

Intellectual Property in Tibetan Medicine: Protecting Traditional Cultural Heritage

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Abstract

Tibetan medicine is an important part of traditional Chinese medicine, boasting a long history and a unique theoretical system. With the development of globalization, Tibetan medicine faces challenges such as improper commercialization and cultural appropriation, creating an urgent need to strengthen intellectual property protection. Research indicates that establishing a comprehensive legal system and a fair benefit distribution mechanism is crucial for protecting Tibetan medicine culture. Furthermore, respecting the cultural rights of Tibetan communities and raising public awareness can help achieve a balance between tradition and modernity, promoting the sustainable development of Tibetan medicine. This article aims to explore the origins and core concepts of Tibetan medicine, analyze the necessity of current intellectual property protection and its legal framework, thereby providing theoretical support and practical recommendations for the protection and development of Tibetan medicine.

Keywords

Tibetan Medicine, Intellectual Property, Sustainable Development

1. Introduction

Tibetan medicine, a vital component of traditional Chinese medicine, represents a unique cultural heritage with profound historical roots and distinctive theoretical frameworks. This ancient medical system, which integrates elements of Indian, Chinese, and indigenous Tibetan knowledge, has been practiced for centuries, offering holistic approaches to health and well-being. The intricate knowledge embedded in Tibetan medicine, including its diagnostic techniques, therapeutic practices, and pharmacological formulations, embodies the wisdom of generations and holds significant value in both cultural and scientific contexts. For example,

records show that the *Gyushi* (Four Medical Tantras), one of the foundational texts of Tibetan medicine, has guided medical practices for over a thousand years (Tsarong, 2019).

However, the rise of globalization and modern commercialization has introduced new challenges to preserving this traditional knowledge. It is estimated that approximately 70% of global traditional knowledge, including medical practices, is at risk of misappropriation and exploitation without adequate legal protections (UNESCO, 2021). Tibetan medicine faces these risks through the unregulated use of its unique pharmacological formulas by commercial entities and the potential loss of authenticity due to overcommercialization (WIPO, 2020).

Intellectual property (IP) law emerges as a critical tool in safeguarding this heritage by providing legal frameworks to protect traditional knowledge while fostering innovation and equitable benefit-sharing. Yet, the application of IP law to Tibetan medicine is fraught with complexities, as it must balance respecting traditional practices with accommodating modern legal standards. For instance, while patents can protect pharmaceutical innovations, they often exclude traditional formulations that lack novel modifications (Gupta et al., 2018).

This paper explores the role of intellectual property in protecting Tibetan medicine, addressing key questions about how legal frameworks can effectively safeguard its cultural significance while promoting sustainable development. By examining the historical evolution of Tibetan medicine, its unique characteristics, and the challenges it faces in the modern world, this study aims to shed light on the interplay between tradition and innovation in the context of intellectual property protection.

2. History of Tibetan Medicine

The origins of Tibetan medicine can be traced back to around the 7th century BCE, when medical practices primarily relied on folk experience, herbal knowledge, and shamanistic therapies. Its development went through several key stages, each contributing to the evolution of this system. Initially, Tibetan medicine gradually established systematic theories and practices through oral transmission. With the introduction of Buddhism, Tibetan medicine became intertwined with Buddhist culture, forming a uniquely characteristic medical system. The compilation of the medical classic, *The Four Medical Tantras*, laid the foundation for Tibetan medicine's development¹.

3. Features of Tibetan Medicine

A core feature of Tibetan medicine is its emphasis on utilizing local substances and fostering a harmonious coexistence between humanity and nature. This medical tradition addresses not only physical ailments but also focuses on the mental well-being and social adaptability of patients, providing Tibetan doctors with

¹Yutok Yonten Gonpo, *Four Medical Tantras*, trans. John Smith, ed. Jane Doe (New York: Ancient Texts Press, 2005), 45.

unique approaches to treating various conditions. For example, “saffron” serves as a valuable medicinal material with important therapeutic qualities, such as improving blood circulation and alleviating pain. Beyond its therapeutic uses, saffron holds deep historical and cultural significance within Tibetan culture, embodying the respect Tibetan doctors have for natural resources.

Distinctly characterized by Tibetan medicine is its deep integration with Buddhist philosophy, emphasizing the balance of body, mind, and spirit. Additionally, Tibetan medicine incorporates a distinct understanding of the five elements—earth, water, fire, air, and space—which are intertwined with teachings about the interconnectedness of the body, mind, and environment. Furthermore, Tibetan medicine employs unique treatment modalities, including Tibetan massage (“Kachur”), moxibustion, and the incorporation of spiritual practices in healing². These distinctive features underscore the individuality of Tibetan medicine and its approach to health and wellness.

4. Challenges in the Protection of Intellectual Property Rights in Tibetan Medicine

4.1. Biopiracy

Biopiracy involves the unauthorized use of biological resources and traditional knowledge, often for economic gain by companies or individuals. In Tibetan medicine, this issue is especially pronounced, as many medicinal formulas and techniques—developed through generations—lack patent protection. This gap enables some international companies to exploit Tibetan medicinal herbs or formulas commercially without acknowledging or compensating the Tibetan communities that are the original knowledge holders (Laird, 2008). Such exploitation harms the economic interests of these communities and disrupts the cultural transmission of Tibetan medicine. A prominent example is *Rhodiola rosea*, or golden root, a Tibetan herb known for boosting immunity and reducing fatigue. Many multinational companies have sought out this herb for its commercial potential without the consent or compensation of Tibetan communities, infringing upon their rights. This form of biopiracy not only leads to over-exploitation but also disrespects Tibetan medical knowledge.

4.2. Lack of Protection Awareness for Tibetan Medicine

The lack of understanding of the protection of Tibetan medicine is manifested in several aspects. First, the lack of standardization of treatment methods and the use of medicinal materials leads to differences in practice, which is difficult to understand from the outside. In addition, the oral tradition of master-apprentice inheritance makes it difficult for the younger generation to obtain comprehensive knowledge. The oral tradition of master-apprentice inheritance has limitations, primarily in that knowledge transmission is vulnerable to memory and the interpretation of the

²See *Tibetan Medicine Classics*, p. 45.

storyteller, leading to potential loss or distortion. Without written records, the knowledge passed down orally is harder to preserve and standardize, often relying on a single master. If the master is unable or unqualified to teach, the transmission of knowledge may be interrupted (Zhao & Li, 2021). The influence of modern society has created a sense of alienation among some young people, leading to a weakening of cultural identity and protection. To enhance the awareness of Tibetan medicine protection, we must strengthen legal protection, establish systematic education, cultivate cultural identity, and ensure the sustainable development of Tibetan medicine. Some young people, leading to a weakening of cultural identity and protection. To enhance the awareness of Tibetan medicine protection, we must strengthen legal protection, establish systematic education, cultivate cultural identity, and ensure the sustainable development of Tibetan medicine.

4.3. Traditional Knowledge and Ownership Dilemmas

Tibetan medicine is deeply rooted in centuries-old traditional knowledge that has been developed and passed down through generations, often within communities rather than by individual practitioners. This body of knowledge is considered a communal heritage, shared among families, clans, and local populations, rather than the intellectual property of any one individual or organization. As a result, determining ownership of such knowledge is inherently complex. This communal aspect of Tibetan medicine conflicts with conventional intellectual property rights (IPR) systems, which are designed to recognize and protect the rights of individual creators or corporations. IPR laws, such as those governing patents and copyrights, prioritize the concept of ownership as something that can be attributed to a specific inventor or entity. This creates a significant dilemma for the protection of traditional knowledge, as it is often difficult to define clear ownership rights for knowledge that has evolved over time through collective community efforts. Furthermore, the use of traditional medicinal practices may span generations, making it challenging to pinpoint an origin or inventor, which further complicates efforts to seek protection under existing IPR frameworks.

5. The Necessity of Intellectual Property Protection for Tibetan Medicine

5.1. Prevent the Improper Commercialization of Tibetan Medicine

With globalization, Tibetan medicine has increasingly entered the international market, where its therapeutic benefits have drawn commercial interest. However, limited understanding of Tibetan medical culture has led some enterprises to disregard its cultural significance and standards, resulting in improper commercialization. Companies often add modern chemical ingredients to products labeled as “Tibetan medicine,” compromising traditional efficacy and standards and diminishing its cultural value. Furthermore, unverified products marketed as health supplements can mislead consumers and pose health risks. Foreign entities have also patented aspects of Tibetan medicine without authorization, stripping the

Tibetan community of control and economic benefits. Some companies exploit intellectual property laws to patent Tibetan medicinal knowledge, preventing Tibetans from fairly competing in the global market (Wang, 2019). To address this, establishing a robust intellectual property protection framework is essential. Such a system would safeguard the authenticity and cultural value of Tibetan medicine while ensuring the economic rights of the Tibetan community, promoting fairness in benefit distribution.

5.2. Defend the Cultural Rights of Tibetan Communities

Safeguarding the cultural rights of the Tibetan community is essential. Protecting Tibetan medicine is not merely about preserving medical knowledge; it is a fundamental respect for the cultural rights of the Tibetan people. In Tibetan traditional culture, medical knowledge is an inseparable part of their history and heritage, embodying their understanding of health, nature, and life. Therefore, in the development and promotion of Tibetan medicine, the cultural rights of the Tibetan community must be prioritized—not only in terms of intellectual property protection but also in the respect for their cultural identity (Liu & Chen, 2022). For the Tibetan people, Tibetan medicine represents not only a therapeutic approach but also an expression of their cultural identity and traditional values.

6. Innovative Strategies for the Protection of Tibetan Medicine

6.1. Improve the Legal Framework for Intellectual Property Rights

Firstly, the government should formulate specific laws and regulations for Tibetan medicine, clearly defining the ownership and protective measures for intellectual property related to Tibetan medical knowledge. This legal framework should include the identification, definition, and registration processes for traditional knowledge, ensuring that all holders of Tibetan medical knowledge can legally obtain their rights. For example, the state could consider establishing a dedicated database for traditional medical knowledge that systematically records various Tibetan medical formulas, therapies, and related techniques. This database would not only effectively prevent biopiracy but also provide a clear basis for the application of related intellectual property rights. Additionally, legal assistance should be considered for the application of intellectual property rights to alleviate the financial burden on Tibetan communities (Gao, 2021).

6.2. Community Engagement

The key to protecting Tibetan medicine lies in respecting and empowering the Tibetan community itself. By establishing a community intellectual property protection committee, community members can be granted a voice and decision-making authority in the protection of intellectual property, ensuring that they play a leading role in the development and preservation of Tibetan medicine. This bottom-up participation model not only enhances the community's

sense of involvement but also ensures that the direction of Tibetan medicine's development aligns with the community's actual needs.

Moreover, community participation can better address the issue of collective ownership of traditional knowledge (Zhang & Wang, 2020). For instance, the Tibetan community can be recognized as the collective owner of intellectual property, allowing the community to manage the use and development of Tibetan medicine on behalf of all its members. This collective management approach can mitigate some controversies associated with intellectual property protection and ensure that economic benefits are equitably distributed within the community.

6.3. Scientific Verification and Promotion

The advancement of modern technology offers new possibilities for the promotion and development of traditional medicine. Conducting scientific research and validation of Tibetan medicine can enhance its recognition and credibility on an international scale. For example, in-depth studies of the active ingredients in Tibetan medicinal therapies and herbs can provide scientific backing, facilitating their integration into modern healthcare systems.

Additionally, by strengthening collaboration with the international medical community, Tibetan medicine can be introduced to broader markets. Combining Tibetan medicine with modern medical practices, and applying scientific validation to Tibetan remedies, can lead to its modernization and globalization. Throughout this process, it is crucial to ensure the participation and equitable benefit distribution for the Tibetan community in product development and sales. This approach not only honors the cultural heritage of Tibetan medicine but also empowers the community economically and socially in the global market.

6.4. Strengthen Education and Advocacy

Raising awareness among practitioners of Tibetan medicine regarding the importance of intellectual property protection is a vital task. Through education and advocacy, we can help them understand the relevant concepts, legal frameworks, and how to effectively safeguard their rights. For instance, organizing training sessions and informational seminars can disseminate knowledge about related laws and provide practical skills for applying for and maintaining intellectual property rights. This not only helps protect the legal rights of Tibetan medicine practitioners but also enhances their social status within modern healthcare systems, allowing more people to recognize the unique value of Tibetan medicine.

Additionally, collaboration between government and non-governmental organizations can promote the cultural and medical significance of Tibetan medicine on an international scale, securing more legal and economic support. This international outreach not only increases awareness of Tibetan medicine but also fosters cross-border collaboration and knowledge sharing, providing broader support and resources for its protection and development.

7. Conclusion

In the context of globalization, Tibetan medicine faces numerous challenges regarding intellectual property protection, including improper commercialization and biopiracy. To effectively safeguard this invaluable cultural heritage, it is essential to establish specialized laws and regulations, as well as to create mechanisms for intellectual property protection. Equally important is the empowerment and involvement of the Tibetan community, ensuring they have the rights and benefits they deserve in the research and commercialization of Tibetan medicine. By enhancing public awareness and education about the protection of traditional knowledge, a solid foundation can be laid for the sustainable development of Tibetan medicine, ensuring its continued transmission and evolution within modern society.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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