TRADITIONAL KNOWLEDGE: AN ANALYSIS OF THE CURRENT INTERNATIONAL DEBATE APPLIED TO THE ECUADORIAN AMAZON CONTEXT

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1. INTRODUCTION

Traditional knowledge (TK), understood as “the information that people in a given community, based on experience and adaptation to a local culture and environment, have developed over time, and continue to develop”\(^1\), has reached a high economic value. With the advance of technology, traditional knowledge is attracting the attention of modern industries, for they have discovered its valuable information and its ability to develop and give riches to a country from its natural and cultural resources.

Ecuador is one such country, well known for having some of the richest biodiversity in the world as well as for its multicultural population. The Ecuadorian indigenous people of the Amazon have lived in the rainforest for centuries and have developed valuable knowledge which is useful for future improvements in the fields of medicine, agriculture and environmental management, amongst others. This information is considered a ‘gold mine’ for universities, research institutes, laboratories, pharmaceutical companies and other entities that seek innovative ways of managing natural resources by taking advantage of the knowledge of indigenous people on this issue. However, traditional knowledge has been snatched from these people without asking their permission or at least providing them with fair economic compensation. For this reason, access to traditional knowledge, instead of benefiting both parties, has become an issue filled with conflict of interests between the intellectual owners of TK and abusive invaders.

For indigenous people, traditional knowledge is not only a potential source of income but also a valuable cultural heritage and a survival tool that must be

respected and protected. Many international forums support this position, and the current debate is focused on finding appropriate ways to protect traditional knowledge and the rights of indigenous people. However, a global TK protection agreement has not been reached until recently.

In Ecuador, as a result of claims presented by well-organized indigenous groups from the Amazon Jungle, some national institutions -especially those related to environmental protection- are discussing the issue of traditional knowledge. At international level, Ecuador has obligations with regard to the protection of traditional knowledge by having ratified the Convention on Biological Diversity, the Andean Decisions 391 and 486 and the ILO Convention and, at national level, the country has developed a plan aiming to ensure the protection of biodiversity and traditional knowledge. As mentioned above, some steps are been taken in order to fulfill these commitments but more efforts are required to fully implement them, since cases of misappropriation still occur, evidencing a need to establish an international enforceable mechanism to ensure proper protection.

Up to now, the main debate has focused on the creation of a *sui generis* system which includes the unique characteristics of traditional knowledge and that guarantees both the protection and the preservation of TK.

### 1.1. Purpose and Methodology

The primary objective of this research is to analyze the current international debate on traditional knowledge protection and the possible future trends on this issue. Special attention will be given to the Amazon indigenous groups of Ecuador as well as to the conventions ratified by this country and the steps taken to implement them.

The research is based on the analysis of the policies developed by international organizations dealing with traditional knowledge as well as indigenous perceptions. This study does not claim to provide a final solution to this issue; rather, it aims to study the current settings regarding traditional knowledge and the possible development of a *sui generis* system based on the different approaches provided herein.

An extensive literature review was required to reach an overall and deep understanding of the topic herein. This process included reviewing primary documentation as well as secondary bibliographical sources. An extensive review of Internet-based sources was also necessary since many relevant organizations (WIPO, ILO, WTO, UNESCO, CBD, CONAIE, etc.) have their own publications and data is available mainly online. Additionally, a number of interviews were performed to assess the current situation of traditional knowledge in Ecuador.

### 2. RELEVANT FEATURES OF TRADITIONAL KNOWLEDGE

#### 2.1. What is Traditional Knowledge?

It is a difficult task to define traditional knowledge, due to the diverse aspects of this concept. Most definitions are merely a description of the characteristics of