

Need For Protection to Traditional Culture Expressions an Analysis

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Abstract – Culture is an essential product of legacy of mankind and thus constitutes the “universal customs and traditions of humankind. It is the wisdom of our ancestor’s knowledge on which our present is based. It is that knowledge which is continuously contributing to the social, economic and cultural growth of state. It is the traditional knowledge of cultural expressions with which a community or a group is identified and a nation’s development is associated. Today, this knowledge is plundered and is subjected to unwarranted exploitation by the people outside the community due to globalisation and digitalization, thus, endangering the existence of the culture and community holding this cultural knowledge. Considering, this there is pertinent need to protect and preserve these cultural expression. In order to uphold the dignity, identity and respect for the culture; and associated social, economic and cultural growth of a nation.

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INTRODUCTION

Culture is an essential product of legacy of mankind and thus constitutes the “universal customs and traditions of humankind”.¹ It is spiritual, intellectual and emotional feature of the society or social groups to which all the people of a civilization have contributed and thus have added to the diversity of a country.² In addition to art and literature it also encompasses standard of living, ways of living, lifestyle, together, value systems, traditions and beliefs.³ Such culture being organic in nature is not only derived from political, social, economic, spiritual traditions, histories and philosophies but is constantly enhancing the social, economic and political structure of a nation and also validating their rights over their land and territories.⁴ Culture is considered to be the common property of humanity and is as necessary for humankind as biodiversity is for nature be the culture savage or civilized.⁵ To say, Culture cannot be segregated from human existence and is a pertinent part thereof. Hence, justifying cultural defence; its protection, promotion, preservation, growth and development as an ethical imperative step, for the survival of the culture which cannot be disassociated from respect for the dignity of the individual.

These are the various features of culture. However; it has never been easy to define the term culture. In 1982 The World Conference on Cultural Policies (MONDIACULT, Mexico City, 1982) defined culture as that feature of a society or societal groups associated with the unique sacred, intellectual and poignant aspects of a society or group that includes art and literature, value system, ways of living together, life

style, customs, practices and beliefs. The said definition was though defined in an anthropological framework but is presently applied to understand the concept of ‘Culture’ in its generic form so as to include all the facets of human behaviour.⁶

To say, every culture have embedded folk elements, property with which an individual, group, community and nation is identified. That has not only contributed in building the past but is contributing constantly in building the future of the nation. They are the unvaryingly important source of creativity and an enduring process of production and innovations’ for a nation. That is believed to impede the very existence of culture to which a community, individual and nation is identified. Thus, lies at the heart of contemporary concerns and debates for effective protection at international, intra-national and national cultural swapping.

FEATURES OF INDIAN CULTURE

Features of Indian culture give the message of opulence, contentment and peace through its unique features to the whole humanity. Indian culture possesses number of characteristics. It is characterised by tolerance, peace, harmony, equality etc.⁷ All races and creeds have found their habitation in India. As a result of which macro- culture and micro- culture have co-exist peacefully for many years. This is why India is identified as the land of cultural diversity with different culture, existing in different parts of the country.⁸ To say, India is a country of diverse culture and is characterised by its unity in diversity. It is said to be most consistent,

liberal and non-violence in nature. The culture of India indicates different ways of life of the people that includes different languages, religions, dance, music, songs, and plays, specifically referred to as folk culture / folklore.⁹ It is a blend of traditional, tribal and modern culture thereby influencing each other co-existence and developing into a common culture of India. Different folk cultures of indigenous people in India have co-existed yet each has managed to survive, preserve and develop their cultural distinctiveness. Moreover, her different culture has interwoven with other cultures and has influenced neighbouring countries within the vicinity. Despite this intermingling folklore of India has survived and developed playing a vital role in maintaining the identity and existence of its community. It is that part of the knowledge system of traditional/indigenous/cultural people, commonly referred to as holders of knowledge or stakeholders that cannot be separated with them. Thus, forming an essential part of indigenous people lives for their existence and subsistence.

Co-relation between Traditional Knowledge and Traditional Culture Expressions

One of the essential features of culture is that it is “traditional” in nature.¹⁰ Commonly, ‘traditions’ are referred to as imitation and reproduction that are ancient, old and are followed by generations of a particular community or group. These groups or communities are identified and associated with indigenous or traditional people on the basis of their tradition. These traditions are expressed and made practical in a traditional way by use of knowledge of traditional people for the development of alternative strategies for sustainability. This knowledge is classified as ‘Traditional knowledge’ (TK).¹¹ Which is an essential element for sustainability as it deals with the methods of individual health and community well-being, communicate that it is not just the diversity of life but also the knowledge of that diversity enshrined in the laws, sciences, religions, rituals and ceremonies of human societies. It is that knowledge which cannot be bought. The conservation and protection of which can be ensured only if indigenous peoples are guaranteed protected rights.¹²

Traditional Knowledge is, thus, signified as innovations and creations that are expressed in a cultural way within the given traditional framework of a nation. It also includes traditional cultural expression (TCEs)¹³ within its ambit. This refers to cultural property of indigenous people expressed in intangible form.¹⁴ Additionally, traditional artists and practitioners are an important source of creativity and innovations. As, they bring new perception and discernment to their work associated with their culture. Hence, justifying and supporting the concerns of indigenous people for their protection and enhancement.¹⁵

Classification of cultural property as tangible and intangible cultural property

‘Culture’ has also been classified as composing of tangible property as cultural valuables such as object and buildings and intangible property as cultural values including songs that can be sung, stories that can be told, in other words folklores/TCEs. And whatever forms these culture takes they identify the continuity and the way a life is lead by an individual, community or a nation and require unfettered efforts on our part to safeguard them.

Tangible property are in the form of historic monument or sites¹⁶ that exist in the form of sacred bodily relic of a religious or national hero of a nation, in the physical landscape such as a mountain, river or in highly crafted objects, structures or physical systems that are unique and culturally diverse. It is considered to be a measured for development and growth in terms of human health, economic capabilities, commodity flows and physical guarantees of security and productivity. Another important feature of tangible property is that it is the physical inheritance and possession of substance belonging to the mankind of a particular society, to a community or to the entire nation as a whole which is of social, political, moral, religious, artistic or historical significance.¹⁷

On other hand, intangible property (in reference to folklores), in simple terms, are considered to be the oral interpretation of the tangible cultural property reflecting the values and beliefs of a sect, community or a group as a whole that are an important factor in maintaining the cultural diversity. It is a tool through which human begins by their spirit of participation, the enthusiasm of empowerment, the joys of recognition and the pleasures of aspiration plump for, replicate, propagate, identify, express and turn their static landscapes of objects and monuments into a living archive of cultural values. They are the living expressions inherited from ancestors and passed on to descendants, such as oral traditions, performing arts, social practices, rituals, festive events, knowledge and practices with the knowledge and skills to produce traditional crafts. Other important aspect of ICH/folklores is that they are contemporary and living at the same time, inclusive, representative of a community or a group and thus are community based.¹⁸

However, intangible property is seen as the broader structure within which tangible property takes on its importance, uniqueness and diversity. Still, both are interrelated and inter dependant on each other and shares dynamic and creative relationship with each other and each shapes the other over time in defining the common cultural, social, political and economical; wealth, health and capabilities of humankind. To state it further, without tangible property, intangible property becomes nonfigurative and without intangible property, tangible property

becomes an illegible, unclaimed substance. They both are seen as a major vehicle of human aspiration where tangible property is its physical shape and intangible property its motor and steering mechanism.¹⁹

Thus, both are an important aspect of growth and development of a nation and there is a need for the protection of the cultural property as overlooking them has often created immense failures in the worldwide effort to develop poorer economies and transfer life-sustaining technologies. This is because, cultures are dying out faster than the people associated with them. It has been estimated that half the world's language, folklore/TCEs, environment, the store houses of peoples' intellectual property and the framework of their unique understanding of life and their sustainability will disappear within less than a century if not preserved or protected in an effectual manner. Due to cultural homogenization and as the effect of technological developments that is facilitating easy manipulation of TCEs.²⁰

Development of Folklore in India

*Facts do not speak for themselves. They speak only when the historian calls on them to speak. It is the historian who decides which fact to give and therefore the historian is necessarily selective. History is a continuous process of interaction between the historian and his facts, an unending dialogue between the present and past, a dynamic, dialectical process, which cannot be limited by mere empiricism or love of facts alone.*²¹ This demonstrates the complexity for the researcher of the task of interpreting this intangible property/ folklore historically and in an objective manner.

To mention again, culture been classified as tangible and intangible property. Intangible property can further be categorized as referring to oral traditions or folklores like dance forms, stories; performing arts, social practices, rituals, festive events, knowledge and practices concerning nature and the universe or the knowledge and skills to produce traditional crafts. The best definition of intangible cultural property/folklore is contained in the 2003 UNESCO Convention on ICH which defines it in a manner broad enough to include diverse experiences and expressions across the globe such as "the practices, representations, expressions, knowledge, skills as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognised as part of their cultural property".²²

It was in 19th C (1812) that the term 'folklore' was coined by William John Thomas, an English antiquary.²³ However, the field of learning of folklore in India begins intensely with the beginning of the international discipline. Many scholars like J. Grimm, M. Muller, Benfey, Clouston, Wilson had postulated a

connection between Indian and European Mythology. The importance of Indian folklore took impetus internationally with the work of William Cook (written on folklore in North India) and R.C temple (Legends from Punjab, three volumes). In early 20th C, contribution of Maurice Bloomfield, an American Sanskritist, in the field of developing Indian folklore (folk literature) also played a vital role in enhancing the value of Indian folk culture at international level. Later findings of W.N. Brown emphasized that "modern" Indian folktales are derived from Sanskrit literature resulting in borrowings from folk culture and classical traditions. Resulting in transmission that includes re-composition and many other sorts of changes within the existing form of folk culture of ancient times.²⁴ Further the cultural life of most of the part of the world, specifically Asia has been deeply affected by Indian cultural history.

It is also been argued that the notion that the 'eastern states' including China and India changed as the result of impact of European learning, science and technology should be rejected as Indian civilisation has always been dynamic, not static and was never in isolation from the most ancient times. However, it is as the result of invaders and traders that the complex pattern of civilisation is developed which is evidently demonstrated in the intangible art and cultural traditions ranging from Ancient to Modern India. For instance, the dancing Buddhas of the Gandharva school of art adopted from the Greeks, to the tangible property such as temples, and other structures ranging from North to South India.²⁵

India's intangible cultural property flows from her five thousand year old culture and civilisation. Starting with Indus Civilisation in ancient period, continuing in medieval times till the modern period primarily during the British rule there have been diverse cultural group that co-existed in India and due to which we have a multi cultural society. This also made India rich in her culture and is thus the richest source of intangible culture/folklore in world such as of proverbs, aphorisms, anecdotes, rumours, songs, impromptu folk street plays, folk dance etc. Since very ancient times, India has been master of all form of folklores that includes folk tales, folk dance, folk music, folk art, folk literature, folk songs. For instance, *Sama Veda*, is probably the oldest form of folk music that world has witnessed and has survived till date.²⁶ Starting right from the Epics of India, Ramayana and Mahabharata to Jataka tales of Buddhism to Panchatantras and Hitopadesha to Katha Saritsagarain in the medieval period to spiritual songs of Bauls of Bengal to numerous other works and thus played a huge role in protecting and binding the vast culture of India. Many saints, scholars and writers have also contributed in keeping the folklore alive and preserved by writing

down, recording and propagating many plays, tales and numerous songs in almost all the main languages of India adding to the enriched literature of India. This made possible for Indian folk literature to reach out to the mass which is otherwise confined to the smaller groups and communities.²⁷

Further, evolution of Intangible culture/folklore since Ancient India can be associated with the emergence of the first civilization of India known as Indus Civilization or Harappan civilization also known as Bronze age civilization²⁸ which dated from c. 3250 to 2750 B.C. Though there is a probability that some form of folklore existed during early and later Vedic period but the cultural dissemination can be said to start from Gupta period from 319 or 320 A.D.²⁹. However during this period there were found expression in music, musical instruments, dancing, painting and several other art forms.

So in order to understand the development of folklore the further discussion is need on the various aspects of folklore which includes folk dance, folk music, folk theatre, epic poetry and folk art.

Folk Dance

Dance and Music have always been the modes of entertainment and an integral part for any civilisation. Folk dance is the dance of whole community or village where they spontaneous react to different events like wedding, funeral, harvesting, to celebrate the occasion of new birth, victory, social activities such as hunting and food gathering etc. Another aspect related to the performance of dance is the ritualistic in nature of it. The celebrations made in social gathering lead to the development of songs and music reflecting the lives of the villagers/folk. The movement of such dance get influenced by the topography, the climate, the occupation, the standard of living and the social conditions of a particular region.³⁰

Even during Indus civilisation dance was one of the modes of entertainment that is validated with the founding of a small bronze statue in a dancing pose referred to as 'The Dancing Girl' though few historians believe that the dancing girl may not have been dancing at all, and even if she was, she may not represent professional dancer.³¹



<http://www.nationalmuseumindia.gov.in/prodCollection.asp?pid=44&id=1&lk=dp1>

Reference can also be made to the images of Shiva, popularly known as Nataraja, the Lord of Dance to describe the form of dance in Indian. However, Folk Dances were considered to be the medium of story-telling mainly based on epic like the Ramayana and Mahabharata, tales like Panchatantra, Hitopadesha, Katha Sarit Sagara, etc. For this purpose various forms of dance dramas were performed with no dialogues and use of only facial expressions³² evolved in India with time commonly named as classical dances. It mainly include dances such as Bharata Natyam, Kuchipudi, Odissi, Mohiniattam, Manipuri. Other dance forms like Kathak and Kathakali from U.P. and Kerala respectively, derive their names from the term Katha which in Sanskrit means, a story.etc. These forms of dance are derived from Natyashastra, the oldest text dealing with aesthetics covering various art forms including dance which is authored by sage Bharatamuni.³³ Other forms of dance-drama are 'Charkul' of Central India, 'Dashavatara' in Maharashtra, 'Yakshagana' in Karnataka.³⁴

The dance forms were also performed in temple during festivals and other religious occasions to appease the deity. It is the part of Indian folklore to begin recital of any Indian classical dance with an incantation to Nataraja or Nateshwara, who is shown to be in a dancing form called 'Tandava'.³⁵

These folk dance forms (i.e. classical dance) of India had a great impact and influence on the classical dance of countries of Southeast Asia like Thailand, Indonesia, Burma, etc. As major style of dance form in these countries have been borrowed from the Indian Folk dance form.³⁶ While Western dance has not directly borrowed anything from Indian classical dance, it has borrowed from Indian folk dance through the medium of the Gypsies (Bards).³⁷

Folk Music

The development of folk music cannot be deciphered but the growth of 'music' can be vaguely associated with the chanting of *vedas* since *vedic* times. As folk music is associated with the concept of *lok geet*, songs that relate to the day to day activities of people, their religious, marriage, farming death and other ceremonies. Depicting how they carry-out their activities and perform their ceremonies. The growth of folk music, though, can be associated with the rise of *vedas* that developed by paying close attention to the cries of birds and beats over a period of time. Another basic feature of these *vedas* was that they were transmitted through memory (*smriti*) and were learned through hearing (*Shruti*). Thus, chanting them correctly was one of the major concerns of people of those times. The practice of reciting the chants correctly developed the studies in phonetics and sound thus, giving birth to 'Indian Musical Raga' (metre) and *swaras* (rhymes). The importance and divine character of music in ancient India can also be

supported by the fact that the Indian goddess of learning, Saraswati, is depicted as holding a musical instrument called *veena* in her hand. Other instruments that form part of folk music include the 'sarod', the *Veena*, the *Sarangi*, the *Tambora*, the *Harmonium*, the 'ghata', the 'tabla', the *Tanpura*, the 'satar', etc. Apart from Vedic chanting devotional music i.e. *Bhakti-geet* also forms part of vocal folk music in India. Such music was practiced in temples to please the deity and the devotees.³⁸

Despite these limitations Indian devotional vocal music traditions did travel to and influenced the countries of South East Asia for instance to Korea and even to Europe, where the style was adopted by Buddhist monks. Among the entire musical instrument used in folk music that influences the music outside India were the 'bansi' (flute) and 'veena' (kind of violin). Those are a part of folk music in India as 'bansi' (flute) is associated with Sri Krishna and 'veena' with goddess Saraswati. Further, in modern times also the western musical instruments like the 'tambourin' and the 'tambour' are adaptations of the Indian folk music instrument 'tambora' and 'tanpura'. The 'sarangi', another Indian musical instrument has also found its place in western music. The acceptance of these musical instruments in the west is also evident from the fact that the words 'tambora', 'sarangi' and 'tabla' are mentioned in the Oxford Dictionary.³⁹

Folk Theatre

Some form of 'folk theatre' existed in Mesolithic times of India evident from the rock art found in Bhimbetka caves of Madhya Pradesh. Usually, folk theatre was taken by tribals as a means of entertainment depicting events from the daily life with the mix of dance and ritualism. In this form of folk theatre some members of the tribe enacted the mock hunt where few members as if they were wild animals and some others as hunters and thus marked the origin of the classical theatre of later times. It must have been possible that some form of theatre existed at the time of Indus Civilisation but nothing has been deciphered to prove the same. However, there is probability that some form of folk theatre also existed at the time of Aryans of Vedic times but there is no material proof for its existence.⁴⁰

However, the actual origin of folk theatre cannot be traced but it is believed that Bharatamuni, the author of *Natyashastra* of 4th century CE, narrated the origin of drama and theatre.⁴¹ According to him Lord Brahma, the lord of creation of the universe, is the one who created the original *Natyashastra* and thus his ability in creating dramas must not be questioned. He further stated that the original *Natyashastra* of Brahma was too cumbersome and unclear to be of any practical use and that it was only simplified by him to make it more interesting and intelligible. But, even Bharatamuni is not aware of the actual origin of the

theatre in India. Furthermore the *Natyashastra* of Bharatamuni is not considered to be the oldest text on dance and drama as it is presumed that many early plays existed before it was composed wherein the rules of *Natyashastra* were not followed. But it was the first attempt to develop the technique or rather art of drama in systematic manner.

An important aspect of *Natyashastra* was that it included representation of expression viz. speech, gesture, movement and intonation through different modes (*vritti*) with emphasis on one or more modes. Bharatamuni recognizes four main modes viz., Speech and Poetry (*Bharati Vritti*), Dance and Music (*Kaishiki Vritti*), Action (*Arabhatti Vritti*) and Emotions (*Sattvatti Vritti*).⁴² Generally plays were performed in temples or palace precincts but for public performances Bharatamuni advocated constructions of 'mandapa',⁴³ which is another important feature of folk theatre in ancient India. There are many other features that we have followed till date in our dramas such as having *Sutradhara* (holder of string, literal meaning) i.e. producer-director, beginning the play with *Poorvaranga*, a devotional song called *Naandi* i.e. beginning with an innovation to God.⁴⁴

The folk theatre of ancient India is associated with the plays based on *Ramayana* and the *Mahabharata* that are first recognized plays originated in India.⁴⁵ Bhasa⁴⁶ is considered to be the earliest Indian dramatists and playwright before Kalidas.⁴⁷ Kalidas can be considered an original playwright and has written many plays, some of which are; *Abhijananshaktuntalam*, *Kumarsambhavam*, *Meghadutam* and *Malavikagnimitram*.⁴⁸

The next great Indian dramatist was Bhavabhuti.⁴⁹ He is said to have written the following three plays viz. *Malati-Madhava*, *Mahaviracharita* and *Uttar Ramacharita*. Later King Harshavardhana⁵⁰ wrote three plays viz. *Ratnavali*, *Priyadarshika* and *Nagananda*. After Bhavabhuti, Shudraka whose main play was the *Mricchakatikam*, and the second dramatist was Rajashekhara whose play was titled *Karpuramanjari*.⁵¹

All the plays except that of Rajashekhara which was written in Prakrit (a colloquial form of Sanskrit) were written in Sanskrit as according to Rajashekhara the language Prakrit was soft while Sanskrit was harsh. This marked the decline of Sanskrit theatre/plays that were continued to be written up to the 17th century, mainly in the Vijayanagara Empire of the South.

The impact of folk theatre of India can be seen on the countries of South-east Asia thereby enriching the culture of our neighbouring countries since ancient times. For instance in Thailand, especially it

has been a tradition from the middle ages to stage plays based on plots drawn from Indian epics. In Cambodia stories from the Ramayana and Mahabharata have been carved on the walls of temples and palaces of its ancient capital Angkor.⁵²

Epic Poetry

Indian epic poetry has been written in Sanskrit, Tamil and Hindi. It is written mainly on the Indian sub-continent where some work forms the canon of Hindu Scripture and includes some of the oldest and ancient epic poetry such as, the Ramayana and Mahabharata, occasionally termed "Mahakavya" (Great Compositions). Wherein the focus has been on the deeds of a traditional or historical hero or heroes in verse form, which has remain until today the preferred form of Hindu literary work. Some of the massive collection of Indian literature are- The Puranas written in ancient India, the reference has already been give of great poet like Kalidas, Bhasa, Bhavabhuti, Rajshekhar. During Medieval times Tulsidas' Ramacharitamanasa⁵³ was the first epic to appear in Hindi (1543-1623), based on the Ramayana. Surdas was another poet who wrote in Brijbhasha. Under the influence of Persian, new forms of literature such as the ghazal were introduced during medieval period. Vernacular poetry like Marathi and Bengali also developed during this period. The oldest writer is Jnaneshwar who completed his Jnaneshwari in 1290 A.D. In [Rajasthan](#) also Vernacular literature had developed. The most famous chronicle was Prithviraj Raso by Chandvardai. The Punjabi literature and vernacular literature in [Bihar](#) had also made a marked progress. The composition of Kalhana's Rajtarangini can be sighted as an example. Cilappatikaram (or Silappadhikaram), Manimegalai, Jeevaga-chintamani, Valayapati and Kundalakesi Tamil epics being written post-sangam period (2nd century-6th century). Later, during the Chola period, Kamban (12th century) wrote what is considered one of the greatest Tamil epics - the Kamba ramayanam of Kamban, based on the Ramayana.⁵⁴

Why protect TCEs?

The term knowledge is a wider term to include within its ambit wide range and aspects of knowledge. One such area that has been taken up for protection by international community is of 'traditional knowledge' (also referred to as TCEs/Folklores/Cultural property for the purpose of this paper). There is an on-going debate for the protection of TK/TCEs under IP laws or under a *sui-generis* system considering the nature and sensitivity of traditional knowledge (TK) and Traditional Cultural Expressions (TCEs).

The issues relating to TK, to include them under IPR system, were addressed internationally. It was after intense debates at national and international level in this area that TK were included under IPR under *sui generis* system of different nations. Yet, only certain aspects of TK have been taken under consideration,

specifically knowledge relating to medicines, farming and bio-technology, whereas, the ambit of TK also includes knowledge relating to folklores/TCEs and genetic resources. Those are subjected to unwarranted exploitation by the people of the community as well as people outside the community because of the use of technology. The technological development is, thus, considered to be detrimental to the existence of the communities holding such knowledge or expression (reference to TCEs). To say, we are sowing the seeds of our own obliteration, endangering our cultural backdrop, diminishing and damaging our cultural property. Therefore, the process of creation requires the conservation of cultural raw materials as there are no sufficient legal provisions for their protection and if these are themselves owned, the process of creation may be stunted.⁵⁵

As been rightly put by Dr. Amartya Sen, the Indian Nobel Laureate in Economics stated that *"the culture of modern India is a complex blend of its historical traditions, influences from the effects of colonialism over centuries and current Western culture - both collaterally and dialectically. Western writers usually neglect, in important ways, crucial aspects of Indian culture and traditions and its diversities. The deep-seated heterogeneity of Indian traditions, in different parts of India, is lost in these homogenised descriptions of India. India is not and can never be a homogenous culture. The best example is her intangible property"*.⁵⁶

However, it is the ability of the nation to properly employ, create, harness, utilize, innovate, convert and transform the cultural knowledge into wealth and social good. That determines its social, political and cultural development and economic generation. Things created as the result of utilization of the knowledge are considered to be the subject matter of intellectual property. It is the sensitive nature of the products created with the employment of knowledge that necessitates proper evaluation, protection and recognition of intellectual property all over the world. Considering the importance of IPRs in growth and development of the nation, countries are investing heavily in the production, formation, innovation, utilization and development of intangible assets particularly IPRs. Also, establishing the necessary infrastructure such as innovation centres, technology parks, IP Centres of Excellence for policy and legal frameworks, human capital or resources required to produce such intangible assets.⁵⁷

In this race of protecting IPRs, the knowledge relating to TCEs have been ignored, eliminated and has not been protected under the realm of IP laws in its complete form. One of the reasons that can be stated for this structural insufficiency in protection of TK/TCEs is that; IP right such as Copyright has focused on universalization of western laws, dissemination of western cultural goods internationally and has been a key point in the

economic movement by commercializing cultural aspects of different countries. Such countries that have not adapted, adhered to the international framework of copyright laws have been classified as “pirates,” “backwards,” “underdeveloped”, or “outlaws” by the international copyright communities of the world, and “outsiders” from the general community of nations themselves. However, this situation of continual conflict and dispute is counter to the main notion behind the introduction of ‘copyright Laws’ i.e. of progressive expansion, advancement, promotion and motivation for the creations and innovations. Also, protection of the ideas in abstract form is the subject matter of protection and major concern for the advanced firms and nations world-wide to meet the challenges of globalization and technological advancement.⁵⁸ The technicalities involved under modern IP system necessitate protection and preservation of the cultural knowledge of the vulnerable indigenous groups. Also, they are unable to meet the procedural requirements, adopted under existing IPRs system, for the protection their cultural expressions on account of their illiteracy as well as poverty. Thus, having a *sui generis* system or IP like rights for the protection of TCEs is much needed. Considering, the contribution made by indigenous groups through their cultural expressions in enhancement and development of economic, social and cultural aspects of a nation.

CONCLUSION

Discussing the brief history of cultural existence in India shows that India is a rich source of cultural expression, characterized by its simplicity and beauty. That escalate a apparent and strident message to the world that folk traditions are not merely caterers of cultural or philosophical poems or not merely a platform just embracing moral values, but rather are the expressions of strong self-manifestation, inherent part of his being and prototype of simple life. Even today folk plays like Chaakiyar Koothu and Veethi Naatakam are shown reflecting the current social and political reality.

To say, folk-culture forms a concomitant part of a nation. It offers the society with patrons of creativity to exploit it to the greater benefit of the members of the society. However, with the technological advancement, globalisation and industrialisation the commercial exploitation of rich and exuberance living folklore has become a possible task. Deteriorating TCEs with the help of technology and existing laws has become a real menace, mainly, for the developing nations like India. Due to which the folklore of many countries are vanishing, deteriorating and abating their original values.

Furthermore, with the employment of knowledge various innovations are done that are protected under the of head of IPR as Copyright, Trademarks, Patent,

industrial designs, Geographical Indication, Integrated Circuits, Trade secrets, plant variety, Bio-piracy and are becoming the constant source of economic development and growth by generating revenue for nations and firms. However, such folk culture which is the reflection of cultural identity and existence are rapidly losing their vital forces to a greater extent. It is an ontological reality that the age old traditions are declining rapidly along with the destruction of their rudimentary character. This necessitates revitalization of cultural expressions as the social history is the reflection of present where folklore and its past are inextricably bound up with each other. To say, folklore signifies the wisdom of past people's knowledge on which our present is based. It is an echo of the past but at the same time it is also the vigorous voice of the present that need to be protected and preserves to uphold the dignity, identity and respect for the culture; and associated social, economic and cultural growth of a nation.

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6. As stated in UNESCO Universal Declaration on Cultural Diversity, 2002. A document for the World Summit on Sustainable Development, Johannesburg, 26 August – 4 September 2002 available at: <http://unesdoc.unesco.org/images/0012/001271/127162e.pdf>. visited on 26.01.2017, . This definition is in line with the conclusions of the World Conference on Cultural Policies (MONDIACULT, Mexico City, 1982), of the World Commission on Culture and Development (Our Creative Diversity, 1995), and of the Intergovernmental Conference on Cultural Policies for Development (Stockholm, 1998). pg no 3 & 10; available at <http://unesdoc.unesco.org/images/0005/000525/052505eo.pdf> visited on 21.02.2017
7. A. K. Ramanujan and Stuart H. Blackburn (1986). 'Another Harmony New Essays on the Folklore of India' (Delhi: Oxford University Press, 1986)
8. Bhaswati Mukherjee (2015). "India's Intangible Cultural Property: A Civilisational Legacy To The World", January 29, 2015, Ministry of External affairs, GOI, available at: <http://www.mea.gov.in/in-focusarticle.htm?24717/Indias+Intangible+Cultural+Property+A+Civilisational+Legacy+To+The+World> Visited on 13.05.2018
9. Geetika Goel and Rajesh Tripathi (2018). 'E-Government Approach to Management of Intellectual Property in Indian Folklore', 302, Foundation of E-Government < http://csi-sigegov.org/1/32_383.pdf> accessed on 13 July 2018.
10. A. K. Ramanujan and Stuart H. Blackburn (1987). 'Another Harmony New Essays on the Folklore of India' (Delhi: Oxford University Press, 1986); A. K Ramanujan. 'Folktales of India'. (U.K.:Penguin,1987).
11. Knowledge, know how, skills, innovations or practices; that are passed between generations; in a traditional context; and that form part of the traditional lifestyle of indigenous and local communities who act as their guardian or custodian. Examples: knowledge about traditional medicines; traditional hunting or fishing techniques; knowledge about animal migration patterns or water management.
12. Darell. A. Pasey (1997). "Indegenous People and Sustainability- Cases and Actions", IUCN Inter-Commission Task Force on Indigenous Peoples , Pub: 1997, Content, available at: <http://www.i-books.nl/catalogue/byauthor/peoples.html> (NO EBOOK AVAILABLE)
13. Traditional cultural expressions (TCEs), also called "expressions of folklore", may include music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts and narratives, or many other artistic or cultural expressions. Hereinafter referred to as TCEs
14. Sori Yanagi: Japanese Industrial Designer, beautifully stated that "incorporating the element of traditional folk craft into modern design can be more valuable than imitating folk craft itself: As Tradition creates value only when it progresses. It should go forward together with society"
15. Background Paper No 1, CONSOLIDATED ANALYSIS OF THE LEGAL PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS/EXPRESSIONS OF FOLKLORE, This background paper dealing with intellectual property and genetic resources, traditional knowledge and traditional cultural expressions/folklore derived from a comprehensive analysis commissioned by the Committee as a capitulation of all this initial work- Document WIPO/GRKTF/IC/5/3 (prepared by the WIPO Secretariat for the Committee's fifth session held from July 7 to 15, 2003). A full record of the discussion of the Committee on this document is available in the report of the Committee's fifth session (see document WIPO/GRTKF/IC/5/15).
16. 1965 during the Constitutive Assembly of ICOMOS{the International Council on Monuments and Sites (ICOMOS)} under Article 3:1 of The term monument shall include all real property, ... whether they contain buildings or not, having archaeological, architectural, historic or ethnographical interest and may include besides the furnishing preserved within them The term site shall be defined as a group of elements, either natural or man-made, or combinations of the two, which it is in the public interest to conserve.
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18. What is Intangible Cultural Property? Intangible cultural property, UNESCO,

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<https://ich.unesco.org/doc/src/01851-EN.pdf>.
visited on 12.12.2017; The Scope and
Definitions of Property: From Tangible to
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May 2006, pp. 292–300,
<https://pdfs.semanticscholar.org/d97f/30fcfb23b7a6236dce797bd73397bc3bec2d.pdf>
19. Part III of in UNESCO Universal Declaration
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World Summit on Sustainable Development,
Johannesburg, 26 August – 4 September
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<http://unesdoc.unesco.org/images/0012/001271/127162e.pdf>. visited on 26.01.2017, pg 11-13
20. Anurag Dwivedi and Monika Saroha (2005).
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EXTENDING PROTECTION TO
EXPRESSIONS OF FOLKLORE, Journal of
Intellectual Property Rights, Vol 10, July 2005.
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<http://docs.manupatra.in/newsline/articles/Upload/50DF5D41-4A20-40CA-9B69-A7D5E04FF85B.pdf>
21. E. H. Carr (2018). Chapter I,'WHAT IS
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Academy, Sixth Form Centre, available at
<http://www.trfa.org.uk/sixthform/wp-content/uploads/2014/07/HISTORY-What-is-history-E.H-Carr.pdf>AS visited on13.05.2018.
22. See generally article _____ of the
convention 2003
23. Mrs. P. V. Valsala G. Kutty (2017). 'National
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of Folklore/Traditional Cultural Expressions:
India, Indonesia and the Philippines. 7
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Folklore of India' (Delhi: Oxford University
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25. Bhaswati Mukherjee (2018). "India's Intangible
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The World", January 29, 2015, Ministry of
External affairs, GOI, available at :
<http://www.mea.gov.in/in-focusarticle.htm?24717/Indias+Intangible+Cult>
ural+Property+A+Civilisational+Legacy+To+The+World Visited on 13.05.2018
26. <https://www.thehindu.com/features/friday-review/music/the-fount-of-indian-music/article3938725.ece>> accessed on 30
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27. Upinder Singh (2009). "A History of Ancient
and Early Medieval India- From the Stone Age
to the 12th C", Pearson and Longman Pub,
2009.
28. The Indus Valley Civilisation is named after
the Indus Valley, where the first remains
were found. The Indus Valley Civilisation is
also named the Harappan civilisation after
Harappa, the first of its sites to be
excavated in the 1920s, in what was then
the Punjab province of British India. The
Indus Valley Civilisation has also been
called by some the "Sarasvati culture", the
"Sarasvati Civilisation", the "Indus-Sarasvati
Civilisation" or the "Sindhu-Saraswati
Civilisation", as the Ghaggar-Hakra river is
identified by some with the mythological
Sarasvati river, suggesting that the Indus
Valley Civilisation was the Vedic civilisation
as perceived by traditional Hindu beliefs.
29. Upinder Singh (2009). "A History of Ancient
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Age to the 12th C", Pearson and Longman
Pub, 2009.
30. Chapter 2 Folk Dances Their Origin And
Development pg: 1-2. available
http://shodhganga.inflibnet.ac.in/bitstream/10603/72945/7/07_chapter%20%20folk%20dances%20their%20origin%20and%20development.pdf; Dance: A Survey- Folk
Dance Forms, available at:
http://cbseacademic.nic.in/web_material/doc/ktpi/Dance-Folk_old.pdf visited on
21.05.2018;
31. Upinder Singh (2001). "A History of Ancient
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was India", A survey of the history and
culture of Indian sub-continent before the
coming of the muslim, pg. 36-37, 3rd Edn.,
macmillan publishers ltd, London. 2001.
32. The term facial expression that include
(Mudra), movement of hands (Hasta) and
the simulation of various moods like anger
(Krodha), envy (Matsara), greed (Lobha),
lust (Kama), ego (Mada). In fact the
combination of the three qualities viz.

- expression, rhyme and rhythm i.e. Bhava, Raga, and Tala go into the determination of the term Bha-Ra-Ta, which is used as the name of one dance style viz. Bharata Natyam.
33. Bharata (1950). *The Nāṭyaśāstra, A Treatise on Hindu Dramaturgy and Histrionics*. Manmohan Ghosh (ed.). The Royal Asiatic Society of Bengal, 1950.
 34. Anand, Mulk Raj (ed.). *Classical and Folk Dances of India*. Bombay: Marg Publications, 1965.
 35. This has also been depicted in the statues and carvings in temples like, Khajuraho and Konark in Northern India, and at Chidambaram, Madurai, Rameshwaram, etc. in the South. Indian dances have also evolved styles based on the Tandava like the Urdhra Tandava, Sandhya Tandava, etc
 36. Upinder Singh (2007). "A History of Ancient and Early Medieval India- From the Stone Age to the 12th C", Pearson and Longman Pub, 2009.; Irfan Habib, "Medieval India- The study of civilisation, pg. 53, 1st edn, reprint 2007, National book trust India.
 37. Upinder Singh (2001). "A History of Ancient and Early Medieval India- From the Stone Age to the 12th C", Pearson and Longman Pub, 2009; A.L Basam, "The Wonder that was India", A survey of the history and culture of Indian sub-continent before the coming of the muslim, pg. 382-4, 512, 3rd Edn., macmillan publishers ltd, London. 2001.
 38. Vocal music is broadly divided into two schools - the Hindustani or north Indian school and the Carnatic or South Indian school. As far as instrumental music goes there is a general identity of instruments that have been used.
 39. The instrumental and vocal music of Korea has many elements of Indian music, which it received along with the Buddhist invocative and devotional songs and slokas (religious couplets). Along with Buddhism, some Indian musical instruments like the flute (bansi), temples bell (Ghanta), etc., went to the countries of south-east Asia. Even Europe owes certain instruments to India. Two popular European musical instruments namely the flute and violin are believed to be of Indian origin. Though, we do not know about the process of transmission of these instruments but they have been adopted by the western world.
 40. Irfan Habib (2007). "Medieval India- The study of civilisation, pg. 53, 1st edn, reprint 2007, National book trust India.
 41. Drama, as Bharatamuni says, is the imitation of men and their doings (loka-vritti). As men and their doings have to be respected on the stage, so drama in Sanskrit is also known by the term roopaka which means portrayal.
 42. R.C. Majumdar (1998). "Ancient History", pg 195-196, 8th ed, reprint 1998, Motilal banarsidass publishers private limited,.
 43. According to the Nāṭyashastra in the construction of a mandapa, pillars must be set up in four corners. With the help of these pillars a platform is built of wooden planks. The area of the mandapa is divided into two parts. The front part, which is the back stage is called the rangashirsha. Behind the rangashirsha is what was called the nepathya-griha, where the characters dress up before entering the stage.
 44. R.C. Majumdar (1998). "Ancient History", pg 195-196, 8th ed, reprint 1998, Motilal banarsidass publishers private limited,.
 45. R.C. Majumdar (1998). "Ancient History", pg 195-196, 8th ed, reprint 1998, Motilal banarsidass publishers private limited,.
 46. Bhasa was believed to live before 4th century in early era of our life.
 47. Kalidasa was the court playwright at the Gupta court. He lived at Ujjaini, the capital of the Guptas and was for some days the Gupta ambassador at the court of the Vakatakas at Amaravati where he wrote the play Meghadutam.
 48. A.L. Basam (2001). "The Wonder that was India", A survey of the history and culture of Indian sub-continent before the coming of the muslim, Chapter IX, 3rd Edn., macmillan publishers ltd, London. 2001.
 49. Bhavabhuti lived around the 7th century A.D., when Sanskrit drama was on its decline, mainly due to the lack of royal patronage. The last royal patron of Sanskrit drama seems to be king Harshavardhana of the 7th century.
 50. Harshavardhana was the king of 7th century.
 51. A. L. Basam (2001). "The Wonder that was India", A survey of the history and culture of Indian sub-continent before the coming of the muslim, Chapter IX, 3rd Edn., macmillan publishers ltd, London. 2001.
 52. A. L. Basam (2001). "The Wonder that was India", A survey of the history and culture of

Indian sub-continent before the coming of the muslim, Chapter IX, 3rd Edn., macmillan publishers ltd, London. 2001.

53. It is considered a great classic of Hindi epic poetry and literature, and shows the author Tulsidas in complete command over all the important styles of composition - narrative, epic, lyrical and dialectic. He has given a human character to Rama, the Hindu avatar of Vishnu, portraying him as an ideal son, husband, brother and king.
54. Dipavali Debroy, Bibek Debroy (2009). Great Epics of India: Purana: 19- The Brahma Purana, December 2003; (Upinder Singh, "A History of Ancient and Early Medieval India- From the Stone Age to the 12th C", Pearson and Longman Pub, 2009.
55. Madhavi Sunder (2018). The Invention Of Traditional Knowledge, , Law And Contemporary Problems [Vol. 70:97, PG 100 , Available at: <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1421&context=lcp>. Last visited on 08 July 2018.
56. AS IN (FIND THE SOURCE) Bhaswati Mukherjee, "India's Intangible Cultural Property: A Civilizational Legacy To The World", January 29, 2015, Ministry of External affairs, GOI, available at : <http://www.mea.gov.in/in-focus-article.htm?24717/Indias+Intangible+Cultural+Property+A+Civilisational+Legacy+To+The+World> Visited on 13.05.2018
57. COMESA Policy On Intellectual Property Rights, may 2013, available at: <https://www.ip-watch.org/weblog/wp-content/uploads/2013/05/Comesa-IP-policy-May-2013.pdf>
58. Sara Bannerman, "International Copyright and Access to Knowledge", Cambridge University Press 978-1-107-02306-2 – (find what it is), available at academic.edu

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