most significant institutional responses to date. The ICSID amendments introduced an explicit obligation to disclose the existence and identity of TPF providers, representing a notable advance. However, these rules apply only to ICSID proceedings and have not been replicated universally, leaving large portions of the global arbitration market without a mandatory disclosure standard.

VIII. RESEARCH METHODOLOGY

This paper employs a doctrinal-comparative methodology. The primary sources analysed include: the rules of major arbitral institutions (ICC, SIAC, LCIA, ICSID, UNCITRAL); the IBA Guidelines on Conflicts of Interest; national legislative instruments governing TPF in Singapore, Hong Kong, England, and Australia; and published arbitrator challenge decisions from ICSID and ICC proceedings.

Secondary sources include peer-reviewed journal articles, book chapters, institutional reports, and practitioner commentary published between 2004 and 2024. The analysis proceeds by identifying the legal framework applicable to each dimension of the problem, examining how that framework has been applied in practice, and evaluating whether the outcomes are consistent with the stated objectives of the system.

The paper does not purport to be empirically exhaustive. Challenge decisions in commercial arbitration are rarely published, and data on funder-arbitrator

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

relationships are inherently difficult to obtain given the confidentiality that surrounds both TPF agreements and arbitral proceedings. The analysis accordingly relies on the available published record, supplemented by reasoned inference from institutional design and commercial incentives.

IX. CRITICAL ANALYSIS

A. The Structural Conflict Problem

The most significant conflict-of-interest concern in the TPF-arbitrator relationship is structural rather than attitudinal. An arbitrator who has previously been appointed in proceedings funded by a particular funder, who has received a speaking engagement fee sponsored by the funder, or who sits on the funder's advisory board has a financial relationship with an entity that has a direct economic stake in the award. This is qualitatively different from the conventional arbitrator-party conflict, because the funder's interest runs not to the identity of the prevailing party but to the quantum of the recovery.

This subtlety matters. An arbitrator may harbour no prejudice toward either party yet be susceptible — even unconsciously — to tendencies that serve the funder's economic interest, such as a disposition toward expansive damages awards or a reluctance to make adverse costs orders that would reduce net recoveries. The conflict, in other words, is not about allegiance but about incentive alignment.[20] The IBA Guidelines' traffic light system — classifying conflicts as "Red List" (non-waivable), "Orange List" (waivable), or "Green List" (generally acceptable) — does not comprehend this incentive-alignment dimension, as it addresses the arbitrator's relationship with the parties and their counsel, not with a financially interested third party whose identity may be entirely unknown to the tribunal.

B. Disclosure: The Identity Problem

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

A foundational precondition of any conflict disclosure is that the arbitrator knows who the funder is. If funders are not required to disclose their involvement to the tribunal, arbitrators cannot perform the conflicts check that the IBA Guidelines and institutional rules require of them. This produces a structural incoherence: the conflict-of-interest regime demands disclosure, but the TPF regime — where it exists — is often silent on mandatory disclosure to the tribunal.

The ICSID Rule 14, as amended in 2022, addresses this by requiring parties to disclose the name and address of any TPF provider. This is a commendable step. However, it remains isolated: neither the ICC Rules nor the LCIA Rules impose equivalent obligations.[21] Even where disclosure obligations exist, their scope is contested. Does "disclosure" require the arbitrator to proactively search their records for any prior relationship with the named funder, or is it sufficient to disclose only relationships of which they are presently aware? Given the volume of appointments that senior arbitrators carry, the former standard is practically demanding; the latter may be inadequate to serve the purpose for which disclosure obligations exist.

C. Challenge Jurisprudence: Patterns and Inconsistencies

Analysis of published arbitrator challenge decisions in investment arbitration reveals two broad patterns. First, challenges based on TPF-related conflicts are treated sceptically by arbitral institutions, which apply the "justifiable doubts" standard articulated in Article 12 of the UNCITRAL Model Law without always confronting the specific structural issues that funder relationships create. Second, the analysis of these decisions does not reveal a principled distinction between the evidentiary threshold applied to TPF-related conflicts and that applied to more conventional conflicts, suggesting that institutions are mapping an old standard onto a new problem without adequate analytical recalibration.

The 2012 challenge decision in Oxus Gold v. Republic of Uzbekistan[22] illustrated the difficulty: the challenge was dismissed, but the reasoning offered limited guidance on how funder-arbitrator financial relationships should be categorised. The decision neither endorsed the view that such relationships presumptively generate disqualifying conflicts nor articulated a test for when they would. This analytical gap persists across subsequent institutional decisions, producing a body of precedent that is voluminous but not coherent.

D. Strategic Challenges: Distinguishing the Genuine from the Tactical

Not all TPF-related challenges are made in good faith. The mechanics of the challenge mechanism — triggering a suspension or delay in proceedings, requiring the institution to constitute a separate committee, and consuming significant resources of all parties — make it an attractive tactical weapon regardless of the substantive merits of the underlying concern.

Indicators of strategic challenge behaviour include: the timing of the challenge (raised after an unfavourable procedural ruling rather than immediately upon learning of the funder relationship); the absence of any specific evidence of actual conflict beyond the bare existence of a prior relationship; and the pattern of the challenging party across prior proceedings (serial challengers with a track record of pre-emptive applications).

However, distinguishing strategic from genuine challenges requires institutional capacity that most arbitral institutions presently lack. Without a standing committee with expertise in TPF arrangements and access to information about funder-arbitrator relationships — which are rarely publicly documented — institutions are poorly placed to make this determination reliably. The result is that even abusive challenges receive the full procedural treatment that genuine challenges merit, rewarding tactical behaviour.

E. Informational Asymmetry in Selection

The sophisticated data resources available to commercial litigation funders — including systematic databases of arbitral awards, arbitrator track records on specific legal issues, and analytical tools that profile individual arbitrators' methodological

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

tendencies — create a meaningful informational asymmetry between funded and unfunded parties in the selection process. A funded claimant effectively has access to an arbitrator intelligence function of a quality unavailable to an unfunded counterparty.

This asymmetry does not necessarily produce biased outcomes — an arbitrator selected on the basis of superior research is not thereby partial. But it raises questions about the procedural equality that underpins the legitimacy of the arbitral process. If one party's selection is data-driven and the other's is intuitive or experience-based, the party-nomination system may no longer operate on the equal footing its design assumes. Whether this asymmetry constitutes a structural problem requiring institutional correction, or simply reflects the advantages that well-resourced parties have always enjoyed, is a question the literature has not yet resolved.

X. SUGGESTIONS AND RECOMMENDATIONS

A. Universal Disclosure of Funder Identity

All major arbitral institutions should adopt rules requiring mandatory disclosure of the identity of any third-party funder to the arbitral tribunal at the earliest stage of proceedings. This reform — already implemented by ICSID — should be extended to the ICC, LCIA, SIAC, and UNCITRAL frameworks. Disclosure should include not only the name of the funder but also a summary of the funding arrangement sufficient to enable the tribunal to assess potential conflicts. Confidentiality of the commercial terms of the funding agreement can be preserved while still enabling adequate conflicts assessment.

B. Enhanced Arbitrator Self-Disclosure Obligations

Institutional rules and the IBA Guidelines should be amended to require arbitrators explicitly to check for and disclose any financial relationship — past or present — with any identified funder. This should include prior appointments in funder-backed matters, advisory roles, board memberships, and receipt of speaking fees or other remuneration. A standardised disclosure questionnaire tailored to TPF relationships would assist arbitrators in making systematic and consistent checks across the full range of their professional activities.

C. Revised IBA Guidelines

The IBA Guidelines Working Group should undertake a targeted revision to introduce a specific category addressing funder-arbitrator relationships. At minimum, the revised Guidelines should clarify whether an existing advisory relationship between an arbitrator and a TPF provider falls within the non-waivable Red List or the waivable-subject-to-disclosure Orange List, and should address the treatment of prior appointments in funder-backed cases. The current silence of the Guidelines on this point is an anomaly that has persisted for too long given the pace of TPF's growth.

D. Institutional Capacity for Challenge Assessment

Arbitral institutions should develop specialised capacity for assessing TPF-related challenges. This might include a dedicated panel or standing committee with expertise in commercial finance and arbitration ethics, and access to a curated record of funder-arbitrator relationships built from disclosed information across proceedings. The assessment process should also incorporate indicators of strategic challenge behaviour, enabling institutions to impose costs sanctions or expedited rejection procedures in cases of manifestly abusive applications.

E. Legislative Frameworks for TPF Regulation

In jurisdictions where TPF operates without bespoke legislation, lawmakers should consider enacting regulatory frameworks that require funders to maintain and disclose records of their arbitrator relationships as a condition of operating in the market. Singapore's Civil Law (Amendment) Act 2017 and the Hong Kong Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 provide

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

E-ISSN: 3139-8650

Volume: 2 Issue: 1 Month: August 2026

useful legislative precedents, though neither addresses the arbitrator-relationship dimension with the specificity that the identified problems demand.

XI. CONCLUSION

The relationship between third-party funding and arbitrator selection is neither inherently corrupt nor inherently benign. It is a domain of structural complexity in which the legitimate commercial interests of funders, the procedural rights of parties, and the integrity of the arbitral process exist in a tension that current institutional frameworks are inadequately equipped to manage.

This paper has argued that three distinct problems require attention: the disclosure gap created by funder anonymity; the inconsistency of challenge jurisprudence in applying established conflict standards to a novel structural situation; and the informational asymmetry that sophisticated funders introduce into the arbitrator selection process. Each problem is tractable; none requires a wholesale rejection of TPF as a practice.

The reform agenda proposed — universal identity disclosure, enhanced arbitrator self-disclosure obligations, revised IBA Guidelines, institutional challenge capacity, and legislative frameworks — is calibrated to address identified deficiencies without unduly burdening a practice that serves the legitimate function of enabling meritorious claims to be pursued. The objective is not to drive funders from the arbitral arena but to integrate their presence into the conflict-of-interest architecture in a manner that preserves the impartiality and legitimacy on which the entire enterprise of international arbitration depends.

As TPF continues to grow — in volume, in sophistication, and in the diversity of the claims it funds — the pressure on these frameworks will only intensify. The international arbitration community would be well advised to act with deliberate foresight rather than to wait for a high-profile legitimacy crisis to compel reform.

FOOTNOTES

1. Freda M. Grealy, 'Third-Party Litigation Funding: An Australian Perspective' (2010) 21 ADRJ 95, 97.
2. Burford Capital, 'Annual Report 2022: Global Litigation Finance Overview' (Burford Capital Limited, 2023) 14–18.
3. Queen Mary University of London and White & Case, 'International Arbitration Survey: Adapting Arbitration to a Changing World' (2021) 38–40.
4. Catherine Rogers, 'The Ethics of Advocacy in International Arbitration' (2014) 1 JIDS 1, 23.
5. Rachael Kent, 'Third-Party Funding and Disclosure in International Arbitration' (2019) 35 Arb Int'l 491, 494.
6. Bernd Ehle and Monica Alberti, 'Arbitrator Challenges: Empirical Observations' in Stefan Kröll and others (eds), International Arbitration and International Commercial Law (Kluwer 2011) 277, 284.
7. Jonathan T. Molot, 'A Market in Litigation Risk' (2009) 76 U Chi L Rev 367, 370.
8. Maya Steinitz, 'Whose Claim Is It Anyway? Third-Party Litigation Funding' (2011) 95 Minn L Rev 1269, 1273.
9. Judith Resnik, 'Diffusing Disputes: The Public in the Private of Arbitration' (2015) 124 Yale LJ 2804, 2812.
10. IBA Guidelines on Conflicts of Interest in International Arbitration (International Bar Association, 2014).
11. Bernardo Cremades and David Arias, 'Overcoming the Clash of Legal Cultures: The Role of Interactive Arbitration' (2006) 25 Arb Int'l 157, 164.
12. William W. Park, 'Arbitrator Integrity: The Transient and the Permanent' (2009) 46 San Diego L Rev 629, 644.
13. Kent (n 5) 498–504.
14. Catherine Rogers, Ethics in International Arbitration (OUP 2014) 211–218.
15. Ehle and Alberti (n 6) 280–285.
16. Jan Paulsson, 'Moral Hazard in International Dispute Resolution' (2010) 25 ICSID Rev 339, 344.
17. Gary Born, International Commercial Arbitration (3rd edn, Kluwer 2021) vol 2, ch 12.
18. SIAC, 'Practice Note on Arbitrator Conduct in Cases Involving External Funding' (SIAC, 2017).
19. ICSID, 'Arbitration Rules 2022' (ICSID/15, 2022) r 14.
20. Rogers (n 14) 215.
21. ICC Rules of Arbitration (ICC, 2021); LCIA Arbitration Rules (LCIA, 2020).
22. Oxus Gold PLC v Republic of Uzbekistan, UNCITRAL, Challenge Decision, 4 October 2012.

BIBLIOGRAPHY

A. Primary Sources

International Instruments and Institutional Rules

- IBA Guidelines on Conflicts of Interest in International Arbitration (International Bar Association, 2014)
- ICC Rules of Arbitration (International Chamber of Commerce, 2021)
- ICSID Arbitration Rules 2022 (ICSID/15, ICSID, 2022)
- LCIA Arbitration Rules (London Court of International Arbitration, 2020)
- SIAC Arbitration Rules (Singapore International Arbitration Centre, 2016, as amended 2022)
- UNCITRAL Arbitration Rules (United Nations Commission on International Trade Law, 2013)
- UNCITRAL Model Law on International Commercial Arbitration (United Nations, 1985, amended 2006)

National Legislation

- Civil Law (Amendment) Act 2017 (Singapore)
- Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (Hong Kong)
- Legal Services Act 2007 (United Kingdom)
- Arbitration and Conciliation Act 1996 (India)

Cases

- Oxus Gold PLC v Republic of Uzbekistan, UNCITRAL, Challenge Decision (4 October 2012)
- Tennant Energy LLC v Government of Canada, UNCITRAL/NAFTA, Challenge Decision (2019)
- Infinito Gold Ltd v Republic of Costa Rica, ICSID Case No ARB/14/5, Challenge Decision (2016)

B. Secondary Sources

Books

- Born, Gary, International Commercial Arbitration (3rd edn, Kluwer Law International 2021)
- Moses, Margaret, The Principles and Practice of International Commercial Arbitration (3rd edn, Cambridge University Press 2017)
- Rogers, Catherine, Ethics in International Arbitration (Oxford University Press 2014)
- Waincymer, Jeff, Procedure and Evidence in International Arbitration (Kluwer Law International 2012)

Journal Articles

- Cremades, Bernardo and Arias, David, 'Overcoming the Clash of Legal Cultures: The Role of Interactive Arbitration' (2006) 25 Arbitration International 157
- Grealy, Freda M., 'Third-Party Litigation Funding: An Australian Perspective' (2010) 21 ADR Journal 95
- Kent, Rachael, 'Third-Party Funding and Disclosure in International Arbitration' (2019) 35 Arbitration International 491
- Molot, Jonathan T., 'A Market in Litigation Risk' (2009) 76 University of Chicago Law Review 367
- Park, William W., 'Arbitrator Integrity: The Transient and the Permanent' (2009) 46 San Diego Law Review 629
- Paulsson, Jan, 'Moral Hazard in International Dispute Resolution' (2010) 25 ICSID Review 339
- Resnik, Judith, 'Diffusing Disputes: The Public in the Private of Arbitration' (2015) 124 Yale Law Journal 2804
- Rogers, Catherine, 'The Ethics of Advocacy in International Arbitration' (2014) 1 Journal of International Dispute Settlement 1

• Steinitz, Maya, 'Whose Claim Is It Anyway? Third-Party Litigation Funding' (2011) 95 Minnesota Law Review 1269

Reports and Other Sources

• Burford Capital Limited, Annual Report 2022 (Burford Capital Limited, 2023)

• Ehle, Bernd and Alberti, Monica, 'Arbitrator Challenges: Empirical Observations' in Stefan Kröll and others (eds), International Arbitration and International Commercial Law (Kluwer 2011) 277

• ICSID, Background Paper on Proposals for Amendment of the ICSID Rules (ICSID, 2018)

• Queen Mary University of London and White & Case, International Arbitration Survey: Adapting Arbitration to a Changing World (QMUL 2021)

• SIAC, Practice Note on Arbitrator Conduct in Cases Involving External Funding (SIAC, 2017)

— End of Paper —

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

THE CONSTITUTIONAL PROTECTION OF FOLK TRADITIONS IN CONTEMPORARY INDIA: BETWEEN CULTURAL RIGHTS AND COMMERCIALISATION

Author: Srishti Rai

Affiliation: Mahatma Gandhi Kashi Vidyapeeth, Varanasi

Email: srishtirai0059@gmail.com

Submitted to: Journal of International Research & Multidisciplinary Innovation (JIRMI)

Date: 30 July 2026

Abstract

Folk traditions — oral epics, ritual performances, textile weaves, wall paintings, and craft techniques transmitted across generations within identifiable communities — occupy an uneasy space in Indian constitutional and legal thought. The Constitution of India recognises cultural plurality through Articles 29 and 30, the fundamental duty under Article 51A(f), and an expansively read Article 21, yet it vests no enforceable proprietary right in a community over its own folklore. Meanwhile, the market has discovered folk aesthetics: Warli motifs appear on factory-made garments, Madhubani strokes are licensed for home décor, and Pattachitra patterns are digitised into wallpaper, frequently without the originating community's consent or any share in the resulting revenue. This paper examines the gap between constitutional recognition of cultural rights and the absence of a corresponding proprietary or benefit-sharing mechanism. It traces how India's intellectual property statutes — the Geographical Indications of Goods (Registration and Protection) Act 1999, the Copyright Act 1957, and the Biological Diversity Act

2002 — have been pressed into service to fill that gap and identifies where each instrument falls short of protecting the interests of the practising community itself. Using doctrinal analysis of constitutional text, statutory provisions, and comparative sui generis models from Panama and Peru, the paper argues that India's folklore-protection regime is a patchwork sustained by proxy legislation rather than a coherent right and proposes a community-trust-based sui generis framework anchored in the cultural dimension of Article 21.

Keywords

Folk traditions; cultural rights; Geographical Indications; traditional cultural expressions; commercialisation; Article 29; sui generis protection; intangible cultural heritage

i. Introduction

India's cultural landscape is stitched together not by a single dominant tradition but by thousands of localized practices—the Warli wall paintings of the Konkan hill communities, the Madhubani and Mithila paintings of Bihar, the Pattachitra scroll narratives of Odisha and Bengal, the oral Baul songs of rural Bengal, the Gond-Pardhan paintings of Madhya Pradesh, and countless textile weaves, ritual performances, and craft techniques that survive precisely because a community keeps practising them. These are not museum pieces frozen in a colonial-era ethnographic photograph; they are living, evolving expressions that communities continue to create, adapt, and transmit orally or by demonstration rather than through any written or registered form.

The Constitution of India, drafted at a moment preoccupied with nation-building and minority protection, addresses this plurality obliquely rather than directly. Article 29 guarantees any section of citizens with a distinct language, script or culture the right to conserve it[1], and Article 51A(f) imposes on every citizen the duty to value and preserve the rich heritage of the country's composite culture[2]. Article 21, read expansively since the mid-1970s, has been interpreted to embrace far more than physical survival[3], a reading that plausibly extends to a community's interest in its own cultural continuity. Yet none of these provisions confers on a community an enforceable proprietary interest in its folk expressions. No community 'owns' Madhubani painting the way a novelist owns a manuscript, and nothing in the Constitution itself stops a garment company from printing Warli motifs on a factory-made kurta so long as no registered trademark or Geographical Indication is infringed.

This paper interrogates that gap — the distance between India's constitutional commitment to cultural pluralism and the near-absence of a legal mechanism through which folk communities can

---

[1]Constitution of India 1950, art. 29(1).

[2]Constitution of India 1950, art. 51A(f).

[3]Constitution of India 1950, art. 21; see Maneka Gandhi v Union of India (1978) 1 SCC 248, where the Supreme Court read Article 21 as guaranteeing a life of dignity rather than mere animal existence, a reading later academics have extended to cultural and community life.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

control, or share meaningfully in the economic value of, the commercial use of their own traditions. It proceeds in eleven further parts. Part II situates the study historically, from colonial-era documentation of folk art to the post-1999 intellectual property overlay. Part III states the specific problem this paper addresses, followed by the research questions, objectives, and significance of the study in Parts IV to VI. Part VII reviews the existing literature on traditional knowledge and traditional cultural expressions, and Part VIII sets out the research methodology. Part IX undertakes the central critical analysis of the constitutional and statutory framework, examining Geographical Indications, copyright, and the biodiversity regime in turn, before Part X offers suggestions for reform and Part XI concludes.

ii. Background of the study

India's engagement with folk traditions as an object of policy long precedes its engagement with folk traditions as an object of law. Colonial administrators and ethnographers catalogued tribal and rural art largely as anthropological curiosity, with no accompanying notion that the originating communities held any right in what was documented. After independence, the state built an institutional apparatus for culture rather than a legal one: the Sangeet Natak Akademi was established in 1952[4], followed by the Lalit Kala Akademi and the Sahitya Akademi in 1954, each tasked with promotion, award, and archival documentation rather than rights administration. Folk and tribal art entered the market gradually through state emporia, export promotion councils, and later through designer collaborations, well before any legal regime existed to regulate the terms on which that entry occurred.

The legal vacuum began to close only when India's international trade obligations demanded it. India's accession to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1994 required a domestic Geographical Indications regime[5], resulting in the

[4] Sangeet Natak Akademi, established 1952, functions under the Ministry of Culture, Government of India, and maintains an indicative national inventory of intangible cultural heritage.

[5] Agreement on Trade-Related Aspects of Intellectual Property Rights 1994, arts. 22-24.

Geographical Indications of Goods (Registration and Protection) Act 1999. Around the same period, the controversies over the patenting of turmeric's wound-healing properties in the United States[6] and a neem-based fungicide in Europe[7] exposed the vulnerability of undocumented traditional knowledge to foreign appropriation, prompting the Biological Diversity Act 2002, the creation of the Traditional Knowledge Digital Library[8], and the insertion of a traditional-knowledge exclusion into the Patents Act in 2005[9]. India ratified the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in 2005[10], but its domestic follow-through has been largely confined to inventory-building rather than the creation of enforceable rights. It is against this backdrop of reactive, trade-driven, and often biology-focused lawmaking that the artistic and performative folk traditions this paper is concerned with have had to find whatever protection they can.

iii. Statement of the problem

India's existing legal architecture treats folk traditions in one of two ways: either as heritage to be documented and museumised by the state, with no operative legal consequence, or as a tradeable good once a Geographical Indication has been secured, with legal consequence but limited community control. Neither category captures the practising community's living, evolving relationship with its own tradition. Article 29's guarantee is a shield against state suppression of a culture rather than a right to control commercial exploitation by private third parties. Even where a Geographical Indication is registered, the statute vests the resulting right in a registered

[6]United States Patent No. 5,401,504 on the wound-healing properties of turmeric was revoked in 1997 after the Council of Scientific and Industrial Research demonstrated prior traditional use.

[7]European Patent No. EP 0436257 on a neem-based fungicide was revoked by the European Patent Office in 2005 following opposition on grounds of prior traditional use.

[8]The Traditional Knowledge Digital Library was jointly established by the Council of Scientific and Industrial Research and the Department of AYUSH in 2001 to document codified traditional medicinal knowledge for defensive use in patent examination.

[9]Patents Act 1970, s. 3(p), inserted by the Patents (Amendment) Act 2005.

[10]UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage 2003; India deposited its instrument of ratification on 9 September 2005.

'Association of Persons' or body of producers rather than directly in every practising artisan, so individual creators frequently see little of the value that GI recognition generates. The problem, in short, is one of a constitutional promise of cultural protection that has never been translated into an operative, community-held economic right — leaving folk traditions simultaneously constitutionally cherished and legally undefended against commercial appropriation.

iv. Research questions

1. What is the constitutional basis, if any, for treating folk traditions as a protectable cultural right rather than merely a matter of state cultural policy?
2. To what extent do India's existing intellectual property statutes — the Geographical Indications Act, the Copyright Act, the Biological Diversity Act, and the Patents Act — protect the interests of the originating community, as opposed to merely regulating third-party market use of the folk expression?
3. Does the commercialisation of folk traditions through Geographical Indication tagging and craft-marketing schemes economically empower originating communities, or does it primarily benefit intermediaries while diluting the cultural meaning of the practice?
4. What would a coherent, rights-based sui generis framework for the protection of folk traditions in India look like, drawing on comparative experience from jurisdictions such as Panama and Peru and the ongoing WIPO Intergovernmental Committee process?

v. Research objectives

1. To examine the constitutional provisions bearing on cultural rights in India and assess whether they can ground a claim to protection of folk traditions.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

2. To critically evaluate the adequacy of the Geographical Indications Act, the Copyright Act, and the Biological Diversity Act as instruments for protecting the community-held character of folk traditions.
3. To assess, through illustrative case examples, whether commercialisation under the present regime benefits originating artisan communities or predominantly benefits intermediaries.
4. To propose reform measures, including a sui generis legislative model, informed by comparative and international practice.

vi. Significance of the study

The question is not merely academic. India's handicraft and handloom sector employs several million artisans, a large proportion of them in rural and tribal communities that hold no other capital asset besides the skill transmitted to them. Government schemes promoting district-level craft branding have accelerated the pace at which folk motifs enter mainstream commerce, often faster than the legal or institutional capacity to ensure that the originating community shares in the resulting value. At the same time, the erosion of ritual and spiritual meaning that can accompany mass commercial reproduction raises cultural, and not merely economic, stakes. This paper contributes to a comparatively underdeveloped strand of Indian legal scholarship — most existing traditional-knowledge literature in India concentrates on biological and medicinal knowledge following the turmeric and neem controversies, leaving artistic and performative folk traditions comparatively under-examined. By bringing constitutional cultural-rights doctrine into direct conversation with the intellectual property statutes, the paper aims to clarify where the present regime's protection genuinely lies, and where it merely appears to.

VII. LITERATURE REVIEW

The international literature on traditional knowledge and traditional cultural expressions provides the conceptual scaffolding for this paper. Carlos Correa's early study for the Quaker United Nations

Office[11] distinguished traditional knowledge in the technical or biological sense from traditional cultural expressions in the artistic or performative sense, arguing that conventional intellectual property categories — built around individual authorship, novelty, and fixed terms — are structurally unsuited to knowledge that is collectively held, continuously evolving, and often orally transmitted. This distinction is foundational to the present paper, which focuses specifically on the latter, comparatively neglected category.

The World Intellectual Property Organization's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore has, since 2001, produced successive draft instruments attempting to define protectable 'traditional cultural expressions' and the beneficiaries entitled to control them[12], but member-state disagreement over the binding character of any resulting instrument has left the process without a concluded treaty. A commissioned WIPO-UNESCO study specifically examining India, Indonesia, and the Philippines[13] found that India's approach relies almost entirely on adapting existing intellectual property categories — principally Geographical Indications and copyright — rather than legislating a dedicated folklore statute, a finding that remains substantially accurate more than two decades later and forms the empirical starting point for this paper's critical analysis.

Indian scholarship on the subject has tended to bifurcate along the same technical/artistic line identified by Correa. Commentary following the turmeric and neem patent controversies concentrated heavily on defensive documentation strategies for medicinal and agricultural knowledge, culminating in the Traditional Knowledge Digital Library and the biodiversity access-and-benefit-sharing regime. By comparison, sustained doctrinal engagement with the constitutional and statutory protection of artistic and performative folk traditions — painting

[11] Carlos M. Correa, Traditional Knowledge and Intellectual Property: Issues and Options Surrounding the Protection of Traditional Knowledge (Quaker United Nations Office, Geneva, 2001).

[12] World Intellectual Property Organization, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), sessions convened periodically since 2001.

[13] P.V. Valsala G. Kutty, National Experiences with the Protection of Expressions of Folklore/Traditional Cultural Expressions: India, Indonesia and the Philippines (WIPO-UNESCO study, 2002).

styles, textile motifs, oral narrative forms, and ritual performance — remains comparatively sparse, with most treatment confined to descriptive accounts of individual Geographical Indication registrations rather than an integrated assessment of whether the registration model actually serves the interests of the practising community. This paper attempts to address that gap by reading the constitutional cultural-rights provisions and the statutory intellectual property regime together, as components of a single, if incoherent, protective architecture.

viii. Research methodology

This paper adopts a doctrinal legal research methodology, supplemented by a comparative and case-illustrative approach. The primary method is a black-letter analysis of the relevant provisions of the Constitution of India, the Geographical Indications of Goods (Registration and Protection) Act 1999, the Copyright Act 1957, the Biological Diversity Act 2002, and the Patents Act 1970, read alongside India's obligations under TRIPS, the Convention on Biological Diversity, and the UNESCO Intangible Cultural Heritage Convention. Illustrative examples drawn from the Geographical Indications Registry's records for specific folk art forms — Madhubani painting, Warli painting, Pochampally Ikat, and Thanjavur and Kalamkari painting among them — are used qualitatively to test how the statutory framework operates in practice, rather than as a statistically representative sample. The paper does not draw on primary empirical fieldwork among artisan communities, which is acknowledged as a limitation; its conclusions rest on documentary and statutory analysis and should be read as a doctrinal, not sociological, contribution.

ix. Critical analysis

9.1 The Constitutional Architecture: A Right Without a Remedy

Article 29(1) is, on its text, a promising foundation: it guarantees to any section of citizens with a distinct language, script, or culture the right to conserve it[14]. The Supreme Court's jurisprudence on the cognate Article 30, protecting minority educational institutions, has read the word 'conserve' generously in the institutional context[15][16], but Article 29 has rarely been invoked outside disputes over admission or language policy, and never, so far as the doctrinal record shows, to assert a community's control over the commercial use of its artistic practices. The provision protects against state suppression of a culture; it does not, on any natural reading, create a cause of action against a private garment manufacturer who reproduces a community's motifs without permission. Article 51A(f)'s duty to preserve the composite cultural heritage is, structurally, a Directive Principle-adjacent duty owed by the citizen to the state's cultural project, not a right a community can assert against a commercial actor[17]. Article 21's expansive reading since the late 1970s[18] offers the most conceptually promising route — if 'life' includes dignity, and dignity is inseparable from cultural identity for many communities, a plausible argument exists that unauthorised commercial exploitation of a community's living tradition implicates Article 21. But this remains an argument awaiting judicial articulation rather than settled law; no reported decision has extended Article 21 in this specific direction. The result is a constitutional architecture that expresses unmistakable sympathy for cultural plurality while leaving the enforceable content of that sympathy almost entirely to ordinary legislation — legislation that, as the following sections show, was drafted with other purposes in mind.

9.2 The Statutory Overlay and Its Fragmentation

---

[15] In re The Kerala Education Bill 1957, AIR 1958 SC 956.
[16] T.M.A. Pai Foundation v State of Karnataka (2002) 8 SCC 481.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

No single Indian statute purports to protect 'folklore' or 'traditional cultural expressions' as such. What exists instead is a set of statutes each designed for a different purpose, into which folk traditions have had to be fitted. The Constitution itself contributes to this fragmentation: cultural and archaeological subject matter is scattered across the Seventh Schedule[19], with ancient monuments of national importance falling to the Union and other monuments to the States, and 'culture' nowhere appearing as a distinct legislative head. Article 49 imposes on the state an obligation to protect monuments and objects of artistic or historic interest[20], but this too is oriented toward physical heritage rather than living practice. The consequence is that a community's folk painting style, oral narrative tradition, or ritual performance must seek shelter under whichever ordinary statute its particular form of expression happens to resemble — a textile motif under Geographical Indications, a documented song under copyright, a plant-based dye recipe under the biodiversity regime — with no legislative home for the practice as an integrated cultural whole.

9.3 Geographical Indications: A Double-Edged Instrument

The Geographical Indications of Goods (Registration and Protection) Act 1999 is, by volume of use, India's principal instrument for folk-craft protection. A Geographical Indication protects a name associated with goods whose quality or reputation is essentially attributable to their geographical origin[21], and India has used the Act extensively for handicrafts: Darjeeling Tea was the first product registered under it in 2004[22], and a wide range of folk art forms followed, including Pochampally Ikat, Madhubani painting, Thanjavur painting, Kalamkari, and Warli painting[23]. The Act's genuine achievement is defensive: registration prevents outsiders, whether domestic traders in unrelated regions or foreign producers, from using a protected name on goods

[19] Constitution of India 1950, Seventh Schedule, List I Entry 67 and List II Entry 12.

[20] Constitution of India 1950, art. 49.

[21] Geographical Indications of Goods (Registration and Protection) Act 1999, s. 2(1)(e).

[22] Darjeeling Tea, Application Nos. 1 & 2, was registered as India's first Geographical Indication in October 2004; the Act itself had come into force in September 2003. GI Registry, Chennai.

[23] Pochampally Ikat (Application No. 4, registered 2004-05); Madhubani/Mithila painting (registered 2007); Warli painting (registered in the early-to-mid 2010s); Thanjavur painting (registered 2007-08); Kalamkari (registered 2007-08). GI Registry, Chennai.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

that do not originate from the specified community, and it has demonstrably helped products such as Darjeeling Tea resist misappropriation in export markets.

The instrument's limitation lies in who it empowers. Section 11 vests the right to seek registration, and the resulting authorised-user status, in an 'Association of Persons' or body representing producers, not in each individual artisan[24]. In practice, registration is frequently driven by state handicraft development corporations, trade associations, or exporter bodies rather than by the artisans themselves, and the economic benefit of a GI tag — a price premium, export access, brand recognition — accrues most reliably to whichever intermediary controls the registered association and the supply chain beneath it. An individual Madhubani painter or Warli artist does not automatically receive a greater share of sale proceeds merely because the art form carries a GI tag; the tag protects the name, not the artisan's bargaining position within the market for goods bearing that name. Geographical Indication protection is, moreover, available only for goods with an identifiable, geographically-bounded producer community and a describable connection between origin and quality — criteria that fit visual and textile art forms reasonably well but exclude oral narrative traditions, dance, music, and ritual performance almost entirely, since these are not 'goods' in the sense the Act contemplates.

9.4 Copyright: The Authorship Problem

The Copyright Act 1957 protects original literary, dramatic, musical, and artistic works[25], but its architecture assumes an identifiable individual author and a fixed term measured from that author's life, expiring sixty years after death[26]. Folk traditions typically satisfy neither assumption: a Madhubani motif, a Baul melodic form, or a Warli compositional convention has no single identifiable author, having evolved collectively over generations, and even where a specific artisan paints a specific work embodying the tradition, copyright protects only that individual work — not

[24] Geographical Indications of Goods (Registration and Protection) Act 1999, s. 11, read with s. 2(1)(a) and (o) (defining 'authorised user' and 'producer').

[25] Copyright Act 1957, s. 13.

[26] Copyright Act 1957, s. 22.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

the underlying style, technique, or motif vocabulary that any other member of the community, or any outsider, remains free to use. A living artisan can copyright a particular painting; no one can copyright 'Madhubani style' itself, because style and technique are not protectable subject matter under conventional copyright doctrine anywhere, India included. The 2012 amendments strengthened performers' rights, granting performers a right against unauthorised recording or broadcast of a live performance independent of any underlying copyright[27], which offers folk musicians and dancers a genuine, if narrow, protection against unauthorised recording — but this protects the act of performance, not the traditional composition or choreography being performed, which typically remains too old, too collectively authored, or too undocumented to attract copyright in its own right.

9.5 The Biodiversity and Plant-Variety Regime: A Partial Analogy

The Biological Diversity Act 2002 offers the closest Indian precedent for a genuine benefit-sharing model, requiring equitable sharing of benefits arising from the commercial use of biological resources and associated traditional knowledge, administered through National and State Biodiversity Funds[28], while the Protection of Plant Varieties and Farmers' Rights Act 2001 separately recognises farmers' contributions to the conservation of plant genetic resources[29]. These statutes matter to this paper less for their direct application — most folk art and performance falls outside 'biological resources' altogether — than as a demonstrated legislative willingness, elsewhere in the Indian statute book, to build a benefit-sharing architecture around collectively held, non-individually-authored knowledge. That the same willingness has not been extended to artistic and performative folk traditions is a legislative choice, not a conceptual impossibility: the Biodiversity Act shows that Parliament already knows how to draft a community-benefit-sharing mechanism when it chooses to.

---

[27]Copyright Act 1957, ss. 38 and 38A, as substituted/inserted by the Copyright (Amendment) Act 2012.
[28]Biological Diversity Act 2002, ss. 21 and 36(5).
[29]Protection of Plant Varieties and Farmers' Rights Act 2001, s. 39.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

9.6 Commercialisation: Threat and Lifeline at Once

Commercialisation cannot be treated as an unambiguous evil in this analysis, because it is simultaneously the primary threat to, and the primary economic lifeline for, many folk traditions. Without market demand, several folk art forms discussed in Geographical Indication literature would likely have continued their documented decline as younger generations move to urban wage labour; commercial sale on paper, textiles, and consumer goods has, in a number of well-documented instances, been credited with sustaining practices that were losing practitioners. At the same time, uncontrolled reproduction by parties outside the tradition — a textile printed with Warli-inspired motifs by a manufacturer with no connection to the Warli community, sold without any indication that it is an inspired reproduction rather than an authentic work — can depress the market for genuine artisan-made work, misrepresent the tradition's meaning, and capture commercial value that never reaches the originating community at all. The present legal regime is largely indifferent to this distinction: outside the narrow band of GI-protected names, nothing in Indian law requires accurate labelling of 'tradition-inspired' goods as distinct from 'tradition-authentic' ones, leaving consumers unable to make an informed choice and originating communities unable to capture the premium that authenticity might otherwise command.

9.7 The Absence of a Sui Generis Framework

India has, unlike a number of jurisdictions, never enacted a dedicated statute for the protection of traditional cultural expressions as such. Panama's 2000 legislation creates a special collective intellectual property regime specifically for indigenous cultural expressions, administered through a dedicated registry[30], and Peru's 2002 legislation establishes a protective regime for collective knowledge held by indigenous peoples, expressly outside the framework of conventional patent and copyright law[31]. Both models share a structural feature entirely absent from Indian law: they

[30] Panama, Law No. 20 of 26 June 2000 on the Special Intellectual Property Regime Governing the Collective Rights of Indigenous Peoples.

[31] Peru, Law No. 27811 of 2002, Regime for the Protection of the Collective Knowledge of Indigenous Peoples Related to Biological Resources.

treat the community itself, rather than any individual member or any state-appointed intermediary association, as the holder of the right, with consent and benefit-sharing required as a precondition of commercial use. India's continued reliance on Geographical Indications, copyright, and biodiversity legislation — each designed for a different purpose and adapted to folklore only by analogy — leaves a structural gap that these comparative models suggest is neither inevitable nor especially difficult to close through dedicated legislation.

x. Suggestions and recommendations

1. Enact a dedicated sui generis statute for traditional cultural expressions, modelled loosely on the Panama and Peru frameworks, that vests the protectable right directly in the originating community rather than in a registered producer association, and that extends to oral, performative, and ritual expressions presently excluded from Geographical Indication protection.
2. Reform the governance of Geographical Indication registration for folk art forms by requiring that registered 'Associations of Persons' under Section 11 include direct, verifiable artisan representation and periodic public accounting of how licensing or premium revenue is distributed to practising artisans.
3. Extend a benefit-sharing mechanism analogous to the Biological Diversity Act's National and State Biodiversity Funds to commercial use of registered folk art forms, so that a defined share of revenue from large-scale commercial licensing returns to a community fund rather than being captured entirely by intermediaries.
4. Introduce a mandatory 'tradition-inspired' labelling requirement for mass-produced goods that use recognisable folk motifs without artisan involvement, giving consumers the information needed to choose authentic artisan-made work and allowing genuine practitioners to compete on that distinction.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

5. Extend the documentation model of the Traditional Knowledge Digital Library beyond medicinal knowledge to artistic and performative folk traditions, creating a community-controlled digital registry that can serve both an evidentiary function in disputes and a living archive for transmission within the community itself.
6. Give Article 21's cultural dimension doctrinal content through strategic public interest litigation, inviting judicial articulation of a community's interest in the integrity of its living traditions as an element of dignity, comparable to the Court's earlier willingness to read new substantive content into Article 21.

xi. Conclusion

India's Constitution speaks confidently about cultural plurality and the value of the country's composite heritage, but that confidence has not been carried through into an operative legal right that folk communities can assert when their traditions are commercially exploited by others. What exists instead is a set of statutes — Geographical Indications, copyright, biodiversity, and patent law — each built for a different purpose and each capable of protecting only a fragment of what a living folk tradition actually is: a name and a region under the Geographical Indications Act, a single fixed work under copyright, a documented biological use under the biodiversity regime, and nothing at all under any of them for oral narrative, dance, or ritual performance. Commercialisation has, in this vacuum, become both the reason several traditions have survived economically and the mechanism through which their value most often escapes the community that created them. Comparative models from Panama and Peru show that a coherent, community-held sui generis right is a legislative choice within reach, not a conceptual impossibility. Until India makes that choice, its folk traditions will remain constitutionally cherished in principle and legally undefended in practice — protected, at best, by analogy, and left, at worst, to the market alone.

JOURNAL OF INTERNATIONAL RESEARCH & MULTIDISCIPLINARY INNOVATION

AE-ISSN: 3139-8650

JIRMI

Volume: 2 Issue: 1 Month: August 2026

Bibliography

A. Primary Sources

(i) Constitutional and Statutory Materials

Constitution of India 1950.

Copyright Act 1957 (as amended by the Copyright (Amendment) Act 2012).

Geographical Indications of Goods (Registration and Protection) Act 1999.

Geographical Indications of Goods (Registration and Protection) Rules 2002.

Patents Act 1970 (as amended by the Patents (Amendment) Act 2005).

Biological Diversity Act 2002.

Protection of Plant Varieties and Farmers' Rights Act 2001.

(ii) International Instruments

Agreement on Trade-Related Aspects of Intellectual Property Rights 1994.

Convention on Biological Diversity 1992.

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization 2010.

UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage 2003.

(iii) Cases

Maneka Gandhi v Union of India (1978) 1 SCC 248.

In re The Kerala Education Bill 1957, AIR 1958 SC 956.

T.M.A. Pai Foundation v State of Karnataka (2002) 8 SCC 481.

Bal Patil v Union of India (2005) 6 SCC 690.

B. Secondary Sources

Correa, Carlos M., Traditional Knowledge and Intellectual Property: Issues and Options Surrounding the Protection of Traditional Knowledge (Quaker United Nations Office, Geneva, 2001).

Kutty, P.V. Valsala G., National Experiences with the Protection of Expressions of Folklore/Traditional Cultural Expressions: India, Indonesia and the Philippines (WIPO-UNESCO study, 2002).

World Intellectual Property Organization, Intellectual Property and Traditional Cultural Expressions/Folklore, WIPO Booklet No. 1 (WIPO, Geneva).

World Intellectual Property Organization, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Session Reports (2001-present).

Ministry of Culture, Government of India, Annual Report (various years).

Geographical Indications Registry, Chennai, Geographical Indications Journal (various issues).

Note: Secondary source citations should be independently verified for exact volume, page, and edition details prior to formal submission, in accordance with the citation style prescribed by the relevant journal or institution.