

ABSTRACT

A Study of Rights of Farmers with reference to IPR and Laws Relating to The Seed in India.

"The green revolution has an entirely different meaning to most people in the affluent nations of the privileged world than to those in the developing nations of the forgotten world"

Norman Borlaug¹

India is a leader in developing countries and is at the forefront of international negotiations to ensure the protection of farmers. Researcher while discussing about the rights given to the farmers basically focussed on the Seed which is the kernel for the farmer. Further the researcher has elaborately discussed the Rights of the farmer with relation to the Seed, as seed playing the important role in the life of the farmer as to start-up link with the occupation. To regulate the seed sector the Seed Act, 1966 has being enacted but due to the recent innovations in the seed sector the first Bill was introduced in 2004 and the last came in 2014 but still the Bill is in the pending condition.

For this research work the researcher intended to conduct a research on Rights of Farmers with reference to IPR and Laws Relating to The Seed in India. This research has been conducted with following objectives:

- To analyze Nagoya Protocol on Access and Benefit sharing approaches towards protecting the interest of indigenous farmers in traditional knowledge.
- To study the effect of Intellectual Property Rights on rights of farmers.
- To analyze the existing laws pertaining to the seed in India.
- To examine the Seed Bills with reference to farmer rights relating to seed.
- To examine the effect of genetically modified seed on Indian farmers.

¹ American agronomist and humanitarian, awarded multiple honors for his work, including the Nobel Peace Prize, the Presidential Medal of Freedom, the Congressional Gold Medal and Padma Vibhushan in 2006.

To achieve the object of the study the researcher has formulated the Hypothesis / Research Questions.

- Was the existence of Nagoya Protocol call of time or international regulatory framework imposed by the developed countries?
- Are patented seeds creating war with the nature which is going to affect the biodiversity in long run?
- Does Benefit sharing as envisaged under the current Seed Bills contribute to strengthening the rights of farmers or offers only financial compensation?
- Does some provisions of the Seed Bills contradict and overlap with the Protection of Plant Varieties and Farmers' Rights Act, 2001 (PPVFR Act).
- Can this Seed Bill in its present form protect farmers from exploitative pricing or hoarding of seeds?
- Is relationship between Genetic Resources, Traditional Knowledge and Intellectual Property Rights the most controversial agenda items in the negotiations of several international organizations?

To achieve the above mentioned objectives of the study the research was divided in the chapters.

The **first chapter** dealt with the **Introduction of Rights of Farmers with Reference to IPR and Laws relating to the Seed in India**. The researcher in this chapter had tried to give the direction of summary that what would be the track of the research. For that the chapter includes the Rationale of the study, Object of the Study, Scope and delimitation of the study, Hypothesis/ Research question formulated to conduct the research, the research methodology, review related to the related research and its implication and the chapter structure.

The **second chapter** dispenses on the **Genesis of Genetically Modified Crops and Traditional Knowledge: International Perspective**. The researcher in this chapter discussed initially about the agricultural world before the coming of the Genetic Engineering (GE) which covered the

historical environment of agriculture how it started from 20,000 B.C and various discoveries of the agriculture in that era. Then the researcher has stimulated towards discussing the Traditional Knowledge (TK) that how the indigenous people of the world have an extraordinary knowledge of their environment, based on a natural life of many centuries and Traditional knowledge is the result of intellectual activity in various traditional contexts that have travelled from generation to generation over the years, with covering the meaning and the definition. According to Article 8 (j) of the 1992 Convention on Biological Diversity, traditional knowledge is defined as follows: ‘knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.’ Then the researcher had discussed about the Genetic Modification (GM) were the timeline of the GM has been drawn at the beginning to understand the tilt towards the GM over the years, with covering the definition of the Genetic Engineering. At the latter portion of the chapter the position of TK and GM in the countries like US, Canada and Europe are dealt to understand how the developed countries have regulated laws and at the end concluding it with the Indian scenario.

The third chapter discussed on the ‘**Laws of the Seed: An Analysis**’. The researcher also studied and analysed the existing law .i.e. Seed Act, 1966 and the pending Seed Bill 2004, 2010, 2011, 2014. The researcher analysed the history of the Seed Act 1966 and also the reason for forming of the central legislation for maintaining the quality of the seed and to uplift the quality of the seeds. To provide legal framework around seed certification and make good quality seeds available to cultivators the parliament had passed Seed Act 1966. The act was formed to save and uplift the farmer by ensuring that farmers get good quality seed. Later on the amendment Act came in the year 1972 with the jute seeds being added under the seed Act. Then there came the Seed (Control) order, in 1983 for exercising the powers conferred under section 3 of Essential Commodities Act, 1955 which empowered central government to Control Production, Supply, and Distribution. The researcher has discussed Seed Act, 1966 by dividing into the two groups namely sanctioning legislation and regulating legislation, were the first part talks

about the formation of advisory bodies, Seed testing laboratory, Certification agencies for seeds, Certification of seed programs and recognition of seed certification bodies of foreign countries appellate authorities etc. and on the other side regulating legislation by quality control of seeds sold in the market, seed quality regulation and appropriate agencies. The researcher has also discussed salient features of the act and the various issues with the pending Seed Bills.

The **fourth chapter** discusses about '**Rights of Farmers**' The Researcher has divided this chapter in two portions as has national and international perspective and aimed to find some of the rights which are identified as farmers' right. First portion of the chapter discusses about the evolution of the concept of the farmers rights whereas second portion deals with the international perspective which covers the provision of UPOV that aims to provide and promote an effective plant variety protection system to encourage the development of new plant varieties in the interest of society. However, the ITPGRFA talked about the farmers role as the custodians and the innovators which was found missing in the UPOV Convention. The benefit sharing was ultimately aimed in the Nagoya Protocol under the CBD for the protection of the Traditional Knowledge and farmers Rights for the farmers as the end users. Third portion discusses about the Indian perspective of the farmers, where the researcher aimed to find some of the rights which are identify as farmers' right and other as the breeder rights as both are different when it comes to Indian Laws and discussed PPVFR Act, 2001 identified various rights given to the farmers. The PPVFR Act focuses on all categories of plants and its varieties which can be protected by the farmers and breeders under this act. Therefore, the Indian PPVFR Act, 2001 complies with TRIPS, CBD and UPOV. Thus PPVFR Act 2001 comprises the feature of UPOV and sets up the minimum standards for Plant Breeders Right protecting the contracting countries. So the right of Seed should be the basic right of the farmer or the breeder has altogether different perspective in the different countries.

The **fifth chapter** discusses about '**Judicial Approach**'. The researcher has studied and analysed several national and international judgments in order to determine the actual status of the various laws and regulations relating to IPR, Seed Law and Farmers Rights. At the end the researcher has analysed that it can be well assumed the farmers are given rights relating to the seed in the various judgements nationally and internationally. But there definitely needs some changes and improvements to achieve a more subtle way for determining the liabilities to provide remedies in the form of compensation to the farmers for the low quality of seed and for the failure of the seed, which is a sign of a developed legal framework of any modern country. The researcher suggests there should be appropriate changes for the provisions of registration of seeds and varieties, recommends the system of licensing instead of registration and also recommends for decentralization of powers between the Centre and the States for effective implementation of the provisions of the Bill.

The **sixth chapter** dealt with '**Data Analysis and Data Interpretation**' the researcher had used the tool of semi structured questionnaire filled by the farmers of Vadodara District. The study has been conducted on Rights of Farmers with reference to IPR and laws relating to Seed in India. Researcher has collected the data from **hundred (100) farmers**. Further researcher intends to study the effect in change of the cost of production and yield due to use of new types of seeds adopted by farmers for cultivation and to see their impact on quality of soil and does this GM seeds involve more technicalities in terms of cultivation process along with applicable laws related to seeds.

The **seventh chapter** is the final chapter of '**Conclusion and Suggestions**' in this chapter researcher has drawn the conclusion and tried to give the suggestions. Any law to be effective must be adaptable to changing circumstances but should be also equally adaptable. The present Seed Bill and PPVFR Act, 2001 has some defects and gaps which can be possibly resolved by adopting a well comprehensive legislation, which is definitely the need of time.

On the basis of the study conducted the researcher has given some major suggestions such as Farmers' Courts, Seed Failure and Redressal Mechanism, awareness of farmers' rights and compulsory training should be given to the farmers for using the GM seeds.

Lastly, the researcher ends this research work with the following words:

“Affirming that the past, present and future contributions of farmers in all regions of the world, particularly those in centres of origin and diversity, in conserving, improving and making available these resources, is the basis of Farmers' Rights”

-Preamble, ITPGRFA