



graphic: Kjersten Jeppesen

## A Fight for Life

by Vandana Shiva,

**Anything short of stopping biopiracy is participation in a crime against nature and the poor.**

Patents on life were globalized by a decision made during the Uruguay Round of the General Agreement for Trade and Tariffs (GATT) to include IPRs (intellectual property rights) in trade treaties, and to include life in IPR regimes. The Trade Related Intellectual Property Rights Agreement (TRIPs) was drafted and pushed by industry. As James Enyart of Monsanto has stated, "Besides selling our concepts at home, we went to Geneva where [we] presented [our] document to the staff of the GATT Secretariat. We also took the opportunity to present it to the Geneva based representatives of a large number of countries."

This is absolutely unprecedented in GATT. Industry has identified a major problem for international trade. It crafted a solution, reduced it to a concrete proposal and sold it to our own and other governments. The industries and traders of world commerce have played simultaneously the role of patients, diagnosticians and prescribing physicians.

The TRIPs agreement of GATT, by allowing for monopolistic control of life forms, has serious ramifications for biodiversity conservation and the environment. While most Third World countries wanted TRIPs changed to prevent patents on life and biopiracy, the US is upholding the patenting of life forms and indigenous knowledge.

In granting the first patent on life in 1980, the US Supreme Court interpreted life as "manufacture or composition of matter." This started the slide down the slippery slope of patenting seeds, cows, sheep, human cells and micro-organisms. The US is proud of having started a perverse trend based on flawed scientific assumptions that ignore the self-organizing, dynamic, interactive nature of life forms, defining them as a mere "composition of matter."

The US is committed to patents on life in order to defend its biotechnology industry. Having opened the flood gates, the US patent office started

to grant patents not just to genetically modified organisms (GMOs), but to processes and products derived from indigenous knowledge of biological resources. This is how patents on neem, karela, and basmati have been given in the US.

The US states that requiring patent applicants to identify the source of genetic materials or traditional knowledge used in developing their claim "would be impractical." Meanwhile, forcing all countries to change their patent laws in spite of protests is considered practical. Changing the world's cultures and enforcing property rights on seed is considered practical. Collecting royalties from the poor in the Third World for resources and knowledge that came from them in the first place is considered practical. But taking the simple step to change one clause in one law in the US and one clause in TRIPs is considered impractical. This suggests that the US is committed to promoting biopiracy.

TRIPs and US style patent laws annihilate the rights of Third World communities by not having any system of recognition and protection of indigenous knowledge. Biopiracy is intellectual and cultural rape. It is the slavery of the new millennium, and there is only one way to stop it—to make it illegal in international law. Through the WTO, the rich North is committed to protecting corporate monopoly rights, even if this means undermining protections for nature and people. Anything short of stopping biopiracy is participation in a crime against nature and the poor.

*This is an excerpt from a longer article entitled North-South Conflicts in Intellectual Property Rights, written in 2001 by Vandana Shiva. She is a physicist, environmental activist, and Director of the Research Foundation for Science, Technology and Natural Resource Policy. She was the winner of the Right Livelihood Award for 1993.*