



# POLICY TAKEAWAYS

DAY 2, SESSION 3.1. STATE GOVERNANCE IN DIGITAL INDIA

## Monitoring Compliance with the Nagoya Protocol through Technological Design

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Technology has traditionally been seen as a disruptive factor that challenges existing social processes and legal structures. New approaches now suggest that technology can be developed to foster those structures instead. An example of this, is the IT Monitoring Tool, an state-sponsored platform for monitoring compliance with the Nagoya Protocol. The international agreement aims at sharing the benefits arising from the utilization of genetic resources in a fair and equitable way. While the platform is still being developed, India's use of technology to monitor and address compliance with international law regulating bio-prospecting is unique.



Image: Sonika Agarwal / Unsplash

### Key Takeaways

1

#### Indian state programmes are creating a new model for understanding the technology-law

The dominant paradigm presumes that technology is socially disruptive and that legal, policy, and regulatory institutions are poorly equipped to deal with the scale and rapid nature of its impacts. As a result, technological change is considered 'fast' while law and policy are considered 'slow' and always a step behind. The Indian approach to Nagoya turns this presumption on its head by using technology to ensure legal compliance.

2

#### India's approach to protecting its biodiversity and the implementation of the Nagoya Protocol

India's biodiversity is one of the richest in the world and about 70% of the population's livelihood depends on sustainable access to this natural wealth. The Nagoya Protocol, an international law India ratified in 2014, is designed to regulate bio-prospecting and to ensure source communities receive an equitable share of benefits. India's position is that the Nagoya Protocol has the potential to preserve the country's rich bio-cultural resources.

3

#### India's approach has been to use technology to fill the 'gaps in patent law'

India is developing a "techno-legal infrastructure" for the implementation of the Nagoya Protocol. In this case, Indian authorities are using technology to monitor bio-prospecting activities, identify instances of non-compliance (or bio-piracy), and allow state officials to take action when necessary. This effort builds upon similar previous strategies including the Traditional Knowledge Digital Library (TKDL) to use technology to "fill the gaps in patent law that allow bio-piracy to occur".

4

#### The integration of technology and regulatory institutions in India to enable compliance with the Nagoya Protocol

The development includes the Access and Benefit Sharing (ABS) e-filling system and IT Monitoring Tool for ABS. The former is a centralised system for gaining permits authorizing access to Nagoya protected resources, while the latter allows the National Biodiversity Authority to monitor bio-prospecting activities and identify instances of non-compliance.

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