

IPRs policy proposes 'knowledge commons'

Roy Mathew, The Hindu (India), 28 June 2008

Thiruvananthapuram: The Intellectual Property Rights (IPRs) Policy for Kerala, released by Chief Minister V.S. Achuthanandan here on Friday, puts forth the concept of 'knowledge commons' and 'commons licence' for traditional knowledge.

The policy says that all traditional knowledge, including traditional medicine, must belong to the domain of "knowledge commons" and not to public domain. The system should be introduced through legal arrangements. While community or family custodians will have rights to knowledge that belonged to them, the rest of the traditional knowledge will belong to Kerala State.

No entity registered as a medium or large enterprise may be deemed to have any rights over traditional knowledge. Any community or family custodian of traditional knowledge would have to register as knowledge-practitioner with the Kerala Traditional Knowledge Authority proposed by the policy.

All rights holders of traditional knowledge will be deemed to be holding their rights under a 'commons licence'. Under this licence, the right holder permits others the use of the knowledge for non-commercial purposes. If any development is made using that knowledge, it will have to be put back into the 'knowledge commons' and cannot be patented anywhere. For commercial use by others, an agreement would have to be reached with the rights holder. In the case of rights held by the State, all actual practitioners of knowledge would have automatic rights for commercial use provided that they are not medium or large enterprises.

Mandatory provision

The policy proposes that the State should make it mandatory for all applications from foreigners to the National Biodiversity Authority for making use of traditional knowledge of Kerala to be referred to the State Biodiversity Board.

A similar mechanism should be put in place against misappropriation of knowledge by Indian corporates also. The Board will ensure that traditional knowledge and development based on them remained within the realm of 'knowledge commons.' Commercial use of biological resources of the State by foreigners will have to be referred to the State Biodiversity Board besides the National Biodiversity Board. The policy lays down that the functions of the Knowledge Authority and the State Biodiversity Board should be supervised by a specialised governmental body called the Supervisory Council on Intellectual Property under the Chairmanship of the Chief Minister.

Policy on patents

The policy also specifies that patents taken out on research output by State government research institutions funded by private or foreign sources should be in the domain of 'commons.' In the case of research funded by the government, the government will decide whether the output should be placed under 'commons.' When the Union government or other official agencies fund projects, the status of output would be decided in advance on a case by case basis. That will also need the approval of the Supervisory Council.

S.P. Shukla, former Chief Negotiator of India at the Uruguay Round, who received the copy of the policy from the Chief Minister at a formal function, said that the commons concept would ensure that the incentives for research would not lead to proliferation of proprietary rights.