

A FEMINIST PERSPECTIVE'S TRADITIONAL KNOWLEDGE OF IPR

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ABSTRACT

Intellectual property rights (IPR) is one of those areas where feminist jurisprudence has not developed to the point where it can benefit women to increase their participation in commercialising their work or obtaining a patent on an innovative idea. Feminist jurisprudence has developed over the years and has made its way over many fields, improving the representation of women or giving them a voice to raise their concerns and assist others who need opportunities. This has an adverse effect on women's social status as well as their economic well-being, which lowers a nation's GDP and, in turn, reduces the options accessible to women, creating a vicious cycle that has no end. In India, women are less likely to commercialise the skills or methods they have developed over the years. A country should constantly make an effort to promote women in technical domains and encourage them to conduct research on novel ideas and file for patents on those ideas. In order to ensure that women have a system to rely on in order to obtain justice, legislation should be established specifically to address their needs.

Keywords: Gender norms, Intellectual Property Rights, Law, socio-economic conditions, Feminist jurisprudence and Traditional Knowledge.

INTRODUCTION

Intellectual property rights encompass a number of subcategories within itself, including copyright, trademarks, patents, traditional knowledge, etc. It is crucial to critically examine the role and involvement of women in the IP industry in order to better understand the issues in society and the law, which may be equal on paper but still have different outcomes in practise. The issue with intellectual property rights is that when it comes to protecting different innovations, ideas, and expertise, they frequently only help those who have sizable financial resources and who already have access to the knowledge and data needed to further develop their product. For instance, only businesses or people with significant technological and material resources can hope to obtain intellectual property rights such as patents,

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copyrights, designs, etc. The IP regime frequently ignores individuals without such resources. In India and the majority of the developing world, women fall behind in both the ownership of resources (land, capital) and educational achievement. However, they are frequently those who are most impacted by rising costs and a lack of access to goods, medications, and services.

The lack of IP protection denies women in underdeveloped countries the right to strive towards improving their work so that it can be patented and generate financial rewards for the goods or practises that have been passed down through generations. The use of Indian names, imagery, iconography and other symbols for commercial purposes without Indian input constitutes 'cultural appropriation'¹ and this cultural erosion in the name of commercialisation leads to power imbalance², racism and inequality, rather than an atmosphere of fair, open and multilateral exchange.³

Speaking at the Clinton Global Initiative's annual gathering in September 2009, the former president proclaimed that-“Women perform 66% of the world's work and produce 50% of the food, yet earn only 10% of the income and own 1% of the property. Whether the issue is improving education in the developing world, fighting global climate change, or addressing nearly any other challenge we face, empowering women is a critical part of the equation.”

More jobs are created for women as a result of economic growth in lower-middle-income countries. However, when India's economy developed at an average rate of 7% between 2004 and 2011, the proportion of women in the labour force decreased by seven percentage points, from 31% to 24%. India was placed 11th from the bottom globally in 2013 for female labour market participation, despite girls' educational attainment rising quickly and fertility rates falling.⁴

This new global economic order is having a direct and indirect impact on women's life in India against the backdrop of social, cultural, religious, political, and economic disparities ingrained in Indian society. While there are more chances for women in some areas of the

¹The social movement that flow from that flow of cultural elements from indigenous societies to larger world and the indigenous people keep experiencing the feeling of dispossession. See, *Riley R. Angela and Carpenter A. Kristen, 'Owning Red: A Theory of Indian (Cultural) Appropriation' Texas law review, Vol. 94:859, 2016.*

²R. Berger, *Red: Racism and the American Indian*, 56 UCLAL.REV.591,597-98(2009)

³Rebecca Tsosie, *Reclaiming Native Stories: An Essay on Cultural Appropriation and Cultural Rights*, 34ARIZ.ST.L.J. 299,311-14(2002).

⁴FAO (1998). “Women: Users, Preservers and Managers of Agro-Biodiversity.” Sustainable Development Dimensions. Women in Development Service (SDWW)/FAO Women and Population Division, October, <http://www.fao.org/sd/WPdirect/WPan0025.htm>, accessed April 2023.

economy, they are also subject to a new set of disadvantages. The government has started a wide range of policy-level measures that are exposing India's workers and producers, including women, to international competition in order to integrate the Indian economy into the global system. It increases the vulnerability of women to the current system, but there is potential for the current system to be transformed into a helpful opportunity for elevating women since it will provide them with greater access to the global economy.⁵

SOCIAL REPERCUSSIONS

For instance, only businesses or people with significant technological and material resources can hope to obtain intellectual property rights such as patents, copyrights, designs, etc. The IP regime frequently ignores individuals without such resources. In India and the majority of the developing world, women fall behind in both the ownership of resources (land, capital) and educational achievement. However, they are frequently those who are most impacted by rising costs and a lack of access to goods, medications, and services. The patriarchal foundations that give rise to the belief that caring for their home is their responsibility and that working outside the home or giving their office priority traps them in the guilt of abandoning their family are the root of the problem. The continuation of India's traditional gender norms, which aim to maintain women's "purity" by shielding them from males other than their spouses and limiting their mobility outside of the home, appears to be a major factor in why they don't work. Even when it does exist, home-based wage jobs or entrepreneurship rarely transform and liberate the worker. Men typically forbid their daughters, spouses, and daughters-in-law from leaving the village for training and subsequent work placements in rural and a few urban areas.⁶ Trainers are hesitant to deal with women who may be more likely to reject job placements owing to their family situations because their income depends on the employment outcomes of their trainees. Although jobs are physically closer in urban India, women still struggle to access the old networks of employment that are dominated by men. As a result, women frequently find themselves in positions that are lower paying and less demanding than what their skills would normally allow them to do. This makes it less likely that they will choose to work at all, especially if household earnings grow and they no longer need to work in order to exist. The way of life and struggles of Indian women are so undervalued, and it gets worse when non-Indians fail to

⁵Pandae, Rohini "Why Aren't India's Women Working?" The New York Times, August 2015.

⁶Bennett, Lynn (2004). "Concept Note to DFID for the Nepal Gender and Social Exclusion Assessment," October.

acknowledge their efforts and portray them as strange. Although real Indian women endure extremely high rates of sexual assault and domestic abuse, rock artists often play the ravished Indian maiden in an alluring fashion.⁷Diverse varied instances include Victoria's Secret models walking the runway while wearing headdresses from diverse cultures.,⁸ Urban Outfitters marketing “Navajo Print Wrapped Flasks”⁹ and “Navajo Hipster Panties,” Boy Scout Troops mimicking Pueblo Indian dances, and the many sports teams with Indian mascots.¹⁰Due to two main factors, women are greatly disadvantaged by maternity leave. First of all, the employers believe that maternity leave would disadvantage them since they would have to pay for the time the woman is off from work and find a replacement for that time. Second, the time delay caused by pregnancy leaves women behind because during that time, things change and they must do twice as much work. We must not overlook the basic fact that a woman's body is weak during this period, making childbirth extremely dangerous and requiring suitable protection. The law must be implemented in order to effectively combat this issue because it may encourage people to change their attitudes towards pregnant women by granting paternity leave. This will prevent employers from favouring men over women because they will be required to grant both of them leave, giving women the opportunity to compete on an equal footing with men without feeling disadvantaged.¹¹ Lack of education, which eventually leads to a lack of awareness, is another factor resulting from how society perceives things. It becomes problematic for women since they may not be aware of technology developments that could improve their products or of legal rights that could be beneficial to them. Whether the exclusion is deliberate or accidental doesn't really matter as long as there haven't been ongoing efforts to challenge the underrepresentation of women.

⁷Carpenter Kristen, Riley Angela, ‘Owning Red: A Theory of Indian (Cultural) Appropriation’, Vol.94:85, 2016, pg 863.

⁸Victoria’s Secret Apologizes After Use of Native American Headdress in Fashion Show Draws Outrage, FOXNEWS (Nov.13, 2012), <http://www.foxnews.com/us/2012/11/13/victoriasecret-apologizes-after-use-native-american-headdress-in-fashion-show/>[<http://perma.cc/42WM-L2U4>

⁹Sasha Houston Brown, An Open Letter to Urban Out fitters on Columbus Day, RACIALICIOUS (Oct.10, 2011), <http://www.racialicious.com/2011/10/10/an-open-letter-to-urban-outfitters-on-columbus-day/>[<http://perma.cc/DAU6-3YHF>.

¹⁰Carol Spindel, Dancing At Halftime: Sports and The Controversy Over American IndianMascots13–17(2000).

¹¹Having said that the author also feels giving such long break to both men and women is a burden on the employer and to actually solve that Indian law should follow the approach laid down in Sweden or Canada or the laws of Germany. Germany have parental leave and it is called “Elternzeit” which can be taken by both parents. In this parent can be take leave upto 3 years. No salary is paid till the 3 years but jobs are open for the parents. Allowance is paid equivalent to 14 or 15 moths or equal to 65% or at least 300 up to a maximum of 1,800 Euro and is called as “Elterngeld” which paid by the government. If mothers and fathers share the parental allowance, they together receive parental allowance for a maximum of 14 months.¹¹ Each parent can draw a minimum of two and a maximum of twelve months' parental allowance. Along with this mother can take mandatory 6 week off before the scheduled birth and 8 weeks after that.

IMPLICATIONS FOR THE ECONOMY

Women face obstacles in practically every element of the workforce, and they put in a lot of unpaid work at home. More emphasis needs to be devoted to these types of jobs to ensure that the ways in which care work promotes flourishing economies are recognised and valued.¹² Economic empowerment is the ability of both men and women to engage in, contribute to, and benefit from economic processes in ways that respect their dignity, acknowledge the value of their contributions, and enable negotiations for a more equitable division of the rewards of growth.¹³ And in many nations, increased trade openness and economic integration have resulted in a considerable increase in export-oriented industries, some of which, like clothing and light manufacturing, have recently employed a lot of women.¹⁴ Both of these trends have resulted in increased market incentives for women to enter the labour field, including rising female labour demand and, in some cases, higher absolute and relative earnings.

The engagement of increasing numbers of women in economic empowerment is a two-way process; as economies grow, so do the resources and opportunities available to women, including jobs, assets, skill development, etc. Additionally, it provides women a sense of hope and independence that will not only change the way the world sees them but also inspire millions of other women to take the same course. Economic possibilities are few, which fosters gender segregation and leads to institutional failures.¹⁵ Women have struggled in practically every field, and they are more likely to choose flexible hours so they can manage household duties (which are not economically taken into account).

¹² <https://www.oecd.org/dac/gender-development/47561694.pdf>

¹³ Eyben, R and others (2008), *Conceptualising empowerment and the implications for pro-poor growth*, Institute of Development Studies at the University of Sussex, Brighton.

¹⁴ World Bank (2012), *Gender differences in employment and why they matter*, P. 200

The report talks about how various elements contribute towards women's economic development like improving infrastructures, liberalizing trade barriers. Changes in education have also facilitated women's integration in the labour market. More educated women have traditionally exhibited higher participation rates than their less educated counterparts; so as education levels have increased around the world, more women have ventured into paid work.

¹⁵ Asian Development Bank (2004). *Gender Poverty and the Millennium Development Goals, Bangladesh Country Gender Strategy*. Manila: ADB.

NEEM CASE ANALYSIS IN THE CONTEXT OF GENDER

The Environmental Protection Agency gave this product the go-ahead to be sold in the United States (US) market in 1985 after Robert Larson secured a patent for his synthesis of neem seed extract. The US Company W.R. Grace purchased the extraction process patent from Robert Larson in 1988. In India, neem has been used for centuries, and every household was aware of its benefits. However, no resources were invested in educating the populace about how to use a product more effectively, or the public was unaware of the patent. This example is now a perfect fit for understanding the relationship between men and women in India, with men representing the developed country of the US with resources and women representing the developing country who were involved with the product and knew its uses, benefits, and drawbacks but were unable to further develop it so that they could easily commercialise its value. This demonstrates how unfair and biased the system has become, and it is the state's responsibility to actually take steps to involve and support women as well as create a more responsive legal framework.

FRAMEWORK OF THE LAW

The right of women to participate equally in all spheres is guaranteed by international law and the Indian constitution, but in practise, it often seems as though these are just ideals that belong on paper and that society is actively working to undermine. Promoting such actions perpetuates dominance and subordination patterns since gender roles, habits, and expectations are so established in society. Many contend that because there is no stated ban on female participation, there is reason for concern. Despite the fact that there has been significant progress in areas like employment, where explicit discrimination has been eliminated, not all forms of prejudice have been eradicated. The same applies when the law is unable to provide the intended conclusion and feminists from all over the world are required to press for the desired result.

Law and masculine notions of power and servitude go hand in hand. Even the country's substantive law has occasionally failed to prevent the influence of gender stereotypes.¹⁶ Women were obliged to try to fit the events that happened to them into a pre-

¹⁶**Section 27 of the Factories Act, 1948**, Prohibition of employment of women and children near cotton-openers.—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work. **Section 361 in The Indian Penal Code, 1860**, Kidnapping from lawful guardianship.—Whoever takes or entices any minor under [sixteen] years of age if a male, or under [eighteen] years of age if a

existing framework that may not be able to accommodate their experiences adequately because the categories into which legal problems are classified were formed at a time when women played no part in the law.¹⁷ Despite the fact that laws can only play a minor role in any significant social transformation, women will nevertheless look to the law as a means of upending and displacing the prevailing definition of gender. Other than the law regarding sexual assault, formal law reform organisations have not until very recently engaged directly with issues that particularly concern women. The numerous clauses and agreements that support women's involvement in securing their economic rights by safeguarding the nature and biodiversity of their native land, which is a source of livelihood. Imposing a legal duty on them is a means through which the international community ensures that states take steps in that direction. Convention on Biological Diversity Preamble affirms the central role of women drawing specific attention to “the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation”.¹⁸ The Earth Summit's 1992 adoption of Agenda 21 places a strong emphasis on the necessity of increasing women's participation in national ecosystem management and the prevention of environmental deterioration. The Food and Agriculture Organisation of the United Nations (FAO) has called attention to the disparate roles that men and women play in livelihood systems that include farms and backyard gardens, as well as common property resources like pastures and forested lands and protected areas. In addition to producing crops, these backyard gardens serve as test beds for women to experiment with and adapt to a variety of native and wild plant species. All of these clauses do provide a more comprehensive

female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person. **Section 125 of criminal procedure code**, states that parents have to maintain their son till he is 18 and women till they are unmarried and after that the husband will maintain them. This shows a clear bias on the part of the legislators that how they feel that women are the major responsibility and a burden who are incapable of taking care of themselves and require someone to depend on.

Sections like these have been a part of Indian Substantive law which without any clear reasoning have the elements of subtle discrimination that follow the path of social reasoning that has kept women at a disadvantage and especially the above mentioned section 27 of Factories Act, is restricting fundamental right to carry on any trade and business activity within the country. Whereas for section 361 of IPC what possible reason did the legislatures had to keep different ages. This again puts the social conditioning into perspective where they think that the girl take more time to mature to who to go with and requires more years of protection. These kinds of subtle discrimination become much harder to fight.

¹⁷The experiences of women need to be taken into account while framing the laws as it becomes the starting point of the change where law becomes responsive towards women and starts heading its masculine nature for a better social equality.

¹⁸Gross, Tony, Sam Johnston, and Charles Victor Barber (2006). “The Convention on Biological Diversity: Understanding and Influencing the Process.” *A Guide to Understanding and Participating Effectively in the Eight's Conference of the Parties to the Convention on Biological Diversity*. Yokohama, Japan: UNU IAS, March.

framework for countries to implement these concepts and include them in their local laws for a better result in promoting equality in the workplace. However, it is also true that no country has achieved gender equality to this day, despite the fact that most of their laws are based on the principles of equality of opportunity, nondiscrimination, etc. The lack of consideration for the experiences of one gender in the development of laws is therefore a concern. Margaret Davis's approach towards feminism is that "It is not possible simply to reject or accept an engagement with the law; we cannot have a single position but must engage and critique... the argument is essential that we can and should be working with to achieve change along at least two fronts, one 'internal' to law and accepting its power to define and redefine; second from a position of 'scepticism and critique' of law." Only those with substantial material means and access to information benefit from IP legislation. For instance, only businesses or people with significant technological and material resources can hope to obtain intellectual property rights such as patents, copyrights, designs, etc. The IP regime frequently ignores those without such resources.¹⁹In India and the majority of the developing world, women fall behind in both the ownership of resources (land, capital) and educational achievement. However, they are frequently those who are most impacted by rising costs and a lack of access to goods, medications, and services. Therefore, it is crucial that we take into account their way of life in the legal system, which they must govern for a successful outcome.

WOMEN AND TRADITIONAL KNOWLEDGE

The indigenous cultures place a high value on the idea of community rights. However, because they are unable to assert any personal rights, indigenous women's status both inside and outside of their communities continues to be insecure. In order for them to have control over their lives and resources, it is crucial to give them economic empowerment.²⁰Their living conditions are extremely insecure due to both the violence they experience in their interpersonal relationships at work and the poverty they live in. The community's collective rights are strengthened by extending the rights of indigenous women. It is crucial that women and girls understand both their traditions and their legal rights. Indigenous women experience disproportionately high rates of discriminatory, exclusive violence worldwide. Traditional Knowledge is a general phrase that refers to knowledge systems that cover a wide range of

¹⁹Commission on Intellectual Property Rights (CIPR) (2002). "Executive Summary: Integrating Intellectual Property Rights and Development Policy." *Report of the Commission on Intellectual Property Rights*. London: Commission on Intellectual Property Rights. September, www.iprcommission.org, accessed April 2023.

²⁰Cervantes, Silvia Rodrigues (2006). "FTAs: Trading Away Traditional Knowledge." GRAIN. March, www.grain.org/briefings/?id=196

subjects and are retained by traditional groups or communities, as well as the knowledge that has not been obtained in a structured way. These knowledge systems are important and pertinent to the rest of humanity as well as their owners. There are two major Systems of traditional knowledge protection-1) Positive protection, which entitles owners of traditional knowledge to take legal action or seek redress in the event that their information is being misused. 2) Defensive protection, which involves defending against unauthorised intellectual property rights that third parties have obtained over conventional knowledge.²¹The knowledge passed down from generation to generation in traditional societies around the world has become increasingly important in protecting not only the rights of indigenous groups but also the nation since the ratification of the Trade-Related Aspects of Intellectual Property Agreement (TRIPs) in 1994 and the Convention on Biological Diversity (CBD) in 1993.²²According to Article 8(j) of the Convention on Biological Diversity (CBD),²³Each Member State shall, to the extent feasible, as appropriate, and subject to national law, respect, preserve, and maintain indigenous and local communities' knowledge, innovations, and practises that embody traditional sustainable use of biological diversity and promote their wider application with the consent and involvement of those who hold such knowledge, innovations, and practises as well as encourage the equitable sharing of the benefits resulting from their exploitation. In numerous fields, including seed preservation, bio-related activities, traditional agriculture, and the use of traditional medicines, particularly for gynecology-related therapy, the importance of women in the practise and preservation of traditional knowledge is extensively documented. It is acknowledged that traditional knowledge is a "gendered science." It is past time for the government to take advantage of the labour these women have put in and established a system of reciprocity that benefits both the state and the women by providing them with a well-deserved source of income. India already faces threats to its bio variety in places like the Western Ghats, the northeast, the Jeypore tract in Orissa,

²¹Santosh M.R. and Sengupta Ranjana, Trade, Intellectual Property Rights (IPRs) and Gender Issues, Trade and Gender Briefs No.3, April, 2011.

Various political, economic and social reasons women and men are differently placed on the development trajectories. As IP laws directly impact the entitlements of women and other marginalised sections, government should carry out comprehensive impact assessments in order to study the social and economic costs inflicted on the vulnerable sections of the Indian society.

²²Agreement on Trade-Related Aspects of Intellectual Property, Apr. 15, 1994, 33 I.L.M. 8. For an introduction to TRIPs, see World Trade Organization, Overview: The TRIPs Agreement, <http://www.wto.org/english/tratopE/trips.e/intel2-e.htm>.

²³CBD Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (2005b). "Development of Elements of *Sui Generis* Systems for the Protection of Traditional Knowledge, Innovations and Practices." Note by the Executive Secretary. 2006 UNEP/CBD/WG8J/4/7, 24 November. Prepared for Fourth Meeting Granada, Spain 23-27 January, 2006.

and coastal environments.²⁴ Alternative development models that would make the communities self-sufficient and secure their rights against corporate takeovers are needed to address the existing issues with the access to, use of, and commercialization of traditional knowledge. Systematic and enduring gender disparities in productivity and incomes exist. Whether working on or off a farm, as a self-employed person or in a salaried position, women are less productive on average and make less money than males. Both industrialised and developing nations have recorded these discrepancies, and despite the fact that they have narrowed over time (mainly as a result of the closing of the education gap), they still have a sizable impact. Many populations in India rely heavily on conventional and Ayurvedic treatments²⁵ like utilizing aubergine to cure diabetes, methi as a tonic to lower glucose, basil leaves to treat coughs and colds, turmeric to heal wounds, etc. Major scientific advancements have resulted from all of these practises, but it took India some time to adequately regulate the traditional knowledge that could be trademarked and lead to the establishment of a regulated system that yields economic rewards.

LEGISLATION RELATING TO TRADITION

Respecting traditional communities' rights under national and international law, especially those of Indigenous peoples becomes crucial. The legislation should be written in a way that assures that not only do their economic rights get safeguarded, but also their moral rights. India is capable of creating policies that take into account and address its unique situation. Along with defending their rights, it is important to ensure that tradition-based innovation and creativity are promoted for commercialization in order to stop the loss of knowledge to other strong agents. In light of this, it is crucial to consider women's experiences and, in Christine Littleton's words, "Feminist jurisprudence must take women's experience as central and legal categories of doctrines as merely raw material- to be cut and pasted, stretched, arranged and sewn together to fit that experience."

First and foremost, it is crucial to incorporate women in the creation of laws since they are familiar with how laws should be applied to them and are directly involved in their implementation. It is time to change this by involving women in law creation. The male

²⁴ FAO (1998). "Women: Users, Preservers and Managers of Agro-Biodiversity. "Sustainable Development Dimensions. Women in Development Service (SDWW)/FAO Women and Population Division, October, <http://www.fao.org/sd/WPdirect/WPan0025.htm> ,accessed April 2023.

²⁵Wright Shelley, "Borrowed Power: Essays on Cultural Appropriation by Bruce Ziff and Pratima V Rao" [1977] Sydney Law Review 30 ;(1997) 19(4) Sydney Law Review.

aspect of laws was a result of laws being framed by solely men. Even today, relatively few women are involved in the law-making process. The framework needed to legislate traditional knowledge must be centred on specific measures that assist women in commercialising their activity. The following additions are permissible:

- At least five indigenous women from each state should participate in the legislative process, and their experiences should be taken into consideration so that the state can easily have a structured analysis to implement when they have specific information about how to structure and address particular issues.
- Specific funding should be set aside for product development by investing in the education of women in that field, allowing for additional inventions that can be patented.
- Numerous awareness campaigns and projects must be set up to assist in educating people in rural areas about how to use their knowledge for financial advantage.
- If a woman or a group of women are illiterate, a particular plan should be implemented that provides them with a thorough awareness of the legal system, including their rights, duties, and obligations, in addition to providing them with the fundamentals of reading and writing. The nation's literacy rate will benefit from this as well.
- A specific database or account should be set up to record the prior art knowledge that women hold in order to prevent others from using it. These should all be added up and compared to see if there are any similarities or if any two items may be combined to create an inventive and original product that will aid in the country's economic development.
- Because of the bias against women in society, it is increasingly vital to distinguish between soft and technical activities, and both should receive specific protection on several levels. Women are typically involved in soft duties, according to society. The state has a responsibility to change the situation and give women the credit they deserve for their labour. For instance, the women who pick the tea leaves in the Assam tea gardens need distinct expertise, much as choosing the right tea leaves for manufacturing calls for careful consideration and a special lens to determine which leaves should be used and which should not.
- A proper testing facility for medical knowledge should be established, supervised by women who have been practising these for years, and their contribution should be

financially recognised in accordance with state governments' and labour laws' rules. This will assist in giving women commercial benefits in addition to assisting in providing citizens with safe and effective medications. This will assist in giving India a competitive advantage in the pharmaceutical industry, allowing them to seize the opportunity and create a viable and profitable market.

- Due to societal discrimination against women, it is becoming more and more important to distinguish between soft and technical tasks, and both should be given special protection on several levels. According to society, women are often involved in menial tasks. The state has a duty to intervene and ensure that women are given credit for their labour. For instance, just as selecting the best tea leaves for manufacture requires careful consideration and a special lens to discern which leaves should be utilised and which should not, the ladies who pick the tea leaves in the Assam tea gardens need a particular competence.

CASE STUDIES

In Christime Littleton words, “Feminist jurisprudence must take women’s experience as central and legal categories or doctrines as merely raw materials – to be cut and pasted, stretched, arranged and sewn together to fit that experience”.²⁶ It thus becomes imperative to look through a feminist lens into the lives and experiences of women that act as a discovery on how the ignorance of law along with the masculine society has resulted in stabilizing the gender rules and norms.²⁷ These studies are not examined as passive social reflections of legal concepts, but as dynamic institutions that the law attempts, often clumsily to apprehend and modulate.²⁸

WOMEN IN THE FARMING SYSTEMS IN KUMAON HILLS

²⁶Moran, Katy (1999). “Indigenous Knowledge, Equitable Benefits”. WorldIKNotesNo.15, December.

²⁷The major example of this could be how the constitution of India has guaranteed the right to equality, right against discrimination but in reality women, lower castes continue to be oppressed deprived of various rights especially right to live equally with dignity. There is no denying that law can be a very important tool for social change as this paper has talked about in detail but the experiences of women can substantiate to give a better understanding of their social and economic but how if taken into account while framing the law or law commission report, the legislators will be at a better position to structure the law in a manner that is beneficial for women.

²⁸Roderick A. MacDonald, “Law Reform and Its Agencies” (2000) 7 Can. Bar 9 at 105.

The author MacDonald talks about how while researching four themes should be looked at that are personal relationships, social relationships, economic relationships and governance relationships. These relationships themselves are the point of enquiry and not the rule of the law as they give us a deeper picture to analyse the situation and not blindly believe what the law wants us to believe.

The foundation of the community and its survival in the Kumaon Hills was traditional wisdom. It offers local community members, particularly the impoverished, controllable, sustainable, and affordable survival options. Crop production, livestock husbandry, dairy production, and forestry have all relied heavily on the knowledge of women. They are quite knowledgeable about seed collection, storage, and utilisation. Despite all of this, their enormous significance to rural cultures that depend on subsistence farming was hidden. Analysing their impact on the rural economy, traditional hill farming, the preservation of traditional knowledge, etc. has received very little attention. In the hills, women are viewed as "invisible" players in the administration of natural resources and agriculture. Work is the most significant aspect of a woman's life in Kumaon Hills. From a young age, women are expected to take care of all domestic duties and make significant contributions to agriculture. Despite all of this, their enormous significance to rural cultures that depend on subsistence farming was hidden. Analysing their impact on the rural economy, traditional hill farming, the preservation of traditional knowledge, etc. has received very little attention. Looking at how women can be viewed as "invisible" actors in agricultural and natural resource management in the hills becomes an interesting issue. How their contribution is undervalued when a state may simply assist them in realising and creating a space for themselves in the economy. Kumaon Hills' economy is heavily dependent on its natural resources. The area has significantly lost its pristine natural resources over time. And women in the Kumaon Hills have been particularly hard-struck by the ever-dwindling forest and water resources. One of the reasons is that they put in more time collecting firewood, feed, and water. Then, due to the spread of chir pine and loss of forest cover, agricultural activities have become more difficult. The burden has fallen disproportionately on women, whose workload has increased. The issue has gotten worse as more and more physically fit men have moved to the plains, leaving women to manage the household by themselves. This economy was mostly built on an outdated conventional knowledge system. With the loss of forest cover, the organic connection between agriculture and the forest was broken, which reduced the transfer of biomass. The so-called scientific knowledge system has been forced upon the populace, endangering the very foundation of the hill society's ability to survive because people are rapidly losing access to natural resources and traditional knowledge necessary to use them while the current system is still insufficient and out of reach for the majority of people. These "imported scientific solutions" have additionally shown to be incorrect, ineffective, and irrelevant. Traditional knowledge has declined for a number of causes, including government interventions, market pressures, and the cash economy. Crops for the market have also

received attention from market forces and government interventions. As a result, almost little advancement in technology has been made in areas that primarily affect women, such as food processing, cooking, obtaining firewood, and transporting water. In addition, external forces have completely excluded women from managing and controlling natural resources. These have not only increased the workload for women but also damaged their status and power, causing them to lose control over their job and knowledge. The researcher's attention to her role as a transmitter of traditional knowledge is still mostly absent.

IN OAXACA (MEXICO), GROUPS OF INDIGENOUS WOMEN HEALERS HAVE FORMED TO PRACTISE TRADITIONAL MEDICINE.

Traditional medicine practitioners, largely women, were finally allowed to organise joint gatherings where they could exchange their experiences and make plans for collaboration after bitter battles with official associations of physicians. Therefore, indigenous women directly benefited greatly. Their participation has been crucial in cataloguing the plants, herbs, and practises as well as in supporting the preservation and accessibility of therapeutic goods and methods. An overall health programme has been set up with the help of NGOs, UNICEF, and the National Indigenous Institute. Through classes and seminars, recognised medicine people and healers instruct interested indigenous villages to promote health, concentrating on the recovery of collective knowledge about medicinal plants and conventional therapeutic techniques. The establishment of community clinics and the establishment of a council of traditional medicine, where their knowledge is acknowledged, have improved the position of indigenous women. In addition to being able to utilise their traditional medical knowledge extensively, their ability to practise medicine has also significantly improved.

CONCLUSION

The legal system, which offers protection and support to help enhance the commercialization of the products, must be used to improve the socioeconomic status of women. Making the appropriate laws that suit and comprehend the people they are ruling is crucial, along with that state's intervention. Both case studies make it abundantly evident how important it is for women to safeguard the indigenous tribes' traditional wisdom. There is a need to recognise and adequately appreciate the crucial role that women play in protecting this, particularly in developing and poor countries. By ensuring the most chances and production to assist grow

that, it becomes essential for the economies of these developing nations to maintain their identities. Additionally, as the nation's social standing rises, women will have more opportunities to obtain the talents that will enable them to profit economically. This demonstrates a causal relationship between the economic advancement of women and improvements in both their social circumstances in society and the country's economic Gross Domestic Product (GDP). The law needs to give this vicious cycle or link a little shove. The form and structure of the law have always been patriarchal, and this needs to alter so that women can benefit by becoming active participants in the legal system rather than merely watchers from the outside. The most fascinating aspect of crafting a law is considering many viewpoints, experiences, views, etc. The nations undervalue the value of traditional wisdom for their economic development, which creates a very difficult position and robs people of their right to prosper with the resources at hand and grow/evolve through current times. All of the customary ways of doing things have, in fact, changed and developed to meet the demands of the times. Every time traditional knowledge legislation is created, there is a chance that it will accomplish that since it will include people from different states and districts who will each bring their own experiences to the table, whether it be regarding the availability of herbs, the productivity of the soil, or making remedies. Men and women should be included on this platform on an equal footing, but there should be special considerations for women since doing so calls for a substantive equality lens and elevates women to the status they deserve. Giving the nation's underprivileged women their rights will be a victory for the long battle of the women's movement.