Chapter VIII

CONCLUSION
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SUGGESTIONS
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Generally, globalization is defined as merging of national economies into a uniform world system. The objective of globalization is to integrate the world into one capitalist political economy operating under a neo-liberal free-market ideology. Economic globalization as witnessed in the world today is not a new phenomenon, but an obvious incident under WTO regime. Neoliberals argue that the globalization of markets, i.e. the internationalization of investment, production and distribution is the key to economic dynamism and growth, competitiveness and wealth. Simultaneously, Multi National Corporation (MNCs) represents the centre of the new global order organization.

Thus, the word "Globalization" is used widely to sum up the world order. It represents a powerful civilization venture, because it involves various numerous dimensions of life like, cultural, informational, scientific, technological, economic and political Globalization can be comprehended as "the process of modern countries' interdependence within the world system". Being caused by the scientific-technological progress its effect is not a negative phenomenon by itself as long as it respects the minimum of national identities without striving at their annulment. It implies the standardization and homogenization of products, process, quality and ecological criteria, the approximation of income levels and quality of life degrees and the equalization of many criteria at the world scale. The impact of Globalization on national economy is positive and undisputed. As the economic globalization, which may bring benefit to all the countries in the long run, finally, the future political globalization, whose justifiability and effect on nations are most criticized.
Furthermore, the views are not coordinated regarding the definition of globalization or the determination whether its impacts on national economy are positive or negative. Its impact is particularly disputable regarding less developed countries, such as the developing and transition countries.

The term globalization should not be regarded exclusively as an economic phenomenon, in spite of economic justification and attractiveness of the term, "economy without frontiers" and of the economic benefits it offers. It should not be neglected that the national characteristics and the resulting evaluation of specific categories do not always and everywhere give advantage to the economic benefit. Moreover, this cannot be changed through the rounds of negotiations on quotas, tariffs and other trade restrictions. The majority views that, the market is a self regulating Darwinian environment, in which only the fittest can survive. Apart from that, it should also be kept in mind that this environment also includes much lagging, numerous rigidities, transactional costs, information barriers and many other restriction that make the market imperfect.

Globalization should be understood as a multidimensional phenomenon that will induce changes in all the segments of society, the technological globalization is not only indisputable, but it represents a necessity. The economic globalization is economically justifiable and it can bring long-term benefits to every economy. However, any comprehension of globalization that exceeds the economic process is utterly arguable.

Leaving the political aspect of this problem aside, it may be concluded that globalization is a long-term regular economic tendency, which should not be confronted, as the processes of economic association, internationalism and integration on the world scale are imminent within the modern society.

The benefits that multinational corporations investment brings to the individual citizens of the host nation are public and visible in the street. Foreign investment creates work that did not previously exist. Many of these
new jobs require technical training that the foreign investor freely provides. Other positions have supervisory or leadership content and potential. This permits local employees to achieve increased responsibility and compensation at rates more attractive than the local market provided previously.

A significant employment effect comes from new jobs created in local companies, which provide construction, local transportation, food service, supplies, and other necessities. These new entrepreneurial ventures create an important employment and income multiplier in the local economy.

Inevitably, this increasing national and individual wealth attracts sellers of products seeking new markets. This new wealth also creates demands for basic products that improve individual nutrition, health, communication and mobility.

Other multinational investors bring new or improved products into the local market, either directly through new factory investments, or indirectly by import. Some critics decry the introduction of such items in the third world as consumerism. The demand for these products is universal, however, since they satisfy basic human needs improve the quality of life.

Finally, multinational investors require sophisticated banking, transportation and commercial services to support their operations. Local firms are organized to provide these services, or other multinational companies will invest to support a valuable existing relationship. These useful services, often improved and offered at lower cost, are made available to all other local companies and individuals.

The reality is that governments compete for multinational favour by offering attractive terms, including, concessions, tax holidays, advantageous depreciation, low cost land for factories and other incentives. The price won by governments in granting these short-term advantages is the acceleration in national development that follows. Such multinational investment not only provided benefits to the economy of the host nation but also to its political
leadership.

The foreign investor brings access to capital, both equity and debt, on terms which may not be available to the host nation. Foreign investment in natural resources permits the early realization of income and value from dormant national assets, such as minerals, oil or hydroelectric potential. These investment projects often utilize and advance technology that would not normally be available to the host nation. Equally, important, national productivity is improved by access to the specialized machinery, modern tools and labour saving equipment that leading multinational corporations use routinely in their operations.

The multinational investor also brings the techniques of modern management to supervise and safeguard his investment. These include planning and management systems, personnel policies and benefits, safe training and other proven techniques to enhance efficiency and train local staff. This investment of intellectual capital becomes part of the host nations' business culture as employees move into the multinational corporations organization. Consequently multinational corporations which manufacture in the third world, or operate in environmentally sensitive areas, have taken steps to control operations more closely. Most subject themselves to industry wide codes governing both labours and environmental standards, they insist on compliance by their contractors, and evaluate their own and contractors performances periodically, or have theirs auditors do so.

Wherever there is government regulation the potential for corruption exists. This is an endemic problem in the world where many routine aspects of commerce require permits or some other timely action by government at every level. It is not exclusively, a Third World issue, nor is it one confined to international companies, as a survey of the press on every continent will confirm.
Established trading nations in the west consider corruption a criminal
offence, and have strong anti-corruption legislations. In the West most recently
enacted anti-corruption legislation now covers acts of bribery outside the
national territory. Penalties involve prison terms, large fines and considerable
negative press and media coverage.

Today, it can not be denied that on the international front, WTO has
become the order of the day. Free trade is now a topic of broad discussion and
the developing countries are facing socio-economic stress due to the impact of
globalization under WTO regime. Now the rapid growth of multinational
investment in the poor third world countries has become the reality and these
developing countries have become much dependant on these multinational
investments. But there are many negative impact of multinational investments
in the third world countries, such as national income differentials, environmental impact or unwelcome changes in the ethnic culture etc.

After WTO, activities of the multinational companies have become an
order of the day for the developing countries. These companies are rapidly
acquiring the character of multi product and multi industry enterprises. But the
assumption that the entry of these multinational corporations would ensure the
transfer of sophisticated technology to the developing countries, has not been
found valid in practice. It is true that transfer of technology is a myth and such
corporations keep their process and technologies a well guarded secret. After
globalization rapid growth of industries in the developing countries has
become the major source of environmental pollution which is detrimental to
the human life and living organisms.

Industrialization has resulted in deforestation, desertification, soil
erosion, loss of wild life and other ecological problems. The developing
countries have witnessed considerable loss of natural wealth or resources
which include land, forests, climate, mineral resource, marine resources, water
resources etc. It has been observed that haphazard industrialization and
unplanned development made by the multinational corporations have resulted
in the exhaustion of the irreplaceable natural wealth in the developing countries.

The forests are said to be the most significant in maintaining the ecological balance. In the developing countries, deforestation is directly responsible for greater frequency and intensity of floods, soil erosion etc. the industrial discharge untreated effluents in the water resources which ultimately comes in the land and leads to the permanent contamination of the food grains and cattle fodder. The continued felling of trees gives rise to the soil erosion. In different developing countries, the annual soil loss from erosion is tremendous and consequences are disastrous. Simultaneously, air pollution is another consequence of industrializations. Industries discharge untreated hazardous chemicals in the ambient atmosphere which renders the quality of air unfit for breathing affecting the human life and other organisms.

After globalization and free trade regime has been put in place in the developing countries, the drug and pharmaceutical industries are dominated by multinational enterprises. The climatic conditions, social behaviour and economic conditions are very important factors in manufacturing drugs. But the multinational drug units ignore these factors and it is widely realized that these multinational drug firms exploit the socio-psychological factors to reap high profit. It can be contended that the anti-social role of multinationals can be contained by laws of the land and the powers that are available with the Government. It is detrimental to the national interests of the developing countries.

Globalization has a negative impact on indigenous people of the third world countries. The indigenous people have lost their lands, culture and even self-identity in their ancestral domains. Natural resource-bases are besieged and destroyed by the mal-development projects of the multinational corporations and governments. Simultaneously, Trade-Related Intellectual Property Rights (TRIPS) are utilized by the multinational Corporations to expropriate indigenous knowledge and practice, plants, even indigenous people's human
cells, robbing people of their traditional knowledge-base of agriculture, seeds and medicine. Moreover, foreign loans have been used by International Monetary Fund, World Bank and other international finance institutions as instruments to control the financially weak countries who are dependant on the bank Conditionalities. Thus indigenous people and indigenous knowledge of the third world countries have been seriously threatened by the globalization.

The process of globalization as implemented by the WTO regime further marginalizes Dalits, indigenous peoples and minorities who are already deprived section of society. In the name of privatization, globalization has destroyed whatever opportunities were created through affirmative actions initiated by governments. Thus, the state is consciously withdrawing from its obligation to provide key social services such as education, health and employment with a divesting impact on groups. The policies of the World Bank and International Monetary Fund, adversely affect the already pathetic living standards of marginalized communities and groups such as Dalits, indigenous peoples and minorities.

Multinational corporations and the state reinforce each other in carrying out policies and projects to exploit the resource base. Mega Projects including the construction of dams and development of eco-tourism, deny the rights of indigenous peoples forcing many of them to become migrant workers.

Indigenous people suffer from the non-recognition and violation of their rights to have control of their territories and ownership of lands, waterways and natural resources. The continuing plunder and destruction of their lands and waterways by multinational corporations through the construction of mega hydro-electric dams, oil and natural gas exploration and extraction and deforestation violate the rights and dignity of indigenous people.

The conversion of agricultural lands into industrial plantations for export crops and agribusiness using toxic chemical inputs and field trials of genetically modified seeds, biopiracy of plant, animal and knowledge related to
their use and development, and human genetic materials by biotechnology and pharmaceutical corporations and the patenting of this life form are all factors that affect the rights and life of indigenous people.

It can not be denied that after globalization, the gap between the rich nations and the poor nations has increased. The difference of per capita income between the developed and the developing world is widening. This downward trend continues and what is more distressing is that, the first world countries confirm that they have increased their military expenditure. Thus the process of globalization has intensified the tendency of war and aggression and this comes precisely because of the fact that in its efforts towards the economic recolonisation of the third world, globalization has led to an economic exploitation on a world scale.

It is now evident that the industrial development of the first World countries would not have been possible without the cheap raw material and labour from the developing countries. Cotton, iron, gold and mineral of all kinds are being taken away from these poor countries. Sometimes, it is done with the use of force and the enthusiastic support of the local elites. Moreover, these countries are treated as ready markets of products. This is a process of double exploitation.

Under WTO regime, the multinational corporations are playing an important role in the integration of the global economy. The power of these multinational corporations is derived from their unique capacity to use finance, technology and advanced marketing skills to integrate production on a global scale in order to form the world into one economic unit and a "Global shopping centre." It can not be denied that these multinational corporations do not bring large capital to the host countries but they take out huge profits from these poor countries. Moreover, very often, their technologies are not labour intensive and they do not generate more employment in these developing countries.
It is true that multinational corporations have exploited the rich genetic diversity of the developing countries as a free resource of research and development. The products of such research are then patented and sold back to the developing countries at excessively high prices. Under these circumstances, a proper mechanism should be formulated for effective co-operation with reciprocal benefits between bio-technologically rich developed countries and the gene-rich developed countries.

There is also a relationship between globalization and development and human rights. But this relation between globalization and development and human rights raised several policy and legal questions. Thus, human rights have become an integral part of the process of globalization in many ways. The standard of protection of human rights is a yardstick to judge the developing countries and to deal with economic and trade relations to extend development assistance. At the same time globalization intensifies impoverishment by increasing the poverty, insecurity fragmentation of society and thus violates human rights and human dignity of millions of people.

Development is widely perceived as a historical process that takes place in almost all societies characterized by economic growth and it increases production and consumption of goods and services. Development is also often used in a normative sense, as a multi-valued social goal covering such diverse spheres as better material well-being, living standards, education, health care, wider opportunities for work and leisure, and in essence the whole gamut of desirable social and material welfare. But, in today's globalization, the concept of development itself is interpreted differently and concept of right to development is not taken seriously.

The Preamble of the Declaration of the Right to Development, adopted by the UN General Assembly in 1986, describes, "Development as a comprehensive economic, social, cultural and political process that aims at constant improvement of the well-being of the entire population and of all
individuals on the basis of their active, free and meaningful participation in
development and in the fair distribution of resulting benefits".

It is found that, the aims and objectives of the so-called development
models promoted by different governments or international development
agencies are inconsistent with the human rights standards. A new model of
development ideology which is promoted by them is based on the market and
its logic. Several decades of discussion on alternative development model is
withering away and a dominant model of market-oriented development taking
roots in that place. As a result of globalization process, many defects and
negative effects are visible now. Global integration of the structures, processes,
and ideologies produce injustice, oppression, exploitation and mal-
development in society. The systematic integration of the forces that are
dominant in the globalization process intensifies human rights violations.

The reality of the post-war economic developments has been the
growing importance of Foreign Direct Investment in many countries of the
world and in international economic relations. In many countries, Foreign
Direct Investment has already 'taken over' as the most important component of
external financial flows, exceeding even official assistance.

The growth of Foreign Direct Investment has its origin in powerful
forces of capital movements which go hand to hand and replace trade flows.
The impact of these forces works very strongly both on the supply-side (home
country) and demand-side (host-countries). In home countries, these forces
include the benefits from increased market access and improved
competitiveness due to a better access to cheaper inputs or the strengthening of
the company's capital base as result of strategic alliances with foreign partners.
For the host countries, the benefits of Foreign Direct Investment include an
improved access to technology, marketing channels, organizational and
managerial skills, and the contribution to domestic saving and investment. A
number of studies on WTO clearly show, that there is a strong element of
complementarity between trade and Foreign Direct Investment both in the
home and host countries. In other words, it can be said that trade tends to encourage Foreign Direct Investment and Foreign Direct investment tends to encourage trade.

Where there are several benefits of the growth of the Foreign Direct Investment there are also several downsides and defects in it. One of these is the rising investment risk of investors as they expand their foreign portfolios of Foreign Direct Investment. As a result, the cost of risk cover of Foreign Direct Investment increased which, in turn, will tend to increase the costs of the host countries. At the same time, as the country exposure to Foreign Direct Investment increases, the host countries will become subject to increased risk of capital flight and vulnerability.

The Foreign Investors need transparent and predictable rules on which they can operate, and these rules must include legal security, otherwise, they would require a corresponding financial return as compensation for these additional risks. In many circumstances, such risk and the corresponding reward would be prohibitive for the host countries. A powerful argument for a Multilateral Agreement on Investment is, therefore, that it will provide the needed transparency, predictability and legal security. On the other hand, the lack of transparency, predictability and legal security—is precisely what is often the origin of difficulties for countries to attract Foreign Direct Investment and other types of foreign capital. The unclear, ambiguous, biased and controversial rules are the classical deterrent to foreign investors. Though there are many conventions or traditions but these unwritten conventions or traditions do not have the same value as agreements signed by Governments.

Many developed and developing countries have been undergoing a rapid and profound process of policy liberalization. Their process has affected fiscal, monetary, financial, infrastructural, trade and other policies. The process has made both outward and inward Foreign Direct Investment more attractive, though also legal provisions underlying this process are not sufficient. They need special treatment. First, foreign investors need a legal protection to do
business, without such protection, the risk of doing business in a foreign country may be so excessive that they decide not to invest. Moreover, the cost of compliances may be too high, resulting in investment that would typically be highly speculative and short term. Second, national legislation is often not sufficient to provide adequate security to foreign investors. National laws and their enforcement may differ between the host and home country. So there is a need of an international mechanism for dispute settlement. What is typically needed is an international agreement which must be reached by governments in order to have moral authority. These agreements should be supported by national legislation in order to be enforceable. Third, given the risks of doing business in foreign countries, investors will choose those countries in which the legal protection of their investment is most secured.

The need of an intergovernmental agreement can be clearly seen in the example of the financial sector. The deregulation of financial markets, together with technological progress has led to an explosion of cross-border financial services. This, in turn, generated the greater need for the international agreements among different participants in the market. Two types of agreements have emerged over time — agreements signed by private sector agents and agreements signed by governments. Both types of agreements have lots of merits and benefits, such as the agreements signed by the public sector have been the ones that encouraged the growth of cross-border competition.

There has been a dramatic proliferation of various international agreements in the past. Many of these agreements have been signed bilaterally. Others are regional (such as NAFTA and Mercosur) or plurilateral. By June 1996, the total number of bilateral investment treaties was nearly 1160, of which two thirds were signed during the 1990s (WTO, 1996 and UNCTAD, 1996). But the existences of these agreements often have different coverage of issues and many even apply different rules. The separate negotiating initiatives increased the risk of inconsistent rules established in different agreements, as WTO (1996) has pointed out, the current Members of the WTO would have to
sign agreements if they wished to provide the investment protection through bilateral treaties. With such a large number of treaties, inconsistencies are virtually inevitable. All of these provisions lead to confusions, uncertainties and legal conflicts. Moreover, the presence of different agreements also increases the costs of doing business, something that is often overlooked by the proponents of bilateral and regional approaches. This, too, is an impediment of Foreign Direct Investment.

Even though the most sensitive criticism, has been targeted on economic benefits of globalization, these are several merits of Foreign Direct Investment and globalization which are undeniable although, globalization may also have adverse effects. The positive features are recognized even by the most vocal critics of globalization who acknowledge the Foreign Direct Investment and globalization in general have positive economic effect.

The negative, or poor impact of Foreign Direct Investment on development is fear of globalization that claim the foreign Direct Investment leads to 'recapitalization' of host countries and their 'denationalization'. But 'Denationalization' is seen as the result of fundamental weaknesses of developing countries which do not have economic power to compete with strong Multinational Corporations. They also argue, that Foreign Direct Investment has an adverse impact on balance of payments, savings and through the 'recapitalization' effect, on domestic growth.

More recently, various criticisms have arisen regarding globalization from various advocacy groups, using a variety of arguments that range from 'social issues' to 'labour standards' and 'environment'. The main idea focusing on the globalization does not promote sustainable development. Thus, the criticism is typically not directed towards multilateral rules on investment per se but it is also concerned with the functioning of the multilateral system in general and of the WTO in particular. There is difference of concept regarding sustainability by different groups. Thus, 'sustainability' is blurred as different groups define it differently. Some argue 'sustainable development' can refer to
poverty the environment, income distribution, or to other aspects of economic development such as gender issues, health, education etc. Others identify the problems of 'sustainability' with the deficiencies of the multilateral system of trade and finance.

In this situation multinational corporations are becoming the actors even in international politics. It is true that, a few rich or middle class people have emerged in societies where transition to market system has been introduced. China and Vietnam are the typical examples. In these countries a newly rich class has emerged as a result of globalization and market reforms. Several other Asian countries are also witnessing the emergence of a new rich and middle class people at the expenses of many poor. These new rich and middle class really the products of globalization and they provide the market for imported products and further, strengthening the economy of the developed countries.

While analyzing the economic development, social status and political consciousness of the new-rich in Asia, it is observed, that it is as consumers that the new-rich of Asia have attracted an interest of almost cargo-cult proportions in the West. They constitute the new markets for Western products, processed foods, computer software, educational services and films and television soaps. They are the new tourists, bringing foreign exchange in hard times. What has helped such an enthusiastic embrace of the Asian new-rich is that they are emerging at a time when prolonged recession and low growth rates have depressed home markets in the West. The emergence of new middle class and their wealth manifest themselves in the society in several ways.

Today, global corporations have replaced the colonial powers. In the developing countries, global corporations are allowed to feast on natural resources, human resources, and national wealth. As a result of it, they displace farmers from their land, workers from their jobs, and communities from their roots. They are also responsible, for the breaking up of communities and the destruction of the environment to serve the human and raw material requirements of global production for the global market. The consequence is
the collapse of food security and the emergence of global environmental crisis, which in the end may turn out to be even worse than colonization. Even the people of the developed countries suffer from the profit-hungry rules of global corporations today, which virtually rule the world. The globalization and market-oriented economic reforms have been designed only for the benefit of these groups. In reality, globalization means the rule of global corporations.

A nation's ability to "convert knowledge into wealth" and social good through the process of innovation, will determine the future of a nation. In this context, issues of generation, valuation, protection and exploitation of Intellectual Property (IP) are going to become critically important all over the world. Intellectual Property Rights were given the large area of protection due to the development of science and technology and international trades because the world community thought that unless and until an intellectual property Rights is provided greater protection, science technology, literature etc can not be developed. Article 27 of the 1948 Universal Declaration of Human Rights, recognized that everyone has the right to the protection of the moral and material interest resulting from any scientific, literary or artistic production of which he is the author' and that 'everyone has the right... to share in scientific advancement and its benefits'. But burning question seems to be balancing the interest of the investor and that of the society in an optimum way.

Intellectual property rights are being harmonized worldwide. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) brought about a very important change in international standards relating to intellectual property rights. As per the obligation under the Trade Related Aspects of Intellectual Property System (TRIPS) Agreement, developing countries are now implementing national systems of intellectual property rights following an agreed set of minimum standards, such as twenty years of Patent protection; the least developed countries have an extra 11 years to do so.
Today, the battle is between those who are not equal, in economic and institutional condition. TRIPS, like other World Trade Organization agreements, are an agreement on a legal framework.

The TRIPS agreement has important provisions for a fair play in technology transfer from which the developing world should benefit. Article 7 of the TRIPS Agreement states 'the protection and enforcement of intellectual property right should contribute to the promotion of technological innovation and to the transfer and dissemination of technology to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations'. Furthermore, Article 8.2 of the Agreement states 'appropriate measures, provided they are consistent with the provisions of the Agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology'.

Facilitating the access of the Third world countries to technologies required by them constitutes one of the key elements in accelerating the pace of their economic and social development. Such access is generally made by the licenses and technology transfer agreements. Actually, the fact of the matter is that the prospective technology holders in developing countries face serious difficulties in their commercial dealings with technology holders in the developed countries. These difficulties arise for a variety of reasons. Some of them arise from the imperfections of the market for technology. Some are attributed to the relative lack of experience and skill of enterprises and institutions in the developing countries in concluding adequate legal arrangements for the acquisition of technology. Some problems arise due to government practices, both legislative and administrative, in both the developed and the developing countries, which influence the implementation of national policies and procedures designed to encourage the flow of technology to, and its acquisition by, the developing countries.
Indeed many societies in the Third World have nurtured and refined systems of knowledge of their own, relating to such diverse domains as geology, ecology, botany, agriculture, physiology and health. These informal innovators have, therefore, generated such a rich store of traditional knowledge.

Another impact of globalization upon the Third World is that the process of globalization is threatening the appropriation of elements of the collective knowledge of societies into proprietary knowledge for the commercial profit of a few. Thus, an urgent action is needed to protect these knowledge systems. Even though, national policies and international understanding linked to Intellectual Property Rights, while providing its development and proper use for the benefit of its holders. Now, it needed a particular focus on community knowledge and community innovation. To encourage communities, it is necessary to scout, support spawn and scale up the green grass root innovation. Linking innovation, enterprise and investment is particularly important.

Traditional Medicine (TM) plays a very crucial role in health care and serves the health needs, of a vast majority of people in developing countries. Today, also access to 'modern' health care services and medicine may be limited in many developing countries. Traditional Medicine becomes the only affordable treatment available to poor people and in remote communities.

The World Health Organization (WHO) defines, traditional medicine as, the sum total of all the knowledge and practices, whether explicable or not, used in diagnosis, prevention and elimination of physical, mental or social imbalance and relying exclusively on practical experience and observations handed down from generation to generation, whether verbally or in writing. Health care providers worldwide including major pharmaceutical giants are turning to incorporate many of these into their mainstream activities. As traditional machines are largely based on medicinal plants, indigenous to these countries, where the system has been in vogue for several centuries, the effort is on accessing them either directly or through the use of modern tools of
breeding and cultivation, including tissue culture, cell culture and transgenic technology. Intellectual Property issues liked to such endeavors remain unresolved.

The protection of Traditional Medicines under intellectual property rights (IPRs) raises two types of issues. First, to what extent it is feasible to protect exiting Intellectual Property Rights system. Certain aspects of Traditional Medicines may be covered by patents or other Intellectual Property Rights. There have also, been many proposals to develop sui generis systems, of protection. Such proposals are based on the logic, that if innovators in the 'formal' system of innovation receive compensation through the Intellectual Property Rights, holders of traditional knowledge should be similarly treated.

There is also, difference in codification of Traditional Medicine. The codification of Traditional Medicine varies significantly. A distinction can be made, particularly in Asia, between the codified systems of 'traditional medicine' and non-codified medicinal knowledge, which included 'folk', 'tribal' or 'indigenous' medicine. Thus, in India, folk traditions are handed over orally, from generation to generation. The 'folk' medicine is based on traditional beliefs, norms and practices, based on centuries old experiences of trials and errors, successes and failures at household level. These are passed through oral traditional and may be called, 'people's health culture', home remedies or folk remedies. Traditional Medicine may be possessed by individuals. In some cases, for instance, healers use rituals as part of their traditional healing methods, which often allow them to monopolize their knowledge, despite disclosure of the phytochemical products or techniques used. The codified tradition, consists of medical knowledge with sophisticated foundation expressed in thousand of manuscripts covering all branches of medicine. Examples are ayurveda, siddha, unani and the Tibetan tradition.

There is problem on the grant of such patents, linked to the indigenous knowledge of the developing world that needs to be addressed jointly by the developing and the developed world. It need to understand, that there is a
distinction between, the patents that are granted based on modern research and
patents, which can be categorized as traditional knowledge-based patents. The
Governments in the Third World, as well as members of public are rightly
concerned about the grant of patents, for non-original inventions in the
traditional knowledge systems, of the developing world. At international level
there is significant level of support for opposing the grant of patents on non-
original inventions. For example, more than a dozen organizations, from
around the world got together to oppose the "EPO Neem Patent", and the entire
process took five years. Such a process of opposition is, understandably
expensive and time consuming.

The adoption of TRIPS Agreement has entailed significant changes for
the protection of pharmaceutical products and processes. The Agreement not
only made product patent protection binding to all Member countries (Article
27.1); it also strengthened, inter alia, process patents (Article 28 (b) and 34),
narrowly defined, the conditions for establishing exceptions to patent rights
(Article 30), and limited possibility of applying especial modalities of
compulsory licenses to Pharmaceuticals (e.g. as provided for in Canada until
1993).

A key question is whether, the TRIPS regime has led to an increase in
the process of patented medicines. Although, many researchers argue, that
there is no clear relationship between the patents and the process of medicines.
There is strong evidence that average pharmaceutical product process decline
in the face of entry by generic substitutes. Competition is important to keep
process down.

Another drawback can be pointed out regarding the making of decisions
in WTO. Decisions in the WTO are taken on the basis of what is called
"negative consensus". If no country objects to a proposal or decision, it is
deemed to have received consensus of members and becomes a binding
decision, in practice, No decision is ever brought to the WTO without prior
consultation between the powers that count. Sometimes it is just the USA and
Most decisions that affect trade, and the implementation of the Uruguay Round, are taken in meeting in Geneva. Under GATT there was a rule that two meetings could not be held at the same time. That rule has been revoked under WTO. Now two or more meetings may be held simultaneously. Many small African countries cannot even afford to keep delegations in Geneva because Geneva is very expensive. Thus, under the "negative consensus" rule many decisions are taken of a binding character without the participation of African countries.

The idea of a "rule-based system" is fine in theory, for it is better than "anarchy". Therefore, some people argue that the WTO rule-based system is better for the smaller countries than the anarchy of the rule of the jungle. In practice, however, the rule-based system is used by the powerful states to impose their will on weaker states. It is more difficult for small countries to lodge a complaint against a powerful one than the other way round. Secondly, much of the discussion is conducted in the legal language, and requires trained lawyers and other technical professionals. Most of these are based either in Europe or in America. They charge exorbitant fees, which few African countries can afford. So Africans lose cases by default. Thirdly, even if the cases are decided in favour of a small country against a large one, the WTO has no mechanism to impose collective sanctions. Such a decision only allows the complaining country to impose its own sanctions on the guilty one. Thus the "trial" is collective, but the "punishment" is individual.

Thus, the World Trade Organization has become a rich countries club with power of sanctions against poor countries over trade related matters. Thus, Globalization is the magic word today. It is also a cultural as well as political reality for the developing countries. Political and economic change that take place in one corner of the world affect the life of people far away. The present global order control of the multinational corporations, new-colonial forces and elites of the countries do not ensure the values of justice
and plurality. Today, the developing countries do not need the "greater market-friendliness but people friendly markets." So, there must be a search for a global order where life affirming values are preserved and strengthened.

Today, it can not be denied that modern communication has converted the world into a "Global village" where multinational corporations are playing the role of controller. It would not be wrong to say that these corporations have rapidly spread as a simple response to certain economic facts of modern life influenced by the magic of globalization. But after WTO, when free trade has become the order of the day, a crisis has arisen in the developing countries because these developing countries are not competent to accept the concept of open sky market with the first world countries. There are some positive aspects of globalization in the third world countries like economic growth, industrial development of nation, employment, development of infrastructure etc. no doubt, the third world needs to affirm the positive side of this development under globalization under WTO regime.

These major contributions can not be ignored that the multinational corporations and free trade have made to the third world countries. Simultaneously, exploitation of indigenous peoples and knowledge of the developing countries, marginalization of Dalits and minority groups, non-recognition and violation of international humanitarian laws, destruction of national pharmaceutical industries, creation of tendency of war and aggression, exploitation of cheap material resources of the third world counties, exploitation of rich genetic diversity of the developing countries, ignorance of the values of justice and plurality, creation of mono-culture, creation of 'debt-trap' for the third world countries — all these are the results of globalization under WTO regime.

A solace for the developing and the least developed counties who to an extent harbour all pervasive scapticism against globalization and WTO regime, is that even the developed counties have started feeling threatened under the
WTO regime for loss of jobs resulting from outsourcing and for their inability to compete in areas where the cost of production on account of various reasons is very high in their countries.

Similarly, there are gaps in existing legal and non-legal techniques and mechanisms with regard to the recognition and the protection of the knowledge and innovations derived from traditional knowledge systems and traditional knowledge. Now, considerable effort is focused on evaluating the potential of the existing Intellectual Property Rights (IPR) regimes to provide protection for traditional knowledge and indigenous innovations. Under these circumstances the following measures are suggested:

1. Indigenous people have an inherent right to self-determination, right to use and develop their own indigenous political and governance structures for their communities. So indigenous development frameworks, concepts, principles and practices must be protected. It should be the duty of the government to ensure that indigenous people shall be free to use their natural resources including biodiversity and genetic resources and ban the appropriation of their resource through the patenting of their human, plant and animal genetic resources.

2. The Government must halt the activities of multinational corporations that infringe and exploit indigenous people's resources and must ensure payment of compensation to the indigenous peoples for damages caused. Monitoring mechanisms should be established for the purpose of regulation of activities of Multinational Corporation immediately.

3. States must take steps to promote and secure the protection of human rights recognized in international as well as national law, including ensuring that transnational corporations and other business enterprises respect human rights.
(4) Transnational corporations and other business enterprises should ensure equality of opportunity and treatment, as provided in the relevant international instruments and national legislations as well as international human rights law, for the purpose of eliminating discrimination based on race, colour, sex, language, religion, political opinion, national or social origin, social status, indigenous status, disability, and age except for children, who may be given greater protection.

(5) It has been noted that, the security arrangements for transnational corporations and other business enterprises should observe international human rights norms as well as the laws and professional standards of the country or countries in which they operate.

(6) Transnational corporations and other business enterprises should not use forced or compulsory labour which is forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.

(7) Transnational corporations and other business enterprises must not engage in or take benefits from war crimes against humanity, genocide, torture, forced disappearance, forced or compulsory labour, hostage-taking, extrajudicial, summary or arbitrary executions other violations of humanitarian law and other international crimes against the human person as defined by international law, in particular human rights and humanitarian law.

(8) Therefore, efforts should be made by way of proper planning by Transnational corporations and other business enterprises for respecting the rights of children who should be protected from economic exploitation as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law.
(9) Speedy and efficient infrastructural facilities should be set up by Transnational corporations and other business enterprises for safe and healthy working environment as set forth in relevant international instruments and national legislation as well as internal human rights and humanitarian law.

(10) Transnational corporations and other business enterprises should provide workers with remuneration that ensures adequate standard of living for them and their families. Such remuneration shall take due account of their needs for adequate living condition with a view towards progressive improvement.

(11) Transnational corporations and other business enterprises should ensure freedom for association and effective recognition of the right to collective bargaining by protecting the right to establish associations and subject only to the rules of the organization concerned, to join organizations of their own choosing without distinction, previous authorization, or interference, for the protection of their employment interest and for other collective bargaining purposes as provided in national legislation and the relevant conventions of the International Labour Organization.

(12) Transnational corporations and other business enterprises should refrain from any activity which supports, solicits, or encourages States or any other entities to abuse human rights. They should further seek to ensure that the goods and services they provide will not be used to abuse human rights.

(13) It is to be also kept in mind that, transnational corporations and other business enterprises must recognize and respect applicable norms of international law, national laws and regulation, as well as administrative practices such as the rule of law, the public interest, development objectives, social, economic and cultural policies including transparency, accountability and prohibition of corruption,
and authority of the countries in which the enterprises operate.

(14) It should be the duty of the Transnational corporations and other business enterprises to respect economic, social and cultural rights as well as civil and political rights and contribute to their realization, in particular the rights to development, adequate food and drinking water, the highest attainable standard of physical and mental health, adequate housing, privacy, education, freedom of thought, conscience and religion and freedom of opinion and expression, and also refrain from actions which obstruct or impede the realization of those rights.

(15) Transnational corporations and other business enterprises should act in accordance with fair business, marketing and advertising practices and shall take all necessary steps to ensure the safety and quality of the goods and services they provide, including observance of the precautionary principle. It is also their duty, not to produce, distribute, market, or advertise harmful or potentially harmful products for use by consumers.

(16) The Government must take steps to change the attitudes of the Multinational Corporation for the benefit of the society. Governments should enact legislation that recognizes, protects and rewards knowledge and innovations derived from traditional knowledge systems and traditional knowledge. In developing these policies and legislation, effort must be made to integrate the customary laws, values and views of the concerned communities. The policies and legislation must set minimum standards for Material Transfer Agreements. This will protect communities from being taken advantage of.

(17) It should be noted that in absence of any binding international instrument it would lead to mismanagement in Multinational Corporations. Therefore, efforts should be made by the International
community (governments, intergovernmental organizations and agencies) to develop a legally binding international instrument that will recognize, protect and reward knowledge and innovations derived from traditional knowledge systems and traditional knowledge. The International instrument is important because the manifestation of traditional knowledge systems, traditional knowledge and indigenous innovations in many instances cut across present day artificial political boundaries. In addition, this will protect countries being pitted against each other and being taken advantage of.

(18) The UNESO and World Intellectual Property Organization (WIPO) Model Provision for National Laws on Protection of Expressions of folklore against illicit exploitation and other prejudicial actions should be used as the starting point in the development of a legally binding international instrument that will recognize, protect and reward knowledge and innovations derived from traditional knowledge systems and traditional knowledge.

(19) World Intellectual Property Organization (WIPO) should play a leading role, in promoting synergy and harmony with other intergovernmental organizations and agencies that are addressing some aspects of recognizing, protecting and rewarding knowledge and innovations derived from traditional knowledge systems and traditional knowledge. This will ensure that unnecessary duplication of efforts is avoided and it will also promote synergy and harmony among ongoing processes.

(20) TRIPS must be revised to make it compatible with the CBD by the infusion of relevant provisions of the CBD. Article 8 of TRIPS should be the basis of this revision. This Article allows for measure to be taken to protect public health and nutrition as well as to promote the public interest in sectors of vital importance for their
socio-economic and technological development.

(21) Transnational corporations and other business enterprises should carry out their activities in accordance with national laws, regulations, administrative practices and policies relating to the preservation of the environment of the countries in which they operate, as well as in accordance with relevant international agreements, principles, objectives, responsibilities and standards with regard to the environment as well as human rights, public health and safety, bioethics and the precautionary principle, and should generally conduct their activities in a manner contributing to wider goal of sustainable development.

(22) Lastly, Transnational corporations and other business enterprises, their officers and persons working for them should be also obligated to respect generally recognized responsibilities and norms contained in United Nations Treaties and other international instruments.

Today globalization, market economy and WTO regime constitute not only order of the day but also they are a fait accompli for a developing country like India which is a Signatory to the WTO agreements. These developing countries have no option other than be fiercely competitive and take advantage of their cheap labour and exploit their rich natural resources to advance their own interests.