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# **HUMAN RIGHTS AND INTELLECTUAL PROPERTY RIGHTS: NEED FOR A NEW PERSPECTIVE**

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## I. Introduction

The relationship between human rights and contributions to knowledge has been at the centre of important debates over the past several years. The International Covenant on Economic, Social and Cultural Rights (Covenant) is in many ways the most crucial legal instrument through which the relationship between the two fields can be examined. Firstly, it recognises, for instance, the rights to health and food which are some of the rights whose realisation can be affected in developing countries that adopt or strengthen intellectual property rights frameworks based on the commitments they take under the TRIPS Agreement or other intellectual property rights treaties.

Secondly, it recognises at Article 15(1)c the need to reward individuals and groups that make specific intellectual contributions that benefit society. It must be noted at the outset that the rewards which are recognised under the Covenant are not related to existing intellectual property rights regimes. There may be cases where the realisation of this right may be effected through existing intellectual property rights but on the whole, there is no necessary correspondence between the rights recognised in the Covenant at Article 15 and existing intellectual property rights. This is important as it indicates that the Covenant provides a basis for the recognition of all intellectual contributions and not only the ones that fit within the existing intellectual property rights paradigm. In other words, Article 15(1)c is broad enough to accommodate the claims of traditional knowledge holders for instance.

The Committee on Economic, Social and Cultural Rights which oversees the implementation of the Covenant decided to examine in more detail the relationship between contributions to knowledge and human rights several years ago. The Committee started by focusing on the impacts of existing intellectual property rights on the realisation of human rights. This culminated in the adoption of a Statement issued in 2001.<sup>1</sup> Subsequently, the Committee undertook the preparation of a politically and legally more significant document in the form of a General Comment. Its adoption is expected at the next session of the Committee in November 2004. This General Comment which would in practice replace the 2001 Statement will constitute an authoritative interpretation of Article 15(1)c of the Covenant. Unlike the 2001 Statement, the proposed General Comment focuses mostly on the rights of individual contributors to knowledge and gives little space to questions concerning the impacts of intellectual property rights on human rights.<sup>2</sup>

This brief commentary examines some of the general issues relevant in the analysis of the draft General Comment. It critically analyses some of the main conceptual issues that underlie the draft and suggests that it should be comprehensively redrafted.

## II. Human Rights, Contributions to Knowledge and Intellectual Property Rights

There are at least two ways in which links between human rights, contributions to knowledge and existing intellectual property rights can be analysed. Firstly, existing intellectual property rights can have impacts on the realisation of human rights recognised in the Covenant such as the right to food or the right to health. These can be positive or negative impacts depending on the specific legal regime which is introduced. In the context of the introduction and strengthening of intellectual property rights standards brought about through the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in developing countries, intellectual property rights raise a number of concern with regard to their impacts on the realisation of human rights in general and the right to health and to food in particular.

Secondly, the Covenant includes at Article 15 a number of rights which are related to culture and science. Article 15(1) is particularly important and reads as follows:

The States Parties to the present Covenant recognize the right of everyone:

- a) to take part in cultural life;
- b) to enjoy the benefits of scientific progress and its applications;
- c) to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

The relationship between human rights and intellectual contributions was a topic of debate during the drafting of the Covenant. Subsequently, it only came back into the limelight as a result of problems faced by developing countries in the context of their implementation of the TRIPS Agreement. In the past decade, there has been increasing interest for these questions and different bodies have addressed certain aspects of the issue. The Sub-Commission on Human Rights has, for instance, come to the conclusion that

*since the implementation of the TRIPS Agreement does not adequately reflect the fundamental nature and indivisibility of all human rights, including the right of everyone to enjoy the benefits of scientific progress and its applications, the right to health, the right to food, and the right to self-determination, there are apparent conflicts between the intellectual property rights regime embodied in the TRIPS Agreement, on the one hand, and international human rights law, on the other.<sup>3</sup>*

Following what became a highly public controversy concerning access to drugs, medical patents and the right to health in the context of the price of HIV/AIDS drugs in sub-Saharan African countries most affected by the epidemics, the ESCR Committee decided to first adopt a statement on intellectual property rights and human rights in 2001 as a first step towards the adoption of a General Comment. The 2001 Statement was adopted in the wake of the collapse of the case filed by pharmaceutical companies against the South African government for attempting to limit their patent rights and the Doha Health Declaration adopted by the 2001 Ministerial Conference of the WTO.<sup>4</sup> In this Statement, the ESCR Committee specifically argued that the protection of the moral and material interests of authors must be balanced with the right to take part in cultural life also introduced at Article 15. It argued that intellectual property protection must serve the objective of human well-being which is primarily given legal expression through human rights.<sup>5</sup> In other words, intellectual property regimes should promote and protect all human rights.<sup>6</sup> More specifically, the Committee stated that any intellectual property rights regime that would make it more difficult for a state to comply with its core obligations in relation to the right to health and food would be inconsistent with the legally binding obligations of the concerned state.<sup>7</sup> In other words, the Statement was clearly concerned with the impacts that intellectual property rights can have over the enjoyment of human rights.<sup>8</sup>

The proposed General Comment was meant to build on the Statement and to provide a more elaborate interpretation of the relationship between human rights and intellectual property rights. The first general characteristic of the draft General Comment is that it adopts a much narrower focus than the Statement. Firstly, it focuses only on questions related to the recognition of intellectual contributions as human rights and only makes passing comments on the impacts of existing intellectual property rights on the realisation of human rights in general. Secondly, even within the context of this narrow framework, the draft General Comment carves itself an even narrower niche by focusing exclusively on sub-paragraph (c) of Article 15(1). In other words, it focuses on the interests and rights of the individual author and inventor and leaves aside the other parts of Article 15(1) which focus on everyone's right to benefit from the development of science and to enjoy their own culture.

The rest of this article examines in more detail some of the main issues that arise from the existing draft General Comment. It first analyses some issues related to the recognition of intellectual property rights as human rights and then examines questions concerning the impact of existing intellectual property rights regimes on the realisation of human rights. Finally, it also examines some ways in which an intellectual property rights approach to human rights could be made more relevant in today's world.

### **III. Intellectual Contributions in a Human Rights Context**

The starting point of an enquiry into the place of individual or collective intellectual contributions in a human rights context is Article 15 which generally talks about science and culture. In general, Article 15 seeks to ensure that states provide an environment within which the development of science and culture is undertaken for the greater good of society while recognising the need to provide specific incentives for this to happen. Article 15(1) is more specifically concerned with the balance between the individual and collective rights of all individuals to take part in culture and enjoy the fruits of scientific development, and the rights of individuals and groups making specific contributions to the development of science or culture.<sup>9</sup> Overall, Article 15(1) is to be seen as a provision which focuses on society's interest in culture and the development of science and also provides for the recognition of the rights of specific individual or collective contributions to the development of science, arts or culture. Article 15 in general is a provision which devotes significant attention to culture and science.

A number of more specific issues arise in the context of Article 15(1). Firstly, it does not indicate how the balance between incentives and enjoyment has to be achieved. Secondly, sub-section (c) which deals with the reward for individual contributions does not indicate with any specificity the type of contributions which are covered here. This has led a number of people to conclude that Article 15(1) refers to existing intellectual property rights.

Intellectual property rights as currently materialised in most legal systems around the world are based on the premise that there must be a balance between the rights granted to the property rights holder and society's interest in having access to novel developments in the arts, science and technology. This is related but much narrower than the scope of Article 15(1). While intellectual property rights frameworks introduce rights for individual contributors, they only balance it with what can be generally seen as recognition of the broader public interest of society in generally benefiting from artistic or technological advances. Intellectual property rights frameworks do not recognise everyone's right to enjoy the 'benefits of scientific progress and its applications' as an individual and/or collective right. While readers of Article 15(1)c may also be tempted to make an association with categories of rights recognised in intellectual property rights frameworks, nothing indicates that Article 15(1)c talks only about existing categories of intellectual property rights. In fact, Article 15(1)c recognises intellectual contributions in general without making any special reference to one or the other category of existing intellectual property rights. In this context, it is noteworthy that the draft General Comment takes a position which is largely based on existing intellectual property rights regimes by referring to everyone's right to benefit from the progress of science as an element to be 'given due consideration' in striking the balance with the interests of authors. However, it is unclear whether it refers to this balance in terms of a right of equivalent standing.<sup>10</sup>

One of the important aspects of the proposed General Comment is the understanding that the Committee has of the terms ‘any scientific, literary or artistic production’ at Article 15(1)c. The Committee interprets ‘scientific production’ as including scientific inventions. This implies that Article 15(1)c is meant to include not only authors who get protection through copyright but also ‘inventors’ who are protected under existing intellectual property rights by patent rights. This interpretation is debatable but the more important point is whether considering ‘inventors’ as ‘authors’ implies that Article 15(1)c must only be analysed with regard to existing categories of intellectual property rights. Firstly, it is instructive that the draft General Comment specifically indicates that certain types of intellectual property rights such as trademarks which bear no personal link to a creator are excluded from the protection under Article 15(1)c.<sup>11</sup> Secondly, debates preceding the adoption of Article 15(1)c provide interesting pointers. On the one side, some countries which are today the greatest defenders of intellectual property rights were completely opposed to associating intellectual property rights and human rights as a matter of principle.<sup>12</sup> On the other side, while debates indicate the emergence of different positions on this point, most state representatives seem to have conceived the issue mostly from the point of view of authors or written work.<sup>13</sup> This indicates that the inclusion of inventors under Article 15(1)c was not an obvious interpretation at the time of the adoption of the Covenant. This also confirms that there is no congruence between the rights recognised at Article 15(1)c and rights recognised in intellectual property rights frameworks. There are no doubt overlaps in certain situations but the content of Article 15(1)c is not circumscribed by existing intellectual property rights frameworks.

It is apparent that the drafters understand the tension between the analysis they put forward and the underlying human rights framework which serves as a reference point. On the one hand, the draft brings in inventors within the scope of Article 15(1)c. On the other hand, the draft is at pains to attempt a distinction between the rights recognised under the Covenant and existing intellectual property rights. The draft seeks to emphasise the distinction between human rights and intellectual property rights regimes. Human rights are deemed to be fundamental, inalienable and universal entitlements while intellectual property rights are statutory rights granted by the state which are temporary, can be traded and whose enjoyment can be curtailed. The draft General Comment further indicates that while intellectual property rights also protect business interests, human rights do not and there is consequently no necessary correspondence between the two.<sup>14</sup>

However, the draft does not set any boundaries between the rights of the individual author and the rights that may accrue to businesses under intellectual property rights. In the context of innovations protected by patents, for instance, it is becoming increasingly difficult to dissociate ‘individual’ inventors from institutions with which they are associated. The draft General Comment does not seem to take into account the fact that today, there are few, if any, patented inventions which are commercially exploited by the individuals which can be identified as ‘inventors’ from the point of view of patent laws.<sup>15</sup> The Draft’s response is to provide that it is only the ‘basic material interests’ of authors and inventors that are protected under the Covenant.<sup>16</sup> This constitutes an attempt to distinguish the monopoly rights provided through intellectual property rights from the protection available under the Covenant. This is not a sufficient analytical response because in practice it is difficult to distinguish the material benefits of individuals having contributed to an innovation from those of a company exploiting the innovation.

Overall, a human rights perspective to intellectual contributions will be meaningful if it completely dissociates itself from existing intellectual property rights regimes and examines all intellectual contributions by individuals and groups as falling within the scope of Article 15(1)c.

## IV. Impacts of Intellectual Property Rights on the Realisation of Human Rights

As noted in the previous section, Article 15(1)c should not be read as referring to existing intellectual property rights but should be seen as being much broader in scope. Existing intellectual property rights are nevertheless of immediate relevance in this field because of the impact they can have on the realisation of human rights. This is at least as important as questions concerning the rewards granted to authors and inventors and should constitute one of the core aspects of a general comment addressing all the main challenges in this area.

The draft General Comment does not completely ignore questions related to the impacts of intellectual property rights on the realisation of human rights and seeks, for instance, to confirm that there is a need to strike an adequate balance between the protection of intellectual property rights and human rights to food, health and education. This raises important questions. Firstly, the Committee does not explain what the concept of ‘obligations of comparable priority’ means.<sup>17</sup> Secondly, Section 42(a) may be understood as providing that there should be a balance between the human rights claims of authors/inventors and the social function of intellectual property rights. In other words, the balance is not a question of the relative importance of the human rights to health, food and education on the one hand and intellectual property rights on the other hand. The balance is only the same basic ‘social’ balance which intellectual property rights regimes seek to achieve. This is of considerable importance because it downgrades fundamental human rights such as the rights to food and health to elements which are taken into account in a balance which is not first and foremost centred on human rights claims.

The draft General Comment also provides that ‘[s]tates parties should therefore ensure that their intellectual property regimes constitute no impediment of their ability to comply with their core obligations in relation to the right to health, food, education, or any other right set out in the Covenant’.<sup>18</sup> This is much closer to the concerns that had been highlighted in the 2001 Statement and to concerns which have by now been largely recognised as constituting some of the main challenges that all actors involved in the realisation of the rights to health and food must take into account. The Draft recognises that the current expansion of intellectual property rights protection raises significant challenges from a human rights perspective. Thus, it acknowledges ethical issues linked to the patenting of parts of the human body. From the point of view of the realisation of social and economic rights, the Draft is much more limited and in particular more limited than the 2001 Statement insofar as it focuses only on some narrow concerns within this overall area. From the point of view of the realisation of the human rights to food, health and education, the main implication which is considered is that ‘unreasonably high license fees or royalties’ should not undermine their realisation. However, there does not seem to be any acknowledgment that the scope of protection under existing intellectual property rights may be an issue which needs to be addressed from the perspective of human rights. The introduction of product patents in the health sector is, for instance, an important concern in many developing countries. More specifically, in countries like India which have had specific restrictions on product patents in this field, this may be construed as a deliberately retrogressive step in the realisation of the human right to health unless it is counter-balanced by measures to ensure that people affected by the higher prices of patented drugs do not lose access to these drugs.<sup>19</sup>

Overall, the question of the relationship between existing intellectual property rights and human rights needs to be explored in much more detail in a General Comment on these issues. This is due in large part to the rapid expansion of the scope of protection available under intellectual property rights treaties and laws. This constitutes one of the important challenges that the human rights world needs to address in years to come as some of the changes in intellectual property rights frameworks have the capacity to affect the realisation of human rights. In fact, this is exactly what the Committee had indicated it would do in its 2001 Statement when it stated that it considered ‘of fundamental importance the integration of international human rights norms into the enactment and interpretation of intellectual property law’.<sup>20</sup>

## V. Additional Links Between Human Rights and Intellectual Contributions

The draft General Comment will be unbalanced as long as it seeks to deal with Article 15(1)c on its own. It is in fact odd that the Committee should consider this approach while recognising within the Draft in several places that even in the field of intellectual property rights, the balance between the rights of the author/inventor and the interests of society at large are recognised. In any case, Article 15(1) goes much further since it puts all the rights on the same level and can in fact probably be read as putting everyone's right to benefit from the development of science as being more important than the interests and rights of authors/inventors.

The limitations of a General Comment focusing only on one sub-section of Article 15(1) are readily apparent. What is less immediately visible and more significant is the fact that the draft General Comment misses out an opportunity to adopt a more comprehensive view of what constitutes intellectual contributions and an opportunity to use the possibly unfortunate inclusion of Article 15(1)c in the Covenant to use it to the benefit of those who are most disadvantaged within the existing legal framework and do not get recognition for their intellectual contributions through the existing intellectual property rights system.

Article 15(1)c should not be deemed to refer only to existing intellectual property rights but to the intellectual contributions made by different individuals or communities to knowledge. This is neither new nor controversial. In the past ten years, significant developments have taken place around the introduction of so-called *sui generis* forms of intellectual property rights to ensure that actors who cannot be rewarded under existing intellectual property rights are provided some form of legal protection. Two main issues have been considered. Firstly, in the context of Article 27(3)b of the TRIPS Agreement, the question of plant variety protection has given rise to proposals for the protection of farmers' rights besides the rights granted to patent holders and commercial plant breeders.<sup>21</sup> While an international definition of farmers' rights remains elusive at the international level,<sup>22</sup> several developing countries have already attempted to operationalise the concept of farmers' rights in their legislation.<sup>23</sup> Secondly, in recent years, there has been an increasing focus on the development of legal forms of protection for traditional knowledge. At the international level, debates have not proceeded beyond the stage where traditional knowledge is considered as an issue which must be addressed.<sup>24</sup> At the national level, however, some countries have already legislated on some aspects of traditional knowledge.<sup>25</sup>

The inclusion of farmers and traditional knowledge holders in the scope of Article 15(1)c constitutes one of the few ways in which Article 15(1)c can be made relevant to today's challenges. As long as intellectual contributions are equated with existing intellectual property rights, Article 15(1)c can only serve to justify the existence of existing intellectual property rights and to limit debates concerning the impacts of intellectual property rights on the realisation of human rights. Generally, human rights bodies need not concern themselves with existing intellectual property rights. For instance, with regard to scientific production patent holders are today more than adequately rewarded by existing intellectual property rights regimes which are rapidly being extended to most if not all countries. This is not the case for informal innovators such as farmers and traditional knowledge holders who are not rewarded in existing legal frameworks. In keeping with the recognition that the implementation of human rights must be judged according to its impacts on the weakest and most disadvantaged sections of society, Article 15(1)c should be construed as providing one of the few avenues through which a comprehensive perspective on intellectual contributions can be taken. In other words, there are inventors and innovators, such as individuals and communities who constantly update and improve traditional knowledge that do not benefit from existing intellectual property rights regimes but deserve as much as other creators to benefit from the protection of the moral and material interests attached to their intellectual contributions. At this level, the existing Draft takes into account some of the specific problems faced by indigenous peoples but it needs to go much further to consider all traditional knowledge innovators and the need to find new ways to protect their innovations and intellectual contributions besides the existing intellectual property rights system.

Overall, it is apparent that the relationship between human rights and intellectual property rights raises a number of concerns that go much beyond the scope of the existing draft General Comment. Given the importance attached to general comments, it is important to ensure that the present General Comment be reworked to adopt a more balanced and broader approach. The two main tasks of the Committee in this regard should be to consider in much more detail the question of the impacts of existing intellectual property rights on the realisation of human rights following its own 2001 Statement and to recast Article 15(1)c in a broader framework which does not refer to intellectual contributions as being linked to existing intellectual property rights but takes into account the fact that intellectual contributions by individuals and groups take a variety of forms. This exercise should be undertaken in view of the fact that the implementation of human rights must be judged according to the benefits it brings to the most disadvantaged and marginalised individuals. Existing intellectual property rights are not adequately structured to fulfil this agenda and a human rights based approach to intellectual contributions must imperatively look beyond existing intellectual property rights.

## Endnotes

- <sup>1</sup> Statement by the Committee on Economic, Social and Cultural Rights on Human Rights and Intellectual Property, November 2001, Annex XIII, Committee on Economic, Social and Cultural Rights Report on the Twenty-Fifth, Twenty-Sixth and Twenty-Seventh Sessions, UN Doc. E/2002/22-E/C.12/2001/17 [hereafter 2001 Statement].
- <sup>2</sup> This is unexpected because the Committee's own 2001 report indicated that '[t]he statement aims to identify some of the key human rights principles, deriving from the Covenant, that are required to be taken into account in the development, interpretation and implementation of contemporary intellectual property regimes. These basic principles will be further refined, elaborated and applied in the Committee's forthcoming general comment.' Paragraph 1070, Committee on Economic, Social and Cultural Rights Report on the Twenty-Fifth, Twenty-Sixth and Twenty-Seventh Sessions, UN Doc. E/2002/22-E/C.12/2001/17.
- <sup>3</sup> Resolution 2000/7, Intellectual Property Rights and Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, 17 August 2000, UN Doc. E/CN.4/Sub.2/2000/7. [§2]
- <sup>4</sup> Declaration on the TRIPS Agreement and Public Health, Ministerial Conference – Fourth Session, WTO Doc. WT/MIN(01)/DEC/2 (2001).
- <sup>5</sup> Paragraph 4, 2001 Statement, supra note 1.
- <sup>6</sup> Paragraph 5, 2001 Statement, supra note 1.
- <sup>7</sup> Paragraph 12, 2001 Statement, supra note 1.
- <sup>8</sup> Paragraph 2, 2001 Statement, supra note 1.
- <sup>9</sup> This is in part recognised by the draft General Comment which states that intellectual property regimes should not unreasonably limit access by all segments of society to cultural life and to the benefits of scientific progress and its applications. See Section 42, Draft General Comment No. 18, The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from any Scientific, Literary or Artistic Production of Which he is the Author (Article 15 (1) (c) of the International Covenant on Economic, Social and Cultural Rights ), 22 June 2004 [hereafter Draft General Comment].
- <sup>10</sup> Paragraph 37, Draft General Comment, supra note 9. [In striking this balance, the private interests of authors and inventors should not be unduly advantaged and the public interest in enjoying broad access to new knowledge should be given due consideration]
- <sup>11</sup> Paragraph 12, Draft General Comment, supra note 9.
- <sup>12</sup> See, e.g., United Nations, Third Committee Summary Record of Meetings, UN Doc. A/C.3/SR.150 (1948). [GAOR 3rd Sess, part 1, Third Committee, Summary record of meetings, 21.9-8.12.1948. 621. US: While accepting the principle expressed, US thought they would be out of place in the delc. More especially since they dealt with a specific aspect of the rights of property already covered by art. 15. US appealing for 25 to be adopted without alteration. 624. UK: she would have preferred not to add a second para to art. 25. UK could not accept this new principle. For her, Cassin had spoken of 1) recognition due to the author of an invention (something she found very legitimate) and 2)of protecting the right of ownership attaching to an invention. For her, 1 and 2 were very different. Proprietary right constituted but one aspect of the right of ownership. She did not think it wise to state that principle in an article dealing with the right of an individual to participate in the intellectual life of the community. Also, copyright was dealt with by special legislation and in int'l conventions. It was not a basic HR]
- <sup>13</sup> See, e.g., the statements of the Dominican Republic, UN Doc. A/C.3/SR.799 (1957)[Dom Rep. supporting amendment: obviously focusing on copyright] and India, UN Doc. A/C.3/SR.798 (1957).[India: will abstain, not a good idea to introduce foreign elements in Covenant. Also, UNESCO dealing with copyright quite competently]

- <sup>14</sup> Paragraphs 2 and 8, Draft General Comment, supra note 9. [indicating that 15.1.c only protects natural persons]
- <sup>15</sup> See, e.g., Steven Cherenky, ‘A Penny for their Thoughts: Employee-Inventors, Preinvention Assignment Agreements, Property, and Personhood’, 81 Cal. L. Rev. 597 (1993).
- <sup>16</sup> Paragraph 41(c), Draft General Comment, supra note 9.
- <sup>17</sup> Paragraph 42, Draft General Comment, supra note 9 reads as follows: ‘Core obligations – The Committee also confirms that the following are obligations of comparable priority: (a) To protect the social function of intellectual property by striking an adequate balance between the need for an effective protection of intellectual property and States parties’ obligations in relation to health, food and education or any other right recognized in the International Covenants (...)’.
- <sup>18</sup> Paragraph 37, Draft General Comment, supra note 9.
- <sup>19</sup> Cf. Committee on Economic Social and Cultural Rights, General Comment No. 3, ‘The Nature of States Parties’ Obligations (Art. 2, Para. 1 of the Covenant)’, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.7 (2004). [GC 2. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.]
- <sup>20</sup> Paragraph 18, 2001 Statement, supra note 1.
- <sup>21</sup> See, e.g., International Plant Genetic Resources Institute, *Intellectual Property Rights and Plant Genetic Resources: Options for a Sui Generis System* (Rome: International Plant Genetic Resources Institute, Issues in Genetic Resources No. 6, 1997).
- <sup>22</sup> International Treaty on Plant Genetic Resources for Food and Agriculture, Rome, 3 November 2001
- <sup>23</sup> See, e.g., India, *Protection of Plant Varieties and Farmers’ Rights Act, 2001*, Act 53 of 2001.
- <sup>24</sup> See, e.g., World Intellectual Property Organization, *Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Report, Sixth Session*, Doc. WIPO/GRTKF/IC/6/14 (2004).
- <sup>25</sup> See, e.g., Peru, *Law Introducing a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources*, Law N° 27811, Official Journal, 10 August 2002 and The Philippines, *An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes*, 28 July 1997, Doc. S. No. 1728/H. No. 9125.

