The Rohini Kanta Barua Law College was established in the year 1976 as an outcome of a public meeting of the citizens of Dibrugarh held on 20/06/1976 with Shri Pramode Kumar Das, B.L. in the chair as 'Dibrugarh Law College' with the objective 'to create a new avenue at Dibrugarh for imparting legal education. The College is situated in the heart of the Dibrugarh town and is permanently affiliated to Dibrugarh University and approved by the Bar Council of India, New Delhi.

On 04/02/1994, the Dibrugarh Law College was renamed as 'Dr. Rohini Kanta Barua Law College' as late Muktalata Barua wife of Dr. Rohini Kanta Barua.

The Nowgong Law College (NLC), founded in 1970, one of the oldest law colleges in Assam and the only law college in middle Assam, enjoys a pre-eminent reputation for excellence. The College, which has a rich heritage, is the repository of erudition in the legal firmament producing several luminaries who have adorned the benches and bar as well as the academe.

The fulcrum of the college has been its well-qualified and dedicated faculty members who take care of the integrated development of the students so that they can strive towards excellence in their professional life.

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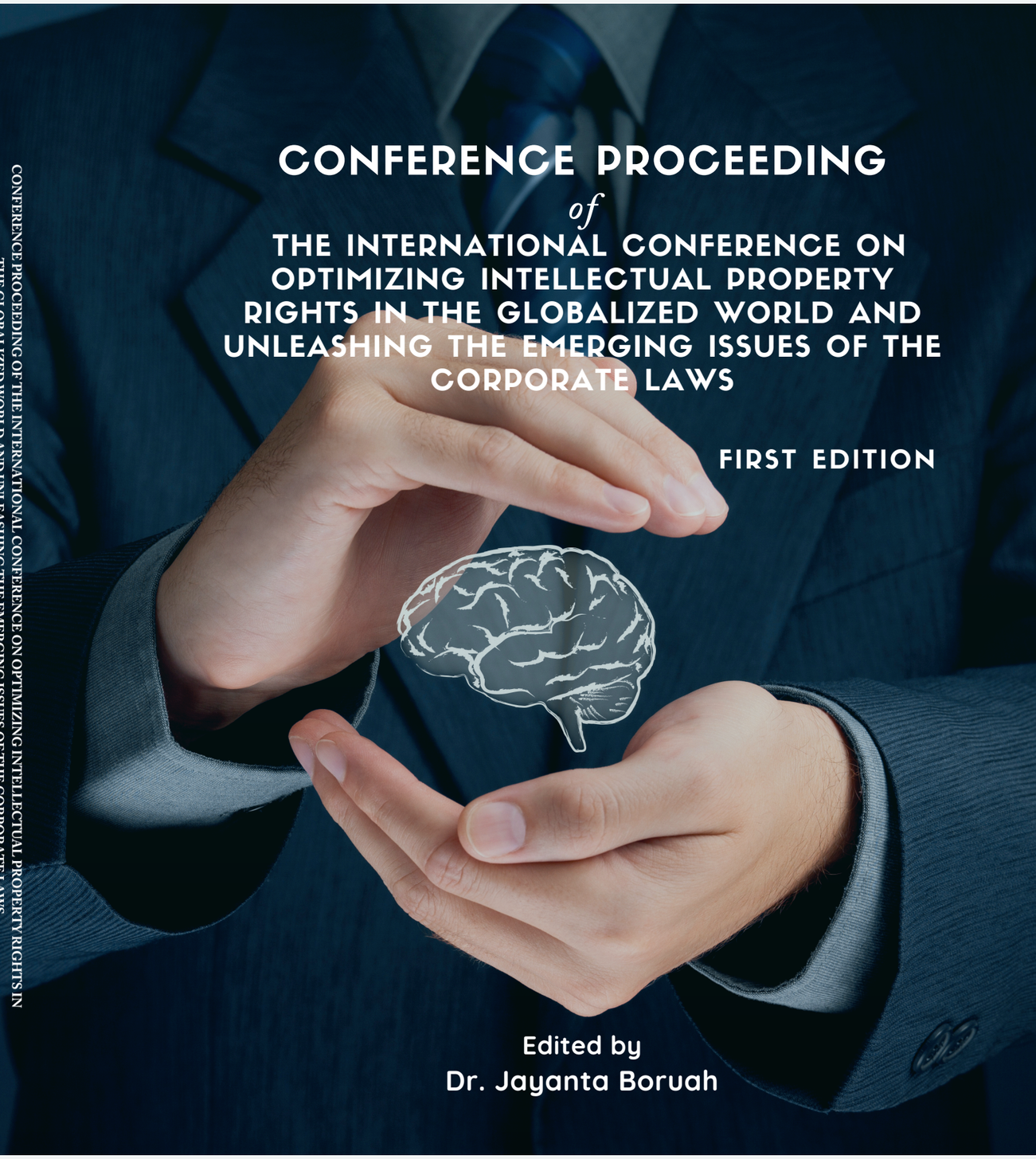
CONFERENCE PROCEEDING OF THE INTERNATIONAL CONFERENCE ON OPTIMIZING INTELLECTUAL PROPERTY RIGHTS IN THE GLOBALIZED WORLD AND UNLEASHING THE EMERGING ISSUES OF THE CORPORATE LAWS

CONFERENCE PROCEEDING

of

THE INTERNATIONAL CONFERENCE ON OPTIMIZING INTELLECTUAL PROPERTY RIGHTS IN THE GLOBALIZED WORLD AND UNLEASHING THE EMERGING ISSUES OF THE CORPORATE LAWS

FIRST EDITION



Edited by
Dr. Jayanta Boruah

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Preface

The International Conference on Optimizing Intellectual Property Rights in the Globalized World provides a timely platform to explore these challenges comprehensively. Our aim is to delve into the complexities of intellectual property regimes across different jurisdictions, examine the implications of emerging technologies such as artificial intelligence, blockchain, and biotechnology on intellectual property protection, and assess the role of international agreements and treaties in harmonizing intellectual property standards.

Moreover, the conference also addresses the intricate interplay between intellectual property rights and corporate laws. As businesses navigate the intricate web of legal frameworks governing intellectual property, corporate governance, mergers and acquisitions, licensing agreements, and competition law, they encounter a myriad of challenges and opportunities. The evolving landscape of corporate laws presents novel complexities, necessitating a nuanced understanding of legal, regulatory, and compliance frameworks.

Against this backdrop, the Conference Proceedings serve as a repository of scholarly research, practical insights, and policy recommendations aimed at enhancing our understanding of intellectual property rights and corporate laws in the globalized world. The papers presented herein reflect a diverse array of perspectives, methodologies, and disciplinary approaches, underscoring the multidimensional nature of the subject matter.

Furthermore, the Conference Proceedings serve as a catalyst for fostering interdisciplinary dialogue and collaboration. By bringing together scholars, practitioners, policymakers, and industry stakeholders, the conference facilitates cross-fertilization of ideas, promotes knowledge exchange, and fosters synergies that transcend disciplinary boundaries.

It is our sincere hope that the Conference Proceedings will serve as a valuable resource for academics, practitioners, policymakers, and students alike, providing a comprehensive overview of the latest developments, trends, and challenges in the field of intellectual property rights and corporate laws. We extend our heartfelt gratitude to all the authors, reviewers, organizers, and participants who have contributed to the success of this conference, and we look forward to continued collaboration and engagement in advancing knowledge and understanding in this critical area.

Editorial

The two glorious law colleges of Assam namely, Dr. Rohini Kanta Barua Law College of Dibrugarh and Nowgong Law College of Nagaon in its joint venture and collaboration with Aequitas Victoria Foundation in pursuit of academic excellence proposed organize the International Conference on 13th and 14th March 2024 after successfully accomplishing the first edition of the joint venture in the form of a National Seminar organized in April, 2022.

The Conference was intended to disseminate awareness on the role of IPR in protecting the rights of the creators/ inventors and thereby act as a catalyst for the expansion of IP in different disciplines of human civilization. It was also intended to create a platform for discussion on the impact of IP in the socio-economic development of a country and thereby stimulate innovations.

At the same time, the dynamics and complexities of the corporate world are ever-increasing. Various factors such as pressure for internalization, competition, technological advancement, disruptive technological intervention in markets, developments in the financial and securities market, changes in consumer demands, etc. have necessitated regular review and amendments in the existing legal framework connected with the corporate world.

So, the organizers hosted the academicians, researchers, professionals, etc. working in different fields of IP and corporate sector to come forward and share their research work having novelty on important issues for the benefit of all.

The Conference was organized in two phase where the first phase was dedicated to discussions on emerging challenges on Intellectual Property Rights (IPR) in the contemporary globalized world and the second phase was dedicated to discussions on the future concerns for business lawyers. The first phase was held on March 13, 2024 and the second phase was held on March 14, 2024.

After the successful conduct of the Conference, some of the papers that were submitted by different professionals from across disciplines were selected, compiled and prepared in the form of a Conference Proceeding titled **"Conference Proceeding of the International Conference on Optimizing Intellectual Property Rights in the Globalized World and Unleashing the Emerging Challenges of the Corporate Laws.** This book is expected to deliver an insight for readers across the globe on various issues that were dealt upon during the 2 Day International Conference.

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REVIEW OF HISTORY AND PROSPECTS FOR THE DEVELOPMENT OF MODERN LEGAL SCIENCE

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Abstract

The article examines the history of education and development of legal science, the relationship between them, the formation of legal consciousness and culture in society and the training of qualified lawyers, and outlines the views of Russian scientists on the features of the legal education system. The necessity of knowing the history of legal education is outlined in order to understand the current trends of this science.

Keywords: History of legal education, development of legal science, systematization of sources of law, modern jurisprudence, legal society, legal system, modern jurisprudence, trends in the development of legal education, socialization

The importance of studying the history of legal education and the development of legal science is determined by a number of factors. First of all, we can talk about a formed legal system only when a complete system of legal education has been created in a certain country. The level of development of legal consciousness in society and the emergence of various types of systematization of sources of law directly depends on the number of specially trained and qualified lawyers. The national system of legal education has a direct impact on the level of development of law, its perception by society, and the activities of all law-making and law enforcement structures. In addition, without legal education there cannot be a full-fledged legal system. The greatest contribution to the formation of the legal system is made by persons who are in constant and direct contact with the legal environment due to their professional duties. Here the decisive influence of the legal education system, aimed at training specialists in the legal sphere of society, is manifested. The features of the legal education system determine the worldview of future legislators and law enforcers, and therefore the characteristics of the entire legal system. Knowledge of the history of legal education and jurisprudence is necessary, first of all, for a better understanding of the trends and main directions of development of modern jurisprudence. To understand the features of modern legal science and the trends in the development of legal education, it is necessary to know how they developed, their characteristics, genesis and what reasons influenced changes in its form and content.

Conceptual evolution of jurisprudence as a science Modern jurisprudence includes a broad context related to the formation and practice of law. Jurisprudence is not just the basis of state legal institutions. The institutions themselves are the embodiment of jurisprudence. The subject of legal science is the knowledge base of jurisprudence, its forms, speech practice and the rules defined in them. The only doctrinally approved definition of the concept of law is "a set of norms of human behavior established for the purpose of protecting, strengthening and developing social relations and practices that are useful and acceptable to the ruling class" [1], sufficient for understanding the role of legal language in the constitution of reality. Legal knowledge exists not only in various historical forms of its expression - mythological, symbolic, rational, but also in various linguistic modalities of its existence and participation in the formation of legal reality. The transition from the empirical form of knowledge to the theoretical form, from the doctrinal form to the conceptual form is a period of conceptual evolution of science, including jurisprudence. It is an integral part of the process of understanding and formation of law (legal proceedings), implementation and application of law. Classical Roman jurisprudence grew

out of legal practice. The period of transformation of empirical constructs into concepts was replaced by a period of transformation of modal concepts into practical constructs.

In modern conditions, the sociocultural and normative development of the language for describing and explaining the phenomenon of law (conceptualization of law) is an integral part of both the process of producing knowledge about law and the process of producing law. "The legal language spoken by law includes its past, present and future. The main problem of modern jurisprudence is to develop a language to describe and explain new phenomena of social, economic and political practice, their corresponding legal competence and practice. The format of dogmatic jurisprudence limits its conceptual development mainly not by the expansion of its subject area and analytical language, but by the modern redefinition of existing concepts in their common formal nomenclature" [2].

The disciplinary structure of legal science reflects the general and specific conceptual foundations of the development of a comprehensive system of legal knowledge. Its organization in the cultural-historical logic and dynamics of the expanding research subject is, in itself, an epistemological problem. The classic subject of jurisprudence is the study of social behavior in various historical systems of legal rules, institutions, and procedures. Domestic legal opinion is more conditional, but nevertheless, due to political conditions that do not depend on the logic of its development, it is divided into three periods - pre-Soviet, Soviet and post-Soviet. The boundaries that separate these stages outside the evolution of legal science are also very blurred, because it is difficult to distinguish paradigm changes in the subject matter and methodological foundations of the science based only on its doctrinal ideas about itself. The language of official dogmatic jurisprudence, which is both the conceptual and normative core of the entire corpus of legal sciences, continues to show itself today and in science, regardless of attempts to systematically introduce new ideas about legal reality into it. continues to dominate. Behind this situation lies an important phenomenon of understanding the normative essence of law. Classical jurisprudence included the archetypal essence of the legal organization of social relations, in the normative nature of social relations, that is, its dogma, which, of course, cannot exclude the search for other equally important socio-cultural foundations. Both the dogma and the cultural-historical context of various forms of its reproduction in social practice are important for legal science. If law is the rules, values, and concepts in their cultural-historical relationship, or the languages spoken in legal practice, then it makes sense to assume that jurisprudence is the science of the system of rules, values, and concepts in their cultural-historical relationship. Or, based on the structure of the general subject, it can be called a complex scientific discipline that includes phenomenology, axiology and epistemology of law.

"The indicator of changes is not only the expansion of the conceptual field of legal science, but also the formation of new scientific disciplines in the system of disciplines that determine its subject-methodological profile" [3]. Along with the sociology and anthropology of law, a research direction is gradually being formed, the subject of which is the development of legal science. The theoretical history of jurisprudence is a new conceptual dimension of the evolution of cultural-historical forms of legal knowledge. "The study of changes in the categories and concepts of legal science or the structure and content of the language of legal sciences in self-reflection in different socio-cultural and conceptual contexts means fundamental changes in its epistemology. Local jurisprudence is still a part of legal science. in the logic of conceptual changes characterizing its development, it is interested in something other than itself as a research subject" [4]. Without dwelling on the actual issue of the conceptual history of legal science, which has its own historiography, it seems possible to dwell on some important aspects of the expansion of its problems, topics and methods due to its inclusion in a wider interdisciplinary context. This is mainly related to translations of works of foreign jurists.

The doctrinal status of the science, scientific language and research tools, which define more what the law and the state mean than the analysis of what to study in the specific logic of the development of historical categories and phenomena, significantly limit the theory itself, its structure. put The development of legal knowledge continued both in terms of content and formality. The first ideas about the state and law were expressed in a special form of legal knowledge - state and law encyclopedias. At a new stage of the conceptualization of legal theory, the format of the encyclopedia of law was presented in the system of "general introductions to legal science", defining the diversity of individual author's versions of understanding the subject matter and methods of the science.

"The new post-Soviet era of the development of the science of law revealed one, but very worrying, situation related to the long-term existence of the science in isolation from the main trends, directions and schools, removing ideological restrictions on science and methodology. Reprinting the works of pre-revolutionary jurists and various fields of legal knowledge, including active translation activities in legal theory. names often hide very insignificant content and legal scholasticism. Memorial dates regularly celebrated in the legal life of our country, roundtable discussions and conferences dedicated to the contribution of jurists of our country to the development of legal science - all this is a legal past and failed are memories of the legal future. The theory of state and law still cannot come out of the conceptual shadow of its Soviet dogmatic existence" [5]. The law should embody the most important values of human existence. In our legal science, the first signs of anthropologicalization of the objects of research appear, the topic of human rights and legal means of their protection takes priority.

Thus, the characteristics of the development of modern legal science are as follows: socialization of modern jurisprudence; conditionality of the directions of development of legal science according to different types of legal understanding; study of integration problems of the development and operation of the legal system; the connection between the development of legal science and the main directions of development and modernization of legal education; increasing the share of comparative legal studies and improving other legal methodologies. The main aspects of the development of legal science in the future include increasing the share of comparative legal research and improving other legal methodologies. Modern comparative law gathers the experience of the existing legal systems of the countries of the world community, not only to apply different options for solving a particular legal problem, but also to examine them historically, to determine the effectiveness of the decision made at the national level by means of comparison, at the same time, it provides an opportunity to assess violations. And this should serve the purpose of solving a specific national legal problem only after the results of studying how this problem is solved in other countries with different legal culture are critically evaluated.

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INTELLECTUAL PROPERTY RIGHTS AND SUSTAINABLE DEVELOPMENT IN THE INDIAN CONTEXT: A COMPREHENSIVE ANALYSIS

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Abstract

This research paper delves into the intricate relationship between Intellectual Property Rights (IPR) and sustainable development in the unique context of India. It aims to provide a comprehensive understanding of the role IPR plays in fostering innovation, economic growth, and environmental sustainability. The paper explores the challenges and opportunities presented by the Indian IPR framework, addressing issues of access to medicines, preservation of traditional knowledge, and the promotion of green innovation. Through an interdisciplinary approach, the study seeks to contribute insights that can guide policymakers, industry stakeholders, and researchers in navigating the dynamic landscape of IPR for sustainable development.

Keywords: Intellectual property rights, WIPO, patents, trademarks, industrial designs, layout design of semiconductor integrated circuit, geographic indications, copyright and related rights.

Introduction

IPR is "the most basic form of property because a man uses nothing other than his brain to produce it," according to Prof. Niblett. The fundamental tenet of intellectual property is that a man ought to be the owner of the creations he makes. He is no more than a slave if everything he creates is taken from him."[1]. Nowadays, consumers use technology and various sophisticated devices, such as smartwatches, smartphones, smart bulbs, and the like, to not only live luxurious lives where they can manage everything with voice control or through their mobile phones, but also to save various resources, like water and electricity.

Background and Significance

Intellectual property rights, or IPRs, provide legal safeguards for works of human ingenuity and invention while also promoting economic growth. Because it guarantees that people and companies can profit from their intellectual achievements, intellectual property rights (IPR) are important because they can incentivize people and corporations to participate in research and development. Trade secrets, industrial designs, patents, copyrights, and trademarks are some examples of these rights. Gaining an understanding of IPR's history and significance is essential to understanding its place in the larger framework of sustainable development.

[1] https://www.journalijar.com/uploads/523_Paper%20-%208.pdf (last visited on 10, February 2024)

Contextualizing IPR in India's Socio-economic Landscape

In the Indian context, the adoption and adaptation of IPR are intertwined with the nation's socio-economic landscape. India, as a rapidly developing country, has witnessed a surge in innovation and creative outputs across various sectors. From traditional knowledge systems to advancements in technology and pharmaceuticals, IPR plays a pivotal role in shaping India's economic trajectory. The socio-economic context includes factors such as the diversity of cultures, the prevalence of traditional knowledge, and the need for inclusive growth, all of which influence the formulation and implementation of IPR policies.

Legal Framework Governing IPR in India

The legal framework governing Intellectual Property Rights (IPR) in India is a comprehensive system that encompasses various statutes and regulations to protect and regulate intellectual creations. The primary laws governing IPR in India include:

1. **The Patents Act, 1970:**
    - Regulates the grant and revocation of patents.
    - Defines the criteria for patentability, including novelty, non-obviousness, and industrial applicability.
    - Allows for the filing of both product and process patents.
    - Provides for compulsory licensing in certain circumstances to ensure access to essential inventions.
2. **The Copyright Act, 1957:**
    - Governs the protection of literary, artistic, musical, and dramatic works.
    - Grants creators exclusive rights to reproduce, distribute, perform, and display their works.
    - Sets the duration of copyright protection and outlines exceptions, such as fair use.
3. **The Trade Marks Act, 1999:**
    - Regulates the registration and protection of trademarks.
    - Defines the types of trademarks, including names, logos, and symbols.
    - Establishes the process for trademark registration and protection against infringement.
4. **The Designs Act, 2000:**
    - Governs the registration and protection of industrial designs.
    - Defines the criteria for design registration, including novelty and originality.
    - Grants exclusive rights to use the design for a specified period.
5. **The Geographical Indications of Goods (Registration and Protection) Act, 1999:**
    - Provides for the registration and protection of geographical indications (GIs).
    - Ensures that products originating from a particular geographical area possess unique qualities.

- Prevents unauthorized use of GIs, protecting the reputation and quality associated with specific regions.

6. **The Semiconductor Integrated Circuits Layout-Design Act, 2000:**
    - Regulates the protection of layout designs of integrated circuits.
    - Grants exclusive rights to the creators of original layout designs.
    - Provides remedies for infringement and unauthorized use.
7. **The Protection of Plant Varieties and Farmers' Rights Act, 2001:**
    - Governs the protection of plant varieties and the rights of farmers.
    - Encourages the development of new plant varieties and protects the rights of breeders.
    - Balances the interests of farmers and plant breeders, ensuring fair compensation for both.
8. **The Biological Diversity Act, 2002:**
    - Ensures fair and equitable sharing of benefits arising from the use of biological resources.
    - Regulates access to biological resources and associated traditional knowledge.
    - Promotes the conservation of biodiversity and sustainable use of biological resources.
9. **The Information Technology Act, 2000:**
    - Addresses issues related to digital technology and cybercrimes.
    - Provides legal recognition to electronic records and digital signatures.
    - Includes provisions to protect intellectual property in the digital domain.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Convention on Biological Diversity (CBD) are just two of the international accords and treaties pertaining to IPR that India has ratified. As a component of the World Trade Organization (WTO) accord, TRIPS lays forth the minimal requirements for the defense and upholding of intellectual property rights in participating nations. Through national laws and regulations, India has put the TRIPS agreement into effect. Protecting traditional knowledge linked to biodiversity is one of the CBD's many goals. Another is promoting the preservation and long-term utilization of biological diversity. In addition, the government has ratified a number of international IPR-related accords and treaties, indicating its dedication to fostering innovation and preserving cultural heritage. To ensure that the public has access to these breakthroughs and to foster innovation and economic progress, ongoing efforts to enforce and strengthen the legal environment are still necessary.

Challenges in Implementing IPR in The Context of Sustainable Development

Implementing Intellectual Property Rights (IPR) in the context of sustainable development faces several challenges, reflecting the tension between protecting intellectual creations and promoting broader societal goals. Understanding these challenges is crucial for developing policies that strike a balance between fostering innovation and addressing sustainable development objectives. Here are some key challenges:

1. **Access to Medicines:**
    - **Patent Protection and Healthcare Costs:** Stringent patent protection in the pharmaceutical sector can lead to high drug prices, limiting access to essential medicines for the economically disadvantaged.
    - **Compulsory Licensing and Public Health:** Balancing the need for affordable medicines with the rights of patent holders requires navigating the complexities of compulsory licensing, which may be resisted by pharmaceutical companies.
2. Preservation of Traditional Knowledge:
    - Conflict with Existing Systems: Protecting traditional knowledge within the IPR framework can be challenging due to the clash between Western-centric intellectual property concepts and the communal, collective nature of traditional knowledge.
    - Biopiracy and Unfair Commercialization: Traditional knowledge is vulnerable to biopiracy, where foreign entities exploit indigenous knowledge for commercial gains without fair benefit-sharing.
3. Balancing Economic Interests with Environmental Sustainability:
    - Green Technology and Patent Monopolies: The pursuit of green technology may be hindered by patent monopolies, limiting the dissemination of eco-friendly innovations and hindering environmental progress.
    - Trade-offs in Agriculture: Balancing the need for crop diversity and food security with the patenting of genetically modified organisms raises concerns about seed monopolies and farmer dependence on specific varieties.
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- Trade-offs in Agriculture: Balancing the need for crop diversity and food security with the patenting of genetically modified organisms raises concerns about seed monopolies and farmer dependence on specific varieties.

8. Capacity for Regulation and Enforcement:
    - Restricted Enforcement Resources: Fighting piracy, counterfeiting, and other kinds of intellectual property infringement may be difficult in many poor nations due to a lack of resources for enforcing IPR laws.
    - Lack of Education and Awareness: Inadequate IPR knowledge and awareness among stakeholders, including companies and the general public, can make enforcement and compliance more difficult.

Potential Benefits of IPR in Promoting Sustainable Development

Intellectual Property Rights (IPR) can play a crucial role in promoting sustainable development by fostering innovation, economic growth, and addressing global challenges. Here are some potential benefits of IPR in the context of sustainable development:

1. **Incentivizing Innovation and Research:**
    - **Encouraging R&D Investments:** IPR provides inventors and innovators with exclusive rights to their creations, incentivizing them to invest time, resources, and capital in research and development.
    - **Technological Advancements:** By protecting inventions, IPR fosters the development of new technologies and solutions that can contribute to sustainable development goals, such as clean energy, water conservation, and waste reduction.
2. **Economic Growth and Job Creation:**
    - **Attracting Investments:** A strong IPR framework attracts domestic and foreign investments, stimulating economic growth and creating employment opportunities.
    - **Fostering Entrepreneurship:** IPR protection empowers entrepreneurs to commercialize their innovations, leading to the establishment of new businesses and industries.
3. Incentivizing Innovation and Research:
    - Encouraging R&D Investments: IPR provides inventors and innovators with exclusive rights to their creations, incentivizing them to invest time, resources, and capital in research and development.
    - Technological Advancements: By protecting inventions, IPR fosters the development of new technologies and solutions that can contribute to sustainable development goals, such as clean energy, water conservation, and waste reduction.
4. Economic Growth and Job Creation:
    - Attracting Investments: A strong IPR framework attracts domestic and foreign investments, stimulating economic growth and creating employment opportunities.
    - Fostering Entrepreneurship: IPR protection empowers entrepreneurs to commercialize their innovations, leading to the establishment of new businesses and industries.

However, it is important to ensure that IPR is used in a way that balances the interests of creators and innovators with the broader public interest in promoting sustainable development.

Strategic Approaches for Advancing Sustainable Development through Intellectual Property Rights in India

Promoting sustainable development through Intellectual Property Rights (IPR) in India requires a multifaceted approach that balances innovation with social, economic, and environmental

considerations. One key strategy involves aligning IPR policies with sustainable development goals, ensuring that patent laws and regulations incentivize green technologies, clean energy solutions, and environmentally friendly innovations. Collaboration between the government, private sector, and research institutions is essential to encourage the development and dissemination of sustainable technologies. Additionally, measures such as providing incentives for research in critical areas like renewable energy, water conservation, and waste management can accelerate progress. Balancing the need for IPR protection with mechanisms that ensure access to essential medicines and the fair sharing of benefits from biological resources is crucial. Strengthening awareness and education programs to enhance understanding of IPR among stakeholders, including indigenous communities, entrepreneurs, and the public, is equally important. Lastly, fostering international collaboration and harmonization of IPR standards can facilitate technology transfer and knowledge exchange, enabling India to leverage global expertise in its sustainable development initiatives. By implementing these strategies, India can harness the power of IPR to drive innovation, economic growth, and environmental sustainability, contributing significantly to the nation's overall sustainable development agenda.

Recommendations

Certainly, recommendations for advancing sustainable development through Intellectual Property Rights (IPR) in India include:

1. Harmonize Policies:
    - Streamline and harmonize IPR policies to align with sustainable development goals, fostering an environment that encourages innovation in areas crucial for environmental and social well-being.
2. Incentivize Green Technologies:
    - Introduce incentives and rewards within the IPR framework for the development and adoption of green technologies, promoting sustainable practices in industries ranging from energy to waste management.
3. Encourage Research in Critical Areas:
    - Provide targeted funding and incentives for research and development in critical areas like renewable energy, water conservation, and sustainable agriculture, ensuring a focus on solutions that address pressing environmental challenges.
4. Facilitate Collaboration:
    - Foster collaboration between government bodies, private sector entities, and research institutions to promote the development, dissemination, and implementation of sustainable technologies and practices.
5. Balance Access and IPR Protection:
    - Continue efforts to strike a balance between protecting intellectual property and ensuring broad access to essential goods, especially in the healthcare sector, through mechanisms like compulsory licensing and fair benefit-sharing.
6. Enhance Education and Awareness:
    - Strengthen educational programs to raise awareness and understanding of IPR among various stakeholders, including indigenous communities, entrepreneurs, and the general public, ensuring a more informed and engaged society.

7. Create Specialized Support Programs:
    - Establish specialized support programs and funding mechanisms for startups and small enterprises engaged in sustainable innovation, fostering a culture of entrepreneurship and green business practices.

These recommendations collectively aim to create an IPR ecosystem in India that not only protects intellectual property but also actively contributes to the nation's sustainable development goals, fostering innovation, economic growth, and environmental stewardship.

Conclusion

In India, the protection of intellectual property rights (IPR) is essential to the advancement of sustainable development. Recognizing the value of intellectual property rights (IPR) in accomplishing its development objectives, the nation has put in place a number of laws and programs to promote innovation and safeguard intellectual property. India has also taken action to make sure that intellectual property rights (IPRs) do not constitute a barrier to accessing necessary medical treatments and technology, especially for the underprivileged and vulnerable segments of society. In spite of the advancements, issues pertaining to intellectual property rights and sustainable development remain in India. These include enhancing the efficiency of IP rules and regulations, fortifying enforcement protocols, and encouraging a heightened level of public knowledge and comprehension regarding intellectual property rights.

All things considered, encouraging innovation, generating economic opportunities, and accomplishing sustainable development objectives in India depend on the incorporation of IPR into sustainable development policies and plans. A bright and sustainable future for everybody will depend on the efficient management of intellectual property rights (IPR) as the nation develops and encounters new obstacles.

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COMPATIBILITY BETWEEN THE COMPETITION POLICY AND THE EXCLUSIVE ECONOMIC RIGHTS (IPRS): A SHARED BOUNDARY BY THE COMPETITION COMMISSION AND THE IPR REGULATORY BODIES

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Abstract

Intellectual Property Rights protection fosters innovation benefiting the consumers through the development of new and improved goods and services. Competition law basically promotes competition in the market by preventing anti-competitive trade practices having adverse effect on competition in the market. The IPRs and competition policy are like two poles of a magnet that repel each other. The issues are that whether the objectives of both the policies are conflicting or they also have some complimentary elements and, how IP rights holders can exercise their exclusive rights (virtually monopolies) within the confines of competition law. The problem starts when on any innovation, the exclusive property rights are given and the rights holder starts abusing his dominance/monopoly. As, in competition law, dominance *per se* is not bad but, abuse of dominance is prohibited. Abuse of dominance includes the improper exploitation of monopolistic control of the market like imposing unfair conditions, restricting production, price squeezing, predatory pricing etc. The Competition Act, 2002 recognizes the exclusive rights but strikes at the abuse of such rights.

Key words: competition policy, intellectual property rights, abuse of dominance.

Introduction

Competition in economics is a condition that is present in markets where buyers and sellers interact to establish prices and exchange goods and services. Society is served when the maximum number of goods is produced at the lowest possible prices. Competition puts businesses under constant pressure to offer the best possible range of goods at the best possible prices, because if they don't, consumers have the choice to buy elsewhere. In a free market, business should be a competitive game with consumers as the beneficiaries. Sometimes companies try to limit competition. To preserve well-functioning product markets, authorities like the Competition Commission must prevent or correct anti-competitive behaviour. Intellectual property (IP) is a legal concept which refers to creations of the mind for which exclusive rights are recognized. An Intellectual Property Right (IPR) is an intangible right protecting commercially valuable product of the human intellect; it may comprise patents, copyrights, trademarks and other similar rights. Though there is no general conflict between the two, but when the exclusive rights are being abused to maximize the profits to the detriment of consumers, then the interface starts. The paper analyses the IPR induced dominance and abuse which is prohibited under competition law. Legal provisions and secondary data have been used to analyse the issue.

Intellectual Property Rights (IPRs)

Intellectual property (IP) is a legal concept which refers to creations of the mind for which exclusive rights are recognized. An Intellectual Property Right (IPR) is, according to Black's Law Dictionary, an

intangible right 'protecting commercially valuable products of the human intellect'; it may comprise patents, copyrights, trademarks and other similar rights. The IPR includes the right to exclude others from exploiting the non-corporeal asset. Common types of intellectual property rights include copyright, trademarks, patents, industrial design rights and in some jurisdictions trade secrets. The main reason why an IPR is granted is to give an incentive for innovation, research and investment. Absent the IPR protection, other firms would be able to take a free ride on the R & D investment made by the inventor firm. In a sense, IPRs also create competition in innovation. Competition in innovation is regarded to be more important than competition from someone providing the same product in the same way.

The purpose of intellectual property law is to promote innovation and productive knowledge creation. The legal exclusivity granted by intellectual property rights reduces transaction costs, fosters dissemination of knowledge and stimulates investment in valuable ideas in a decentralized fashion consistent with the fundamental principles of market economies.

Relation between Competitions Policy and IPR

Intellectual property rights (IPR) and competition policy, or antitrust policy, are intimately related. An essential aim of intellectual property law is to reward innovation and creation through the granting of exclusive monopoy rights to utilize a new invention, new information or a cultural good. In most situations the exercise of those rights is not likely to interfere with competition, for there are liable to be numerous competing products on the market. Thus, in essentially competitive economies the granting of most patents, copyrights, and trademarks amounts to a thin wedge of market power that is unlikely to harm consumers. On the contrary, IPR can enhance dynamic competition by inducing investments in new processes and differentiated products.

There are certain unique features of IPR which must be borne in mind by competition agencies. Prominent among them are:

1. Though costing a great deal to produce, an IPR can be applied at very low marginal cost, i.e. a price above marginal cost is not indicative of market power;

2. IPR can be easily misappropriated through unauthorized copying or use so owners will seek to protect themselves in ways that could tangentially restrict competition; and

3. IPR often must be used in combination with other IPR, and the agreements required to expedite this should be analysed under the more liberal competition policy standard typically applied to vertical as opposed to horizontal agreements.

Indian Competition Act, 2002 and the IPRs

The competition policy can succinctly be defined as those government measures that directly affect the behavior of enterprises and the structure of industry. The objective of the competition policy is to promote efficiency and maximize welfare.

Section 3 (5) (i) of the Competition Act, 2002 deals specifically with IPR laws. According to this section, any agreement entered into between the parties for imposing reasonable conditions or restraining infringement of IPRs conferred under respective IPR laws would not be actionable under the Competition Act. But, if the restrictions imposed are anti-competitive, action may be initiated under the Competition Act.

Section 3 (5) (i), of the Competition Act, 2002

(5) Nothing contained in this section shall restrict—

(i) the right of any person to restrain any infringement of, or to impose reasonable conditions, as may be necessary for protecting any of his rights which have been or may be conferred upon him under—

(a) the Copyright Act, 1957 (14 of 1957);

(b) the Patents Act, 1970 (39 of 1970);

(c) the Trade and Merchandise Marks Act, 1958 (43 of 1958) or the Trade Marks Act, 1999 (47 of 1999);

(d) the Geographical Indications of Goods (Registration and Protection) Act, 1999 (48 of 1999);

(e) the Designs Act, 2000 (16 of 2000);

(f) the Semi-conductor Integrated Circuits Layout-Design Act, 2000 (37 of 2000);

IPR induced Dominance and Abuse

IPRs, by their very nature, create a form of monopoly or, in other words, a degree of economic exclusivity. The creation of that legitimate exclusivity, however, does not necessarily establish the ability to exercise market power. Even in case it does confer market power, that dominant position in the market does not by itself constitute an infringement of competition law nor does it impose on the IPR holders the obligation to license that property to others. Besides, competition authorities are normally concerned with the abuse of the dominant position, whatever the source of such dominance, rather than with any abuse of IPRs. Abuses of dominance would be applicable when specifically abusive conduct was involved, such as the arbitrary refusal to supply spare parts to independent repairers, setting prices at an unfair level or terminate the production of spare parts for a particular model. Other cases of IPRs-related abuse of dominance include:

Monopoly/excessive pricing: This is rarely a serious competition concern in developed countries due to the abundance of market substitutes. In developing countries, because the number of available substitutes may be more limited and because most IPRs-protected products are owned by foreign interests, monitoring to discipline monopoly pricing practices by IPRs holders is of greater significance.

Restrictions on end users: IPR holders may also impose restrictions on downstream firms that are intended to give unfair advantages over subsidiary firms or their own downstream activities. One way through this can be done is refusal to licence. This could occur where another firm come up with an innovation that cannot be used without access to the original patent.

Refusal to deal: A widely accepted premise of IP laws is that IP holders are under no obligation to license subject matters protected to others. This principle is generally held to be true even when a firm is in possession of a monopolistic position in a market as a result of its ownership of IP. An early non-antitrust decision by the US Supreme Court stated that the ability to exclude competitors from the use of a new patent .may be said to have been of the very essence of the rights conferred by the patent, as it is the privilege of any owner of property to use or not to use without question of motive.

Tied sales: Tied sales means when the seller mandates that if the buyer want to purchase a specific good, he have to purchase another good which is tied with the sale of the intended good. Tie-in arrangement includes any agreement requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods. It is the condition where the buyer is forced to buy a product which he does not wants to purchase. Tie-in generally deemed per se unlawful if:

- It involves two separate products and services.

- The seller has market power in the tying product and has the ability to extend this market power in the tied product, due to favourable market conditions like high entry barriers.
- The arrangement has an adverse effect on competition in the relevant market for the tied product.
- Efficiency justifications for the arrangement do not outweigh the anti-competitive effects.

In the case of *Mahyco-Monsanto,*[2] which prove that this subject deserves more attention than it has received in the past. In this case, Mahyco-Monsanto was found guilty of price gouging (pricing above the market price when no alternative retailer is available) in a Bt cotton case filed by the Andhra Pradesh Government and some civil society organisations before the Monopolies and Restrictive Trade Practices Commission of India. Mahyco–Monsanto was charging an excessively high royalty fee for its Bt gene, which made the seed too expensive for the farmers. As there was no competition due to their IPR on Bt cottonseeds, Mahyco-Monsanto had a monopoly and had acted arbitrarily.

In *Bayer Co. v. Natco Pharma*, *Natco Pharma*[3] was given compulsory licence by the Intellectual Property Appellate Board for the cancer medicine invented & patented by the *Bayer co.* which was selling it for Rs. 2,80,000 per month in India. *Natco* applied for the licence to the inventor company but was refused to grant licence to make and sell the medicines in India.

The Board granted the licence so that the patients of cancer can be benefitted by the drug. The Board observed: "*Crisis of public health are more likely to cause such situations. Another fact that has to be remembered is that, in the case of pharmaceutical inventions more than any other invention, the requirement will not fluctuate because of the non-affordability of the invention. Regardless of however steeply priced the invention is, people will fall victim to RCC and HCC. The need/requirement is not dependent on the cost of the treatment. Disease like death is a great leveller. The Act talks of reasonable affordability to the public, not affordability exclusively to the members of a special list... therefore, the need to enable access to this drug irrespective of where the patient comes from assumes importance..... the right of access to affordable medicine is as much a matter of right to dignity of the patients*".[4]

The compulsory licence given to *Natco Pharma* to produce the drugs for cancer within the affordability of the people was a right decision by the IP Board. It neither diminishes the IPR law nor the competition law. The licence was issued on the pretext of public interest or welfare of the people as the drugs were too costly. It is within the scope of the competition policy and law as the inventing company was not giving licence and had abuse of the patents or dominant position.

Conclusion

The simple hallmark of competition law is the protection of those principles and practices which enable the efficient functioning of markets. A natural concomitant to this objective is making certain that incumbent enterprises do not engage in anticompetitive practices to the detriment of the market. The creation of this prima facie "inherent tension" is due to IPR holders being granted statutory rights to essentially control access to the intellectual property and charging monopoly rents for the use of the IPRs—something apparently in conflict with competition law, which attempts to curtail such market power. It is now usually accepted that the competition law is a public interest law designed to regulate

[2] CCI. (2015). Case No. 02/ 2015, Case No. 107/ 2015, Case No. 03/ 2016, Case No. 01/ 2016, Case No. 10/ 2016, Competition Commission of India (CCI).
[3] (2014) 60 PTC 277.
[4] *Id.*

the exercise of economic power and that the two regimes are not so much at loggerheads as they pursue the goals of consumer welfare and encouraging innovation through different means. Striking the balance involves walking the tightrope between over- and under-protection of innovators' efforts—not compromising on a sufficient incentive for the innovator but also ensuring that follow-on invention is not delayed and consumers are not victimized for unnecessarily long periods by high prices.

SOCIO-ECONOMIC BENEFITS AND GI PROTECTION ON TRADITIONAL WEAVERS OF SHANTIPORE SAREE IN WEST BENGAL

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Abstract

India is known for its oldest civilization with its rich culture and tradition with special emphasis toward handicraft. Innumerable crafting communities invest their labour and merits for generations to create aesthetic and artistic handicrafts that both reflect their intellectual inputs on one hand and represent their community life styles on the other. Handloom is the second largest sector next to agriculture in India. It primarily engages with fabrics and saree manufacturing process. The focus of this research is on the socio-economic benefits and Geographical Indication protection of Traditional Weavers on Saree Manufacturing in West Bengal. The paper revolves around three questions concerning the socio-economics benefits of weaver and the role of Intellectual Property (IP) protection through GI Tag, of the Shantipur Saree in export, sales and marketing strategies along with the impact of societal growth and livelihood opportunities. It further examines the influence of GI tag on development of Shantipur Saree and discusses the current scenario of the Traditional Weavers in Shantipur. The paper evolves to highlight the policy interventions required to make the situation better for the traditional weavers through the Shantipur experience.

Keywords: Geographical Indication, Shantipur Saree, Traditional Handloom saree, Intellectual Property Rights.

Introduction

Now-a-days, Intellectual property occupies a prominent position in the economic and social life of society. In India, after agriculture, the textile sector has historically produced a significant amount of employment opportunities for both skilled and unskilled people. India is the second-largest exporter of clothing and textiles in the world and its exports were US$ 44.4 billion in the fiscal year 2022. [5]

This sector of complex crafts is a representation of India's ancient traditions and diversified and fascinating culture. Indian handlooms have a long history and are highly regarded around the world for their innovative styles, creativity, and knowledge. The long-standing Indian custom & tradition of hand looming is commemorated on 7th August as Handloom Day in remembrance of the nation's first Swadeshi movement. The handloom industry's strength resides in its distinctiveness, adaptability to changing market demands, innovative designs and weaves to enriched India's rich legacy. One of the pillars of the Indian economy is the clothing and textile industry. The second-largest producer of fibre is India. The nation is the biggest producer of jute and cotton in the world. Additionally, India is the second-largest silk producer in the world. Wool and synthetic fibres are among the additional materials manufactured in India. In the textile industry, 100% FDI is permitted via automated channels. Among

[5] "Textile Industry in India, Leading Yarn Manufacturers in India". India Brand Equity Foundation. Retrieved 11 August 2022.

the international textile businesses with investments or operations in India are Rieter, Trutzschler, Saurer, Soktas, Zambiati, Bilsar, Monti, CMT, E-land, Nisshinbo, Marks & Spencer, Zara, Promod, Benetton, and Levi's. India exported textile goods worth Rs 1.77 lakh crore between January and July 2021, 52.6% increase over the same period the previous year.[6] According to a report, the long-term positive outlook for the Indian economy and a strong focus on emerging areas like technical textiles, home furnishings, specialised fabrics, and fashion apparels could propel the market for Indian textile and apparel manufacturers to the $ 350 billion mark by 2030.[7]

The National Textile Policy was enacted by the Indian government in 2000. Formulating policies, coordinating the man-made fibre, cotton, jute, silk, and wool sectors, decentralising the power loom sector, increasing exports, planning and economic analysis, financing, and encouraging the use of information technology are among the Ministry of Textiles' primary responsibilities.[8] The All-India Handlooms Board, the All India Handicrafts Board, the All India Power Looms Board, the Advisory Committee under the Handlooms Reservation of Articles for Production, and the Coordination Council of the Textiles Research Association are among the advisory bodies for the ministry. Across the nation, there are several textile research associations and public sector organisations.[9]

Literature Review

Geographical Indications is an outstanding class of intellectual property rights having the fundamental characteristics of aggregate possession, connecting an item with its place of starting point and makers of products.

- Dev Gangjee, in his book, is mainly about the cause of GI insurance and the procedure by which they have developed as a particular classification of the topic inside the universal Intellectual Property (IP). In this book, he explained the evolution of GI and also about various International Agreements. The book gives an understanding of the protection given earlier and after TRIPS.[10]
- Dr R. Rangneka went above and beyond and has broken down the different concerns like the distinction in extent of protection, cost concerns partner with actualizing GI augmentation. Finishing up his examination, the creator featured the requirement for additional investigation corresponding to the development of GI.
- The work by Vandana Singh in "The law of Geographical Indication: Rising above the Horizon" gives an unmistakable thought regarding GI and about the laws identifying with GI in different nations. This book manages the GI Act in India.[11]
- In work done by V.K. Ahuja in "Protection of Geographical Indications: National and International Perspective" deal with how GI is protected on an international level and national level.
- Kundan Kishore (2018) in the sight of author Most of the GI are associated with rural areas so we have built the brand image, make more popular by effective propaganda and advertisement strategies for profitability. In many cases benefits of GI are been gained mainly by the intermediaries. For such activities strong regulations should be implemented.

[6] Ministry of Textiles, Annual Report <https://texmin.nic.in/documents/annual-report > accessed on 28th February 2024
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- Avin Thaliath and Anson K.J Anson K.J (2014): Here author mentions that most of the respondents do identify handicrafts as an important aspect of a region's culture and are willing to improve the conditions of dying handicrafts, if they are made more aware about it and can easily avail it.
- Soumya Vinayan states that the collective monopoly of GI renders its greater potential and contributes to reduce the poverty and boost-up the financial conditions of the people who involved in this type of business. Nevertheless, GI faces the series of hurdles in implementation of effective marketing and sales of the GI products and services.
- Alam et. al stated that Plants have a dominant role regarding the raw materials of different GI registered goods. It has been revealed that 22 different types of products of West Bengal were registered and received GI tag and majority of the products are from Handicraft goods (50%) such as Nakshi Kantha, Santiniketan Leather Goods, Shantipur saree etc.

Methodology

In order to understand the impact and legal protection of GI Tag on Shantipur Saree, comprehensive interviews were conducted with some of the registered artists and manager of Co-operative Society, for establishing an analysis of the implementation of the legislative framework of GI in India. Question based information were taken from the participants through interview. The Shantipuri handloom saree were selected as case study because of its 300 years handicraft origin primarily practised by men. This research also comprises to understand the socio-cultural impact on the lives of artists, in addition to developing an understanding of the economic benefits of a GI protection. Field visits were also conducted in the village clusters in Shantipur under Nadia districts of West Bengal, an eastern Indian state, where these art forms are practised. The interviews provided a better understanding of the practicalities of the implementation of this law. In particular, the interviews gave artists an opportunity to voice the constraints they face in complying with the law. It also provided them with an opportunity to speak frankly about the challenges they face in selling their works in local and international markets and to what extent the GI protection for each of these artworks has promoted their art to provide them with a sustained source of income.

Data Collection

Here, I used to one-by-one interview by choosing their GI registration Id and location. So, these types of sample technique called Clustering sampling. The artisans bearing government registration were interviewed in the Kutirpara area of Shantipur through questionnaire by visiting the Artisans place where they manufacturing the Shantipuri saree Art products. I collect the primary data by using survey methods and prepared the instrument for data collection is making questionnaire for interviewing gather information. The information related to Shantipur Saree GI Tag facilities and socio-economic benefits of traditional weavers. In order to registering the Shantipur Saree as GI product, the impact, legal protection and the weaver's livelihood of Shantipur areas in West Bengal. A total of 30 weavers bearing government registration were interviewed in the Kutirpara area of Shantipur, among which Mr. Swadesh Pramanick (The officiating manager of the Kutirpara co-operative society) provided some significant information on various aspects of marketing strategies, business turnover and government initiatives. The information thus gathered was analysed for investigating economic benefits and GI protection of the tradition weavers from their Shantipuri saree artwork.

Origin of Shantipur Saree Art Form

In the Bengali heartland of Shantipur-Phulia, one of the most gorgeous cotton and silk weaves may be discovered. This centuries-old tant (traditional Bengali saree) is known as Shantipuri, and it gets its name from Shantipur in the Nadia area. They have a history of more than 300 years of craft work

which produces Shantipuri tant in this area. The handloom fabrics made in Shantipur in the late 19th century were woven on throw shuttle pit looms from hand spun cotton yarn.[12]

The introduction of barrel dobby by Shri Darga Das Kastha between 1920 and 1925 sparked the transition to shuttle flight. The introduction of the jacquard machine by Shri Debendra Nath Mukherjee enabled for additional designs to be used on the saree as the weavers were getting used to this technique. In order to produce numerous varieties of Shantipur sarees, Shri Jatindra Nath Lohori established a 100-hook capacity jacquard in the 20th century. The Kutirpara Co-operative Society came into existence in the year 16th Dec 1944. Most of the weavers under this society are working from time span of 20-40 years where they have inherited the work from their father and Grandfathers.



Fig 1. Shantipuri saree Artwork

At first, the weavers produced dhotis and sarees, but the widespread demand for sarees in Bengal and throughout India highlighted the enormous talent and potential of these weavers. Shantipur handloom fabrics have long been recognised for their innovative designs, hand-spinning method utilising extra weft (crosswise strands), vibrant colour patterns and combinations, and incredibly thin fabric. Cotton and silk are the typical materials used to make this saree. These days, the extra warp (lengthwise threads) in the borders is made of muga, twisted cotton, zari, gold, and silver. Among the diverse designs woven in varied colours are sada, rangeen, dure, sarbasundari, kharkemoti, sinduri, chaurangi, tashkhupi, choukhupi, chakaram, and ayanakhupi. The weavers use sana (reed), which leaves its own imprint on the saree, to double the thread count. The quality of the saree is smoother and glossier the greater the thread count. When making the final adjustments, the weavers typically avoid removing the reed mark from the saree. Chandmala, Taj Kalka, Kaldungri, Nilambari, Vomra, Kaldumri, Dorokho (double-sided design), Ganga Yamuna, Terchi, Gont, Anspar, Mourpar, Rajmahal, Bhomra, Vishwabharati, Brindamani, and Benkipar are just a few of the different types of Shantipur sarees.

Gi Awareness of Traditional Weavers

Awareness program in the form of workshop, seminar have been organised from the Directorate of Textile & handloom, Government of West Bengal. Where weavers from the society have participated.

[12] Evolution of legal protection of geographical indications, https://shodhganga.inflibnet.ac.in/bitstream/10603/14514/11/10_chapter%203.pdfAccessed on 25th May 2023.

The importance of GI was explained to the weavers and the society had applied for the registration in 2009. To apply for the GI registration, it is important to provide document which can exemplify that the local craft work has a history of at least 300 years. The process occurs through the submission of documents to the Directorate of Textile and Handloom.

Competitor in the nearest region is in Fhulia which produces Tangail saree. The artisan community in the region have settled as immigrants from Bangladesh. However, they have not received GI registration as the origin Tangail work belongs to Bangladesh and they have received the GI in their country. competitor in the nearest region is in Fhulia which produces Tangail saree. The artisan community in the region have settled as immigrants from Bangladesh. However, they have not received GI registration as the origin Tangail work belongs to Bangladesh and they have received the GI in their country. There have been attempts to provide the work legal protection because of the Shantipuri sari's artistic and cultural importance inside the state and its ability to strengthen the state. According to what we learned from our interviews, no one told the males of Shantipur and the surrounding villages of its GI status for a long time. However, as the embroidery design gained popularity over time, they eventually became aware of its GI tag.[13]

Shantipuri Sari and Its Role for the Artists

The Shantipuri form was historically practised in rural homes, but with the GI registration commercial exploitation of this art form started. The interviews also showed that even though the state government had submitted the application on the artists' behalf, their involvement in the submission was minimal. The GI tag to Shantipuri art has made it the perfect tool for helping the local craftspeople, who were living in poverty but were unable to leave their houses due to social norms. Each man can earn between INR 3000 to INR 5000 (US $35-$60) per month for an average of 5 to 6 hours of work per day. The amount each man makes depends on the skill, craftsmanship, and work they complete. The goods are outsourced inside the state or any other forum. However, the GI designation hasn't done anything to improve these products' exports or accessibility to foreign markets. As a result, their income sources have remained modest. The above-mentioned amounts of money that the artists make each month are barely enough to cover their monthly costs, and they are unable to build any savings. A couple of the artists who were interviewed claimed that while they could rely on this art form to provide a portion of their income, it was insufficient to cover all of their demands. One of the main causes of this inadequacy, as stated by the interview subjects, is the absence of official backing for actively marketing their artworks in public forums.

Impact of Shantipur Saree: Limitations

The artists disclosed that over time, the government's strategic and administrative support which included grants and sponsorships for showing their works in local and national trade fairs has either decreased or been discontinued. As a result, many artists find that getting a GI registration alone does not guarantee enough support for their work. The lack of adequate and supportive advertising and marketing techniques that would allow for better market access and, consequently, better sources of income from their artwork.

During the course of this study, governmental support, whether from the state or the central government, or its regulatory bodies, has remained limited to providing logistical and strategic support for filing the application, on behalf of the artists, and securing registration, as stated by the artists based on their experience. In addition, governments anticipate that artists will use the GI tag to market and sell their own works independently in order to generate cash and subsequently support themselves.

[13] Laurence Bérard Philippe Marchenay, From Localized Products to Geographical Indications Awareness and Action, 1, 22

While the Shantipuri artisans have been able to do this to some extent by their own efforts, it is challenging to survive without enough government backing. Additionally, the nationwide lockdown established in the nation to stop the spread of COVID19 has hurt sales and cost the artists a lot of money.

Financial year	Total sell amount (rupees)	Net profit/ loss (rupees)
2019-2020	89lakhs	4.40 lakhs (profit)
2020-2021	64 lakhs	39 thousands (profit)
2021-2022	81.22 lakhs	7.07 lakhs (loss)

Future generations have been deterred from pursuing the arts as a full-time profession as a result of their inability to sell their work widely. Additionally, the GI registration only deters the misuse of the GI designation and its counterfeiting. It does not dissuade or punish those who engage in the illegal manufacture, distribution, or sale of the goods. By making its less expensive and automated replicas, anyone can make or sell the product and distribute it to the market. Only the fraudulent use of the GI label or any claims to sell the product as coming from the same geographic area for which registration has been obtained would be prohibited by the law for such producers or sellers.

In other words, because it is always in the public domain, the traditional knowledge of the artists who produce these works is unprotected and susceptible to exploitation. Since other artists have started to 'claim' their works as their own, this fundamental restriction of the GI law has had detrimental effects for the artists. the 'original' ones. The original Shantipuri saree weaving involves handloom clusters accompanied by specificity in the number of reeds, which, however, is different for power-looms.

Legislative Framework of Gi on Handloom

According to this "conservative or preservationist approach" used by the legislation, the legal framework does not take into consideration future opportunities for artists to employ synthetic colours and other types of raw materials depending on their availability in the markets. The usage of the GI label on products by artists who do not comply with the GI requirements raises the question of whether they can also be held accountable for infringement due to this ambiguity Additionally, without the usage of the GI label, consumers may not always have the trained eye to distinguish between the real and the counterfeit product, which makes it easy for them to be duped or tricked into purchasing the products that are fake. Particularly some sarees are so remarkably similar, many purchasers frequently mix the two together and even end up purchasing one under the guise of the other. The product's conformance to the product specifications may also cause variations in the product's quality. These problems have mostly arisen as a result of provisions for built-in quality control in the law. This absence of quality assurance and oversight following registration provisions have caused serious concerns among the artists because similarly positioned or counterfeit products available in the market have been preventing them from selling their genuine products in the market.

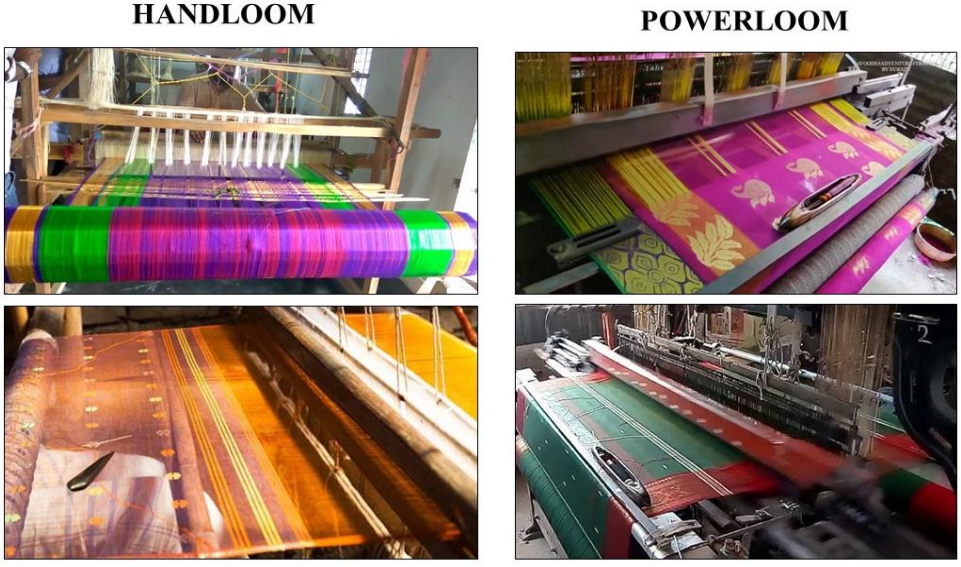
They lose a significant amount of money as a result, which is understandable, and their skill is discouraged, to say the least. Because there are no internal quality control mechanisms, it is the owner of the GI's responsibility to make sure that all authorised users of the product are adhering to the specifications.

The GI legal framework's emphasis on localising product manufacturing or sales ignores the possibility that artists may move to other regions of the nation in search of higher paying jobs. When the artists or

craftspeople leave the regions or districts for which the GI has been awarded, registration issues arise. The public's association of the product with that area is one of the key components of the GI. When the same product is produced outside of its original geographic areas, it eventually loses its key characteristics and enters the public domain. However, according to the legislation, GI refers to a product that is made or sold in a specific geographic area and has its origins there. All of this begs the question of whether such artists who leave their home countries to create and market their works can still use the GI label and assert that their creations are the originals. The lack of a prohibition on subsequent applications dealing with the same GI, which results in several specifications of the same product and administrative challenges, is another problem with the law's drafting. [14]

Gi Tag for Shantipuri Saree & Economic Benefits of Traditional Weavers

No significant change has occurred in the business turnover or the profit margin. However, after GI registration the society have received scopes for display and exhibition, participation in GI product fair, monetary grant for development of infrastructure and certain marketing initiatives from the central government of India. The introduction of power loom has compromised with the fineness and the quality of sarees used to be prepared by handloom. Although, the GI registration was provided for the originally popular handloom sarees, several artisans have now shifted to power loom-based production. Various polyester, synthetic, Gujrat linen materials have replaced Shantipuri tant with a lesser price in the post GI registration period. In the recent years each of the weavers has received the separate GI registration numbers for their names. The Directorate of Textile & Handloom has provided with invitation for participation in GI fairs. In the year 2021, Central Govt. has MI (Marketing Incentives) Scheme with 5% incentives on the retail sell. However, the managing body of the society has a discretion to decide upon the price for any retail sell to non-apex bodies. In the last few years, there has been an awake of competitiveness arising from alternative to tant sarees. This have resulted in the reduction in the profit provided by the govt. from 9% - 5% to the society. Export through the apex bodies has decreased in recent time which was earlier more prevalent in the years 2005 and 2006 when Tantushree (A govt. apex body) took the initiatives to export scarf, stoles etc other than sarees. Although there was expectation by the artisan community that GI would help in some incentives. However, the labour charged per saree has reduced from rupees 400 to rupees 190 at present. Earlier in the year 2009, there were 60,000 weavers working for handloom production. However, due to advent of power loom machines the number of handloom weavers has significantly reduced to the range of 5000- 10,000 in



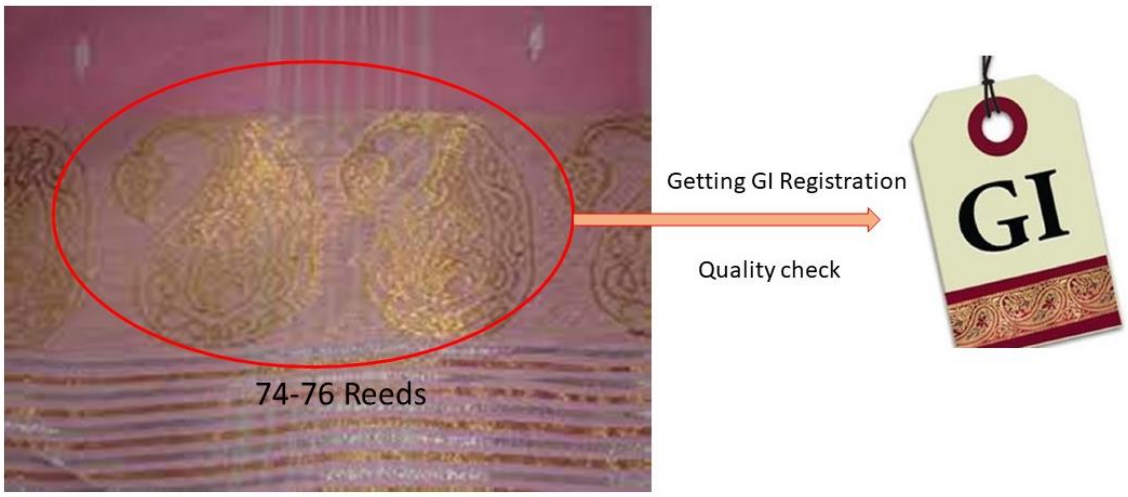
[14] The Geographical Indications of Goods (Registration and Protection) Act, ACT NO. 48 OF 1999, Section 2(e)

the year 2019. In certain cases, the additional profits obtained by selling the product to govt apex bodies is divided in the form of dividends or bonus to the weavers.

In the post GI period this has been obtained sporadically in certain years. The power loom has been introduced which, however, does not use fine cotton thread for weaving. But to increased production and survive in the competition the artisans are planning to segregate costumes and other dresses to be weaved by power loom and sarees by handloom. Very few workshops and awareness programs have been organised from the govt. and most of them were centered in Kolkata. However, the artisans have not received any local awareness program or legal aid camp in their own area. The co-operative bank provides a scheme called MUDRA LOAN to the weavers. However, GI has not affected the loan sanctions limit in the bank.

Earlier in the pre-GI phase, there used to be sell of sarees in the local hut claiming to be Shantipuri Tant. However, such unfair trade practises have stopped in the present time. Recently, the Central govt of India has initiated the use of a specific distinction called the handloom mark which is represented in the form of a BARCODE which is accompany by all the sarees sold out in the market. Tantushree, Biswa Bangla like apex bodies purchased the sarees on behalf of state government. Tantushree performs quality control checking for each of the sarees. In Bengal, other than Shantipuri tant, Dhaniakhali, Begampuri and Baluchari saree have also received GI registration in the recent year.

Fig 3.



Handloom Thread Reeds

Since GI has been provided to the handloom sarees and according to Indian Handloom Brand 74-76 reeds should be maintained. These have been deviated in power loom sarees. Presently, there are only 5-10 women working as weavers in the society.

Conclusion

Artisans have not observed any change in the response from the dealer / customers from the point of GI Awareness. According to the artisans and the society, that attainment of GI registration has mostly remained as a TAG in the theoretical sense. They have not observed any change in the response from the dealer / customers from the point of GI Awareness. However, no significant change in price, sales and exporting after getting GI Tag on Shantipur saree. GI has been unable to increase women empowerment. Conservative, custom values and Gender discrimination has debarred women of this community to work.

The sarees still do not have any unique distinction mark to differentiate it from other local sarees produced elsewhere. This is also important to designate the authenticity of the product once it is sent out for sell in the market. The uniqueness of each of the craft works is being considered to be a reason for competition. Without the usage of GI label, consumers may not always have the trained eye to distinguish the original products.

In spite of the fact that the Shantipur tant craft has received GI registration but there are no new protocols to increase the profit margin or improve the exposer of the local product. Due to increasing rate of use of power-loom, Shantipur Traditional Handloom Saree has unfortunately decreased the sale, export and price level. The introduction of power loom has compromised with the fineness and the quality of sarees used to be prepared by handloom. Legal protection with GI may not ensure to sufficient for flourishment of the handicraft like Shantipur saree. Traditional weavers are getting their financial benefits by sharing their traditional knowledge of artwork by way of Access Benefits Sharing (ABS).

Future generations are not interested in this artwork as career because of inability to widely marketing and less income. This artwork is also challenging now-a-days due to various types of other artwork compared to their prices.

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ATMANIRBHAR BHARAT: UNDERSTANDING THE ROLE OF GOVERNMENT POLICIES, ENTREPRENEURSHIP, AND INNOVATION

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Abstract

After India gained independence, a strong dependency on Western imports caused economic imbalances, resulting in deficits in the balance of payments and substantial external debt. To address this issue, consecutive administrations implemented Five-Year Plans intending to promote local manufacturing. The Green Revolution and Operation Flood were early initiatives that aimed to promote self-sufficiency, boost GDP, and attract foreign investment. Rural areas nevertheless encountered difficulties despite economic progress following liberalization. Prime Minister Narendra Modi launched Atmanirbhar Bharat Abhiyan in May 2020 intending to create a self-sufficient India. Announced during the COVID-19 pandemic, the program highlights five key pillars: Economy, Infrastructure, System, Vibrant Demography, and Demand, as part of a Rs 20 lakh crore economic package. The tiered strategy focuses on enterprises, marginalized groups, agriculture, emerging industries, and government reforms.[15]

The Atmanirbhar Bharat Abhiyan represents India's pursuit of self-sufficiency, as emphasized by Prime Minister Modi's push for significant advancement in economic and infrastructural growth. Its success depends on empowering entrepreneurs, strengthening the social safety net, and utilizing technological breakthroughs for inclusive growth. This paper aims to analyze the Atmanirbhar Bharat Abhiyan and its impact on India's quest for self-reliance. This study attempts to offer useful insights into the prospects and challenges of India's pursuit of economic self-sufficiency by analyzing government policies, sector-specific plans, public views, and potential obstacles comprehensively. This study aims to outline a roadmap for achieving India's goal of becoming a self-reliant global powerhouse by examining the alignment between Atmanirbhar Bharat Abhiyan and the broader objectives of the "Make in India" campaign.[16]

This study will explore several aspects of Atmanirbhar Bharat Abhiyan, including its pillars, phases, and sectoral ramifications in the following parts. This study will use empirical analysis, case studies, and stakeholder viewpoints to provide a detailed assessment of the initiative's effectiveness and its ability to transform India's economic situation. This study intends to enhance scholarly discussions on economic self-reliance and guide policy development to strengthen India's resilience and prosperity.

Key Words: Self-reliance, MSME, GDP, Start-ups, and e-Vidhya program

Introduction

India has had a challenging economic landscape post-independence, dealing with issues such as reliance on Western imports, trade imbalances, and striving for self-sufficiency. After gaining independence, India depended significantly on Western countries for a wide range of goods, including crucial items like food grains and complex spare parts necessary for industrial gear. This reliance not

[15] Nirmala Sitharaman Reviews Progress Of Atmanirbhar Bharat Initiatives, NDTV, E-News, July 12, 2020. PM Modi launches Transparent Taxation platform to benefit honest taxpayers, The Economic Times, E-Paper, August 14, 2020 J&K, Financial Express, E-Paper, June 10, 2020.

[16] Atmanirbhar Bharat: Govt launches contest to promote homegrown microprocessor companies, The Economic Times, E-Paper, August 18, 2020.

only weakened the country's economic independence but also led to imbalances in the balance of trade and the buildup of significant foreign debt.[17]

Successive Indian governments developed strategic economic plans, such as the Five-Year Plans, to promote domestic production and decrease reliance on imports in response to these issues. The initiatives aimed to boost domestic output and support Indian companies, establishing the foundation for economic self-sufficiency. Significant efforts like the Green Revolution, which changed agricultural methods and improved food security, and Operation Flood, which modernized the dairy industry, played a crucial role in achieving self-sufficiency.[18] The initial efforts produced favorable outcomes, leading to an increase in GDP and drawing international investment to strengthen domestic capacities.[19]

India encountered ongoing economic challenges, especially in rural regions where the advantages of development were not equitably spread. The "India Shining" story of the early 2000s, marked by swift economic growth, stock market surges, and progress in information technology, concealed ongoing inequalities, particularly in rural India. Although macroeconomic data showed improvement, the actual situation revealed a more detailed picture, emphasizing the necessity of specific efforts to tackle systemic disparities.

The advent of Atmanirbhar Bharat Abhiyan, or the Self-Reliant India Mission, signifies a crucial shift in India's economic path.[20] Prime Minister Narendra Modi introduced Atmanirbhar Bharat Abhiyan in May 2020 in response to the COVID-19 epidemic, aiming to create a self-reliant and resilient India.[21] The program, supported by a significant economic package of Rs 20 lakh crore, seeks to tackle fundamental weaknesses and elevate India into a dominant force of self-reliance in multiple industries.[22]

On May 12, 2020, the Prime Minister launched the Atmanirbhar Bharat Abhiyan (ANBA), a comprehensive plan aimed at strengthening the Indian economy during the COVID-19 epidemic and advancing India towards self-sufficiency post-crisis.[23] This extensive package, amounting to 20.97 trillion rupees, was introduced to stimulate economic growth and boost domestic industry. The Prime Minister stressed the need to back Indian-made products and envisioned India becoming a leading global manufacturing center, potentially displacing China in certain industries. The stimulus package was designed to tackle the various issues posed by the COVID-19 epidemic and support the Self-Reliant India Movement through five main pillars: Economy, Infrastructure, System, Vibrant Demography, and Demand. The Prime Minister outlined the package during a news briefing on May 12, 2020, and Finance Minister Nirmala Sitharaman presented the detailed measures in five conferences conducted from May 13 to May 17, 2020. The government's comprehensive and coordinated approach demonstrated its dedication to enhancing economic resilience, encouraging self-sufficiency, and tackling the urgent needs of the nation under these exceptional circumstances.

The Atmanirbhar Bharat Abhiyan is based on five main pillars: Economy, Infrastructure, System, Vibrant Demography, and Demand. The pillars represent a holistic strategy for economic growth,

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23 Available at https://www.selfstudymantra.com/2020/12/essay-on-aatm-nirbhar-bharat.html (Last access on 20th February 2024).

focusing on developing local skills, improving infrastructure, implementing structural changes, utilizing demographic advantages, and boosting local consumption. The program has five phases, focusing on enterprises, marginalized groups, agriculture, new growth sectors, and government reforms, to revitalize crucial elements of the economy.[24]

Phase I of the Self-Reliant India Movement (SRIM) aims to stimulate economic activity in many sectors, including Micro, Small, and Medium Enterprises (MSMEs).[25] The article also discusses the difficulties encountered by non-banking financing companies (NBFCs), housing finance companies (HFCs), microfinance organizations, and power generation and distribution companies in India. Additionally, the Pradhan Mantri Garib Kalyan (PMGK) scheme, initiated by the Government of India (GOI) in April 2020 with a budget allocation of Rs. 1.70 lakh crores for the fiscal year 2020-21, aimed to provide essential support to combat the COVID-19 crisis.[26] The PMGK scheme includes insurance for health workers, distribution of food grains and pulses to households, financial aid for women with Jan Dhan accounts, free petrol cylinders for poor families, higher wages through MNREGA, and support for senior citizens, widows, and disabled individuals. Moreover, changes were implemented to the MSME definition, including updated investment thresholds, the addition of an annual turnover requirement, and the inclusion of service sector businesses in the MSME classification. The SRIM package tackled various MSME-related concerns, including e-market connectivity, timely payment of dues by government and public sector entities, exemption from international tenders in specific government purchases, utilization of financial technology for transaction-focused lending, and allocation of extra working capital and support funds for struggling MSMEs. Initiatives were implemented to provide equity funding support through Fund of Funds (FoF), decrease Provident Fund contribution rates, establish a special liquidity scheme for NBFCs, HFCs, and MFIs, and infuse emergency liquidity into power distribution companies to improve their financial condition. Central agencies provided contractors with a six-month extension to finish incomplete projects without extra charges, showcasing the government's dedication to rejuvenating different sectors and promoting economic recovery through the SRIM.

Part II of the Atmanirbhar Bharat Abhiyan (ANBA) package focuses on tackling the difficulties experienced by vulnerable demographics such as migratory laborers and farmers.[27] The Government of India (GOI) attempts to provide relief and support to specific groups of society through targeted actions. This involves dedicating Rs. 3,500 crores for extra food aid to migrant workers for two months and creating cost-effective rental housing complexes in collaboration with public-private partnerships to enhance the living standards of migrant laborers, urban poor, and students. The implementation of a 2% interest subsidy program within the Mudra Yojana, totaling Rs. 1.62 lakh crores is designed to help small enterprises overcome the difficulties brought up by the COVID-19 lockdown. The Indian government's commitment to boosting economic activity and providing relief is evident through the introduction of a special credit scheme worth Rs. 5,000 crores for urban and rural vendors, as well as the extension of the Credit Linked Subsidy Scheme to middle-income group families. The Indian government has taken a comprehensive approach to address the various challenges arising from the pandemic and its impact on vulnerable populations.[28] This includes initiatives such as employment

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generation for tribals and adivasis, additional refinance support for NABARD, and investment in the farm sector through concessional credit schemes.

The third part of the SRIM focuses on challenges relating to the agriculture sector and the Government of India has implemented different initiatives to offer help. The Government of India distributed substantial payments during the lockdown, such as around Rs. 74,300 crores for Minimum Support Price (MSP) purchases, Rs. 18,700 crores for PM-KISAN fund transfers, and Rs. 6,400 crores for PM-Fasal Bima Yojana claims. The government committed Rs. 1 lakh crores to strengthen infrastructure, logistics, and capacity building for Primary Agricultural Cooperative Societies, Farmer's Producer organizations, and Agriculture Entrepreneurs.[29] A Rs. 10,000 crore initiative was initiated to assist 2 lakh Micro Food Enterprises under Prime Minister Narendra Modi's vision. The GOI launched the Pradhan Mantri Matsya Sampada Yojana with a budget of Rs. 20,000 crores to enhance marine and inland fisheries. The goal is to generate employment for over 55 lakh people and increase exports to Rs. 1 lakh crores. An animal husbandry infrastructure development fund of Rs. 15,000 crores was created to boost capacity in the Indian dairy industry by 50 percent. The National Medicinal Plants Board (NMPB) allotted Rs. 4,000 crores to promote herbal growing, intending to generate Rs. 5,000 crores in income for farmers. An additional project with an investment of Rs. 500 crores was launched to enhance infrastructure in beekeeping, with a specific emphasis on empowering women and enhancing the skills of 2 lakh bee-keepers to boost their income. An allocation was made for a program managed by the Ministry of Food Processing Industries (MoFPI) to expand its services to all fruits and vegetables. This program offers subsidies for transportation and storage to improve profits for farmers, decrease waste, and make products more affordable for consumers.[30]

Section IV of the SRIM discusses private involvement in different areas such as coal, mining, defense, aviation, space, and power. The government implemented policy changes to accelerate investment approval through an Empowered Group of Secretaries and established a rating system for states based on their investment appeal. The industrial infrastructure will be improved by providing industrial land and information through the Industrial Information System (IIS) with GIS mapping. Competition and private sector involvement in the coal industry will be promoted through revenue-sharing methods, auctions of partially explored coal blocks, and investments in infrastructure. Private sector involvement in the mineral sector will be encouraged by conducting open and transparent auctions of mining blocks and removing the differences between captive and non-captive mines.[31] The Foreign Direct Investment (FDI) cap in defense production will be raised to enhance self-sufficiency, alongside efforts to localize imported components and lower defense procurement expenses. Furthermore, there are plans to implement reforms in aviation, tariff policy, and electricity utility privatization in Union Territories to enhance efficiency and service quality. Revamped funding programs will stimulate private sector investment in social infrastructure. Enhanced engagement in space activities will be facilitated, utilizing ISRO capabilities and a liberal geospatial data policy. Efforts like setting up research reactors and technology development cum incubation centers are designed to promote innovation and collaboration in important sectors through partnerships between the public and commercial sectors.[32]

Part V of the SRIM package focuses on attempts to improve business operations, undertake changes in the health and education sectors, and aid state governments during the COVID-19 epidemic. This

[29] (2020, July). "Solar projects represent Atmanirbhar Bharat: PM." THE TIME OF INDIA. Accessed online at http://www.timesofindia.indiatimes.com

[30] Mohanan, S. P. Exclusion of Gender Minorities and Migrant Women Labourers in the Atmanirbhar Bharat Abhiyan of GoI.

[31] Bijoy, N. (2020). "The Path to a Self-Reliant India". Journal of Ideas• & Innovations. PHD Chamber of Commerce & Industry, July 2020.

[32] Available at https://www.drishtiias.com/daily-updates/daily-news-editorials/atma-nirbhar-bharat-abhiyanchallenges (Last access on 20th February 2024).

section highlights key measures such as allocating 15,000 crores to combat the pandemic in the medical sector and implementing reforms to streamline property registration, expedite commercial dispute resolution, and simplify the tax regime to improve India's business-friendly environment. Efforts were made to lessen the regulatory costs imposed by different sections of the Companies Act, especially during the pandemic. The government prioritized technology-based solutions to promote online education through several platforms and gave more money under MGNREGA to create job possibilities, with a specific focus on returning migrant workers. Significant reforms included increased investments in public health facilities, the creation of a Special Insolvency Resolution Framework for MSMEs, and the decriminalization of small technical defaults under the Companies Act. Furthermore, state governments were provided with greater borrowing restrictions and modifications to financial procedures to help alleviate economic issues caused by the outbreak and following lockdown measures. The government's extensive actions highlight its dedication to enhancing economic resilience, encouraging equitable growth, and tackling the complex difficulties brought about by the current crisis.[33]

The success of Atmanirbhar Bharat Abhiyan hinges on the concept of self-reliance, which goes beyond just economic independence to include a wider perspective of national sovereignty and resilience.[34] It involves decreasing reliance on outside sources for essential goods and services, supporting local innovation and entrepreneurship, and creating a favorable environment for comprehensive economic development. India aims to utilize self-reliance to unlock its complete potential and become a global leader in innovation, industry, and trade.[35]

Implementing the idea of Atmanirbhar Bharat Abhiyan involves overcoming numerous hurdles. The tasks involve updating infrastructure, improving access to capital and technology for MSMEs, tackling regional inequalities, and managing global trade trends. Ensuring the successful execution of policies and initiatives is essential for turning vision into action and delivering concrete results.[36]

Government Policies

The Atmanirbhar Bharat Abhiyan, launched by the government, includes a set of important measures designed to strengthen self-sufficiency and promote economic growth in several areas. Labor industry reforms aim to mitigate regional inequalities and enhance the welfare of workers across the country through initiatives like implementing a National Floor Wage and broadening social security measures.[37] Agricultural reforms allowing farmers to sell their produce outside of certain marketplaces and creating a legal structure for contract farming are designed to empower farmers and improve market efficiency. The coal sector reforms focus on environmental sustainability and promote private sector involvement through profit-sharing structures. Self-defense measures aim to decrease weapon imports and boost domestic manufacturing capability. Aviation and airspace reforms seek to improve airspace utilization and encourage private sector participation in space endeavors. Moreover, technology-based educational programs like the PMM in VIDYA and the National Foundational Literacy and Numeracy Mission demonstrate the government's dedication to improving educational opportunities and

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[33] Available at https://economictimes.indiatimes.com/markets/stocks/news/boycotting-chinese-goods-is-easier-said-than-done-for-india-heres-why/articleshow/76552841.cms?from=mdr(Last access on 20th February 2024).

[34] Dubey, S., & Dubey, H. K. (2020). Atmanirbhar Bharat Abhiyan: An analytical review. UGC Care Group I Journal, 10(4), 27-34.

[35] Surya Rashmi Rawat et.al., "Modi's Make in India drive: Right time to give a national call to become Global Manufacturing Hub". Indian Journal of Science and Technology, vol 9(21), 2016, pp 111

[36] Dubey, P., & Sahu, K. K. (2020). MSMEs in COVID-19 crisis and India's economic relief package: a critical review. AIJR Preprints, 207.

[37] Sharma, R., & Gupta, S. (2021). BHARAT TOWARDS ATMANIRBHARTA: A TWITTER-BASED ANALYSIS USING NVIVO. Journal of Content, Community, and Communication

standards.[38] The government aspires to advance India towards self-reliance, economic resilience, and inclusive development through these extensive reforms as part of the Atmanirbhar Bharat Abhiyan.

- **Labor Industry Reforms**

The labor industry reforms within the Atmanirbhar Bharat Abhiyan consist of various initiatives designed to improve the well-being and entitlements of workers nationwide. One significant reform is the implementation of a National Floor Wage, aimed at eliminating differences in wages between regions and guaranteeing that every worker attains a basic standard of living. The need for appointment letters for all employees helps to formalize their job status, offering legal acknowledgment and safeguarding. Expanding the Occupational Safety and Health (OSH) Code to include all dangerous workplaces enhances worker safety regulations and health safeguards. Categorizing migrant workers as employees under labor rules guarantees their access to benefits and protections. Providing financial assistance to retrenched workers helps them manage periods of joblessness and sustain financial security.[39] Creating a Social Security Fund for informal workers ensures a safety net that promotes financial security and stability. Reducing the credit qualifying requirement to one year of work expands access to credit and financial services for a broader portion of the workforce. The ESIC expansion intends to provide healthcare and insurance coverage to all districts and enterprises with ten or more employees to improve worker welfare and security. The reforms highlight the government's dedication to enhancing dignity, fairness, and security in the labor sector as part of its overarching plan for self-sufficiency and economic growth.[40]

- **Agriculture Marketing Reforms**

Allowing farmers to sell their produce outside of Agricultural Produce Market Committees (APMCs) is a big move towards giving them more flexibility and independence in their selling choices. By eliminating the restrictions enforced by APMCs, farmers can access different markets and bargain for improved prices for their crops, thus boosting their economic opportunities and lessening reliance on conventional avenues. Enhancing cross-border trade across states broadens farmers' market access, allowing them to reach larger markets and benefit from increased pricing. Establishing a legal framework for contract farming provides clear norms and safeguards for producers, promoting secure and transparent interactions with purchasers. Implementing risk reduction measures like compensation and quality assurances alongside structural reforms helps to reduce the inherent risks that farmers encounter in agricultural production and sales, strengthening their resilience and sustainability in the marketplace.[41] The efforts within the Atmanirbhar Bharat Abhiyan aim to empower farmers, enhance market efficiency, and stimulate growth in the agricultural sector.[42]

- **Coal Sector Transformation**

The implementation of commercial coal mining as part of the Atmanirbhar Bharat Abhiyan is a notable transition aimed at encouraging private sector involvement and enhancing efficiency in coal production. The government seeks to encourage private investment in the coal business by implementing profit-sharing arrangements, to promote competition, innovation, and increased productivity. The government's dedication to supporting sustainable methods and addressing environmental concerns related to coal mining activities is highlighted by its support for coal gas and coal bed methane mining,

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[38] EDA and APMAS. (2006). Self Help Groups in India: A Study of the Lights and Shades. Gurugram: EDA and Hyderabad: APMAS

[39] 100 US firms may shift base to Uttar Pradesh from China, Financial Express, E-Paper, April 30, 2020.

[40] Economy suffers 'unprecedented collapse' due to COVID-19: Survey ,The Economic Times, E-Paper, April 21, 2020.

[41] DPIIT shares list of 24 key sectors with ministries to work on plan to boost manufacturing, The Economic Times, E-Paper, September 27, 2020.

[42] Naik, G., & Gopikuttan, G. S. (2020). Atmanirbhar Bharat Abhiyan and Agriculture.

along with environmental incentives.[43] The program aims to reduce the environmental impact of coal mining by encouraging cleaner and more efficient extraction methods including coal gasification and methane capture. It also aims to promote energy security and economic prosperity. The policies support the government's larger goal of attaining self-sufficiency, sustainability, and expansion in the coal sector as part of its Atmanirbhar Bharat strategy.

- Self-Defense

Limiting the import of weapons helps decrease reliance on foreign suppliers and promotes the development of the domestic military sector. This strategy boosts national security and reinforces the domestic defense ecosystem by encouraging self-reliance in defense manufacturing.[44] The integration of the Ordnance Factory Board strives to streamline operations, promote accountability, and enhance efficiency in defense production. This strategic restructuring improves coordination and resource allocation, resulting in a more efficient and timely supply of defense equipment and services. Increasing the Foreign Direct Investment (FDI) restriction in the defense industry promotes more investment and knowledge transfer, which boosts innovation and enhances defense production capacities. This program improves India's competitiveness in the global defense industry and strengthens its self-sufficiency and strategic autonomy by utilizing international expertise and resources. The initiatives highlight the government's dedication to boosting the domestic military industry and enhancing national security as part of the Atmanirbhar Bharat plan.[45]

- Aviation and Airspace

Disclosing airspace restrictions as part of the Atmanirbhar Bharat program aims to improve airspace efficiency, benefiting civilian flights through improved route planning. The program intends to enhance airspace control mechanisms by revealing airspace constraints, resulting in more streamlined and effective air traffic management. The promotion of Public-Private Partnerships (PPP) in developing international airports is a strategic approach to utilize private sector investment and expertise in airport infrastructure development. The government aims to modernize airport facilities, improve passenger experience, and boost economic growth in the aviation sector via PPP methods. Moreover, promoting private sector participation in space endeavors is in line with the initiative's aim to promote innovation and cooperation.[46] The private sector may significantly advance space research, satellite technology, and associated industries by utilizing ISRO's resources for commercial purposes. This partnership increases opportunities for commercial space enterprises and enhances India's status as a prominent worldwide leader in space technology and exploration. The actions highlight the government's dedication to fostering self-sufficiency, creativity, and development in key areas as part of the Atmanirbhar Bharat plan.[47]

- Technology-Driven Education

The use of PMM in VIDYA represents a notable advancement in improving digital educational resources through the provision of specific TV channels for various grade levels and specialized electronic content designed for visually impaired pupils. This project seeks to expand access to high-

[43] Assam initiates AtmanirbharAsom scheme aiming to empower economically disadvantaged women, The Economic Times, E-Paper, October 08, 2020. The Times of India, E-Paper, July 08, 2020.

[44] Nandan, P. (2020). Athmanirbhar Bharat: a new self-resilient India. MS Ramaiah Management Review| ISSN (Print)-0975-7988, 11(01), 18-22.

[45] Joshi, V., Panigrahi, C. M. A., & Pitke, M. (2020). The vision of „Atmanirbhar Bharat "Role and Significance of MSME. THE MANAGEMENT ACCOUNTANT, 55(12).

[46] Datta, S.K., & Singh, K. (2014). Determinants of income generation and financial performance through self-help groups. Journal of Social Service Research, 40:1, 97-110.

[47] Flynn, R. (2013). A Case Study of Rural Finance Self-Help Groups in Uganda and Their Impact on Poverty Alleviation and Development. Independent Study Project (ISP) Collection. 1688.

quality education and address various learning requirements, ultimately fostering inclusion and educational fairness. The Manodarpan project is essential for supporting the mental health and emotional well-being of kids, teachers, and families through psychological and social assistance. This effort promotes comprehensive growth and well-being in the education system by creating a nurturing atmosphere. The National Foundational Literacy and Numeracy Mission aims to achieve basic literacy and numeracy abilities for all children by 2025, establishing the groundwork for lifelong learning and socio-economic empowerment.[48] The government is dedicated to promoting self-sufficiency, stimulating economic growth, and tackling crucial difficulties in different sectors through specific reforms and programs within the Atmanirbhar Bharat Abhiyan.[49]

Criticism of Atmanirbhar Bharat

- **Rising Prices**

Critics of the Atmanirbhar Bharat Abhiyan are worried about inflation caused by the government's increased spending. They contend that including the operations of the Reserve Bank of India (RBI) in government finances can artificially increase government expenditures.[50] The inflationary pressure may result in increased pricing for products and services, which could diminish consumers' purchasing power and affect economic stability.

- **Requirement for Enhanced Expenditure**

The Indian economy has seen notable difficulties, such as a decrease in Gross Value Added (GVA) I n many industries. Economists have recommended that the government increase spending to alleviate the negative impacts of the economic decline. They contend that heightened public spending can stimulate demand, enhance economic activity, and avoid additional decline in crucial sectors.[51] Concerns regarding the trade-off between increased expenditure, inflation, and reduced growth underscore the intricate nature of policy decisions in the present economic environment.

- **Debt Reduction**

Direct government spending, such as infrastructure projects or welfare programs, benefits the economy directly, whereas efforts to reduce government debt may have less impact. Critics contend that the debt reduction strategies implemented by the RBI, such as open market operations or adjustments in reserve requirements, do not directly result in higher government expenditure. Moreover, banks would hesitate to lend the released funds, so reducing the efficacy of these policies in boosting economic growth.[52]

- **Support for Regional Governments**

The lack of sufficient support for regional governments in addressing the COVID-19 epidemic has been criticized by some. Addressing the situation effectively necessitates significant financial resources and coordinated actions across all government levels. Inadequate transfers and support to regional governments may impede their capacity to tackle the health and economic difficulties brought about by the pandemic, worsening inequality across various parts of the nation.

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[48] Duflo, E. (2012). Women empowerment and economic development. Journal of Economic Literature, 50(4), 1051–1079.

[49] De Hoop, T., Brody, C., Tripathi, S., Vojtkova, M., & Warnock, R. (2019). Economic Self-Help Group Programmes for Improving Women's Empowerment, 3ie Systematic Review Summary 11. London: International Initiative for Impact Evaluation (3ie).

[50] Banerjee, A., Duflo, E., Glennerster, R., & Kinnan, C. (2015). The miracle of microfinance? Evidence from a randomized evaluation. American Economic Journal: Applied Economics, 7(1), 22– 53.

[51] Available at https://cleartax.in/s/atmanirbhar-bharat-abhiyan (Last access on 20th February 2024).

[52] Bajaj, B., & Narayan Singh, S. (2022). The Role of Atmanirbhar Bharat Abhiyan in Indian Economy Transformation through Innovation. The Role of Atmanirbhar Bharat Abhiyan in Indian Economy Transformation through Innovation (January 4, 2022).

- **Revamp of Make in India Campaign**

The Atmanirbhar Bharat Abhiyan has faced criticism for its perceived resemblance to the Make in India initiative, which was introduced previously to boost manufacturing and investment in India.[53] Critics contend that the campaign's rebranding lacks significant creativity and does not tackle the fundamental structural challenges that hinder India's competitiveness in the global market.[54] A more thorough and targeted approach is necessary to meet the goals of encouraging self-reliance and enhancing local production, according to them.

- **Modest MSME Package**

Critics have denounced the small size of the financial aid package designated for Micro, Small, and Medium Enterprises (MSMEs) under the Atmanirbhar Bharat Abhiyan.[55] They contend that the budgeted amounts may be inadequate to meet the sector's needs, especially considering the significant economic disruptions created by the pandemic. Furthermore, there are worries about monies being redirected from MSMEs to other areas, overlooking the sector's vital contribution to job creation and economic development.[56]

The Atmanirbhar Bharat Abhiyan aims to boost self-reliance and rejuvenate the Indian economy amidst difficult circumstances, but it has received criticism for its flaws and implementation difficulties.[57] It is crucial to address these critiques and ensure successful implementation to achieve the initiative's objectives and promote sustainable economic growth and development.[58]

Implication of Atmanirbhar Bharat

The Atmanirbhar Bharat initiative, implemented by the Indian Government, has significantly influenced the country's economy, especially following the COVID-19 pandemic and the resulting economic decline.[59] The wide range of measures introduced in the Atmanirbhar Bharat package has been crucial in promoting economic stability and resilience. This program has played a key role in guiding India's economy towards a V-shaped recovery path, indicating a positive direction for the future.[60]

Agriculture has been a crucial industry for maintaining economic stability during the pandemic. The agricultural industry has shown strong resilience, with significant annual growth, especially in sectors like Rabbi Investment and tractor sales. This growth has been strengthened by assistance measures such as the acquisition of high yields and income generation programs like the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS).[61] The efforts have increased rural

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53 Khatoon, S., & Iffat, A. (2021). AatmaNirbhar Bharat Abhiyan: a tool to revive Uttar Pradesh handloom sector. Research Journal of Textile and Apparel.

54 Available at https://economictimes.indiatimes.com/industry/energy/power/discoms-keen-on-rs-93000-croreatmanirbhar-bharat-package-loans/articleshow/76501811.cms(Last access on 20th February 2024).

55 Loans worth Rs. 738.44 crore for MSMEs sanctioned in Assam, The Economic Times, E-Paper, June 25, 2020.

56 Ghosh, C. A Comparative Study on MSME Sector at Urban and Rural Area in India, in the Aftermath of Covid19 Pandemic (Special Measure Under Atmanirbhar Bharat Abhiyaan). Journal homepage: www. ijrpr. com ISSN, 2582, 7421.

57 Kapoor, B., & Tyagi, E. Atmanirbhar Bharat Abhiyan: An Initiative for Startups Ventures. Contemporary Social Sciences, 35.

58 Agarwal, T. (2021). Economic Impact of COVID-19 on Micro, Small and Medium Enterprises (MSMEs)⎦ in India. International Journal of Recent Advances in Multidisciplinary Topics, 2(10), 89-92.

59 Massand, A., Lodi, M. K., & Ambreen, L. (2020). Atmanirbhar Bharat: Economic, Legal, and Social Aspects. International Journal of Management (IJM), 11(6), 1038-1046.

60 Modi, B. (2020). "Aatam Nirbhar Bharat: Opportunities and Challenges." International Journal of Advanced, Research in Commerce, Mgt. and Social Science (IJARCMSS), Volume 03, No.03, JulySep. 2020, pp.18-21.

61 IRMA. (2017). Independent Assessment of Design, Strategies and Impacts of DAY-NRLM. Ministry of Rural Development, Government of India.

incomes and reduced stress in rural communities, highlighting the effectiveness of specific government interventions.[62]

Moreover, signals from other businesses and sectors suggest a strong recovery. The manufacturing and industrial sectors have had continuous expansion, as demonstrated by indices like the Production Managers' Index (PMI), energy consumption, and highway traffic levels. The increase in trade activity is seen in the unprecedented monthly GST revenues, suggesting a recovery in economic transactions. The revival of commuter train services, rising port loads, and the recovery of domestic flight operations confirm the expanding trend of economic activities.[63] Attaining long-term economic self-sufficiency necessitates focused endeavors in multiple crucial areas. India's competitiveness on the world stage relies heavily on innovation, teamwork, and education. Promoting innovation and investing in research and development can advance India's position in the global economy. Partnerships between Indian and international research institutions, together with public-private collaborations, can promote innovation and stimulate economic development. Effective governance and policy frameworks are crucial for establishing a supportive environment for firms and promoting corporate efficiency. Investing in technology to simplify government procedures and bureaucratic processes can improve efficiency and transparency. Significant investments in infrastructure development are crucial for promoting economic growth and connectivity.[64]

Entrepreneurship and start-ups are crucial in fostering economic dynamism and innovation. Start-ups can generate employment, produce income, and make a substantial contribution to GDP expansion. India can realize its complete economic capacity and attain sustained growth by cultivating an environment that supports entrepreneurship and innovation. Furthermore, the active participation of the young and student community is essential for achieving India's self-reliance objectives.[65] Promoting good consumption habits and backing local products can strengthen native industries. Empowering young individuals to pursue entrepreneurial companies after graduation can generate job possibilities and decrease dependence on government job creation programs.[66] Ultimately, the Atmanirbhar Bharat movement has established a solid groundwork for economic self-sufficiency, but continuous endeavors and partnerships across various industries are crucial for its triumph. India can achieve sustainable economic prosperity and resilience in the face of global difficulties by focusing on innovation, governance changes, and entrepreneurial growth.[67]

Future Beckons

An independent India goes beyond only economic autonomy; it represents a vision of complete self-sustainability in different fields. Despite connotations of isolationism, the word refers to India's capacity to assert itself as a powerful economic entity on a global scale, making substantial contributions to the interconnected world economy. Known as the "Fend For Yourself" Campaign, it highlights India's ambition to become a key role instead of withdrawing into isolation.[68] India faces a significant obstacle in boycotting Chinese products due to its heavy dependence on Chinese imports totaling $75 billion each year. However, historical evidence indicates that India can be self-sufficient. During the Gandhian

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62 S. Mahendra Dev. "How to Make Rural India Shine." Economic and Political Weekly, vol. 39, no. 40, 2004, pp. 4415-4422. JSTOR, www.jstor.org/stable/4415612. Accessed 16 Aug. 2020.

63 Available at https://economictimes.indiatimes.com/news/defence/government-to-focus-on-domestic manufacturing-of-arms-ammunition-to-promote-atmanirbhar-bharat abhiyan/ articleshow/ 76302244.cms (Last access on 20th February 2024).

64 Gadkari approves scheme to make India self-reliant in agarbatti production, The Mint, E-Paper, August 02, 2020.

65 Bali Swain, R., & Wallentin, F.Y. (2009). Does microfinance empower women? Evidence from self-help groups in India. International Review of Applied Economics, 23(5), 541–56.

66 Available at https://www.india.gov.in/spotlight/building-atmanirbhar-bharat-overcoming-covid-19 (Last access on 20th February 2024).

67 Galab, S., & Rao, N. C. (2003). Women's self-help groups, poverty alleviation, and empowerment. Economic and Political Weekly, Mar 22-29, 1274-1283.

68 Available at https://www.expresspharma.in/uncategorized/making-India,UshaSharma, (Last access on 20th February 2024).

era, India exhibited self-sufficiency in extensive industry and had limited commerce with China.[69] India's industrial sector significantly relies on Chinese imports, but the advantages gained from this connection are surpassed by the potential benefits of self-sufficiency.[70]

India's extensive and varied natural resources, along with its position as a manufacturing and export center, create a strong basis for achieving self-sufficiency. India can strengthen its economy and work towards self-reliance by utilizing its strengths and adjusting its economic plans. India's aggressive actions indicate a new era marked by a strong dedication to self-reliance, even though the outcome of this endeavor is still unknown. India is advancing on a revolutionary journey towards economic independence and aiming to establish itself among developed nations on the world stage.[71]

Concluding Remarks

The Government of India has initiated efforts to rejuvenate the country from the severe effects of the COVID-19 epidemic and the resulting economic decline caused by the statewide lockdown.[72] The effectiveness of every governmental program or effort depends significantly on how it is put into action. Hence, the government must guarantee the achievement of the objectives it has specified in its projects. India can enhance its self-reliance and resilience by concentrating on critical areas including innovation, collaboration, education, governance, entrepreneurship, and startups. India's backing and promotion of startups are crucial in this effort. The Startup India Scheme and similar initiatives encourage young entrepreneurs to pursue their aspirations, stimulating innovation and employment development. As these emerging companies prosper, they make a substantial contribution to the economic growth and vigor of the nation.

The Atmanirbhar Bharat Abhiyan was introduced during the worldwide economic crisis caused by the COVID-19 epidemic, providing hope to the people. This effort intends to improve India's self-reliance and competitiveness in the global supply chain. The package aims to alleviate the negative effects of the crisis by assisting vulnerable groups such as the poor, laborers, and migrant workers in both organized and unorganized sectors. The plan of Atmanirbhar Bharat Abhiyan aims to enhance access to credit and strengthen the agricultural and economic sectors.[73] Challenges persist in increasing demand and enhancing purchasing power, especially given the current financial limitations. The program must succeed by promptly addressing issues like offering pay support to migratory workers and the urban poor.[74] Actualizing the vision of Atmanirbhar Bharat Abhiyan requires a united effort and involvement from all sectors of society, including the government and the 1.37 billion residents of India. Each person must participate in this national effort to guarantee its success and attain significant results. India can overcome problems and become stronger in the global arena by promoting self-reliance and resilience.

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69 Aggarwal, D. (2020). "Aatam Nirbhar Bharat: A Departure from Economic Recession". Journal of Ideas & Innovations. PHD Chamber of Commerce & Industry, July 2020.

70 DAY-NRLM. (2021). Welcome to DEENDAYAL ANTYODAYA YOJANA – NRLM. Available at: https://aajeevika.gov.in/en/content/welcomedeendayal-antyodaya-yojana-nrlm Accessed September 11, 2023.

71 Mehta, B. S., & Awasthi, I. (2021). Surviving the Pandemic: Time to Boost the MSME Sector. IASSIQuarterly, 40(3), 589-599.

72 (2020, July). "PM Modi launches Aatma Nirbhar Bharat App Innovation Challenge." THE WEEK. Accessed online at http://www.theweek.in

73 Hashemi, S. M., Schuler, S. R., & Riley, A. P. (1996). Rural credit programs and women's empowerment in Bangladesh. World Development, 24(4), 635- 653.

74 Mittal,V.,& Kumar, M.(2020). "HaraBhara ATAM Nirbhar Bharat." European Journal of Molecular & Clinical Medicine. Vol.7, Issue 11. ISSN 2515-8260.

GENDER INEQUALITY: A CHALLENGE OF BUSINESS PERSPECTIVE

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Abstract

Gender inequality comes in many forms in our daily lives and its impact varies from person to person. For example, the term inequality or lack of equality affects many places, such as education platforms, job prospects, religious attitudes, etc. In our current generation, we can see that many are working day by day from country to country to create a better environment, while moving forward towards a globalized world for all in every way, creating a balance between men and women. Laws are enforced. Why is gender inequality now an ethical debate that must be addressed? When we compare gender inequality, it turns out that compromises have to be made in terms of caste, sex, gender, identity, etc. Even countries that are passing laws to encourage gender equality change the environment, especially in the role women play in creating the balance. Thus, we wanted to know how our current society accepts gender behaviour or how gender inequality affects our world. Just as balance is created by having equal weight on both sides of the scale, similarly to create balance in any society and nation, it is necessary to establish gender equality between men and women.

Keywords: Equality, Gender, Inequality. Globalised World, Environment

Introduction

Gender inequality is an unwelcome influence or physical effect in our society that takes place when there is an economic disparity between different regions of the country of men & women[1]. It Relates to genes of heredity, arising of the mind, or traditional factors that may all play a role in the basic human necessity for treatment. A period of time, some of these differences might be corroborated by existing, on the other hand, it seems to be the product in regarding society or its organization. Education background has shown that men and women have taken to observe different experiences in various spheres[2], such as Higher studies, the average period that a person may expect to live, the combination of characteristics or qualities that form an individual's distinctive character, an activity done regularly in one's leisure time for pleasure, and also political Involvement. People from diverse cultural backgrounds have differing perspectives on gender imbalance, and it also influences those people who do not identify with either gender.

In the past, women were a condition recognizable to consider in a specific way carrying lower rank, status, or lower position than men in almost every description of an event or all kinds of experiences, especially when we talk about the working perspective placement. At an earlier time, it was a tradition that women would have been gaining social position by their men in their own lives—this statement from the fact that a woman can play to bear children and be an ideal wife.

Nevertheless, in our 21st century our previous women's traditional roles have begun to build up now, women are neglected to be left to be paid employment for their entire lives[3]. In our current scenario, two ideals are an integral aspect of family position. Despite this, we can look forward that for a

[1] Gender Equality and Human Rights. Available at: https://www.researchgate.net/publication/281077241_Gender_Equality_and_Human_Rights (Accessed: 04 March 2024).
[2] Gender equality and women's rights | ohchr. Available at: https://www.ohchr.org/en/topic/gender-equality-and-womens-rights (Accessed: 04 March 2024).
[3] Gender equality in the 21st century: Overcoming barriers to ... Available at: https://onlinelibrary.wiley.com/doi/full/10.1002/jdd.13059 (Accessed: 04 March 2024).

professional purpose there is still a loophole between women and men, in a work-related place for women such as the corporate world, a narrower scope of jobs, and always less pay than their co-partners.

Why Gender Equality is Necessary?

Gender equality is not only a fundamental right, but an essential foundation for the world on which a developmental building can be built. Women and men are the basic foundation of society and equality is the foundation of a beautiful and secure society. Keeping women out of the mainstream means deny half of the world's population the opportunity to participate in the creation of thriving societies and economies. Therefore, women's participation in the job is not only socially important but also economically.

Christine Lagarde, head of the International Monetary Fund and Erna Solberg, Prime Minister of Narve, in a joint statement said[4] (Before the start of the Davos Annual Conference by WEF) – "The time for discrimination and violence against women is over. Providing opportunities for women and girls to succeed is not only right, but it can also change society and the economy. The participation of women in the labour force equal to men will boost GDP. For example, doing so could increase GDP by 9 percent in Japan and 27 percent in India".

Reducing the gender gap in employment as well as education can help economies diversify their exports, while appointing more women to the board of banking supervision may challenge casual groups.

Increasing women's participation in nation development is a challenge for any nation. About 90 percent of countries have one or more gender-based legal restrictions. For example, in some countries women have limited property rights, while in some countries husbands have the right to prevent their wives from working. Apart from legal barriers, coordination in family and work, education, access to financial resources and social pressures are also major barriers. Equal access to education, equal pay for equal work and participation in political and economic decision making are not only essential rights for women, but they are also beneficial for humanity. By investing in women empowerment, we not only move towards sustainable development, but also benefit in reducing poverty and accelerating economic development.

Redressing Disadvantage

This section explores that without absorbing the interlocking nature of women's disadvantage. Its carrying by considering the way interconnected inequality in the legally or formally recognized union of two people as partners in a personal relationship wider than material disadvantage.

- ***Work: Paid & Unpaid:***
  The ability to identify and resolve disparities in compensation and non-compensated labor has been crucial in the pursuit of meaningful equality for women. On the surface, the accords approach this matter from a formal equality perspective.
  Moreover, it seems improbable that treating men and women equally will result in change. That is why the world of work-paying models is to be the "Man norm" That's why all men are getting their places at higher levels, it's traditionally done by men. Thus, when we talk about women's inequality then we focus on the specificity of women's disadvantage.

[4] Gender parity can boost India's GDP by 27%: WEF co-chairs (no date) The Economic Times. Available at: https://economictimes.indiatimes.com/news/economy/policy/gender-parity-can-boost-indias-gdp-by-27-wef-co-chairs/articleshow/62589586.cms (Accessed: 05 March 2024).

- *Gender disparity in wages:*
  India has to prefer different levels of wages and obtain in between men and women in the country. In spite of, constitutional provisions and various efforts to encourage gender inequality, the gender pay gap remains a significant issue all over the world.
  According to the National Statistical report "Women and Men in India 2022" there has been a ten-year increase in the gender wage gap, which widened even more at higher levels of salary. According to Global World Research, Men hold 82% of the labor income, while Women hold 18%, according to the First-ever estimates the gender inequality in global earnings presented in the World Inequality Report released in 2022.
  So, in a gender disparity in wages, we can see that more activism and knowledge of the problem are required, as are legislative initiatives that support a balance between women's economic growth and gender inequality.
  Causes of gender pay gaps:
- *Not able to work at irregular times:*
  Many jobs require an employee at irregular times such as night shifts, and overtime. Due to security contentions, women do not continue these kinds of jobs at irregular times. At the same time, men are comfortable with working night shifts and overtime from their perspective. Therefore, it's a reason that women are not getting promotions and are not being paid less than men who can work more flexible schedules.
- *Negotiation:*
  When we talk about negotiation then one thing always knocks our brain which is women, because women most of the time are not going for any negotiation for higher pay or benefits. Because opportunities are less for women which can result in a lower compensation package.
- *Restricted educational and training opportunities:*
  Women may have to get fewer approaches or enter education and training opportunities, because of, patriarchal ideas that women and girls should be more perform in household chores. So, it's clear that traditionally women are suppressed by limited skills for higher-paying jobs.

Advantages and Disadvantages of Gender Inequality in A Global Perspective

I. Poverty And Hunger:

In Our globalized world, gender inequality has had a huge effect on poverty and disadvantage where 60% of the above women and girls are in a recurring way hungry and suffering from poverty. On average, the composition is only 43% of women can make up the Agricultural labour force in a country. The available body facts or information indicate that women could raise farms 20-30 percent, resulting in 2.5 – 4% of total agriculture output in every nation, provided that they had access to the same resources as males.

II. Disparity in pay between gender:

There is an enormous literature that documents the existence of and explores the causes of the gender wage gap, mainly for recent years (1970 – 2010), but also for historical periods. The gender wage gap exists at all times and places. In the calculations below I benchmark the current gender pay ratio at 60 percent in developing countries and 75 percent in developed countries (women's to men's earnings) based on my own earlier surveys of gender wage gap studies (Jacobsen 2007, Chapters 10 through 13))[5] and rely on calculations from Goldin (1990) and other sources to estimate the pay ratio worldwide

[5] Jacobsen, J. (2007) The Economics of Gender, 3rd edition, Wiley.com. Available at: https://www.wiley.com/en-us/The+Economics+of+Gender,+3rd+Edition-p-9781405161824 (Accessed: 05 March 2024).

Going back to 1900, fewer systematic studies exist of the pay ratio, particularly for countries other than the U.S. and the U.K. I rely on the U.S. calculations from Goldin (1990) and other sources that I had previously identified (Jacobsen 2007, Chapter 14)[6] for estimates of the pay ratio going back to 1900.

Thus, it is still possible to link some of the differences that are attributed to measured features to societal factors that worsen gender disparity. Since pay is supposed to be the case, that is equal pay for men and women, in this opinion, it's called "complete equality" equation is a maximum figure for able capacity gains and average equation, in which half of the wage gap is supposed to the due of gender-specific a point or way in which distinguish personal preference regarding a category of people or intensity of paid work.

III. To estimate the value of domestic produced:

Although it has been estimated that any of more above on a platter forwarded a greater woman the home played employment increasing a quality of being efficient, these changes came at required since. In several situations, there is a position of considerable influence on scope cost associated with not doing household one. Less food preparation, child care, and home-based agriculture—such as cultivating kitchen gardens—may fall under this category. In affluent nations, a declining percentage of people produce a sizable portion of their food, and much food preparation and child care have been pushed into the official sector.

IV. Globally impacted by gender inequality:

Gender inequality is not a 'women's problem or issue'[7]. this is a huge problem in our community, and it has an effect on gender inequality touching all parts of our society. Gender stereotypes given a negative effect on people of all people. Women are worse off almost in every place for a particular purpose. There is a common theme among all those issues such as the gender pay gap, unpaid caregiving time, high incidence of gendered violence, a scarcity of women in leadership roles, and public positions, and disparity of gender. A gender-equal society benefits for everyone. It makes our community safer, healthy, and cohesiveness of our community.

V. Gender equalities in significance in market transition:

It is necessary to have gender equality, gender balance, an inclusive workplace, and better working situations. They both generate value for firms and act as a catalysts for economic expansion. Though women contribute in a manner lacking gentleness, or harsh 40-50% of all firms related to labor and activities for developing our nations, they present a smaller number than 20% of landholders, and often they obtain and control resources. Specifically, it is comparatively lower than men. This prevents them from being an active driver of economic growth and productivity in agricultural value chains. IDH has seen throughout the years that gender equality is a catalyst for economic growth. In the last few years, we have been implementing gender interventions to tackle gender barriers for all individuals in their workplace. It includes initiatives to increase women's access to resources, their position in leadership roles, and women's workplace safety around the globe and are seeing results in different industries.

Gender- Transformative Leadership Approaches And Global Health Leadership:

It is important to clarify the origin of "global health" and "global health leadership", it gives an impact to better appreciate the ancient foundations to create gender-inclusive policies and programs to

[6] Jacobsen, J. and Zeller, A. (2007) Queer Economics: A reader, Routledge & CRC Press. Available at: https://www.routledge.com/Queer-Economics-A-Reader/Jacobsen-Zeller/p/book/9780415771696 (Accessed: 05 March 2024).

[7] Gender inequality affects everyone (no date) Find, connect, shape your Victorian Government. Available at: https://www.vic.gov.au/gender-inequality-affects-everyone (Accessed: 05 March 2024).

promote gender equality. The terms "global health" and "global leadership" influence hiring practices, performance standards, and expectations for leaders in the field as well as the advancement of the gender equity agenda in global health leadership. Definitions of global leadership and global health abound. In discussing the theme of global health and women's leadership it's pointed out that global health is obscure, and uncomfortable, having developed from their "tropical medicine". These goals are rooted in colonization and imperialism. protecting the health of invaders and colonists sent to annex land, increase trade, and plunder the riches of the Global North and Global South was the first aim of tropical health.[8]

Humanity's capacity to thrive depends on women. That may be obvious, given that women and girls comprise half of the population- yet discrepancies persist in earning potential, healthcare access, civil rights, and economic justice for women in every pocket of the planet. These disparities can be even greater among individuals who identify as gender-diverse or non-binary.

Working to improve gender equality is one of the most important ways that we can make life better for everybody on earth – all 7.9 billion of us and counting.

Need to Promote Gender Equality :

- *Assist individual women in achieving success:*
  The global worldwide report claims that in our world over a billion women are not established in financial institutions[9]. Women's salaries can rise as a result of the exclusion, raising household expenditure on things like food and education and improving the overall quality of all.
  To encourage women, they can stand by financially or get opportunities to start their enterprises', go to school, and become more independent and agency. It's a technique platform that women get a positive impact on their lives of individuality and generate a good atmosphere to entire the world.
- *Supporting businesses that are owned by women:*
  This statement defines where we spend our money in a matter[10]. When a woman starts a small business its directly supports to their family and communities. It's also improve our local economic surrounding our communities.
- *Enhance workplace in gender equality:*
  It is amazing to see in the present generation how much women have competed with men in business fields, technology, science, government and all other important commercial and cultural fields. But still, it is also very surprising that gender equality is still an issue. But a look at the numbers reveals that the imbalance persists: In every developing country, women earn 82 cents to every dollar made by men. Globally it is just 77 cents. The gap is even larger for immigrant mothers, women, and women of colour.

Mothers and child-bearing women who have the same amount of work experience as men are less likely to get recruited and advance in their careers. Women report far more cases of burnout, stress, and exhaustion from work.

[8] JC;, S.S. (no date) Gender equality in the 21st century: Overcoming barriers to women's leadership in Global Health, Journal of dental education. Available at: https://pubmed.ncbi.nlm.nih.gov/36165260/ (Accessed: 05 March 2024).
[9] 27 actionable ways to improve gender equality (no date) Kiva. Available at: https://www.kiva.org/blog/27-actionable-ways-to-improve-gender-equality (Accessed: 05 March 2024).
[10] Global issues: Gender equality and women's empowerment. Available at: https://www.peacecorps.gov/educators/resources/global-issues-gender-equality-and-womens-empowerment/ (Accessed: 04 March 2024).

Aims of gender inequality[11]

- Raise awareness of the media and the general public on gender equality issues in the media;
- Discuss the challenges posed by reconciling the media's freedom of expression and upholding the principle of gender equality;
- Encourage a gender-sensitive approach in the media environment and industry;
- Promote leadership of women in the media;
- Discuss the challenges posed by new media, its impact on gender equality, and how it can be used as a potential agent for positive change;
- Discuss and exchange good practices on effective strategies for combating gender stereotypes;
- Present to the participants the Council of Europe Handbook "Women and Journalists" and its toolkit on how to combat gender stereotypes in the media.

Globally, women have fewer opportunities for economic participation than men, less access to basic and higher education, greater health and safety risks, and less political representation.

Conclusion and Succession

Thus, it concluded that we should be focused on addressing the global issue of gender inequality in innovative and more productive ways[12]. This is based on the logic and evidence presented above. These include advancing the current discussion and emphasis on intersectionality concerning gender inequality, highlighting the growing body of academic research on masculinity, gender relations, and feminism, and reconsidering activism and its relationship to academia and other stakeholders, particularly in light of technological advancements. According to Simon Willis (2014), inequality is a serious and intricate issue. It is firmly ingrained in every aspect of existence. It is widely upheld and encouraged, even by those it harms.

Inequality, in my opinion, is the primary obstacle standing in the way of social justice, and its removal will require a creative strategy that won't result in the same tiny, incremental changes as we've seen recently.

Men's lower life expectancy and women's poorer mental well-being reflect the effect of gender inequality and gendered norms on health by leading to differences in exposures and vulnerabilities to disease[13], health-related behaviours, and access to care. Employment status influences people's physical and mental health through working conditions, income, and social status, while gender-biased health research and healthcare systems reinforce and reproduce gender inequalities.

Today we are talking about removing gender discrimination in sustainable development globally. On the other hand, the roots of gender discrimination are becoming stronger due to social and political reasons. In such a situation, we have to think how can we overcome these social and political causes to reach the level of gender equality? A peaceful and beautiful world cannot be imagined without gender equality.

When we talk of women empowerment, it is not only about the change of male mentality or social recognition, but also the huge inequality of legal, economic and political rights. The narrator Mridula

[11] Goal 5: Gender equality (2024) The Global Goals. Available at: https://www.globalgoals.org/goals/5-gender-equality/ (Accessed: 05 March 2024).
[12] Gender equality - IDH - the sustainable trade initiative (2024) IDH. Available at: https://www.idhsustainabletrade.com/impact/gender-equality/?gad_source=1 (Accessed: 05 March 2024).
[13] Victoria Robinson University of York, Robinson, V. and York, U. of (no date) Gender inequalities: 'past' issues and future possibilities, Open Mind. Available at: https://www.bbvaopenmind.com/en/articles/gender-inequalities-past-issues-and-future-possibilities/ (Accessed: 05 March 2024).

Garg[14] wrote in one of her articles - "The attainment of any law, political, economic right can be meaningful only when it also gets social acceptance".

The situation is that women have rights but do not have the ability to make decisions. The situation does not change in spite of financial competence because the woman does not consider herself to be the deciding power; she remains dependent on the male class for the final decision. Therefore, there are 2 dimensions of women empowerment - patriarchal acceptance and acceptance of self. The first acceptance involves the role of family, environment, education, law and constitution, while the second involves self-confidence and the ability to self-decide. The coordination and harmony of all these areas can empower a woman; can form an important unit of society and country. But the change in mentality, which is the root of centuries, is very slow.

The Indian social system encourages women to discharge their traditional responsibilities, but today's modern environment encourages women to get out of the walls of the house and do something. Today's woman is moving forward in all fields, be it science, technology, sports or academia, art or literature. The expansion of education and higher education opportunities are motivating today's women to fly with new wings. But due to the slow change in our traditional outlook, women are suffering from violence at the every level. Unless we change the mentality of the people, talks of women empowerment will not change into reality.

For the establishment of a democratic and egalitarian society, women will have to give equal importance in every sphere of life with equal opportunities. A society that strives to develop without the full participation of women is like a bird that attempts to fly with a single feather. In the words of Swami Vivekananda – "The nation that does not respect women is not great nor can it become great in future". The development of the nation is not possible without the development of women, so it is clear that women must be brought into the mainstream for the full development of the nation. For this, not only the proportional participation of women in social, economic, political and cultural fields is necessary, but also comprehensive thinking and implementation is necessary to control female violence.

[14] Garg, M. (2019) *Usake Hisse kī dhūpa*. Naī Dillī: Rājakamala Prakāśana Prā. Li.

EMPOWERING WOMEN AND GIRLS IN BUSINESS: AN ASSESSMENT OF THE GLOBAL STATUS OF WOMEN'S EMPOWERMENT

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Abstract

Gender equality, according to UN Women, is defined as "the equal rights, responsibilities and opportunities of women and men and girls and boys" and further defined by the International Labour Organisation (ILO) as "in all spheres of life," which includes the workplace, marketplace, and community. The non-discrimination section has more information on many aspects of equality. Empowering women and girls promotes social progress, economic growth, and the development of more stable and just communities. The economic empowerment of women is vital to the social and economic development of families, communities, and nations. The Sustainable Development Goals (SDGs) also highlight women's empowerment as a primary development goal in and of itself, as well as the significance of gender equality in addressing a wide range of global concerns. Companies that place a strong priority on women's empowerment typically see greater levels of financial success. More and more business leaders are seeing how important women are as employees, clients, leaders, and caretakers. They are making changes to their initiatives, policies, and programmes to create an environment that supports women's and girls' achievement.

The purpose of this research is to see growth of women's in Business as well as entrepreneurship and making leads to qualitative changes in women empowerment. The study presents a theoretical perspective on the multiple implications of gender equality on women empowerment, as well as the factors that promote and hinder women's admission into and engagement Economic growth for our Nation. The current study's findings suggest that women's Education, reservation in various jobs and places can be a powerful tool for women's Financial Growth in India.

Keyword: Feminist Jurisprudence, Empowerment, India, United Nation Organization, Education, SDGs

Introduction

Twenty-five years after the United Nations' Beijing Declaration and Platform for Action pledged to take the necessary steps to "remove all obstacles to gender equality and the advancement and empowerment of women," support for gender equality is strong around the globe. Across 34 countries surveyed by Pew Research Centre, a median of 94% think it is important for women in their country to have the same rights as men, with 74% saying this is *very* important[89].

[89] https://www.pewresearch.org/global/2020/04/30/worldwide-optimism-about-future-of-gender-equality-even-as-many-see-advantages-for-men (as visited on March 3, 2024)

Gender equality in the economy refers to the equal integration of men and women into the labor market and is one of the most researched aspects of gender equality. Even though women have made great progress in labor market integration in recent decades, their participation rate is still lower than that of men, they are less likely to move into management positions, and they are paid less for similar work[90] .

Gender equality refers to the principle of ensuring equal rights, opportunities, and treatment for people of all genders. It is a fundamental human right and a cornerstone of sustainable development, social justice, and economic progress. Gender equality aims to eliminate discrimination and bias based on gender, promoting fairness and equity in all aspects of life, including education, employment, healthcare, politics, and social interactions.

Throughout history, gender inequality has been deeply entrenched in societal norms, cultural practices, and institutional structures. Women and individuals of marginalized genders have historically faced systemic barriers that limit their opportunities and access to resources. These barriers manifest in various forms, such as unequal pay, limited educational and career prospects, restricted reproductive rights, and pervasive gender-based violence.

Achieving gender equality requires addressing and dismantling the root causes of discrimination and oppression. This involves challenging harmful stereotypes, promoting inclusive policies and legislation, fostering gender-sensitive education and awareness, and empowering individuals to challenge gender norms and stereotypes.

Gender equality benefits everyone, not just women and marginalized genders. It fosters more inclusive and diverse societies, drives economic growth and innovation, promotes healthier relationships and families, and strengthens democratic governance and social cohesion.

Despite significant progress in recent decades, gender inequality persists globally, albeit in varying degrees across regions and communities. Efforts to advance gender equality must be intersectional, recognizing and addressing the unique challenges faced by individuals at the intersections of gender, race, ethnicity, class, sexuality, disability, and other social identities.

By promoting gender equality, societies can unlock the full potential of all individuals, create a more just and equitable world, and build a future where everyone can thrive regardless of their gender identity or expression.

In India, women face several challenges and barriers in business and economic growth, which contribute to gender inequality and hinder overall economic development. Some of the key issues against women in business and economic growth in India include:

Limited Access to Education: Despite improvements in recent years, access to quality education remains unequal for many girls and women in India. A lack of education limits their ability to acquire the skills and knowledge needed to succeed in business and entrepreneurship[91].

Gender Wage Gap: Women in India often earn significantly less than their male counterparts for the same work[92]. The gender wage gap persists across sectors and occupations, reflecting systemic discrimination and undervaluation of women's labor.

[90] European Commission. (2008). Report on equality between women and men. Luxembourg: European Communities.
[91] Women and Girls' Access to and Experience of Education: A Reading List https://www.epw.in/engage/article/women-and-girls-access-and-experience-education
[92] How big is the gender gap in earnings? https://www.thehindu.com/business/Economy/how-big-is-the-gender-gap-in-earnings/article67457426.ece

Limited Access to Financial Resources: Women entrepreneurs in India often face challenges in accessing financial resources such as loans, venture capital, and investment opportunities. Financial institutions may be hesitant to lend to women due to perceived risk factors or gender biases[93].

Social and Cultural Norms[94]: Traditional gender roles and cultural norms in India often prioritize women's roles within the household over their participation in the workforce or business ventures. Societal expectations may discourage women from pursuing entrepreneurial endeavors or leadership positions in business.

Lack of Supportive Policies and Infrastructure: The absence of supportive policies and infrastructure tailored to the needs of women entrepreneurs hinders their ability to thrive in the business landscape. Limited access to childcare facilities, inadequate transportation options, and bureaucratic hurdles pose additional challenges for women in business.

Gender-Based Violence and Harassment: Women in India frequently face gender-based violence and harassment, both within and outside the workplace. Fear of violence and harassment can deter women from pursuing economic opportunities or participating fully in the workforce.

Underrepresentation in Leadership Positions: Women are underrepresented in leadership and decision-making roles across sectors in India. Limited representation of women in corporate boardrooms, government bodies, and policymaking institutions perpetuates gender inequality and hampers inclusive economic growth.

In order to address these problems, comprehensive plans and initiatives that support economic empowerment for women, gender equality, and the development of a supportive business climate for women are needed. Women's entrepreneurship and economic empowerment in India are greatly aided by programmes including awareness campaigns, financial inclusion initiatives, capacity-building projects, and gender-sensitive regulations. Furthering gender equality and inclusive economic development in the nation also requires actions to combat gender stereotypes, advance women's education, and fortify legislative safeguards against violence and discrimination based on gender.

Several Significant Facets of Gender Disparity in the Workplace and Its Effects on Global Economic Expansion Include:

According to the United Nations Sustainable Development Goals Report of 2021[95]:

- One in three women are subjected to physical or sexual violence in their lifetime and up to 10 million girls will be at risk of child marriage over the next decade.
- Women spend 2.5 times as many hours as men on unpaid domestic and care work — this disparity is growing due to the pandemic, squeezing more women out of the labour force.
- Women represent only 25.6% of national parliaments, 36.3% of local governments, and 28.2% of management positions.

Even in a developed state like Victoria, Australia, gender inequality has a significant impact on people's lives. According to research done by the State of Victoria (2016)[96]:

[93]https://www.imf.org/en/Publications/WP/Issues/2018/09/28/Closing-Gender-Gaps-in-India-Does-Increasing-Womens-Access-to-Finance-Help-46251

[94] Gender discrimination in social norms: Measuring the invisible ,https://www.oecd.org/stories/gender/social-norms-and-gender-discrimination

[95] https://www.futurelearn.com/info/courses/study-melbourne/0/steps/262346

[96] https://www.futurelearn.com/info/courses/study-melbourne/0/steps/262346

- More women than men graduate from higher learning but receive a lower than average graduate salary — Victorian women earn 87.6 cents to every dollar earned by men.
- Boys typically receive eight times more attention in the classroom than girls.
- Girls are more likely to opt out of intensive maths subjects in the final years of school.
- Boys in the US and Australia are more likely than girls to be diagnosed with a behaviour disorder, prescribed stimulant medications, fail school, binge drink, commit a violent crime, and/or take their own lives.
- 50% of mothers experience discrimination during pregnancy, on parental leave, or when returning to work.
- The gender pay gap and reduced employment opportunities mean that women retire with half the savings of men, impacting their financial security, health, and wellbeing, and increasing the risk of homelessness.

1. **Limited Representation in Leadership Positions**: In companies across a range of sectors and industries, women are frequently underrepresented in leadership and decision-making roles. The performance and competitiveness of organisations may be affected in the long run by this lack of representation, which impedes variety of thought, creativity, and decision-making processes.
2. **Gender Pay Gap**: Women are still paid less for doing equivalent job than males in many nations. A few of the variables that contribute to this disparity are discrimination, occupational segregation, and unequal access to opportunities for growth. The gender wage gap deprives society overall of economic potential and production in addition to making life more unstable for women.
3. **Access to finance and Funding**: In comparison to their male counterparts, female entrepreneurs and business owners frequently encounter difficulties obtaining finance, funding, and investment opportunities. This inequality is a result of discriminatory financing practices, investor gender bias, and restricted access to resources and networks. Women-led companies might therefore find it difficult to expand and scale, which would reduce their ability to contribute to economic growth.
   4. Work-Life Balance and Care Responsibilities: Women continue to carry a disproportionate amount of household chores and unpaid care responsibilities, which might hinder their capacity to participate fully in the workforce and seek possibilities for career progression. The difficulties that women in business have in striking a work-life balance are made worse by the absence of infrastructure and laws that provide cheap childcare and flexible work schedules.
4. **Gender Gap in Entrepreneurship**: Women continue to underrepresent males in the creation and running of firms, with a notable gender gap in this area. This discrepancy is caused in part by structural obstacles, cultural norms, and restricted access to networks and resources. For the purpose of encouraging innovation, job creation, and economic progress, it is imperative to close the gender gap in entrepreneurship.
5. **Legal and Policy Frameworks**: Gender inequality in business and the economy may be sustained in many nations by legal and policy frameworks. Gender equality and inclusive economic growth cannot be achieved without addressing discriminatory laws and enacting gender-responsive policies, such as equal pay laws and initiatives to increase the presence of women in leadership positions.

Here are some key aspects of gender perspectives at the global level:

Economic Disparities: Globally, women often face unequal access to economic opportunities, including employment, entrepreneurship, and access to financial resources. The gender pay gap persists across many countries, where women earn less than men for similar work. Moreover, women are disproportionately represented in informal and precarious employment sectors.

Education: While significant progress has been made in improving girls' access to education worldwide, disparities still exist, particularly in certain regions and among marginalized communities. Girls are more likely to be out of school, receive lower quality education, and face barriers to accessing higher education and pursuing certain fields of study.

Healthcare: Gender inequalities manifest in healthcare access, treatment, and outcomes. Women and girls may face barriers to accessing reproductive health services, including family planning and maternal healthcare. Additionally, gender biases can influence medical research, diagnosis, and treatment, impacting the health outcomes of individuals.

Political Representation: Despite advancements, women remain underrepresented in political leadership roles globally. Women's participation in decision-making processes, including government, parliament, and corporate boardrooms, is often limited. Structural barriers, discriminatory practices, and cultural norms contribute to this underrepresentation.

Gender-Based Violence: Gender-based violence, including domestic violence, sexual assault, and trafficking, affects individuals of all genders but disproportionately impacts women and girls. Cultural norms, social attitudes, and legal systems often perpetuate impunity for perpetrators and discourage survivors from seeking justice and support.

Legal Rights: Gender inequalities are reinforced by discriminatory laws and policies that limit women's rights and autonomy in various aspects of life, including marriage, inheritance, property ownership, and access to justice. Efforts to reform legal frameworks and enforce existing laws are essential to address systemic inequalities.

Inter sectionality: Gender inequality intersects with other forms of discrimination based on race, ethnicity, class, sexuality, disability, and other identities. Intersectional approaches are crucial for understanding and addressing the unique challenges faced by individuals with multiple marginalized identities.

Conclusion

In many countries, women place more importance on gender equality than men do. However, women are less optimistic than men that women in their countries will achieve equality in the future, and they are more likely to say men have better lives than women.

women in business face significant gender inequalities that hinder their professional advancement and economic empowerment. Despite progress in recent years, gender disparities persist in various aspects of the business world, including leadership positions, pay equity, access to funding and resources, and opportunities for career advancement.

The underrepresentation of women in leadership roles remains a pressing issue, with women often encountering barriers such as implicit bias, stereotyping, and lack of mentorship and networking opportunities. These obstacles contribute to the perpetuation of gender imbalances at the highest levels of corporate hierarchies and limit the diversity of perspectives in decision-making processes.

Moreover, pay inequity continues to be a prevalent concern, with women earning less than their male counterparts for comparable work. This wage gap not only undermines women's financial security but also perpetuates broader economic inequalities within society.

Access to funding and resources presents another challenge for women entrepreneurs and business owners, with women-led ventures receiving disproportionately less investment capital compared to male-led enterprises. This disparity constrains women's ability to start and scale businesses, limiting their economic independence and contribution to overall economic growth.

Addressing gender inequalities in business requires multifaceted approaches, including implementing policies and initiatives that promote diversity and inclusion, fostering supportive work environments free from discrimination and bias, and expanding access to education, mentorship, and funding opportunities for women entrepreneurs.

Furthermore, challenging societal norms and stereotypes that perpetuate gender roles and biases is essential for creating more equitable and inclusive workplaces and societies. By recognizing and addressing the systemic barriers that hinder women's full participation and advancement in business, we can foster environments where all individuals, regardless of gender, have equal opportunities to thrive and succeed. Achieving gender equality in business is not only a matter of social justice but also a critical driver of economic growth, innovation, and sustainable development.

INTELLECTUAL PROPERTY RIGHTS AND SUSTAINABLE DEVELOPMENT: A CRUCIAL INTERSECTION

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Abstract

In the contemporary global landscape, the protection of intellectual property (IP) rights is increasingly recognized as crucial for fostering innovation and economic growth. However, as societies pursue sustainable development, there is a growing acknowledgment of the need to balance IP protection with broader social and environmental goals. IP rights, including patents, copyrights, trademarks, and trade secrets, grant creators and innovators exclusive rights to their inventions, creative works, and brands. These legal frameworks incentivize investment in research and development, driving technological advancement, artistic expression, and industrial growth. Simultaneously, achieving sustainable development entails addressing pressing global challenges like climate change, resource depletion, and social inequality. The United Nations' 2030 Sustainable Development Goals (SDGs) outline a collective roadmap toward economic growth, social equity, and environmental protection, ensuring the well-being of present and future generations. In this context, the relationship between intellectual property and sustainable development has gained prominence, giving rise to various policy and legal considerations. While there have been extensive discussions on this topic, changes to international IP rules to accommodate sustainable development concerns have been limited. Herein, efforts to bridge the gap between intellectual property and sustainable development highlight the necessity of inclusive dialogue. Such dialogue, involving diverse stakeholders and viewpoints, could foster a more comprehensive approach to intellectual property within the sustainable development framework.

Keywords: Intellectual property (IP), Sustainable development, Innovation, Economic growth, Global challenges, United Nations (UN)

Introduction

Intellectual property (IP) permeates every facet of human endeavour, from education and technology to literature and entertainment. Over time, its role has expanded significantly due to its interactions with other laws and international agreements, influencing various sectors like pharmaceuticals and agriculture.

The historical evolution of international IP law reveals a complex interplay with development issues, dating back to the upheavals of decolonization in the 1960s. Since then, the discussions within the United Nations have raised concerns about the compatibility of existing IP treaties with differing levels of development among nations. Efforts to address these issues culminated in significant agreements like the TRIPS Agreement in the 1990s and the WIPO Development Agenda in 2007, highlighting the pivotal role of IP in broader social and economic development.

Simultaneously, environmental concerns grew prominence as sustainable development gained global recognition in the 1990s. Consequently, tensions arose between environmental priorities and

established IP frameworks when the UN General Assembly adopted Sustainable Development Goals (SDGs) as a global imperative and set the stage for the adoption of the United Nations' 2030 Agenda for Sustainable Development, outlining 17 ambitious goals aimed at addressing global issues by the end of the decade.

Within this framework, intellectual property assumes a central role, serving as both a driver of innovation and a mechanism for protecting the rights of creators. By incentivizing technological advancement and fostering a conducive environment for creativity, IP contributes to progress across various SDGs, including those related to clean energy, healthcare accessibility, and environmental sustainability.

Wherein, on one hand, IP laws aim to foster creativity and incentivizes innovation, on the other, it can also impede progress by granting exclusive rights, particularly in critical areas like healthcare and agriculture. However, in due course, the integration of IP into the sustainable development agenda holds the promise of unlocking new avenues for progress and innovation, shaping the trajectory of global development in the years to come.

This interplay between IP and sustainable development remains a subject of ongoing debate, with various initiatives seeking to bridge the gap between these realms. Efforts to navigate this nexus require careful consideration of the diverse interests at play, as well as proactive measures to address potential challenges and disparities.

Therefore, by exploring potential policy approaches, this article provides an overview of the evolving relationship between IP and sustainable development, focusing on key issues within this complex landscape. It examines how IP has been addressed in sustainable development fora and vice versa, highlighting efforts to understand and address the challenges and opportunities inherent in this interface. Conclusively, this article aims to stimulate further research into maximizing the positive contributions of IP while mitigating its potential drawbacks within the sustainable development paradigm.

The interplay between Sustainable Development and Intellectual Property Rights

Intellectual property rights encompass the ownership and exclusive privileges bestowed upon creators or inventors, enabling them to profit from their creations and enhance their social standing. As defined by the World Intellectual Property Organization (WIPO), intellectual property encompasses a broad spectrum of "creations of the mind."[1] This encompasses artistic and literary works, brand names, symbols, designs, and various other intangible assets.[2]

On the other hand, the principle of sustainability is simple and rooted in the notion of meeting the needs of the present generation without compromising the ability of future generations to meet their own needs. It involves adopting strategies to maintain a certain equilibrium over time.

In both business practices and governmental policies, sustainability aims to mitigate the depletion of natural and other resources, ensuring their longevity, operating on the premise that ecological, economic, and human resources are finite and must be utilized judiciously with a long-term perspective.

Therefore, sustainability endeavours to achieve a harmonious coexistence between economic prosperity, social well-being, and environmental preservation. This multifaceted concept is commonly delineated into three interrelated sub-areas:

[1] 'The Nexus Between Intellectual Property and Sustainability' (IamIP, 18 January 2023) <https://iamip.com/the-nexus-between-intellectual-property-and-sustainability/> accessed 02 March 2024
[2] Ibid

1. Economic,
2. Social, and,
3. Environmental Sustainability.

Herein, economic sustainability pertains to an organization's capacity to preserve its resources while still generating profits. This may involve initiatives such as promoting recycling, harnessing renewable energy sources, and implementing cost-saving measures.

And, environmental sustainability focuses on managing natural resources in a manner that does not impede economic advancement. Strategies within this realm include reducing plastic consumption, adopting energy-efficient transportation systems, implementing water and energy conservation practices, and promoting paper recycling initiatives.

It is well established that Intellectual property right (IPR) have strong impacts on economic growth, environmental protection and social objectives,[3] across various sectors such as healthcare, technology, and education, its role in promoting sustainability might not be as readily apparent. However, IP can indeed play a crucial role in fostering sustainability in several ways:

1. **Incentivizing Innovation:** Intellectual property rights, such as patents, copyrights, and trademarks, incentivize innovation by granting creators and inventors exclusive rights to their creations. This encourages investment in research and development of sustainable technologies and solutions aimed at addressing environmental challenges, such as renewable energy, waste management, and sustainable agriculture.
2. **Fostering Technology Transfer:** IP laws facilitate the transfer of technology and knowledge across borders through licensing agreements and collaborations. This enables the dissemination of environment friendly technologies and practices to developing countries, promoting sustainable development on a global scale.
3. **Encouraging Green Technologies:** IP protection encourages the development and commercialization of green technologies and products, such as clean energy solutions, eco-friendly materials, and sustainable manufacturing processes. By safeguarding the intellectual property rights of innovators in these fields, IP incentivizes continued investment and advancement in sustainability-focused industries.
4. **Promoting Circular Economy:** Intellectual property can play a crucial role in promoting a circular economy, where resources are reused, recycled, or repurposed to minimize waste and environmental impact. IP rights can encourage the development of innovative business models, product designs, and recycling technologies that facilitate the transition towards a more sustainable and resource-efficient economy.
5. **Supporting Sustainable Agriculture and Food Security:** IP protection fosters innovation in agriculture, leading to the development of drought-resistant crops, sustainable farming practices, and technologies for improving food security and resilience to climate change. By protecting the intellectual property rights of agricultural innovators, IP incentivizes investments in sustainable agricultural solutions that contribute to long-term food security and environmental sustainability.

In essence, intellectual property rights provide the legal framework and incentives necessary to drive innovation, technology transfer, and investment in sustainable solutions across various sectors, thereby contributing to the overall promotion of sustainability and environmental stewardship.

[3] Benjamin Gorlach, 'Trade, intellectual property rights and sustainable development (IPDEV)' (ecologic, Jan 2005 – Jan 2006) <https://www.ecologic.eu/1357> accessed on 03 March 2024

Sustainable Development Goals (SDGs)

The Sustainable Development Goals (SDGs), established by the UN General Assembly, provide a roadmap for reducing inequality and safeguarding the planet. As we look ahead to the challenges of the next six years within the framework of the 2030 Agenda, the focus will be on fostering sustainable production, promoting conscious consumption, enhancing access to healthcare, and bridging technological disparities. Achieving these goals requires collaborative efforts to ensure progress for all nations, with intellectual property (IP) serving as a pivotal catalyst for establishing a sustainable knowledge economy on a global scale.

Introduced in 2015 to replace the Millennium Development Goals (MDGs), the SDGs aim to eradicate poverty, preserve the environment, and foster peace and prosperity for all by 2030. This ambitious agenda underscores the imperative of leaving no country behind.

Comprising seventeen distinct goals, the SDGs strive to strike a balance between social, economic, and environmental sustainability at the global, regional, and national levels. Amidst this expansive framework, the role of intellectual property (IP) in achieving the SDGs is paramount. IP serves as a catalyst for innovation, fostering creativity, and facilitating the development and dissemination of solutions that address poverty, ensure food security, combat diseases, enhance access to education, promote environmental sustainability, boost productivity, and drive business competitiveness. By incentivizing innovation and protecting the rights of creators and inventors, IP plays a crucial role in advancing the agenda of sustainable development and creating a more equitable and prosperous future for all.

Goal-Specific contributions through Intellectual Property

1. Agriculture and Sustainable Food Production: SDG 2 and 12



Picture Source: World Intellectual Property Organisation[4]

Hunger represents a grave violation of human dignity and rights, obstructing progress by fostering conflict, diminishing productivity, and shortening lifespans. Shifting our focus to sustainable food production, intellectual property (IP) emerges as a key driver in addressing Sustainable Development Goals (SDGs) related to hunger and responsible consumption. Patents and IP rights incentivize researchers and innovators to develop improved methods for crop cultivation, invent new farming tools, and adopt sustainable agricultural practices. These innovations not only contribute to increased food production but also support better food distribution, aligning with SDG 2 (Zero Hunger) and SDG 12 (Responsible Consumption and Production).

Safeguarding these intellectual property rights ensures that we can meet the escalating demand for food while minimizing environmental degradation, thereby fostering a more sustainable and resilient food system.

[4] 'The Impact of Innovation - WIPO and the Sustainable Development Goals' (WIPO) <https://www.wipo.int/sdgs/en/story.html> assessed 02 March 2024

During the inception of the Green Revolution, discussions about the role of intellectual property in agricultural modernization were sparse.[5] However, the emergence of new biotechnologies, particularly genetic engineering, propelled IP into the realm of food security. The integration of intellectual property rights into strategies for food security encompasses various issues, including Sustainable Agriculture, Trade Effects on Agriculture, the SPS Agreement, the WTO Agreement on TBT, and the TRIPS Agreement.[6]

2. Healthcare and Well-Being: SDG 3



Picture Source: World Intellectual Property Organisation[7]

In the realm of healthcare and well-being (SDG 3), intellectual property (IP) stands out as a crucial catalyst for progress. Patents and IP rights play a pivotal role in driving advancements in medical technologies and pharmaceuticals, yielding transformative benefits for global health outcomes. By providing protections for innovations in these sectors, IP encourages ongoing research and development efforts while facilitating the widespread dissemination of life-saving technologies. As a result, IP contributes significantly to the overarching objective of promoting good health and well-being worldwide. The introduction of a TRIPS-compliant IP regime in India, mirroring developments in many other developing nations, has sparked intense debate.[8] This discourse primarily revolves around the pharmaceutical and food industries, which have a direct impact on access to essential healthcare and nutrition—two fundamental human needs. India's unique position in the pharmaceutical industry sets it apart from many other countries, with its firms demonstrating a notable inclination towards innovation and patenting. However, the availability of data on health-related innovations remains fragmented and incomplete, making it challenging to definitively assess the impact of the new IP regime on innovation within India's healthcare sector.[9] As India navigates this learning phase, it is imperative for the government to remain flexible and responsive, adjusting policies to strike a delicate balance between incentivizing innovation and ensuring accessible healthcare. This adaptive approach is essential for achieving the Sustainable Development Goals (SDGs) by 2030, as it enables the country to harness the potential of intellectual property while addressing critical healthcare challenges and promoting equitable access to essential medical treatments.

3. Clean Water and Sanitation: SDG 6



Picture Source: World Intellectual Property Organisation[10]

[5] Palak Jain, 'SUSTAINABLE DEVELOPMENT AND IPR' (All Indian Legal Forum, 03 September 2023) <https://allindialegalforum.com/2021/09/03/sustainable-development-and-ipr/> assessed 04 March 2024
[6] Ibid
[7] Supra Note 4
[8] Supra Note 5
[9] Supra Note 5
[10] Supra Note 4

According to UNESCO, nearly 2 billion people lacked daily access to clean water in 2023, while 3.6 billion lacked access to safely managed sanitation.[11] This stark reality underscores the urgent need for innovations and intellectual property (IP) solutions in efficient water management systems. Innovative technologies addressing clean water and sanitation, such as waterless sanitation systems and eco-friendly sewage treatment, play a vital role in developing sustainable sanitation practices.[12] Implementing smart water metering and greywater recycling systems at residential and industrial levels can serve as effective measures to promote water conservation and address the global challenge of inadequate access to clean water and sanitation.[13]

4. **Renewable Energy and Clean Technology: SDG 7**



Picture Source: World Intellectual Property Organisation[14]

The relationship between intellectual property (IP) and innovations in renewable energy is increasingly robust. Patents, in particular, are pivotal in propelling advancements in various facets of renewable energy technology. For instance, patents drive innovation in solar energy, enabling the development of technologies that enhance the efficiency of solar panels or introduce innovative solutions like solar windows. Similarly, patents drive progress in wind energy by safeguarding patented technologies used in wind turbines. Additionally, patents support the ongoing development of other sustainable technologies such as grid integration and tidal energy. The protection of these innovations and their corresponding patents is indispensable in achieving the goal of providing affordable, reliable, sustainable, and modern energy for all.

5. **Climate Action: SDG 13**



Picture Source: World Intellectual Property Organisation[15]

SDG 13, which focuses on climate action, underscores the vital role of the intellectual property (IP) industry in advancing environmental sustainability. The IP sector actively promotes climate action by driving the development of green technologies and nurturing innovations that prioritize environmental concerns.

By offering strong IP protections, this industry facilitates the smooth transfer and widespread adoption of sustainable practices, thereby making significant contributions to global efforts to address climate change. Intellectual property frameworks not only incentivize the creation of environmentally friendly solutions but also accelerate the spread of these vital technologies worldwide.

[11] 'The power of intellectual property in achieving the Sustainable Development Goals' (Patent Renewal) <https://www.patentrenewal.com/post/the-power-of-intellectual-property-in-achieving-the-sustainable-development-goals> assessed 06 March 2024
[12] Ibid
[13] Ibid
[14] Supra Note 4
[15] Supra Note 4

The correlation between climate change and intellectual property rights is undeniable. Climate change manifests in various adverse effects worldwide, including droughts, floods, glacier melting, cyclones, and tsunamis. To combat these challenges, the development of **Green Technology** becomes imperative.[16] These technologies encompass environmentally friendly or clean technologies, as well as devices and practices used in environmental science, monitoring, chemistry, and conservation.

The primary aim of granting monopoly rights under the IP system was to encourage technological innovation and promote environmental benefits.[17] Hence, there was a need to protect green technology through the establishment of green intellectual property (green IP) frameworks. Green IP involves legally safeguarding innovations that benefit the environment in diverse ways.

Despite the continued demand for carbon-based energy sources driven by global energy needs, it is crucial to conserve finite natural resources for sustainable development and human survival. Green technologies have emerged in response to this challenge, aiming to mitigate the environmental threats posed by increasing globalization, urbanization, and human activities.

Considering the numerous advantages of Green IP, developing countries, including India, should enhance their IP systems and actively pursue the granting of Green IP protections. This would help bolster environmental conservation efforts, promote sustainable development, and contribute to global climate action initiatives.

It is crucial to highlight the efforts made to enhance the role of intellectual property worldwide, such as through the protection of patents for green technologies, safeguarding green trademarks to promote business sustainability, and recognizing designations of origin that can benefit rural development. Additionally, the protection of traditional knowledge and new plant varieties plays a significant role in fostering innovation and sustainability.

For these purposes, the World Intellectual Property Organization (WIPO) joined the United Nations Sustainable Development Group (UNSDG) in early 2022[18], continuing its mission to encourage authors, creators, and inventors to develop solutions that improve lives. WIPO manages global networks for intellectual property protection, facilitating the geographical expansion of business activities for individuals and entrepreneurs. Moreover, WIPO supports the development of innovation ecosystems and promotes the use of tools for intellectual property protection, ultimately leading to job creation, social welfare, and economic development.

WIPO offers various services that create conducive conditions for innovation, competitiveness, and creativity. Initiatives like the IPC Green Inventory that enables searches for information contained in patents related to environmentally friendly technologies and the WIPO GREEN platform that consolidates technologies at all stages of development, making them available for licensing, collaboration, and sale to the public. These tools not only facilitate the dissemination of specialized knowledge but also streamline the development and implementation of green technologies globally, promoting technology transfer between countries and fostering business sustainability.

Examples where the application of various Intellectual Property tools has led to tangible benefits for society, aligning with the achievements of the Sustainable Development Goals (SDGs):

[16] Supra Note 5
[17] Supra Note 5
[18] 'Intellectual Property and challenges on the path towards a better and more sustainable future for all' (PONS IP, 24 April 2023) <https://www.ponsip.com/en/ip-news/news/intellectual-property-and-challenges-on-the-path-towards-a-better-and-more-sustainable-future-for-all/> assessed 06 March 2024

1. **qAIRa[19]:** This company utilizes drones and detection technology to combat air pollution. By leveraging Intellectual Property tools, qAIRa has been able to develop innovative solutions for monitoring and addressing air quality issues, contributing to SDG targets related to environmental sustainability and public health.
2. **Solar Impulse Foundation (Switzerland)[20]:** The foundation awards the Solar Impulse Efficient Solutions Label to clean technologies with a positive environmental impact. Through Intellectual Property strategies, the foundation incentivizes and recognizes the development of sustainable solutions, promoting SDG goals related to renewable energy and climate action.
3. **Researchers from Stellenbosch University (South Africa)[21]**: This group developed a method for depolymerizing phenolic polymers to convert waste pulp into a new feedstock for the chemical industry. Intellectual Property tools have allowed these researchers to protect their innovative process, fostering sustainable practices in waste management and contributing to SDG objectives concerning industry, innovation, and responsible consumption.
4. **Sibö BV (Costa Rica)[22]**: This company created an insect-based protein extract that serves as a food supplement for vulnerable populations. Through Intellectual Property mechanisms, Sibö BV has secured its innovative product, enabling the sustainable production and distribution of nutritional supplements, thereby supporting SDG targets related to zero hunger and good health and well-being.

In each of these cases, the strategic use of Intellectual Property tools has played a pivotal role in driving innovation, promoting sustainability, and achieving tangible benefits for society in line with the objectives of the Sustainable Development Goals.

Challenges

One of the primary challenges is ensuring the accessibility and fair distribution of innovations. While intellectual property protection is essential for driving innovation, it often raises concerns about accessibility, especially regarding essential technologies and medicines. Thus, finding a balance between protecting intellectual property rights and ensuring that advancements reach those who need them most remains a complex challenge on the journey towards sustainable development.

However, amidst these challenges, there are significant opportunities for businesses and innovators to utilize intellectual property for sustainable development.

Partnership for the Goals: SDG 17



Picture Source: World Intellectual Property Organisation[23]

[19] 'Fight air pollution caused by mining' (OMPI) <https://www.wipo.int/ip-outreach/es/ipday/2020/case-studies/qaira.html> assessed 05 March 2024
[20] 'Solar Impulse Foundation: reconciling economy and ecology' (OMPI) <https://www.wipo.int/ip-outreach/es/ipday/2020/case-studies/solar-impulse.html> assessed 05 March 2024
[21] 'Transformation of cellulose waste into raw material for the chemical industry' (OMPI) <https://www.wipo.int/wipo_magazine/es/ip-at-work/2021/transforming_pulp.html> assessed 06 March 2024
[22] 'Sibö Unlocks the Potential of Insect-Based Food with Entowise' (WIPO) <https://www.wipo.int/en/web/ip-advantage/w/stories/sib-unlocks-the-potential-of-insect-based-food-with-entowise> assessed 06 March 2024
[23] Supra Note 4

By embracing SDG 17 and forging global partnerships, establishing licensing agreements, and collaborating on projects, they can amplify the impact of their innovations in a more inclusive manner. When businesses prioritize responsible and sustainable practices, they not only contribute to achieving the Sustainable Development Goals but also position themselves as leaders in their respective industries.

The role of creating supportive policy and legal frameworks is paramount. Policymakers play a crucial role in encouraging businesses and innovators to align their endeavours with the principles of sustainable development, thereby fostering an environment conducive to innovation that benefits society as a whole.

Conclusion

Sustainability should be an integral part of every valuable IP strategy, and it is a primary interest for many modern organizations. It has formed the theme of the United Nation's SDGs with 17 goals and a target year of 2030.[24]

The comprehensive list of Sustainable Development Goals (SDGs) provides insight into the multifaceted role of intellectual property (IP) in development and underscores its significance in achieving these goals. The diffusion of technology emerges as a crucial factor in realizing these objectives. Consequently, IP cannot exist in isolation but is intricately linked to various socio-political and economic factors, which ultimately shape the fate of both the SDGs and IP itself. However, to realize the 2030 Agenda, forging partnerships and fostering collaborative ventures are imperative. In this context, regimes, such as TRIPS, will benefit all countries, encouraging innovation and creativity while attracting investment and technology transfer.[25]

Robust intellectual property protection facilitates the development, adaptation, and dissemination of green technologies. Given the alarming depletion of non-renewable resources and their limited availability, there is a pressing need to embrace a more sustainable lifestyle driven by green technologies. Therefore, strengthening the protection of intellectual property rights becomes integral to the development of new global environmental policies, thus, ensuring the advancement of sustainable practices and the achievement of overarching sustainability goals.

[24] Supra Note 1
[25] Supra Note 3

NAVIGATING THE MAZE: CROSS-BORDER INTELLECTUAL PROPERTY DISPUTES IN A GLOBALIZED WORLD

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Abstract

In today's globalised world, resolving the complicated issues of cross-border intellectual property (IP) conflicts is a difficult task for legislators, corporations, and legal professionals. Intellectual property rights are becoming more complex to preserve and enforce as trade and innovation grow across national borders. The legal landscape pertaining to intellectual property disputes is complex due to the varied legal frameworks and regulatory regimes across different jurisdictions. A comprehensive understanding of the legal complexity of each jurisdiction is necessary due to the variations in laws pertaining to trade secrets, patents, trademarks, and copyrights. Furthermore, the swift progress of technology introduces an additional level of complications to international intellectual property disputes. New technologies like biotechnology, blockchain, and artificial intelligence pose unique legal challenges that call for creative methods of IP enforcement and protection. The requirement for strong mechanisms for IP enforcement and border protection is increased by the globalization of supply chains and digital commerce platforms, which increases the risk of IP infringement and counterfeiting. But the emergence of alternative dispute resolution processes like arbitration and mediation, which offer more flexible and efficient options while lowering the dangers of drawn-out litigation, presents new possibilities for settling cross-border intellectual property conflicts. To sum up, managing cross-border intellectual property conflicts demands an in-depth understanding of technological advancements, legal frameworks, and international trade dynamics. This allows all parties involved to protect their intellectual property in an increasingly interconnected world.

Keywords: Intellectual Property, Artificial Intelligence, Globalization, Infringement, Technology

Introduction

In a time of swift globalisation, technical advancement, and vast international commerce, the administration of intellectual property (IP) rights has grown more intricate. IP protection and enforcement face never-before-seen difficulties as companies grow internationally and use digital platforms to access international markets. Cross-border intellectual property (IP) disputes are characterised by a complex web of legal frameworks, technological breakthrough, and shifting trade dynamics, encompassing everything from patents and trademarks to copyrights and trade secrets.[1] A thorough grasp of the complicated interactions between the legal systems of many nations, the effects of new technologies on intellectual property rights, and the intricacies of international supply chains and digital commerce are all necessary to successfully navigate this maze.

Different legal and regulatory frameworks across different jurisdictions are the fundamental causes of cross-border intellectual property issues. When protecting and enforcing their intellectual assets worldwide, firms have to navigate a patchwork of rules and regulations due to variations in country laws covering trade secrets, copyrights, patents, and trademarks. The resolution of cross-border disputes is

[1] Susy Frankel, "Intellectual Property and Traditional Knowledge" (WIPO, 2015) <https://www.wipo.int/edocs/mdocs/tk/en/wipo_iptk_ge_2_15/wipo_iptk_ge_2_15_presentation_susy_frankel.pdf> accessed 3 March 2024.

further complicated by conflicting court rulings, jurisdictional problems, and procedural difficulties, which frequently result in drawn-out legal battles and high expenses for all parties.

The accelerated speed of technological progress presents new and changing risks to intellectual property rights in addition to legal difficulties. New technologies that have completely changed businesses and the way we think about IP protection and enforcement include blockchain, artificial intelligence, and 3D printing. In addition to opening up new avenues for creation and expression, these technologies bring with them brand-new difficulties with regard to infringement, attribution, and ownership in a digitally connected world.[2]

In light of this, this paper explores the complicated nature of cross-border intellectual property conflicts, highlighting the main causes of their intricacy and suggesting approaches for efficient handling and settlement. This paper attempts to shed light on the opportunities and problems involved with navigating the complex environment of cross-border intellectual property conflicts in today's globalised world by looking at real-world case studies, legal precedents, and developing trends.

Causes of Cross-Border IP Disputes

In today's interconnected global economy, intellectual property (IP) disputes are increasingly crossing national borders, presenting unique challenges for businesses, legal systems, and cultural norms. These disputes arise from differences in legal frameworks, cultural perceptions, and business practices across countries. Understanding the multifaceted nature of these factors is crucial for navigating and resolving cross-border IP conflicts effectively.

- *Legal System*

The differences in legal systems between countries are one of the main causes of cross-border intellectual property conflicts. The legal systems in different countries have very different frameworks for protecting intellectual property rights, including copyrights, trademarks, and patents. These variances include disparities in the procedures for registering, the scope of protection, the methods of enforcement, and the remedies accessible to the holders of the rights.

In the United States, for example, common law is in place, and intellectual property jurisprudence is heavily influenced by court decisions. Conversely, codified rules and regulations play a more significant role in the civil law systems found in many European nations. The significant divergence in legal customs may result in divergent interpretations of intellectual property regulations and engender unpredictability for transnational firms.

Cross-border disputes can also be made worse by differences in the effectiveness of legal remedies and the degree of IP enforcement. Effective protection of intellectual property assets may be difficult in some nations due to inadequate enforcement methods. The absence of uniformity in global intellectual property laws adds to the complexity, requiring businesses to negotiate a disorganised system of rules in order to pursue legal action for violation.

- *Cultural Norms*

Cross-border intellectual property issues are significantly shaped by cultural disparities as well. Opinions of ownership, innovation, and the worth of intellectual property are influenced by cultural norms. For instance, the idea of intellectual property might be less strictly defined in various cultures, which would allow for more imitation or copying.

[2] Giambrone Law, "Cross-Border Intellectual Property Disputes" (Giambrone Law) <https://www.giambronelaw.com/site/advice/dispute-resolution/commercial-cross-border-disputes/cross-border-intellectual-property-disputes/> accessed 3 March 2024.

Furthermore, cultural perspectives on litigation and dispute resolution might differ greatly. While adversarial methods of handling legal disputes may be more common in some civilizations, others may favour peaceful resolution through negotiation or mediation. These cultural variations may have an effect on the tactics used by companies to resolve intellectual property issues as well as the results of court cases.

Moreover, the clarity and interpretation of legal documents, contracts, and correspondence between parties can also be affected by language hurdles and communication standards, which can present difficulties in cross-border intellectual property conflicts. Language barriers can lead to misunderstandings that hamper talks and increase hostilities between parties.

- *Business Practices*

Intellectual property disputes across borders frequently get worse by different business practices and competitive environments in different nations. IP disputes are becoming more likely as a result of the greater cooperation and rivalry between businesses operating in various marketplaces brought about by globalisation.

Disparities in industry norms, technology transfer procedures, and licencing agreement strategies may give rise to conflict between international enterprises possessing complementary intellectual property interests. Furthermore, differences in market maturity and economic growth may have an effect on how much intellectual property is respected and how well international conventions and treaties are followed.

Furthermore, the rise of digital technologies and e-commerce has facilitated the rapid dissemination of intellectual property across borders, making it more challenging to monitor and enforce IP rights effectively. Counterfeiting, piracy, and unauthorized use of IP assets pose significant threats to businesses operating in global markets, necessitating robust strategies for IP protection and enforcement.

- *Case studies illustrating common scenarios leading to cross-border IP conflicts*

Apple Inc. vs. Samsung Electronics Co., Ltd.[3]

Scenario: This high-profile case involved a long-standing patent dispute between two tech giants, Apple and Samsung. The conflict originated from allegations of patent infringement related to smartphone design and functionality.

Cross-Border Element: Apple, based in the United States, accused Samsung, a South Korean company, of infringing its patents in multiple jurisdictions worldwide, including the United States, Europe, and Asia.

Legal Complexity: The case exemplifies the legal complexities of cross-border IP disputes, as it required litigation and enforcement actions across different legal systems and jurisdictions.

Outcome: The legal battle spanned several years and resulted in mixed outcomes across various jurisdictions, including injunctions, damages awards, and settlement agreements, highlighting the challenges and uncertainties involved in resolving cross-border IP conflicts.

Nike, Inc. vs. Qiaodan Sports Co., Ltd.[4]

[3] Apple Inc. vs. Samsung Electronics Co., Ltd | [2015] | 786 *F.3d* 983 (CAFC)
[4] (Nike, Inc. vs. Qiaodan Sports Co., Ltd (2017) No. 65.

Scenario: This case involved a trademark dispute between Nike, an American sportswear company, and Qiaodan Sports, a Chinese sportswear manufacturer, over the use of the "Jordan" brand name and related trademarks in China.

Cross-Border Element: Nike accused Qiaodan Sports of trademark infringement and unfair competition in China, alleging that the Chinese company had improperly adopted and profited from its famous "Jordan" brand without authorization.

Cultural Sensitivity: The case underscored the importance of understanding cultural sensitivities and consumer perceptions in foreign markets, as well as the challenges of protecting IP rights in jurisdictions with different legal and enforcement regimes.

Enforcement Challenges: Nike faced difficulties in enforcing its trademark rights in China due to the complexities of the Chinese legal system and the prevalence of counterfeit goods in the market.

Outcome: The case highlighted the need for multinational companies to develop tailored IP enforcement strategies and engage in proactive brand protection efforts to mitigate the risks of infringement and unauthorized use in cross-border markets.

Bayer Corporation vs. Natco Pharma Ltd. (2012)[5]

Scenario: Bayer, a global pharmaceutical company, held a patent for the anti-cancer drug Nexavar (Sorafenib Tosylate). Natco Pharma, an Indian generic drug manufacturer, applied for a compulsory license to produce a generic version of Nexavar, citing the drug's unaffordable price and the public health need for affordable alternatives.

Cross-Border Element: The case exemplified the tension between patent holders seeking to protect their IP rights and generic manufacturers aiming to expand access to essential medicines, particularly in developing countries like India.

Legal Strategy: Natco Pharma leveraged provisions under the Indian Patents Act that allow for the grant of compulsory licenses in certain circumstances, including cases of public health emergencies or failure to meet the reasonable requirements of the public.

Outcome: The Indian Patent Office granted Natco Pharma a compulsory license to manufacture and sell a generic version of Nexavar at a significantly lower price than Bayer's branded product. The case underscored India's commitment to using flexibilities within its patent laws to promote access to affordable medicines while respecting intellectual property rights.

Ericsson vs. Xiaomi (2014)[6]

Scenario: Ericsson, a Swedish telecommunications company, filed a patent infringement lawsuit against Xiaomi, a Chinese smartphone manufacturer, in the Delhi High Court, alleging unauthorized use of its standard-essential patents (SEPs) related to 3G and 4G technologies.

Cross-Border Element: The case involved a cross-border dispute between a multinational patent holder and a Chinese company operating in the Indian market, highlighting the complexities of enforcing IP rights across different jurisdictions.

[5] Bayer Corporation v Natco Pharma Ltd [2012] 1 SCC 45.
[6] Ericsson v Xiaomi [2014] Delhi High Court, Case No. 442/2014.

Enforcement Challenges: Ericsson sought injunctive relief and damages for patent infringement, but Xiaomi contested the validity and essentiality of the patents in question, as well as the calculation of royalties sought by Ericsson.

Outcome: The parties eventually reached a settlement agreement, with Xiaomi agreeing to obtain licenses for Ericsson's SEPs and pay royalties for the use of its patented technologies. The case underscored the importance of negotiation and licensing agreements in resolving cross-border IP disputes in the telecommunications industry.

Methods for Resolving International Intellectual Property Conflicts

Navigating cross-border intellectual property (IP) disputes demands a nuanced approach that integrates legal, strategic, and tactical considerations. Firstly, cultivating a deep understanding of the legal frameworks governing IP rights across relevant jurisdictions is paramount. This includes familiarity with international treaties, regional agreements, and national laws that shape the landscape of IP protection and enforcement. Such comprehension enables informed decision-making regarding the selection of forums, choice of law clauses, and dispute resolution mechanisms. Furthermore, fostering a culture of compliance and awareness within the organization is essential. Educating employees about IP rights, infringement risks, and the importance of safeguarding confidential information can help prevent inadvertent violations and strengthen the overall IP protection framework.

In the intricate world of international commerce, handling conflicts involving intellectual property (IP) across borders poses special difficulties. Businesses must adopt best practices and methods that include pre-dispute considerations, contract dispute resolution clauses, and cross-border enforcement tactics in order to effectively traverse these issues.

Pre-dispute Considerations:[7]

- Comprehensive IP Due Diligence: To identify and safeguard your intellectual property rights, carry out thorough due diligence before to entering into cross-border business transactions. This entails evaluating the target markets' possible infringement threats, registration status, and extent of protection.
- Clear Ownership and Licencing Agreements: In contracts and agreements with suppliers, distributors, and business partners internationally, precisely describe ownership rights and licencing arrangements for intellectual property assets. Verify if these contracts are enforceable in the applicable jurisdictions.
- Strategic IP Portfolio Management: Create an international expansion strategy and business objectives-aligned strategic IP portfolio management plan. Review and update your intellectual property portfolio on a regular basis to keep up with changes in the law and market.
- Risk Mitigation Strategies: Employ risk mitigation techniques, such as competitor activity monitoring, strong IP protection mechanisms, and staff education regarding IP rights and responsibilities, to reduce the possibility of cross-border IP disputes.

Dispute Resolution Clauses in Contract:

- Choice of Law and Forum Selection: To specify the prevailing law and jurisdiction for resolving disputes, include choice of law and forum selection clauses in contracts. Take into account elements including the assets' location, the parties' nationalities, and the enforcement of judgements in the pertinent jurisdictions.

[7] Georges K. Fotis, "Overview of Intellectual Property Issues in Cross-Border Joint Ventures" (https://medium.com/@georgesk.fotis/overview-of-intellectual-property-issues-in-cross-border-joint-ventures-fa2b093825a1).

- Arbitration and Mediation: As alternate dispute resolution procedures for settling international intellectual property conflicts, include arbitration and mediation clauses in contracts. While mediation enables parties to negotiate and reach a compromise, arbitration provides anonymity, flexibility, and competence in intellectual property matters.
- Expert decision: To settle particular questions or disagreements pertaining to particular technical facets of intellectual property rights, think about putting expert decision clauses in contracts. Expert determination is assigning a disinterested expert to render a judgement or opinion on the disputed issue.
- Escalation methods: Provide explicit escalation methods in contracts so that disagreements can be gradually resolved by arbitration, mediation, litigation, or negotiation. To promote effective resolution, specify deadlines and specifications for every phase of the dispute resolution procedure.

Cross-border enforcement tactics:

- Customs Recordation and Border Measures: IP rights holders can request border enforcement actions, such as the seizure and detention of counterfeit or infringing items entering or departing a nation, by registering their rights with customs officials. Proactive shipment monitoring is made possible by customs recordation, which also makes it easier to intercept fake goods at ports of entry.
- Litigation and Injunctions: Enforcing intellectual property rights may involve bringing legal action through litigation in the appropriate jurisdictions' courts. While the case is being decided, infringers can be stopped from producing, distributing, or selling counterfeit or infringing products by requesting injunctions or temporary restraining orders.
- International Treaties and Agreements: Cross-border IP rights enforcement can be enhanced by utilising international IP treaties and agreements, such as the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). By establishing uniform guidelines for IP protection and enforcement among signatory nations, these accords promote collaboration and coordination in the settlement of cross-border IP disputes.
- Collaboration with Law Enforcement Agencies: Collaborating with law enforcement authorities to share information, intelligence, and resources can result in concerted enforcement efforts and the dismantling of transnational infringement networks. Working together with law enforcement organizations such as police, customs officials, and specialised IP enforcement units improves the ability to successfully battle intellectual property violations.
- Technology-Assisted Enforcement: By enabling proactive monitoring and identification of intellectual property infringements, the use of technology and data analytics techniques can improve the efficacy of enforcement activities. Digital tools like online brand protection platforms, digital rights management systems, and block chain-based solutions can be used to detect and trace the flow of illegal copies and counterfeit items in the digital world.

Emerging Trends and Future Outlook

Globalisation, artificial intelligence (AI), and digitization are three major forces driving the rapid growth of emerging trends in cross-border intellectual property (IP) issues. These developments are changing how intellectual property rights are enforced, bringing with them new opportunities and challenges for companies, legislators, and attorneys.

The creation, sharing, and protection of intellectual property have all undergone radical change as a result of digitalization. The rapid increase in online intellectual property infringement, comprising copyright infringement, counterfeiting, and unauthorised use of content, is a result of the widespread adoption of digital technologies. Effective IP rights enforcement has become difficult due to the ease with which digital content can be shared across national borders. Furthermore, because they make it easier for illegal content to be distributed globally, new digital platforms like social networking, e-commerce, and streaming services have turned into hotspots for intellectual property issues. Because of this, companies are finding it difficult to come up with creative ways to stop online IP infringement and safeguard their digital assets in a global digital landscape.

Cross-border intellectual property issues are being shaped by the disruptive force of artificial intelligence (AI). AI tools for creating, analysing, and safeguarding intellectual property are becoming more and more prevalent. Examples of these tools include machine learning, natural language processing, and picture identification. On the other hand, AI also poses new difficulties for the protection of intellectual property rights. AI-generated creations, for example, give rise to issues related to copyright protection, ownership, and authorship. Furthermore, algorithms powered by AI may unintentionally violate already-existing intellectual property rights or facilitate automated infringement practices like data mining and content scraping. In order to ensure that innovators are fairly compensated and safeguarded in the digital age, legal frameworks and enforcement mechanisms must change as artificial intelligence (AI) continues to advance.[8]

Because globalisation encourages worldwide trade, cooperation, and competition, it has quickened the speed of cross-border intellectual property conflicts. Cross-border intellectual property transactions, licencing agreements, and joint ventures have increased as a result of the interconnectedness of the world's marketplaces. Businesses can reach new markets and broaden their reach thanks to globalisation, but there is also a higher chance of intellectual property infringement and legal issues. Cross-border IP enforcement operations are further complicated by cultural differences, differing legal systems, and different enforcement procedures among states. A growth in IP litigation and enforcement actions has also been brought about by the development of new markets, especially in Asia, as companies look to defend their intellectual property rights in quickly expanding economies.

Stakeholders must take proactive actions to resolve the evolving issues in cross-border intellectual property conflicts in response to these growing developments. To encourage information sharing on IP infringement patterns, improve enforcement cooperation, and harmonise legislative frameworks, cooperation between governments, industry players, and international organisations is vital. Businesses should also place a high priority on creating strong IP protection plans that make use of cutting-edge technology to efficiently detect and discourage infringements. Examples of these technologies include blockchain, digital watermarking, and AI-powered IP monitoring systems. In order to empower companies and customers to respect intellectual property rights and stop acts of piracy and counterfeiting, education and awareness campaigns are essential.

Legal professionals must also keep up with new technological advancements and legislative changes in order to give clients involved in international intellectual property conflicts prompt and useful legal counsel. Cross-border intellectual property conflicts can be settled outside of the conventional litigation process using flexible and affordable alternative dispute resolution procedures like arbitration and mediation. Stakeholders may successfully manage the complex nature of cross-border intellectual property issues and create a climate that is more favourable for innovation, creativity, and economic

[8] Securiti.ai, 'AI Regulatory Guide for Businesses' https://securiti.ai/ai-regulatory-guide-for-businesses/

growth in the global marketplace by embracing innovation, collaboration, and targeted enforcement initiatives.

Thus, we can say that driven by globalisation, artificial intelligence, and digitization, growing trends in cross-border intellectual property issues offer opportunities as well as problems to businesses, legislators, and legal professionals. In an ever-changing global environment, stakeholders can effectively address developing difficulties and protect intellectual property rights by implementing proactive measures, harnessing technological breakthroughs, and strengthening collaboration.

Furthermore, when we talk about future-focused conjecture regarding the trajectory of intellectual property disputes across borders compels an examination of possible advancements in legal structures and conflict resolution procedures. The intellectual property landscape is always changing due to globalisation and technological improvements, therefore legal frameworks will probably change to meet new issues as they arise. This would entail harmonising international intellectual property laws to enable more seamless cross-border dispute settlement. Furthermore, proactive steps like pre-conflict planning and alternative dispute resolution techniques like online mediation services or specialised IP courts might receive more attention. Governments, industry players, and international organisations must work together to shape the future course of cross-border intellectual property disputes, with an emphasis on advancing innovation, defending IP rights, and creating an atmosphere that is favourable to international trade and economic expansion.

Innovations in technology, especially in fields like blockchain and artificial intelligence, have the potential to significantly influence how IP disputes are resolved in the future. AI-driven algorithms may be used to examine enormous volumes of data, spot any violations, and even forecast legal issues in the future, giving companies the ability to actively safeguard their intellectual property. Because blockchain technology is decentralised and immutable, it has the potential to improve the security and transparency of intellectual property transactions and rights management. This will help to reduce disputes originating from concerns related to ownership and authenticity.

Conclusion

In conclusion, we can say that there are several obstacles for all parties involved in resolving cross-border intellectual property conflicts in an increasingly globalised environment. These difficulties may result from a variety of factors, including jurisdictional complexities, enforcement challenges, language barriers, differing legal interpretations, cultural nuances, and the complexity of international treaties and agreements. These disputes require careful consideration, strategic planning, and collaboration between legal experts with a deep understanding of the legal, cultural, and practical nuances across jurisdictions.

The difficulties encountered in international intellectual property disputes highlight the necessity for parties to take a proactive and comprehensive approach to dispute settlement. This entails carrying out in-depth jurisdictional studies, making reference to global legal frameworks, and participating in cultural sensitivity training in order to successfully negotiate the complexity of cross-border litigation. Furthermore, in order to overcome linguistic and cultural obstacles and promote cooperation and mutual understanding throughout the dispute resolution process, the parties must place a high priority on collaboration and communication.

In addition, international organisations, governments, and legislators are essential in resolving the difficulties brought on by international intellectual property issues. In the context of the globalised economy, efforts to improve cross-border collaboration, harmonise international intellectual property

rules, and strengthen enforcement mechanisms are critical to ensuring a more predictable, effective, and fair dispute resolution process.

In essence, international intellectual property disputes can be very challenging, but they can also be very beneficial for innovation, teamwork, and the creation of stronger legal frameworks that will safeguard intellectual property rights in a globalised society. Parties can better negotiate the complex world of cross-border intellectual property disputes, protect their rights, and promote global innovation and creativity by adopting a proactive and cooperative strategy.

BRIDGING THE GAP: INTERNATIONAL EFFORTS TO PROTECT TRADITIONAL KNOWLEDGE IN A GLOBALIZED WORLD

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Abstract

In the context of the international regime for intellectual property rights (IPR), this difficult research study analyses the dynamic relationship between the safeguarding of geographical knowledge (GK) and traditional knowledge (TK). International legal frameworks have unique issues when it comes to innovations, creative works, and industrial designs due to their diverse origins, unique qualities, and significance as knowledge systems. This study takes a look at the interconnected global system and how GK and TK are connected, as well as how they might clash. It takes a look at current frameworks that deal with protecting these knowledge systems, including the Tripartite Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the International Governmental Committee on Intellectual Property and Genetic Resources (IGCR), and the World Intellectual Property Organization (WIPO). There are more in-depth objections and proposed solutions, such as the concept of "sui generis" (unique) systems that aim to safeguard traditional knowledge. It objectively assesses the potential benefits and drawbacks of various policies, taking into account the perspectives of multiple stakeholders, including member states, indigenous peoples, and international organizations. In the end, this paper hopes to further current conversations by drawing attention to the intricacies of GK and TK within the global framework. It highlights the necessity of carrying out further research and creating efficient legal frameworks that can guarantee fair and equal access to knowledge, promote innovation, and offer sufficient protection for both knowledge systems.

Keywords: Geographical Indication, Traditional Knowledge, Sui Generis, Global Framework, International Regime

Introduction

The products with a geographic indication are frequently the outcome of customs and expertise passed down from one generation to the next by a population in a specific area. In a similar vein, certain goods designated with a geographical indication (GI) may incorporate distinctive features of the customary creative legacy created in a certain area, referred to as "traditional cultural expressions" (TCEs). This is especially true for material goods like handicrafts, which are created from natural materials and have characteristics specific to their place of origin.

The subject matter that is typically associated with TK or TCEs is not directly protected by GIs; under traditional IP systems, this material is still in the public domain. However, by keeping them intact for future generations, for example, GIs may be utilized to tangentially support their protection. One way to accomplish this would be to describe the production standards for a Geographically Induced Product (GI) and include information on customary knowledge or processes.

Legal Rules in Biodiversity and Traditional Knowledge

Measures used to protect traditional knowledge are not new. Indeed, demands to protect traditional knowledge have increased along with global economic changes. Four main legal standards to regulate the use of traditional knowledge and TKBAPs have emerged in the current global legal effort to protect

traditional knowledge. These systems include the commons system, the public domain system, state sovereignty, and common human heritage.[1]

Biological resources and the information that can be derived from them have long been considered part of the "commons," or resources that are publicly available for the benefit of humanity. As a result, traditional knowledge and its resources are viewed as equivalent to resources in the deep ocean, space and under the air – all of which are recognized as "global commons" under international law.

According to the commoners notion, indigenous communities and governments do not have legal rights to biological resources and traditional knowledge. The "cost of maintaining exclusive rights" over resources in the "global commons" exceeds the advantages of keeping the rights, which is why a "open access system" restricts use of these resources. For "legitimate and reasonable purposes," all nations ensure that traditional knowledge and biological resources are freely accessible to everybody. The "Establishment and Modeling Process of Botanical Gardens" exemplifies how the Commons model has helped cultures and nations that are very rich in biodiversity make good use of their biological resources and vital information.

The non-excludable "commons" is at the heart of the "public order" idea, which is also known as the "public domain" strategy. For the sake of simplicity, let's differentiate between the two ideas in the following ways: Resources that are shared within a certain group are often referred to as "commons" or "limited commons ownership" in the same way. Resources that everyone has equal access to are referred to as "public domain" in comparison. Traditional knowledge and biodiversity have been advocated for free use under the public domain concept, with the goal of benefiting all common people.[2]

Nonetheless, it has seen extensive usage since TRIPS, in part to combat infringements on property rights connected to biodiversity and vital traditional knowledge. As a result of emerging nations' demands for international recognition of their ownership of domestic resources, the concept of natural resource sovereignty emerged. "An essential part of the right to self-determination" was the perpetual sovereignty of peoples and countries over their wealth and natural resources that was acknowledged in a 1962 proclamation by the United countries General Assembly. All governments are obligated to use their natural resources "in accordance with their environmental and development policies," as first stated in the Stockholm Declaration and subsequently reaffirmed in the Rio Declaration, in line with the idea of sovereignty over natural resources. Sovereignty is an attribute of state independence that was first articulated in terms of states' rights and is acknowledged worldwide.

Indigenous peoples' "cultural and intellectual property" rights to their land and resources are intrinsically related to human rights, self-determination, and this idea. Below, we see how many indigenous and local communities, as well as developing nations, claim sovereignty over their traditional knowledge and the resources it entails in order to prevent private entities like businesses and people from claiming ownership of these resources via IP laws. During the first phases of acknowledging human control over natural resources, the idea of a "common heritage of humanity" really surfaced in connection with the use and exploitation of resources found in faraway places, such as the ocean floor.

Following the idea of the clearing-house mechanism does not warrant the use of these resources on a first-come, first-served basis. For proponents of the clearing-house mechanism theory, nations rich and poor "should share the rewards [of biological resources and traditional knowledge], even if they cannot participate in the actual extraction process."[3]

[1] CBD-en.pdf <https://www.cbd.int/doc/legal/cbd-en.pdf>accessed 1 March 2024.
[2] Dutfield G(2006) Protecting traditional knowledge.
[3] Home: Food and Agriculture Organization of the United Nations'(FAO Home)https://www.fao.org/home/enaccessed 6 March 2024.

The concept of "international collective ownership" is put up by CHM as an alternative to the commons, which is shared property that may be forcibly taken from anybody. The CHM acknowledges that "common" owners may not all have the same level of expertise when it comes to exploiting resources, which is why it supports the idea of benefit-sharing, in contrast to the notion of "joint ownership" which permits limitless exploitation of resources irrespective of the entitled parties' abilities. Various degrees of resource exploitation capability. "Subject to e.g. The protection of traditional knowledge in different forums, including food and agriculture, the environment (especially biodiversity conservation), health, traditional medicine, human rights and indigenous peoples," among other areas, differs from one region to another, as stated by the World Intellectual Property Organization, which indicates that numerous international regimes include the preservation of traditional knowledge. Additional investigation on the approaches used by various international legal frameworks to safeguard traditional knowledge is conducted covered in this part.

Traditional Knowledge in International Trade Regime

The World Trade Organization (WTO) stands as the principal international trade framework that is supposed to safeguard traditional knowledge (TK). Overall notes that when the TRIPS Agreement was put into place at the WTO, biopiracy and the theft of TK in genetic resources were not major problems. International rules controlling biological resources and the TK that supports them have been established in part by the TRIPS Agreement, which integrates intellectual property rights with international commerce. Therefore, the next subsection addresses the protection of TK in regard to IP laws within the system of international commerce.

The International Trade Regime

The World commerce Organization is in charge of regulating international commerce. A number of treaties that function as "self-executing" trade agreements were drafted by it. The 1948 creation of the General Agreement on Trade and Tariffs (GATT), the forerunner of the World commerce Organization, had zero effect on intellectual property rights as it pertained to multilateral trade accords controlling international commerce.

Various treaties controlled IP protection on a worldwide scale prior to the World Trade Organization's formation. Many of these accords are based on the principle of reciprocity, which guarantees that another Contracting State would defend intellectual property rights that are filed in one of their own states. While several of these accords address concerns like unfair competition in global commerce, they do so in diverse contexts.[4]

Since its founding in 1967, WIPO has drafted a plethora of IP-related international treaties. For treaties that are within its purview, WIPO uses the "committee approach" to provide assistance. Consequently, governments' capacities to provide comparable protection to IP rights registered inside their borders determine the extent to which IP rights registered overseas may be enforced in specific national jurisdictions. Regarding subject matter scope and degrees of protection within the contracting parties' national jurisdictions, the only thing that WIPO treaties demand is not to set minimum implementation requirements. The signatories instead agree to "follow national treatment standards" when it comes to IP cases brought before courts in other member states.

Investigating whether the TRIPS Agreement offers a method for preserving traditional knowledge is one of the most significant concerns explored in this chapter. To safeguard intellectual property rights, every WTO member must comply with the TRIPS Agreement. Since traditional knowledge is not

[4] Van Overwalle G,'Protecting and Sharing Biodiversity and Traditional Knowledge: Holder and User Tools' (2005)53 Ecological Economics 585.

expressly excluded from protection under the Agreement, TRIPS Members may be held liable for safeguarding traditional knowledge to the degree that the information is included by the intellectual property protection provisions of the Agreement. As we saw in the last chapter, the TRIPS Agreement mainly allowed for the appropriation and theft of traditional knowledge. The reason for this is because the treaty's methods for protecting intellectual property aren't ideal for preserving traditional knowledge.

Some have speculated that traditional knowledge-based plant species may be protected by the "special" option in Article 27.3(b) of the TRIPS Agreement. In spite of the fact that the treaty mandates a "effective special regime" for the "protection of plant varieties," it fails to mention or even mention the possibility of protecting traditional knowledge via established intellectual property rights. Moreover, the TRIPS Agreement is vague on the nature and extent of the rights conferred by the sui generis category of protection. Since it "created more problems than solutions" due to its fundamental flexibility, the TRIPS Agreement was a useless tool for dealing with TK protection.[5]

Immediate clarity on the TRIPS Agreement's impact on traditional knowledge may be achieved by the World Trade Organization's determination to undertake a thorough study of the agreement. The TRIPS Council took into consideration the preservation of traditional knowledge in response to demands from African nations, India, and Brazil; hence, the "Doha Declaration" (the 2001 Ministerial Declaration) had a section devoted to this topic.

The majority of WTO members are developing nations, therefore it was recognized in the Doha Declaration that the TRIPS Council needed to look at "the protection of traditional knowledge and folklore and other relevant new developments" in order to accommodate their needs. Considers the "development aspect" in every detail.

The Protection of Traditional Knowledge under the Convention on Biological Diversity

Traditional knowledge is acknowledged by the international treaty known as the Convention on Biological Diversity for its contribution to environmental protection and biodiversity conservation. Its only purpose is to ensure the preservation of traditional knowledge, and it is the first legally binding international convention to do so.215 To ensure that traditional knowledge and biodiversity are preserved for the benefit of future generations, the 1992 Rio de Janeiro Earth Summit Declaration's Convention Principle 22 was included. Financial record. Thinking about it.216 The fair distribution of advantages from traditional knowledge applications to biodiversity protection, whether in situ or ex situ, is a central theme in the preamble to the Convention on Biological Diversity.[6]

Furthermore, the need to safeguard intellectual property rights is reduced by the Convention on Biological Diversity's clause that "ensures that these rights [support] and are not inconsistent with" the purposes of the Convention. It would seem that Art. 8(j) states that, in this specific instance, protecting traditional knowledge must take precedence over protecting intellectual property rights if the main goal of such actions is to conserve biodiversity. The Convention on Biological Diversity does not specifically address the question of intellectual property rights to genetic material.

Traditional Knowledge of other International Law Regulations

The involvement of traditional knowledge in these forums is secondary to their main duties of protecting the environment, human rights, health, and labor standards. Traditional wisdom is highly

[5] Panizzon M and Cottier T,' Traditional Knowledge and Geographical Indications: Foundations, Interests and Negotiating Positions'(2006)SSRN Electronic Journal.

[6] 'Exploitation of Traditional Knowledge of Indigenous and Local Communities' (2020) Traditional Knowledge, Genetic Resources, Customary Law and Intellectual Property 14.

valued in environmental conservation, as acknowledged by the United Nations Convention to Combat Desertification (UNCCD).[7] When it comes to protecting traditional knowledge throughout the world, there are resources outside the usual suspects in the fields of intellectual property law and policy. When looking for ways to preserve traditional knowledge, these websites are just as vital.

It is also required by the Convention that the signatory states "protect, integrate, promote and validate traditional and indigenous knowledge, know-how and practices" as part of their own government policies. United Nations Convention to Combat Desertification Secretariat staff gather "the most important and widely applicable traditional knowledge" to aid in this effort. At its second session, the Conference of the Parties formed an ad hoc committee on traditional knowledge based on the findings of this collection. The goal is to look into ways of "integrating traditional knowledge with modern science" and to "identify successful experiences and conclusions" about the challenges and dangers that traditional knowledge faces. Following this, during COP 3, a second ad hoc committee was established with the mandate to "develop more appropriate standards" for various matters pertaining to traditional knowledge.

Models for Digital Libraries: Registers and Traditional Knowledge

As part of the CBD negotiations and discussions, community registers of TK were set up to document the historical usage of genetic material. They are all part of a larger effort to identify instances of patent claims that improperly use conventional knowledge. Additionally, TK and other patent claims may be challenged using the "prior art" that is created when these registries are established. To aid in the preservation of traditional knowledge, India has established a system similar to the Community Registration System—the Traditional Knowledge Digital Library (TKDL). The TKDL anti-appropriation defense technology has made it possible for patent offices worldwide to digitally access Indian traditional knowledge. Future patent applications should take TKDL data into account as a representation of the "prior art" in these offices.[8]

Because of this, biopiracy becomes an even bigger issue when using the TKDL approach. In his analysis of TKDL systems and registration theory, Yu finds three issues. The idea of TK as a "process" is incompatible with these systems due to the "dynamic, fluid, and constantly evolving" nature of TK. He agreed with Scaffidi that "mechanisms like national inventories talk about the preservation and not the evolution of living culture," making reference to the "traditional knowledge database" established by the UNESCO agreement in 2003. In addition, because "not all traditional knowledge has a fixed form," compiling such a body of information is no easy feat.

Third, "all works [based on traditional knowledge] should not be recognized; works intended to be sacred or secret are generally prohibited." This is because there is an inherent secrecy in many categories of traditional knowledge, especially spirituality. The expenses of digitizing, indexing, and recognizing traditional knowledge may be too high for most poor nations to afford.[9]

Geographical Indications as Protective Modalities

In an effort to preserve indigenous and local knowledge, an increasing number of scholars and advocacy organizations are urging for stricter protection of geographical indicators on a global, regional, and national scale. Due to the importance of geographical indications in maintaining long-standing practices in agricultural production, several nations have revised the TRIPS Agreement to reflect the

[7] (UNCCD_CONVENTION_ENG_0.PDF-United Nations)https://www.unccd.int/sites/default/files/relevant-Links/2017-01/UNCCD_Convention_ENG_0.pdf accessed 6 March 2024.
[8] 'Traditional Knowledge'(Traditional Knowledge)https://www.wipo.int/tk/en/accessed 6 March 2024
[9] Chakravarty R and Mahajan P,'Preserving Traditional Knowledge: Initiatives in India'(2010) 36 IFA Journal 294.

high international requirements for their protection. Geographical indicators help "profitable marketing of agricultural produce based on traditional agricultural practices" in a few underdeveloped nations. Only in the years between 1996 and 2004 did a number of emerging nations establish their own distinct gastrointestinal regulatory regimes. These nations include Egypt, Jordan, Singapore, Malaysia, Chile, and Brazil. For instance, geographical indicators are something that India is in favor of protecting.

"Develop origin-specific quality-focused measures that contribute to rural development" is one of FAO's primary goals, according to the organization's "Quality and Origin" initiative. By mentioning the potential use of geographical indicators to safeguard traditional commodities, he also voiced his support for debates on geographical indications at the World Trade Organization.

Some non-governmental organizations (NGOs) have lately shifted their attention to geographical indicators as a means to combat the "proliferation of socially constructed designations (such as fair trade and labeling programs) that address various ethical and economic concerns regarding production conditions in distant regions." In contrast to other forms of intellectual property that just safeguard "genuine" inventions at the very end of the commodity supply chain, GIs are seen as "mechanisms to reward and add value at all other stages" for conventional agricultural commodities. Put another way, geographical indicators have been getting a lot of interest lately because they may be used to safeguard the "collective rights" and "creativity" of groups and communities that aren't already protected by IP laws.

Sui Generis Protection for Traditional Knowledge

Traditional knowledge cannot be adequately protected by the current intellectual property system, according to several nations. Many of them have either implemented or are planning to implement unique protective measures.

In the Philippines, indigenous tribes have their rights to traditional knowledge protected by law, and more measures are being considered. The ability to restrict access to indigenous information pertaining to genetic and biological resources, ancestral territories, and resources is one of these rights. In order for outside parties to get access, the community's prior informed consent (PIC) must be obtained, following established customary laws.

A fair distribution of the benefits derived from genetic resources and associated knowledge is required. Conversely, the law's stated goal is to protect the unfettered exchange of biodiversity across neighboring communities. Furthermore, indigenous communities' capacity to participate in decision-making at all levels is a goal of the law.

Despite their primary purpose of protecting and advancing indigenous peoples' rights, including those to biological resources and associated traditional knowledge, these laws do not rule out the prospect of resource exploitation.

However, Guatemalan law seeks to preserve and promote the wider use of its traditional knowledge by protecting national cultural expressions like music and pharmaceutical skills. It is against the law to sell or pay for such terms in any way. So, several models are being developed on a national scale to adapt policies and procedures to local needs.

What matters most is how much any sort of protection acknowledges the traditional practices that generated the data. There has been talk of the introduction of sui generis law that gives indigenous people rights over biological resources and related traditional knowledge in places like Bangladesh and in organizations like the African Union.

Case law involving copyright infringement in Australia's Federal Court took Aboriginal laws and traditions into account. Still, the court couldn't "identify the violation of ownership rights of the kind which reside," so it dismissed the case.[10]

Aboriginal law does factor in the injury suffered by the traditional owners of the dreaming tales and images, like the artists of today who are suing, when determining damages. While these verdicts do take conventional standards into consideration, they obviously fall short of what some would like. A number of individuals raised the need of giving more weight to customary rules throughout our talks on this subject.

The acknowledgment of customary laws poses issues that are beyond the scope of this work, regardless of whether they are directly related to traditional knowledge or not. However, we believe that conventional knowledge's customary rules should be preserved and, if possible, expanded upon.

Preserving, advancing, and profiting from traditional knowledge does not always need intellectual property rights, as we have already discussed. For example, assembling a group of regional entrepreneurs and innovators may be significantly more useful. Whatever regulations are put in place or tools are used, utilization is likely to make traditional knowledge and local inventiveness more visible within communities and encourage younger people to become involved more. This is more likely to happen if there are tangible cash benefits. It must be remembered that not all people with traditional knowledge would be in favor of this kind of exploitation.

A Peruvian Kechuan Indian student at our expert course brought this to the attention of the Commission. He elaborated by saying that many indigenous groups have a very different conception of wealth than Westerners. For some groups, the ability to ensure the protection of their traditional knowledge and customary rules is more essential than receiving monetary recompense. According to him, those who hold conventional wisdom probably already have exaggerated views of the possible monetary value of their information. Predictably, such expectations have been stoked by prominent instances such as the Hoodia case.[11]

Conclusion and Suggestions

In conclusion, protecting traditional knowledge (TK) in a globalized world necessitates a multifaceted approach. While international efforts like the Nagoya Protocol and WIPO's IGC have paved the way for dialogue and cooperation, challenges remain. Addressing the "digital divide" in documenting and safeguarding knowledge online requires innovative solutions. Further, fostering collaboration between indigenous communities and policymakers is crucial to ensure their voices are heard and their rights are upheld. Ultimately, achieving a future where TK is respected, protected, and utilized sustainably necessitates an ongoing commitment to bridging the gap between existing frameworks and the unique needs of knowledge holders in a rapidly evolving global landscape.

The following are the main problems that need to be solved: • defining "traditional knowledge" and determining which traditional communities have developed and used this traditional knowledge and its cultural expressions; whether the definitions currently in use are sufficient to protect and license such knowledge; the rights and obligations of the traditional practitioner and the accessor; the definition of the terms "misuse," "abuse," and "misappropriation of traditional knowledge," so that these can be

[10] (27-trips.pdf)https://www.wto.org/english/docs_e/legal_e/27-trips.pdf accessed 6 March 2024

[11] (General Assembly Resolution 1803(XVII) of 14 December)https://www.ohchr.org/Documents/Professionalinterest/resources.pdf accessed 6 March 2024.

recognized as crimes and punished appropriately; and the power to decide whether such crimes should be prosecuted and what penalties should be applied.

Since most producers lack the expertise or resources to go through a difficult and expensive procedure, make the application process simpler for them and cut costs.

• To record traditional knowledge in their state, each state may establish a distinct agency, with branches in as many districts as feasible.

• Tighten quality control and labeling to ensure authenticity because there can be "traditional knowledge" that the general public is already familiar with and safeguarding it would entail preserving something that is already in the public domain.

Raise consumer knowledge about GI goods. As consumers are key players in the market and in intellectual property rights, raising consumer knowledge might guarantee that the majority of unrecognizable communities.

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INK TO INNOVATION: TRACING THE HISTORICAL EVOLUTION OF INTELLECTUAL PROPERTY AND ITS TRADE DIMENSIONS

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Abstract

This comprehensive examination scrutinizes the intricate dynamics of Intellectual Property Rights (IPR) within the context of global innovation and trade. IPR, comprising patents, trademarks, copyrights, and trade secrets, assumes a pivotal role in fostering creativity while maintaining an equitable competitive landscape. The study conducts through both localized and international challenges inherent in the implementation of IPR, bringing the necessity for collaborative efforts and standardized frameworks. Central to the narrative is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), a cornerstone in harmonizing IPR standards and integration within the global trade structure. The economic ramifications of robust IPR protection are elucidated, delineating its impact on foreign direct investment (FDI), technology transfer, and the cultivation of competitive advantages in the global marketplace. Notwithstanding, the exploration embarks into persisting challenges, particularly in reconciling IPR protection with imperatives of public health, ensuring equitable access, and navigating the complexities of the digital era. Developing nations contend with the quandary of accessing critical resources, while the digital landscape introduces new dimensions of piracy. This inquiry upheld the imperative of nuanced governance in IPR. Beyond regulatory frameworks, it necessitates a profound understanding of historical antecedents, a proactive engagement with global dynamics, and strategic responses to the evolving challenges. Ultimately, the formal discourse on IPR encapsulates a collective responsibility, urging policymakers, businesses, and academics to actively contribute to the ongoing narrative of intellectual property within the contemporary global milieu.

Keywords: Intellectual Property Rights, Global Innovation, Patents, Developing Nations, Collective Responsibility

Introduction

The evolution of Intellectual Property (IP) is an intricate journey intertwined with the historical progression of Business Studies. Intellectual Property, encompassing patents, trademarks, copyrights, and trade secrets, has undergone a profound transformation over the centuries, shaping the landscape of innovation, commerce, and legal frameworks. This research embarks into the historical roots and pivotal moments that have defined the dynamic relationship between Intellectual Property and Business Studies.

The concept of Intellectual Property dates back to ancient civilizations, where artisans and craftsmen were granted exclusive rights to their creations by rulers and authorities. However, the formalization of IP principles gained momentum during the Renaissance and the Enlightenment, marking the emergence of copyright and patent laws. These early legal frameworks aimed to strike a balance between encouraging innovation and protecting the rights of creators.

As the Industrial Revolution dawned, the significance of IP became increasingly evident. The rapid technological advancements spurred the need for robust protection of inventions, leading to the establishment of patent offices and the recognition of inventors' exclusive rights. Simultaneously, the

expansion of trade and the rise of global commerce necessitated the protection of brands and trademarks, giving rise to modern trademark laws [1].

In the 20th century, the information age propelled IP into a new dimension. With the advent of digital technologies, issues of copyright infringement and software piracy became prominent. Legislations evolved to address these challenges, emphasizing the delicate balance between fostering innovation and ensuring fair use of intellectual creations [2].

The intersection of Intellectual Property and Business Studies became even more intricate in the 21st century. The rise of the knowledge economy, characterized by the dominance of intangible assets, underscored the pivotal role of IP in business strategies. Companies increasingly rely on IP portfolios to gain a competitive edge, making IP management an integral component of business planning. This essay will further explore key milestones, legal developments, and the contemporary landscape of Intellectual Property within the realm of Business Studies, shedding light on the symbiotic relationship that continues to shape the modern business environment [3].

One of the most significant facts is the industrial revolution's impact. The 19th century witnessed the surge of industrialization, precipitating a demand for legal mechanisms to safeguard innovation. Patent laws gained prominence, leading to the establishment of patent examination processes and the recognition of inventors' exclusive rights. Concurrently, the expansion of global commerce necessitated the protection of brands and trademarks, giving rise to modern trademark laws.

The 19th century went through a massive industrialization, triggering an unprecedented demand for legal mechanisms to protect innovation. Patent laws gained prominence, providing inventors with exclusive rights to their creations for a specified duration. This era marked the formalization of patent examination processes, ensuring that only novel and non-obvious inventions received protection. The United States Patent and Trademark Office (USPTO), established in 1836, became a model for many other nations seeking to regulate intellectual property.

In parallel, the emergence of trademarks as distinctive symbols to identify products and services became crucial for businesses. The establishment of the first trademark law in the United Kingdom in 1875 paved the way for recognizing and protecting brands. As global trade expanded, nations recognized the necessity of harmonizing trademark laws to facilitate cross-border commerce. The turn of the 20th century brought about significant international efforts to standardize intellectual property protection. The Paris Convention for the Protection of Industrial Property (1883) laid the groundwork for international cooperation in the field of patents, trademarks, and industrial designs. Subsequently, the Berne Convention (1886) addressed the protection of literary and artistic works, fostering global recognition of copyrights [1].

The aftermath of World War II ushered in a new era of intellectual property regulation. The establishment of the World Intellectual Property Organization (WIPO) in 1967, a specialized agency of the United Nations, marked a pivotal moment. WIPO aimed to promote the protection of intellectual property worldwide and facilitate international cooperation. This era also witnessed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) as part of the broader General Agreement on Tariffs and Trade (GATT), bringing intellectual property into the realm of international trade regulations [4].

The late 20th century and the early 21st century saw a seismic shift in intellectual property dynamics with the advent of the digital age. The ease of replicating and distributing digital content raised unprecedented challenges for copyright holders. The Digital Millennium Copyright Act (DMCA) in

the United States (1998) and similar legislations globally attempted to address issues of digital piracy and copyright infringement.

Simultaneously, debates over the balance between intellectual property protection and the public domain gained prominence. Intellectual property was increasingly viewed not only as a tool for innovation but also as a potential hindrance to the free flow of knowledge. Scholars like Lawrence Lessig brought attention to the concept of "creative commons," advocating for a more flexible approach to intellectual property rights. In recent years, intellectual property has become a critical factor in the strategies of multinational corporations. The patent wars in the technology industry exemplify the heightened significance of IP portfolios. Companies strategically acquire and defend patents not only for protection but also as bargaining tools in negotiations and collaborations. This evolution underscores the dynamic nature of intellectual property, continuously shaped by technological advancements, global trade dynamics, and societal perspectives. As businesses navigate this complex landscape, understanding the historical roots of intellectual property is paramount for informed decision-making and effective utilization of these invaluable assets [5].

Implementation of Intellectual Property Rights and Global Trade Dynamics:

The implementation of Intellectual Property Rights (IPR) has become a linchpin in the contemporary global economy, steering innovation, protecting creativity, and influencing international trade dynamics. One of the primary challenges in enforcing IPR lies in creating a system that encourages inventors and creators while avoiding monopolistic practices that stifle competition. Countries implement various forms of IPR, including patents, trademarks, copyrights, and trade secrets, each tailored to protect specific intellectual assets.

However, the critical implementation of IPR faces numerous challenges, both domestically and globally. One notable challenge is the varying levels of IPR protection across nations. Disparities in legal frameworks and enforcement mechanisms can lead to issues of piracy, counterfeiting, and the unauthorized use of intellectual property. Bridging these gaps requires international cooperation and standardization [1].

The critical implementation of Intellectual Property Rights (IPR) has become a linchpin in the contemporary global economy. Navigating the delicate balance between encouraging innovation and avoiding monopolistic practices is a primary challenge. Disparities in legal frameworks and enforcement mechanisms across nationalities present obstacles, requiring international cooperation and standardization.

The economic importance of IPR extends beyond direct investments. Licensing and technology transfer agreements, facilitated by strong IPR protection, contribute to the dissemination of knowledge and technological advancements. This, in turn, can enhance the technological capabilities of nations, fostering a conducive environment for economic development.

Moreover, IPR plays a crucial role in shaping competitive advantages in the global market. Companies with robust intellectual property portfolios not only secure their innovations but also gain a strategic edge. This advantage can translate into market dominance, higher profit margins, and increased market share. Consequently, the economic landscape becomes intertwined with the ability of nations and businesses to harness and protect intellectual assets effectively [6].

The Trade Dimension

IPR has a profound impact on international trade, influencing the movement of goods, services, and technologies across borders. The Agreement on Trade-Related Aspects of Intellectual Property Rights

(TRIPS Agreement), established under the World Trade Organization (WTO), exemplifies the integration of IPR into the global trade framework. TRIPS sets minimum standards for the protection of intellectual property, emphasizing the role of IPR in fostering innovation and contributing to economic development [1].

One of the key arguments in favor of robust IPR protection is its potential to stimulate foreign direct investment (FDI). Countries with strong IPR frameworks often attract more investment, as businesses seek environments where their intellectual assets are adequately protected. This creates a nexus between IPR, innovation, and economic growth, positioning intellectual property as a valuable commodity in the global marketplace [7].

The evolution of Intellectual Property stands as a testament to its symbiotic dance with Business Studies. The historical roots, global milestones, and contemporary landscapes provide insights into a dynamic relationship that continually shapes the modern business environment. The delicate balance required in IPR implementation, coupled with the challenges and opportunities it presents, underscores the need for informed decision-making and strategic utilization of these invaluable assets.

IPR profoundly impacts international trade, influencing the movement of goods, services, and technologies across borders. The TRIPS Agreement exemplifies the integration of IPR into the global trade framework, setting minimum standards and fostering innovation. Robust IPR protection stimulates foreign direct investment, facilitates technology transfer, and shapes competitive advantages, contributing to economic development [8].

To look into the complex precedential facts of IPR, the dynamics of Intellectual Property extend beyond legal frameworks and historical milestones; they delve into the nuances of navigating a complex and interconnected landscape. As businesses increasingly rely on intangible assets, the strategic management of Intellectual Property becomes paramount. Understanding the intricacies of implementing Intellectual Property Rights on a global scale requires a nuanced approach that balances innovation, fair competition, and international cooperation.

International Standardization Efforts

The turn of the 20th century marked significant international efforts to standardize intellectual property protection. The Paris Convention (1883) and the Berne Convention (1886) laid the foundation for global cooperation in patents, trademarks, industrial designs, and copyrights. Post-World War II, the establishment of the World Intellectual Property Organization (WIPO) in 1967 and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) represented pivotal moments in global IP regulation.

International standardization in the realm of Intellectual Property Rights (IPR) has a rich history, evolving through key milestones that have shaped global cooperation in the protection of intellectual creations. At the turn of the 20th century, the international community witnessed a notable shift towards standardizing IPR, evident in the establishment of foundational agreements such as the Paris Convention (1883) and the Berne Convention (1886).

The Paris Convention, initiated in 1883, emerged as a crucial framework for international cooperation in the field of industrial property. This treaty laid down principles and rules to ensure uniformity in the protection of patents, trademarks, and industrial designs across participating nations. The collaborative spirit embedded in the convention aimed to foster innovation while providing a consistent and predictable framework for inventors and creators on the global stage [9].

In tandem with the Paris Convention, the Berne Convention of 1886 addressed the protection of literary and artistic works. By establishing minimum standards for the protection of copyrights, the Berne Convention sought to harmonize laws across participating countries. This harmonization aimed to encourage the dissemination of knowledge and creative works by safeguarding the rights of authors and creators [10].

The aftermath of World War II witnessed a heightened recognition of the need for comprehensive international coordination in the field of intellectual property. In response to this, the World Intellectual Property Organization (WIPO) was founded in 1967. WIPO, a specialized agency of the United Nations, became a focal point for global cooperation in the development of intellectual property policies and regulations. Its mission extended beyond traditional IPR aspects to include broader considerations of the economic, social, and cultural dimensions of intellectual property.

A significant leap in international IP regulation came with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), established during the Uruguay Round of multilateral trade negotiations in 1994. As part of the World Trade Organization (WTO), TRIPS set forth minimum standards for the protection of various forms of intellectual property, including patents, trademarks, and copyrights. This marked a pivotal moment as it integrated intellectual property into the broader framework of international trade, emphasizing the link between economic development and effective protection of intellectual creations.

The TRIPS Agreement not only established a baseline for intellectual property protection but also incorporated enforcement mechanisms, allowing member countries to address issues related to violations and non-compliance. This comprehensive approach aimed to strike a balance between the interests of rights holders, technology transfer, and the broader public welfare [11].

Intersection with Business Studies in the 21st Century

In the 21st century, the intersection of Intellectual Property and Business Studies became more intricate with the rise of the knowledge economy. Dominated by intangible assets, this era underscored the pivotal role of IP in business strategies. Companies increasingly rely on IP portfolios to gain a competitive edge, making IP management integral to business planning.

In the contemporary business landscape, Intellectual Property is not merely a legal consideration; it has evolved into a strategic asset. Companies strategically leverage their IP portfolios to gain a competitive advantage in the market. This involves not only protecting innovations but also using Intellectual Property as a tool for negotiation, collaboration, and market positioning. The strategic management of IP aligns closely with overall business objectives and planning [12].

The Role of Intellectual Property in Innovation

At the heart of Intellectual Property is its role in fostering innovation. Patents, for instance, provide inventors with exclusive rights, incentivizing them to invest time and resources in groundbreaking research and development. The protection offered by Intellectual Property Rights creates an environment where innovation thrives, as inventors and creators are assured of reaping the benefits of their efforts. This, in turn, drives progress across various industries, contributing to economic growth and technological advancement.

While Intellectual Property protection is crucial for fostering innovation, there is a delicate balance to strike. Overly restrictive IP regimes can stifle collaboration and impede the flow of knowledge. Striking the right balance encourages a healthy exchange of ideas, driving collective progress. Open-source

initiatives, for example, showcase how collaboration can coexist with Intellectual Property, leading to shared advancements in various fields [13].

- *Open Innovation and Collaborative IP:*

In response to the rapid pace of technological change, the concept of open innovation gains prominence. Collaborative approaches to research and development, often involving multiple stakeholders and institutions, challenge traditional notions of IP ownership. Open-source initiatives and collaborative licensing models foster a culture of shared innovation, encouraging a balance between protecting intellectual assets and advancing collective knowledge.

This paradigm shift requires legal frameworks to adapt, recognizing the importance of collaborative efforts in driving progress while addressing issues such as standardization, attribution, and the protection of contributors' rights [14].

To consider and measure innovation Beyond patents, while patents are a cornerstone of IP in innovation, other forms of Intellectual Property, such as trademarks and copyrights, also play crucial roles. Trademarks protect brand identities, fostering consumer trust and loyalty. Copyrights, on the other hand, incentivize creativity in fields like literature, music, and the arts. Understanding the diverse ways in which IP supports innovation is key to crafting comprehensive strategies for businesses and individuals alike [15].

- *Future Trends in IP and Innovation:*

Looking ahead, the future of Intellectual Property and its impact on innovation is likely to be shaped by advancements in technology, changes in global trade dynamics, and evolving societal expectations. Trends such as open innovation, where companies collaborate with external partners, and the growing importance of IP in sectors like clean energy reflect the dynamic nature of this intersection. Businesses and policymakers alike will need to stay agile to harness the full potential of Intellectual Property in driving innovation. By granting the exclusive rights and the term of patent, the future innovation of patents is pushed into [16].

The Global Impact of IP on Research and Development:

Intellectual Property has a profound impact on global research and development initiatives. In the pharmaceutical industry, for instance, patents play a central role in encouraging investment in the discovery of new drugs. However, the debate around access to essential medicines in developing countries highlights the challenges of balancing IP protection with global health priorities. Addressing these challenges requires a nuanced approach that considers both innovation incentives and public welfare.

- *Blockchain and Copyright:*

Blockchain technology, with its decentralized and transparent ledger, holds promise in revolutionizing copyright management. Smart contracts, embedded in blockchain platforms, offer the potential to automate licensing agreements, ensuring fair compensation for content creators and reducing instances of piracy. The immutable nature of blockchain could provide an auditable record of intellectual property transactions. However, implementing blockchain in the copyright landscape necessitates careful consideration of legal, technological, and ethical dimensions.

Questions regarding the enforceability of smart contracts, interoperability with existing legal frameworks, and potential challenges related to privacy and data protection require thoughtful examination [17].

- *Biotechnology and Patent Law*:

Advancements in biotechnology, particularly in areas such as gene editing and personalized medicine, present novel challenges to traditional patent law. The patentability of genetic sequences, ethical considerations in bioprospecting, and the delicate balance between promoting innovation and ensuring access to essential healthcare underscore the evolving landscape of biotech intellectual property. Courts worldwide grapple with defining the boundaries of patent eligibility in the biotechnological realm, considering the ethical implications and potential societal impacts of patenting life form [18].

Contemporary Challenges and Trends in Intellectual Property

The most notable phenomena in today's era are Artificial Intelligence and IP. The transformative impact of artificial intelligence (AI) on innovation and creativity raises complex questions within the realm of Intellectual Property. As AI systems autonomously generate inventive works, the issue of attribution and ownership becomes a focal point. Current IP frameworks, which traditionally attribute creations to human authors, face the challenge of adapting to AI-generated content. Striking a delicate balance between incentivizing AI innovation, safeguarding the rights of human creators, and addressing the potential for infringement in this evolving landscape remains a significant challenge for legal scholars and policymakers.

While the implementation of IPR has significant advantages, challenges persist in the global arena. Developing countries often face dilemmas concerning access to essential medicines, agricultural technologies, and educational resources due to stringent IPR regulations. Balancing the need for innovation with considerations of public health and equitable access remains a complex and ongoing challenge.

Additionally, the rise of the digital economy has brought forth new challenges to IPR implementation. The ease of digital reproduction and distribution has intensified issues of online piracy and copyright infringement. Striking a balance between protecting the rights of content creators and ensuring open access to information poses a constant challenge for policymakers [19].

While IPR implementation brings advantages, challenges persist globally. Developing countries face dilemmas concerning access to essential resources due to stringent IPR regulations. The digital economy introduces new challenges, with issues of online piracy and copyright infringement requiring a delicate balance between rights protection and open access to information.

To say some as 'The Digital Age Challenges', the late 20th and early 21st centuries brought a seismic shift in intellectual property dynamics with the advent of the digital age. Digital technologies introduced challenges of copyright infringement and software piracy. Legislations, such as the Digital Millennium Copyright Act (DMCA), aimed to address these issues, emphasizing the need to strike a balance between innovation and fair use of intellectual creations.

Emerging Technologies and IP Challenges

In the rapidly evolving landscape of technology, emerging fields like artificial intelligence (AI) pose new challenges for Intellectual Property. The question of AI-generated inventions and the role of IP in protecting or attributing such creations are areas of ongoing debate. As technology continues to advance, Intellectual Property frameworks will need to adapt to ensure they remain effective in fostering innovation while addressing novel challenges.

The ever-changing nature of emerging technologies, particularly in the realm of artificial intelligence (AI), introduces a host of challenges to the traditional framework of Intellectual Property (IP). The

intersection of AI and IP sparks ongoing debates, with a central focus on addressing the unique considerations raised by AI-generated inventions.

Artificial intelligence, with its ability to autonomously generate inventive solutions and creations, brings forth a fundamental question regarding the attribution and protection of such innovations. The challenge lies in determining the role of IP in safeguarding AI-generated inventions and whether the existing frameworks are equipped to handle the nuances of this evolving field [20].

One key area of debate centers around inventorship and authorship. Unlike traditional inventions where a human inventor is easily identifiable, AI-generated inventions may lack a clear human creator. This raises questions about who should be credited as the inventor or author and how intellectual property rights should be allocated. Striking a balance between recognizing the contributions of human programmers and acknowledging the autonomous capabilities of AI systems is a complex issue that demands careful consideration within IP frameworks. Additionally, the pace of technological advancement in AI introduces the challenge of keeping IP regulations relevant and effective. As AI technologies evolve rapidly, traditional patent, trademark, and copyright laws may struggle to keep up. There's a need for adaptability within IP frameworks to accommodate the distinctive features and requirements of AI innovations, ensuring that they remain conducive to fostering innovation rather than stifling it. Moreover, the collaborative nature of AI development further complicates the IP landscape. Teams comprising individuals, corporations, and even open-source communities contribute to the creation and enhancement of AI systems. Determining the ownership and distribution of IP rights in such collaborative settings requires nuanced solutions that account for the diverse stakeholders involved. In this context, the ongoing evolution of Intellectual Property frameworks becomes crucial. Policymakers and legal experts must navigate uncharted territory to establish guidelines that strike a balance between encouraging innovation in AI and preserving the principles of fair attribution and protection. As we delve deeper into the era of advanced technologies, the adaptability and responsiveness of Intellectual Property regulations will be paramount. Navigating the complexities of AI-generated inventions demands a forward-thinking approach to ensure that IP frameworks not only keep pace with technological advancements but also provide a solid foundation for fostering innovation while addressing the distinctive challenges presented by emerging technologies [21].

Globalization and Harmonization Efforts

In the interconnected world of global trade, efforts to harmonize Intellectual Property standards persist. International agreements, such as the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, seek to establish common ground for IP protection. However, the challenges of harmonization arise from divergent legal traditions, varying levels of economic development among nations, and differing cultural perspectives on intellectual property. The ongoing pursuit of a truly harmonized global IP framework requires diplomatic, legal, and economic considerations to strike a balance between fostering innovation and addressing the diverse needs of nations. As stakeholders navigate these contemporary challenges, collaboration between legal experts, technologists, policymakers, and the broader public becomes essential. Adapting legal frameworks to accommodate technological advancements while upholding ethical standards and protecting the interests of diverse stakeholders remains a dynamic and multifaceted endeavor. The future of Intellectual Property law hinges on the ability to construct innovative solutions that navigate the complexities of the digital age and ensure a fair and inclusive intellectual property landscape [22].

Conclusion

Taken together, the critical implementation of Intellectual Property Rights stands at the crossroads of innovation, trade, and economics. While providing a framework to protect intellectual assets, IPR plays

a pivotal role in shaping global trade dynamics. The delicate balance required in IPR implementation involves addressing disparities across nations, fostering international cooperation, and navigating challenges posed by the digital age. As nations strive to create environments that stimulate innovation while ensuring equitable access to knowledge, the role of IPR in trade and economics remains a dynamic and evolving discourse.

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CONTEMPORARY CSR ISSUES AND CHALLENGES IN INDIA: AN ANALYSIS

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Abstract

This paper provides a comprehensive analysis of current Corporate Social Responsibility (CSR) issues and the challenges associated with navigating them. Based on a review of current literature and case studies, it investigates the multifaceted landscape of CSR, highlighting key areas of concern and complexity. The study delves into a variety of CSR areas, including environmental sustainability, ethical labour practices, community engagement, and corporate governance. It investigates how organisations balance profit motives with social and environmental responsibilities, frequently encountering dilemmas and trade-offs. Furthermore, it investigates the growing expectations of stakeholders, such as consumers, investors, employees, and communities, and how they affect CSR strategies and practices.

The paper also discusses the challenges of effectively implementing CSR initiatives. These challenges include resource constraints, measurement and evaluation issues, stakeholder conflicts, and global supply chain complexity. It also looks at how government regulations, industry standards, and emerging trends influence CSR agendas and responses. By combining empirical evidence and theoretical frameworks, this paper provides insights into best practices and novel approaches to addressing CSR issues. It concludes with recommendations for businesses, policymakers, and other stakeholders to improve CSR effectiveness and sustainability in today's dynamic and changing business environment. Overall, this study contributes to a better understanding of CSR issues and offers useful guidance for navigating them in practice.

Keywords: Sustainability, Ethical Practices, Stakeholder Engagement, Social Impact, Corporate Governance

Introduction

A Brief Overview of the Subject: The idea of Corporate Social Responsibility (CSR) places a focus on businesses' obligations to make positive contributions to society and the environment. CSR has attracted a lot of attention recently as a crucial component of sustainable development and corporate governance. This research project focuses on analysing the specific problems and difficulties faced by businesses in India who are putting CSR initiatives into practise.

The successful implementation of CSR initiatives in India is hampered by a number of issues. These issues include low stakeholder awareness and comprehension of CSR, resource limitations faced by smaller businesses, difficulty finding appropriate CSR partners, and ensuring efficient use of funds. For many businesses, it is still difficult to align CSR initiatives with long-term sustainability and business goals. Moreover, the availability of reliable data and monitoring mechanisms to assess the impact and effectiveness of CSR projects remains a challenge.

Statement of the Problem: To explore and examine the key issues and challenges hindering the effective implementation of Corporate Social Responsibility (CSR) initiatives by companies in India,

with the aim of understanding the factors that impede their ability to achieve sustainable and impactful social and environmental outcomes.

Relevance of the Study: The Study addresses the growing importance of corporate social responsibility in the Indian business landscape. By examining the specific issues and challenges faced by companies in implementing CSR initiatives, this research contributes to a deeper understanding of the complexities and nuances of CSR practices in India.

Literature Review: Following sources were referred to during the making of this research paper:-

1. *"Corporate Social Responsibility in India: A Review" by S. K. Mahapatra and P. A. Agarwal* - This paper provides a comprehensive review of CSR practices in India, highlighting the challenges faced by companies in implementing CSR initiatives. It discusses the regulatory framework, stakeholder engagement, and the impact of CSR on sustainable development.
2. *"Corporate Social Responsibility in India: Challenges and Opportunities" by R. K. Mishra* - This research paper discusses the challenges and opportunities associated with CSR in India. It examines the role of the government, regulatory frameworks, and the need for increased stakeholder engagement. It also explores strategies for companies to overcome challenges and leverage CSR for sustainable development.

Objectives of the Study: Following are the objectives of the study:-

1. To identify and analyse the primary issues and challenges hindering effective CSR implementation in Indian companies.
2. To assess the impact of these challenges on the sustainability and effectiveness of CSR initiatives in India.
3. To propose recommendations and strategies to address the identified issues, enhancing the impact of CSR initiatives in India.

- *Hypothesis:* The challenges in implementing CSR initiatives in India hinder the ability of the companies to achieve sustainable and impactful social and environmental outcomes.
- *Research Methodology:* Secondary sources like books, journals and research papers have been referred to, in order to fulfil the requirements of the study. This study is doctrinal in nature.

Research Questions

The research questions of this study are as follows:-

1. What are the major barriers and constraints faced by companies in India when attempting to effectively integrate CSR into their business strategies, and how can these obstacles be overcome to enhance the impact of CSR efforts?
2. How do government policies, regulations, and frameworks shape the landscape of CSR activities in India, and how can the alignment between public policy and private sector initiatives be optimized to achieve more sustainable development outcomes?
3. What strategies can be proposed to address the challenges and enhance the impact of CSR initiatives in India, enabling companies to achieve sustainable social and environmental outcomes?

Major Barriers and Constraints

Companies in India face a number of challenges and constraints when attempting to seamlessly integrate *Corporate Social Responsibility (CSR)* into their *business strategies*. *First and foremost*, *regulatory compliance* is a significant challenge. While the *Companies Act of 2013* requires CSR spending for qualifying businesses, navigating the complex regulatory landscape and ensuring compliance with reporting requirements can be difficult.[1] Furthermore, the absence of clear guidelines and ambiguities in CSR legislation can cause confusion and inefficiencies in implementation. *Second*, *resource constraints* frequently prevent effective CSR integration. Many businesses struggle to allocate financial resources to CSR initiatives, particularly in the face of competing business priorities. This constraint becomes even greater for *small and medium-sized enterprises (SMEs)* with limited budgets, making it difficult to invest in meaningful CSR initiatives. *Third*, *insufficient stakeholder engagement* creates a barrier to effective CSR implementation.[2] Failure to include key stakeholders in the CSR decision-making process, such as communities, employees, and civil society organisations, can lead to misalignment with local needs and expectations, reducing the impact and sustainability of CSR initiatives.[3] Furthermore, *cultural barriers within organisations*, such as hierarchical structures and resistance to change, impede the incorporation of CSR values into corporate culture.[4]

Overcoming these obstacles necessitates a multifaceted strategy. For starters, businesses can improve their *compliance efforts* by investing in strong CSR governance frameworks and utilising technology to streamline reporting and monitoring.[5] Second, addressing *resource constraints* necessitates strategic resource allocation and novel financing mechanisms, such as impact investing and public-private partnerships, to raise additional funds for CSR initiatives. Third, *fostering meaningful stakeholder engagement* entails establishing trust, transparency, and dialogue with stakeholders through regular communication and collaboration. This includes conducting needs assessments, consulting with local communities, and engaging employees in CSR decision-making processes. Finally, overcoming *cultural barriers* necessitates a concerted effort to integrate CSR principles into organisational values and norms via leadership commitment, employee training, and incentive mechanisms.[6] By addressing these barriers and implementing proactive strategies, businesses can increase the impact of their CSR efforts, drive long-term social change, and positively contribute to society while meeting their business objectives. Furthermore, fostering a *culture of social responsibility* within the organisation, in which CSR is viewed as a core business strategy rather than a compliance requirement, can help to overcome these barriers and maximise the impact of CSR initiatives.[7]

If we try to substantiate the barriers in pointers, then it can be classified as follows:-

1. *Limitations on Resources:* Many businesses, particularly smaller ones, experience financial difficulties that may prevent them from funding CSR initiatives. CSR funding may be viewed as a syphoning off of funds from essential business operations.
2. *Lack of Knowledge and Understanding:* Some businesses may not be fully aware of or understand the advantages of CSR, which can make them reluctant to participate in CSR

[1] The Companies Act 2013.
[2] Arevalo, J. and Aravind, D., "Corporate Social Responsibility Practices in India: Approach, Drivers & Barriers" (2011) Vol. 11, No. 4 Corporate Governance International Journal of Business in Society p. – 99.
[3] K. Siva Rama Krishna, Prof. C.V. Kannaji Rao, "Corporate Social Responsibility – Issues and Challenges in India" (2018) International Journal of Creative Research Thoughts (IJCRT) Volume 6 Issue 1.
[4] "Corporate Social Responsibility Practices in India", Times Foundation, the corporate social responsibility wing of the Bennett, Coleman & Co. Ltd.
[5] Andersen, M. L., & Dejoy, J. S., "Corporate social and financial performance: the role of size, industry, risk, R&D and advertising expenses as control variables" (2011) 116(2) Business and Society Review p. 237.
[6] Kumar, N., "Corporate social responsibility: An analysis of impact and challenges in India" (2014) Abhinav international journal of research in management and technology 3(5).
[7] Freeman, R. E., "The politics of stakeholder theory: Some future directions" (1994) Business ethics quarterly p. 409.

initiatives. Additionally, there might not be enough knowledge of the favourable effects on stakeholder relationships and brand reputation.[8]

3. *Short-Term Focus:* Businesses frequently experience pressure to produce quick financial results, which can cause them to prioritise short-term gains over more long-term, sustainable strategies. This way of thinking can prevent CSR initiatives from being implemented that might not have immediate financial benefits.[9]

4. *Fragmented Initiatives:* In the absence of a comprehensive strategy, CSR efforts may be haphazard or poorly coordinated. The overall impact and effectiveness of CSR activities may be constrained by this fragmentation.[10]

5. *Regulatory Ambiguity:* Companies may experience regulatory ambiguity due to India's CSR regulations' tendency to change over time. Navigating shifting reporting and compliance standards may be difficult for businesses.[11]

Now, looking at some of the ways by which the companies can overcome these barriers, they can be classified as follows:

1. *Education and Awareness:* Businesses can spend money on educating their executives and staff about the advantages of CSR. Resistance can be overcome by highlighting the long-term benefits of CSR initiatives, such as enhanced stakeholder engagement and brand reputation.

2. *Integration with Business Strategy:* By incorporating CSR into the main business strategy, it is possible to better match CSR initiatives with the goals and values of the organisation. This coordination can lessen the impression that CSR is a distinct or rival organisation.

3. *Public-Private Partnerships:* Working together to address larger societal issues can help companies, governments, and NGOs pool resources and expertise.

4. *Long-Term Thinking:* By educating stakeholders about the significance of long-term sustainable practises, it may be possible to reorient attention away from short-term gains and towards longer-term gains.

5. *Regulatory Compliance:* By keeping abreast of changing CSR regulations and adjusting internal procedures as necessary, businesses can proactively address compliance issues.

6. *Impact that is Measurable:* By creating precise metrics to gauge the results of CSR initiatives, it will be simpler to show their value and defend the expenditure of resources.

7. *Engagement of Stakeholders:* Including stakeholders in the CSR decision-making process can yield insights, increase support, and promote a sense of shared accountability.

8. *Innovation:* Businesses can investigate cutting-edge CSR strategies that fit with their expertise and core competencies, ensuring that initiatives are both effective and long-lasting.

Companies in India can improve the integration of CSR into their business strategies and contribute to more significant and effective CSR efforts by addressing these barriers and proactively implementing strategies to overcome them.

[8] Chand Singh, "CSR: Issues and Challenges in India (2016) Vol-2 Issue-6.
[9] Nicolae, J.C. and Sabina, J.M., "Dimensions and Challenges of Social Responsibility" (2010) Vol. 12 No. 1 Annales Universitatis Apulensis Series Oeconomica p. 238.
[10] Shikha Gupta, "Corporate Social Responsibility – Issues and Challenges in India" (2002).
[11] Sims, R. R., "Ethics and corporate social responsibility: Why giants fall" (2003) Greenwood Publishing Group.

Governmental Policies

Government policies, regulations, and frameworks influence the landscape of *Corporate Social Responsibility (CSR)* activities in India. The *Companies Act of 2013*[12] established mandatory CSR spending legislation, requiring qualifying companies to allocate a portion of their profits to socially beneficial initiatives. Furthermore, various government schemes and initiatives seek to encourage and facilitate CSR engagement among businesses.[13] These policies lay out a framework for CSR implementation, specify reporting requirements, and establish mechanisms for monitoring and evaluation. However, the effectiveness of these policies in achieving sustainable development goals is dependent on the alignment of public policy and private sector initiatives.[14]

To begin, government policies and regulations establish the overall framework for CSR activities in India. The *Companies Act of 2013*, specifically *Section 135*, requires CSR spending for eligible companies that meet certain financial thresholds.[15] This legislation establishes the minimum CSR expenditure, reporting requirements, and areas of permissible CSR activity.[16] The government has demonstrated the importance of corporate accountability and social responsibility by incorporating CSR into statutory provisions. However, the effectiveness of these regulations is dependent on their enforcement and oversight mechanisms, which differ by state and sector. Ensuring compliance and adherence to CSR guidelines remains difficult, especially for smaller businesses and those operating in less regulated industries.[17]

Furthermore, government-initiated schemes and programmes encourage CSR engagement and collaboration. For example, initiatives such as the *Swachh Bharat Abhiyan (Clean India Mission), Skill India, and Beti Bachao Beti Padhao (Save the Girl Child, Educate the Girl Child) campaigns* allow the private sector to participate in national development priorities.[18] These programmes provide a framework for *public-private partnerships (PPPs)* and *multi-stakeholder collaborations*, combining the resources and expertise of both sectors to address complex social challenges. However, alignment between government priorities and corporate agendas is critical for maximising the impact of CSR initiatives. Clear communication, coordination, and alignment of objectives between government agencies and private sector entities are required to ensure that CSR initiatives are targeted, strategic, and contribute effectively to national development goals.[19]

Additionally, government policies influence the reporting and disclosure requirements for CSR activities, promoting transparency and accountability. *The Companies (Corporate Social Responsibility Policy) Rules, 2014*[20] require companies to disclose their CSR policies, initiatives, and expenditures in annual reports and on their websites. This reporting framework improves transparency, allows stakeholders to evaluate the impact of CSR investments, and encourages greater accountability among companies.[21] However, the quality and consistency of CSR reporting varies by company, necessitating the use of standardised reporting formats, performance metrics, and independent verification

[12] The Companies Act, 2013.
[13] Laskar, N., & Maji, S. G., "Corporate sustainability performance and firm performance: evidence from India and South Korea" (2017) 1(2) International Journal of Corporate Strategy and Social Responsibility p. 118.
[14] P. C. Godfrey and N. W. Hatch, "Researching corporate social responsibility: An agenda for the 21st century" (2007) vol. 70 Journal of business Ethics p. 87.
[15] The Companies Act, 2013, Section 135.
[16] S. K. Chaudhury, S. K. Das and P. K. Sahoo, "Practices of corporate social responsibility (CSR) in banking sector in India: an assessment" (2006) Vol. 4 Research journal of economics business p.76.
[17] Shyam, R., "An analysis of corporate social responsibility in India. International journal of research-Granthaalayah" (2004) 4(5).
[18] Premlata, and Agarwal, A., "Corporate social responsibility: An Indian perspective" (2013) 1(1) Journal of business low and ethics.
[19] Herrman, K. K., "Corporate Social Responsibility and Sustainable Development: the European Union Initiative as a Case Study" (2004) vol. II Issue 2 Indiana Journal of Global Legal Studies Article 6.
[20] The Companies (Corporate Social Responsibility Policy) Rules, 2014.
[21] Indu Tiwari and Naveen Kumar, "Corporate Social Responsibility Performance about Digitalization of Marketing in India" (2018) vol. 7. No. 4 International Journal of Emerging Research in Management & Technology p. 25.

mechanisms. Capacity-building initiatives, awareness campaigns, and the implementation of best practice CSR reporting and disclosure can all help to improve transparency and accountability.[22]

In conclusion, government policies, regulations, and frameworks have a significant impact on the landscape of CSR activities in India by establishing a regulatory framework, defining focus areas, and encouraging transparency and accountability. However, optimising public-private alignment is critical to realising CSR's full potential for driving sustainable development outcomes. Strengthening coordination mechanisms, increasing stakeholder engagement, and aligning CSR initiatives with national development priorities are critical strategies for capitalising on synergies between public policy and private sector initiatives. By collaborating to achieve common goals, the government and businesses can harness the transformative power of CSR to address pressing social, economic, and environmental challenges while also contributing to India's inclusive and sustainable development.

Strategies to Combat the Challenges

Addressing the challenges and increasing the impact of Corporate Social Responsibility (CSR) initiatives in India necessitates a multifaceted approach that includes strategic planning, stakeholder engagement, and innovative practices. Companies operating in India can use a variety of strategies to overcome challenges and maximise the effectiveness of their CSR efforts, resulting in long-term social and environmental outcomes. These strategies cover a wide range of CSR planning, implementation, and evaluation activities, with the goal of fostering alignment with societal needs, increasing stakeholder engagement, and promoting innovation and collaboration. Following are the strategies:

1. *Strategic Alignment:* Corporate strategies must be in line with development priorities and societal needs in order for CSR initiatives to be effective. To identify the most important social and environmental challenges and opportunities that are pertinent to their business operations and stakeholders, companies should carry out thorough needs assessments. Companies can make sure that their initiatives address urgent issues and contribute to sustainable development outcomes by matching their corporate social responsibility (CSR) objectives with national development plans, the *Sustainable Development Goals (SDGs)*, and emerging trends.[23] Furthermore, by including CSR into business plans, organisations may improve their reputation and long-term competitiveness while leveraging their networks, resources, and core skills to create shared value for stakeholders and society.
2. *Stakeholder Engagement:* In order for CSR initiatives to be successful and sustainable, meaningful stakeholder engagement is necessary. In order to interact with a wide variety of stakeholders, such as *local communities*, *NGOs*, *government agencies*, *employees*, and *customers*, *businesses* should embrace inclusive and participatory approaches. This means creating a dialogue, establishing trust, and working together to co-create solutions that meet the needs and goals of all parties involved. Companies can increase their impact, legitimacy, and relevance while lowering risks and conflicts by incorporating stakeholders in the planning, execution, and monitoring of corporate social responsibility initiatives. Additionally, businesses can use the input and insights from stakeholders to iteratively enhance their CSR practices and strategies, fostering creativity and adaptability to shifting social norms.
3. *Innovation and Technology:* The impact and scalability of corporate social responsibility (CSR) initiatives in India are greatly enhanced by innovation and technology. To improve the effectiveness, accountability, and transparency of corporate social responsibility initiatives,

[22] Prieto-Carron, M., Lund-Thomsen, P., Chan, A., Muro, A. and Bhushan, C., "Critical Perspectives on CSR and Development: What We Know, What We Don't Know, and What We Need to Know" (2004) Vol. 82 No. 5 International Affairs p. 977.
[23] Saxena, N., "Corporate Social Responsibility: Issues and Challenges" (2016) Vol. 3 No. 1 International Journal of Research and Scientific Innovation p 41.

businesses should take advantage of technological innovations like digital platforms, data analytics, and remote sensing technologies. Digital platforms, for instance, can help with impact assessment, project monitoring, and stakeholder engagement, allowing for real-time feedback and adaptive management. Additionally, businesses can use entrepreneurship and innovation to create long-term solutions for urgent social and environmental issues like waste management, clean energy, and healthcare delivery. Companies can discover new avenues for generating value and promoting constructive social change by adopting an innovative and experimental culture.

4. *Collaboration and Partnerships:* Partnerships and collaboration are essential for increasing the impact of CSR initiatives in India. To take advantage of complementary strengths, resources, and expertise, companies should actively look for opportunities to collaborate with other businesses, government agencies, civil society organisations, and academic institutions. The reach and efficacy of corporate social responsibility (CSR) interventions can be increased through *public-private partnerships (PPPs)* and *multi-stakeholder collaborations*, especially when tackling complex and systemic issues.[24] Additionally, businesses can participate in sector-wide initiatives, consortia, and platforms to address common issues and promote sectorial transformation. Businesses can maximise their contribution to sustainable development outcomes and accelerate beneficial social and environmental change by cultivating a culture of cooperation and collective action.[25]
5. *Capacity Building and Employee Engagement:* Building internal capabilities and promoting a socially conscious culture within companies require investments in employee engagement and capacity building. To improve staff members' comprehension of CSR practices, ethical considerations, and principles, companies should offer training, education, and awareness initiatives.[26] Companies can mobilise internal resources, expertise, and networks to support CSR initiatives and initiatives by enabling employees to become proactive change agents. In order to encourage civic engagement and group impact, businesses can also provide incentives for employee volunteering, community service, and social entrepreneurship. Businesses may improve the efficacy and sustainability of their CSR initiatives while building a positive workplace culture and high employee morale by encouraging employees to feel accountable and own their work.

Conclusively, a comprehensive strategy that incorporates strategic alignment, stakeholder engagement, collaboration, innovation, and capacity building is necessary to tackle the obstacles and improve the effectiveness of corporate social responsibility initiatives in India. Through the implementation of these strategies, businesses can surmount challenges, optimise their impact on sustainable social and environmental results, and generate reciprocal benefits for stakeholders and society. Moreover, businesses can promote equitable and sustainable growth, increase their ability to withstand external shocks, and support India's development goals for the twenty-first century by incorporating CSR into their business plans and operations.

Conclusion

A complex landscape where business and societal aspirations converge is revealed by the exploration of Corporate Social Responsibility (CSR) issues and challenges in the Indian context. India offers a distinctive canvas for examining the dynamic interaction between corporate initiatives and societal needs because it is a rapidly developing country with a variety of socioeconomic challenges. This

[24] B. Scholtens, "Finance as a Driver of Corporate Social Responsibility" (2006) Vol. 68 no. 1 Journal of Business Ethics p. 19.
[25] J. M. Rose, "Corporate Directors and Social Responsibility: Ethics versus Shareholder value, Journal of Business Ethics" (2007) vol. 73 no. 3, p. 319.
[26] Lozano, R., "Envisioning sustainability three-dimensionally" (2008) 16(17) Journal of cleaner production p. 1838.

research journey has delved into a number of crucial areas, illuminating the complex facets that characterise the field of CSR in India.

The CSR landscape in India is being shaped by governmental frameworks, policies, and regulations. While these rules give businesses a framework to work within, the key is to maximise the alignment between public policy and initiatives from the private sector. Incentivization, public-private partnerships, and an ongoing conversation that adjusts to shifting societal needs and aspirations are all effective ways to achieve this alignment.

As the journey comes to an end, it is clear that CSR in India is not only a responsibility but also a chance for change. The impact of CSR initiatives can be greatly increased by confronting problems head-on and making use of synergies between businesses, governments, and civil society. The strategies outlined in this article serve as a road map for directing CSR efforts towards positive social and environmental outcomes that will benefit both India and the rest of the world. This study emphasises the fact that CSR is a tool for balancing profit, purpose, and advancement in a world that is becoming more interconnected rather than merely a by-product of business operations.

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CORPORATE SOCIAL RESPONSIBILITY, PUBLIC LIABILITY AND ENVIRONMENTAL CONCERNS FOR DOING BUSINESS

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Abstract

Corporate Social Responsibility (CSR) is based on the idea that successful and profitable companies must take responsibility for social issues and manage their operations in a way that maximizes profits and shareholder wealth, thereby helping solve social problems. CSR can help improve various aspects of society and promote a positive brand image for businesses. It aims to improve business growth through reputation enhancement.

CSR can help a company improve its reputation and brand image, as consumers and other stakeholders can perceive the company more positive if the company is seen as socially and environmentally responsible. Increased customer loyalty: CSR can lead to increased customer loyalty because consumers are more likely to purchase from companies that align with their values and are seen as relevant stakeholders.

Responsibility to Improve employee morale: CSR initiatives can improve employee morale and lead to increased employee engagement and retention, as employees can feel more engaged and prouder of their work. When the company engages in activities that benefit society or the environment. Additionally, a company can gain internal benefits through these initiatives. Knowing that their company promotes good causes, employee satisfaction can increase and employee retention can be strengthened. Corporate Social Responsibility; Public Liability; Environmental concerns for doing Business.

Keywords: - Employee Morale, CSR, Public Liability, Customer Loyalty, Profits and Shareholders, Environmental concerns through stakeholders

Introduction

The full form of CSR is corporate social responsibility. It is defined as a corporate structure that allows a business to be accountable to the public and its stakeholders to realize its impact on various aspects of society, e.g., social, economic and environmental.

CSR aims to integrate services and activities that have economic value into an organization's business model and culture. This seriously implies that businesses must lead to social, economic and environmental growth, which has a positive effect on society. To support the weaker sections of society and protect the environment, the government is closely monitoring the CSR component of businesses as it requires the participation of the private sector.

Aspects of CSR respecting with IPR:

- A CSR program Includes three aspects of economic, environmental and social responsibility.

- Specifically, respecting and protecting the copyright and intellectual property of others is an area of social responsibility that organizations must integrate into broader CSR initiatives.
- However, an aspect of CSR is the role of intellectual property (IP) strategy in achieving corporate social responsibility goals.
- Patents are one of the key elements of a solid intellectual property strategy.
- Companies can use patents to protect innovative products and technologies that address societal challenges.
- IPR grants certain exclusive rights to inventor or creators of such property to enable them to gain commercial benefits from their creative efforts or reputation.
- Responsibility or CSR? Corporate social responsibility is about business and human rights. It is about asking businesses to take the lead in "doing the right thing".
- There is a strong economic case for companies to take CSR seriously.
- Corporate social responsibility (CSR) is based on the idea that businesses must respect human rights, based on recognizing the dignity of every human being. States have a legal obligation to protect human rights under international law.

To create a positive effect on society, CSR allows companies to control their operations. It states that a business must also fulfill its social obligations while establishing a company, which may relate to:

Monetary Contributions to Various Non-Profit Organizations

Help people cope with natural disasters such as storms, earthquakes, and droughts

- Encourage the promotion of talent in the fields of sports, entrepreneurship and cultural events.
- Take steps to reduce air and water pollution, etc. Companies are expected to form a CSR committee to approve the planning and implementation of CSR policy by the board of directors.
- The law also includes criminal provisions for companies that do not comply with CSR requirements.
- The introduction of corporate social responsibility is an attempt by the Indian government to involve business in the national growth agenda.
- Section 135(1) of the Companies Act 2013 sets out the thresholds for recognition of authorized companies including CSR committees and organizations in the previous financial year, which include: The net worth of the company is INR 500 crores or more. The company's annual turnover is INR 1,000 crore or more.
- The net profit of the companies is INR 5 crore or more. Additionally, under the Companies (Amendment) Act, 2019, corporate social responsibility applies to organizations before the end of three financial years. Under this law, companies falling within the CSR threshold must spend at least 2% of their average net profit each financial year.

❖ Additionally, for organizations that have not completed three financial years, the average net profit earned during the previous financial years should be taken into account.

❖ Corporate social responsibility activities in India are not undertaken in the ordinary course of business and involve any of the 17 corporate social responsibility activities listed in Appendix Schedule VII of the Companies Act, 2013.

❖ The main objective of corporate social responsibility is to encourage sustainable and responsible business principles at the global level and motivate organizations to come up with innovative ideas and sound management strategies.

Assessing CSR impact

The CSR (Corporate Social Responsibility) Rules, 2014 do not have an explicit representation or requirement for impact assessment. During the first year of regulations and most companies focused on compliance rather than getting the job done.

Below are some of the problems observed in the area of impact assessment:

1. Impact assessment can be done early in this phase because impacts often occur over a long period of time. Many companies believe that true impact can be assessed after a specific action has been taken for about 3 to 5 years.
2. For most publicly traded companies, corporate social responsibility initiatives have been part of the sustainability statement for more than five years.
3. However, for companies engaging in CSR for the first time, there is little or no impact to evaluate.
4. In some cases, experienced players perform third-party verification. However, the adoption rate is low and the claims are not shared. Most companies use their facilities to fulfill their corporate social responsibility.
5. Organizations choose this path because it allows for greater authority over funds and therefore better oversight of efforts.

Environmental protection measures: Every company must take steps to use resources sustainably, establish healthy and safe work environments, and take crucial steps to reduce waste

Environmental responsibility: CSR encourages sustainability in businesses through environmentally friendly practices, such as reducing energy consumption, using renewable resources and minimizing waste. Environmental responsibility is based on eliminating the negative impacts of business activities (mainly by limiting polluting activities) as well as offsetting them through actions such as planting trees and participating in programs that support biodiversity. Depleting water levels, failure to treat toxic and chemical waste, and provide clean energy are some of the environmental problems facing the world. CSR has taken initiatives to minimize adversities and damage to the environment by committing and promising to protect the integrity of Mother Earth.

Benefits of Environmental CSR

- Green CSR can reduce business risks, enhance reputation and provide cost reduction opportunities. Even the simplest energy efficiency measures can save money and make a difference to your business.
- For example, turn off lights and appliances when not in use. Compared to other equally difficult social issues such as education, poverty, health, environmental sanitation that were previously prioritized by businesses, the environment and related issues have not failed to achieve success. Get the desired level of priority.
- A quick look at CSR spending over the past seven years on the Indian Ministry of Corporate Affairs' Corporate Social Responsibility data portal shows that CSR spending is largely focused on education with an average spend of 38% on this sector, while another amount of spending goes to health and sanitation (22%) and rural development (10%), followed by the environmental sector (8%).
- Even in the environmental sector, the favorite spending areas are initiatives like renewable energy projects, awareness raising or green initiatives with meager allocations for tree planting, rejuvenation and restore resources to natural areas such as water bodies, forests, grasslands, etc.
- However, the agroforestry sector has received ongoing small funding, thereby supporting livelihoods and carbon sequestration goals.

- The bias towards education, poverty and health over hygiene has remained unchanged since 2014, requiring proactive review and corrective action.
- Corporate social responsibility (CSR) is a business model in which for-profit companies seek to create social and environmental benefits while pursuing organizational goals, such as increasing grow revenue and maximize shareholder value.
- Organizations today are implementing far-reaching social responsibility programs, with many companies dedicating leadership positions and entire departments to social and environmental initiatives.
- These leaders are often called chief corporate social responsibility officers or chief sustainability officers (CSOs). There are many types of corporate social responsibility, and CSR can be different for each organization, but the end goal is always the same: to do well by doing good.

Should companies carry out CSR activities:

- CSR activities must be carried out by the company itself or through,
- A company incorporated under section 8 of the Act, or a registered public trust or a registered company, registered under sections 12A and 80 G of the Income Tax Act, 1961 by the company incorporated, alone or with any other company.
- A company incorporated under section 8 of the Act or a registered trust or a registered association, incorporated by the Central Government or the State Government (or)
- Any entity established by an Act of Parliament or State Legislature (or)
- A company incorporated under section 8 of the Act, or a registered public trust or a registered company, registered under sections 12A and 80G of the Income Tax Act, 1961 and having records track of at least three years in similar activities.

Is registration required to carry out CSR:

- Any entity intending to undertake any CSR activity must register with the Central Government by submitting an electronic CSR Form-1 to the Registrar, with effect from April 1, 2021.
- Form CSR-1 must be signed and submitted electronically by the entity and must be digitally certified by the Practicing Accountant or Practicing Company Secretary or Practicing Cost Accountant.
- Once submitted, a unique CSR registration number will be automatically generated.

CSR goals and system

1. Cost and capital investment system
2. Risk management system
3. Performance appraisal and reward system
4. Measurement system
5. Feedback system
6. Reporting and verification system

What is social responsibility?

Social responsibility is the ethical direction for individuals and businesses through which they seek to act and be responsible for activities that benefit society. Social responsibility is becoming increasingly important to investors and consumers, who seek investments that not only deliver returns but also contribute to social and environmental well-being. Socially responsible companies should adopt policies that promote the well-being of society and the environment while minimizing negative impacts on them.

There are a number of ways that businesses can act responsibly, such as promoting volunteerism, making changes that benefit the environment, engaging in ethical labor practices, and participating in charity activities. Consumers are actively seeking to purchase goods and services from socially responsible companies, which affects their bottom line. Critics argue that practicing social responsibility goes against the reason why businesses exist.

Social responsibility means that individuals and businesses must act in the best interests of the environment and society as a whole. When it comes to business, social responsibility is known as corporate social responsibility (CSR) and is becoming an area of increasing focus within businesses due to changing social norms. In some cases, experienced players perform third-party verification. However, the adoption rate is low and the claims are not shared. Most companies use their facilities to fulfil their corporate social responsibility. Organizations choose this path because it allows for greater authority over funds and therefore better oversight of efforts.

Corporate Social Responsibility related to Intellectual Property

- When there are clear human rights violations that threaten life, health or basic human freedoms, the role of CSR can easily be seen.
- What is less clear is whether intellectual property (IP) has anything to do with CSR. CSR often doesn't think about intellectual property (IP), such as patents, copyrights, and trademarks.
- But social responsibility does not stop at avoiding human rights violations. It also means taking steps to respect human rights, even where there is no explicit legal obligation.
- In this regard, businesses have full freedom to use their intellectual property rights to promote human rights and human flourishing.

Impact of Intellectual Property Rights

- The impact of intellectual property rights on human welfare has become a global issue.
- Indeed, intellectual property standards have been harmonized in many different countries thanks to the World Trade Organization Agreement on Intellectual Property.
- Since most countries in the world are members of the WTO, they must include some level of intellectual property protection in their laws.
- Intellectual property rights – such as copyrights, trademarks, geographical indications and patents – can help encourage creativity, but they can also limit access to knowledge, culture and medicine.
- For example, copyright may limit access to educational and cultural materials; Brands can be used to spread messages that promote racial stereotypes; and the lack of protection for intergenerational Indigenous cultural works could lead to accusations of bio piracy.
- Additionally, CSR is often seen as an asset to a company's brand image but has little real commitment.
- As a result, there is a tendency to focus more on measurable environmental, social and governance ("ESG") factors. But CSR and ESG are linked.
- Socially responsible intellectual property is not about using intellectual property to present oneself as a good corporate citizen, although that may be one of the motives and one of the effects.
- Intellectual property rights, although not the primary purpose, can be a force for social good.

Subject specific skills:

- Apply ethical design and decision making in organizational contexts. Integrate corporate responsibility throughout the organization.

- Critical assessment of relevant theories, concepts, models and initiatives aimed at enhancing corporate responsibility.
- Explore alternative futures and the changes in business management thinking and practices needed to shape a more innovative, sustainable and inclusive economic system. Implementation framework
- Several approaches to developing CS implementation frameworks have been published, and many of them differ quite significantly in their components and purposes.
- In the following section, we will summarize the models selected by academic experts has been integrated into one framework.
- It is based on the Business Process Management (BPM) approach, a cross-cutting approach
- How to evaluate the impact of each process in selected metrics along with reporting on people, processes and technology. The conceptual framework for implementing sustainability through business processes is based on a five-step approach:

  1. Policy development
  2. Make a plan
  3. Perform
  4. Communication
  5. Review and corrective action

Business Ethics:

- Business Ethics – Business ethics refers to the values and principles that govern the behavior of individuals within an organization so that business activities are desirable from a societal perspective.
- The main goal of business ethics is to guide managers and other employees in performing their jobs in a socially acceptable manner.

Civil Liability Insurance

- A liability insurance policy is a type of commercial insurance, purchased by professionals, that provides financing for claims filed by the general public and has some connection to business activity. your business.
- As a result of your work or business activities, if a third party is injured or their property is mutilated, that third party may also sue you. For this reason, it can also be called liability insurance.
- This not only causes you to suffer huge financial losses but also harms the smooth operation of your business.
- For example, a customer comes to your office and suddenly he slips and his knee is injured due to the uneven floor, causing him to be hospitalized. Now, if they want, they can legally claim financial loss from your insurance.
- Here, public liability insurance becomes your savior as it provides for legal costs as well as other compensation payable in connection with a successful claim by the customer/third party against Friend.
- Therefore, if you are involved in certain work or business activities where you have to maintain regular contact with the public or third parties and they necessarily enter your premises then liability insurance Civil is essential for you.
- What are the basic characteristics of civil liability insurance? A public liability insurance policy is a life-saver for many people who regularly come into contact with the public.

Key Features

1. In general, you can choose from three types of liability insurance depending on the nature of your work or business.
2. If you want complete protection, there are a number of extensions that come with this insurance policy. This may vary by company.
3. This insurance policy covers the amount that the insured is legally obligated to pay as damages to a third party.
4. The policy also provides coverage for financial losses due to accidental death, personal injury, illness, and property damage or loss.
5. It has a smooth and user-friendly claim process.

Types of civil liability insurance

- Although there is no fixed type of liability insurance in India and it may vary from company to company, these types of insurance policies are commonly offered.
- Public liability for industrial risks – For manufacturing units.
- Public liability for non-industrial risks – For non-manufacturing entities such as BOPs, IT companies, hotels, restaurants, schools, clubs, etc. according to Public Liability Act (1991).

Conclusion

Corporate Social Responsibility outlies the profits and responsibility through the company and organization that local business in the society at large as well as to the nation. It is important to implement the framework to be carried out in an appropriate manner. These challenges can only be overcome by the government, business, and society working together. These problems can be resolved by ensuring better communication and transparency by all the stakeholders.

Meanwhile, it plays a vital role in the society that is held accountable for all the omissions and recent amendments of acts into actions. Simply CSR which plays an important role in the company to deal with the importance and aspects of the framework to the public liability. CSR, Public Liability which encompass with the IPR through the rights which are empowered by the company for their privacy and security.

AI-DRIVEN PRODUCT SELECTION: EXPLORING TRADEMARK IMPLICATIONS

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Abstract

The rapid advancement of artificial intelligence (AI) is reshaping various aspects of society, including consumer behaviour and brand interaction. In particular, AI-driven product selection is transforming the traditional dynamics of brand engagement and consumer decision-making. This study explores the evolving relationship between AI technology, trademark law, and consumer preferences. By analyzing the multifaceted impact of AI on product selection and brand perception, this research aims to provide valuable insights into navigating the complexities of this evolving landscape.

Keywords: Artificial Intelligence, Trade Mark, Consumer Behaviour, Product Selection, Average Consumer

Introduction

In an era dominated by rapid technological advancement, artificial intelligence (AI) stands as a pivotal force reshaping our daily lives. From assisting us in making informed decisions to simplifying complex tasks, AI permeates various facets of modern society, offering unparalleled convenience and efficiency. One notable area where AI's transformative potential manifests prominently is in product selection.

Traditionally, consumers relied on familiar trademarks to make their purchasing decisions, offering assurance of quality and reliability. Trademark serve as a symbol for a product's quality and characteristics, conveniently informing consumers and saving them from time consuming research.[167]However, the advent of AI introduces a paradigm shift in how consumers interact with brands. Now, AI has started recommending consumers to make their choices. AI-driven recommendation systems leverage vast datasets and sophisticated algorithms to tailor product suggestions to individual preferences, making traditional trademark cues potentially less influential.

The evolving dynamics between consumers and brands in the AI-driven landscape is explored. As AI assumes greater prominence in facilitating product selection, it poses both challenges and opportunities for brand owners. By dissecting the multifaceted impact of AI on consumer behaviour and trademark law, this study aims to provide valuable insights into navigating the evolving relationship between technology, branding, and consumer choice.

American Researcher and futurist Roy Amara once stated that "We tend to overestimate the effect of a technology in the short run and underestimate the effect in the long run"[168]

Historical Course of Product Selection

Traditionally, consumers relied on personal interactions, limited choices, and the expertise of shop assistants to make purchasing decisions. However, with the rise of AI-driven product selection,

[167] Emerging Issues Committee, Artificial Intelligence and Decisions by Machines Subcommittee, 'Artificial Intelligence (AI) and the Future of Brands: How will AI Impact Product Selection and the Role of Trademarks for Consumers?' (October 2019) <https://www.inta.org/wp-content/uploads/public-files/advocacy/committee-reports/AI-and-the-Future-of-Brands-Report-2019-010-18.pdf>.
[168] Roy Amara - Wikipedia

consumers now have access to a vast array of options and information at their fingertips, reshaping the dynamics of brand interaction and consumer decision-making.

The evolution of product selection can be traced back to the nineteenth century when the foundations of trademark law were established. During this era, purchasing goods involved physical visits to traditional Victorian shops, where shop assistants acted as intermediaries between consumers and largely unbranded products. These assistants possessed knowledge about the products and would guide consumers in their purchase decisions. However, the emergence of AI-driven technologies has revolutionized this traditional model, ushering in a new era of consumer empowerment and choice. The contemporary consumer landscape reflects a seismic shift from the simplistic buying patterns of the past. The retail sector has witnessed transformative changes over the past few decades.[169] Millennials, in particular, epitomize this transformation, embodying a generation that seeks novel experiences and demands convenience and personalization in their consumer interactions. From dining preferences to travel habits, every aspect of consumer behaviour is undergoing a radical transformation, driven by technological advancements and changing societal norms. The Internet has emerged as a game-changer in the realm of consumerism, providing unparalleled access to information and products from around the globe. The Internet gives online consumers unprecedented access to detailed information about products for sale anywhere in the world.[170] Online consumers can now conduct extensive research, compare prices, and make purchases directly from providers, bypassing traditional intermediaries. While this newfound freedom offers unparalleled convenience, it also presents challenges, with many consumers feeling overwhelmed by the sheer volume of choices and information available. As a result, there is a growing demand for AI-powered recommendations and curated lists to assist consumers in navigating the vast online marketplace. The proliferation of AI-driven product selection mechanisms has significant implications for trademark law and brand owners. Trademarks, which traditionally served as symbols of product quality and differentiation, are now being redefined in the age of AI. As consumers increasingly rely on algorithmic recommendations and personalized suggestions, the role of traditional trademarks in shaping purchasing decisions may diminish. Brands are almost forced to adapt to this shifting landscape by leveraging AI technologies to enhance consumer engagement and deliver tailored experiences. Need for understanding and upbring AI laws has become paramount given its rampant development in the recent years.

Trademark and Its Relevance in Product Identification

Section 2(1)(i)(viii)(zb) of Indian Trademarks Act, 1999 defines Trademark as a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging, and combination of colours.[171]

A trademark refers to any symbol, slogan, design, word, or combination which serves to identify and distinguish the goods or services offered by one party from those of others. Its primary function is to differentiate products or services in the marketplace. Trademarks can take various forms, including logos, slogans, or even colours, such as T-Mobile's distinctive pink hue. Popular examples of trademarks include the NBC chime, Nike's swoosh, McDonald's golden arches, and the unique shape of the Coca-Cola bottle.

A trademark acts as a crucial tool for consumers to recognize and connect with brands in the marketplace. When consumers encounter a familiar trademark, it signals to them the source of the

[169] Sandeep Sharma, '5 Reasons Why Retail Companies Are Going Public' (Content Editor, Mar 05, 2024) <https://www.indianretailer.com/article/retail-business/retail-trends/5-reasons-why-retail-companies-are-going-public>.
[170] Mark S Nadel, 'The Consumer Product Selection Process in an Internet Age: Obstacles to Maximum Effectiveness and Policy Options' (2000) SSRN Electronic Journal, 4.
[171] Indian Trademarks Act 1999, s 2(1)(i) (viii) (zb).

product or service and helps establish trust and reliability. For instance, when someone sees the Nike swoosh on a pair of shoes, they immediately associate it with Nike's brand of athletic footwear, knowing what to expect in terms of quality and style.

Similarly, the iconic golden arches of McDonald's instantly identify the fast-food chain's restaurants, making it easy for consumers to locate their favourite burgers and fries. This ease of recognition and association helps build brand loyalty and encourages repeat purchases.

Expanding on this, consider the distinctive three-toned chime "G E C" associated with NBC, which consumers often hear before a television broadcast. This trademark not only alerts viewers to the network but also evokes a sense of anticipation for upcoming programs.

In each of these examples, the trademark serves as a visual or auditory cue that aids consumers in identifying and selecting their preferred brands, thereby contributing to brand awareness and fostering consumer loyalty.

The Dynamic Realm of Artificial Intelligence

Artificial Intelligence, or AI, is technology that enables computers and machines to simulate human intelligence and problem-solving capabilities.[172] Alan Turing, a prolific mathematician, introduced the concept of artificial intelligence (AI) in 1950. However, it was during the Dartmouth conference in the same year that computer scientist John McCarthy officially coined the term "Artificial Intelligence" to describe the field of study focused on creating machines capable of intelligent behaviour.[173] Given the contemporary AI dynamics, there can be no proper definition to define the term AI which is compelling to all the practitioners. Artificial intelligence (AI) implies to the development of computer systems that can perform tasks typically requiring human intelligence. These tasks include learning from data, recognizing patterns, making decisions, and solving problems.

Ai and Trademark

Initially, the primary focus of Artificial Intelligence (AI) in the realm of Intellectual Property (IP) law centered around copyright and patent protection. This focus was driven by AI's capabilities in content generation, analysis, and invention. Consequently, much attention was given to whether AI-generated content and inventions could be protected under copyright and patent laws.

As AI technology continues to advance, its relevance to trademark law has become increasingly apparent. Traditionally, trademark law has dealt with issues related to brand identity, consumer protection, and market competition. With the rise of AI-driven product selection, marketing, and consumer interaction, trademark law now faces new challenges and opportunities.

While AI's primary focus initially centered on copyright and patent law, its relevance to trademark law has grown significantly due to its role in shaping consumer behaviour, brand perception, and market dynamics.

Trademark in AI Driven Product Selection

In the context of product selection, AI is revolutionizing the way consumers discover and choose products. AI has significant implications for the product selection process. By analysing vast amounts of data, AI algorithms can understand consumer preferences, behaviour patterns, and trends. This allows businesses to offer personalized product recommendations tailored to individual tastes and

[172] IBM. (n.d.). Artificial Intelligence (AI). Retrieved from https://www.ibm.com/topics/artificial-intelligence
[173] 1Exec. Office of the President National Science and Technology Council Committee on Tech., Preparing for the Future of Artificial Intelligence (2016) (referred as 2nd Obama report).

needs. For example, AI-powered recommendation systems on e-commerce platforms suggest products based on a user's browsing history, purchase history, and preferences.

Furthermore, AI can streamline the product selection process by automating various tasks, such as filtering through large product catalogues, comparing prices and features, and identifying the best options available. This saves consumers time and effort, making the shopping experience more efficient and enjoyable.

Overall, AI empowers both businesses and consumers in the product selection process. It enables businesses to better understand their customers and offer targeted solutions, while providing consumers with personalized recommendations and a more seamless shopping experience.

The Doctrine of Initial Interest Confusion

The doctrine of initial interest confusion arises when a consumer intends to purchase a specific product but is instead presented with a similar product, causing temporary confusion before the purchase. Although this concept originated in the 1970s, its first application on the internet occurred in the case of Brookfield Communications Inc. v. West Coast Entertainment Corp., where the 9th Circuit addressed the use of registered trademarks as "meta tags" by non-trademark holders.[174]

Doctrine of Average Consumers

The impact of AI on trademark law raises important considerations regarding how trademark examiners and courts assess the likelihood of confusion and the role of the average consumer.[175] The European Court of Justice has applied the doctrine of the average consumer when addressing issues of misleading commercial communication. This doctrine assumes that the average consumer is "reasonably observant and reasonably well informed and circumspect.[176] Traditionally, trademark law has emphasized visual, conceptual, and phonetic similarity when evaluating conflicting trademarks. However, with consumers increasingly relying on AI for purchasing decisions, the relevance of these factors may shift.

As consumers interact less directly with products and rely more on verbal commands and oral feedback from AI devices, the importance of phonetic similarities between trademarks may increase in the analysis. Additionally, the significance of visual and conceptual similarities may diminish as AI becomes responsible for making purchasing decisions, potentially reducing susceptibility to marketplace confusion.

With AI assuming the role of the average consumer in product comparisons, traditional concepts like imperfect recollection and varying degrees of consumer care based on price point may become less relevant. Instead, brand owners and trademark practitioners may need to reconsider infringement theories, placing greater emphasis on the harm caused by post-purchase confusion rather than initial interest and point-of-sale confusion. Traditionally, trademark law has emphasized visual, conceptual, and phonetic similarity when evaluating conflicting trademarks. However, with consumers increasingly relying on AI for purchasing decisions, the relevance of these factors may shift.

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[174] Initial interest confusion - Wikipedia
[175] McCarthy, T. (2017). McCarthy on Trademarks and Unfair Competition § 2:22 (5th Ed.). Retrieved from http://www.hgf.com/media/1173564/09-13-AI.PDF
[176] Gut Springenheide GmbH and Rudolf Tusky v Oberkreisdirektor des Kreises Steinfurt - Amt für Lebensmittelüberwachung, Case C-210/96, ECR 1998 I-04657 and also refer Sabel BV v Puma AG Rudolf Dassler Sport [1998] ECR I-619

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AI's Impact on Brand Awareness and Consumer Preferences:

The increasing utilization of artificial intelligence (AI) in product selection has the potential to alter the significance of trademarks and reshape consumer perceptions of brands. As AI technology becomes more pervasive, companies are leveraging it to better understand and target relevant consumers. However, this trend raises concerns about the implications for trademarks and brand perception. While many consumers may not directly delegate their buying choices to AI applications, they are increasingly relying on these systems for personalized recommendations and streamlined shopping experiences.

Traditionally, the concept of the "average consumer" has played a central role in trademark infringement proceedings and liability issues. AI applications also have important implications for who is considered to be the “average consumer” in trademark infringement proceedings and issues of liability.[177] However, with the rise of AI, the definition of the average consumer is evolving. AI applications act as intermediaries between consumers, products, and brands, offering tailored recommendations based on past purchasing behaviours. This shift raises questions about who ultimately makes the purchasing decision—is it the consumer or the AI application?

In some cases, consumers may fully delegate their buying decisions to AI applications like Amazon Alexa, which have access to vast amounts of product information. Effectively functioning as personal shoppers, these AI applications may autonomously make purchasing decisions based on the consumer's historical preferences. This phenomenon has been termed the "automatic execution" model, where the traditional shopping process is inverted, prioritizing shipping before the act of shopping itself. This shift from a "shopping-then-shipping" to a "shipping-then-shopping" model signifies a fundamental change in retail dynamics.

In the era of AI-driven predictive retail, traditional retail practices are no longer solely reactive to consumer demands. Instead, they have become proactive, leveraging AI algorithms to anticipate consumer needs and preferences. As AI continues to influence buying decisions, the role of the consumer is being redefined, blurring the lines between active decision-making and automated recommendation systems. One significant impact of AI-driven product selection is the potential diminishment of consumer engagement in the purchasing process. Smart home devices and appliances equipped with AI capabilities can autonomously manage product procurement, reducing the need for direct consumer involvement. For instance, a smart refrigerator detecting low ketchup levels may initiate a delivery without consumer input. Similarly, AI-powered virtual assistants can analyse past purchasing behaviours and make recommendations, minimizing consumer interaction with brands during online shopping.

This reduced consumer involvement in product selection facilitated by AI poses challenges for brand awareness and consumer preferences. With AI assuming responsibility for setting default purchase

[177] Curtis, L., & Platts, R. (2020). Trademark Law Playing Catch-up with Artificial Intelligence? WIPO Magazine, June. Manchester, United Kingdom: HGF. Retrieved from https://www.wipo.int/wipo_magazine_digital/en/2020/article_0001.html

preferences, consumers may become less engaged with specific brands, relying instead on AI-generated suggestions. This trend could particularly impact start-up companies or brands seeking to gain market share by targeting competitor customers, as AI may reinforce existing purchasing patterns rather than promoting brand exploration.

Moreover, AI's ability to detach products from specific trademarks raises concerns about brand washing, wherein consumers prioritize generic attributes such as price over brand identity. By allowing customers to set preferences unrelated to brand, AI could possibly erode the significance of trademarks in influencing purchasing decisions of the consumers in the near future. This detachment may incentivize retailers to prioritize cost-cutting measures over maintaining brand quality standards, potentially compromising consumer trust in trademarked products.

Cases Relevant to Application of AI's Impact on Trademarks

Despite the absence of specific case laws addressing AI's role in trademark infringement, existing precedents from the Court of Justice of the European Union (CJEU) offer insights into potential liability implications. Many industry experts states that the responsibility of AI providers must be akin to that of Internet search engine providers or web hosting providers.[178]

In the case of **Lush Ltd v Amazon.co.uk Ltd**,[179] the High Court rendered a significant decision concerning trademark infringement in the context of e-commerce. Lush, the claimant, owned the registered trademark 'Lush' for cosmetics and toiletries. Amazon, the defendant, operated as an online retailer, although it did not sell Lush's products directly, except for 'Lush' branded hair extensions from a third-party supplier.

The alleged infringements comprised three categories. Firstly, when internet users searched for 'lush,' Amazon's bid on keywords triggered sponsored advertisements, some explicitly featuring the 'Lush' mark, while others suggested equivalent products without any direct mention of Lush. Secondly, upon typing 'lush' in Amazon's search engine, predictive drop-down menus displayed options such as 'lush bath bombs' and 'lush hair extensions,' leading to pages offering similar products without overt references to Lush. Notably, these activities largely resulted from automated processes driven by consumer behaviour analysis. The Court's deliberation focused on whether the average consumer could easily discern that the advertised goods were not affiliated with Lush, crucial for the trademark's origin function. Despite the absence of explicit 'Lush' branding on the products, the Court determined that consumers might still associate them with Lush due to their initial expectations. For instance, even if a user misspelled 'lush' as 'lsuh,' Amazon's response still directed them to 'lush' products, undermining the mark's ability to act as a guarantee of origin.

The Court also found that Amazon's actions impeded the investment function of Lush's trademark, as the quality of attracting customers was jeopardized by diverting attention to third-party goods. Consequently, without overt indications that Lush products were unavailable on Amazon, the predictive drop-down menus were deemed to violate trademark directives. This case illustrates how automated systems, driven by consumer behaviour analysis, can trigger advertisements and product suggestions that may create confusion among consumers regarding the origin of goods. This confusion undermines the fundamental function of trademarks to guarantee the source or quality of products, which is particularly relevant in the context of AI-driven product recommendations where consumers may rely heavily on algorithmic suggestions. In the **Louis Vuitton v Google France case**,[180] the primary

[178] Ropes & Gray LLP. "Podcast: Artificial Intelligence and Intellectual Property Considerations." December 19, 2018. Lexology. [https://www.lexology.com/library/detail.aspx?g=081aa32a-f9bc-4a89-8bce-6e5ea80c80ef]
[179] Cosmetic Warriors Ltd and another v amazon.co.uk Ltd and another [2014] WWHC 181, 10 February 2014
[180] Google France SARL and Google Inc. v Louis Vuitton Malletier SA (C-236/08)

issue revolved around keyword advertising and Google's AdWords system. Louis Vuitton, a luxury fashion brand, brought the case against Google, alleging trademark infringement. The core contention was Google's practice of allowing advertisers to bid on keywords, including trademarked terms, to trigger their ads in search results.

The ruling determined that Google could not be held liable for trademark infringement merely for facilitating the use of trademarked keywords in its AdWords system. Instead, liability would only arise if Google actively participated in selecting or endorsing those keywords. Essentially, the court concluded that Google's role was passive in this context, providing a platform for advertisers to bid on keywords without endorsing or actively choosing them. The decision emphasizes the distinction between the passive role of platform providers, such as Google, and the active involvement of advertisers in selecting keywords and creating ads.

This distinction is pertinent to discussions surrounding AI-driven product selection, as it raises questions about the responsibility of AI technology providers in ensuring compliance with trademark laws and preventing infringement. This decision has significant implications for online advertising and trademark law, establishing a distinction between the responsibilities of the platform provider and the advertisers. It highlights the complexities of trademark protection in the digital sphere, where search engines play a pivotal role in facilitating commercial interactions but are not necessarily held accountable for trademark violations stemming from keyword bidding.

Possible Future Opportunities

The strength of consumer demand for a brand is closely tied to its overall strength relative to competitors. While AI may initially seem to weaken demand for branded products and services, it also holds potential to bolster brands under certain circumstances.

One potential advantage posed by AI is that it could help maintain the strength of market-leading brands by setting default purchase preferences. This could make it difficult for competitors to target consumers effectively at the point of sale, as consumers may already be locked into subscriptions or AI may use their past purchasing behaviour to shape future decisions. Even if tempted by new offerings, consumers may hesitate to switch due to the inertia of preset AI preferences. Moreover, AI could be leveraged by all brands to strengthen consumer relationships. Unlike competing on price, which often undermines branding efforts, AI offers opportunities to connect with the right audience and improve customer experiences through personalization. By analysing vast amounts of data on consumer preferences, habits, and trends, AI can assist brands in understanding and targeting their audience more effectively, thus adapting brand strategies dynamically to evolving consumer needs.Additionally, AI can enhance brand image by supporting internal culture and talent acquisition. Brands perceived to come from companies with strong cultures and motivated employees often enjoy higher demand. Progressive companies are already using AI to drive internal culture and identify suitable job applicants, thereby gaining a competitive edge in consumer demand. Furthermore, AI may inspire brand owners to explore innovative strategies for strengthening their brands. For instance, partnerships with complementary industries could be expanded with AI, enabling brands to align with other products or services seamlessly. Additionally, AI-powered recommendation systems could influence purchasing decisions, potentially increasing the frequency of brand purchases without specific brand names being mentioned.

Conclusion

The integration of AI into product selection processes presents both challenges and opportunities for brands and trademark law. AI-driven recommendations have the potential to diminish the influence of

traditional trademarks, they also offer avenues for brands to deepen consumer engagement and foster brand loyalty. By leveraging AI technologies, brands can better understand consumer preferences, deliver personalized experiences, and forge strategic partnerships to enhance brand strength in the evolving marketplace. As AI continues to shape consumer behaviour and brand interactions, it is essential for stakeholders to adapt and innovate in response to these dynamic changes.

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AN OVERVIEW OF THE INTERFACE BETWEEN IPR AND COMPETITION LAW

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Abstract

A comprehensive understanding of the underlying legal and economic principles is necessary to address the interface between IPR and competition law. Entrepreneurship, business viability, and the welfare of customers are all significantly impacted by the intricate and dynamic junction of intellectual property rights (IPR) and competition law. The interaction of IPR and competition law requires policymakers, regulators, and businesses to strike a balance between fostering innovation and preserving market competition. In addition to the economic and societal consequences of enforcing intellectual property rights, ethics demands careful consideration of the possibility of anti-competitive behaviour. Intellectual property offices and competition authorities must work together to develop rational regulatory frameworks that protect intellectual property rights, foster innovation, and maintain market competition. This research paper also examines particular issues within this context, including how Standard Essential Patents (SEPs) are handled and the difficulties in granting licences on fair, reasonable, and non-discriminatory (FRAND) terms. The impact of innovation and technology transfer on competition is also taken into account, especially in sectors of the economy where consumer welfare and market entry depend heavily on access to key technologies. This also highlights the significance of implementing a regulatory structure that safeguards consumer rights and competition while fostering innovation.

Keywords: IPR, Innovation, Competition, Consumer

Introduction

Intellectual property rights (IPR) and competition law are two of the key pillars that shape the dynamics of innovation, market competition, and economic growth in today's global commerce landscape. The exclusive rights that are granted to artists and innovators through intellectual property (IP) rights, which include patents, copyrights, trademarks, and trade secrets, promote creativity and innovation. Contrarily, antitrust law, also referred to as competition law, works to protect consumers and foster innovation by prohibiting anti-competitive behaviour that could undermine market competition. Navigating the convergence of IPR and Competition Law is a critical task for regulators and competitors. In order to safeguard competition and foster innovation, they assess the possible anti-competitive impacts of intellectual property-related activities and, if necessary, take enforcement action.

The Impact of Innovation and Technology Transfer on Competition

In the modern era, innovation frequently results in the creation of new goods, services, and methods. Technology transfer can facilitate the entry of new companies into markets by giving them access to necessary technologies. Customers may benefit from lower costs, better quality, and more options as a result of the increased competition. Businesses may be able to cut costs as a result, raising their competitiveness by lowering prices or investing in more innovation. When new products or services

replace older ones, technological breakthroughs have the potential to upend well-established marketplaces. Competition may increase as a result of the chances for creative businesses and new competitors to take on established ones. Additionally, technology transfer can promote cooperation between businesses, academic institutions, and governmental organisations. Joint research projects and technology licencing agreements are two examples of collaborative innovation initiatives that can give businesses access to complementary resources and knowledge, fostering innovation and boosting competitiveness. These partnerships can, however, also give rise to worries about market power concentration and antitrust violations. Enterprising new businesses may find it difficult to obtain access to important technologies. All things considered, innovation and technology transfer are crucial in determining how competition is shaped in contemporary economies, impacting company behaviour, industry structure, and market dynamics. It takes efficient administration of technology transfer procedures and regulations to support economic expansion and innovation in addition to competitiveness.

Patent Pools and Competition Law

Market power is a crucial tool in the law of competition. Competition authorities evaluate whether members of a patent pool might have unfair market power. The patent pool may be able to restrict competition if it controls key technologies in a market. The market shares of the participants in the patent pool and the extent to which those pooled patents are necessary for rivals to enter or compete in the market may be scrutinised by authorities[1]. Patents that are necessary for putting industry standards into practice may be included in patent pools. In certain circumstances, competition authorities may ensure that the patent pool does not unduly restrict access to these essential technologies, which could obstruct innovation and interoperability. Patent pools should function in a transparent manner and provide interested parties with non-exclusive licences in order to allay worries about anti-competitive behaviour. While non-exclusivity promotes competition by enabling multiple parties to access the pooled patents, transparency helps guarantee that rivals comprehend the conditions of the pool and can negotiate fair licences. Competition authorities are able to intervene and take action if they believe that patent pools are operating in an anti-competitive way. This may include imposing limitations on the patent pool's operations or, in the worst situation, shutting it down entirely. Even though patent pools can speed up licencing processes and promote innovation, they must abide by competition law to protect consumers and the market. Competition authorities play a critical role in assessing the potential anti-competitive effects of patent pools and implementing policies to protect competition in relevant markets.

Antitrust Litigation and IPR

Patents necessary for implementing industry standards may be included in patent pools. Competition authorities in these situations might ensure that the patent pool does not unnecessarily restrict access to these vital technologies, potentially impeding innovation and interoperability. Transparency and non-exclusivity: Patent pools should function in a transparent manner and provide interested parties with non-exclusive licences in order to allay worries about anti-competitive behaviour. While non-exclusivity promotes competition by allowing multiple parties to access the pooled patents, transparency helps ensure that rivals understand the pool's conditions and can negotiate fair licenses. IPR and antitrust lawsuits intertwine in various ways, particularly concerning patents. While intellectual property rights (IPR) give creators and inventors the exclusive right to protect their discoveries, antitrust law seeks to stop anti-competitive behaviour and encourage fair competition.

[1] World Intellectual Property Organization (WIPO)

IPR and antitrust litigation may overlap in the following ways:

- When a patent holder goes beyond the bounds of their patent rights to participate in anti-competitive behaviour, antitrust litigation may contain accusations of patent misuse. This could involve actions like refusing to licence crucial patents on reasonable and fair terms or tying agreements, in which a patent holder restricts the use of one patented product on the purchase of another.
- When a patent holder unfairly excludes rivals from a market or uses their patent rights to monopolise it, antitrust authorities may investigate the matter. This could entail taking part in patent thickets—the accumulation of several patents to obstruct entry—filing fictitious claims of patent infringement, or pursuing anti-competitive licencing strategies.
- Standard Essential Patents (SEPs) are those that are required to carry out a specific industry standard. When SEP holders refuse to grant licences on fair, reasonable, and non-discriminatory (FRAND) terms, antitrust issues may surface. This could negatively impact consumers and limit competition. In order to prevent SEP holders from abusing their patent rights to exclude rivals or participate in price-fixing, antitrust authorities may step in. Especially in the pharmaceutical sector, antitrust action can sometimes involve contesting patent settlements between rival companies. Settlements known as "pay-for-delay" agreements, in which a patent holder pays a rival to postpone the release of generic medications, may give rise to suspicions of price-fixing or other forms of anti-competitive behaviour.
- Patent Aggregation and Patent Assertion Entities (PAEs): Patent aggregation companies and PAEs, which primarily obtain patents for licencing and enforcement reasons, may be subject to investigations by antitrust authorities. Abuse by PAEs, such as bringing baseless claims of patent infringement or participating in patent hold-ups (demanding disproportionate royalties from purported infringers), may give rise to concerns.
- IPR and antitrust litigation are related in several ways, particularly in cases where patent rights are misused to harm consumers or hinder competition. In order to prevent patent holders from acting in a way that compromises the values of innovation and fair competition, antitrust regulators are essential.

Antitrust Enforcement in the Context of IPR

Intellectual property rights (IPR) and antitrust enforcement are intertwined, dynamic areas of law and policy. Patents, copyrights, and trademarks are examples of intellectual property rights. These legal protections give producers and inventors the only right to use their creations or inventions for a predetermined amount of time. Because they enable creators to make money off of their creations, these rights are essential for encouraging innovation and creativity.

Antitrust laws, on the other hand, work to uphold competition and stop anti-competitive behaviour in the marketplace. Intellectual property rights and antitrust laws can occasionally clash, especially when those with large IP holdings take actions that could hurt competition.

The following important factors to take into account when IPR and antitrust enforcement overlap:

It's one thing to be worried about when a company with significant intellectual property rights uses its market dominance to unfairly bar competitors. This can involve using predatory pricing or bundling techniques, refusing to licence crucial patents on fair and reasonable terms (FRAND), or tying. Companies in businesses with complicated technologies may own many patents covering various facets of a technology, creating what is described as a "patent thicket." This may prevent competitors from

entering the market and stifle innovation. Antitrust regulators closely examine agreements to establish patent pools to ensure they do not impair competition.

Standard Essential Patents (SEPs): To encourage competition and interoperability, standard-setting organisations (SSOs) frequently mandate that their members licence their patents on fair, reasonable, and non-discriminatory (FRAND) conditions. Antitrust authorities may investigate allegations of patent hold-up tactics or failure to license SEPs under FRAND conditions.

When businesses enter into intellectual property licencing arrangements, antitrust enforcement may also be relevant. If these agreements impede competition or innovation—for example, by imposing unjustifiable royalty rates or exclusivity clauses—anticompetitive behaviour may ensue. Antitrust regulators evaluate the impact of mergers and acquisitions on competition in marketplaces where intellectual property is a valuable asset. Concerns over possible anti-competitive impacts may arise from transactions involving the acquisition of valuable intellectual property portfolios, especially if they lead to the concentration of market power. In general, maintaining a careful balance between preserving competition and innovation is necessary for antitrust enforcement in the context of intellectual property rights. Antitrust regulators must carefully assess the competitive impacts of intellectual property-related behaviour to ensure that it does not unnecessarily restrict competition or negatively impact consumers, antitrust regulators must carefully assess the competitive impacts of such behaviour.

Reverse Patent Holdup and Royalty Stacking

Holdup with the Everse Patent:

When implementers of a standard essential patent (SEP) try to use their negotiating position to get better licencing conditions or lower royalties than what is deemed fair, reasonable, and non-discriminatory (FRAND), this is known as reverse patent holdup. In other words, rather than patent holders stalling their patents with extortionate royalties or unjustifiable licensing conditions, prospective licensees are attempting to leverage their market position to bargain for reduced costs. When an industry is fragmented and there are several patent holders, it might result in a reverse patent holdup, which means that no single patent holder has enough negotiating leverage to get favourable terms. In these situations, standard implementers might try to pit one patent owner against another in an effort to lower royalties or secure better terms for licencing.

Stacking Revenues:

Royalty stacking occurs when separate patent holders hold several SEPs for a technology or product, leading to an increased royalty burden. This may occur when a technology or product is based on several standards, each of which may be protected by a number of patents held by several organizations.

Standard implementers may face difficulties due to royalty stacking because the total royalties incurred by adding several SEPs to their products can add up to a sizable amount. Excessive royalties can possibly stifle innovation, raise the cost of products, and make it more difficult for new competitors to enter the market.

Reverse patent holdup and royalty stacking may have negative effects on consumer welfare, competitiveness, and innovation. To solve these issues, regulators and standard-setting bodies frequently support the adoption of FRAND licensing conditions, encourage openness in licensing discussions, and facilitate channels for resolving conflicts between patent holders and standard implementers. Authorities overseeing competition may also step in to correct anti-competitive actions or market distortions brought on by excessive royalty stacking or reverse patent holdups.

Competition law

Competition law promotes openness, fair competition, and informed decision-making, all of which empower consumers. Consumer advocacy organisations are essential for keeping an eye on the market, spotting anti-competitive behaviour, and promoting laws that benefit consumers. By guaranteeing market access, encouraging fair competition, discouraging anti-competitive behaviour, and encouraging innovation and choice in the marketplace, competition law plays a vital role in safeguarding the interests of consumers. Competition legislation benefits consumers by preserving competitive marketplaces, which provide reasonable costs, superior goods, and a wide range of options. In certain jurisdictions, competition law—also referred to as antitrust law—is crucial for safeguarding consumers by encouraging fair competition and discouraging anti-competitive behaviour in the marketplace. The goal of competition legislation is to stop practices that limit customer choice or raise prices. It promotes a large selection of goods at affordable costs and guarantees fair competition. Competition drives companies to provide better goods and creative solutions, avoiding consumer-damaging collusive practices. In order to increase efficiency, innovation, and cost savings, antitrust enforcement evaluates anti-competitive behaviour using a consumer welfare criterion. By lowering entry barriers, encouraging innovation, and fostering the production of higher-quality goods, it also facilitates market access. Competition legislation shields customers from unfair business practices by large corporations.

Intellectual Property Rights (IPR)

Intellectual Property Rights (IPR) has a significant impact on consumers, influencing the availability, quality, and affordability of goods and services Intellectual Property Rights (IPR) play a crucial role in promoting innovation, product diversity, affordability, and digital rights. They incentivize creators and inventors to have exclusive rights to their creations, which can lead to investment in research and development. However, IPR can also limit consumer access to innovative products and technologies, especially if high prices or licensing restrictions make them unaffordable. IPR also encourages competition among creators, leading to a diverse range of products and services. However, it can also create barriers to entry, limiting competition and potentially increasing prices. Balancing IPR with public health objectives can improve affordability and accessibility.

IPR regimes also influence the development of innovation ecosystems, shaping the availability of new products and services. Balancing IPR with open innovation principles can foster collaboration and knowledge sharing. In the digital age, IPR intersects with consumer rights related to privacy, data protection, and digital content access. Consumer education and awareness are essential for understanding their rights and responsibilities. Consumer advocacy groups play a vital role in advocating for policies that balance IPR protection with consumer interests.

Conclusion and Suggestions

The interface between intellectual property rights (IPR) and competition law presents both challenges and opportunities for innovation, competition, and consumer welfare. Balancing these fields is crucial for efficient resource allocation, innovation, and anti-competitive behavior. A multi-faceted approach involving transparency, enforcement, collaboration, education, and monitoring is needed to promote a competitive, innovative, and consumer-friendly environment that benefits society.

Intellectual property rights (IPR) play a crucial role in incentivizing innovation, fostering creativity, and driving economic growth. However, effective management of IPR requires a balanced approach that considers both innovators' interests and broader societal benefits. To enhance the management of IPR, policymakers and stakeholders should promote transparency, enforcement, collaboration, education, and on-going monitoring.

- Promote collaboration and licensing: Encourage collaborative research and development efforts among innovators to maximize the benefits of shared knowledge and resources. Facilitate fair and efficient licensing arrangements to ensure innovative technologies are accessible to those who can further develop and commercialize them.
- Ensure adequate protection: Strengthen legal frameworks for protecting intellectual property rights, including patents, copyrights, trademarks, and trade secrets. Provide clear and enforceable mechanisms for resolving disputes and enforcing IPR, both domestically and internationally.
- Support Small and Medium-sized Enterprises (SMEs): Recognize the importance of SMEs in driving innovation and economic growth. Provide targeted support and incentives for SMEs to protect and commercialize their intellectual property, including access to financing, training, and assistance with navigating the IPR landscape.
- Promote technology transfer and commercialization: Facilitate the transfer of technology from research institutions and universities to the marketplace through technology transfer offices, incubators, and accelerators.
- Address patent quality and patent thickets: Improve the quality of patents granted by patent offices to ensure they represent genuine innovations and do not unduly restrict competition.
- Encourage open innovation and open access: Embrace principles of open innovation and open access to knowledge to accelerate the pace of innovation and maximize the societal benefits of research and development.

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BALANCING CORPORATE RIGHTS AND HUMAN RIGHTS: ASSESSING THE IMPACT OF INTERNATIONAL PROPERTY RIGHTS REGIMES ON INDIGENOUS COMMUNITIES

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Abstract

In a globalized world where corporate entities wield significant economic power, the intersection of corporate rights and human rights, particularly concerning indigenous communities, has become a focal point of international discourse. This research aims to critically evaluate the impact of international property rights regimes on indigenous communities, focusing on the delicate balance between corporate interests and human rights. Through an interdisciplinary approach drawing from legal, sociological, and anthropological perspectives, this study examines the complex dynamics at play when corporations operate within or adjacent to indigenous territories. It explores case studies from various regions to uncover patterns and variations in corporate behavior, considering factors such as cultural sensitivity, environmental sustainability, and social responsibility. Key objectives of this research include assessing the adequacy of existing legal frameworks in protecting the rights of indigenous peoples against corporate encroachment, analyzing the efficacy of mechanisms such as Free, Prior, and Informed Consent (FPIC) in upholding indigenous rights, and identifying areas for improvement in corporate governance to ensure greater respect for human rights. Furthermore, this study aims to highlight successful models of collaboration between corporations and indigenous communities, emphasizing the importance of meaningful engagement, mutual respect, and equitable benefit-sharing. By synthesizing empirical evidence and theoretical insights, this research seeks to contribute to ongoing discussions on corporate accountability, human rights protection, and sustainable development in a globalized economy. Ultimately, this research endeavors to provide policymakers, corporate stakeholders, and indigenous advocates with actionable insights to navigate the complex landscape of international property rights while safeguarding indigenous peoples' fundamental rights and dignity.

Keywords: Corporate rights, Human rights, Indigenous Communities, Intellectual Property Rights, Corporate Accountability

Introduction

In today's interconnected and globalized world, the realm of international property rights and corporate laws holds immense significance, shaping economic activities, trade relations, and societal development. However, amidst the pursuit of economic growth and corporate interests, the protection of human rights, particularly those of indigenous communities, has emerged as a pressing concern. This introduction sets the stage for exploring the intricate interplay between corporate rights, human rights, and indigenous rights within the context of international property rights regimes.

The expansion of multinational corporations into diverse geographical regions brings into focus the complex dynamics between corporate entities and indigenous communities. These communities, often possessing ancestral lands and traditional knowledge, face a myriad of challenges when their territories intersect with corporate interests. Issues such as land dispossession, environmental degradation,

cultural erosion, and social marginalization frequently arise, highlighting the inherent tensions between economic development and human rights preservation.

At the heart of this discourse lies the need to strike a delicate balance between promoting corporate growth and safeguarding the rights and well-being of indigenous peoples. International property rights regimes, encompassing legal frameworks, trade agreements, and intellectual property protections, play a pivotal role in shaping the parameters within which corporations operate. Yet, the extent to which these regimes uphold the rights of indigenous communities remains subject to scrutiny and debate.

Against this backdrop, this research seeks to delve deeper into the complexities surrounding the interface of corporate rights, human rights, and indigenous rights. By critically examining case studies, legal frameworks, and theoretical perspectives, this study endeavors to shed light on the opportunities and challenges inherent in optimizing international property rights while unleashing the potential of corporate laws. In doing so, it aims to contribute to a nuanced understanding of how to navigate the nexus between corporate activities and human rights protection in the globalized era. Through empirical analysis and interdisciplinary inquiry, this research seeks to provide valuable insights for policymakers, corporate stakeholders, indigenous advocates, and scholars alike, fostering dialogue and action towards a more just and equitable world.

Literature Review

The literature surrounding the intersection of corporate rights, human rights, and indigenous rights within the framework of international property rights regimes reflects a rich tapestry of perspectives, debates, and empirical findings. Scholars from various disciplines, including law, sociology, anthropology, and economics, have contributed to this discourse, offering insights into the complexities and challenges inherent in this multidimensional field.

At the core of this literature is a recognition of the inherent tension between corporate interests and human rights, particularly in contexts where indigenous communities are involved. Studies by Anaya (2017) and Rajagopal (2006) highlight the historical and ongoing struggles of indigenous peoples to assert their rights in the face of corporate encroachment, emphasizing the importance of legal protections and mechanisms such as Free, Prior, and Informed Consent (FPIC) in safeguarding indigenous rights.

Legal scholars such as Saul (2017) and Knox (2018) have analyzed the role of international human rights law and corporate accountability mechanisms in addressing human rights violations perpetrated by corporations, including those affecting indigenous communities. They argue for the need to strengthen legal frameworks and enforcement mechanisms to hold corporations accountable for their actions and ensure redress for affected communities.

Moreover, anthropological studies by Smith (2015) and Coulthard (2014) offer insights into the socio-cultural dimensions of corporate-indigenous interactions, highlighting the importance of recognizing indigenous worldviews, customary laws, and governance systems in fostering meaningful engagement and sustainable development initiatives.

In addition to scholarly research, reports by non-governmental organizations (NGOs) such as Amnesty International and Human Rights Watch provide empirical evidence of human rights abuses perpetrated by corporations operating in indigenous territories. These reports serve to raise awareness, mobilize advocacy efforts, and hold corporations and governments accountable for their actions.

Overall, the literature underscores the urgent need for a holistic approach to addressing the complex challenges posed by corporate activities in indigenous territories. By integrating legal, sociological,

anthropological, and economic perspectives, researchers and practitioners can develop comprehensive strategies to promote corporate accountability, protect human rights, and respect the rights and dignity of indigenous peoples. This literature review sets the stage for the empirical analysis and theoretical inquiry that will be undertaken in this research, aiming to contribute to ongoing efforts to optimize international property rights regimes and unleash the potential of corporate laws in a manner that upholds human rights and fosters sustainable development for all

Significance of Study

The significance of this study lies in its contribution to addressing pressing global challenges at the intersection of corporate rights, human rights, and indigenous rights within the framework of international property rights regimes. Several key aspects underscore the importance of this research:

1. **Human Rights Protection**: By examining the impact of corporate activities on indigenous communities through the lens of human rights, this study contributes to the broader discourse on human rights protection in the context of globalization. It sheds light on the vulnerabilities faced by marginalized groups and the need for robust legal and institutional mechanisms to safeguard their rights.

2. **Corporate Accountability**: The research underscores the importance of holding corporations accountable for their actions and ensuring that they respect human rights, including those of indigenous peoples. By identifying gaps in existing accountability mechanisms and proposing strategies for improvement, the study seeks to promote corporate responsibility and ethical business practices.

3. **Indigenous Empowerment**: Through its focus on indigenous rights and perspectives, the study amplifies the voices of indigenous communities and advocates for their empowerment. By highlighting successful models of collaboration and community-led initiatives, the research aims to empower indigenous peoples to assert their rights and participate meaningfully in decision-making processes that affect their lives and territories.

4. **Policy Implications**: The findings of this research have significant implications for policymakers, both at the national and international levels. By providing evidence-based recommendations for strengthening legal frameworks, enhancing corporate governance, and promoting sustainable development initiatives, the study informs policy debates and shapes the formulation of laws and regulations that impact corporate conduct and indigenous rights.

5. **Academic Contribution**: This study contributes to academic scholarship by synthesizing insights from diverse disciplines, including law, sociology, anthropology, and economics. By adopting an interdisciplinary approach, the research offers a comprehensive understanding of the complex dynamics at play in corporate-indigenous interactions and advances theoretical frameworks for analyzing and addressing related issues.

Overall, the significance of this study lies in its potential to inform policy, promote corporate accountability, empower indigenous communities, and contribute to academic scholarship, ultimately fostering greater respect for human rights and social justice in a globalized world.

Objectives of the Study

1. **Assessing the Impact**: The primary objective of this study is to assess the impact of international property rights regimes on indigenous communities in the context of corporate activities. This involves examining the socio-economic, cultural, and environmental consequences of

corporate operations on indigenous territories, with a focus on human rights violations and community well-being.

2. **Evaluating Legal Frameworks**: Another key objective is to evaluate the adequacy of existing legal frameworks in protecting the rights of indigenous peoples against corporate encroachment. This includes analyzing international human rights law, national legislation, and corporate governance mechanisms to identify strengths, weaknesses, and areas for improvement in ensuring corporate accountability and indigenous rights protection.

3. **Exploring Corporate Practices**: The study seeks to explore corporate practices and policies concerning indigenous engagement, community consultation, and benefit-sharing arrangements. By examining case studies and corporate disclosures, the research aims to identify best practices and areas of concern in corporate-indigenous interactions, with a view to promoting responsible business conduct and sustainable development outcomes.

4. **Examining Mechanisms for Redress**: Additionally, the study aims to examine mechanisms for redress and accountability for human rights violations perpetrated by corporations against indigenous communities. This involves assessing the effectiveness of grievance mechanisms, judicial remedies, and non-judicial mechanisms such as corporate social responsibility initiatives and community-driven advocacy efforts.

5. **Proposing Recommendations**: Finally, the research seeks to propose recommendations for enhancing the protection of indigenous rights and promoting corporate responsibility within the framework of international property rights regimes. Drawing on empirical evidence and theoretical insights, the study aims to offer actionable recommendations for policymakers, corporate stakeholders, indigenous advocates, and civil society organizations to address the identified challenges and promote more equitable and sustainable outcomes for indigenous communities.

Research Methodology

1. **Literature Review**: The research will begin with an extensive review of existing literature on the intersection of corporate rights, human rights, and indigenous rights within international property rights regimes. This will involve synthesizing insights from scholarly articles, legal documents, reports from non-governmental organizations, and relevant case studies to provide a comprehensive understanding of the research context.

2. **Case Study Analysis**: The study will utilize a case study approach to examine real-world examples of corporate activities impacting indigenous communities in different geographical regions. Case studies will be selected based on criteria such as geographical diversity, industry sector, and the severity of human rights violations. Data will be collected through document analysis, interviews with key stakeholders, and field observations where feasible.

3. **Legal Analysis**: A legal analysis will be conducted to assess the adequacy of existing legal frameworks in protecting indigenous rights and holding corporations accountable for human rights violations. This will involve analyzing relevant international human rights instruments, national legislation, corporate codes of conduct, and judicial decisions to identify gaps, inconsistencies, and opportunities for legal reform.

4. **Qualitative Interviews**: Semi-structured interviews will be conducted with representatives from indigenous communities, corporations, government agencies, non-governmental organizations, and academic experts to gather insights into their perspectives, experiences, and

recommendations regarding corporate-indigenous interactions and human rights protection. Interviews will be audio-recorded, transcribed, and analyzed thematically to identify recurring themes and patterns.

5. **Quantitative Analysis**: Quantitative data, such as statistics on human rights violations, corporate disclosures, and socio-economic indicators, will be collected and analyzed to complement qualitative findings. Statistical methods, such as descriptive analysis and correlation analysis, may be employed to identify trends, correlations, and associations between variables related to corporate activities and indigenous rights outcomes.

6. **Ethical Considerations**: Ethical considerations will be paramount throughout the research process, particularly concerning the involvement of indigenous communities and the handling of sensitive information. Informed consent will be obtained from all participants, and measures will be taken to ensure confidentiality, anonymity, and cultural sensitivity in data collection, analysis, and reporting.

7. **Interdisciplinary Approach**: The research will adopt an interdisciplinary approach, drawing on insights from law, sociology, anthropology, economics, and other relevant disciplines to provide a holistic understanding of the research topic. By integrating multiple perspectives and methodologies, the study aims to generate nuanced insights and robust recommendations for addressing the identified challenges and promoting positive outcomes for indigenous communities within international property rights regimes

Findings

1. Impact of International Property Rights Regimes on Indigenous Communities:
    - The research reveals that international property rights regimes often prioritize corporate interests over the rights and well-being of indigenous communities.
    - Indigenous territories are frequently targeted for resource extraction, leading to environmental degradation, loss of livelihoods, and disruption of traditional lifestyles.
    - Human rights violations, including land dispossession, forced displacement, and cultural erasure, are widespread in areas where corporations operate without adequate regard for indigenous rights.
2. Evaluation of Legal Frameworks:
    - Existing legal frameworks, including international human rights law and corporate governance mechanisms, are found to be insufficient in protecting indigenous rights and holding corporations accountable for human rights violations.
    - Weak enforcement mechanisms, lack of effective remedies, and loopholes in legislation contribute to impunity for corporate wrongdoing and undermine indigenous communities' access to justice.
3. Corporate Practices and Policies:
    - Corporate engagement with indigenous communities varies significantly, with some companies demonstrating a commitment to respecting indigenous rights through meaningful consultation, consent processes, and benefit-sharing agreements.

- However, many corporations engage in extractive practices that prioritize short-term profits over long-term sustainability and community well-being, leading to conflicts, social unrest, and reputational risks.

4. Mechanisms for Redress:
    - Mechanisms for redress and accountability for human rights violations perpetrated by corporations remain inadequate, with limited access to judicial remedies and ineffective non-judicial grievance mechanisms.
    - Indigenous communities face significant barriers in seeking justice and reparations for harms inflicted by corporate activities, including legal obstacles, power imbalances, and intimidation tactics.
5. Recommendations:
    - The research proposes a series of recommendations aimed at enhancing the protection of indigenous rights and promoting corporate responsibility within international property rights regimes.
    - These recommendations include strengthening legal frameworks, improving enforcement mechanisms, enhancing corporate due diligence requirements, and fostering meaningful engagement and partnership between corporations and indigenous communities.
    - Additionally, the research highlights the importance of centering indigenous voices and perspectives in decision-making processes, empowering communities to assert their rights and participate actively in shaping their futures.

Overall, the findings underscore the urgent need for concerted action by governments, corporations, civil society organizations, and international bodies to address the systemic injustices faced by indigenous communities within international property rights regimes. By implementing the proposed recommendations and prioritizing respect for human rights and indigenous self-determination, stakeholders can work towards a more just, equitable, and sustainable future for all

Discussion of Findings

1. **Implications for Indigenous Rights**: The findings highlight the systemic injustices and human rights violations experienced by indigenous communities within international property rights regimes. The discussion delves into the implications of these findings for indigenous rights advocacy, emphasizing the need for collective action to address power imbalances, promote self-determination, and protect indigenous lands, cultures, and livelihoods.
2. **Corporate Accountability and Responsibility**: The discussion explores the role of corporations in perpetuating or mitigating human rights abuses against indigenous communities. It scrutinizes corporate practices and policies, assessing the extent to which corporations uphold their responsibility to respect human rights and engage in meaningful consultation and consent processes with affected indigenous peoples.
3. **Legal and Regulatory Frameworks**: A critical examination of existing legal and regulatory frameworks sheds light on their effectiveness in protecting indigenous rights and holding corporations accountable for human rights violations. The discussion considers potential

reforms and policy interventions needed to strengthen legal mechanisms, enhance enforcement, and close loopholes that enable corporate impunity.

4. **Challenges and Opportunities**: The discussion delves into the challenges and opportunities inherent in promoting corporate accountability and indigenous rights within international property rights regimes. It considers factors such as political will, institutional capacity, corporate culture, and community resilience, identifying key leverage points for intervention and collaboration among stakeholders.

5. **Intersectional Analysis**: An intersectional analysis is conducted to explore the interconnectedness of various forms of oppression and marginalization faced by indigenous communities, including gender-based violence, environmental racism, and economic exploitation. The discussion examines how intersecting systems of power and privilege shape the experiences and vulnerabilities of indigenous peoples and inform strategies for resistance and resilience.

6. **Ethical Considerations**: Ethical considerations are paramount in the discussion, particularly concerning the researcher's positionality, engagement with indigenous communities, and representation of diverse voices and perspectives. The discussion reflects on the ethical dilemmas and responsibilities inherent in conducting research on sensitive topics and underscores the importance of centering indigenous knowledge systems and values.

7. **Future Directions**: The discussion concludes by identifying areas for further research, advocacy, and action. It proposes avenues for interdisciplinary inquiry, community-based participatory research, and policy advocacy aimed at advancing indigenous rights, promoting corporate accountability, and fostering sustainable development in accordance with principles of social justice and human rights.

Overall, the discussion provides a nuanced analysis of the findings, situating them within broader theoretical, ethical, and practical frameworks. It offers insights and recommendations for advancing social change and promoting transformative justice for indigenous communities within international property rights regimes.

Recommendations

1. **Strengthen Legal Protections**: Governments and international bodies should strengthen legal frameworks to explicitly recognize and protect the rights of indigenous peoples, including their rights to land, resources, and self-determination. This may involve ratifying and implementing international human rights instruments such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and enacting national legislation that incorporates indigenous customary law and practices.

2. **Enhance Corporate Accountability**: Corporations operating in indigenous territories should adopt and adhere to robust human rights due diligence processes that prioritize the rights and well-being of indigenous communities. This includes conducting thorough impact assessments, engaging in meaningful consultation and consent processes, and establishing grievance mechanisms accessible to affected communities.

3. **Promote Indigenous Participation**: Governments, corporations, and civil society organizations should actively involve indigenous peoples in decision-making processes that affect their lives and territories. This entails recognizing and respecting indigenous governance structures,

supporting indigenous-led initiatives for land stewardship and resource management, and ensuring indigenous representation in relevant policy forums and decision-making bodies.

4. **Support Community Empowerment**: Efforts should be made to strengthen the capacity of indigenous communities to assert their rights, engage with external actors, and pursue self-determined development pathways. This may involve providing legal assistance, technical support, and financial resources to indigenous organizations and community-based initiatives aimed at defending land rights, preserving cultural heritage, and promoting sustainable livelihoods.

5. **Foster Dialogue and Partnership**: Governments, corporations, and indigenous representatives should engage in constructive dialogue and partnership-building to address conflicts, build trust, and find mutually beneficial solutions to resource management and development challenges. This requires a commitment to transparency, accountability, and respect for indigenous knowledge, values, and worldviews.

6. **Ensure Access to Justice and Remedies**: Mechanisms for redress and accountability for human rights violations perpetrated by corporations should be strengthened and made accessible to indigenous communities. This includes providing legal aid, facilitating access to independent adjudication, and ensuring remedies that are culturally appropriate, effective, and enforceable.

7. **Raise Awareness and Build Solidarity**: Efforts should be made to raise awareness among the broader public, policymakers, and corporate stakeholders about the importance of indigenous rights, corporate accountability, and sustainable development. This involves advocacy campaigns, education initiatives, and fostering solidarity networks among indigenous peoples, civil society organizations, and concerned citizens.

8. **Monitor and Evaluate Impact**: Governments, corporations, and civil society organizations should establish mechanisms for monitoring and evaluating the impact of corporate activities on indigenous communities and ecosystems. This includes conducting regular assessments of human rights compliance, environmental impacts, and socio-economic outcomes, and using data-driven evidence to inform policy and practice.

   By implementing these recommendations in a concerted and collaborative manner, stakeholders can work towards a more just, equitable, and sustainable future in which the rights and dignity of indigenous peoples are respected, protected, and upheld within international property rights regimes.

Conclusion:

In conclusion, this research has shed light on the complex dynamics surrounding corporate rights, human rights, and indigenous rights within international property rights regimes. Through a critical analysis of the findings, discussions, and recommendations presented, several key conclusions emerge:

1. **Systemic Injustices Persist**: Despite progress in recognizing indigenous rights at the international level, systemic injustices persist, with indigenous communities continuing to face marginalization, dispossession, and human rights violations at the hands of corporations operating within international property rights regimes.

2. **Corporate Accountability is Essential**: The findings underscore the importance of holding corporations accountable for their actions and ensuring that they respect human rights, including those of indigenous peoples. Robust legal frameworks, effective enforcement

mechanisms, and corporate responsibility initiatives are essential for promoting accountability and preventing corporate abuses.

3. **Indigenous Voices Must be Centered:** Indigenous communities must be actively involved in decision-making processes that affect their lives and territories. Centering indigenous voices, knowledge systems, and governance structures is essential for promoting self-determination, cultural resilience, and sustainable development outcomes.

4. **Collaborative Action is Needed:** Addressing the challenges identified requires collaborative action by governments, corporations, civil society organizations, and indigenous representatives. Constructive dialogue, partnership-building, and solidarity networks are essential for finding mutually beneficial solutions and promoting social justice within international property rights regimes.

5. **Continued Advocacy and Research are Vital:** The struggle for indigenous rights within international property rights regimes is ongoing and requires sustained advocacy, research, and action. Continued monitoring, evaluation, and adaptation of strategies are needed to address evolving challenges and opportunities and promote positive change for indigenous communities worldwide.

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BIODIVERSITY AND PLANT BREEDER'S RIGHTS IN INDIA: NAVIGATING INNOVATION AND CONSERVATION IN AGRICULTURE

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Abstract

India, a country rich in agricultural diversity and ancient knowledge, is at a crossroads where the fields of conservation and agricultural innovation are coming together. Plant Breeder's Rights (PBR) and biodiversity interact in a complex and wide-ranging agricultural environment that is formed by long-standing customs and an abundance of native plant types. The goal of this study is to clarify the nuances of this connection by examining how India strikes a careful balance between promoting agricultural innovations and protecting its abundant biological variety.

Key words: Biodiversity, Plant, Breeders, Farmers, Rights

Introduction

It is crucial to examine the historical development of agricultural practises and the Indian context's acknowledgment of intellectual property rights in order to comprehend present dynamics. For ages, the foundation of Indian agriculture has been the traditional wisdom that is strongly ingrained in the local people. Numerous native crop varieties have emerged as a result of differentiating climatic zones and ecosystems, with each variety being tailored to its unique surroundings. The core of India's agricultural legacy are its customs and plant types. Modern agricultural technology have made it necessary to strike a balance between innovation and conservation. The 2001 Protection of Plant Varieties and Farmers' Rights Act was a crucial turning point in this process. It acknowledged the symbiotic link between contemporary agricultural advances and ancient farming practises and aimed to safeguard the interests of both plant breeders and farmers(1).

Understanding the System of Protection

As previously stated, it has been determined that protecting and recognising farmers' rights in recognition of their contributions to the preservation, enhancement, and availability of plant genetic resources for the development of new plant varieties is essential to ensuring the establishment of an efficient system for the protection of plant varieties, farmers' rights, and plant breeders' rights. The Protection of Plant Varieties and Farmers' Rights Act, 2001 was passed by the Indian government, implementing the sui generis system. Not only does Indian legislation comply with the 1978 International Union for Protection of New Varieties of Plants (UPOV), but it also has enough measures to safeguard the interests of agricultural producers and public sector breeding facilities.(2)

In addition to recognising the advancements made to plant breeding by farmers and commercial plant breeders, the law also calls for the implementation of TRIPs in a manner that best serves the unique socioeconomic necessities of all parties involved, including resource-constrained farmers and the public and private sectors.(3)

On November 11, 2005, the Protection of Plant Varieties and Farmers' Rights Authority was founded by the Department of Agriculture and Cooperation, Ministry of Agriculture, in order to carry out the

Act's requirements. The Authority's Chief Executive Officer is the Chairperson. The Government of India (GOI) announced that the Authority consists of 15 members in addition to the Chairperson. Eight of them are ex-officio members representing various Departments/Ministries, three from SAUs and the State Governments, one representative each for farmers, tribal organization, seed industry and women organization associated with agricultural activities are nominated by the Central Government. The Registrar General is the ex-officio Member Secretary of the Authority.

Objectives of the PPV & FR Act, 2001

1. To provide an efficient framework for safeguarding plant varieties, farmers' and plant breeders' rights, and the advancement of new plant varieties.(4)
2. To acknowledge and defend farmers' rights with regard to their historical contributions to the preservation, enhancement, and accessibility of plant genetic resources for the creation of novel plant varieties.
3. To expedite the nation's agricultural growth, safeguard the rights of plant breeders, and encourage funding for public and private sector research and development aimed at creating new plant types.
4. Encourage the nation's seed sector to expand so that farmers may be guaranteed access to premium seeds and planting supplies.

General Functions of the Authority

The following are the main functions of the Authority(5):

1. "Registration of new plant varieties, essentially derived varieties (EDV), extant varieties;
2. Developing DUS (Distinctiveness, Uniformity and Stability) test guidelines for new plant species;
3. Developing characterization and documentation of varieties registered
4. Compulsory cataloging facilities for all variety of plants
5. Documentation, indexing and cataloguing of farmers'varieties;
6. Recognizing and rewarding farmers, community of farmers, particularly tribal and rural community engaged in conservation, improvement, preservation of plant genetic resources of economic plants and their wild relatives
7. Maintenance of the National Register of plant Varieties and
8. Maintenance of National Gene Bank"

Rights under the Act

1. Breeders' Rights

Breeders will have exclusive rights to produce, sell, market, distribute, import or export the protected variety. Breeder can appoint agent/ licensee and may exercise for civil remedy in case of infringement of rights.(6)

2. Researchers' Rights

Researcher can use any of the registered variety under the Act for conducting experiment or research. This includes the use of a variety as an initial source of variety for the purpose of developing another variety but repeated use needs prior permission of the registered breeder.

3. Rights of Farmers
    - Farmers who have evolved or produced a new variety are entitled to registration and safeguarding in the same way as breeders of a variety;

- A farmer shall not be permitted to sell branded seed of a variety protected under the PPV & FR Act, 2001. Instead, a farmer may preserve, utilise, plant, re-sow, trade, lend, or transfer his farm produce, including grain of a variety protected under the Act, in identical way as he was entitled prior to the Act's enactment.
- Farmers who conserve the genetic resources of land races and wild relatives of economically important plants are entitled to awards and recognition;
- Section 39(2) of the Act, 2001 also provides reimbursement to farmers for non-performance of variety.
- In any procedure before the Authority, Registrar, Tribunal, or High Court under the Act, Farmer shall not be required to pay any fees.(7)

Registration

If a variety fundamentally satisfies the requirements of distinctiveness, uniformity, and stability (DUS), it may be registered under the Act. In order to register varieties, the Central Government publishes notifications in official gazettes that include the genera and species.(8)

The following criteria needs to be met for the registration:

1. Novelty: Upon filing a request for registration for protection, a plant variety is deemed novel if its propagating or harvested material has not—with the breeder's or his heirs' consent—been sold or given away with the intention of commercialising the variety: (i) more than a year earlier in India; (ii) more than six years earlier outside of India in the case of trees or vines; or, in other cases, in excess of four years earlier than the date the request is filed; a trial of a new variety that hasn't been put up for sale or otherwise disposed of won't affect the variety's right to protection, though.
2. Uniqueness: At the time the request is filed, a new plant variety will be deemed distinctive if it can be distinguished from any other variety by at least one fundamental trait whose existence is widely known in any nation.
3. Uniformity - A new plant variety will pass the uniformity test if its fundamental properties are sufficiently uniform, notwithstanding any variance resulting from specific elements of its propagation.
4. Stability: A new plant variety is deemed stable if, following repeated propagation, or at the conclusion of a specific propagation cycle, its fundamental features continue to be the same.

The National Plant Varieties Register

The National Register of Plant Varieties is maintained at the Registry's head office. It includes the names of all registered varieties of plants along with the breeders' addresses and names, the breeders' rights regarding the registered varieties, specifics about each registered variety's denomination, details about its seed or other propagating material and the key characteristics of the variety, and any additional information that may be suggested.(9)

National Gene Bank

In order to preserve seed material, including parental lines provided by the breeders of the registered varieties, the Authority launched the National Gene Bank. For the duration of the registration term, the collection of seeds is kept in the National Gene Bank at an interior temperature of 5° C. If required, after a few years, the applicant will be responsible for paying to have the seed lot renewed and rejuvenated. Seed kept in the National Gene Bank will be utilised for resolving disputes or in situations when the requirement for compulsory licencing must be invoked. Since a sample may be taken to

confirm the facts, such seed deposition in the National Gene Bank will deter market malpractices or infractions. Once the permitted registration time expires, the content immediately enters the public domain.(10)

National Gene Fund

The Authority has established a National Gene Fund to receive contributions from the following sources:

a. Benefit sharing received in the prescribed manner from the propagating material of a variety or essentially derived variety registered under the Act, or from the breeder of such a variety or essentially derived variety, as applicable;
b. Breeders' compensation deposited;
c. Annual royalty charge due to the Authority; and
d. Contribution from any national and international organisations, among other sources.

The Gene Fund will be used to:

e. Pay farmers or the farming community's compensation;
f. Any sum to be paid through benefit sharing;
g. The cost of benefit-sharing schemes;
h. the assistance provided for the preservation and long-term utilisation of genetic assets, such as in-situ and ex-situ collections; and
i. The enhancement of the panchayat's capacity to carry out such preservation and equitable utilisation.

Benefit Sharing

Arguably the most crucial components of farmers' rights is benefit sharing. Benefit sharing is provided by Section 26, and claims may be made by Indian citizens, businesses, or non-governmental organisations (NGOs) that have been founded or are based in India. Breeders will deposit funds into the Gene Fund according on the degree and kind of usage of claimed genetic material in the variety's development, as well as the variety's commercial utility and market demand. The National Gene Fund will reimburse the person making the claim for the money contributed. In an effort to encourage benefit-sharing claims, the Authority also posts the certificate's information in the official journal.(11)

Rights of Community

a. It is payment to the village or local community in recognition of their noteworthy role in the development of the variety that the Act has recognised.
b. Any individual, group of individuals, governmental or non-governmental organisation, acting on behalf of a village or neighbourhood in India, may submit a claim for assistance to the development of any variety at any designated facility.(12)

Plant Varieties Protection Appellate Tribunal

The Plant Varieties Protection Appellate Tribunal (PVPAT) is to be established in accordance with the Act. It is possible to appeal any orders or decisions made by the Registrar of Authority regarding the registration of a variety as well as orders or decisions made regarding the registration of an agent or licensee in the Tribunal. Additionally, the Tribunal is the forum for appeals of any Authority orders or judgements pertaining to benefit sharing, the cancellation of a compulsory licence, and compensation payments. The Intellectual Property Appellate Board (IPAB) will exercise PVPAT

authority until the PVPAT is created, according to a clause that is temporary in nature. It is possible to appeal PVPAT rulings in a higher court. The appeal must be resolved by the Tribunal within a year.

Conclusion

Preserving traditional knowledge is one of the most important issues facing PBR and biodiversity in India. The foundation of sustainable farming is composed on traditional agricultural methods that are frequently handed down through the generations. But there's a significant chance of exploitation and theft. Creating PBR laws that protect breeders' financial interests while honouring and conserving traditional agricultural knowledge is a challenging undertaking. The PBR framework has attempted to include conventional knowledge. A monument to this endeavour is the inclusion of a section in the statute that recognises and protects the rights of farmers. It seeks to guarantee that the advantages of contemporary agricultural advances are felt at the local level while recognising the crucial role that traditional farmers play in maintaining and advancing agricultural practises.

Recently, the Indian government published data in their National Intellectual Property Rights Policy on the quantity of applications and registrations received by the Authority seeking assistance from various partners to facilitate the extended registration of new, surviving, and essentially defined plant varieties. Establishing links with Universities, Research Organisations, Innovation and Administration Centres, and Krishi Vigyan Kendras has been emphasised, as has encouraging the progress of seeds and ranchers' sale of them. It increases the authority's capacity to focus on methods for integrating the diversity of enlisted farmers, taking reproducers' rights as envisioned in the Act to all relevant partners, and positioning India as a trailblazer in the implementation of breeders' rights in addition to farmers' rights.

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INNOVATION AND INTELLECTUAL PROPERTY RIGHTS IN INDIAN LAW: A CRITICAL ANALYSIS

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Abstract

This article provides an overview of the fundamental concepts and consequences of intellectual property. It starts by defining intellectual property as a set of intangible rights that safeguard creative and imaginative works. These rights are crucial in motivating and rewarding inventors and innovators in a number of settings. Intellectual property rights are sometimes characterised as original ideas or works that an individual can protect under the constitutionally established right to property. The Parliament has adopted a number of rules and regulations to protect their innovation from being used by others while still allowing them to benefit financially from the unique innovation or notion. Intellectual property rights are divided into numerous categories, including trademarks, patents, copyright, geographical indications, and so on. This article provides a critical critique of India's innovation and intellectual property rights. Intellectual property rights are becoming increasingly important in today's business-driven environment. Furthermore, one of an individual's fundamental rights is to use property or ideas that he or she created. The legal perspective on property is also discussed, with a particular emphasis on property as an object over which ownership rights extend. This position is supported by key judicial rulings that highlight the importance of intellectual property rights as a sort of property.

Keywords: intellectual property rights, intangible rights, trademarks, patents, copyright, geographical indications.

Introduction

Intellectual property (IP) refers to any original innovation of human intelligence, such as artistic, literary, technical and scientific works. Intellectual property rights (IPR) are legal rights granted to an inventor or creator that protect his/her innovation or creativity for a certain period of time. The Indian Constitution guarantees a number of fundamental rights, including the right to life, which is broadly interpreted to include dignity, privacy, livelihood, the right to shelter, access to emergency healthcare, and a clean environment;[1] the right to equality and non-discrimination on specific grounds such as gender, descent, race, caste, religion; and the right to primary education, freedom of speech, association and movement, as well as the right to business. Property rights susceptible to eminent domain expropriation with proper compensation were removed from the Constitution's Chapter on Fundamental Rights in 1978 and transferred to a separate section. Any society's development is inextricably linked to intellectual property rights and the laws that govern them. Inventions These legal rights provide the inventor or creator or his/her assignee the only right to fully exploit the invention or creation for a set length of time. It is well recognised that intellectual property is critical to today's economy. It has also been established decisively that intellectual effort related to innovation should be encouraged in order to optimise public benefit. The costs of research and development have greatly increased, as has the money required to bring a new technology to market.

The stakes for technology developers have risen significantly and protecting information from unauthorised use has become important, at least for the time being, to secure the recovery of R&D and other related costs as well as appropriate profits for future R&D investments. IPR is an excellent

[1] Narayanan P, *Intellectual Property Law* (Eastern Law House, 3rd Edition 2017, Reprinted 2023)

instrument for protecting the inventor or creator of an intellectual property's investments, time, money, and effort since it gives the inventor or creator the exclusive right to use his invention or creation for a certain period of time. As a result, intellectual property rights contribute to a country's economic growth by encouraging healthy competition, industrial innovation and economic success.[2]

Historical Background

IPR legislation and administrative procedures emerged in Europe. The practice of issuing patents dates back to the thirteenth century. In several fields, England was technologically advanced in comparison to other European countries, and this was utilised to draw workers from other countries with favourable conditions. Copyrights were initially discovered in Italy. Venice can be considered the cradle of the intellectual property system since it was here that much legal thought in this subject took place; laws and processes were formed for the first time in the world and other nations soon followed. The Indian Patent Act is over 168 years old. The first was the 1856 Act, which was based on the British patent system and established a 14-year patent term, followed by successive acts and changes.[3]

Due to a lack of IPR understanding, the country was at significant risk of infringement, economic loss, and the end of an intellectual epoch. As a result, there is an urgent need to exchange IPR information in order to promote indigenous research and technological achievements. The preceding section of this dissertation aimed to emphasise different intellectual property rights in India, as well as their respective criteria, limitations, importance, and role in society.

As India approaches its next stage of growth, both businesses and the government are focusing on ways to increase innovation capacity. Nationally, innovation and competitiveness are closely intertwined, as evidenced by a high correlation between country ranks on the Global Innovation Index and the Global Competitiveness Index.[4] At the subnational level, there is an increasing need to comprehend the dynamics of innovation and respond appropriately. This approach begins with the recognition that India's innovation is a multidimensional reality rather than a single entity, with individual Indian states advancing at different speeds.

Literature Review

Tiwari, S (2014):[5] The author of this article indicates that India's ratification of the TRIPS Agreement is closely related to the enforcement of intellectual property rights. The World Trade Organisation requires all members to meet certain enforcement requirements, including broad rules. 2. The provisions describe civil. 3. Administrative and criminal proceedings. 4. Implement border measures to enforce intellectual property rights. 5. Identify potential areas for transformation in underdeveloped nations. As a result, this evolved as a legally valid mechanism for implementing intellectual property legislation in India.

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[2] Myneni S.R., *Law of Intellectual Property* (Asia Law House, 11th Edition 2021, Reprinted 2022)

[3] Yashjain, 'IPR Law-History' (2021) *Legal Service India E-Journal* <https://www.legalserviceindia.com/legal/article-3581-ipr-law-history.html#:~:text=Origin%20In%20India%3A,as%20Act%20XV%20of%201859> accessed 29 February 2024

[4] THE OFFICE OF THE CONTROLLER GENERAL OF PATENTS, DESIGNS, TRADEMARKS AND GEOGRAPHICAL INDICATIONS INDIA 'INTELLECTUAL PROPERTY INDIA ANNUAL REPORT' (2017-18) <*https://www.ipindia.gov.in/writereaddata/Portal/IPOAnnualReport/1_110_1_Annual_Report_2017-18_English.pdf*> accessed 29 February 2024

[5] Tiwari S., 'Intellectual Property Rights Protection of Fashion Design in India' SSRN Electronic Journal (2014) <https://www.researchgate.net/publication/269106421_Intellectual_Property_Rights_Protection_of_Fashion_Design_in_India> accessed 02 March 2024

BHAGYAMMA G. (2023),[6] the author of this paper, noted that intellectual property rights play an important role in India's legal structure, and recognising their constitutional imperatives is critical. The notion of property rights in India has developed throughout time, particularly in relation to intellectual property. Originally, the right to property was a basic right guaranteed by the Indian Constitution. The author also examined human rights, intellectual property rights and their validity. Finally, the author noted that innovators own exclusive rights to their works and innovations, which encourages investment in research and development.

SHRAVASTI YADAV,[7] the author of this paper emphasised that intellectual property refers to any original work of the human mind, such as artistic, literary, technological or scientific invention. Author also refers to the legal rights granted to the inventor or creator to safeguard his innovation or creativity for a specified length of time. The importance of creativity and innovation in the establishment and growth of a knowledge economy. It ties creativity to the production of intellectual property. Finally, the author explained how IPR is critical for protecting inventors and other producers of intellectual commodities, goods, and services by granting them time-limited rights to control how the created items are utilised.

Objectives

- To analyse intellectual property rights in India.
- To analyse the legal provisions that safeguard intellectual property rights in India.

Methodology of Research

The nature of this research is descriptive and conceptual. All data and theories were derived from secondary sources, including publications, research articles, books, newspapers, websites, and case studies on innovation and Intellectual Property Rights in Indian Law. It is descriptive in the sense that it strives to identify specific features of research objectives, and conceptual in the sense that it assesses a review of prior studies in these fields.

Intellectual Property Rights in India

Copyright: India has signed the Berne Convention on copyright. However, registering your copyright may be a smart idea because it can assist show ownership if infringers face criminal charges. In most circumstances, however, registration is not required to pursue a copyright infringement suit in India. The Copyright Office accepts registrations in person or through a representative.[8] Since 2016, copyright policy has been transferred to India's Ministry of Commerce and Industry. The Department for Industrial Property and Promotion currently administers all intellectual property rights. Internet piracy of films, music, games, and software is prevalent in India, as is unlawful copying of physical books.

Patents: The patent law in India is codified in the Patents Act of 1970. The 2003 Patent Rules and the 2016 Patent Amendment Rules. Utility model patents, like those in the United Kingdom are not covered. The Patent Registrar is the regulating body for patents, reporting to the Controller General of Patents, Designs, and Trade Marks in India's Ministry of Commerce and Industry. Patents are valid for 20 years from the date of submitting an application with an annual renewal charge. India's patent

[6] BHAGYAMMA G., 'PROTECTING DIGITAL INNOVATION: A COMPARATIVE ANALYSIS OF INTERNATIONAL AND INDIAN INTELLECTUAL PROPERTY LAWS' (2023) 1(1) *ILE Competition and Company Law Journal* 77-88

[7] SHRAVASTI YADAV, 'INNOVATION AND INTELLECTUAL PROPERTY RIGHTS: AN OVERVIEW OF THE INDIAN LAW (2017) <https://theamikusqriae.com/innovation-and-intellectual-property-rights-an-overview-of-the-indian-law/> accessed 01 March 2024

[8] Ahlawat & Associates, 'Types of Intellectual Property Rights in India' (19 September 2022) <https://www.ahlawatassociates.com/blog/types-of-intellectual-property-rights-in-india> accessed 01 March 2024

system is based on the first to file concept, which means that if two persons apply for a patent on the same idea, the first to file the application would receive the patent.

Design: Design laws include the Designs Act 2000 and the Designs Rules 2001. Designs are valid for up to 10 years and can be renewed for an additional five years.

Trademarks: The Trade Marks Act of 1999, as well as the Trade Marks Rules of 2002 and 2017, constitute India's trademark rules. Patents are regulated by the Controller General of Patents, Designs, and Trademarks, who works for the Department of Industrial Policy and Promotion. The police now have more powerful tools for enforcing trademark law, including the authority to inspect premises and confiscate products suspected of being counterfeit without a warrant. However, these powers are limited by the necessity that the police get the Trade Mark Registrar's opinion on the registration of the mark before taking action. This increases the delay and may lead to the removal or sale of counterfeit items. In India, trade names are also considered a type of trademark, with protection for people who want to trade under their own surname, regardless of whether they already have one. Because of the widespread practice of 'cybersquatting' - the registration of marks in bad faith by third parties registering domain names for well-known marks in order to sell them to the original rights owners - it is recommended that rights holders register their domain names as trade-marks in India as soon as possible. Registration takes up to two years. A trademark in India is valid for 10 years and can then be renewed indefinitely for further ten-year periods.[9]

Geographical Indications of Goods (Registration and Protection) Act, 1999: Many things in India are popular because of their origin. For example, 'Darjeeling tea' is distinct and popular due to a variety of variables, including but not limited to its origin, the skill set of Darjeeling tea producers, and the meteorological conditions in the region. Other examples of items with a bearing on the place of origin include Banarsi Saree and Basmati Rice. A registered geographical indicator is granted protection for ten (10) years, with the possibility to renew and extend such protection for further ten (10) years from the date of expiration of the initial registration.

Semiconductor Integrated Circuits Layout-Design Act of 2000: A semiconductor integrated circuit' is described as 'a product containing transistors and other circuitry elements which are inseparably produced on a semiconductor material or an insulating material or inside the semiconductor material and designed to execute an electronic circuitry function'. Furthermore, registered layout designs are protected for a period of ten years.

Ipr Situation of India

In 2007, the World Bank conducted a study of 140 countries to determine their Knowledge Economy Index (KEI) based on knowledge-based initiatives, regulatory frameworks, economic incentives and institutional regimes, and information and communication technologies (ICT) infrastructure. Because of the lack of the aforementioned characteristics, India was ranked 101st.[10]

Similarly, India placed 14th, 9th, and 13th in patents, marks, and designs, respectively, based on total (resident and international) IP filing activity by origin in 2014.50 Rankings are based on the total number of applications submitted by origin. India's global involvement in IPR filing activities is a

[9] Elizabeth Verkey, *Intellectual Property Law and Practice* (Eastern Book Company, 2015 Edition)

[10] INTELLECTUAL PROPERTY RIGHTS IN INDIA, MEMBERS' REFERENCE SERVICE LARRDIS LOK SABHA SECRETARIAT, NEW DELHI, REFERENCE NOTE (No.57/RN/Ref./Nov/2017) <https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/Intellectual%20Property%20Rights%20in%20India.pdf> accessed 02 March 2024

meagre 1.6% for patents, 3.14% for trademarks, and 0.82% for industrial designs.[11] According to the U.S. Chambers of Commerce's International Intellectual Property (IP) Index 2023, India is poised to become a leader for developing nations trying to change their economies via IP-driven innovation. It now ranks 42nd among 55 top global economies.[12]

IPR Policy 2016

The IPR Policy, which was adopted in May 2016, is a big stride by the Indian government to foster creativity and innovation. It provides the groundwork for India's future IPR landscape. The Policy establishes seven objectives, each of which is accompanied by action actions to be implemented by the designated nodal Ministry/Department. The Policy's aims are:[13]

1) IPR knowledge: Outreach and Promotion - To raise public knowledge of the economic, social, and cultural benefits of IPRs across all sectors.
2) IPR development - To encourage the development of IPRs, India has a significant pool of scientific and technological expertise scattered among R&D institutions, businesses, universities, and technical institutes. There is a need to tap into this rich knowledge base and encourage the establishment of IP assets.

3) Legal and Legislative Framework - To have strong and effective IPR laws that balance the interests of rights holders with the greater public good.
4) Administration and Management - Modernise and improve service-oriented intellectual property administration.

5) Commercialization of IPR - Commercialization allows you to get value for your intellectual property.

6) Enforcement and Adjudication - Strengthen the tools for fighting IPR infringements.
7) Human Capital Development - To increase and grow human resources, institutions, and capacities for teaching, training, research, and skill development in intellectual property rights.[14]

Judicial Decision

Novartis v. *Union of India*[15], in this case the Honourable Supreme Court, the Union of India and all of the Objectors claimed that Indian patent law, as it stands now, is fully TRIPS compliant, after important modifications to the Patents Act, 1970 in 2005. They demanded, however, that Indian law be reviewed and construed on its own terms, rather than using patentability criteria established in some Western nations. Furthermore, the Honourable Court finds the TRIPS Agreement and some events emerging from it insufficient to pronounce on the fairness or otherwise of the Agreement, or to analyse the justice and wisdom of the Government of India's choice to subscribe to the Agreement. So, based on the judgement, it appears that the Supreme Court declined to intervene in the Novartis case on policy grounds. The Novartis case is an example of a patent being denied for another anti-cancer

[11] THE OFFICE OF THE CONTROLLER GENERAL OF PATENTS, DESIGNS, TRADEMARKS AND GEOGRAPHICAL INDICATIONS INDIA 'INTELLECTUAL PROPERTY INDIA ANNUAL REPORT' (2017-18) <*https://www.ipindia.gov.in/writereaddata/Portal/IPOAnnualReport/1_110_1_Annual_Report_2017-18_English.pdf*> accessed 29 February 2024

[12] International Intellectual Property Index (2023) <https://www.drishtiias.com/daily-updates/daily-news-analysis/international-intellectual-property-index-2023> accessed 02 March 2024

[13] Prakash Mishra, 'Law, Innovation and Intellectual Property Rights in India' (2016)*:* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2742102> accessed 02 March 2024

[14] Narender Kumar, 'Cryptocurrency, Intellectual Property Rights and Competition Law-Challenges and Implications' (2022) 1(1) *NLUA Journal of Intellectual Property Rights* 48-63 <https://nluassam.ac.in/docs/Journals/IPR/NLUA_Journal_of_IPR_vol1_issue1.pdf> accessed 25 February 2024

[15] *Novartis* v. *Union of India* [2013] 13 SCR 148

treatment because the application did not meet India's higher standard for innovation as outlined in the modified Indian Patent Act of 1970.

M/s. D.M. Entertainment Pvt. Ltd v. *Baby Gift House and Others*[16], in this case concerned character merchandising a type of brand or IP licencing, and the Delhi High Court ruled that character retailing can be classified as a trademark and is subject to the same safeguards. The case addressed the usage of the character 'NODDY' and the court ruled that unauthorised use of the character constituted copyright infringement. These cases have affected the course of intellectual property law in India, and their precedents continue to influence judicial decisions. Each of them highlights different aspects of intellectual property law and displays the Indian legal system's ability to adapt to new difficulties in this ever-changing industry.

It is also worth noting that Indian courts consider Part IV of the Constitution, which enacts the Directive Principles of State Policy, if legislative interpretation concerns affecting the rights of a diverse group of people emerge. Articles 39 (e) and (f) establish health-related problems that Indian legislatures must address in their laws. The courts have not always recognised that, while it is critical to fully enforce IPR owners' rights, the law also plays an important role in balancing the public interest between the IPR owner's property rights and the public interest in encouraging creativity and innovation.[17]

In a recent decision[18], the Supreme Court emphasised the importance of preserving intellectual property rights and promoting an innovative culture. The lawsuit in question is a patent battle between Nokia and Oppo, two tech titans. The Supreme Court's ruling represents a landmark moment in intellectual property protection, underlining the significance of patent and licence compliance.

On August 4, 2023, the Supreme Court rejected Oppo's appeal against the Delhi High Court's decision. The supreme court emphasised the necessity of enabling the trademark infringement trial to proceed undisturbed. The trial procedure, which includes a rigorous analysis of evidence, would allow for a thorough assessment of the case's merits. The Supreme Court's ruling demonstrates its commitment to due process and protecting intellectual property rights.

Conclusion

Today, India is on its way to taking a balanced strategy to stimulating the overall growth of the IPR business. Recent developments in India, such as the New IPR policy, the provision of an effective toolkit in the form of a checklist that will serve as a reckoner for the police to deal with IP crimes, and the encouragement of innovators in terms of speedy patent examination if they file first in India, are all part of a much-needed effort to improve overall IPR security and encourage the creation of more IP in the country. India has all the resources in terms of abundant raw materials, inexpensive labour, inventive, and creative devoted personnel. Without a doubt, India will capitalise on its proportionate part of global commerce by exploring Intellectual Property Rights and leaving its mark on the international map as "Creative India; Innovative India."

Based on the discussion above following suggestions can be made:

- Enhancing Enforcement: India must expand its intellectual property enforcement systems, including boosting funding and competence for enforcement agencies, strengthening coordination across agencies, and expediting legal procedures for IP disputes.

[16] *M/s. D.M. Entertainment Pvt. Ltd* v. *Baby Gift House and Others* [2002] CS(OS) 893
[17] *Syndicate of the Press of Cambridge University v. B.D. Bhandari* [2011] Division Bench, Delhi High Court, RFA (OS) No.21 of 2009
[18] *Oppo* v *Nokia* [2022] DHC 004935

- Streamlining Regulations: India must simplify and streamline the IPR regulatory framework, which includes lowering administrative costs and boosting transparency in IP registration and enforcement processes.
- Encouraging Innovation: India should encourage innovation by providing tax breaks and money for research and development, as well as boosting cooperation between business, academia, and the government.

BREAKING THE GLASS CEILING: STRATEGIES FOR PROMOTING GENDER EQUALITY IN THE BUSINESS WORLD

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Abstract

This paper explores the persistent issue of gender inequality in the business world and proposes strategies to shatter the glass ceiling that inhibits the advancement of women. Despite advancements in gender equality, women continue to face barriers to career progression and leadership roles in various industries. Through a comprehensive review of existing literature and case studies, this paper identifies key challenges faced by women in business, including stereotypes, discrimination, and lack of access to opportunities. The paper then discusses actionable strategies to promote gender equality and empower women in the workplace. These strategies include implementing diversity and inclusion initiatives, establishing mentorship and sponsorship programs, advocating for equal pay and promotions, and fostering a culture of accountability for gender bias. Additionally, the importance of leadership commitment and organizational policies that prioritize gender equality are highlighted. Furthermore, the paper emphasizes the role of education and awareness in challenging societal norms and promoting a more inclusive business environment. By addressing systemic barriers and promoting diversity at all levels of the organization, businesses can create a more equitable workplace where all individuals have equal opportunities to thrive.

Keywords: Gender equality, Glass ceiling, Diversity and inclusion, Leadership, Empowerment.

Introduction: Understanding the Glass Ceiling

The term "glass ceiling" has become emblematic of the invisible yet formidable barriers that prevent women from reaching the upper echelons of the corporate world, despite their qualifications and capabilities. Coined in the 1980s, the glass ceiling metaphor vividly illustrates the intangible yet impenetrable barrier that impedes the career progression of women, particularly in leadership roles within organizations. At its core, the glass ceiling represents a complex interplay of systemic biases, societal expectations, and organizational structures that perpetuate gender inequality in the workplace. Despite significant strides towards gender equality in recent decades, women continue to encounter numerous obstacles and limitations in their professional journeys, with the glass ceiling serving as a tangible manifestation of these challenges.

One of the defining characteristics of the glass ceiling is its insidious nature, often operating beneath the surface and eluding detection through overt discrimination. Unlike explicit barriers such as discriminatory hiring practices or unequal pay, the glass ceiling operates through more subtle mechanisms, including ingrained stereotypes, unconscious bias, and cultural norms that dictate traditional gender roles. As a result, women may find themselves facing invisible barriers to career

advancement, despite possessing the requisite skills, experience, and qualifications[1].Moreover, the glass ceiling is not a monolithic entity but rather manifests in various forms across different industries, organizations, and geographies. While progress has been made in some sectors to dismantle these barriers, disparities persist, particularly in male-dominated industries such as finance, technology, and engineering. In these sectors, entrenched gender norms and a lack of diversity in leadership positions contribute to the perpetuation of the glass ceiling, creating a hostile environment for women seeking to ascend the corporate ladder.To fully understand the dynamics of the glass ceiling, it is essential to recognize the intersectionality of gender with other forms of identity, such as race, ethnicity, sexual orientation, and socioeconomic background. Women who belong to marginalized or underrepresented groups often face compounded barriers to advancement, as they navigate intersecting forms of discrimination and marginalization[2]. For example, women of color may encounter additional hurdles in predominantly white corporate environments, where they must contend with both racial and gender biases.Furthermore, the glass ceiling is not solely a product of individual attitudes or behaviors but is also perpetuated by systemic factors embedded within organizational structures and practices. For instance, the lack of gender diversity on corporate boards and executive teams perpetuates a cycle of homogeneity, wherein decision-making processes are shaped by a narrow range of perspectives and experiences. This lack of representation not only hinders the advancement of women but also undermines the overall effectiveness and innovation of organizations[3]. The understanding the glass ceiling requires a nuanced appreciation of its multifaceted nature, encompassing both individual and systemic factors that perpetuate gender inequality in the workplace. By acknowledging the existence of the glass ceiling and its detrimental effects on women's career advancement, organizations can begin to dismantle these barriers and create more inclusive and equitable environments where all individuals have the opportunity to thrive.

Challenges Faced by Women in Business

Despite significant progress towards gender equality in recent decades, women continue to encounter numerous challenges and obstacles in the business world that hinder their career advancement and limit their access to leadership positions. These challenges stem from a combination of systemic biases, cultural norms, and organizational structures that perpetuate gender inequality in the workplace. Understanding the specific challenges faced by women in business is essential for devising effective strategies to address these issues and promote gender equality.One of the primary challenges faced by women in business is the prevalence of gender stereotypes and unconscious bias, which shape perceptions of women's competence, leadership abilities, and suitability for certain roles. These stereotypes often result in women being underestimated, undervalued, or overlooked for leadership positions, despite possessing the requisite skills and qualifications. Research has shown that women are frequently subjected to double standards, whereby they are expected to demonstrate competence and assertiveness while also conforming to traditional gender norms of warmth and likability[4]. This inherent bias can manifest in various forms, including hiring decisions, performance evaluations, and opportunities for advancement, thereby perpetuating gender disparities within organizations.Discrimination and gender-based harassment are also significant challenges faced by women in the business world, particularly in male-dominated industries and corporate environments. Studies have documented instances of gender-based discrimination, including unequal pay, limited

[1]Hymowitz, Carol and Timothy D Nash, 'The Glass Ceiling: Why Women Can't Seem to Break the Invisible Barrier That Blocks Them from the Top Jobs' (Adams Media, 1986).
[2]UN General Assembly, 'Convention on the Elimination of All Forms of Discrimination Against Women' (18 December 1979) 1249 UNTS 13.
[3]Eagly, Alice H and Linda L Carli, 'Through the Labyrinth: The Truth About How Women Become Leaders' (Harvard Business Review Press, 2007).
[4]Catalyst, 'Quick Take: Women in Management' (Catalyst, 2021) <https://www.catalyst.org/research/women-in-management/> accessed 2February 2024.

access to career development opportunities, and exclusion from decision-making processes. Moreover, women may experience overt forms of harassment or microaggressions in the workplace, ranging from derogatory comments and sexual advances to exclusionary behavior and hostile work environments. These experiences not only undermine women's confidence and well-being but also impede their professional growth and advancement within organizations[5].

Another key challenge for women in business is the pervasive issue of work-life balance and caregiving responsibilities, which disproportionately affect women's career trajectories. Research indicates that women are more likely than men to take on caregiving responsibilities for children, elderly relatives, or family members with disabilities, which can impact their ability to fully engage in their careers and pursue leadership opportunities. The lack of support for work-life balance, including flexible work arrangements, parental leave policies, and affordable childcare options, further exacerbates these challenges and contributes to the attrition of women from the workforce. Moreover, the dearth of female role models and mentors in leadership positions presents a significant barrier to women's career advancement in business. Studies have shown that mentorship and sponsorship programs are critical for providing women with guidance, support, and opportunities for professional growth. However, women may face difficulty finding mentors or sponsors who can relate to their experiences and offer meaningful advice and support[6]. The underrepresentation of women in senior leadership roles not only limits access to mentorship opportunities but also perpetuates a cycle of exclusion and underrepresentation within organizations. Finally, the phenomenon of the "glass ceiling" represents a pervasive barrier to women's advancement in the business world, wherein women encounter invisible yet formidable barriers to career progression and leadership roles. The glass ceiling is perpetuated by a combination of systemic biases, organizational structures, and cultural norms that inhibit women's access to top leadership positions. Despite their qualifications and capabilities, women often find themselves excluded from decision-making processes, overlooked for promotion, or confined to lower-level positions within organizations. Breaking through the glass ceiling requires concerted efforts to challenge traditional gender norms, promote diversity and inclusion, and implement policies and practices that support women's advancement in the workplace. The challenges faced by women in business are multifaceted and interconnected, encompassing issues of gender bias, discrimination, work-life balance, mentorship, and the glass ceiling. Addressing these challenges requires a comprehensive approach that addresses both individual and systemic factors contributing to gender inequality in the workplace[7]. By fostering a culture of inclusion, equity, and support, organizations can create environments where all individuals have the opportunity to succeed and thrive, regardless of gender.

Strategies for Promoting Gender Equality

In the quest to achieve gender equality in the business world, it is imperative to implement proactive strategies that address systemic barriers and foster a culture of inclusion and diversity within organizations. These strategies encompass a range of initiatives aimed at promoting equal opportunities for women, empowering them to thrive in their careers, and breaking down the barriers that hinder their advancement. By adopting a multifaceted approach that addresses both individual and systemic factors contributing to gender inequality, organizations can create more equitable workplaces where all employees have the opportunity to succeed. One of the most effective strategies for promoting gender

[5]European Commission, 'Women in Economic Decision-Making in the EU: Progress Report' (European Commission, 2020) <https://ec.europa.eu/info/sites/info/files/women_economic_decision_making_progress_report_2020_en.pdf> accessed 4 February 2024.
[6]World Economic Forum, 'Global Gender Gap Report 2022' (World Economic Forum, 2022) <https://www3.weforum.org/docs/WEF_GGGR_2022.pdf> accessed 6 February 2024.
[7]Kimmel, Michael S and Abby L Ferber, 'Privilege: A Reader' (Westview Press, 2013).

equality in the workplace is to implement diversity and inclusion initiatives that prioritize the recruitment, retention, and advancement of women. This includes establishing diversity targets and metrics to track progress towards gender parity, as well as conducting regular diversity training and awareness programs to address unconscious bias and promote inclusive behaviors[8]. By creating a culture of diversity and inclusion, organizations can attract top talent from diverse backgrounds, foster innovation and creativity, and create a more dynamic and resilient workforce.Additionally, organizations can implement mentorship and sponsorship programs to support the professional development and advancement of women in the workplace. Mentorship programs pair junior employees, particularly women, with experienced leaders who can provide guidance, support, and career advice. Sponsorship programs, on the other hand, involve senior leaders advocating for the advancement of talented women within the organization, championing their achievements, and providing them with access to high-profile opportunities. By providing women with access to mentors and sponsors who can offer guidance and support, organizations can help them navigate the complexities of the corporate world, build their networks, and advance their careers.Advocating for equal pay and promotions is another crucial strategy for promoting gender equality in the workplace. Despite legislation aimed at addressing pay disparities, the gender pay gap persists, with women earning less than their male counterparts for equal work. Organizations can address this issue by conducting regular pay equity audits, transparently disclosing salary information, and implementing policies and practices that ensure fair and equitable compensation for all employees. Similarly, organizations can implement promotion policies that are based on merit and performance, rather than gender or other demographic factors, to ensure that women have equal opportunities for career advancement.Furthermore, fostering a culture of accountability for gender bias is essential for promoting gender equality in the workplace. This involves holding individuals and organizations accountable for discriminatory behaviour, harassment, and other forms of gender-based discrimination. Organizations can establish clear policies and procedures for reporting and addressing instances of gender bias, provide training and education on gender equality and diversity, and create mechanisms for employees to safely and confidentially report incidents of discrimination or harassment. By holding individuals and organizations accountable for their actions, organizations can create a culture of respect and inclusivity where all employees feel valued and empowered to succeed.Finally, promoting gender equality in the workplace requires strong leadership commitment and organizational policies that prioritize diversity and inclusion. Leaders play a critical role in setting the tone for the organization, modelling inclusive behaviors, and championing gender equality initiatives[9]. Organizations can demonstrate their commitment to gender equality by appointing women to leadership positions, establishing diversity councils or committees, and integrating diversity and inclusion goals into their strategic plans and performance metrics. By prioritizing diversity and inclusion at all levels of the organization, organizations can create a culture where gender equality is not only valued but also actively promoted and supported. The promoting gender equality in the workplace requires a comprehensive and multifaceted approach that addresses systemic barriers, fosters a culture of inclusion and diversity, and empowers women to succeed[10]. By implementing proactive strategies such as diversity and inclusion initiatives, mentorship and sponsorship programs, advocacy for equal pay and promotions, accountability for gender bias, and leadership commitment, organizations can create more equitable workplaces where all employees have the opportunity to thrive, regardless of gender.

[8]European Institute for Gender Equality, 'Gender Equality in Power and Decision-Making' (European Union, 2021) <https://eige.europa.eu/publications/gender-equality-power-and-decision-making-2021> accessed 8 February 2024.
[9]International Labour Organization, 'Women in Business and Management: Gaining Momentum' (International Labour Organization, 2019) <https://www.ilo.org/global/publications/books/WCMS_674831/lang--en/index.htm> accessed 11 February 2024.
[10]McKinsey & Company, 'Women in the Workplace 2021' (McKinsey & Company and LeanIn.Org, 2021) <https://wiw-report.s3.amazonaws.com/Women_in_the_Workplace_2021.pdf> accessed 11 February 2024.

Leadership Commitment and Organizational Policies

One of the fundamental pillars for promoting gender equality in the business world is strong leadership commitment and the implementation of organizational policies that prioritize diversity and inclusion. Leadership plays a pivotal role in shaping organizational culture, setting the tone for diversity initiatives, and driving meaningful change towards gender equality. By fostering a culture of inclusion and equity at all levels of the organization, leaders can create an environment where women feel valued, supported, and empowered to succeed. Leadership commitment to gender equality starts at the top, with senior executives and board members setting the agenda and championing diversity initiatives within the organization. When leaders publicly endorse and advocate for gender equality, it sends a powerful message that diversity and inclusion are core values of the organization. Moreover, leaders who lead by example, demonstrate inclusive behaviours, and actively engage with diversity initiatives help to create a culture where all employees feel valued and respected, regardless of gender.In addition to verbal support, leadership commitment to gender equality must be backed by concrete actions and measurable outcomes. This includes establishing diversity goals and metrics to track progress towards gender parity, as well as allocating resources and funding to support diversity and inclusion initiatives. By holding leaders accountable for achieving diversity targets and demonstrating progress towards gender equality, organizations can ensure that gender equality remains a priority and receives the necessary attention and resources. Organizational policies also play a critical role in promoting gender equality and supporting women's advancement in the workplace[11]. These policies encompass a range of areas, including recruitment and hiring practices, career development and advancement opportunities, compensation and benefits, work-life balance initiatives, and mechanisms for reporting and addressing instances of gender bias and discrimination. Recruitment and hiring practices are key areas where organizations can implement policies to promote gender equality. This includes adopting diverse candidate slates, implementing blind resume screening processes to mitigate unconscious bias, and providing training to hiring managers on inclusive hiring practices. By proactively seeking out and hiring talented women, organizations can create a more diverse and inclusive workforce that reflects the communities they serve[12].

Career development and advancement opportunities are another area where organizational policies can support gender equality. This includes providing access to leadership development programs, mentoring and sponsorship initiatives, and opportunities for skills development and training. Organizations can also implement promotion policies that are based on merit and performance, rather than gender or other demographic factors, to ensure that women have equal opportunities for career advancement.Moreover, compensation and benefits policies play a crucial role in promoting gender equality and closing the gender pay gap. Organizations can conduct regular pay equity audits to identify and address disparities in compensation, as well as implement transparent salary structures and pay scales. Additionally, providing benefits such as parental leave, flexible work arrangements, and childcare assistance can support women in balancing their professional and personal responsibilities and mitigate the impact of caregiving responsibilities on their careers. Work-life balance initiatives are also essential for promoting gender equality in the workplace[13]. This includes offering flexible work arrangements, such as telecommuting, flexible hours, and compressed workweeks, to accommodate employees' diverse needs and preferences. By providing employees with greater flexibility and

[11]12. Office for National Statistics, 'Gender Pay Gap in the UK: 2022' (Office for National Statistics, 2022) <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/genderpaygapintheuk/2022> accessed 12 February 2024.

[12]13. United States Department of Labor, 'Women's Bureau: Economic Security for Women' (United States Department of Labor, 2023) <https://www.dol.gov/agencies/wb> accessed 12 February 2024.

[13]United Nations Development Programme, 'Gender Inequality Index 2022' (United Nations Development Programme, 2022) <http://hdr.undp.org/en/indicators/68606> accessed 14 February 2024.

autonomy over their work schedules, organizations can support women in balancing their professional and personal commitments and foster a more inclusive and supportive work environment. Furthermore, organizations must have mechanisms in place for reporting and addressing instances of gender bias and discrimination. This includes implementing clear policies and procedures for reporting and investigating complaints of gender bias, as well as providing training and education on diversity and inclusion to all employees. By creating a culture where employees feel safe and empowered to speak up about instances of discrimination or harassment, organizations can demonstrate their commitment to gender equality and ensure that all employees are treated with dignity and respect. The leadership commitment and organizational policies are essential for promoting gender equality in the business world. By fostering a culture of inclusion and equity, setting diversity goals and metrics, and implementing policies to support women's advancement, organizations can create environments where all employees have the opportunity to succeed, regardless of gender. Ultimately, gender equality is not just a moral imperative but also a strategic imperative for organizations seeking to attract top talent, foster innovation, and drive sustainable business growth.

Education and Awareness Building

Education and awareness building are essential components of efforts to promote gender equality in the business world. By challenging societal norms, raising awareness of gender biases, and fostering a culture of inclusivity and respect, organizations can create environments where all individuals have equal opportunities to succeed, regardless of gender. One of the key aspects of education and awareness building is challenging traditional gender norms and stereotypes that perpetuate inequality in the workplace. From a young age, individuals are socialized to adhere to gender roles and expectations that dictate the types of careers, behaviours, and aspirations deemed appropriate for men and women. These stereotypes often lead to unconscious biases that influence decision-making processes and perpetuate gender disparities in hiring, promotion, and leadership opportunities.

Education plays a crucial role in debunking these stereotypes and fostering a more nuanced understanding of gender and its intersections with other forms of identity, such as race, ethnicity, sexual orientation, and socioeconomic background. By providing training and education on topics such as unconscious bias, diversity and inclusion, and gender sensitivity, organizations can help employees recognize and mitigate the impact of bias in the workplace. This includes promoting awareness of microaggressions, stereotyping, and other forms of subtle discrimination that may occur in everyday interactions. Moreover, education and awareness building efforts can help to empower women to advocate for themselves and challenge gender-based discrimination and bias. This includes providing training on negotiation skills, assertiveness training, and strategies for navigating male-dominated environments[14]. By equipping women with the tools and resources they need to assert themselves confidently in the workplace, organizations can help to level the playing field and create a more equitable environment for all employees.In addition to internal education and training initiatives, organizations can also play a role in raising awareness of gender equality issues within the broader community. This includes participating in advocacy efforts, supporting gender equality campaigns, and collaborating with external organizations and stakeholders to promote gender equality in the workplace and beyond. By using their platform and influence to amplify the voices of women and advocate for policy changes that advance gender equality, organizations can help to drive meaningful change at the societal level.Furthermore, education and awareness building efforts can extend beyond the workplace to encompass broader societal issues related to gender equality, such as access to education, healthcare, and economic opportunities. Organizations can support initiatives that promote girls' education,

[14]International Monetary Fund, 'Women, Work, and the Economy: Macroeconomic Gains from Gender Equity' (International Monetary Fund, 2013) <https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Women-Work-and-the-Economy-Macroeconomic-Gains-from-Gender-Equity-39496> accessed 18 February 2024.

combat gender-based violence, and address structural barriers that prevent women from fully participating in economic and political life. By engaging in advocacy and awareness building efforts both internally and externally, organizations can demonstrate their commitment to gender equality and contribute to broader social change[15].Technology can also play a role in education and awareness building efforts, particularly in reaching a wider audience and facilitating dialogue and engagement on gender equality issues. From social media campaigns to online training modules, organizations can leverage technology to disseminate information, foster discussion, and raise awareness of gender equality issues among employees, customers, and the general public. By harnessing the power of technology, organizations can amplify their impact and reach new audiences with messages of equality and inclusion. The education and awareness building are essential components of efforts to promote gender equality in the business world. By challenging stereotypes, raising awareness of unconscious bias, and fostering a culture of inclusivity and respect, organizations can create environments where all individuals have equal opportunities to succeed, regardless of gender[16]. Through internal training and education initiatives, advocacy efforts, and leveraging technology, organizations can play a vital role in driving meaningful change towards gender equality in the workplace and beyond.

Conclusion and Suggestions

In conclusion, achieving gender equality in the business world requires a multifaceted and concerted effort that addresses both individual and systemic barriers to women's advancement. While progress has been made in recent decades, gender disparities persist in areas such as leadership representation, pay equity, and access to opportunities. To create more equitable workplaces where all individuals have the opportunity to succeed, organizations must prioritize diversity and inclusion, challenge traditional gender norms and biases, and implement policies and practices that support women's advancement.One of the key takeaways from this discussion is the importance of leadership commitment to gender equality. Strong leadership is essential for setting the tone, driving change, and holding organizations accountable for achieving diversity and inclusion goals. By demonstrating a genuine commitment to gender equality, leaders can inspire confidence, build trust, and create a culture where diversity is valued and celebrated[17].Moreover, organizations must implement proactive strategies to promote gender equality at all levels of the organization. This includes establishing diversity and inclusion initiatives, implementing mentorship and sponsorship programs, advocating for equal pay and promotions, fostering a culture of accountability for gender bias, and prioritizing leadership commitment and organizational policies that support gender equality. By adopting a comprehensive approach that addresses both individual and systemic factors contributing to gender inequality, organizations can create environments where all employees feel valued, respected, and empowered to succeed.

Education and awareness building are also essential components of efforts to promote gender equality in the workplace. By challenging stereotypes, raising awareness of unconscious bias, and fostering a culture of inclusivity and respect, organizations can create environments where all individuals have equal opportunities to thrive. Through internal training and education initiatives, advocacy efforts, and leveraging technology, organizations can play a vital role in driving meaningful change towards gender equality in the workplace and beyond.In addition to internal efforts, organizations must also engage in

[15]European Parliament, 'Women's Economic Empowerment in the EU' (European Parliament, 2021) <https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/654200/EPRS_ATA(2021)654200_EN.pdf> accessed 18 February 2024.

[16]United Nations Conference on Trade and Development, 'Empowering Women Entrepreneurs Through ICTs: Connecting Women-led Enterprises to Markets' (United Nations Conference on Trade and Development, 2019) <https://unctad.org/system/files/official-document/unctadict4d66_en.pdf> accessed 18 February 2024.

[17]Organisation for Economic Co-operation and Development, 'The Pursuit of Gender Equality: An Uphill Battle' (OECD, 2020) <https://www.oecd.org/gender/Gender-Equality-An-Uphill-Battle-2020.pdf> accessed 20 February 2024.

advocacy and awareness building efforts at the societal level. This includes supporting initiatives that promote girls' education, combat gender-based violence, and address structural barriers that prevent women from fully participating in economic and political life. By using their platform and influence to advocate for policy changes that advance gender equality, organizations can help to drive meaningful change at the societal level and contribute to broader social progress.Moving forward, it is essential for organizations to prioritize gender equality as a strategic imperative and allocate the necessary resources and attention to achieve meaningful progress[18]. This includes establishing clear goals and metrics to track progress towards gender parity, investing in diversity and inclusion initiatives, and holding leaders and organizations accountable for achieving diversity targets. By fostering a culture of inclusion, equity, and support, organizations can create environments where all individuals have the opportunity to succeed, regardless of gender.In conclusion, achieving gender equality in the business world is not only a moral imperative but also a strategic imperative for organizations seeking to attract top talent, foster innovation, and drive sustainable business growth. By prioritizing diversity and inclusion, challenging traditional gender norms and biases, and implementing policies and practices that support women's advancement, organizations can create more equitable workplaces where all individuals have the opportunity to thrive. Through leadership commitment, proactive strategies, education and awareness building, and advocacy efforts, organizations can drive meaningful change towards gender equality and create a brighter and more inclusive future for all.

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DIVULGING THE ISSUES AND FUTURE OPPORTUNITIES OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA

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Abstract

The replacement of the Companies Act, 1956, with the Companies Act, 2013, marked a significant shift, making 'corporate social responsibility' (CSR) mandatory for a specific class of companies in India. This legislative move underscores the need for inclusive societal growth parallel to corporate expansion. The research paper aims to delve into the issues and challenges associated with corporate social responsibility. Organizations have increasingly recognized that government initiatives alone may not be sufficient to uplift marginalized segments of society. The imposition of mandatory Corporate Social Responsibility (CSR) reflects a departure from the notion that profit-making is the sole objective. Instead, it emphasizes the importance of building trust through societal relationships as a viable and assertive approach for long-term organizational survival. The research paper endeavors to understand the current status of Corporate Social Responsibility (CSR) in India, shedding light on the extent to which companies adhere to these obligations. The analysis aims to provide insights into the CSR practices of Indian organizations, addressing both economic and social interests. By doing so, it contributes to the broader understanding of the role and impact of CSR in the Indian corporate landscape

Keywords: corporate, business, challenges, opportunities

Introduction

Corporate Social Responsibility (hereinafter referred to as "CSR") gained widespread use in the late 1960s and early 1970s. Now it is becoming an increasingly important activity to businesses nationally and internationally. However, delving into history reveals that concerns about the social and environmental impact of business are as ancient as trade itself. As far back as 5,000 years ago, laws were enacted to safeguard forests. In Ancient Mesopotamia around 1700 BC, King Hammurabi implemented a code that imposed severe consequences, including death, upon builders, innkeepers, or farmers whose negligence led to fatalities or significant inconveniences for local citizens[1]. With the advent of industrialization, the influence of business on society and the environment took on a new dimension. The "corporate paternalists" in the late nineteenth and early twentieth centuries utilized their wealth to support philanthropic endeavors. By the 1920s, discussions surrounding the social responsibilities of businesses evolved, marking the inception of the "modern" CSR movement[2]. In India, companies such as TATA and Birla have been actively practicing Corporate Social Responsibility for decades, well before it gained widespread popularity. Numerous instances exist where corporations have played a prominent role in addressing issues related to education, health, environment, and livelihoods through their CSR initiatives across the country.

Over the period of time, CSR stretched to both social and economic interests and also broadened to cover social as well as economic interests. Companies now become more transparent in accounting and other activities due to pressure from the various interest groups of the society. It is mandatory for

[1] K.Siva Rama Krishna and C.V. Kannaji Rao, Corporate Social Responsibility – Issues and Challenges in India (2018) 6 (1) IJCRT 382.
[2] Sunita Rani, Corporate Social Responsibility (Csr): Issues And Challenges (2019) 7 (4) European Journal of Business & Social Sciences 2127.

companies to behave in ethical and responsible manner towards the various interest groups of the society and environment[3]. Companies started incorporating their CSR projects in their annual reports also. As a result of this new trend, separate committees have been established inside the board of directors to manage the company's CSR operations. Companies are being urged to band together once again in order to promote CSR[4]. The Alliance for Corporate Social Responsibility was established in Europe in 2006 (CSR). There are 70 international corporations and 25 national partner organizations now involved, making it a unique resource to develop CSR capabilities (CSR). There are several social aspects that fall under this umbrella, such as health care, education, food security, and the environment. The above-mentioned locations have been benefited by a number of initiatives that have been introduced by them.

Research Objectives

1. To present the key issues and challenges of Corporate Social Responsibility.
2. To unleash its future opportunities and sustainability.

General Conception about CSR

While a universally accepted definition of corporate social responsibility (CSR) remains elusive, it commonly denotes transparent business practices grounded in ethical values, adherence to legal requirements, and a regard for people, communities, and the environment. CSR is understood as a concept wherein companies voluntarily incorporate social and environmental considerations into their business operations and interactions with stakeholders. There exists a prevailing notion that economic growth is intricately tied to the utilization of resources from the environment and society. The exploitation of natural resources directly influences the economy, the environment, and society on a broad scale. CSR, as a concept, entails organizations assuming responsibility for the impact of their activities on customers, employees, shareholders, communities, and the environment across all facets of their operations.

However, Section 135 of the Companies Act, 2013 provides that certain companies must mandatorily contribute a certain amount towards CSR activities[5]. As per the Act, Corporate Social Responsibility means and includes but is not limited to: Projects or programs relating to activities specified in Schedule VII to The Act and Projects or programs relating to those activities which are undertaken by the Board of Directors of a company in ensuring the recommendation of the CSR Committee of the Board as per declared CSR Policy along with the conditions that such policy will cover subjects specified in Schedule VII of the Act[6]. Moreover, the provisions of CSR applies to every company fulfilling any of the following conditions in the preceding financial year: Net worth of more than Rs.500 crore, turnover of more than Rs.1000 crore, net profit of more than Rs.5 crore. The Board of Directors of every company for which the CSR provisions apply must ensure that the company spends in every financial year at least 2% of its average net profits made during the immediately preceding three financial years as per its CSR policy. If the company has not completed three financial years since its incorporation, it must spend 2% of its average net profits made during the immediately preceding financial years as per its CSR policy.

In other words, CSR is a Company's commitment to operate in an economically, socially and environmentally sustainable manner, while recognizing the interests of its stakeholders. This commitment is beyond statutory requirements. CSR is, therefore, closely linked with the practice of

[3] Dr Anil Kumar, Sustainability and Corporate Social Responsibility, https://www.srccgbo.edu.in/pdf/57e8944904874ed0e23f6252ac4edc0d.pdf, last accessed on 4.3.2024.
[4] Ibid.
[5] Companies Act 2013 Section 135.
[6] Supra note 5.

Sustainable Development[7]. CSR extends beyond philanthropic activities reaches out to the integration of social and business goals. These activities need to be seen as those which would, in the long term, help secure a sustainable competitive advantage. The world business Council for Sustainable Development defines CSR as, "Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large."

Background

India boasts a longstanding and rich history of active business engagement in social causes for national development. Throughout its ancient history, corporate social responsibility (CSR) in India was recognized as a social duty or charity, evolving over different eras to its contemporary form[8]. Initially linked to the accumulation of excess wealth, the roots of social and environmental concerns in business extend deep into history.

During the early years, there was limited documentation of social responsibility initiatives in India. Over time, there has been an increasing awareness of the need to contribute to global social activities, coupled with a desire to enhance the immediate environment. It has become evident that companies genuinely committed to socially responsible behaviour not only gain favor with the public but are also preferred for their goods and services. This realization has given rise to the formalization of the concept of CSR. In the present day, there is a global resurgence in emphasizing the principle of social responsibility in business and industry. India mirrors this trend, underscoring the universal significance of CSR as an integral aspect of corporate conduct.

Mahatma Gandhi, the charismatic visionary leader, also focused on the importance of "trusteeship motivated by the belief that essentially society was providing capitalists with an opportunity to manage resources that should really be seen as a form of trusteeship on behalf of society in general". In June 2008, a survey was carried out by TNS India (a research organization) and the Times Foundation with the aim of providing an understanding of the role of corporations in CSR. The findings revealed that over 90 per cent of all major Indian organizations surveyed were involved in CSR initiatives. In fact, the private sector was more involved in CSR activities than the public and government sectors.

Issues and Challenges

The primary objective of incorporating Corporate Social Responsibility (CSR) into corporate business is to foster sustainability across both business activities and corporate culture in three crucial dimensions: economic, social, and environmental. While giving equal attention to all these dimensions is imperative, some companies perceive CSR as an external facet of their operations, with others deeming it irrelevant compared to customer satisfaction[9]. There's a prevailing notion that customer satisfaction is primarily linked to price and service, sidelining the broader societal and environmental shifts that could significantly impact the business.

However, this myopic focus on price and service might blind companies to other vital developments worldwide. The transformative force termed "social responsibility" is identified as an opportunity for businesses. Acknowledging and actively engaging in social responsibility not only aligns with ethical

[7] Ibid.
[8] Supra note 2.
[9] Pankaj Dodh, Sarbjeet Singh and Ravita, Corporate Social Responsibility and Sustainable Development in India, (2013) 3 (6) Global Journal of Management and Business Studies 681.

principles but also positions the business to navigate and thrive amidst the evolving landscape, safeguarding against potential disruptions that could otherwise jeopardize its standing[10].

1. In the past, governments have relied only on legislation and regulation to deliver social and environmental objectives in the business sector which has lead to certain failed initiatives.
2. There is a growing demand for corporate disclosure from stakeholders, including customers, suppliers, employees, communities, investors, and activist organizations.
3. It has been seen and proved through a survey conducted in the year 2002 in 25 countries, it was found that more than one third of surveyed consumers believed that large companies "should do more than give money to solve problems." The same study found that almost 50 percent of consumers had considered punishing a company based on its social actions, and that nearly 30 percent had actually avoided a company for that reason. Further it was proved that the ethical conduct of companies have a growing influence on the purchasing decisions of customers.
4. Investors are changing the way they analyze companies' performance, and are making decisions based on ethical concerns too.
5. Employees are increasingly looking beyond paychecks and benefits and seeking out employers whose operating practices match their own principles. In order to hire and retain skilled employees, companies are being forced to improve working conditions.
6. There is a lack of interest in CSR efforts among the general public.
7. Government and non-government organisations tend to have a restricted view of CSR projects, typically describing CSR initiatives as more donor-driven than local in approach, which is a problem.
8. The lack of well-trained and efficient non-governmental groups is a major problem for firms' CSR efforts, and there is a need to address this issue.
9. The media has a crucial role to play in spreading positive stories and educating the local population about the many upcoming CSR activities of corporations, As a result, there is little agreement on how CSR initiatives should be carried out in the local community. Companies frequently duplicate efforts in areas where they have influence since they aren't aware of the consensus.
10. Well-established non-governmental groups are said to be hard to come by in rural and outlying locations.
11. Governmental and non-governmental groups have a restricted view of corporate social responsibility (CSR) activities, frequently characterising CSR programmes as more contributory than local in approach.
12. There is a lack of well-defined regulatory criteria or policy directions to give corporations' CSR operations a specific direction.

Future Opportunities

The concept of corporate social responsibility (CSR) has become a global business imperative. However, transitioning from theoretical discussions to concrete actions presents several challenges. Despite these obstacles, engaging in CSR initiatives can yield significant benefits for organizations, both in terms of financial gains and access to managerial talent. Additionally, it serves as a magnet for attracting individuals who are aligned with the organization's values and are willing to contribute to these initiatives.

Observing CSR endeavors by corporations worldwide instills confidence that more can be expected from them in terms of social and environmental contributions. Addressing the existing CSR initiatives

[10] Ibid.

is urgently required, along with the establishment of a mechanism for recognizing and rewarding such efforts. Emphasizing transparency and fostering dialogue can enhance the perceived trustworthiness of a business. Simultaneously, it has the potential to elevate standards across the business landscape by setting positive examples for other organizations to emulate[11]. Corporate Social Responsibility has many benefits that can be applied to any business, in any region, and at a minimal cost. Some of them are as follow:

1. Improved Financial Performance: A recent longitudinal Harvard University study has found that "stakeholder balanced" companies showed four times the growth rate and eight times employment growth when compared to companies that focused only on shareholders and profit maximization.

2. Enhanced Brand Image & Reputation: A company considered socially responsible can benefit -both by its enhanced reputation with the public, as well as its reputation within the business community, increasing a company's ability to attract capital and trading partners. For example, a 1997 study by two Boston College management professors found that excellent employee, customer and community relations are more important than strong shareholder returns in earning corporations a place an Fortune magazine's annual "Most Admired Companies" list.

3. Increased Sales and Customer Loyalty: A number of studies have suggested a large and growing market for the products and services of companies perceived to be socially responsible. While businesses must first satisfy customers' key buying criteria – such as price, quality, appearance, taste, availability, safety and convenience. Studies also show a growing desire to buy based on other value-based criteria, such as " sweatshop-free" and "child labor-free" clothing, products with smaller environmental impact, and absence of genetically modified materials or ingredients.

4. Increased Ability to Attract and Retain Employees: Companies perceived to have strong CSR commitments often find it easier to recruit employees, particularly in tight labor markets. Retention levels may be higher too, resulting in a reduction in turnover and associated recruitment and training costs. Tight labor markets as well the trend toward multiple jobs for shorter periods of time are challenging companies to develop ways to generate a return on the consideration resources invested in recruiting, hiring, and training.

5. Reduced Regulatory Oversight: Companies that demonstrate that they are engaging in practices that satisfy and go beyond regulatory compliance requirements are being given less scrutiny and freer rein by both national and local government entities. In many cases, such companies are subject to fewer inspections and paperwork, and may be given preference or "fast-track" treatment when applying for operating permits, zoning variances or other forms of governmental permission.

6. Easier Access to Capital: The Social Investment Forum reports that, in the U.S. in 1999, there is more than $2 trillion in assets under management in portfolios that use screens linked to ethics, the environment, and corporate social responsibility. It is clear that companies addressing ethical, social, and environmental responsibilities have rapidly growing access to capital that might not otherwise have been available.

Conclusion

Corporate social responsibility (CSR), as defined by the United Nations and subsequently endorsed by the European Commission, aims to achieve a triple bottom line: profitability, environmental preservation, and social justice. The effectiveness of CSR is maximized when seamlessly integrated into

[11] Mayashree Acharya, Corporate Social Responsibility Under Section 135 of Companies Act 2013 (2023) , https://cleartax.in/s/corporate-social-responsibility, last accessed on 4.3.2023.

a company's overarching growth strategy. Identifying, promoting, and implementing robust policies and procedures that yield triple bottom-line outcomes is crucial for businesses. While CSR may be viewed simply as a collection of altruistic actions undertaken by various businesses, it is essential to recognize that the conduct of businesses can wield substantial influence on society. To realize the vision of a better world, there is a pressing need for a Corporate Social Responsibility (CSR) movement in India. This involves actively engaging businesses in adopting and implementing practices that not only contribute to their success but also promote environmental sustainability and social equity.

Collaboration between public and private entities offers numerous avenues to enhance the overall well-being of the general population. However, businesses face a significant challenge in the current landscape, as there is a pressing need for more precise metrics to gauge success in the realm of Corporate Social Responsibility (CSR). Additionally, the distribution of CSR initiatives poses a major dilemma for companies today.

To address these challenges, fostering open communication and embracing transparency can play a pivotal role. By doing so, a company not only enhances its own image, making it appear more trustworthy, but also sets a benchmark that can elevate the standards of other businesses. The promotion of transparency and open dialogue not only helps in building trust with stakeholders but also contributes to a more accountable and responsible business environment, ultimately benefiting the broader community.

Corporate sustainability is an ongoing and dynamic process, marked by continuous evolution rather than reaching a final destination. The introduction of the Companies Bill represents a positive initiative by the government. However, the ambiguity surrounding what qualifies as spending on Corporate Social Responsibility (CSR) is a notable aspect, as it is often left to the discretion of individual companies to decide.

On a global scale, companies are increasingly recognizing the imperative to address major global challenges. These challenges encompass a broad spectrum, including poverty, climate change, resource depletion, globalization, and demographic shifts. To effectively tackle these issues, it is crucial for companies to approach their responsibilities in a manner that incorporates innovative solutions. This approach should be comprehensive, accommodating a strategic and adaptive framework that aligns with the ever-changing landscape of global challenges. Embracing such an approach ensures that corporate sustainability efforts remain responsive to the complex and interconnected issues facing the world. Corporate sustainability is a dynamic and ongoing process, emphasizing continuous improvement rather than a final destination. The introduction of the Companies Bill reflects a positive government initiative. However, the lack of clarity regarding what constitutes spending on Corporate Social Responsibility (CSR) is a notable challenge, often leaving companies to determine this aspect. Internationally, companies are increasingly recognizing the importance of addressing major global challenges. These challenges encompass a wide array of issues, including poverty, climate change, resource depletion, globalization, and demographic shifts. To effectively tackle these challenges, it is essential for companies to adopt an approach that incorporates innovative solutions. This approach should be comprehensive, involving a strategy and mindset that can adapt to the ever-evolving landscape of global challenges. By embracing such an approach, corporate sustainability efforts can be tailored to provide meaningful contributions to addressing the complex and interconnected issues facing the world.

THE NEXUS BETWEEN INTELLECTUAL PROPERTY AND SUSTAINABLE DEVELOPMENT: A STUDY

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Abstract

The relationship between intellectual property (IP) rights and sustainable development is becoming an increasingly important subject in worldwide discussions about innovation, economic growth, and environmental preservation. This research paper seeks to give a complete examination of the complicated interplay between intellectual property rights and sustainable development, examining the possible synergies and conflicts that exist between these two seemingly disparate ideas. The research paper investigates the role of intellectual property rights in advancing or impeding sustainable development goals such as environmental protection, social fairness, and economic advancement using a comprehensive analysis of current research, case studies, and policy evaluations. This research paper illuminates the obstacles and possibilities that arise by diving into crucial concerns such as technology transfer, access to essential medications, and indigenous knowledge protection at the nexus of intellectual property rights and sustainable development. Furthermore, this paper presents creative tactics and policy suggestions for using the potential of intellectual property rights to advance sustainable development goals, emphasising the need of a balanced and inclusive approach that benefits all stakeholders. By providing a deeper understanding of this complicated relationship, the research paper adds to ongoing discussions and attempts to achieve a more fair and sustainable future for all.

Keywords: Intellectual Property, Sustainable, Development, Innovation, Environment, Technology

Introduction

"The most basic form of property because a man uses nothing to produce it other than his brain. The basic reason for intellectual property is that a man should own what he produces, that is what he brings into being. If what he produces can be taken from him, he is no better than a slave."

\- Prof. Niblett

Intellectual property rights are designed to compensate inventors and artists for their contributions to society over a certain period of time. They are meant to offer the essential incentives for knowledge creation and transmission, as well as to promote technological transfer. It is also a key driver of policy action that can infuse many sectors and particularly impact the intellectual property (IP) ecosystem.[1]The disciplines include patents, utility models, trademarks, and geographical indications (GIs). Patents protect new, inventive, and industrially applicable inventions, while utility models protect technical novelty of inventions that may not meet legal standards for patents.Copyrights protect original works of art, such as music, literature, and cinema, while industrial designs protect the aesthetics of a product. Objects can be identified by their shape, pattern, or colour. Integrated circuits are essential components in digital equipment and have been used in a wide range of industrial objects, including machine tools and consumer devices.

[1]Jacques de Werra, Intellectual Property & Sustainable Development: How Sustainable is IP? 12 May 2023 (https://www.law.ox.ac.uk/content/event/intellectual-property-sustainable-development-how-sustainable-ip) (Accessed on 27 February 2024).

The economic, social, and legal laws that govern these areas are often complicated and the environmental impact is complex and difficult to quantify. The extent to which these regulations achieve public policy objectives is heavily influenced by how international responsibilities are executed, which is especially true when it comes to achieving sustainable development goals. One of the goals of this study is to examine the key elements of the worldwide intellectual property and its relevance to sustainable development in terms of access to information, health, and biodiversity.

Understanding Intellectual Property Rights

Intellectual property rights relate to the ownership status and exclusive rights that are conferred upon innovators or inventors. These rights allow people to benefit from their effort in the form of economic profits or higher social prestige.

The World Intellectual Property Organization (WIPO) regards intellectual property as any "creation of the mind." [2]These include artistic and literary works, stage or brand names, symbols, designs, and more.Intellectual Property Rights (IPRs) are given to creators of intellectual properties for gainful exploitation of their creations. Knowledge is typically non-excludable in that it is not possible to prevent others from applying new knowledge even without the authorization of its creator.[3]

Intellectual property rights are legal rights that protect mind-made creations such as inventions, literary and creative works, designs, symbols, names, and pictures used in commerce. These rights provide authors the exclusive right to use their works for a set length of time, allowing them to profit monetarily while prohibiting others from exploiting it without permission. Intellectual property rights include patents, copyrights, trademarks, and trade secrets. Patents safeguard inventions by granting the inventor the exclusive right to create, use, and sell the invention for a set length of time, often 20 years. Copyright protects original works of authorship, such as books, music, and art, by providing the creator the exclusive right to reproduce, distribute, and publish the work for a set amount of time, usually the author's lifespan plus 70 years.

Trademarks safeguard symbols, names, and phrases that are used to identify and differentiate products and services in the marketplace. Trademark rights prohibit others from adopting identical marks that may confuse customers. Trade secrets safeguard proprietary corporate information, such as formulae, methods, and client lists, which offer a company a competitive advantage. Intellectual property rights play an important role in fostering creativity and innovative thinking by incentivizing innovators to devote time and resources in creating new ideas and products. By giving artists exclusive access to their work, Intellectual property rights motivate people to provide their work with the wider community, understanding that they will profit from their efforts. But intellectual property rights present significant ethical and societal concerns. Critics claim that these rights can hinder innovation and limit access to information and culture by imposing hurdles to entry for new producers and limiting the public's capacity to utilise and expand on existing works. Balancing the necessity to preserve creators' rights with the objective of encouraging innovation and providing access to information is a difficult task that necessitates careful consideration of all stakeholders' interests.Only intelligent and equitable intellectual property laws and practices will promote a robust and creative ecosystem which helps society as a whole.

Sustainable Development Goals and Initiatives

[2] 'The Nexus between Intellectual Property and Sustainability' (*I am ip*18 January 2023) https://www.citethisforme.com/cite/website/autocite?q=https%3A%2F%2Fiamip.com%2Fthe-nexus-between-intellectual-property-and-sustainability%2F accessed 26 February 2024.

[3] M. Prathyusha and M. V. S. N. Kumar Raja, 'Role and Performance of IPR in Protecting Invention & Innovations—its Sustainable Development Goals' (2019) 7(2) Int. J. Adv. Res. 43.

The Sustainable Development Goals (SDGs) are a series of 17 interrelated worldwide goals developed by the United Nations in 2015 to solve the world's most urgent social, economic, and environmental concerns by 2030. Came into force on 01 January 2016, the SDGs are expected to stimulate developmental actions in areas of critical importance such as ending poverty and hunger, providing healthy lives and quality education, achieving gender equality, providing modern energy, promoting sustainable economic growth, reducing inequality, etc. till the year 2030. These goals lay the groundwork for collaborative action to create an environmentally friendly and democratic future for all.[4]

The first objective, "No Poverty," aims to eliminate severe poverty by putting in place social safety measures, ensuring equitable access to services and resources, and fostering inclusive and sustainable economic development. Microfinance programmes, job training and entrepreneurial projects, and focused interventions to address poverty's core causes are examples of activities aimed at achieving this goal.

The second objective, "Zero Hunger," is to eliminate hunger, provide food security, enhance nutrition, and encourage sustainable agriculture. Objectives include:Encouraging small-scale farmers, promoting agricultural development and advancement, encouraging sustainable farming techniques, and minimising the loss and waste of food across the supply chain.

The third objective, "Good Health and Well-Being," is concerned with guaranteeing healthy lives and encouraging well-being at all ages. Strategies include increasing the availability of healthcare services, increasing sanitation and hygiene, battling infectious illnesses, supporting psychological well-being, and treating non-communicable diseases including diabetes and heart disease.

The fourth objective, "Quality Education," seeks to achieve a quality education that is equitable and inclusive while also encouraging opportunities for continuous education for all. Initiatives include increasing educational access, particularly for marginalised and vulnerable populations, improving educational quality via training for educators and developing curriculum, and encouraging education for sustainable development and worldwide citizenship.

The fifth objective, "Gender Equality," aims to accomplish gender equality by empowering all women and girls. Efforts include advocating for equal opportunities and protections for women and girls in education, work, and political engagement, eliminating discrimination and violence based on gender, and guaranteeing access to services related to sexual and reproductive health and rights.

The sixth objective, "Clean Water and Sanitation," aims to ensure universal access to sanitation and clean water. Improving the infrastructure for water supply and administration, encouraging water conservation and productivity, tackling water pollution and contamination, and guaranteeing access to safe and sanitary sanitation facilities.

The seventh objective, "Affordable and Clean Energy," seeks to guarantee that everyone has access to inexpensive, dependable, sustainable, Solar, winds, and hydropower are being used to improve energy efficiency and conservation, extend access to clean cooking technological advances, and promote energy access projects in developing nations.

The eighth objective, "Decent Work and Economic Growth," aims to promote long-term, inclusive, and sustainable growth in the economy, full and profitable employment, and decent jobs for all. Objectives include developing work possibilities, especially for young people and marginalised

[4]Research and Information Division,LokSabha Secretariat , Sustainable Development Goals (SDGs) And Achievements of India.

populations, encouraging entrepreneurship and small company growth, and enabling the use of financial services and social security systems.

The ninth goal, "Industry, Innovation, and Infrastructure," seeks to strengthen infrastructure, encourage inclusive and sustainable industrialization, and support innovation. Investing in infrastructure such as transportation, electricity, and communication networks, boosting innovation in technology and research and development, and assisting small and medium-sized businesses are some of the initiatives underway.

The tenth goal, "Reduced Inequalities," aims to minimise inequality within and between nations. Initiatives include promoting social, economic, and political inclusion, lowering income inequality, combating discrimination and marginalisation based on ethnic background, gender, disability, and sexual orientation, and providing equitable opportunity for everyone.

The eleventh target, "Sustainable Cities and Communities," aims to make cities and human settlements more inclusive, safe, resilient, and sustainable. Objectives include supporting sustainable urban design and planning, increasing access to decent housing and essential services, strengthening the resilience of cities to natural and man-made catastrophes, and minimising cities' environmental impact.

The twelfth goal, "Responsible Consumption and Production," seeks to establish environmentally friendly production and consumption trends. Objectives include encouraging resource conservation and promoting the environmentally friendly utilisation of natural resources.Reducing waste output and pollution, establishing sustainable procurement procedures, and raising knowledge about the ecological effect of consumer decisions.

The thirteenth aim, "Climate Action," urges immediate action to fight climate change and its consequences. Initiatives include lowering greenhouse gas emissions, switching to energy from renewable sources, increasing resilience to climate-related catastrophes, encouraging climate-smart agricultural and forestry practices, and assisting disadvantaged populations with mitigation and adaptation to climate change initiatives.

The fourteenth aim, "Life below Water," emphasises the conservation and sustainable use of the seas, oceans, and marine resources for long-term development. Initiatives include safeguarding marine ecosystems, decreasing marine pollution, preventing illicit fishing, supporting sustainable fisheries management, and conserving coastal and marine biodiversity.

The fifteenth goal, "Life on Land," strives to maintain, recover, and sustainably maintain Terrestrial environments include forests and biodiversity. Strategies include encouraging sustainable land utilisation and forest management techniques, preventing desertification and degradation of land, protecting biodiversity and threatened species, and repairing damaged ecosystems.

The sixteenth objective, "Peace, Justice, and Strong Institutions," aims to create harmonious and inclusive communities for long-term development, ensure equal equitable justice for everyone, and establish effective, responsible, and inclusive organisations at all levels. The initiatives include supporting the supremacy of law, combatting corruption and organised crime, decreasing conflicts and violence, improving the administration of democracy and human rights, and fostering social unity and inclusiveness.

The seventeenth target, "Partnerships for the Goals," acknowledges that attaining the SDGs needs a collaborative effort from governments, nonprofit organisations, the commercial sector, and other stakeholders. Initiatives include developing partnerships between various stakeholders and mobilising

funds for Sustainable development, exchanging information and experience, and encouraging international collaboration and solidarity.

Sustainable development goals and efforts offer an extensive framework for solving the world's most pressing issues and creating a more sustainable and fair future for all. We can accomplish the SDGs and create a society in which people are able to thrive within the constraints of our planet's resources if we work together and take action. The localisation of SDGs has been ascribed utmost importance, as the States and Union Territories (UTs) are the actual implementors of the country's ambitious development agenda.[5]

Interplay between Intellectual Property and Sustainable Development

The relationship between intellectual property (IP) and sustainable development is complex, involving both benefits and obstacles. The United Nations Conference on Environment and Development (UNCED), also known as Earth Summit, held in Rio de Janeiro, Brazil, in June 1992, was a key milestone in the recognition of sustainable development as it translated it into a series of key declarations, such as Agenda 21 and the Rio Declaration on Environment and Development, as well as several landmark international treaties including the Convention on Biological Diversity (CBD) and the United Nations Framework Convention on Climate Change (UNFCCC).[6] Intellectual property rights, such as copyrights, trademarks, patents, and trade secrets, are critical for stimulating creativity and innovation, both of which are required to achieve sustainable development goals. However, how these rights are implemented and administered may either help or impede efforts towards sustainable development Intellectual property rights may encourage innovation, which can play an important role in accomplishing the aim. Patents encourage advancement in research by offering innovators unrestricted access to their creations for a limited period, allowing them to recover their investments and benefit from their breakthroughs. Having exclusive rights to what they create gives inventors the confidence to take risks, invest in research and development, and make meaningful contributions to global sustainable development.[7]

Furthermore, intellectual property rights may allow the transfer of technology and information exchange, which are critical for global environmentally friendly development initiatives. Licencing agreements and transfer of technology channels make it possible to spread new solutions to areas and nations who do not have the means or ability to create them on their own. This can assist close the technical gap between industrialised and developing countries, allowing the latter to handle their own sustainability concerns. However, the link between intellectual property and sustainable growth is not without its difficulties and critics. One source of worry is that intellectual property rights may create hurdles to access, particularly for important products and services like healthcare, education, and renewable energy. Critics claim that the high cost of copyrighted technology and products prevents marginalised people from obtaining life-saving therapies or environmentally beneficial technologies, prolonging inequities and impeding sustainable development initiatives. Some believe that rigid IP regimes might hinder innovation and prevent the sharing of knowledge and technology required to meet global concerns. Open-access efforts, such as Open-source software and open-access publication challenge traditional views of intellectual property by encouraging the free exchange and sharing of ideas and developments.

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[5]Research and Information Division,LokSabha Secretariat , Sustainable Development Goals (SDGs) And Achievements of India.

[6]Abdel-Latif, Ahmed, Pedro Roffe, Irene Calboli, MariaLillàMontagnani *'Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives'* (Oxford Academic 2021).

[7]The power of intellectual property in achieving the Sustainable Development Goals, (Patent Renewal, 10 January 2024) https://www.patentrenewal.com/post/the-power-of-intellectual-property-in-achieving-the-sustainable-development-goals accessed on 28 February 2024.

To solve these issues and maximise intellectual property's contribution to sustainable development, numerous solutions and policy strategies have been proposed. One strategy is to employ flexibilities in current intellectual property systems, such as compulsory registration and patent pools, to enable greater access to critical technology and discoveries. Compulsory licencing enables governments to award licences for patented ideas to third parties despite the patent holder's approval, often in exchange for acceptable remuneration. This can help cut prices and boost access to essential items like medications and clean technology, especially in underdeveloped nations. Another method is to foster collaborative models of innovation that prioritise expertise and resource sharing for everyone's benefit. Collaborative research projects, public-private collaborations, and open platforms for innovation foster collaboration among stakeholders from many sectors, including government, academia, industry, and civil society. There is a rising realisation of the significance of integrating intellectual property issues into larger policy structures for sustainable development. Integrating IP concerns into national development policies, transfer of technology agreements, and international trade talks can help integrate intellectual property regimes with long-term development goals.

The relationship between intellectual property and sustainable development is complicated and dynamic, presenting both possibilities and problems. The intellectual property system is connected to the full range of SDGs, from fostering health, to education, to combatting climate change.[8]

Case Studies and Examples:

The convergence of intellectual property (IP) and sustainable development is a complex terrain that combines inventiveness, originality, and social, economic, and environmental problems. Intellectual property rights, such as copyright, trademarks, patents, and trade secrets, play an important role in encouraging creativity and inventiveness while also impacting the course of sustainable development projects.

1. *Green Technology Patents*: Green technology patents are a clear illustration of how intellectual property and sustainable development intersect. Companies such as Tesla have deliberately used patents to develop sustainable transportation and renewable energy technologies. Tesla's decision to share its electric car patents to the public in 2014 indicated a dedication toincreasing the global uptake of sustainable energy technology. Tesla encouraged cooperation and innovation across sectors by offering access to its copyrighted inventions, helping to accelerate the worldwide transition to a carbon-neutral economy.
2. *Open-Source Software:* The open-source software revolution demonstrates how intellectual property may support sustainable development objectives. Collaboration, openness, and shared invention have been key ideals for projects such as Linux, Apache, and Mozilla Firefox. The widespread adoption of open-source software demonstrates the potential for intellectual property systems that emphasise mobility and information sharing to promote sustainable development activities.
3. *Traditional Knowledge Protection*: Protecting traditional knowledge is crucial in the IP-sustainable economic nexus, also known especially for indigenous populations and biodiversity protection. Measures such as the Nagoya Protocol on Accessibility and Benefit-sharing aim to protect traditional knowledge linked with biological assets while also ensuring equitable sharing of the profits obtained from their exploitation. For example, the Hoodia plant instance illustrates the need of acknowledging and honouring indigenous systems of knowledge. Hoodia has long been used by indigenous populations in Southern Africa to control appetite. However, without effective intellectual property protection, the industrialization of Hoodia-based goods

[8]Sara Bannerman, 'The World Intellectual Property Organization and the sustainable development agenda' (2020) 102586 Elsevier 122.

has generated worries regarding biopiracy and the commercialization of indigenous knowledge in the absence of suitable benefit-sharing systems.

4. *Tension between pharmaceutical patents and access to vital treatments*: The friction between pharmaceutical patents and having access to important medications highlights the complicated relationship between intellectual property rights and public health. Patents encourage pharmaceutical innovation, but they may also establish hurdles to access, especially in low- and middle-income nations. The story of HIV/AIDS drugs in the early 2000s demonstrates this quandary. The expensive price of patented antiretroviral treatments has limited access for millions of individuals living with HIV/AIDS in poor countries, prompting calls for greater flexibility in intellectual property systems. Initiatives such as the medications Patent Pool have attempted to solve this issue by establishing mutual licencing agreements between pharmaceutical firms to enhance access to low-cost generic copies of copyrighted medications.
5. Bioprospecting and Benefit Sharing: Exploring biodiversity for economically valuable genetic resources has important implications.Ethical and legal implications for IP rights and sustainable development. The Convention on Biological Diversity (CBD) and related protocols stress the significance of ensuring fair and equitable benefit-sharing among governments and communities that own genetic resources. For example, the instance of Taxol, an anti-cancer medicine produced from the Pacific yew tree, emphasises the need of transparent and mutually advantageous collaborations between biotechnology corporations and indigenous populations. Bioprospecting efforts can help to biodiversity conservation and sustainable development by establishing agreements that recognise indigenous knowledge, protect sovereignty rights, and ensure fair benefit-sharing.

The relationship between intellectual property and sustainable development involves a dynamic interaction of innovation, equity, and environmental responsibility. From environmentally friendly patents and open-source software to classical knowledge protection and bioprospecting, intellectual property management and application are critical in influencing the trajectory of global efforts to achieve a more sustainable and equitable future.

Challenges and Opportunities

The relationship between sustainable development and intellectual property (IP) raises a number of difficulties and opportunities for shaping the global landscape of innovation, environmental protection, and socioeconomic growth. Let's look at some of the significant issues and opportunities:

I. Challenges:

- *Access and Affordability*: One of the most difficult tasks is providing fair access to critical technologies, medicines, and information. Intellectual property rights can often create hurdles to access, especially for marginalised people and poor nations, limiting their capacity to profit from discoveries and adding to sustainable development goals.
- *Biopiracy and Traditional Knowledge:* Exploiting traditional knowledge and genetic resources without proper acknowledgment or benefit-sharing agreements raises serious ethical and legal concerns. Bioprospecting efforts frequently generate concerns about biopiracy, which exploits indigenous groups' expertise is used for economic benefit without their agreement or proper pay.
- *Incentives for Green Innovation*: While intellectual property rights encourage innovation by giving exclusive rights to inventors and artists, they may not necessarily coincide with sustainability goals. Short-term profit objectives may prioritise technology. Products which are not ecologically sustainable, resulting in a shortage of funding for environmentally friendly innovations.

- *Policy Coherence and Trade Agreements*: Maintaining consistency between IP rules and larger sustainable development goals remains difficult, especially in the setting of multilateral trade agreements. To strike a balance between intellectual property protection and social concerns, stakeholders at both the national and international levels must engage in thoughtful discussion and collaboration.

II. Opportunities:

- *Innovation for Sustainability*: IP rights may encourage innovation in fields like renewable energy, water management, and sustainable agriculture, resulting in technical improvements that contribute to Environmental protection and socioeconomic development.
- *Open innovation methods:* Open-source software and collaborative commons licencing, provide options for harnessing communal intellect and creativity to achieve sustainable development goals. These methods, by encouraging collaboration and information exchange, can hasten advancement towards sustainable development and social justice.
- *Traditional Knowledge Protection:* Understanding and preserving indigenous knowledge can lead to possibilities for environmentally friendly resource management, biodiversity protection, and growth in communities. Integrating conventional systems of knowledge into intellectual property regimes can increase innovation and adaptability in dealing with environmental issues.
- *Technology Transfer and Capacity Building*: By facilitating transfer of technologies and increasing local innovation capacity, developing nations can improve their capacity to handle major sustainability issues.
- *Green Intellectual Property:* The introduction of green intellectual property, such as eco-patents as well as sustainability standards, provides potential encouragement for environmentally friendly technologies while also encouraging ethical purchasing and manufacturing practices. Green IP methods can incentivize enterprises to adopt environmentally friendly activities and put money into green technology.

To navigate the nexus among sustainable development along with intellectual property, administrators, businesses, civil society corporations, and educational institutions must collaborate to tackle challenges, capitalise on opportunities, and guarantee that intellectual property systems effectively contribute to achieving sustainable development goals.

Policy Recommendations

The junction of intellectual property (IP) and sustainable development is critical for driving innovation while also assuring social, environmental, and economic growth. Here are some policy proposals for efficiently managing this nexus.

- *Balancing IP Protection and Access*: Authorities should implement policies that achieve a balance among safeguarding intellectual property rights and increasing access to critical technology for long-term growth. This might include putting in place flexible intellectual property frameworks like compulsory registration or patent pools to provide users with environmentally beneficial technology like energy from renewable sources or clean water alternatives.
- *Promoting Technology Transfer*: Technology transfer from developed to underdeveloped nations is critical for achieving sustainable development objectives. Policies that facilitate technology transfer, such as joint ventures, technology authorization agreements, and building capacity efforts, can assist bridge the technical divide.

- *Incentivising Green Innovation*: Governments should provide incentives to encourage development in green technology as well as sustainable behaviours. This might include tax breaks, grants, or incentives for businesses that engage in the development and research of ecologically sound technology. Furthermore, encouraging collaboration between the public and private sectors helps speed up the industrialization and acceptance of sustainable ideas.
- *Fostering Open Innovation*: Using open innovation methods can help to speed the creation and distribution of sustainable technology. Policymakers should foster cooperation among stakeholders, such as corporations, academic institutions, and nonprofit organisations, in order to share knowledge, assets, and intellectual property rights.
- *Ensuring Access to Essential Medicines*: Access to cheap medications is crucial for ensuring public health and long-term sustainability development. Governments should enact laws to guarantee that rights to intellectual property do not impede access to important medications, particularly in developing nations. This might entail taking advantage of flexibilities in the global agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to make generic medicine manufacture and distribution more efficient.
- *Safeguarding Traditional knowledge and biodiversity*: It must be safeguarded in order to ensure long-term development and cultural preservation. Policymakers should create legal structures that acknowledge and safeguard indigenous communities' and farmers' intellectual property rights to traditional knowledge as well as genetic assets.
- *Improving IP Education and Awareness:* Stakeholders' knowledge and understanding of intellectual property rights is critical for supporting creativity and sustainable development. Governments should assist in IP education programmes for businesses, investigators, and policymakers to help them understand IP laws, rules, and best practices. Raising public understanding of the value of intellectual property in fostering innovation and long-term success can also help to promote a culture of intellectual property rights respect.
- *Addressing Climate Change difficulties*: Climate change presents enormous difficulties to achieving sustainable growth, necessitating novel solutions across all sectors. Policymakers should promote the development and use of climate-friendly innovations through intellectual property laws such as technology transfer systems, green patent efforts, and financing for mitigation and adaptation to climate change research.

Implementing these policy proposals would allow countries to effectively use intellectual property to fuel innovation, encourage sustainable development, and solve major global concerns. This comprehensive approach calls for collaboration among governments, industry, political society, and international organisations must ensure that intellectual property laws promote, rather than impede, efforts to build a more sustainable and affluent future for everyone.

Conclusion

The relationship between intellectual property (IP) and sustainable development is a complicated interaction between encouraging innovation and guaranteeing fair access to resources and knowledge. This link is critical in determining socioeconomic advancement and environmental sustainability.

At the core of the IP-sustainable development connection is the acknowledgment of intellectual property rights (IPRs) as drivers for creativity and technological growth. These rights incentivize individuals and organisations to contribute to research and development (R&D), which drives the development of innovative goods, procedures, and services to solve significant social and environmental concerns.Whether in renewable energy, farming, medical care, or biodiversity

protection, intellectual property (IP) is used to protect and commercialise inventions which contribute to the SDGs.

However, the pursuit of innovation through intellectual property protection must be balanced against the need to enable public access to key information and technology, particularly in sectors that are essential to sustainable development. Striking an equilibrium between rewarding creativity and increasing access to information is critical for supporting equitable growth and resolving global imbalances. This demands utilising adaptability within the intellectual property system, such as compulsory authorization, patent pooling, and transfer of technology procedures, to encourage the diffusion of innovation for all stakeholders.

Furthermore, the IP-sustainable development connection extends beyond technology innovation to include cultural, conventional and traditional systems of knowledge acknowledging and protecting their customary rights to this information is critical for preserving cultural legacy, conserving biodiversity, and strengthening community resilience in the face of environmental problems.As a result, it is necessary to adopt a more sustainable lifestyle based on green technologies as part of the development of new global environmental policies, and stronger protection of intellectual property rights is an essential part of this process.

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EMERGING TRENDS IN THE REGIMES OF INTELLETCUAL PROPERTY AND CORPORATE FIELD AND THEIR INTER RELATIONSHIP IN THE BUSINESS DOMAIN

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Abstract

Intellectual property rights are one of the major part of the corporate world. Every company wants to protect their ideas, products, designs and innovations for the purpose of Economic Growth and for their survival in the market field. The world is developing digitally on a day to day basis. In this context the technological Laws and Intellectual Property Laws have grown exponentially. Intellectual Property provides legal frameworks to such ideas and innovations. It is evident that innumerable laws and policies are being drafted by the legislature and other law-making bodies with the aim to safeguard intellectual properties in the corporate field as both the intellectual properties and corporate field goes hand in hand. Intellectual Property serves as a corner stone for the development of corporate world. Different Intellectual Properties like Trademarks, Patents, Copy Rights, Designs etc. acts differently to promote the corporate fields. The concept of Intellectual properties is developing in nature. It is happening Because of the developments of ideas and innovations in corporate world. In such scenario it is important to protect these ideas and innovations and for this purpose Intellectual Properties have been emerged. The effects of Intellectual properties in the corporate fields is always subjects to the developments. This concept has its origin from very ancient period and still developing in nature even in the 21st century. The Government and different agencies like WIPO etc. have been working enormously to achieve the protection of Intellectual property so as to ensure developments in all the fields.

Keywords: Intellectual Properties, Corporate Field, Developments, Laws and legal frameworks

Introduction

Intellectual property rights and Corporate Laws played significant role in the development of Economy in our world. Both Intellectual property and corporate field act as two sides of a coin. No company or corporate field can exist without Intellectual Property Rights. IPR is one of the significant aspect of company. Both Corporate Laws and IPR have vigorous Legal provisions which came forth to meet the IPR Inventions and Business complications in the corporate fields. This is the way in which IPR and Corporate Laws have commenced and interrelated. They mutually work together to became beneficial for each other. IPR Facilitates the corporate fields to attain a competitive edge by protecting the novelty of ideas and creations where by encouraging others to enlarge their works and to bring the same for the developments of different sectors like corporate fields. It provides the creator a space to safeguard their creations from copying or exploiting by others.

Corporate fields always subject to Competition. It is critical to stay updated and adapt to new laws and regulations to sustain in this field. Under such circumstances the likelihood of someone misusing the sweat and labor of another is high. IPR Laws provides stringent provisions to prevent such misuse or exploitations. There are different types of Intellectual Property like Patent, Copy Right, Trademark, designs, Geographical Indications etc. All these Rights constituted to provide exclusive rights to the

inventor or creators with the aim to cultivate commercial benefits for their works. Thus intellectual Property and corporate fields works to reap benefits for each other.

Research Methodology

The Research was conducted to make a study on Emerging trends in the regime of Intellectual Property and Corporate Field and their Inter relationship in the Business Domain. It focuses on the Historical perspective of Intellectual Property and corporate field along with the significance of IP and Corporate field in India. The core data for this Research was obtained by creating new Research using existing data and also relied upon secondary sources like Law Journals, Newspaper Editorials, Articles and other Publications on relationship between intellectual Property and corporate field. More focus was given to the Emerging Trends in the Regimes of Intellectual Property and their inter relationship for their mutual existence in the Business Domain.

Historical Perspective of IP and Corporate Field

The concept of Intellectual property may seems like a modern invention but its existence can be traced during the period of civilization. Some research demonstrate that the idea of intellectual property is clearly visible from the year of 1421, When the world's first modern patent was to an Italian Inventor. Other scholars stating that the origin of patent was during the period of 600 BC. The invention of printing press led to the development of notion called 'copy right'. The history of intellectual property can be traced from other Nations like Europe, USA,UK etc. In Europe, 'Letter Patent' was awarded to recommended inventors by the European sovereigns. In U.S, The congress enacted the first US Patent law in the year 1790 and the same was recognized as a part of Constitution. In 1641, Samnel Winslow was awarded with first Patent by Massachetts General Court for the new method of making salt. The year 1967 has witnessed the Evolutionary developments in the field of IPR.it is the year in which WIPO (World Intellectual Property Organization) was established by WIPO Convention in 1967. The World Intellectual Property Organization (WIPO) is the global forum for intellectual property policy, services, information and cooperation[1].

In India the first legislation enacted relating to IPR is Patent Act vi of 1856.The Act was renamed as Patterns &Designs Protection Act in the year 1872.This Act contains Different Provisions relating to grant of Secret Patent, Patent of Addition, increases the term of Patent from 14 years to 16 years etc. A committee was appointed in Post-Independence period to examine the provisions of the Law relating to Patent and after several Recommendations and rejections of the Committee the Patent Act was passed in the Year 1970, which is currently using in India as a law exclusively for patent. The Concept of Copyright was emerged during the period of East India Company. The term of Copyright was for 42 years plus seven years of Post-Mortem. In the year 1914,The Legislature of India Passed new Copyright Law under British Raj Which was almost similar to UK copyright Act 1911.This Act undergone number of Amendments and passed Copy Right Act in 1957 to comply with the provisions of Berne Convention and the latest Amendment was in the year 2012.Trademark,One of the important Intellectual Properties have its origin after enactment of Trademarks Act 1940,which borrowed from British Trademarks Act1938.Another Act named Trademark &Merchandise Act which was replaced into Trademarks Act 1999.This is the current Act governing law relating to Trademarks in India.

The Corporate laws is an ancient concept which have its origin in Hammurabi. The idea of corporations were initially emerged as the association of religious or governmental ends, not as the concept of business. It was believed that only churches or religious institutions were able to create corporations, A private individual was not even involved in this context. The era of feudalism in the

[1]WIPO Definition, https://www.wipo.int/portal/en/index.html

17Th century have brought a drastic change in this thought. This period have witnessed a significant growth in business in our world. This is the period in which king intervened directly to the business affairs and some exclusive rights were given to the royal grant. It is known as concession theory i.e.; the incorporation was a concession from sovereign. According to this theory, the sovereign and the individual are the only realities. They are considered individuals only by sovereign concession. Only a law can confer legal personality. We assume that the company as a legal entity is of great importance as it is recognized by the state or by law. According to this theory, corporations are state concessions to corporations. Approval or disapproval is entirely at the discretion and discretion of the country. This is similar to fiction theory in that it claims that none of its members have legal personality[2]. Arrival of joint stock companies was one of the main reasons for the growth of corporations, where individual furnished to the capital of the company and is traded by stock holders. Many states modified their corporate laws after second world war. The Post-independence era is when business and industry began to expand. The business personals and industrialist have devoted the appropriate attention in production of necessary articles and the same was directed by the Government. The introduction of Industries(Development and Regulation)Act and Corporation Acts were the major Legal developments in the field of Corporations. In the 1960's large corporations were added to the already-existing ones. From 1970 to middle of the 1980s,the elements that impact businesses such as cost, volume, profit analysis etc. became an essential component of Accounting. Various Acts and Guidelines were established to govern the corporate Sector. Companies Act,2013 have brought drastic reformations and regulations in corporate field.

Significance of Intellectual Property and Corporate Field in India and Their Interrelationship in the Business Domain

Better invention or creative protection requires Intellectual property rights (IPR) for identification, planning, commercialization and rendering. Different Industries should have different IPR rules, Management styles, Strategies and so forth based on their areas of expertise.

Trademarks aids the Business to set a brand for themselves. It will prevent the encroachment of third party into their domain. **Patents** are useful to improve the competitive advantages among different Businesses. It is one of the main tool for commercializing the business in their domain. **Design**[3] means only the features of shape, configuration, pattern or ornament or composition of lines or color or combination thereof applied to any article whether two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but does not include any mode or principle or construction or anything which is in substance a mere mechanical device, and does not include any trade mark, as define in clause (v) of sub-section of Section 2 of the Trade and Merchandise Marks Act, 1958, property mark or artistic works as defined under Section 2(c) of the Copyright Act, 1957.Designs are the creation of Mind which will help the company or brand to make their product or service in a unique and attractive way. **Copyrights** uphold novelty in ideas and creations. The concept of Geographical Indications came in to light in case of any question regarding the source and Authenticity of the product and services came into question

WIPO have developed number of tools and schemes for the growth of Corporate Field.

- Diagnostics tools are self-assessment tools that helps the Business to identify their Intellectual Property Assets

[2]Legal person and Theories of Corporate personality, https://jlrjs.com/legal-person-and-theories-of-corporate-personality/

[3] Definition of Design under Designs Act 2000, https://ipindia.gov.in/faq-designs.htm#:~:text='Design'%20means%20only%20the%20features,or%20chemical%2C%20separate%20or%20combined%2C

- Envisages the Nations to build their Innovative IP system and Ecosystem
- Patents Acts as a significant catalyst for creating a successful Business Enterprises and also promotes the investments and Different opportunities in business.
- Trade Secrets safeguard the highly Confidential Business information, Methods and Techniques and to maintain an edge over competitors in the Market place.
- Legislative frameworks and legal support provokes the Entrepreneurs and Businesses to invest in developing solutions of Intellectual Property

Emerging Trends in the Regimes of Intellectual Property and Corporate Field

Intellectual Property have undergone Striking trends in the Recent Era.21st Century have been marked as the period of Technological Evolution and growth of Intellectual Property. Different Intellectual Property Developments can be seen in different areas such as Technology, Medicine, Investment and the Already existing intellectual Properties like literacy works.

- *Artificial Intelligence and Machine Learning* is one of Important concept which have emerged as a part of Intellectual Property Growth. Information Technology Act,2000 have played a vital role in this context. Unfortunately, in India there is a lack of sufficient number of Legal frameworks and mechanisms to ensure the protection of the works created with the aid of Artificial Intelligence and Machine learning.
- *DRDO-Defense Research and Development Organization* has established with the view to boost The Indian Industries and Defense Industries with the free access to Indian Patents. It provides licenses to use Patents with no Payment of License fees and also without any Royalty fees. Different guidelines have been given under this regarding the policies procedures for use of DRDO patents, DRDO IPR policy etc.
- *The computer Related inventions otherwise known as CRIs* have been prescribed under the guidelines provided by Patent Office in the year 2017and at the end of the month June. Computer Programs have included by the joint Parliamentary committee when Introducing the Patents (Amendment)Act,2002
- *Digital twin and Intellectual Property Rights* aid to avert the copying and violation of information of the Companies. Data privacy, security and liability are the other paramount factors under the concept of digital twin. It has number of legal frameworks due to the very nature of its complexities. It Prevents the replication of any works or creations so as to ensure all kinds of protections to the ideas and innovations in the business domain.
- *Block chain and IP Management* have developed to trace and control the digital assets with high security so as to make better ways to register in IPR. It is a chain like mechanism which acts as a decentralized system for connecting and managing different intellectual Property Rights like Patents, Trademarks, and copyrights. It helps to find out the copyright infringements if any.
- *Internet of Things (IoT)* connecting the technologies with devices like home appliances, Auto mobiles such as cars and other Electronic devices which producing Massive Amount of data. IoT interconnects different devices which may lead to the increment of risk of unauthorized access and thus causes theft of Intellectual Properties. It becomes more difficult to ensure that a company's Intellectual Property is Protected in this vast and inter-connected world.

Emerging Legal Frameworks in the Field of Intellectual Property Rights

The Parliament of India have enacted number of legislations including amendments to the laws relating to intellectual property rights.

- *Draught National Artificial Intelligence Policy* to incorporate the emerging technologies like Artificial Intelligence, Machine learning etc. "Regarding the Artificial Intelligence

platform's operation mechanisms and types of AI Algorithm used in the application process, the Indian Patent Office has strictly enforced detailed guidelines"[4].

- *The Data Protection Bill,2019:* This bill was passed in 2019 with the view to create a legal framework for defining and enforcing the Data protection rights. The proposed data protection bill is anticipated to help copyright holders in India, especially those in entertainment industry, by securing the right to data secrecy[5]
- *Cyber Security Policy:* This policy was enacted to protect the intellectual property rights from cyber threats and cyber space and cybercrimes are growing exponentially.

The Corporate field have witnessed a revolutionary change on a regular basis. It includes[6]:

- *Digital Economy* for making all the transactions through internet. It is also known as web Economy or Internet Economy. The three important components of Digital economy include E-commerce, E-Businesses and infrastructure. Growth of social media have significant contribution in this context. So promotions are carrying through different social media platforms like YouTube, Instagram etc. It may understand as Targeted Social media marketing.
- *Aggregator:* It is one of the distinctive and newer developments in the corporate fields. It is a mechanism through which one can access to thousands of information from the internet websites. In a nutshell, the aggregator allows us to combine all the materials about a particular subject into one location.
- *Franchising:* It is the grant of a right to the third parties by producers or companies. The beneficiaries of this rights are able to sell these manufacturers or parent companies' goods or services as a return to this rights. These rights might even extend to Intellectual Property Rights access as well.
- *Environmentalism:* When making purchases, consumers may become more interested in how goods and services affect the environment. Reducing the environmental impact of the things is the sign of a sound business and plays a major role in market plan. Such eco-friendly practices ensure economic growth and sustainable development.
- *Business Process Outsourcing (BPO):* BPO is a technique wherein one organization contracts with other Organization to handle a certain task on their behalf. Intellectual Property laws are critical aspect of Business Process Outsourcing contract as it decides who is in charge of owns, and gains access to innovations, software, procedures, and data generated or utilized in the BPO project.

Emerging Legal Framework in Corporate Field

- Insolvency and Bankruptcy code,2016 enacted with the aim to protect the corporate debtors with deadline-driven insolvency resolution mechanisms.
- The Benami Transactions (Prohibition) Amendment Act,2016 which Amended The Binami Transactions Act,1988 to curb the black money
- Finance Act Amended in 2017 and given the Union Government the power to use Executive Action to oversee Appointments and modify the terms and conditions of members belongs to Tribunals.
- Corporate Compliance Calendar, February 2024 which covers Compliances under different Acts like Income Tax Act,1961, Goods and Services Act, And other Statutory Laws like Factories Act, 1948 Etc.

[4] Paranjape and Sahu,2021
[5] Singh and Sahay,2020
[6] Emerging trends in Corporate field, https://www.vedantu.com/commerce/emerging-trends-in-business

Conclusion

Intellectual Property and corporate field have tremendous significance in the business domain. Both Intellectual Property and Corporate filed go hand in hand in the context of corporates whether it is big or small companies. Intellectual Property Laws in India ensures legal protection to the creators and innovators of business ideas. It acts as a safety shield for the investors and businesses and also motivating them to build and create novel goods and services in their areas. The intellectual properties and its associated rights are significantly influences by the market place and Business strategies. It can understand that Trade and commerce are most important in the field of Intellectual Property Rights. Protection to Intellectual Property is a vital factor for the growth of economy and Evolution of advanced ideas and technologies. A company should execute Intellectual property methods for its betterment and to raise revenues. A proper Intellectual Property method is essential for obtaining the objects of business and to create an exclusive space in the market place. By using an effective method of Intellectual Property a company can expand their opportunities and choices.

HARMONIZING COMPANY LAW AND INSOLVENCY AND BANKRUPTCY CODE: A STEPPING-STONE FOR SUSTAINABLE CORPORATE GOVERNANCE

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Abstract

The research explores the complex relationship between Company Law and the Insolvency & Bankruptcy Code (IBC) in India, revealing differences and their effect on sustainable corporate governance. The study examines the historical development, objectives, and provisions of both legal regimes underscoring the call for harmonization. It is through identifying a lot of challenges occasioned by a creditor-centric approach under the IBC that the study suggests some recommendations to address stakeholder imbalances, promote shareholder rights as well as induce industry expertise in decision-making processes. The author also looks at how current practices of corporate governance affect minority shareholders henceforth he sets out recommendations meant to enhance an all-inclusive and open framework for this task. The expected results are equitable decisions enabled by minority shareholders and a sustainable business environment. To finish with, avenues of further investigation are given which emphasize empirical research, comparative analyses, and alternative models for shareholder participation to provide more inclusive information about them.

Keywords: Company Law, Insolvency & Bankruptcy Code, Corporate Governance, Committee of Creditors, Minority Shareholders, Stakeholder Representation, Sustainable Business Environment Stakeholder Imbalance

Introduction

Company Law and Insolvency & Bankruptcy Code stand as sentinel pillars, governing the legal landscape of corporate entities. As commerce evolves and economic ecosystems transform, the necessity for robust legal frameworks becomes imperative.

Company Law is a legal framework that outlines the formation to dissolution of a corporate entity including structure, management, and operation of companies, and serves as the bedrock of corporate governance. It maps out the rights and responsibilities of stakeholders, ensuring a balance of power and accountability.

The company law was enacted during the Industrial Revolution and was adopted from British law when we needed a law for regulating business entities, ensuring fair practices, and fostering investor confidence. Over the years, it has changed its shape to adapt to technological advancements, globalization, and dynamic market conditions.

After the economic recession in 2008 and a decrease in FDI India had to open the market and increase the index of ease of doing business to drive investment into the country. As a result in 2016, a

culmination of laws that dealt with sick companies was brought together as IBC (insolvency and bankruptcy code), the objective was not only ease of doing business but also timely resolution, maximizing asset value and safeguarding the interests of creditors

However, this has raised pertinent questions about harmonious coexistences due to its basic disparities that have been raised by objective

The goal of the company law is to protect the stakeholders such as the director and promoters when compared to IBC which talks about COC having the major hold while winding up.

The research aims to identify areas where convergence is possible, We will be delving into aspects as to which supersedes when and along with the impact it has on the business world. Further exploring mechanisms to strike a balance between the protection of stakeholders' interests and the expeditious resolution of financial distress. By understanding the intricacies of both Company Law and the IBC, the research seeks to delineate a path toward a more coherent and effective legal framework to create sustainable corporate governance.

Literature Review

In the literature review part of our study, we closely examine Company Law and the Insolvency & Bankruptcy Code, and the relationship along disparities between the laws. We aim to clearly explain the major objectives, provisions, and approaches of both. Through this section, we have referenced a variety of legal articles, Judicial pronouncements, academic studies, and expert opinions. These resources are used to put forward a narrative of sustainable corporate governance.

Among many major objectives, this research focuses primarily on ease of doing business, protecting the investors, preventing fraud, and further enhancing corporate governance. We believe that these topics need to be addressed, understood in depth, and given suitable guidelines for working under these laws.

Company Law: Overview

India's company laws are governed by the Companies Act of 2013. Compared to the Companies Act of 1956, the Act introduced and implemented major amendments to improve investor protection, corporate governance, and transparency. The Companies Act, 2013's preamble states that it is the fundamental legislation that controls the formation, operation, and dissolution of companies and the interactions between the public, the government, and the company's shareholders. This is a fundamental piece of legislation.

Liquidation and Windup Process

A major area of overlap within these laws is due to the process and roles of stakeholders during the dissolution of companies, which can occur either voluntarily by the company's choice or by an order of the court. The process of winding up a company is thoroughly outlined in sections 270 to 366 of the Companies Act, which prescribes the legal framework for initiating and conducting winding-up proceedings.

The act provides for various types of Liquidation and Winding-Up Processes such as:

Voluntary winding up is initiated by the company itself, typically through special resolutions[1] passed by its members. On the other hand, Winding-Up by The Tribunal (National Company Law Tribunal

[1] Companies Act, 2013, Section 270-303

- NCLT) on the grounds of the company's inability to pay debts, or for reasons deemed just and equitable among others, etc.[2]

In case of winding up by the Tribunal, an Official Liquidator is appointed to oversee the company's assets and liabilities.[3]The concerned official is tasked with compiling and submitting a detailed report to the Tribunal regarding the company's affairs.[4]Following the resolution of the company's affairs, the Tribunal then has the authority to issue an order formally dissolving the company.[5]

Roles and Responsibilities of Stakeholders

In this, we enlist various roles and responsibilities of directors, shareholders, and creditors during the winding-up process of a company, in lieu of Indian company law. We analyze each stakeholder's specific duties to ensure a systematic and fair liquidation, drawing upon legal precedents and provisions to explain their obligations.

- **Directors**: Upon deciding to wind up or liquidate a company the role of the director is to cooperate with the liquidator and They are responsible for handling the control of the company's assets to ensure a smooth liquidation process is possible.[6] which was further stated in the case of Hind Overseas Pvt. Ltd. v. Raghunath Prasad Jhunjhunwala (1976).
- **Shareholders**: In case of voluntary winding up, the shareholders must cast a majority vote to initiate the process. Moreover, they are expected to participate in meetings held throughout the winding-up process to ensure a systematic winding-up process.[7]
- **Creditors**: The company law provides a clear framework to safeguard creditors' rights, detailing their roles, rights, and obligations, which include the order of payments in section 53, prioritizing secured creditors. Additionally, creditors have a right to be notified and attend the meeting where the resolutions for winding up are discussed. Moreover, they have the power to scrutinize the actions of promoters, directors, etc[8] and they have access to the company's[9] financial records and documents.

In the case of Manglam Plywood Ltd. v. Patheja Forgings and Auto Parts Mfg. Co. Ltd. (2019) emphasized the importance of the right of creditors to receive notices and be informed about the proceedings during the insolvency process.

This highlights that while the company is ultimately transferred to the Liquidator once the winding-up decision is finalized, however till then the rights of shareholders remain safeguarded throughout the process. Shareholders retain their decision-making capabilities, provided there has been no engagement in fraudulent activities

IBC

According to the preamble of IBC, to ensure that reorganization and insolvency resolution is conducted within a specified timeframe, to maximize the value of a debtor's assets, and to establish an equitable setting for all stakeholders. The landmark case of Swiss Ribbons Pvt. Ltd. v. Union of

[2] Companies Act, 2013, Sections 272-365:
[3] Companies Act, 2013, Section 359
[4] Companies Act, 2013, Section - 363
[5] Companies Act, 2013, Section - 366
[6] Companies Act, 2013, Section - 281 and 283
[7] Companies Act, 2013, Section - 306
[8] Companies Act, 2013, Section 282
[9] Companies Act, 2013, Section 291

India stands out, where the Supreme Court upheld the constitutional validity of the Insolvency and Bankruptcy Code. The court provided clarification on the processes and legitimacy of the act.

The Corporate Insolvency Resolution Process (CIRP)

This is a multi-step process, which Initiates by filing an application under section 6 by financial creditor/s as upheld in the case of Canara Bank v. Deccan Chronicle Holdings Ltd. (2019), it showcases the right of financial creditors to initiate insolvency proceedings if there is a default in the repayment.[10] Subsequently, the NCLT reviews the application and gives a verdict on whether to accept or reject it based on merit, If it is admitted then an Interim Resolution Professional is appointed[11] and a moratorium [12] is issued, this effectively hands over the control of assets from management to IRP who then has the right and responsibility to take the major decision during the process.

Once the CIRP is underway, the IRP initiates the process by informing creditors and forming a Committee of Creditors (COC) which primarily comprises financial creditors[13]—those entities or individuals to whom debtor[14] owes a financial debt. Furthermore, it is important to note shareholders including preferential shareholders are excluded from the CoC as stated in the case of EPC Constructions India Limited through its Liquidator – Abhijit Guhathkurtha v. M/s Matix Fertilizer and Chemicals Limited. However, there is a stipulated provision to allow operational creditors to be included in the CoC when financial creditors are insufficient in number, who further can either appoint an IRP as RP or a new RP via voting.

The IRP handovers the management to RP, and further RP invites resolution plans from prospective resolution applicants which are evaluated by the CoC then votes[15] on a feasible plan. If the resolution plan is approved it requires the approval of the National Company Law Tribunal[16]. In a situation where a resolution plan fails to be approved by Coc or the NCLT, or if no plan is put forward within a given timeline, the company is then directed toward liquidation.[17]

Roles and Responsibilities stakeholders

- **Shareholder:** The IBC does not explicitly define the term "shareholder", but it gives a distinction between the role of preferential and equity shareholders. A preferential shareholder can be part of the CoC if their shares are redeemable[18]. On the other hand, any other shareholder including those holding unredeemed preferential shares does not have any right to vote or to participate in the CoC further in most cases, approval of the Resolution plan by shareholders is not necessary as circular by mca.[19] While NCLT might take into consideration the opinions of shareholders in the final approval of the resolution plan—particularly if significant ownership or structural changes are proposed at its discretion, however in most cases, they don't have much influence. The same can be seen in the decision of NCLAT in the case of **V.** Padmakumar v. Stressed Assets Stabilization Fund (SASF) (2020)

[10] It can be filled by operational creditor, or the corporate debtor themselves,
[11] Insolvency and Bankruptcy Code, 2016 (31 of 2016), Section 16
[12] Insolvency and Bankruptcy Code, 2016 (31 of 2016), Section 14
[13] Insolvency and Bankruptcy Code, 2016 (31 of 2016),Section 21
[14] Insolvency and Bankruptcy Code, 2016 (31 of 2016), Section 5(7)
[15] Insolvency and Bankruptcy Code, 2016 (31 of 2016), Section 21(6) and 30(4))
[16] Insolvency and Bankruptcy Code, 2016 (31 of 2016),SECTION 31
[17] Insolvency and Bankruptcy Code, 2016 (31 of 2016),Section 32, 33
[18] Abhijit Guhathkurtha v. M/s Matix Fertilizer and Chemicals Limited ,Company Petition (I.B.) No. 156/KB/2022
[19] Circular published by IBC on MCA website https://www.mca.gov.in/Ministry/pdf/CircularIBC_25102017.pdf

- **Role of Director:** Post-moratorium, the directors are expected to hand over the entire management and offer complete cooperation with the RP during the process [20], to provide information and support without harming the interests of creditors, the same has been emphasized through various cases such as M/s. Innoventive Industries Ltd. v. ICICI Bank (2017), M/s. Emaar MGF Land Limited v. Aftab Singh (2019)

- **Creditor:** Unlike The creditors[21] who play a significant role in the context of the Insolvency and Bankruptcy Code (IBC) during the Corporate Insolvency Resolution Process (CIRP) which encompasses Voting Rights on key decisions during the CIRP which includes the appointment of RP, and approval of the resolution plan.

  The Corporate Insolvency Resolution Process gives decision-making power to the Committee of Creditors, making them primary arbiters of the company's future. The functions of the directors are limited to providing mandatory assistance and cooperation to the RP, which was also highlighted in the case of M/s. Essar Steel India Ltd. v. Satish Kumar Gupta (2019).

Another important provision of IBC is section 238 of the code which functions as a non-obstante clause This provision ensures the supremacy of the Code in the case of conflicting clauses within this legislation or any other law. which was further upheld by the Supreme Court in the case of Pr. Commissioner of Income Tax vs Monnet Ispat and Energy Ltd.

Methodology

We look closely at a range of primary sources like legislature text ie., Insolvency and Bankruptcy Code (IBC), focusing on objectives, resolution processes, creditor rights, and corporate insolvency resolution and the Company Act 2013 where we focus on aspects related to corporate governance, shareholder rights, regulatory compliance, and CSR obligations. Further, delve into landmark judicial pronouncements from various legal forums, including the Supreme Court, High Courts, and National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), to understand the dynamic changes and adaptations taken by the law which any practical challenges faced by companies in reconciling the provisions of Company Law and the IBC. Available secondary data was extensively used for the study.

The investigator procures the required data through a secondary survey method. Different news articles, Books, and the Web were used which were enumerated and recorded. These sources further help us dissect the important provisions and court decisions related to company management and insolvency rules. Our method blends insights from Judicial pronouncements, amendments in the law, and thoughts from academic experts including the thoughts of a few directors.

This mix of information guides us as we try to harmonize the differences between Company Law and the Insolvency & Bankruptcy Code, aiming to find clear and practical ways to align them better and create sustainable corporate governance.

The process involves looking at diverse perspectives to identify where and how Company Law intersects with the Insolvency & Bankruptcy Code. Overall, our methodology merges legal theory with practical analysis, providing a nuanced understanding that informs our recommendations for aligning corporate governance with contemporary legal requirements. We ensure our study is professional, insightful, and directly applicable to current business law practices.

[20] Insolvency and Bankruptcy Code, 2016 (31 of 2016),Section 14
[21] Insolvency and Bankruptcy Code, 2016 (31 of 2016),Section 21

Steps Towards Sustainable Corporate Governance

Our first step in creating sustainable corporate governance is to establish a balanced distribution of rights among all the stakeholders.

Ever since the enactment of the Insolvency and the Bankruptcy Code, 2016 (IBC), there has been a shift towards a creditor-oriented debt resolution legislation, which says that once a company undergoes CIRP, COC assumes all powers and makes the decisions in regard to the company. The legitimacy of CoC's decisions aren't questioned provided they comply with the objectives of the IBC itself.

However, the question arises how can the creditor gather the suitable know-how- of the commercial land that the company to make such crucial decisions especially while it's underwater, In most cases the creditor's primary focus might centre on the recovery of their dues rather than the long-term viability of the company. Upon facing Liquidation 'the waterfall mechanisms' prescribed under IBC make sure, creditors are the first to be paid back. This situation points out the need for corporate governance that combines creditors' benefits with a broader vision for the recovery of the company as well.

In the scenario of delisting of the company, equity shares are completely written off which impacts the shareholders (the general public) who have invested in the belief of the company's potential. This type of situation often arises since creditors' repayment is prioritized. But the shareholders but shareholders are left without a say or a viable exit strategy. Furthermore, the lack of Reverse Book Building fails to offer a mechanism for shareholders to regain their investments[22]which was the case in CIRP of DHFL, there was a complete reduction in the paid-up share capital of the company, that too for zero[23]

The case of Jaypee Kensington Boulevard v. NBCC (India) Limited[24]. The resolution plan resulted in a complete reduction of the paid-up share capital at a negligible cost and the same was even approved by the Supreme Court. This precisely shows unfair treatment to the public (minority shareholders) as they suffer the most of the loss.

Responding to these concerns, a report was published by SEBI in 2022, highlighting that minority shareholders occupy a marginalized position under IBC. They Lack any representation in the CoC and they do not have direct consent for any act as it is "deemed" to be given. While SEBI has proposed a protection framework to safeguard the shareholders, the implementation is still pending.[25] Perhaps as an interim measure, the shareholder must be given a set percentage of voting rights within COC to ensure their interests are protected and their voices are heard in the company's resolution process.

Management issue

Providing the roles and responsibility of the entire management to a singular Resolution Professional by the Insolvency and Bankruptcy Code raises substantive questions about this model, and yet the independence of the resolution professional's actions is certainly subject to question only by the COC or if he/she goes against the code.

[22]Attention Shareholders Of Insolvent Companies - Here's What Your Paper's Worth By NDTV;
[23] Dewan Housing Finance Corporation Limited CP(IB)No. 4258/MB/C-II/2019
[24] Jaypee Kensington Boulevard ... vs Nbcc (India) Ltd AIRONLINE 2021 SC 224
[25] The (Negligible) Role of Shareholders in Corporate Insolvency By Umakanth Varottil
Url: https://indiacorplaw.in/2017/10/negligible-role-shareholders-corporate-insolvency.html

However, the major question to arise here is, how can one individual, potentially lacking specific industry expertise, can guide a company towards profitability when a collective management team comprising industry experts with years of experience has failed to do so. Many countries including the UK give certain amounts of power to continue the process by existing management itself. This is evident in the verdict of System Building Services Group Limited [26]where The Chancery Division of the High Court of England and Wales has clarified the duties of directors/ management would be continued independent of, and run parallel to, the duties owed by an administrator or liquidator. The law reinforces the idea that effective governance mandates more than one person to act as a fiduciary to the company's duties as they consider directors to be an important part of protecting and reviving the company.

Further, expecting IRP/RP to carry on the role of the director while suspending the original directors could be impractical. Mere cooperation and assistance from the suspended director to IRP/RP in the managerial and operations decisions may not suffice, especially when the company is on a downgrade point path as was highlighted in the Subasri Realty case. However, there should be clear guidelines for approving significant financial or any other transactions that might impact the firm vividly to avoid any financial fraud.

Further to enhance the current framework, we propose that COC must have an experienced ex-director or managerial person who can bring their years of experience to the table that could prove pivotal in making informed decisions that align with the company's long-term interests. Finally, for Our last recommendation/suggestion, good governance principles must be implemented in corporate governance especially in cases of public companies, to instill transparency, and accountability that can help the shareholders have enough know-how and also create a sustainable business environment that balances the interests of creditors with the idea for corporate renewal.

Impact and Future Recommendations

The implementation of a creditor-centric approach under the Insolvency and Bankruptcy Code, 2016 (IBC), has significantly reshaped the dynamics of debt resolution in India. The prominence of the Committee of Creditors (CoC) in decision-making during the Corporate Insolvency Resolution Process (CIRP) has brought forth a streamlined mechanism. However, the impact of these changes on various stakeholders, particularly minority shareholders and the managerial aspects of distressed companies, requires careful consideration. The anticipated impact of implementing the suggested changes,

1. Balanced Decision-Making: The implementation of balanced stakeholder representation will lead to decisions that consider the interests of both creditors and shareholders, contributing to a fairer corporate governance framework.

2. Empowered Minority Shareholders: Enhanced shareholder participation and voting rights will empower minority shareholders, allowing them to voice their concerns and influence decisions that impact their investments.

3. Effective Industry Insight: Involving experienced ex-directors or managerial experts in the decision-making process will bring practical industry knowledge to the forefront, contributing to more informed and strategic decisions.

[26] *System Building Services Group Limited* [2020] EWHC 54 (Ch) CR-2017-005997

4. Transparent Delisting Process: - A transparent delisting process with a reverse book-building mechanism will provide clarity and fairness, ensuring that shareholders are adequately informed and have an exit option.

5. Guided Management during CIRP: Clearly defined guidelines for resolution professionals managing the company during the CIRP will promote responsible and ethical decision-making, minimizing the risk of financial fraud.

6. Sustainable Business Environment: The incorporation of good governance principles will contribute to the creation of a sustainable business environment, fostering trust among stakeholders and promoting long-term corporate success.

The recommendations outlined above aspire to strike a balance between creditor-centric approaches and the protection of minority shareholders. By addressing the concerns related to the managerial role of RPs and enhancing shareholder rights, the goal is to foster sustainable corporate governance practices in the evolving landscape of insolvency and debt resolution in India. These proposals aim to create an ecosystem that not only prioritizes the interests of creditors but also ensures fairness and inclusivity for all stakeholders involved in the corporate governance framework.

These measures aim to mitigate the identified impacts and contribute to the overall health of the corporate ecosystem in India.

Future Recommendations for Research

At first glance, there are promising areas to be explored that will aid in our understanding of the future landscape of corporate governance and insolvency resolution. The first aspect is a requirement for research into the impact of such proposed regulatory frameworks as SEBI's minority shareholder protection framework. It would be advisable for empirical studies to evaluate the effectiveness of these safeguards on shareholders' representation within the Committee of Creditors (CoC) and their ability to protect their interests.

Extensional studies should examine how resolution professionals (RPs) have adapted their roles over time. Further investigations could explore whether more experienced ex-directors or managers should be included in the CoC to help them make informed decisions during the CIRP – Corporate Insolvency Resolution Process. Also, it is worth studying if in any way continuing with current management alongside RPs is beneficial, particularly where existing teams have proven adept at dealing with distressed businesses.

International comparative research, particularly concerning countries where there are established insolvency regimes like the UK, may provide useful insights. Comparative study might reveal what can be regarded as best practices in terms of balancing creditor rights.

Conclusion

This study has examined various aspects in the rapidly changing field of corporate governance and insolvency resolution, shedding light on the effects of a creditor-driven approach and suggesting ways for a more sustainable platform.

The Insolvency and Bankruptcy Code (IBC) has certainly streamlined debt resolution through the Committee of Creditors (CoC), which is guided by the creditor-centric paradigm. Nonetheless, according to this study, there needs to be a change in stakeholder relations especially with regard to minority shareholders. These recommendations call for their improved representation, voting rights in the CoC, and better exit options that foster inclusive governance structures.

Consequently, suggestions have been made regarding resolution professionals' (RPs) increasing roles such as including experienced ex-directors within the CoC and preserving existing management. These recommendations help bring industry knowledge into decision-making during the Corporate Insolvency Resolution Process (CIRP) leading to more informed decisions and better outcomes.

The goal is that the corporate governance of insolvency and debt settlement can become fairer, more inclusive, and more sustainable by dealing with these frontiers. A well-balanced and dynamic governance model will be necessary in order to foster a resilient and upright corporate ecosystem as stakeholders negotiate the complex interactions between creditors, shareholders, and insolvency practitioners.

UNDERSTANDING THE CURRENT REGIME OF INTELLECTUAL PROPERTY RIGHTS TOWARDS THE INDIGENOUS COMMUNITY: CRITICAL ANALYSIS OF THE WIPO IN ASSURING INCLUSIVE INNOVATIONS

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Abstract

As we strive towards a more equitable and sustainable future for all, it is essential to recognize the value of diverse perspectives and the inclusion of marginalized communities in the development and protection of Intellectual Property Rights (IPR). This not only promotes fairness and justice but also fosters greater innovation and economic growth, benefiting society as a whole. In pursuance of this, the current research paper primarily creates a nexus between the Indigenous community and IPR. The intersectionality between the two will help in highlighting the specific area that needs to be made aware of. Further, the research examines the challenges faced by indigenous communities in protecting and preserving their Traditional Cultural Expressions (TCEs) in the context of contemporary IPR frameworks. TCEs constitute a vital component of Traditional Knowledge, encompassing both tangible and intangible forms of indigenous intellectual expression. Folklores, Folktales, Folksongs and Folkdances representing intangible TCEs such as songs, music, theatre, and stories, hold significant cultural and economic value for indigenous and tribal communities. However, the current IPR framework in India inadequately recognizes and protects these expressions, leaving them vulnerable to commercial exploitation without acknowledgment or financial compensation. Existing IPR laws prioritize the rights of identifiable creators or inventors for a limited duration, thus excluding TCEs from legal protection. Furthermore, various legal and operational barriers hinder equal protection for TCEs under Indian law. Hence, the current research is aimed at questioning the current IPR regime and identifying the causes behind the lacuna present in protecting the IP of minorities.

Keywords: Indigenous Community, Traditional Knowledge (TK), Traditional Cultural Expression (TCE), Intellectual Property Rights (IPR), Tribes, World Intellectual Property organization (WIPO)

Introduction

In the contemporary landscape of business and entrepreneurship, the integration of all classes has emerged as a critical discourse, underscoring the importance of inclusivity in fostering innovation, sustainability, and economic growth. The World Intellectual Property Organization (WIPO) proposes equal participation of all castes and classes for sustainable industrialization of technology and innovation. According to Sustainable Development Goals (SDG 9), inclusivity and equality have a significant role in fulfilling the 2030 target of the United Nations, i.e., boosting the economic growth of nation-states and further increasing the scope of employment. The intersection of IPR and the Backward Community has emerged as a pivotal area of inquiry, encapsulating multifaceted issues ranging from patent ownership to the differential treatment of the cultural property or IP of the backward classes. Intellectual property is a cornerstone for innovation, creativity, and economic development, encompassing patents, copyrights, trademarks, and trade secrets. However, the landscape of IPR is not devoid of such caste-based dynamics, as evidenced by disparities in patent

ownership, challenges in accessing copyright protection, and the underrepresentation of the Indigenous community in STEM-related (Science, Technology, Engineering, and Management) innovation. As the global community aligns efforts with the Sustainable Development Goals (SDGs), particularly Goal 9, which aims to foster industry, innovation, and infrastructure, there is a pressing need to examine gender dynamics within the burgeoning startup culture. This paper delves into the nexus between the traditional knowledge and culture of the indigenous and tribal communities. This research delves into the intricate relationship between IPR and the indigenous community, aiming to unravel this nexus's complexities, barriers, and opportunities. Therefore, the first section of the current study will focus on establishing intersectionality between the IP of the indigenous community and the current IPR regime. This will be followed by emphasizing the concerns and challenges the indigenous communities face to protect their IP. By critically analyzing issues such as patent ownership patterns, copyright challenges, and the broader context of representation in STEM fields, this study sheds light on the intersectional challenges minorities face in navigating the IP landscape. Through exploring policy perspectives and case studies, this research contributes to a deeper understanding of the community-based dimensions of IPR, with implications for academic discourse and policy formulation to foster greater inclusivity and equity in innovation ecosystems.

Intersectionality of Indigenous Community and Intellectual Property Rights

As per Paul et al. (2010)[1], the persisting inequality in India adversely impacts the participation of minorities in Businesses. Consequently, they are not empowered to spread their knowledge and raise awareness about their customs. This creates an incapability amongst majorities to understand the culture, artistic expression, and traditions of the tribal groups and evolve their mindset. This paper highlights the traditional "formal" legal interpretations of IPR, the flexible norms of corporate social responsibility, the evolving landscape of human rights moral claims, and the varying institutional capacities at both the international and domestic levels and still concludes that the disadvantaged sections of the society are being scrutinized harshly based on their community. Another perspective enshrined in this paper is the inadequacy of uniform and standardized IPR laws across all communities. However, it is also pertinent to mention that by providing a standardized IPR legislative structure, the affirmative action present under Article 15 of the Indian Constitution (1950), will have a detrimental effect.[2] The prospect of equity and equality will fade away and it will become problematic in achieving and empowering minorities to overcome barriers and represent themselves in business and innovation. In conclusion, the solution should work towards promoting and integrating genuine equitable treatment of all minorities to represent themselves. This can be achieved through collaborative efforts involving diverse stakeholders in private-sector entities, governmental bodies, and civil society advocates, who can work together to tailor IPR regulatory frameworks.

The content-neutral position of IPR laws is only present at the surface level.[3] The limited scope of opportunities persists clearly if we read between the lines. The historical development of IP creation in the United States mirrors the racial divisions that characterized the nation's founding.[4] Initially, the original U.S. Constitution denied black people the freedoms promised by the Constitution. However, simultaneously, the Constitution provided rights to authors and inventors through the

[1] Pallab Paul and Kausiki Mukhopadhyay, 'Growth via Intellectual Property Rights Versus Gendered Inequity in Emerging Economies: An Ethical Dilemma for International Business' (2010) 91 Journal of Business Ethics 359.
[2] Indian Constitution 1950 (As on May 2022).
[3] 'Trademark Intersectionality by Sonia Katyal :: SSRN' <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1481460> accessed 5 March 2024.
[4] KJ Greene, 'Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues', vol 16 <http://digitalcommons.wcl.american.edu/jgspl>.

Patent/Copyright Clause. It should be noted that racial segregation put black people in a position only to acquire jobs in the services industry. The prospect of positioning themselves in the STEM-related industries was far-fetched and claiming protection of their cultural expression was even more difficult.

If we look into the stance of IPR laws in the USA, black artists have been scrutinized for creating different opportunities in different fields. However, with the removal of apartheid, the treatment of African-American men was comparatively better than African-American women. Here, it should be noted that how blacks, women, and indigenous peoples have been treated within the IP system reflects a regrettable narrative of exploitation, devaluation, and the perpetuation of derogatory stereotypes. These actions have contributed to oppression in the United States and have had similar effects on indigenous peoples both domestically and internationally. For instance, the treatment of women blues artists within the IP system serves as a clear example of the intersectionality of racial and gendered aspects of IP rights.[5] It underscores how IP has played a pivotal role in reinforcing racial subordination, both economically and culturally. However, it's important to note that examining inequality within the IP context is not merely about looking to the past.

Circling back to India, class-based differentiation is manifested in the history of India instead of racial segregation. Although, the effects are the same. In the realm of IPR, the prospect of patenting any idea, putting a copyright on personal work, or even getting a trademark is quite far, considering the backward conditions. With the advancement of new law and technology, the backward classes were given reservation and opportunity to surpass the past injustice, and hence, the Government enforced laws in the form of affirmative actions to protect the rights of the Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). Recent judgments have also been made wherein the Courts have established that there is a creamy layer and that the opportunities and treatment in the form of the reservation will be restricted in catering to the needs of the creamy layer. Hence, the technological advancement and reservation system gave an uprise to the backward classes and put a hold on the class-based distinction.

IPR constitutes exclusive entitlements granted to registered users, authors, or creators for exploiting their inventions or works under various categories of IP law.[6] Furthermore, IPR is acknowledged under Article 27 of the Universal Declaration of Human Rights.[7] The World Intellectual Property Organization (WIPO) underscores three significant reasons for promoting and safeguarding IPR: firstly, to foster the advancement of humanity; secondly, to incentivize innovation through legal safeguards; and thirdly, to stimulate economic development by generating employment opportunities and fostering industrial growth. At the federal level, the primary safeguards for intellectual property consist of copyright, patent, and trademark laws. Copyright law safeguards the artistic works of creators, including musicians, writers, and choreographers, by granting them exclusive rights to their creations for a limited period. Patent law offers legal protection to inventors of practically applicable innovations. Trademark law prohibits third parties' unauthorized use of a recognized trademark, mainly if such use is likely to confuse consumers. As for the discussion in the current research, the following sections will be limited to the recognition of Tribal or Indigenous People in India in the realm of IPR.

Cultural Heritage of Tribal Community as their IP

The term "Indigenous or Tribal People" denotes individuals residing predominantly in forested regions and informal rural sectors, distinguishing them from urban dwellers. These terms are often

[5] ibid.
[6] 'What Is Intellectual Property?' <https://www.wipo.int/about-ip/en/> accessed 7 March 2024.
[7] Universal Declaration of Human Rights 1948.

employed interchangeably with "traditional people," although it is essential to note that traditional people may not necessarily identify as indigenous. "Traditional people" typically refer to individuals inheriting knowledge passed down by societal elders, whereas indigenous people are characterized by possessing knowledge inherent to a particular group or community. This distinction underscores the nuanced relationship between cultural heritage and communal identity within legal and academic discourse.

Culture manifests in various forms, including movable and immovable assets, natural elements, tangible artifacts, and intangible expressions. Tangible heritage encompasses historical monuments, sites, and objects deemed sacred or culturally significant, whether in physical landscapes like mountains and rivers or through constructed structures. These artifacts hold substantial cultural, religious, economic, social, political, artistic, moral, or historical value, being produced, inherited, maintained, transmitted, and possessed by specific societies, groups, or communities. In contrast, Intangible Cultural Heritage (ICH) refers to the unwritten aspects of tangible cultural heritage, embodying the values, beliefs, philosophies, or principles of a particular clan, sect, community, or group. ICH plays a crucial role in preserving cultural diversity.

When it comes to IPR, the term "Work," as delineated in Section 2(y) of the Indian Copyright Act of 1957, encompasses original literary, dramatic, artistic, and musical creations, as well as cinematographic productions and sound recordings. However, within the context of this thesis, the term "work" denotes indigenous peoples' knowledge, whether conveyed through tangible or intangible mediums. This broadened interpretation underscores the incorporation of indigenous wisdom and cultural expression into scholarly discourse, emphasizing the significance of traditional knowledge preservation and recognition within legal frameworks.[8]

IPR represents the legal entitlements granted over tangible creations resulting from human intellect. These tangible creations serve as the material embodiments of ideas, affording creators similar property rights as those held by owners of tangible assets. The underlying principle of IP laws is rooted in the notion that ideas are not subject to property rights, as they are abundant and exist within the public domain. However, when ideas are transformed into tangible forms of expression, they become eligible for protection under IP laws. As long as an idea resides solely within an individual's mind, it remains part of their intellectual property. However, upon communication or expression to others, the idea becomes part of the recipient's intellectual domain, allowing them to utilize and express it in their own manner without diminishing its originality.[9]

In summary, Intellectual Property Rights (IPR) encapsulate the concepts of "intellectual," "property," and "rights." This legal domain safeguards the creative products of the human intellect as the rightful "property" of their creators, granting them the authority to control and exploit their creations. Hence, Traditional Cultural Expressions (TCEs) are regarded as integral components of the socio-cultural identities of indigenous and local communities. As facets of Traditional Knowledge, they encompass the practical know-how and skills associated with specific forms of expression. These expressions are sustained through intergenerational transmission, whereby the fundamental values and beliefs concerning activities such as folk dance, music, theatre, poetry, and religious practices are passed down. TCEs embody the intangible cultural heritage of a nation, enhancing its cultural richness and diversity. Furthermore, they play an indispensable role in a nation's economic, social, cultural, and political advancement, fostering cultural diversity and facilitating the preservation of cultural assets.

[8] William Fisher, 'THEORIES OF INTELLECTUAL PROPERTY' <http://www.law.harvard.edu/Academic_Affairs/coursepages/tfisher/iphistory.html> accessed 7 March 2024.
[9] Nirmal Sengupta (ed), *Economic Studies of Indigenous and Traditional Knowledge* (illustrated, Academic Foundation, 2007 2007).

[10] TCEs, such as expressions of Folklore, are regarded as cultural manifestations or expressions of Traditional Knowledge that form the essence of community life. This is because Traditional Knowledge encompasses both the substance and manner in which knowledge is conveyed by indigenous peoples, reflecting their unique cultural identity.

Protection of Tribes' TCE under the IP Law

There exists a diversity of perspectives regarding the applicability and desirability of utilizing the IP system for safeguarding TCEs. It is imperative to comprehend the nuanced meanings, concepts, and extent of the term "protection" within this context. "Protection" has been broadly construed to encompass preservation and safeguarding measures, which are viewed as alternative methods of safeguarding to address TCE holders' expectations, requirements, claims, and apprehensions. However, "protection" is subject to varied interpretations and may have different connotations. These may include preservation measures aimed at facilitating wider utilization by stakeholders of TCEs, ensuring equitable benefit-sharing, and exerting control to prevent external misuse. "Protection" may manifest in the form of legal and policy frameworks designed to preserve traditional knowledge and oral traditions within communities, thereby facilitating intergenerational transmission. Additionally, "protection" may also adopt a promotional approach, as it is posited that through promotional initiatives, external actors can develop awareness, comprehension, and enhanced respect for the cultural expressions of the relevant community.

The concept of "protection" is subject to two divergent perspectives. Firstly, there is the view that the traditional Intellectual Property (IP) system is unsuitable and ineffective, characterized as a form of "defensive protection" aimed at countering offensive use. Secondly, some contend that existing IP laws offer a feasible solution for safeguarding TCEs. Advocates of this perspective argue that a thorough examination of the potential of Intellectual Property Rights (IPR) laws could lead to the extension of protection to TCEs within the contemporary IP framework, referred to as "positive protection."[11]

Developing nations have predominantly favored defensive protection strategies to safeguard their traditional knowledge and cultural expressions against monopolization and commercial exploitation. This preference stems from the perception that prevailing Intellectual Property Rights (IPR) laws often provide unchecked support to unauthorized entities, offering them advantages while neglecting to afford indigenous communities recognition as rightful owners or beneficiaries of their knowledge. Conversely, proponents of positive protection assert the feasibility of TCE holders obtaining protection within the existing IP framework. Under this perspective, holders may seek IPR to effectively leverage their knowledge, aligning with the notion of balanced interest inherent in the current IP system. This approach is believed to contribute to both the economic development of communities and nations and the preservation of cultural heritage.[12]

Challenges faced by Tribal People in the protection of IP

The concern for the protection of TCEs or folklores has gained importance as they are an important source of income generation for the holder community and are the basis for creations and innovations for any nation and, thus, play a vital role in its economic growth and development. The current

[10] Palosaari Naomi, 'INTELLECTUAL PROPERTY RIGHTS AND INFORMED CONSENT IN AMERICAN INDIAN COMMUNITIES' (2016) 41 American Indian Law Review 125 <https://www.jstor.org/stable/26492256> accessed 7 March 2024.

[11] Yahaya Ahmad, 'The Scope and Definitions of Heritage: From Tangible to Intangible' (2006) 12 International Journal of Heritage Studies 292 <https//doi.org/10.1080/13527250600604639> accessed 7 March 2024.

[12] World Intellectual Property Organization, 'Consolidated Analysis of the Legal Protection of Traditional Cultural Expressions' [2003] Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Fifth Session <https://books.google.com/books/about/Consolidated_Analysis_of_the_Legal_Prote.html?id=Rv2hDwAAQBAJ> accessed 7 March 2024.

situation regarding the exploitation of indigenous peoples' folklore can be attributed to several key factors, including ecological and developmental challenges, digitalization, globalization, and deficiencies in legal frameworks. Primarily, these issues manifest in the unauthorized adaptation, reproduction, and commercialization of TCEs, resulting in their degradation, insult, and offensive use. This unauthorized exploitation jeopardizes the original integrity and identity of TCEs, leading to their erosion and eventual oblivion. Additionally, the lack of equitable economic benefit-sharing exacerbates economic, social, and moral hardships faced by indigenous communities, impeding their ability to protect, preserve, and promote their cultural heritage.

In the perception of the Western world and individuals outside indigenous communities, including academicians, researchers, artists, musicians, designers, dancers, and entrepreneurs, TCEs are commonly regarded as part of the public domain. There exists a prevailing presumption among the general public that they possess the right to appropriate, utilize, and freely access knowledge pertaining to indigenous folklore. This presumption stems from the inherent difficulty in deciphering the origins of cultural knowledge, given its antiquity and lack of definitive claimants or authors. Consequently, TCEs are susceptible to exploitation by individuals, both consciously and subconsciously, as they are perceived to be devoid of exclusive ownership or authorship.[13]

Another concern faced by Tribes is that the current IPR framework predominantly focuses on safeguarding the economic and moral rights of individual creators, commonly referred to as "the author." However, when considering TCEs, the recognition of the community's rights to its cultural heritage aligns more closely with the concept of collective or group rights which will further create problem in profit sharing.

Another concern is intra-tribal exploitation, which presents practical challenges in safeguarding TCEs. An illustrative example of this challenge is the widespread exploitation and commercialization of designs found in shawls and vests, originating from various tribal communities across different regions. These handcrafted products rely heavily on the craftsmanship and skill of artisans who acquire expertise through learning and practice. However, the absence of regulatory frameworks governing such conduct has led to unfettered competition among and between tribal groups, exacerbating the exploitation of TCEs within their own communities.

Lastly, it should be noted that TCEs are believed to have originated from the creative endeavors of individual ancestors, subsequently nurtured and advanced by members of the community over time. This collective effort, characterized by processes of recreation, repetition, and continual variation, renders TCEs a product of the community as a whole. The gradual evolution of TCEs presents significant challenges in determining the precise origins of specific elements, thereby complicating efforts to establish eligibility criteria for protection within the existing Intellectual Property Rights (IPR) framework. Consequently, attempting to apply the current IPR system to protect TCEs may overlook their fundamental characteristics, particularly their dynamic and evolving nature. The inherent complexity of TCEs, which evolve gradually and organically, renders them incompatible with the notion of fixed time limits typically associated with traditional forms of intellectual property protection.

Conclusion and Suggestions as a way forward

Although our cultural heritage is acknowledged within the framework of the Indian Constitution, and efforts have been made to address scientific and technical traditional knowledge related to various

[13] ANDRÉ BÉTEILLE, 'The Concept of Tribe with Special Reference to India on JSTOR' (*European Journal of Sociology*, 1986) 297 <https://www.jstor.org/stable/23999264> accessed 7 March 2024.

domains such as agriculture, medicine, biodiversity, and arts and crafts at regional, national, and international levels under the current IPR regime or through sui generis systems, the issue of protecting folk culture and TCEs from misappropriation remains unresolved. This is primarily due to the absence of legislative measures or specialized laws recognizing the rights of indigenous communities in the exploitation of their cultural knowledge and prohibiting the unauthorized use of folklore. As a result, exploitation of folk culture persists in various forms, underscoring the need for comprehensive legal frameworks to address this issue.

Hence, without modification to accommodate the claims and requirements of community holders, considering indigenous knowledge as intellectual property may be misleading. According to the current IPR framework, ideas are not subject to property rights unless they are expressed in a tangible form. As such, no individual can assert exclusive ownership over intellectual knowledge, as it originates from the intellect—an intangible entity. Ideas, being ethereal, exist within the individual's mind until expressed, at which point they may be eligible for protection under copyright law. Expressing ideas encompasses various forms of presentation, performance, communication, and publication to the public.

A sui generis system that aligns with the fundamental rights of indigenous peoples is essential for safeguarding creations derived from intangible traditional cultural expressions. This system should prioritize community ownership, ensuring perpetual rights and equitable distribution of profits and financial gains derived from their commercial use.

It is further suggested that IPR, particularly Copyright Law, is rooted in Western developed markets and concepts of creation, invention, and ownership. Despite their origins, these laws have served as the primary means of protection for artistic, literary, and scientific works worldwide. As such, the current legal framework is perceived as both a potent legal shield and sword for indigenous peoples in safeguarding TCEs amidst the rapidly evolving technological landscape. However, to address concerns within this framework, three key changes to international copyright law are proposed: the inclusion of concepts such as 'collective and communal ownership,' an expanded originality requirement to accommodate diverse forms of authorship, and the establishment of 'perpetual protection' within a broader community context.

In conclusion, to effectively protect and preserve TCEs at the national level, it is imperative to identify and document existing TCEs. This can be achieved through the establishment of "Traditional Cultural Committees" dedicated to the task of identifying, documenting, and archiving folklores across the nation. These committees would be empowered to penalize unauthorized exploitation of TCEs. Therefore, to realize an optimal scenario, the implementation of new rules for IP protection or a sui generis system is essential.

PRESERVING HERITAGE: EXPLORING LEGAL CHALLENGES IN TRADITIONAL KNOWLEDGE UNDER THE BIOLOGICAL DIVERSITY ACT

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Abstract

Traditional knowledge is the wisdom passed down through generations. It's closely tied to preserving nature and its diversity. Several global efforts have been made to safeguard traditional knowledge, notably through initiatives such as the Convention on Biological Diversity and the recently finalized Nagoya Protocol. As far as India is concerned we have The Biological Diversity Act, 2002 which aims at conserving biological resources and promoting equitable benefit-sharing, intersects with traditional knowledge in myriad ways. However, this intersection poses various legal concerns, ranging from intellectual property rights to cultural appropriation and indigenous rights. This paper examines these legal concerns, analyzing the complexities of integrating traditional knowledge within the framework of the Biological Diversity Act. It elucidates the challenges and opportunities in navigating this intricate legal landscape. Ultimately, it advocates for a holistic approach that respects indigenous rights, fosters sustainable resource management, and promotes equitable benefit-sharing, ensuring the preservation and recognition of traditional knowledge within the legal framework of biodiversity conservation.

Keywords: Traditional Knowledge; Biodiversity; Intellectual Property; Equitable Benefit.

Introduction

Traditional Knowledge is the storehouse of ancient know-how, cultural practices, and innovations which have developed and evolved gradually; spanning several generations and thousands of years. Indigenous and local communities have developed Traditional Knowledge through intensive study of ecology, nature, and the functions of ecosystems; establishing concepts, methodologies, and tools that still find relevance to the modern world and scientifically established principles.

The extent of Traditional Knowledge touches multiple and diverse fields of everyday life; including medicine, agriculture, art, literature, dance forms, music, traditional crafts, genetic resources, environment, biodiversity, and architectural practices. Despite the meaning associated with the term traditional, pointing at a connection with the past; Traditional Knowledge is not an outdated or stagnant body of knowledge. It is dynamic, continually evolving, and increasingly being used in various facets of modern life.[1]

There have been many attempts to define Traditional Knowledge and World Intellectual Property Organization (WIPO) has taken the lead in constituting an Inter-Governmental Committee on Traditional Knowledge associated with Genetic Resources. Through the negotiations, the definition which emerged (in the "Draft- Gap Analysis" by the WIPO) was "*intellectual and intangible cultural heritage, practices and knowledge systems of traditional communities including indigenous and local*

[1] https://www.researchgate.net/publication/268632393_Protecting_Traditional_Knowledge_Can_Intellectual_Pro perty_Rights_help

communities". Hence Traditional Knowledge includes the content of knowledge itself as well as Traditional Cultural Expressions ("TCEs").

International Legal Perspective

Following the discussions surrounding Traditional Knowledge, one finds that the first instance of establishing a relationship between Traditional Knowledge and Biodiversity took place in 1992 at Earth Summit being held in Rio. In fact, Principle 22 of the Rio Declaration is very clear that *"Indigenous Communities have a vital role to play in the preservation of biodiversity because of their knowledge and traditional practices, and that States should recognize and duly support their identity, culture and interests and enable their effective participation in achievement of sustainable development."* It is quite conspicuous that the wording of this Principle does not use the term "Traditional Knowledge". Also, these negotiations were not part of the Uruguay Negotiations which finally lead to the TRIPS Agreement. However, post the TRIPS Agreement these issues became part of the discussions on the Committee on Trade and Environment. In fact, in early 1995, the WTO came up with certain documents which attempted to show the possible relationship between TRIPS and CBD, and it stated that the Committee on Trade and Environment consider the work programme envisaged in the decision on trades and services, and environment, and relevant provisions of the TRIPS Agreement as an integral part of its work. However, discussions moved from the Trade and Environment Committee to the TRIPS council by the way of Article 27.3(b) Review. This Review would require the WTO member countries to consider how they have effectively implemented certain provisions relating to biodiversity and patents within their national laws. It was in this context that discussions or rather conflicts between TRIPS and CBD were discussed. Convention on Biodiversity has three main goals – conservation of biodiversity, sustainable use of its components and fair and equitable distribution of benefits arising out of genetic resources. At the core of the relationship between Patents and Biodiversity, two key components emerge – Prior and Informed Consent, and Access and Benefit Sharing. "Prior and Informed Consent" means that proper consent must be taken from authorities before accessing the resource. Access and Benefit sharing means that the benefits which accrue out of the commercialization of Biodiversity must flow through the identifiable communities or through the State. CBD also discusses the Access to and Transfer of Technology, including biotechnology to the governments and/or communities which provided the traditional knowledge and/or the biodiversity resources. These are not directly pertaining to Access and Benefit sharing in terms of monetary gains but may involve transfer of technology requirements also. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable distribution of Benefits Arising from their Utilization to the CBD talks about establishing more predictable conditions to access genetic resources, and helping to ensure benefit sharing when the resources leave the contracting parties which provided the genetic resources.

Indian Legal Framework

In India we have many legislations dealing with the conservation of biological diversity directly or indirectly but the primary among them are The Biological Diversity Act, 2002 and Biological Diversity Rules, 2004.

The Biological Diversity Act, 2002

This Act provides for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

The Act defines "Biological resources" as, 'plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual and potential use or

value, but does not include genetic material'.[2] The Act has used some other terms which are vital to the conservation of biological diversity. The term "benefit claimers" means the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application.[3]

The act envisaged a three-tier structure to regulate the access to biological resources:

- **The National Biodiversity Authority** (NBA)
- **The State Biodiversity Boards** (SBBs)
- **The Biodiversity Management Committees** (BMCs) (at local level)

National Biodiversity Authority

The Act provides for the establishment of National Biodiversity Authority by the Central Government[4] to advice the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilisation of biological resources.[5] Also, NBA may advise the state Governments in the selection of areas of biodiversity importance to be notified as heritage sites and measures for the managed of such heritage sites.[6]

The National Biodiversity Authority may, on behalf of the Central Government, take any measure necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.[7]

State Biodiversity Board

Section 22 of the Act provides for the establishment of a State Biodiversity Board in each of the states by the respective state governments by notification in the official Gazette[8]. At the state level the Boards is to advise the state Government, subject to any guidelines issued by the Central Government, on matters related to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization biological resources[9]. The Board is also to regulate by granting of approvals or otherwise, requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indians. The Board is to perform such other functions as may be necessary to carry out the provisions of the Act or as may be prescribed by the state Government[10].

Biodiversity Management Committees

Every local body[11] is to constitute a Biodiversity Management Committee (BMCs) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivators, domesticated stocks and breeds of animals and micro-organisms and chronicling of knowledge relating

[2] Id. Section 2(c)
[3] Id. Section 2(a)
[4] Id. Section 8(1)
[5] Id. Section 18(3)(a)
[6] Id. Section 18(3)(b)
[7] Id. Section 18(4)
[8] In Union Territories the National Biodiversity Authority is to exercise the powers of a state Biodiversity Board which powers can be delegated by the National Authority upon such person/s as the Central Government may specify, see section 22(2) read with section 16 of the Act.
[9] The Biological Diversity Act, 2002 section 23(a).
[10] Id. section 23(b) and (c).
[11] Id. Section 2(h) defines local bodies as Panchayats and Municipalities by whatever name called, within the meaning of clause (1) of Article 243 B and clause (1) of Article 243 Q of the constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the constitution or any Central or state Act.

to biological diversity[12]. A BMC is to consist of a chair person and not more than six persons of whom not less than 1/3 shall be women and not less than 18% shall be from Scheduled Castes/ Scheduled Tribes. The local MLA/MLC and Member Parliament can be special invitees to the meetings of committee.[13]

The main function of the BMC is to prepare People's Biodiversity Register in consultation with local people which shall contain comprehensive information on availability of local biological resources, the knowledge associated with such resources, their medicinal value or any other use or any other traditional knowledge associated with them.[14] The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.[15] The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.[16]

Regulation of Access to Biological Diversity

NBA has been provided with a power to regulate the access to biological diversity. No person without previous approval of the NBA, shall obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.[17]

The persons who shall be required to take the approval of the NBA are the following namely:[18]

(a) a person who is not a citizen of India;

(b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961 (43 of 1961);

(c) a body corporate, association or organisation—

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

Likewise the Act prohibits, without the approval of the National Biodiversity Authority, the transfer of the results of any research relating to any biological resource occurring in, or obtained from India for monetary consideration or otherwise to the aforesaid persons.[19] However, transfer does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government. The scheme of prior approval does not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions including Government sponsored institutions of India, and such institutions in other countries provided that the collaborative research projects conform to the policy guidelines issued by the Central Government and are approved by the said Government.[20] Again no person can, without obtaining prior approval of the National Biodiversity Authority, apply

[12] Id. Section 41.
[13] The Biological Diversity Rules, 2004 Rule 22.
[14] Ibid. Rule 22(11).
[15] Ibid. Rule 22(7).
[16] The Biological Diversity Act, 2002, Section 41(3).
[17] Ibid. Section 3(1).
[18] Ibid. Section 3(2).
[19] Ibid. Section 4(1).
[20] Ibid. Section 5.

for any intellectual property right in or outside India for any invention based on research or information on a biological resource obtained from India. The Act also prohibits transfer of biological resource or ledge associated thereto by approved persons without the prior permission from the National Biodiversity Authority.[21]

Act also provides that no person, who is a citizen of India or a body corporate, association or organization which is registered in India, shall obtain any biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization except after giving prior intimation to the State Biodiversity Board concerned: Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaids and hakims, who have been practicing indigenous medicine.[22]

Equitable Benefit Sharing

The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.[23] The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely[24]:—

(a) Grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) Transfer of technology;

(c) Location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) Association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;

(e) Setting up of venture capital fund for aiding the cause of benefit claimers;

(f) Payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund: Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.[25]

[21] Ibid. Section 6(1).
[22] Ibid. Section 7.
[23] Ibid. Section 21(1).
[24] Ibid. Section 21(2).
[25] Ibid. Section 21(3).

The authority, however has been conferred with power to frame guidelines in order to implement the benefit sharing in tune with the above lines.[26]

Power to Restrict or Prohibit the Request for Access to Biological Resources

The Authority (NBA), if it deems necessary and appropriate, shall take the steps to restrict or prohibit the request for access to biological resources for the following reasons[27]:

1. The request for access is for any endangered taxa;

2. The request for access is for any endemic and rare species;

3. The request for access may likely result in adverse effect on the livelihoods of the local people;

4. The request for access may result in adverse environmental impact which may be difficult to control and mitigate;

5. The request for access may cause genetic erosion or affect the echo system function;

6. Use of resources for purposes contrary to national interest and other related international agreements entered into by India.

The State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as it conservation, may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity: Provided that no such order shall be made without giving an opportunity of being heard to the person affected[28].

Funds

The Act provides for constitution of biodiversity fund at all three levels i.e. National[29], State[30] and Local Level[31]. The National Biodiversity Fund shall be applied for[32]— (a) channelling benefits to the benefit claimers; (b) conservation and promotion of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed; (c) socio-economic development of areas referred above in consultation with the local bodies concerned. The State Biodiversity Fund shall be applied for[33]— (a) the management and conservation of heritage sites; (b) compensating or rehabilitating any section of the people economically affected by notification under sub-section (1) of section 37; (c) conservation and promotion of biological resources; (d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed, in consultation with the local bodies concerned; (e) meeting the expenses incurred for the purposes authorised by this Act. The Local Biodiversity Fund shall be used[34] for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity. Also, the purpose, management and custody of these funds will be in manner as may be prescribed by the State Government.

[26] Ibid. Section 21(4).
[27] The Biological Diversity Rules, 2004 Rule 16.
[28] The Biological Diversity Act, 2002 Section 24(2).
[29] Ibid. Section 27(1).
[30] Ibid. Section 32(1).
[31] Ibid. Section 43(1).
[32] Ibid. Section 27(2).
[33] Ibid. Section 32(2).
[34] Ibid. Section 44.

Penalties

Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.[35]

Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.[36]

Also, if any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees every day during which the default continues.[37]

Legal Concerns Relating to Biodiversity Law in India

- The Act does not seem to have an overriding effect on the existing laws on wildlife, forests and aquatic species, and it is not clear which law will prevail in case of a dispute. Hence, an overriding effect should be given on existing laws relating to the preservation and conservation of floral and faunal species. The provision should make it clear that in case of dispute of application of the laws or any kind of contradiction, the relevant provision(s) of Biological Diversity Act, 2002 should be followed.
- **Introduction of definition of the term 'Traditional Knowledge' in section 2 of the Act i.e. the Definition Clause** The World Intellectual Property Organization (WIPO) defines the term 'Traditional Knowledge'[38] stating inter alia that the content or substance of knowledge that is the result of intellectual activity and insight in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems, and knowledge that is embodied in the traditional lifestyle of a community or people, or is contained in codified knowledge systems passed between generations. It is not limited to any specific technical field and may include agricultural, environmental and medicinal knowledge and knowledge associated with genetic resources.
- A major flaw is that this act does not give sufficient consideration to conservation; rather it lays more emphasis on preventing profit-sharing from the commercial use of the biological resources. It is true that the foundation of this act was laid to prevent bio-piracy by the developed nations. However, one cannot forget another major aim of this Act i.e. to protect the biodiversity.
- The Act assumes that resident citizens of India and corporations of India are never a threat to biodiversity. The main objective of the act is conservation of biodiversity and the legislators should bear in mind that even the Indian citizen residents and Indian corporations can be exploitative.

[35] Ibid. Section 55(1).
[36] Ibid. Section 55(2).
[37] Ibid. Section 56.
[38] Jonathan Curci, The Protection of Biodiversity and Traditional Knowledge in International Law of Intellectual Property, Cambridge University Press, UK, 2010, p. 9.

- State biodiversity authorities formed under the act do not have complete autonomy and their powers are merely restricted to that of an advisory body abiding by the guidelines issued by the Central Government. Thus we can say that the Act is somewhat in contrary to the concept of federalism. State governments should be granted more autonomy in a bottom up approach to solve problems related to biodiversity. Concerned state governments should also be consulted to notify threatened species and biodiversity heritage sites along with BMCs.

- **Role of Local Communities-** An analysis of the provisions reveals that local concerned communities do not have any real power in the decision making process. Regulation of access is done by NBA and SBB and not the local communities. The NBA may consult the communities to work out benefit sharing mechanisms after the decision to allow access is made.[39] The communities have no say in deciding whether or not the access should be allowed in the first place. They are not well informed as to their rights and have very less knowledge of the system of IPRs or commercial use of the traditional knowledge, and this highly centralized approach is not be of great benefit.

- It is important to note that an ordinary citizen cannot directly approach the court. An aggrieved benefit-claimer is required to give prior notice of his/her intention to make a complaint. Else he has to file a complaint to the NBA, which will then take necessary action. The absence of *locus standi* to all citizens is of grave concern. Since local communities are aware of the manner in which bio resources from their village are being used and would notice any unwanted outside influence over resource extraction or external parties interested in resource extraction, their vigilance would help in preventing bio piracy, as would the other civil society organizations and individuals. Having to go through government institutions would only delay their ability to get any remedy.[40]

- Prior Informed Consent in the Biodiversity Act- There are number of issues relating to the provisions of 'consultation' with local communities. Firstly the term consultation does not mean consent and is therefore much weaker that the requirement of "consent of local body". The term is often ambiguously used to mean only talking to a few villagers, or to a head of a village, or corporate in an urban setting. Genuine consultation must involve the entire relevant community or settlement in languages and modes that they are comfortable with. Making people fully aware of the pros and cons of their granting consent is an important precondition for their truly excising the option to say "yes" or "no".[41] Unfortunately the Act and Central Rules leave the interpretation of the word wide open and therefore do not facilitate complete participation of local communities.

- Benefit sharing- India is trying to develop and implement laws and policies on access benefit sharing. However, there have been several challenges which are emerging during the process:

1. There is no clear distinction made between 'genetic resources' and 'biological resources' in the legislation. Hence, the collection, sale, or purchase of a single biological specimen constitutes access to genetic resources.[42] This seems contrary to entire motive of the act. Hence, easy exploitation of the natural resources.

2. The law does not specifically address the question of ownership over genetic resources since tracking genetic resources and ensuring legal compliance by the users of genetic resources is

[39] Rule 20 of the Bio Diversity Rules ,2004
[40] A Guide to the Biological Diversity Act 2002 by Kalpavriksh.
[41] Workshop on free, prior and informed consent (17th -19th January 2005) by the United Nations.
[42] On the mountains " Access and Benefit Sharing from Genetic Resources", www.icimod.org

difficult. Furthermore these genetic resources are accessed by different bio prospectors (collectors, researchers, and others) and various other international companies for different purposes. The ABS law does not differentiate between these uses.

3. Furthermore in India, only a few bio prospecting proposals have been submitted and approved. Details of negotiation procedures are not yet available, and, hence, the effectiveness of the Act in practice has yet to be seen.[43] This poses more challenges for the implementation of the given biodiversity law.

- The mandate of at least 18% representation to Scheduled Castes/ Scheduled Tribes in BMCs may be a difficult task in some areas of Kashmir Valley where members of such communities do not reside. It may be taken as an intrusion by the locals of an area if members of such communities from other area are nominated by the local body in the BMC. Rule 22 (2) of the Biological Diversity Rules, 2004 will have to address the issue of providing a substitute to the above agreement for areas where people from Scheduled Castes/ Scheduled Tribes are not residing.[44]
- Section 57 of the Act imposes liability upon the persons of the companies for the offences committed by the companies. But there is no specific provision for imposing liability for the offences committed by the Research Institutes even though there is every probability to transfer biological resources to foreign institutes as well as the foreign enterprises by the Indian Research Institute(s) or the persons involved therein. This section should be amended to impose liability upon the persons of the Research Institutes for the offences committed by the Research Institutes. A mechanism should be adopted to monitor the research work of the country which relates to biological diversity.

Conclusion

Traditional knowledge represents a wealth of wisdom accumulated over generations, encompassing diverse fields such as medicine, agriculture, and cultural practices. Efforts to protect traditional knowledge have been made globally through initiatives like the Convention on Biological Diversity and the Nagoya Protocol. In India, the Biological Diversity Act of 2002 aims to conserve biodiversity and ensure equitable benefit-sharing. However, legal concerns arise at the intersection of traditional knowledge and biodiversity laws, including issues of intellectual property rights and equitable benefit-sharing. The Act establishes a framework for regulation and benefit-sharing through institutions like the National Biodiversity Authority and State Biodiversity Boards. Despite its provisions, challenges remain, such as the lack of clarity on overriding existing wildlife and forest laws, and the need for stronger community participation and consent mechanisms. Additionally, the Act's focus on preventing biopiracy must be balanced with conservation goals. Addressing these concerns requires a holistic approach that ensures the protection of traditional knowledge, equitable benefit-sharing, and sustainable biodiversity conservation.

[43] Ibid.
[44] See Dar, M. Ayub, "Biological Diversity in Jammu and Kashmir: Legal Conservation and Concerns" Religion and Law Review- Vol. XVIII-XIV 2009-2010 at page no. 109.

THE ROLE OF INTELLECTUAL PROPERTY RIGHTS IN PROMOTING ACCESS TO ESSENTIAL MEDICINES IN DEVELOPING COUNTRIES

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Abstract

One of the biggest threats to world health is still obtaining crucial medications, especially in underdeveloped nations where millions of people lack access to life-saving care. An issue of great interest and discussion is how intellectual property rights (IPRs) affect access to necessary medications in certain situations. In order to better understand the ways in which intellectual property rights (IPRs) can both help and impede access to necessary medications in developing nations, this study will examine the complex link between IPRs and access. This study investigates the effects of trade agreements, patent laws, and pharmaceutical pricing strategies on the availability of important medications in poor nations. It does this by drawing on an extensive analysis of prior research, policy papers, and case studies. The study assesses how well TRIPS flexibilities—like parallel importation and compulsory licensing—are used to get around patent obstacles and increase access to reasonably priced medications. The study also looks into how international initiatives, public health policies, and generic competition might support fair access to necessary medications while balancing the need to reward pharmaceutical innovation.

By employing a blend of qualitative and quantitative techniques, such as policy appraisal, legal scrutiny, and stakeholder interviews, this study seeks to offer significant perspectives on the intricate relationships between intellectual property rights and the availability of critical medications in developing nations. The results of this study will help shape evidence-based policy recommendations targeted at advancing health equity, encouraging pharmaceutical innovation, and guaranteeing access to necessary medications for everyone, regardless of socioeconomic status or location, by highlighting opportunities and obstacles for enhancing access.

Keywords Intellectual Property Rights (IPRs), Access to Medications, Developing Nations, Trade Agreements, Patent Laws, Pharmaceutical Pricing, TRIPS Flexibilities

Introduction

One of the most important components of global public health is having access to necessary medicines, yet many people still struggle with this, especially those who live in underdeveloped nations. The World Health Organization (WHO) defines essential medicines as drugs that treat the population's top health requirements and should always be accessible in sufficient quantities, with the right dose forms, and at a reasonable cost. But the confluence of pharmaceutical innovation and intellectual property rights has produced complicated dynamics that can either make it easier or harder to get these life-saving therapies, particularly in environments with limited resources. Pharmaceutical product patent protection has been largely governed by the international intellectual property framework in recent decades, which has been significantly molded by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). While giving artists and innovators exclusive rights is the goal of intellectual property rights, when it comes to necessary medications, it can also obstruct access. This is especially true in developing nations, where the exorbitant expense of patented pharmaceuticals sometimes makes them inaccessible for significant portions of the populace, aggravating health disparities and impeding attempts to tackle common ailments. The ability to obtain essential medicines at affordable prices for individuals in low-income countries is influenced by various

factors, such as knowledge and comprehension of both domestic and international intellectual property law, market intelligence regarding medicine pricing and supply, and the ability to forecast demand. Global coordination among governmental and nongovernmental agencies is also a factor. Other factors include opportunities for local medicine production in low- and middle-income countries, the capabilities of health systems and budgets, and regulatory capability. But the application of exemptions and modifications, referred to as "flexibilities," in the TRIPS Agreement is far more important in promoting the regional and worldwide accessibility of vital medications.

The aim of this research is to look into the complex relationship that exists between intellectual property rights and the accessibility of necessary medications in developing nations. This study attempts to clarify the mechanisms via which intellectual property regimes determine access dynamics in pharmaceutical markets by looking at the effects of patent laws, investigating the application of TRIPS flexibilities, and assessing the significance of generic competition. To find policy interventions that can support fair access to necessary medications while encouraging pharmaceutical innovation and development, ethical issues pertaining to medicine access, capacity-building programs, and sustainable financing models will also be closely examined.

Objectives

- To examine the impact of patent laws in promoting access to essential medicines.
- To analyze the utilization of TRIPS flexibilities.

Review of Literature:

Klug, H., (2008)[1] To advance the struggle for access to essential medicines, it is necessary to identify the global and local regimes that shape the rules that give impetus to particular policy options, while undermining others. In exploring the role of law and politics in this process, the author first outlines the globalization of a standardized, corporate-inspired, intellectual property regime. **Flynn S., (2009)**[2] Not all intellectual property rights grant the right to exclude that is indicative of "property rules," as that term was used by Guido Calabresi and A. Douglas Melamed in their seminal article. Some intellectual property rights are "liability rules," in which the right holder has an entitlement to compensation for use of the protected invention, not a right to preclude the use. **Hilde Stevens., (2017)**[3] Access to essential medicines is problematic for one third of all persons worldwide. The price of many medicines (i.e., drugs, vaccines, and diagnostics) is unaffordable to the majority of the population in need, especially in least-developed countries, but also increasingly in middle-income countries. Several innovative approaches, based on partnerships, intellectual property, and pricing, are used to stimulate innovation, promote healthcare delivery, and reduce global health disparities. **Motari, M., (2021)**[4] It is now 25 years since the adoption of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the same concerns raised during its negotiations such as high prices of medicines, market exclusivity and delayed market entry for generics remain relevant as highlighted recently by the Ebola and COVID-19 pandemics. The World Health Organization's (WHO) mandate to work on the interface between intellectual property, innovation and access to medicine has been continually reinforced and extended to include providing support to countries on the implementation of TRIPS

[1] Klug, H. (2008). Law, Politics, and Access to Essential Medicines in Developing Countries. Politics & Society, 36(2), 207-245. https://doi.org/10.1177/0032329208316568

[2] Flynn S, Hollis A, Palmedo M. An Economic Justification for Open Access to Essential Medicine Patents in Developing Countries. *Journal of Law, Medicine & Ethics*. 2009;37(2):184-208. doi:10.1111/j.1748-720X.2009.00365.x

[3] Hilde Stevens., Front. Med., 07 December 2017, Sec. Regulatory Science, Volume 4 - 2017 | https://doi.org/10.3389/fmed.2017.00218

[4] Motari, M., Nikiema, JB., Kasilo, O.M.J. *et al.* The role of intellectual property rights on access to medicines in the WHO African region: 25 years after the TRIPS agreement. *BMC Public Health* 21, 490 (2021). https://doi.org/10.1186/s12889-021-10374-y

flexibilities in collaboration with stakeholders. **Mermelstein S, (2021)**[5] Governed through the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) since 1995, the current medical R&D system requires significant trade-offs between innovation and high monopoly prices for patented drugs that restrict patient access to medicines. Since its implementation, few amendments have been made to the original TRIPS agreement to allow low- and middle-income countries (LMICs) to facilitate access by generic manufacturers through flexible provisions, such as compulsory licensing and parallel import. **Babar, ZUD., (2013)**[6] Medicines are a vital component of healthcare, and Pakistan spends around three-quarters of its healthcare budget on medicines (WHO, 2004). This chapter provides an overview, from a public health perspective, of the national pharmaceutical market and the development of drug policies and regulation. Pakistan adopted a Trade Related Aspects of Intellectual Property Rights (TRIPS)- compliant patent regime in 2000, and the intersection between patents and public health is a central policy challenge. This chapter highlights key issues related to intellectual property, Free Trade Agreements (FTAs), and production and access to medicines. **Richard E. Ashcroft, (2002)**[7] Recent economic and political advances in developing countries on the African continent and SouthEast Asia are threatened by the rising death and morbidity rates of HIV/AIDS. In the first part of this paper we explain the reasons for the absence of affordable access to essential AIDS medication. In the second part we take a closer look at some of the pivotal frameworks relevant for this situation and undertake an ethical analysis of these frameworks.

Intellectual Property Rights in Detail

The rights that people have over their creative works, including inventions, literary and artistic compositions, and names, symbols, and pictures used in trade, are known as intellectual property rights, or IPR. For a set amount of time, they often grant the inventor the sole right to use his or her creation. Article 27 of the Universal Declaration of Human Rights outlines these rights, including the right to the preservation of pecuniary and moral interests stemming from one's authorship of works of science, literature, or the arts.The Berne Convention for the Protection of Literary and Artistic Works (1886) and the Paris Convention for the Protection of Industrial Property (1883) were the first agreements to acknowledge the value of intellectual property. Both treaties are administered by the World Intellectual Property Organization (WIPO). IPR is helpful and necessary in many ways such as,

Promotes innovation: The provision of legal protection for novel ideas stimulates the allocation of more funds to support ongoing research and development.

Economic growth: Encouraging and safeguarding intellectual property leads to new sectors and jobs, as well as improvements in life quality and enjoyment.

Protect the rights of creators: By giving them specific, time-limited rights to manage how their manufactured things are used, intellectual property rights (IPR) are necessary to protect creators and other producers of their intellectual commodities, goods, and services. It guarantees ease of doing business and encourages creativity and innovation.

Types of IPR

[5] Mermelstein S, Stevens H. TRIPS to Where? A Narrative Review of the Empirical Literature on Intellectual Property Licensing Models to Promote Global Diffusion of Essential Medicines. *Pharmaceutics*. 2022; 14(1):48. https://doi.org/10.3390/pharmaceutics14010048

[6] Babar, ZUD., Jamshed, S.Q., Malik, M.A., Löfgren, H., Gilani, AH. (2013). The Pharmaceutical Industry, Intellectual Property Rights and Access to Medicines in Pakistan. In: Löfgren, H., Williams, O.D. (eds) The New Political Economy of Pharmaceuticals. International Political Economy Series. Palgrave Macmillan, London. https://doi.org/10.1057/9781137315854_9

[7] Udo Schüklenk, Richard E. Ashcroft, Affordable Access to Essential Medication in Developing Countries: Conflicts Between Ethical and Economic Imperatives, *The Journal of Medicine and Philosophy: A Forum for Bioethics and Philosophy of Medicine*, Volume 27, Issue 2, 2002, Pages 179–195, https://doi.org/10.1076/jmep.27.2.179.2989

Intellectual property rights fall into four categories: trade secrets, copyrights, trademarks, and patents. To safeguard the same intangible assets, intellectual property owners usually employ multiple intellectual property laws. For example, a product's name is protected by trademark law, but its slogan is protected by copyright law.

- Patents:

Original inventions, including equipment and processes, are granted property rights by the U.S. Patent and Trademark Office. Patent law grants one or more inventors exclusive rights while preventing others from using their creations. As seen by the patent on the first computer, technology businesses frequently employ patents to safeguard their investment in developing novel and inventive goods. The three categories of patents include:

Design patents: Safeguarding an invention or device's aesthetics. Emojis, fonts, and other distinguishing visual characteristics, such as the shape of a Coca-Cola bottle, are examples of ornamental design patents. Plant patents: Protection for newly discovered plant species. Fruit trees that are pest-free are an example of a plant patent. However, if the tree has distinctive visual qualities, innovators could also require a design patient. Utility Patents: Patents on useful products that provide protection are known as utility patents. Software, medicines, and car safety systems are a few examples of intellectual property. This field of patent law was the first and continues to be the largest.

- *Trademarks:*

Trademarks safeguard any sounds, phrases, colors, symbols, or logos that a business uses to identify its goods or services. Examples of trademarks are the golden arches of McDonald's, the font used by Dunkin, and the Twitter logo. While patents are limited to a single product, trademarks can encompass a collection of items. The Trademark Act of 1946, commonly known as the Lanham Act, regulates service marks, trademarks, and infringement.

- *Copyright:*

The rights of the original creator of unique works of intellectual property are safeguarded by copyright law. Copyrights require physical property, unlike patents. For example, an idea is not protected by copyright. However, you can obtain a copyright by writing down an original poetry, song, or speech. The author of an original work of authorship (OWA) immediately becomes the owner of the copyright. However, owners can get a head start in the legal system by registering with the U.S. Copyright Office.

- *Trade Secrets:*

Trade secrets are forms of intellectual property owned by businesses that are valuable, confidential, and contain information. They could be a procedure, recipe, or formula that gives an advantage over competitors. Businesses must actively seek to protect proprietary information in order for it to be considered a trade secret. Information is no longer protected by trade secret laws once it is known to the public.

What are Essential Medicines?

Essential medications are those that meet the population's top health care demands. They can enhance wellbeing, lessen suffering, and save lives. They are chosen on the basis of comparative costs and cost-effectiveness, evidence of clinical efficacy and safety, and disease prevalence and public health relevance. The nation's pharmaceutical systems and budgets are being strained by the rising demand

for important medications brought on by the rising number of illnesses. Therefore, additional resources are needed for the right use of quality-assured medications as well as for their dependable and prompt supply.

This concept of selecting a limited number of essential drugs from the abundance of pharmaceuticals available on the world market leads to:

- Improved supply and access of drugs
- More rational prescribing and use of drugs, and
- Lower drug costs.

Need for Essential Medicines

Forty million deaths have been reported in 1 year alone in developing countries, one-third among children under age 5, yet most leading causes of death and disability can be prevented or treated with cost-effective essential drugs. Ten million die due to acute respiratory infections, diarrheal diseases, tuberculosis, and malaria; for all these conditions safe, inexpensive, essential drugs can be lifesaving. The economic impact of pharmaceuticals is substantial, especially in developing countries. While spending on pharmaceuticals represents less than one-fifth of the total public and private health spending in most developed countries, it represents up to 66% in developing countries. In most low income countries pharmaceuticals are the largest public expenditure on health after personnel costs and the largest household health expenditure. Despite this substantial spending on drugs, lack of access to essential drugs, irrational use of drugs, and poor drug quality remain serious global public health problems. Essential medicines are believed to be one of the most cost-effective elements in modern healthcare and their potential health impact is remarkable.

Process of Patenting Medicines

[Patent Application] -> [Patent Examination] -> [Patent Grant] -> [Commercialization of Medicines] -> [Access and Affordability] -> [Generic Entry]

This flowchart shows the steps involved in patenting a medication, from the first application to the final commercialization and how it affects affordability and accessibility. Granting patents encourages creativity and investment in R&D, but it also raises questions about the availability of necessary medications, especially in poor nations. By raising competition and bringing down prices, generic entry following patent expiration can aid in resolving these issues.

The TRIPS Regime

The patent privilege and TRIPS. The most extensive global agreement on intellectual property protection ever created is TRIPS, which is a component of the Agreement Establishing the World Trade Organization (WTO). Articles 27 through 34 of TRIPS safeguard patents, giving the patent holder the authority to legally bar others from producing, utilizing, or commercializing the novel idea for a set amount of time, with certain exception. A patent must be valid for at least 20 years after the day it was filed.

The patent right's exceptions. Certain exclusions to patent protection are permitted by TRIPS Article 27. Governments have the authority to deny patents for three reasons that may be related to public health: (a) when an invention must be kept out of commerce in order to protect the health or life of people, animals, or plants; (b) when new surgical, therapeutic, or diagnostic techniques are developed for the treatment of people or animals; and (c) when specific plant and animal inventions are involved. Governments may grant restricted exceptions to patent rights under Article 30 of TRIPS provided that

certain requirements are satisfied, such as that the exclusions do not unreasonably interfere with the regular use of the patent. This article permits researchers to use patented inventions for further research to gain a deeper understanding of the subject matter, or to use the patented inventions to secure marketing permission from public health authorities.

TRIPS Flexibilities

The term "TRIPS flexibilities" refers to a set of clauses in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) that give member nations the freedom to enact policies to safeguard public health and advance drug access, especially when it comes to responding to public health emergencies and guaranteeing access to necessary medications. These legal flexibilities give nations the ability to enact intellectual property rules and regulations in a way that strikes a balance between advancing public health goals and protecting intellectual property rights. Among the important TRIPS flexibilities are:

Compulsory licensing: Governments can license third parties to create a patented invention without the patent holder's agreement thanks to this flexibility. Because compulsory licensing promotes generic competition and lowers prices, it can be used to reduce barriers to access to medications.

Parallel Importation: Without the patent holder's permission, parallel importation permits nations to bring in patented goods from another nation where they are offered for sale at a reduced cost. This flexibility can boost local market competition and provide countries with more cheap access to medications.

Government Use: In order to solve public health emergencies or national security problems, for example, governments may use or approve the use of a patented innovation without the patent holder's approval. This is known as the government use provision.

Bolar Exemption: The Bolar exemption permits nations to allow the use of patented inventions in order to secure regulatory permission for pharmaceutical generic equivalents prior to the patent period expiring. This adaptability makes it easier for generic medications to hit the market soon after a patent expires.

Exhaustion of Rights: Countries can restrict the amount of influence patent holders have over the distribution of their products once they are placed on the market by enforcing the exhaustion of rights principle. Because of this flexibility, patent holders may be unable to put limitations on the importation or re-importation of their products in parallel. These TRIPS flexibilities give nations useful options to tackle public health issues and advance medication access, especially in poorer nations where the cost and accessibility of necessary medications are major concerns. Through efficient utilization of these flexibilities, nations can achieve a harmonious equilibrium between safeguarding intellectual property rights and guaranteeing their citizens' access to reasonably priced and necessary medications.

Role of Essential Medicines in framing National Medicine Policy (NMP)

Policymakers use essential medicines, either defined nationally or by the World Health Organization (WHO), to help them prioritize allocating funds for the acquisition, distribution, and availability of medications that address the majority of the population's health needs. Considering factors such as illness burden, therapeutic efficacy, safety, and cost-effectiveness, NMPs frequently give priority to the selection and inclusion of critical medications. In order to ensure that everyone has fair access to safe, effective, and inexpensive medications, regardless of their socioeconomic situation or location, essential medicines are chosen based on their therapeutic value, affordability, and importance to public health. NMPs provide solutions to increase the availability of important medications, such as ways to lower

costs, do away with stockouts, fortify supply chains, and encourage responsible use. To guarantee important medications' safety, effectiveness, and quality standards, NMPs provide legal frameworks and policies for quality control, licensing, registration, and monitoring.

NMPs may contain clauses that facilitate the registration of generic equivalents to encourage competition and drive down prices, expedite the licensing of vital medications, and streamline regulatory procedures. With the use of pharmacovigilance systems, formulary management, evidence-based prescribing practices, and continuing medical education initiatives, NMPs are crucial in encouraging healthcare professionals and consumers to take medications sensibly. NMPs may involve tactics like prescribing incentives, essential medicines lists, and clinical recommendations to promote the appropriate use of essential medications.

NMPs offer recommendations on the acquisition, cost, and reimbursement of necessary medications within national healthcare budgets, which helps to guide health finance policies and budget allocation choices. In order to maximize the accessibility and cost of critical medications, NMPs may incorporate clauses pertaining to pooled procurement agreements, sustainable finance systems, and price negotiation techniques. By guaranteeing the supply of critical medications required to address certain health priorities, such as infectious illnesses, non-communicable diseases, maternity and child health, and emergency preparation, NMPs assist in the implementation of public health programs and interventions. To optimize the influence of essential medicines on population health outcomes, NMPs can include them into treatment procedures, disease management methods, and health promotion programs.

Role of Public-Private Partnerships in Promoting Access to Essential Medicines

Public-private partnerships (PPPs), which combine the assets and capabilities of the public and private sectors, are vital in advancing the availability of essential medications. PPPs make it possible to combine human, technical, and financial resources from the public and private sectors to meet shared objectives pertaining to medication availability. PPPs enable more ambitious and long-lasting projects by pooling resources to mobilize more finance and expertise than either sector could obtain on its own. PPPs make it easier to create and put into place creative finance strategies that assist people's access to necessary medications. These strategies, which assist in lowering the financial obstacles to accessing medications for marginalized groups, may include risk-sharing agreements, advance market pledges, social impact bonds, and tiered pricing structures.

PPPs encourage cooperation amongst academic institutions, public research organizations, and pharmaceutical businesses in order to hasten the discovery, development, and distribution of new and improved vital medicines. PPPs improve research and development efforts by pooling resources, information, and skills, especially for neglected diseases and disorders that disproportionately affect developing nations. PPPs support projects aimed at strengthening local manufacturing capabilities for critical pharmaceuticals in developing nations through technology transfer and capacity building. PPPs lessen dependency on imported medications, increase access to reasonably priced, high-quality medications, and develop viable local pharmaceutical businesses through the transfer of technology, know-how, and production procedures. PPPs help to improve the processes for inventory management, distribution, and procurement in the supply chains for vital medications.

PPPs improve the effectiveness, dependability, and resilience of supply chains by utilizing the private sector's knowledge in distribution, warehousing, and logistics. This lowers stockouts and guarantees patients' prompt access to medications. PPPs integrate vital medications into larger platforms for the delivery of health services, which strengthens health systems and enhances healthcare delivery. PPPs contribute to the effective integration of vital medicines into primary healthcare services and the

distribution of these medications to individuals in need by working together on health infrastructure development, workforce training, and service delivery innovations. PPPs take part in coordinated efforts to coordinate policy lobbying and remove systemic obstacles, like intellectual property rights, regulatory hurdles, and procurement difficulties, that impede access to necessary medications. PPPs contribute to the development of an environment that is favorable for enhancing access to medications and advancing health equity by supporting legislative changes and fostering multi-stakeholder discussion.

PPPs are vital for increasing access to necessary medications because they encourage cross-sector collaboration, innovation, and shared accountability. PPPs have the potential to accelerate progress towards achieving universal access to essential medicines for all individuals, regardless of their socio-economic status or geographic location, by leveraging the complementary strengths of the public and private sectors.

Conclusion

In conclusion, the promotion of access to necessary medications in underdeveloped nations is aided by intellectual property rights (IPRs), a function that is intricate and frequently disputed. Although intellectual property rights (IPRs) are intended to encourage innovation and guarantee equitable recompense for authors, they may potentially obstruct access by impeding the production of reasonably priced generic medications. Developing nations frequently struggle to strike a balance between the necessity of safeguarding intellectual property and the necessity of making sure their people have access to life-saving drugs. To tackle this predicament, attempts have been made to incorporate provisions in global accords, such the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), that grant nations the authority to enact policies aimed at protecting public health. Initiatives like the Medicines Patent Pool and the Access to Medicines Movement also work to make vital medicines more accessible by encouraging licensing agreements and making it easier for generic copies of patented medications to be produced. Nevertheless, there are still big gaps in ensuring that all poor nations have access to necessary medications. A multifaceted strategy is required to truly promote access to essential medicines. This strategy should include strengthening health systems, investing in research and development for neglected diseases, leveraging intellectual property framework flexibilities, collaborating between governments, pharmaceutical companies, and civil society organizations.

In the end, resolving the conflict between intellectual property rights and public health demands a sophisticated grasp of the intricate relationships between affordability, innovation, and public health, with an emphasis on coming up with solutions that put the welfare of people over solely profit-seeking concerns.

UNVEILING GENDER PERPESCTIVE IN BUSINESS: AN IN -DEPTH ANALYSIS OF INTELLECTUAL PROPERTY RIGHTS

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Abstract

Gender discrimination in intellectual property rights refers to the difference of treatment or bias that individuals may experience when creating, protecting and exploiting intellectual property according to gender. Despite the fact that IPR is intended to be a benign and universal concept, gender differences may arise at different stages of IP lifecycles. This research paper investigates the intricate interplay between gender perspectives and intellectual property rights (IPR) within the business realm. As the global landscape becomes increasingly driven by innovation, understanding the nuanced ways in which gender influences the creation, protection, and utilization of intellectual property is paramount for fostering inclusive and equitable business environments. This study aims to bridge the gap in existing literature by providing a holistic examination of gender disparities at various stages of the intellectual property lifecycle. The research begins with a comprehensive literature review, exploring the existing gender gaps in business and the intricacies of intellectual property rights. The meticulously designed methodology encompassing both qualitative and quantitative analyses, this study unveils the multifaceted dimensions of gender dynamics in intellectual property.

Keywords: Intellectual Property Rights, Gender Disparities, Business, Gender Gaps

Introduction

Intellectual property rights (IPR) encompass legal protections for creations of the mind, such as inventions, literary and artistic works, symbols, names, and images used in commerce. By giving creators and inventors exclusive rights to their work, these rights are essential for the promotion of innovation, creativity and economic growth. Gender disparities and challenges are emerging at the intersection of women's rights as well as intellectual property within business contexts, which affect their participation and success. Research has shown that women are underrepresented in the IP system compared to men, highlighting a relatively low level of access to intellectual property protection. Women's difficulties in commercializing their inventions can be attributed to internalized responses and societal barriers, with female scientists and engineers having lower chances of considering a patent on an invention as opposed to males. This disparity is illustrated by persistent gender imbalance in the sector of copyright, where male authors dominate commercial success. In order to promote inclusion, diversity and gender equality, it is essential to address gender perspectives in business and law. In order to empower women entrepreneurs and creators, efforts must be made to bridge the gender gap in intellectual property. Studies have highlighted the importance of qualitative research to identify sources of disparities and complement quantitative data, which provide an overview of the magnitude of the problem. Ethnographic studies have revealed the complexity of societal obstacles to women's participation in patenting processes and commercialization of their inventions. Strategies to increase women's participation in intellectual property rights within business contexts must be explored taking into account these challenges. Businesses and policymakers can help to create a more equal environment for women inventors, entrepreneurs and creators through understanding gender dynamics in intellectual property rights. In this context, the Research Paper provides an insight into the complexity of gender perspectives in business on intellectual property rights issues.

Literature Review

A. *Intellectual Property Rights (IPR):*

Intellectual Property Rights (IPR) represent legal frameworks designed to protect the intangible creations of the human intellect. These rights encompass various forms, including patents, trademarks, copyrights, and trade secrets. Patents grant inventors exclusive rights to their inventions, trademarks protect distinctive symbols or names, copyrights safeguard original creative works, and trade secrets offer protection for confidential business information. The historical development of IPR traces back to ancient civilizations, evolving over centuries to become a cornerstone of contemporary business practices. In the modern landscape, IPR not only incentivizes innovation but also plays a pivotal role in shaping competitive markets, fostering economic growth, and encouraging technological advancements.

B. *Gender in Business:*

Gender disparities persist in the business world, reflecting historical inequalities and systemic biases. Women continue to face challenges in accessing equal opportunities and breaking through gender-related barriers in various professional domains.

I. Existing Research on Gender and Entrepreneurship:

The entrepreneurial landscape has been subject to gender-based disparities, with women encountering unique challenges in establishing and growing businesses. Existing research delves into the factors influencing women's participation in entrepreneurship, barriers faced in accessing funding, and the impact of societal expectations on entrepreneurial endeavors.

II. Gender Gaps in Access to and Utilization of Intellectual Property Rights:

This subsection explores the specific intersection of gender and intellectual property rights within the business context. Existing studies shed light on how gender influences the creation, protection, and utilization of intellectual property. It examines the challenges women face in securing and leveraging intellectual property rights, the underrepresentation of women in patent filings, and the overall gendered dynamics in innovation-driven industries.

Business Sector's Gender Gap When It Comes to Securing and Protecting Intellectual Property Rights

There is still a persistent problem of gender inequalities in the acquisition and enforcement of IP rights in business sectors. Studies have shown that women are less likely to hold patents and trademarks than men, and this gender gap is particularly notable in low- and middle-income countries. In addition, women are less likely to be granted patents and are more likely to have their patents challenged. The lack of diversity in the innovation and entrepreneurship sector, which could contribute to the gender gap in intellectual property rights, is also exacerbating this situation.

In order to protect intellectual property rights, women also face difficulties in accessing legal resources and experts. The lack of familiarity with the system and a fear of failure has been shown to reduce women's participation in patent applications. A gender gap has been identified in intellectual property rights intensive industries by IPR + RISE. There is a need to examine the depth of gender inequalities in intellectual property ecosystems, and legislation needs to be reviewed with an intersectional lens. Compared to men, women are less often single inventors or designers, but tend to be more involved in inventing and designing teams. Furthermore, there is evidence of sexism and discrimination against women in the context of patents, copyrights, and trademarks. Institutions must identify their own biases and establish affinity programs for women and members of the LGBTQ+ community to address these differences.

Gendered Nature of Intellectual Property Rights

The fact that intellectual property rights are gendered reveals significant inequalities and difficulties faced by women in the field of patents, copyrights, trademarks or other forms of IP protection. Research highlights a persistent gender gap across various intellectual property rights, with women being underrepresented in patent filings and facing obstacles in commercializing their inventions. Studies show that, rather than single inventors, women are more likely to belong to teams of inventors or designers, reflecting the different patterns of collaboration between men and women in different types of intellectual property rights. In order to achieve gender equality and the empowerment of women creators and entrepreneurs, efforts need to be made to address these disparities. Thanks to its advanced IP institutions and efforts on gender balance in patent applications, Finland is a fascinating case study. The study underlines the importance of tracking and analyzing gender differences in intellectual property rights beyond patents, with a focus on design rights, utility models as well as trademarks. To promote inclusiveness, diversity and equitable opportunities for women in innovation and creativity, it is crucial to understand the intersection between gender perspectives at work and intellectual property rights. In order to develop conducive environments for women's participation and success in intellectual property, policy makers and businesses need to take these lessons into account.

Some Common Types of Gender-Based Intellectual Property Rights Violations

Gender-based intellectual property rights (IPR) violations can manifest in various ways, reflecting underlying biases, stereotypes, and systemic challenges. Here are some common types of gender-based IPR violations:

Underrepresentation in Patent Filings:

Violation: Women are often underrepresented in patent applications.

Impact: This underrepresentation reflects barriers to women's participation in innovative fields, limiting their ability to secure intellectual property protection for their inventions.

Biases in Patent Approval Processes:

Violation: Gender biases in the evaluation of patent applications.

Impact: Unconscious biases in patent offices may result in the undervaluation of women's contributions to innovation, leading to disparities in patent grants.

Inequitable Access to Intellectual Property Education:

Violation: Limited access for women to education and training in intellectual property law and procedures.

Impact: Unequal access to knowledge may hinder women from effectively navigating the complexities of the intellectual property system.

Gendered Branding and Trademarking Practices:

Violation: Gender-based biases in branding and trademarking decisions.

Impact: Stereotypical expectations regarding gender roles may influence decisions, potentially limiting the range of products and services associated with female entrepreneurs.

Discrimination in Creative Industries:

Violation: Unequal recognition and compensation for women in creative industries.

Impact: Women artists, authors, and creators may face challenges in securing copyright protection for their works, limiting their ability to control and benefit from their intellectual property.

Access to Funding for IP Protection:

Violation: Gender biases in funding for intellectual property protection.

Impact: Women-led businesses may encounter challenges in accessing funding to protect their intellectual property, hindering their ability to compete in the market.

Harassment and Discrimination in IP Professions:

Violation: Gender-based harassment and discrimination in intellectual property professions.

Impact: Hostile work environments can impede career progression, limit opportunities for women in IP-related professions, and contribute to gender-based disparities.

Intersectional Discrimination:

Violation: Intersectional biases affecting women of diverse backgrounds.

Impact: Women facing multiple forms of discrimination, including racial or ethnic discrimination, may experience compounded challenges in securing and enforcing intellectual property rights.

Lack of Gender-Inclusive Policies:

Violation: Absence of gender-sensitive policies in intellectual property institutions.

Impact: Without policies addressing gender biases, the intellectual property system may inadvertently perpetuate inequalities, hindering women's full participation.

Addressing these violations requires a multi-faceted approach, involving awareness, policy changes, and cultural shifts within the legal, business, and educational spheres. Promoting gender diversity and inclusivity in intellectual property practices is crucial for fostering a fair and equitable environment for innovation and creativity.

Some Proposed Solutions to Address Gender-Based Intellectual Property Rights Violations

Addressing gender-based intellectual property rights (IPR) violations requires a concerted effort from various stakeholders, including governments, organizations, and the legal and business communities. Here are some proposed solutions to mitigate and rectify these violations:

Promote Gender Diversity in STEM Education:

Encourage and support women's participation in science, technology, engineering, and mathematics (STEM) fields from an early age.

Implement educational programs that aim to eliminate gender stereotypes and biases in STEM disciplines.

Provide Mentorship and Networking Opportunities:

Establish mentorship programs connecting women in intellectual property with experienced professionals.

Facilitate networking opportunities to help women build connections within the field and access guidance.

Raise Awareness and Sensitize Decision Makers:

Conduct awareness campaigns to highlight the existing gender disparities in intellectual property rights.

Offer training programs for decision-makers in patent offices and legal institutions to recognize and eliminate unconscious biases.

Support Women-led Entrepreneurship:

Establish Inclusive Research and Innovation Environments:

Encourage research institutions and companies to create inclusive environments that value diverse contributions.

Implement policies that address workplace discrimination and bias, fostering an inclusive culture in research and innovation.

Monitor and Report Gender Disparities:

Implement mechanisms to regularly monitor and report gender-based disparities in intellectual property applications, grants, and enforcement.

Transparency can drive accountability and facilitate targeted interventions to address identified issues.

Engage in International Cooperation:

Foster international collaboration to share best practices and strategies for addressing gender-based IPR violations.

Participate in global initiatives that promote gender diversity and equality in intellectual property rights.

Encourage Research on Gender and Intellectual Property:

Support and fund research initiatives that investigate the intersection of gender and intellectual property rights.

Use research findings to inform policy changes and implement evidence-based solutions.

By combining these proposed solutions, stakeholders can work towards creating a more equitable and inclusive intellectual property landscape that recognizes and values the contributions of individuals of all genders.

Trademarks and Branding: Gendered Aspects and Case Studies

Color and Design Choices:

Overview: Brands often use specific colors, imagery, and designs to appeal to different gender demographics.

Impact: Gendered choices may reinforce stereotypes, potentially limiting the inclusivity and broad appeal of brands.

Targeted Marketing Strategies:

Overview: Companies may employ targeted marketing strategies based on gender demographics.

Impact: While targeting specific demographics can be effective, it may inadvertently reinforce gender stereotypes and limit the brand's universality.

Product Positioning and Packaging:

Overview: The way products are positioned on shelves and packaged can reflect gender biases.

Impact: Gendered product presentation can perpetuate stereotypes, affecting consumer perceptions and choices.

Brand Messaging and Storytelling:

Overview: Brand narratives often convey messages that resonate with specific gender identities.

Impact: Gendered storytelling can influence consumer perceptions and either reinforce or challenge traditional gender norms.

Case Studies on Gender-Specific Brand Perceptions:

Nike's "Dream Crazier" Campaign:

Overview: Nike's campaign challenges gender stereotypes in sports.

Impact: By featuring female athletes breaking barriers, Nike repositions its brand to promote empowerment and inclusivity, challenging traditional gender norms.

Dove's "Real Beauty" Campaign:

Overview: Dove's campaign celebrates diverse representations of beauty.

Impact: Dove's focus on real and diverse women challenges beauty standards, fostering a positive brand image that resonates with a wide audience.

Always "Like a Girl" Campaign:

Overview: Always challenges the negative connotations associated with doing things "like a girl."

Impact: The campaign seeks to redefine gender norms, empowering girls and challenging societal stereotypes while positively influencing brand perception.

Axe's Evolution from "Lynx" to Inclusive Marketing:

Overview: Axe, known for traditional masculine marketing, shifted towards inclusivity.

Impact: By broadening its messaging to include diverse expressions of masculinity, Axe aims to appeal to a more inclusive audience, challenging its historical gendered associations.

Copyright and Creative Industries: Gender Representation and Challenges

A. Gender Representation in Creative Industries:

Underrepresentation in Leadership Roles:

Overview: Women are often underrepresented in leadership roles in creative industries, including film, music, literature, and visual arts.

Impact: Limited representation can perpetuate gender biases in creative decision-making processes and influence the types of content produced.

Gender Wage Gap in Creative Professions:

Overview: Women in creative roles may face a gender wage gap compared to their male counterparts.

Impact: Economic disparities can affect women's ability to sustain careers in creative fields, limiting financial independence and opportunities.

Stereotypes and Limited Genre Opportunities:

Overview: Stereotypes about suitable genres for women persist, potentially limiting opportunities in certain creative fields.

Impact: Gendered expectations may influence the type of work women pursue, restricting their creative expression and diversity in content.

Representation in Award Nominations and Recognitions:

Overview: Women may receive fewer nominations and awards in creative competitions.

Impact: Limited recognition can contribute to the perception that women's contributions are undervalued, affecting career advancement and industry visibility.

Access to Funding and Resources:

Overview: Women creators may face challenges in securing funding and resources for their creative projects.

Impact: Limited access hinders the ability to bring innovative and diverse projects to fruition, perpetuating gender imbalances in content creation.

B. Challenges and Opportunities for Women in Copyright-Related Professions:

Underrepresentation in Copyright Law:

Overview: Women may be underrepresented in legal professions related to copyright, including intellectual property law.

Impact: Limited representation in legal roles may influence the development and interpretation of copyright laws, potentially overlooking gender-specific considerations.

Access to Copyright Education and Training:

Overview: Limited access to education and training in copyright law for women.

Impact: Unequal access may hinder women from pursuing careers in copyright-related professions, limiting their ability to advocate for gender-inclusive policies.

Gender Bias in Copyright Enforcement:

Overview: Gender biases may exist in the enforcement of copyright protection, impacting how laws are applied.

Impact: Unequal enforcement may lead to disparities in the protection of women's intellectual property rights, affecting their ability to control and monetize their creative works.

Mentorship and Networking Opportunities:

Overview: Limited mentorship and networking opportunities for women in copyright professions.

Impact: Networking gaps can hinder career advancement and limit access to resources, making it challenging for women to navigate the copyright landscape effectively.

Advocacy for Gender-Inclusive Copyright Policies:

Overview: Opportunities for women to advocate for gender-inclusive copyright policies.

Impact: Active participation in shaping policies ensures that copyright laws consider and address gender-specific challenges, promoting a more equitable legal framework.

Understanding and addressing these challenges requires a holistic approach that involves industry stakeholders, policymakers, and educational institutions. By fostering inclusivity and providing equal opportunities, the creative and copyright industries can harness the full potential of diverse talents and perspectives.

Legal Framework and Policy Implications

A. *Legal Protections and Challenges:*

Overview of Legal Protections for Gender Equality in Intellectual Property:

Overview: Many countries have legal frameworks that prohibit discrimination based on gender, including in intellectual property laws.

Impact: Legal protections aim to ensure equal opportunities for men and women in the creation, protection, and enforcement of intellectual property rights.

Identification of Legal Challenges and Gaps:

Challenges:

Underrepresentation in Legal Professions: Women may be underrepresented in legal roles related to intellectual property.

Implicit Biases in Legal Decision-Making: Biases in the interpretation and enforcement of intellectual property laws may exist, affecting women disproportionately.

Gaps:

Lack of Gender-Specific Provisions: Intellectual property laws may lack explicit provisions addressing gender-specific challenges, potentially leaving women without adequate protection.

Inconsistent Implementation: Enforcement of gender-inclusive intellectual property laws may vary, leading to disparities in outcomes.

B. Policy Implications:

Analysis of Current Policies Addressing Gender and Intellectual Property:

Existing Policies: Some jurisdictions may have policies promoting gender equality in intellectual property, including provisions in copyright, patent, and trademark laws.

Impact: Existing policies may vary in scope and effectiveness, with some addressing specific gender-related issues while others lack explicit provisions.

Recommendations for Policy Improvements and Reforms

Incorporate Gender-Specific Provisions: Introduce explicit provisions in intellectual property laws addressing gender-based disparities, ensuring protection against discrimination and bias.

Promote Diversity in Intellectual Property Professions: Implement policies to encourage diversity in legal professions related to intellectual property, fostering equal representation.

Raise Awareness and Provide Training: Develop initiatives to raise awareness about gender-related challenges in intellectual property and provide training for legal professionals to address biases.

Data Collection and Monitoring: Establish mechanisms for collecting and analyzing gender-disaggregated data related to intellectual property applications, grants, and enforcement.

Enhance Enforcement Mechanisms: Strengthen enforcement mechanisms to address gender-based violations of intellectual property rights, ensuring equal protection for all.

Collaboration and Knowledge Exchange: Encourage international collaboration and knowledge exchange to share best practices and strategies for addressing gender disparities in intellectual property.

Inclusive Policies for Innovation Funding: Develop policies that promote inclusivity in innovation funding, ensuring equitable access for women-led businesses and entrepreneurs.

Successful Case Studies of Addressing Gender-Based Intellectual Property Rights Violations

While the field of addressing gender-based intellectual property rights (IPR) violations is still evolving, some initiatives and case studies showcase successful efforts in promoting gender equity. Here are a few examples:

USPTO's Women's Entrepreneurship Symposium:

The United States Patent and Trademark Office (USPTO) hosts the Women's Entrepreneurship Symposium annually.

This event provides a platform for women entrepreneurs to learn about intellectual property, connect with experts, and gain insights into navigating the patenting process.

The symposium contributes to breaking down barriers and fostering an inclusive environment for women in innovation.

WIPO's Gender Diversity Initiatives:

The World Intellectual Property Organization (WIPO) has implemented initiatives to address gender disparities in the field.

WIPO organizes events, such as the WIPO Conversation on Intellectual Property and Women Entrepreneurs, to discuss challenges and share best practices in promoting gender diversity.

These initiatives contribute to building a more inclusive culture within the global intellectual property community.

Innovation Inclusive Centers in Africa:

Several African countries, including Kenya and South Africa, have established innovation hubs and centers with a focus on inclusivity.

These centers provide resources, training, and support for women in innovation, helping them navigate intellectual property processes and fostering a more gender-inclusive innovation ecosystem.

Gender-Inclusive Policies in Academia:

Some academic institutions have implemented gender-inclusive policies to address disparities in patenting and research.

Universities and research institutions are actively promoting diversity in research and innovation, ensuring that women researchers receive equal recognition and support for their intellectual property contributions.

EU Project on Gender Diversity in Patents:

The European Patent Office (EPO) and the European Union Intellectual Property Office (EUIPO) launched a project to study gender diversity in patents.

The project aims to identify barriers and propose solutions to increase the number of women applying for and obtaining patents, promoting a more balanced representation in the intellectual property system.

Global Fund for Women's Intellectual Property Rights Program:

The Global Fund for Women supports women's rights organizations globally, including initiatives that address gender-based intellectual property rights violations.

By funding projects that focus on legal empowerment, advocacy, and capacity building, the organization contributes to enhancing women's participation and protection in intellectual property.

Gender-Inclusive Business Models

Inclusive Product Design and Marketing:

Consider Diverse Needs: Develop products and services that consider the diverse needs and preferences of all genders.

Avoid Stereotypes: Ensure marketing strategies avoid reinforcing gender stereotypes and embrace inclusivity.

Equal Opportunities for Leadership and Decision-Making:

Leadership Diversity: Promote gender diversity in leadership roles, ensuring equitable representation in decision-making processes.

Inclusive Corporate Culture: Foster an inclusive corporate culture that values contributions from individuals of all genders.

Fair Compensation and Benefits:

Equal Pay Policies: Implement and advocate for equal pay policies to ensure that individuals are compensated fairly regardless of gender.

Comprehensive Benefits: Offer comprehensive benefits that address the diverse needs of employees, including family-friendly policies.

Flexible Work Arrangements:

Remote Work Options: Provide flexible work arrangements, including remote work options, to accommodate diverse family responsibilities.

Support for Work-Life Balance: Implement policies that support a healthy work-life balance for all employees, recognizing the unique challenges faced by different genders.

Supplier Diversity Programs:

Diverse Supplier Networks: Establish and support supplier diversity programs that prioritize partnerships with businesses owned by individuals of underrepresented genders.

Fair Procurement Practices: Implement fair procurement practices that promote inclusivity in the supply chain.

Community Engagement and Social Impact:

Community Outreach: Engage with local communities and support initiatives that address gender inequalities.

Social Impact Programs: Implement social impact programs that contribute to the well-being of communities and address gender-specific challenges.

Transparent and Inclusive Policies:

Policy Transparency: Maintain transparent policies that clearly communicate the company's commitment to gender diversity and inclusion.

Inclusive HR Practices: Ensure human resources practices are inclusive, addressing issues such as harassment and discrimination effectively.

Customer Engagement and Feedback:

Customer Feedback Channels: Establish channels for customer feedback to ensure that products and services meet the diverse needs of all genders.

Responsive to Preferences: Adapt business strategies based on customer preferences and inclusivity requirements.

Intersectionality Considerations:

Recognition of Diversity: Recognize and address the intersectionality of gender with other factors such as race, ethnicity, and sexual orientation.

Tailored Initiatives: Develop initiatives that consider the unique challenges faced by individuals with intersecting identities.

Data Collection and Analysis:

Gender-Disaggregated Data: Collect and analyze gender-disaggregated data to understand the impact of business practices on different genders.

Continuous Improvement: Use data insights to continuously improve and adjust business strategies for greater inclusivity.

Implementing gender-inclusive business models require a commitment to diversity, ongoing evaluation, and a willingness to adapt practices to foster an environment where everyone feels valued and has equal opportunities for success.

Implications for Business Practices

A*. Recommendations for Companies:*

In fostering gender-inclusive business models, companies should prioritize diversity in leadership, product design, and marketing. Implementing flexible work arrangements and fair compensation policies contributes to an inclusive culture. Companies must engage in continuous education to address

biases, ensuring that HR practices are transparent and supportive. Embracing supplier diversity programs and community engagement further solidifies a commitment to gender inclusivity.

B. Policy Implications:

Policy recommendations center on strengthening legal frameworks to eliminate gender biases in intellectual property processes. Advocating for equal pay policies, flexible work arrangements, and transparent procurement practices can enhance the inclusivity of national and industry-specific regulations. Collaborative efforts between legal institutions and women's rights organizations are crucial. Implementing gender-disaggregated data collection supports evidence-based policymaking, contributing to a more equitable intellectual property landscape.

Incorporating these recommendations into business practices and legal frameworks fosters an environment where gender-neutral intellectual property strategies contribute to business success while advancing economic and social equality.

Economic and Social Impacts of Gender-Neutral IP Strategies and Corporate Responsibility and Inclusivity

Gender-neutral intellectual property (IP) strategies lead to economic empowerment by unlocking the full potential of diverse talent. Inclusive innovation fosters creativity, driving economic growth. Socially, equitable IP practices contribute to a fair and just society, breaking down gender barriers and promoting a more inclusive and diverse business ecosystem.

Corporate Responsibility and Inclusivity:

Corporate responsibility entails embracing diversity, ensuring equal opportunities, and fostering an inclusive workplace. Prioritizing gender inclusivity in IP strategies aligns with responsible business practices, positively impacting corporate reputation and societal well-being. It reinforces the commitment to fairness, equality, and sustainable economic development.

World Intellectual Property Organization Report

The 2019 WIPO report highlighted a stark gender disparity in patent grants, despite women constituting half of the global labor force and more than half of college graduates. Examining instances like Catherine Greene's collaboration on the cotton engine, where the patent was granted solely to her associate, underscores historical biases. An analysis of the TRIPS agreement reveals adverse effects on women, limiting their economic agency. The framework's narrow definitions of knowledge disregard the substantial contributions of millions of women, particularly in agriculture, further perpetuating gender inequalities in intellectual property rights.

Case Laws:

Mattel, Inc. v. MCA Records, Inc. (2002)

The case involved a dispute over the use of the Barbie trademark in the song "Barbie Girl" by Aqua. Mattel, the maker of Barbie dolls, claimed that the song tarnished the brand and violated trademark rights. The court, however, protected MCA Records' right to parody and social commentary under the First Amendment. The decision underscored the delicate balance between intellectual property rights and freedom of expression. This landmark case in Gender-Based Intellectual Property Rights highlighted the complexity of protecting trademarks associated with gender-specific products, emphasizing the broader societal considerations in cases involving cultural commentary and gender representation. The ruling affirmed the importance of fostering a balance between safeguarding

trademarks and allowing for creative and critical engagement with iconic brands in the context of popular culture.

Conclusion

In summary, gender perspectives in intellectual property rights reveal systemic barriers limiting women's participation. Recognizing the significance of inclusivity is crucial for unleashing untapped potential. A call to action implores businesses to adopt gender-inclusive practices, policymakers to enact equitable laws, and researchers to drive evidence-based change. Embracing diversity in intellectual property is not just a necessity; it's an imperative for innovation, economic growth, and a fair, inclusive future. Time for action is now.

Future Research Directions:

Exploring gender perspectives in intellectual property rights could delve into intersectionality, examining the compounding effects of various identities. Research should investigate the nuanced impacts of gender-inclusive practices on innovation, market competitiveness, and sustainable business growth. Understanding the intersection of gender and emerging technologies, such as artificial intelligence, remains a critical area. Investigating the potential positive ripple effects on organizational culture and societal well-being due to addressing gender perspectives in intellectual property is essential for shaping a more equitable and innovative future business landscape.

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THE ROLE OF INTELLECTUAL PROPERTY IN SPORTS

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Abstract

Intellectual property is the innovation and creation of human mind that is protected by different IP legislation like patent, copyright, trademark design etc. when it comes in the field of sports the athletic as well as the sports club is putting strong effort in the development and betterment in sports for that innovation and creation is carried out. Intellectual property provide safeguard to sport club, athletic it is not only for the entertainment propose but also it create more economic value for the nation. So government try to push the sports sector in to next level for that we need a structured legislation. Trademark that provide of the events, teams, club's sign, mark or logo that are protected by the trademark registrar. In the international level Madrid is there for protection of trademark by filing a single application for the multiple countries. As we know that trademark is the source indicator of the product or entities. There is development of the product try to advertisement their product with non-conventional trademark such as sound, scent, colour, motion etc. as the indicator and sources of the products. In this article we will explain the role of intellectual property in sports sector and how it protect and safeguard the athlete as well as sports club, generating more economic value and promoting the nation identity in the world level.

Keywords: intellectual property, Trademarks, non-convention trademark, Economic, sports.

Introduction

The concept of property was completely unknown to the nomadic people. As science progressed, the publication of knowledge became unavoidable. The incentive for disclosure was used to encourage disclosure. The word "intellectual property" refers to a broad set of legal doctrines that govern the use of many types of ideas and emblems. Intellectual property refers to a person's right to a tangible object developed by his or her mental labor. Intellectual property grants rights of ownership in products generated by human intellect. Intellectual property rights currently play a significant role in the success of many businesses. The owner of intellectual property rights has the right to exploit them in a monopoly position. Intellectual property is the creative activity of human intellectuals. Furthermore, the right to intellectual property is an intangible right to a man's brain-created product, such as a new invented product, is a mental property. Intellectual property of the mind. Intellectual property is also referred to as 'knowledge goods'. The primary purpose for its preservation is to promote the advancement of science and technology, arts, literature, and other creative works, as well as to foster and reward innovation. This helps to promote innovation, as well as the dissemination and use of the results. Intellectual property makes a critical contribution to a country's athletic and economic growth. Nowadays, sports bring new things into sports, such as clothing, licenses, marks, logos, and brands. India does not have any specific sports legislation. But we have a national sports legal policy (1984) and 2001.[1] But the minister of youth Affairs and Sports of India have the code "National Sports Development Code of India", it talks about the organization

[1] The Role of IPR in Sports Preyansi Anand Desaia aThe Maharaja Sayajirao University of Baroda, Vadodara, India Received 18 February 2022.

hierarchy of organization in international with respect to India.[2] USA have a independent authorities to deal sports but no minister for sport. UK has specific sports law.EU have "Directorate- General for Education and allure is a governing authority for sports. Internal game and the player are regulated by "World Anti-Doping Agency".

Literature Review

Affinities of intellectual property rights in sports by Sai Hasitha and Ayush Kumar Jain in this paper explain that intellectual property rights play an important role to protect the right in the field sports. As India have no legislation of sports. There is a need for IP in sports for its commercialization.

Analysis of IP Laws around the world with Similarities and Differences by Balaji Vignesha Guna Roobeneb in this paper explain, intellectual property is success in the commodity and it's product in the recent times. Now IP is used and rely upon business success on visual products new design, trademark, creativity and innovation help's to expand commercial activity and it leads the economic development of a country. So for this reason intellectual property law revent, protect and safeguard their creativity and innovation. It explain how the ambit of intellectual property and its law and compare the different method of protection in the US, the UK and India. The countries and registration process for different IP.

Evolution in American Sport by Stephen Hardy in this paper he explained Sport industry getting exposure by media and internet and creates branding in sport in all level. Many individual play a key role in transforming and alter the boundaries of celebration. The brand products are sailing in competitive advertisement it will be very important for sport organization. It creates more revenue for the nation human respond to sport very well and it gives important to gender justice.

The Role of IPR in Sorts by Preyansi Anand Desai in this article explained the famous sports stadium now use the sponsors' name and the use their name, logo, mark and create brand value. This is only possible due to the international trademark registration system with the help of World Intellectual Property Organization (WIPO). IPR facilitate to reduce to competition. Now a day's sport became the full time business. There is no sports legislation in India. There are different sports regulating agencies in USA, UK, and EU.

Lisa P. Masteralexis, Carol A. Barr & Mary A. Hums, Principles and Practice of Sport Management 106 (Jones & Bartlett Learning, 6th ed. 2018). In this book explain sport industry has evolved into a complex, multibillion-dollar global entity, the law has played an increasingly dominant role as sport professionals seek to carry out the management functions of sport organization. When sport clubs make decisions and disagreements arise, those working and participating in sport are relying more heavily on the legal system for resolutions of sport law. It has become increasingly important for sport clubs to manage risk and know when to seek legal assistance to aid in decision making and dispute resolution.

Stephen Hardy, Evolution in American Sport, Journal of sport History, Fall 2009, Vol.36 No.3 (Fall 2009), pp337-347, University of Illinois press, in paper explained branding is the vital for any sport organization. Sport was mainly target for economic growth. Social media has changed the sport fans experience. Humans response very well to sport performance

James A. R. Nafzier, International Sports Law: A Replay of characteristics and Trends, The American Journal of International Law, Jul., 1992, VOl.86, No.3 July 1992, in this explain the legal framework is

[2] Id.

important for regulation and impletion in sports to address the evolving the evolving legal issues. Law will provide an opportunity to shape the as well as limitations of risk associated with sport sector. It will not only provide entertainment but also provide the athletic and sports club to move in merit basic selection

Research Problem

How the sports sectors economically benefit through Intellectual property rights?

Objective of Research

To recognize the scope of different types of trademarks and its interference with consumer behavior in sports sector.

Methodology

The study is doctrinal in nature and will apply analytical research approach. The doctrinal study will be collected from primary as well as secondary sources.

Intellectual Property and Economic

There is a linkage between intellectual property and economic as a whole traditional followed. The logic behind it was intellectual property rights increase the innovators ability to obtain returns from intellectual labours; this is the one of the most important reason for increase private gains to the innovators and stimulates additional innovation. The sports business is having an increasing impact on the global economy, creating jobs, investing in public infrastructure, and mobilizing resources, with IP-protected activities accounting for a significant portion of that. The global revenue of the sports sector, which includes sponsorships, gate revenues, media rights payments, and merchandising.[3] Economic theory typically, suggests that a free market with no intellectual property rights will lead to too little production of intellectual works.[4] Technological innovation, science and creative activity are recognized as important sources of material progress and welfare. The role of intellectual property and its impact on sport development must be carefully assessed on a case by case basis.[5] The labour of sport person and the work of his body and mind we may say are property. Intellectual property permits to reward the creator for his work in order to encourage him in his innovative work, he will be more inspired to produce and more willing to make his work available to the public. this establish a labour criterion of property, whereby individual may claim property in all goods they appropriate from the state of nature through the work of their hands. Intellectual property system has been termed as one of the cornerstones of modern economic policy. Intellectual property deals with creation of human intellectual as sport as creation of human intellectual to play the game. The protection of intellectual property rights enables countries to participate in international trade. Intellectual property has acquired increased prominence at both national and international levels. Berne Convention also grant economic right of creator.

As for the trademark concerned, the TRIPS Agreement makes eligible for registration, personal names, letters, numerals, figurative elements and combinations of colour as well as any combination of such signs. Where signs are not inherently capable of distinguishing the relevant goods or services, member may make

[3] https://www.wipo.int/pressroom/en/briefs/ip_sports.html, 23/02/2024.
[4] Intellectual Property Law and Practice, Elizabeth Verkey, Eastern Book Compny, 1st Edt,2015.
[5] Id.

registrability depend on distinctiveness acquired through use. Member may require, as a condition of registration, that signs be visually perceptible.[6]

Economics and Sport

Economics is one of the few academic disciplines that can be applied to almost any human activity. Within the field of sport management, economics can help us understand issues such as the price paid by consumers for a pair of shorts in sporting goods.[7] Goods and services are exchanged through the economic interaction of individual and organizations. For example, the purchase of a new tennis racket at a store is an economic interaction.[8] One product of value, a tennis racket, is exchanged for another product of value, cash. It means all the economic traction involve cash. For example, a business might provide free equipment or services to an organizer in exchange for advertising space on the event T-shirt.[9] Tractions such as those just described occur in markets, which can be defined as arrangements by which economic exchange among people or business occur. A market could be an actual physical location such as sporting goods store or a minor league ballpark. It could also be an intangible idea such as computerized stock exchange or the market for player. Without markets, the exchange of goods and services could not occur.[10] With the growth of the sport industry, major sports seem to take place week. Although sport events bring enjoyment to a community, they can also bring a substantial amount of economic activity.[11]

Intellectual Property Law

Intellectual property refers to creations of the mind. IP law governs the rights to protect one's invention, literary and artistic works, and symbols, names, images, and designs used in commerce. This area of law is very important to the commercial growth of sport. Intellectual property protection secures the economic value of sport through patents, trademarks, and broadcasting rights. A trademark is a distinctive sign or "mark" or a combination of words, names, numbers, sounds, shapes, vocal sounds, or symbols used by a specific person or enterprise to help consumers identify and distinguish its goods or services because of its nature and equality, as indicate in trademark.

Trademark can be strong, entitled to a wide scope of protection, or weak, entitled to limited protection in only a narrow field or strong trademarks are those that are completely distinguishable. The words are common and used in their ordinary meaning, the trademark is descriptive due to the amount of advertising and public exposure it receives. Because there is only one world's fair, use of this trademark by others without permission may lead consumers to confuse the secondary use with the original trademark.[12]

The trademark act 1999, which governs trademark and service marks, gives protection to the owner of a name or logo, keeps others from selling goods as the goods of the original source, and helps to protect against consumer confusion. The law I this area is somewhat complex, and those sport managers involved with licensed product should rely on attorney who are experts in trademark law to handle registering trademarks and pursuing claims against those who misappropriate them.

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[6] TRIPS Agreement, Art.15.
[7] Paul M. Pedersen, Janet B.Parks, Jerome Quarterman & Lucie Thibault, Contemporary Sort management, 07 (Human Kinetics Ed 4th) (2011).
[8] Id.
[9] Id.
[10] Id.
[11] Id.
[12] Lisa P. Masteralexis, Carol A. Barr & Mary A. Hums, Supra note 8, at 129.

Sport Protected by IP through WIPO

WIPO aims to guarantee that the advantages of the sports business are distributed broadly and deeply. WIPO awareness-raising and training efforts focus on successful IP rights strategies and the monetization of IP assets in order to encourage sport's growth as a development instrument. Activities also address the issues of creating an enabling regulatory environment, as well as how to take effective action against intellectual property infringement that undermines sponsors' confidence and the benefits of hosting large sporting events. Activities are aimed at a diverse range of stakeholders, including government and public organizations; enforcement authorities and the judiciary; legal practitioners; agents, athletes, clubs, and sports federations; event organizers, donors, and sponsors; sports goods manufacturers; and broadcast and media firms. The sport business model involves developing an effective IP rights strategy. Signal piracy and the WIPO Draft Broadcasting Treaty; Sale of media and broadcasting rights; the application of patents, trademarks, designs, and models in sports; Examples of domain name usage and sports-related domain names include: Digital material, utilizing social media for sports.[13] Sport contracts; marketing, merchandising, and licensing agreements; athlete image rights; Developing profitable sponsorship packages. Enforcing rights and promoting respect for intellectual property rights in sports. Sport disputes and alternative dispute settlement in sports.

IPR and Sports

The world intellectual property organization brings the sports close to intellectual property right. There is different type of intellectual property patents, trademarks, copyright, Designee, Plant variety protection Act, etc. this IP support the global sports ecosystem to a unique style and provide protection to the sport sector. The IP provides a right to the inventor and creator of innovation and creativity work. It protects the good will that is associated with the product and service. Different rights are protected by different IP. Such as invention is protected by Patent. Brand, logo, mark are protected by trademark. The designs are protected by Industrial Design. The creative work and broadcast are protected by copyright. The IP right holder have right to stop copy or use the IP without his permission or licenses. This is a valuable right in the business to develop new creative and brand product for the customer. It has a economic value for the IP holder.

Whenever there is a innovation and creation takes place through the intervention of human mind or labour there is IP to protect the right of innovation and creative work and encourage in to all area, including in sports. Sports has innovation idea and creative to enhance the performance of athletic to perform best in the world wide simultaneous it provide in the development of nation and make fit to sported associated person. The equipment are used, create a business environment and create more jobs.

Trademark and Sport

Trademark Act recognizes and enforces and enforces an important intellectual property right. Trade mark means, a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others.[14] Trade mark also means a registered trademark or a mark used in relation to goods or services for the purposes of indicating a connection in the course of trade between the goods or services and some person having the right either as proprietor or by way of permitted users to use the trade mark. To register to be trade mark must possess and qualify the section 9 of the

[13] https://www.wipo.int/pressroom/en/briefs/ip_sports.html, 23/02/2024.
[14] Trade Marks Act,1999,S.2(zb).

Trade Mark Act 1999. A trade mark is the property of the manufacturer. The purpose of a trade mark is to establish a connection between the goods and the source thereof which would suggest the quality of goods. Trademarks are very valuable in the sports industry. Sports event branding involves using logos, marks, captions, taglines, slogans, and team names to create brand value for athletes, organizations, players, and sports goods and services. Personality rights in sports can significantly impact the branding of athletes and teams. Celebrity status promotes brand image, advertising, and revenue generating.[15] To protect their trade names in Indian courts, federations, coordinators, team owners, and sports equipment makers should register their team names, logos, settings, subtitles, slogans, and mottos under the Indian Trademarks Act 1999.

Commercialization of Brand

Sport is popular among people from the long time. It popularity and challenges also increase day by day. The development of technology makes easier for the sports fans. Social media makes update the sports fan for their favorite event or athletes play. The world is changing readily so there is also change in sport. It will be necessary to capture the fans. One of the biggest problems in the sport management is the data privacy. As the sports market collects the data it need to maintain data privacy regulation. The sport fans are following the social media for the current trends in the sports industry. So it is on opportunities for the sport management authority to address the potential challenges. Sport must have innovative and creative idea to attract their consumer.

Sports clubs are increasingly focusing on commercialization and brand licensing to increase profits. Sports teams sell a wide range of things that are popular with the general public, including hats, shoes, t-shirts, and sports equipment. The athletes' t-shirts bear the logos of a variety of firms. Groups can participate in merchandising by licensing their work to a third party. License agreements contain several terms and restrictions.[16]

Broadcast

Broadcast means communication to the public, by any means of wireless diffusion, whether in any one or more of the forms of signs, sound or visual image; or by wire. The restrictions also applicable to the inclusion of an already broadcasted work in cable programme. The copyright act provides that no broadcast reproduction right is infringed by use of excerpts of a broadcast in reporting of current events or for bonafide review, teaching or research, which is consistent with fair dealing.

With respect to sports events and sporting affairs, the Delhi High Court in Star India Pvt. Ltd. v. Piyush Agarwal,[17] laid down two objective facts which would determine whether the reporting was the offending activity or not. The first objective fact was the nature of the coverage with respect to information being diffused, i.e., it was result oriented. These facts were capable of a percipient reception by a judge. They were not esoteric and could not be objectively pleaded by parties and shown as objective facts to a judge. The court decided the time lag period to be of two minutes because in today's age and world, technology had really reached stupendous heights that the dissemination of information was very fast.

[15] The Role of IPR in Sports Preyansi Anand Desaia aThe Maharaja Sayajirao University of Baroda, Vadodara, India Received 18 February 2022. Pg.3.
[16] The Role of IPR in Sports Preyansi Anand Desaia aThe Maharaja Sayajirao University of Baroda, Vadodara, India Received 18 February 2022. Pg.3.
[17] Star India Pvt. Ltd. v. Piyush Agarwal, 2014 (58) PTC 169 (Del) at pp.187-188, 189.

Trade Marks infringement in Sports Sector

The action for infringement is a statutory remedy conferred on the registered proprietor of a registered trade mark for the vindication of the exclusive right to the use of the trade mark in relation to those goods. When a person gets his trade mark registered, he acquires valuable rights by reason of such registration. Registration of his trade mark gives him the exclusive right to the use of the trademark in connection with the goods in respect of which it is registered and if there is any invasion of this right by any other person using a mark which is the same or deceptively similar to his trade mark, he can protect his trade mark by an action for infringement in which he can obtain injunction.[18]

Trademarks conflicts develop as a result of various infringements or unauthorized uses of intellectual property. The growing commercialization of intellectual property rights in sports can lead to legal difficulties such as trademark infringement, brand abuse, misbranding, and misuse in bad faith, and unauthorized use of sports personality's names.

Suggestion

Indian needs sport legislation in general to deal with sports industry in general and the intellectual property in particular while give more focus to recognize the non-conventional trademarks in India. This may be one helpful to the innovation and creative for the Indian sports in the present era.

Conclusion

Intellectual property is very important as it generate revenue, and create job. The government must adopt tough legislation to enforce intellectual property rights in sports as soon as feasible. To safeguard sports assets and intellectual property from infringement and misuse, intellectual property owners must take proactive measures. Sports professionals must recognize the value of intellectual property and protect it through registration, licensing, and contracts. Legal contracts are crucial for protecting intellectual property in athletic events, teams, and individual athletes to preserve financial interests of all parties involved. Providing residents with IPR protection legislation will boost India's economy, infrastructure, and riches, propelling the country from developing to developed status. Become an international phenomenon presently. This will strengthen India's position in international institutions, including the UN.

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[18] American Home Products Corpn. v. Mac Laboratories (P) Ltd., (1986) 1 SCC 465: AIR 1986 SC 137.

THE POST PANDEMIC SCENARIO OF INNOVATONS IN INTELECTUAL PROPERTY AND CORPORATE SECTOR IN INDIA

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Abstract

The post-pandemic landscape has presented both challenges and opportunities for innovation in the corporate sector, with intellectual property playing a critical role in driving competitiveness and value creation. The epidemic accelerated the digital transformation of many industries and increased the importance of intellectual property as a support for innovation and creativity. For example, the growth of e-commerce during the pandemic has increased violations of intellectual property rights, especially in the areas of copyright and trademarks. The global pandemic has shaken the economy and challenged the social status quo. Combined with the ongoing political turmoil and climate crisis, the conditions are ideal for a major resumption of innovation in business offers an opportunity for the dissemination of innovative values and social rooting. International technological, economic cooperation and political coordination are urgently needed to prepare developing countries not only to withstand the shock of the pandemic, but also to develop their digital skills and infrastructure so that they are no longer left behind in the post-pandemic economic recovery. As most of the startup leaders and entrepreneurs are looking for exit strategies to contain losses, some of us have given up to the menace already. Aspiring employees, projects and ideas which were to bloom into reality may take ages to substantiate any further. Times are rough and only the tougher ones would survive. This paper focuses on both the positive and negative impact of the pandemic on the areas of intellectual property and the corporate sector. The paper gives insights on the trends occurred post covid with reference to new innovations in different areas and the growth of business in different corporate sectors. Coronavirus impact is not just physical, it's temperamental, psychological, and ergonomic and it is here to stay for some time!

Keywords: Corporate, Covid, Innovation, Intellectual property, Pandemic

Introduction

The pandemic has given the whole world another perspective in which it could be seen. Though during the pandemic the impact in all sectors was highly negative the post covid scenario was a positive uplift. In respect to intellectual property industry the medical and scientific innovations have witnessed a great peak in its growth. The corporate sector on the hand had suffered only during the transition from the pandemic but with development in virtual and visual communications the sector has seen high level advancement in the outputs effectiveness and efficiency. The trends and developments include remote work collaboration, digital transformation, healthcare and biotechnology innovations, green technologies, supply chain resilience, e-commerce and digital marketing, regulatory changes.

Methodology

To aid in addressing the related knowledge gap concerning IP innovations and the growth in the corporate sector deployment of the mixed research methods have been used. The findings and conclusions are based on various news articles, industry reports and patent data.

IP Innovations During the Pandemic

Vaccines were the key players for innovation during the pandemic. During the pandemic, IP played a supporting, not a primary, role in developing vaccines and drugs. Myths concerning the role of IP get in the way of a holistic assessment of what IP can and cannot do, delaying or preventing the type of policy experimentation — such as open-science drug development — that promises to deliver more targeted vaccines and drugs to the world more quickly.[1] The rapid development of COVID-19 vaccines showcased remarkable IP innovations. Companies such as Pfizer-BioNTech, Moderna, AstraZeneca, and Johnson & Johnson employed novel mRNA technology and collaborated with research institutions to accelerate vaccine development. These companies also engaged in IP partnerships and licensing agreements to scale up production and ensure global access to vaccines. The pandemic prompted innovation in medical devices and equipment to address healthcare challenges. Companies developed new ventilator designs, personal protective equipment (PPE), diagnostic tests, and remote patient monitoring devices. Many of these innovations involved securing patents and other IP rights to protect their technology and market advantage. With the surge in online shopping and contactless payments during the pandemic, companies innovated in e-commerce platforms, digital payment systems, and logistics solutions. Secure payment technologies, block chain-based platforms, and digital authentication methods were developed to enhance online transactions and customer experiences. IP protection was essential for safeguarding software algorithms, payment processing methods, and brand identities. The pandemic accelerated the adoption of remote learning and educational technology (EdTech) solutions. Companies developed online learning platforms, virtual classrooms, interactive content, and AI-driven tutoring systems to support remote education. IP protection played a crucial role in safeguarding educational content, software algorithms, and digital learning tools. The pandemic highlighted the importance of resilient supply chains and efficient logistics operations. Companies innovated in supply chain management software, predictive analytics, and inventory optimization solutions to mitigate disruptions and enhance efficiency. IP protection was crucial for safeguarding proprietary algorithms, predictive models, and supply chain data analytics.

While the COVID-19 pandemic spurred significant innovation in intellectual property (IP), it also presented several challenges for IP innovations:

1. **Remote Collaboration Challenges**: The shift to remote work posed challenges for collaboration among researchers, inventors, and IP professionals. Limited access to physical laboratories, restricted travel, and communication barriers hindered collaborative innovation efforts, delaying the development and protection of new IP.

2. **Intellectual Property Protection Delays**: The closure of patent offices and disruptions in administrative processes during lockdowns led to delays in the filing, examination, and granting of patents. This delay in securing IP protection could affect companies' ability to enforce their rights, attract investment, and commercialize their innovations.

3. **Increased IP Theft and Cybersecurity Risks**: The rapid transition to remote work and digital collaboration increased the risk of IP theft, data breaches, and cybersecurity incidents. Hackers

[1] Gold, E.R. (2022) *What the COVID-19 pandemic revealed about Intellectual Property, Nature News*. Available at: https://www.nature.com/articles/s41587-022-01485-x

targeted valuable IP assets, trade secrets, and confidential information stored on remote servers, posing significant risks to companies' competitiveness and reputation.

4. **Supply Chain Disruptions and Counterfeiting**: Supply chain disruptions and shortages of raw materials, components, and manufacturing capacity affected the production and distribution of innovative products. Additionally, the rise in counterfeit goods and unauthorized reproductions of patented inventions exacerbated IP infringement challenges, undermining companies' market position and revenue streams.

5. **Regulatory Uncertainty and Policy Changes**: The pandemic prompted regulatory changes, policy interventions, and government initiatives aimed at addressing public health priorities, supporting economic recovery, and fostering innovation. However, regulatory uncertainty and evolving legal frameworks in areas such as healthcare, biotechnology, and data privacy posed challenges for companies navigating IP rights and compliance requirements.

6. **Financial Constraints and Resource Allocation**: Economic uncertainties, revenue losses, and budget constraints caused by the pandemic forced companies to reassess their investment priorities and resource allocation for innovation and IP protection. Limited funding, reduced R&D budgets, and workforce layoffs impacted companies' ability to sustain innovation pipelines and protect their IP assets effectively.

7. **Litigation and Enforcement Challenges**: The pandemic-induced disruptions in legal proceedings, court closures, and backlogs in IP litigation exacerbated challenges in enforcing IP rights and resolving disputes. Companies faced delays in legal proceedings, arbitration, and mediation processes, affecting their ability to enforce patents, trademarks, and copyrights against infringers.

The COVID-19 pandemic has had a profound impact on businesses with IP assets, leading to changes in IP valuation and licensing. Physical IP-related events such as licensing fairs and trade shows have been impacted, resulting in an increased use of digital licensing models. Overall, the COVID-19 pandemic presented multifaceted challenges for IP innovations, requiring companies to adapt their strategies, processes, and technologies to overcome barriers and capitalize on emerging opportunities amidst unprecedented uncertainty and disruption.

the Post Covid Scenario

Looking forward to the post-Coronavirus economic recovery, automation and digitization are likely to be the star features. Firstly, there is an important role that digital technology and automation have played in global community's fight against COVID-19. Not only remote temporary detecting, robot cleaner in hospitals, drone delivery of medicine, living materials and notice, and infectious person tracking, but also tele-health, e-business, online education, online entertainment, and the online conference and online office systems all have grown rapidly and contributing to the global response to COVID-19 and to the society and economy.

Secondly, some sectors – and even some 'new' sectors such as various online services' provision – have already grown rapidly during the pandemic due to the increasing demand. It will not be surprising to see new star industries in the reshuffle and relocation of the GVCs. Some countries will fill the gap of relocated GVCs by investing heavily in the star 'future' sectors in the digital economy, innovation in digital applications in the traditional industries, and the development of digital infrastructure. These sectors will be new engines of economic growth.

Thirdly, lessons from the pandemic and the trade war will push business to build up more resilient production systems and supply chains. Digital transformation of existing industries and production systems will be a popular choice for companies in both the manufacturing and service industries. Digitization often means greater capital and technology intensity, and less use of labour. Engineers can even manage the production process by remote control. This makes the production process become less contact-intensive, and hence less affected by social distancing and restrictions on human mobility. Therefore, digital transformation including smart manufacturing, smart services, e-government and digitized green transformation supported by 5G, big data, cloud, internet of things and blockchain will transform or even revolutionise manufacturing and private and public services provision.[2] Initiatives such as the e-Commerce Strategy and the Intellectual Property Rights Coordination Center (IPR Center) have been developed to identify and seize counterfeit goods sold online nd to combat IP infringement in the digital age. The EU Horizon program provides IP and innovation funding to startups and SMEs, while the EU Trademark Directive and the EU Copyright Directive have been overhauled to harmonize IP legislation across EU member states[3]

In the post-COVID scenario, intellectual property (IP) innovations are likely to continue evolving in response to changing market dynamics, technological advancements, and regulatory shifts. Overall, the post-COVID scenario is expected to drive continued innovation across various sectors, with intellectual property playing a central role in enabling companies to capture value, maintain competitiveness, and drive sustainable growth in a rapidly changing business landscape.

Overview of The Corporate Sector

The economic reforms since 1991 have brought many changes to the environment in which Indian companies previously operated. The principal aim of these reforms was to strengthen market discipline and promote greater competition by putting an end to the "license raj," namely through the abolition of the Industries Development and Regulation Act (1951) and amendments to the Companies Act and several other major laws, which had imposed a heavy legal and regulatory burden on the corporate sector In addition, the foreign trade regime was liberalized through cuts in tariff rates, reductions in nontariff barriers, and a streamlining of import licenses; foreign investment opportunities were increased; and shareholders' rights were improved. Indian companies were allowed to enter into joint ventures with multinational enterprises more freely, import new technologies and capital goods, expand productive capacity, and introduce new products without obtaining industrial licenses. More recently, steps have been taken to derisive a number of small-scale industries, particularly those industries with the greatest export potential. A more modern competition law has also been enacted that focuses more on anti-competitive practices, by giving greater consideration to abuse of market dominance rather than through firm size per se. Further progress is needed in reforming labor laws to allow flexibility in employment decisions in line with market conditions.

The financial sector has also experienced a considerable opening. Recognizing the poor health of the financial sector, a host of reforms were implemented (as laid out by the Narasimham Committee on

[2] Zhenya (2020) *Innovative Technologies and post-coronavirus economic recovery: A global value chains perspective, International Science Council*. Available at: https://council.science/current/news/innovative-technologies-and-post-coronavirus-economic-recoverya-global-value-chains-perspective/

[3] Property, A. NAJA Intellectual and Naja, A. (no date) *Transformation of intellectual property in a post-pandemic world, Transformation of Intellectual Property in a Post-Covid World*. Available at: https://www.abounaja.com/blogs/intellectual-property-post-covid

Financial Sector Reforms), including the deregulation of interest rates, easing of restrictions on private and foreign banks, removal of consortium lending requirements, liberalizing of bank branch licensing, and entry of private sector mutual funds and foreign institutional investors. Financial sector reforms, in particular, have acted to induce firms to improve their cash and debt management during the reform period.[4]

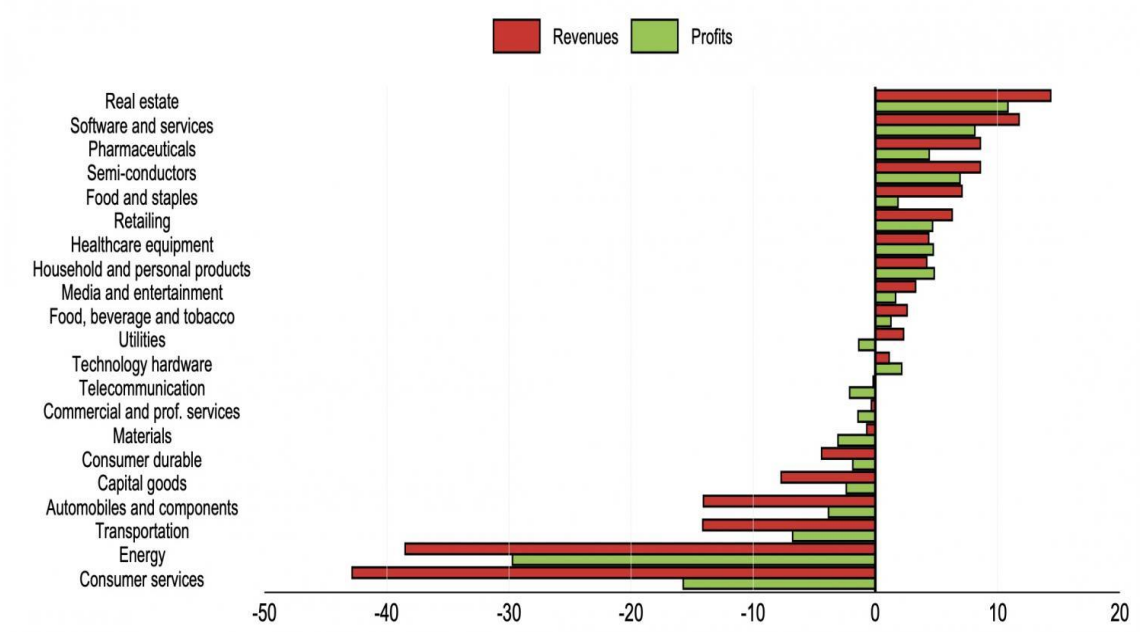
India: Growth in the Corporate Sector, 1989–2019

Year	Number of Companies	Estimated Paid-Up Capital (In Rs. billions)	Estimated Paid-Up Capital (In percent of GDP)
1. Government companies			
1982	894	133.1	7.9
1987	1,053	328.7	10.6
1992	1,180	579.1	8.9
1997	1,220	843.2	6.2
2002 2/	1,261	1,099.2	4.8
2. Nongovernment companies			
1982	71,508	56.3	3.3
1987	139,617	111.0	3.6
1992	249,181	267.3	4.1
1997	449,730	1,062.0	7.8
2002 2/	587,985	2,771.1	12.1
3. All companies			
1982	72,402	189.4	11.2
1987	140,670	439.7	14.1
1992	250,361	846.4	13.0
1997	450,950	1,905.2	13.9
2002 2/	589,246	3,870.2	16.9

[4] Topalova, P. (2004) *Overview of the Indian corporate sector: 1989-2002, IMF eLibrary.* Available at: https://www.elibrary.imf.org/view/journals/001/2004/064/article-A001-en.xml

As expected, the Covid-19 shock has had a largely negative impact on corporate profitability and leverage around the world. Revenues and profits dropped by 2% for the median firm, debt and leverage ratios increased, and the interest coverage ratio (or ICR), a key solvency metric, declined by roughly two percentage points. But this general picture conceals significant heterogeneity, with both winners and losers . Revenues and profits dropped between 30% and 50% for firms operating in the energy sector, reflecting depressed oil prices during most of 2020, as well as in contact-intensive consumer services, such as hotel and restaurant chains, casinos and gaming, and cruise lines. The income shock was also sizeable in the transportation and automobile sectors. In contrast, firms operating in software services, pharmaceuticals, healthcare, or retailing expanded substantially in fiscal year 2020, both in terms of revenues and profits.

In contrast to other recessions, financial stress has been contained due to prompt and effective monetary and fiscal policy support. In spite of the strength of the Covid-19 shock, the number of firms 'in distress' – measured by the share of firms with either negative equity or an interest coverage ratio below one – has remained stable in the sample.2 This finding is in line with the general slowdown in bankruptcies among both large and small firms observed in OECD countries (Djankov and Zhang 2021). In fact, the number of bankruptcies has remained lower than in the global crisis, and, in some advanced economies, it was even lower than in the years preceding the pandemic. The stark contrast with the global crisis can also be seen in how 'risky' firms navigated the global crisis and the Covid-19 pandemic. During the global crisis, the riskiest firms in hard hit sectors experienced both a reduction in their access to credit (or debt) and a steep shortening of their debt maturity structure. During Covid-19, the same firms managed to raise a substantial amount of debt, without incurring any change in debt maturity, even though they faced a revenue shock of similar magnitude.



Changes in revenues and profits between FY 2019 and FY 2020, by sector[5]

[5] Rawdanowicz, L. and Puy, D. (2021) *Covid-19 and the corporate sector: Where we stand, CEPR.* Available at: https://cepr.org/voxeu/columns/covid-19-and-corporate-sector-where-we-stand

The post covid scenario is highly appreciable globularly as well as in the the national level. Many companies have adopted remote work policies during the pandemic, and some may continue to embrace this model to varying degrees post-COVID. This could lead to long-term changes in office space requirements, with companies potentially downsizing their physical footprint or adopting flexible workspace arrangements. The pandemic accelerated digital transformation across industries, with companies investing in technology to facilitate remote work, improve customer experiences, and streamline operations. Post-COVID, businesses may continue to prioritize digital initiatives to stay competitive and resilient. he pandemic exposed vulnerabilities in global supply chains, prompting companies to reevaluate their sourcing strategies and diversify suppliers. Post-COVID, there may be a greater emphasis on building resilience into supply chains, which could involve reshoring production, adopting new technologies like blockchain for transparency, and enhancing risk management practices. The pace and trajectory of economic recovery post-COVID will vary by region and industry. Some sectors, such as travel and hospitality, may experience a slower recovery due to ongoing restrictions and changes in consumer behavior. Other sectors, such as technology and healthcare, may continue to thrive and drive economic growth. The widespread adoption of remote collaboration tools during the pandemic has transformed how teams work together. Post-COVID, these tools are likely to remain essential for facilitating communication and collaboration across geographically dispersed teams, even if some employees return to the office. Health and safety measures implemented during the pandemic, such as enhanced cleaning protocols and workplace distancing, may continue to be prioritized to protect employees' well-being. Companies may also invest in technologies like contactless entry systems and air filtration systems to mitigate the risk of future outbreaks. he pandemic has led to shifts in consumer behavior, including increased e-commerce adoption, changes in spending patterns, and a greater emphasis on health and wellness. Post-COVID, companies will need to adapt to these changes and tailor their products and services to meet evolving consumer needs.

Out of all the analysis made the real estate, software and services, pharmaceuticals, and similar industries have really got benefitted whereas industries such as consumer durables, automobiles and like industries have seen a negative impact. Overall, the post-COVID corporate sector scenario is likely to be characterized by ongoing adaptation and resilience as businesses navigate the uncertainties and opportunities of a post-pandemic world.

Startup Sectors

There are a few start up sectors which had their bloom during the pandemic and are likely to have a lot of scope available to grow post covid. To name a few here are the following:

- Ed-Tech

  Online education, tutoring, web courses, etc. have come up to be the need of the hour when schools and educational institutions are not allowed to function. Irreplaceable, the online education sector is observing a sudden surge and people from all walks of life, from every of the COVID-19 affected nations, are looking up to alternatives of conventional teaching and learning.

- Health & Wellness

  With a worldwide health emergency in play, it's a huge opportunity for the health and wellness sector to place itself as a necessity among the users. Branding themselves as pivotal and much needed support mechanism, this industry is already on a rise to becoming the one with most growth perspectives in the future.

- Financial Services & Nbfcs

  One thing that's inevitable in the upcoming days is an all-time economic low. Masses would be stranded with less or no cash reserves. Aggravating to the issues at hand, unemployment and health issues would make matters worse. In such times, the regulated financial service providers and the NBFCs have a pivotal role to play.

- Saas & Remote-Working Tools

  Saas & Remote Working Tools fall right in the path of success in such times. With the temperamental changes that we are likely to witness, SaaS applications & Remote Working Tools would facilitate the ongoing projects and pave the road map for future endeavors to greater extents.

- E-Commerce & Delivery Based Services

  With national lockdown imposed in various countries, social distancing being practiced as the new normal for upcoming months if not years, and people refraining from gathering up at markets, grocery stores and public places, the E-commerce & Delivery based sectors are booming at large. These offer a safe and distanced way to procure essential and non-essential commodities, which is advised as precautionary measures for COVID-19, the industry is to see a spike in customer-retail operations.

- Ott Platforms & Online Gaming

  Over the top media and online gaming has surfaced above the conventional ways of entertainment. With bans and restrictions on movie theatres, gaming hubs and other recreational-amusement installations, these OTT platforms and the online gaming world had to fill in the gaps.

- Pharma, Life Sciences & Labs/Pathology

  Another major sector that came out to be a winner is the Pharma, life sciences and pathology sector. May it be children, adults or the elderly, in the wake of COVID-19 spread, the majority of the human population would wish to have enough health medication and facilities handy.

- Managed Office Spaces

  Another sector that would rise above the rest is the managed office spaces for corporates, startups and commercial real estates. With the prevailing wave of remote working culture combined with businesses cutting costs aggressively, the need for cost-efficient, comfortable managed office spaces is observed.[6]

Conclusion

In conclusion, the post-COVID era has spurred significant innovation within the intellectual property (IP) landscape and the corporate sector as a whole. This period has witnessed a rapid adoption of digital technologies, a revaluation of traditional business models, and an increased focus on resilience and agility.

[6] *Top 8 startup sectors likely to grow post covid-19 pandemic* (no date) *alt.* Available at: https://www.startupindia.gov.in/content/sih/en/reources/startup_india_notes/industry_insights/top_8_startup_sectors_likely_to_grow_post_COVID-19_pandemic.html

the post-COVID era has catalyzed innovation within the intellectual property landscape and the broader corporate sector, driving digital transformation, collaboration, resilience, and a renewed focus on sustainability and social responsibility. These trends are likely to shape the future of business and innovation in the years to come, as companies continue to adapt to a rapidly changing and interconnected world.

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FARMER'S RIGHTS AND INTELLECTUAL PROPERTY RIGHTS IN INDIA: A COMPREHENSIVE ANALYSIS

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Abstract

The intersection of Farmer's Rights and Intellectual Property Rights in India constitutes a complex landscape that significantly impacts agricultural practices, biodiversity conservation, and socioeconomic dynamics. This research paper aims to comprehensively explore the relationship between farmer's rights and Intellectual Property Rights in the Indian context, delving into legislative frameworks, historical perspectives, challenges, and potential solutions. This research paper investigates the implications of Intellectual Property Rights on Farmer's Rights, particularly in the realm of seeds, genetic resources, and traditional knowledge. Furthermore, it analyzes the existing legal provisions, international agreements, and policy initiatives concerning the protection of Farmer's Rights and Intellectual Property Rights, while offering insights into the way forward for ensuring a balanced and equitable approach that safeguards both farmer's interests and innovation.

Keywords: India, Intellectual Property, Farmer's rights, Plant varieties, Breeders.

Introduction

The economic, social, and political foundation of society in countries that are developing is heavily influenced by farmers.[1] Agriculture contributes to India's way of life and as a source of employment. People who are dependent on agriculture for their daily sustenance live in India's rural areas. In India, agricultural activity is primarily practiced in rural areas where small-scale farmers influence food production by employing conventional farming methods.

Before the TRIPS Agreement, India did not offer any kind of intellectual property protection for plants. The Indian Patent Act prohibits the patenting of plants, animals, seeds, varieties, and, basically, all biological processes other than microorganisms. This provision conforms to the TRIPS requirement set forth in Article 27.3(b). India made an effort to harmonize the TRIPS and CBD rules while protecting plant varieties. India passed the Protection of Plant Varieties and Farmers' Rights Act in 2001 as a result, of adopting a sue generis system.

The term Sui generis is a Latin phrase that means "of its own kind or genus" and thus "unique in its characteristics." It exists in opposition to any rule or system that is universalized or globalized, or, to put it another way, anything that infringes on or causes a threat to supersede its own particularity. In the

[1] Anshu Pratap Singh and Padmavati Machikanti, "Sui-Generis IPR Laws Vis-À-Vis Farmers' Rights in Some Asian Countries: Implications under the WTO" 16 *Journal of Intellectual Property Rights* 107-116 (2011).

conceptualization of farmer's rights in general and in the Indian Protection of Plant Variety and Farmer's Rights (PPV&FR), 2001 legislation in particular, the heading refers to the subversion of this particularity. Within a specific global law framework, farmer's rights discussions first emerged in the middle of the 1980s, ensuring that numerous sui generis histories underwent a discursive delimitation at the time. It is extremely important to place farmer's rights within the broader framework of political shifts that occurred in the late 1980s and early 1990s. Plant breeding in India was primarily the responsibility of the public sector until the late 1980s.[2] However, in the late 1980s, there was an evident change in perspective brought on by policy changes that led to the privatization of resources and the liberalization of the economy. In accordance with these larger trends, the notion that plant breeder's rights and the privatization of the seed industry would make it easier for new breeding technology to enter the market quickly spread throughout various policy circles and started to influence institutional thinking and design. The commodification of seeds over time and the privatization of plant genetic resources were two additional worldwide trends that correlated with these local ones, showing a relationship between capital accumulation and the protection of plant varieties.[3]

Historical Context

The historical context of agriculture in India reflects a rich tapestry of communal farming practices deeply rooted in indigenous wisdom and sustainability. Traditional farming communities across India embraced a collective ethos that emphasized sharing seeds, knowledge, and resources among farmers. This collaborative approach fostered not only sustenance but also a culture of innovation and resilience. Through generations, these communities meticulously preserved and refined indigenous knowledge systems, which formed the bedrock of agricultural practices, biodiversity conservation, and cultural heritage. The arrival of Intellectual Property Rights marked a significant shift in the agricultural landscape of India. With the introduction of patents, plant variety protection, and the incorporation of trade-related aspects of intellectual property rights (TRIPS), there emerged a transformation in the perception and treatment of agricultural resources.[4] The paradigm shift triggered by the IPR regimes raised fundamental questions about the commodification and privatization of resources that were traditionally considered common heritage or communal property.

The implementation of patents and plant variety protection systems altered the dynamics of seed ownership and control. Seeds, once freely exchanged and shared among farming communities, became subject to legal ownership, often held by corporations or entities that developed or modified them.[5] This transformation challenged the inherent ethos of communal farming practices, posing threats to farmer's autonomy, seed sovereignty, and the diversity of crop varieties cultivated across the nation.[6]Additionally, the incorporation of TRIPS into the global intellectual property framework compelled changes in domestic laws to comply with international standards. While these standards aimed to harmonize intellectual property protection globally, they raised concerns about the impact on farmer's rights, particularly regarding access to seeds, genetic resources, and traditional knowledge. The clash between traditional

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[3] David Goodman and Michael Redclif, "Refashioning Nature: Food, Ecology and Culture" 37 *New York: Routledge* 27-38 (1991).
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[5] Sanjit Kumar Chakraborty, "Contestation Over the Ownership, Use and Control of Plant Genetic Resources" 60 *Journal of the Indian Law Institute* 369-388 (2018).
[6] Mami Nagashima, Yoshiaki Nishikawa, *et.al.*, "Seed System Dynamics and Crop Diversity of Chinbaung in Myanmar", in Kazuo Watanabe (ed.), *Seeds for Diversity and Inclusion* 91-105 (Springer Nature, 3rd edn., 2015).

communal practices and the evolving IPR systems led to a contentious debate over the implications of privatization, commercialization, and exclusive rights in the agricultural domain.

The shift towards commodification of agricultural resources under Intellectual Property Rights also gave rise to issues of biopiracy, where corporations or entities sought patents or ownership claims over traditional knowledge or genetic resources held by indigenous communities without providing fair compensation or recognition. This phenomenon further underscored the pressing need to strike a balance between incentivizing innovation and safeguarding the collective heritage and rights of farming communities. In essence, the advent of Intellectual Property Rights in India's agricultural sphere ushered in a new era, challenging age-old communal practices and raising pertinent concerns about the equitable distribution of benefits, protection of traditional knowledge, and the preservation of agricultural diversity. Navigating this complex terrain requires a nuanced approach that reconciles the imperatives of intellectual property protection with the imperative to uphold farmer's rights, preserve indigenous knowledge, and ensure sustainable agricultural practices for future generations.

Legislative Framework

India has taken significant strides in formulating legislative frameworks to address the complex interplay between farmer's rights and intellectual property rights, and the preservation of traditional knowledge associated with biodiversity. One of the key legislations in this domain is the Protection of Plant Varieties and Farmer's Rights Act (PPV&FR Act). Enacted in 2001, this Act aims to protect the rights of both plant breeders and farmers. It recognizes and safeguards the rights of farmers in traditional seeds and promotes the development of new plant varieties by breeders. However, despite its intentions, challenges persist in its effective implementation.

Enforcement remains a considerable hurdle in the effective application of these laws. The lack of robust enforcement mechanisms often leads to violations of plant breeders' rights and undermines the protection afforded to farmers' rights.[7]Additionally, inadequate awareness among farmers and other stakeholders about their rights under these laws poses a significant challenge. Many farmers, especially in remote or rural areas, might not have sufficient knowledge or resources to assert their rights or navigate the legal processes provided by these Acts.[8]Another critical challenge arises from the interface between traditional agricultural practices and modern intellectual property systems. Balancing the need to protect traditional knowledge while simultaneously integrating it into the formal intellectual property framework is a complex task. The Biological Diversity Act and the Traditional Knowledge Digital Library have been established to protect traditional knowledge associated with biodiversity. However, the harmonization of traditional practices with modern intellectual property concepts often encounters friction due to differing perspectives, valuation methods, and criteria for recognition and protection.

Furthermore, the evolving nature of technology and the globalization of markets pose dynamic challenges to these laws. The rapid advancements in biotechnology and genetic engineering raise new questions about the scope and applicability of existing legislation, necessitating continuous updates and adaptations to ensure relevance and effectiveness.

[7] Sumit Chakravarty, "Farmers Rights in Conserving Plant Biotechnology with Special Reference to North East India" 13 Journal of Intellectual Property Rights 225-233 (2008).

[8] Jackson John H (ed.), The Jurisprudence of the GATT and the WTO, Insights of Treaty Law and Economic Relations 335 (Cambridge University Press, Cambridge, 4th edn., 2007).

Challenges and Controversies

The coexistence of Farmer's Rights and Intellectual Property Rights in India is riddled with multifaceted challenges and contentious issues that significantly impact farmer's autonomy, seed sovereignty, and traditional knowledge systems. One of the primary concerns is the widespread proliferation of genetically modified organisms (GMOs), which have raised debates regarding their impact on the environment, human health, and farmers' rights. The introduction of GMOs often comes with potential risks, including genetic contamination of traditional crops and dependency on specific seeds, limiting farmer's choices and autonomy in selecting seeds best suited for their local environments.[9]

Biopiracy is a pressing issue that requires international attention and robust regulatory frameworks to address the unauthorized use or exploitation of biological resources and traditional knowledge. The impact of such actions extends beyond mere infringement, as it fundamentally undermines the rights of indigenous communities and farmers who have played a crucial role in conserving and developing these resources over generations. The lack of fair and equitable benefit-sharing arrangements exacerbates the injustice, as external entities profit from commercial gains without providing adequate compensation to the custodians of traditional knowledge.

Furthermore, the problem is compounded by the phenomenon of seed monopolization, driven by the imposition of strict intellectual property regimes. Multinational corporations and seed companies wield considerable influence by holding patents or rights over specific seed varieties. This monopoly severely restricts farmers' autonomy to save, exchange, or sell seeds, posing a direct threat to seed sovereignty and agricultural diversity. Traditional practices of seed saving and sharing, which have been integral to farming communities for centuries, are undermined as a result.

To address these challenges effectively, it is crucial to establish international agreements that prioritize fair benefit-sharing mechanisms, ensuring that the communities or individuals holding traditional knowledge receive just compensation for the use of biological resources. Simultaneously, efforts should be made to reassess and reform intellectual property regimes related to seeds, promoting a more balanced approach that safeguards farmers' rights to save and exchange seeds while also encouraging innovation and sustainable agricultural practices.[10] This holistic approach is essential for fostering a more equitable and sustainable relationship between external entities, indigenous communities, and farmers, ultimately contributing to the conservation of biodiversity and the preservation of traditional farming practices.

The prevailing unequal power dynamics among multinational corporations, seed companies, and small-scale farmers exacerbate the difficulties faced by the latter group. Small-scale farmers, often constrained by limited resources and bargaining power, find themselves in a precarious position when negotiating terms related to access to seeds, technology, and markets. This inherent power asymmetry gives rise to conflicts over the ownership and control of genetic resources, leaving farmers vulnerable to the potential loss of their rights and increasing dependence on external sources for seeds and agricultural inputs.

The consequences of these challenges extend beyond the immediate concerns of individual farmers. The sustainability of agriculture is jeopardized, as the dominance of external entities threatens the diversity of crops and traditional farming practices. Additionally, the preservation of invaluable traditional knowledge

[9] Neil Wilko f and Shamnad Basheer (eds.), *Overlapping IP Rights* 99 (Oxford University Press, New Delhi, 1st edn., 2013).
[10] Neil Wilkof and Shamnad Basheer (eds.), *Overlapping IP Rights* 93 (Oxford University Press, New Delhi, 1st edn. 2013).

systems is at risk, as small-scale farmers may be compelled to abandon time-tested practices in the face of external pressures.[11]

To address these pressing issues, it is imperative to rectify the imbalances in power dynamics. This involves implementing measures that ensure fair and equitable benefit-sharing between all stakeholders, with a particular emphasis on safeguarding the rights and autonomy of small-scale farmers. Strengthening regulatory frameworks to prevent biopiracy is crucial in creating an environment that discourages unauthorized use or exploitation of biological resources and traditional knowledge. Moreover, promoting agricultural practices that prioritize farmers' autonomy and sovereignty over their seeds and resources is essential for fostering a sustainable and equitable agricultural system.

Ultimately, achieving a delicate balance between protecting intellectual property rights and safeguarding farmers' rights and traditional knowledge requires a comprehensive approach. This approach should not only address the immediate challenges but also strive to reshape the broader agricultural landscape by promoting fairness, inclusivity, and sustainability in the relationships between multinational corporations, seed companies, and small-scale farmers. Only through such concerted efforts can we hope to create a more resilient and just agricultural system that benefits all stakeholders involved.

The Way Forward

Addressing the intricate dynamics between farmers' rights and intellectual property rights (IPRs) demands a comprehensive and balanced approach that appreciates the importance of incentivizing innovation while safeguarding the fundamental interests of farmers. Achieving this delicate equilibrium requires the adoption of several key measures and strategies.

First and foremost, a crucial aspect involves the reinforcement of community-based rights. Empowering local communities and indigenous groups necessitates the acknowledgment and protection of their collective rights over traditional knowledge and genetic resources. Recognizing the historical contributions of these communities to agricultural practices and biodiversity conservation is paramount. Providing legal recognition and control over their resources not only validates their role as custodians but also ensures that they are active participants in decision-making processes related to the use and commercialization of these resources.Fostering collaborative research and development models is essential for promoting a more inclusive and mutually beneficial approach. Encouraging partnerships between farmers, scientists, and industry stakeholders can lead to the co-creation of innovations that address specific local needs and challenges.[12] This collaborative approach ensures that farmers' practical knowledge is integrated into the development of new technologies and that the benefits derived from these innovations are shared equitably.

Additionally, there is a need to reevaluate and reform existing intellectual property regimes, especially in the realm of seed patents. Implementing mechanisms that prevent the monopolization of seeds by large corporations and seed companies is crucial for preserving agricultural diversity and ensuring farmers' access to a variety of seeds. This may involve exploring alternative models such as open-source licensing or community-based seed banks that prioritize the collective interests of farmers over corporate profits.

[11] Suman Sahai, Plant Variety Protection and Farmers' Rights Law, *Economic and Political Weekly* 3338-3342 (2001).
[12] Saksham Chaturvedi and Chanchal Agrawal, Analysis of Farmers Rights: In light of Protection of Plant Varieties and Farmers Rights Act of India, European Intellectual Property Review 708-714(2011).

Secondly, promoting participatory approaches in decision-making processes is essential. Including farmers and relevant stakeholders in policy formulation and implementation fosters inclusivity and ensures that diverse perspectives and needs are considered. This approach can help in crafting more contextually relevant and effective strategies that resonate with the realities and aspirations of farming communities.

Thirdly, enhancing access to appropriate and sustainable agricultural technology is imperative. Providing farmers, especially smallholders and marginalized communities, with access to modern, affordable, and environmentally friendly technologies can significantly enhance productivity, resilience, and sustainability in agriculture. Access to such technologies should be equitable and inclusive, catering to the diverse needs of various farming practices and regions.

Moreover, establishing fair benefit-sharing mechanisms is crucial. When utilizing traditional knowledge or genetic resources for commercial or research purposes, equitable benefit-sharing arrangements must be implemented. This ensures that the communities or individuals holding this knowledge receive just compensation and recognition for their contributions.

Integrating traditional knowledge into the intellectual property framework represents another critical step. Balancing the formal intellectual property system with mechanisms that respect and protect traditional knowledge requires innovative approaches that acknowledge the unique nature of traditional knowledge, its communal ownership, and its dynamic evolution over time. This integration can involve creating sui generis systems or complementary measures that safeguard traditional knowledge without impeding innovation.

Finally, fostering collaborations and partnerships among diverse stakeholders is paramount. Encouraging dialogue, cooperation, and synergies between governments, research institutions, private entities, civil society organizations, and farming communities can lead to innovative solutions and shared responsibilities in ensuring the coexistence of farmers' rights and IPRs.

By embracing these multifaceted strategies, a harmonious synergy between farmers' rights and intellectual property rights can be achieved, fostering an environment that promotes agricultural innovation while safeguarding the interests and contributions of farmers and traditional knowledge holders.

Conclusion

The intersection of farmer's rights and Intellectual Property Rights in India embodies a complex landscape with intertwined challenges and promising prospects for harmonization. Recognizing the intrinsic connections among traditional farming methods, the preservation of biodiversity, and the realm of intellectual property can pave the way for a trajectory that honors farmer's rights while nurturing innovation and sustainable progress in agriculture. At the core of this convergence lies the acknowledgment of the historical relationship between traditional farming practices and the conservation of biodiversity. Traditional knowledge systems passed down through generations have contributed significantly to the preservation of diverse crop varieties, indigenous seeds, and sustainable agricultural techniques. These practices are not only invaluable cultural assets but also reservoirs of wisdom for resilient and environmentally sound agricultural methods.

India's journey towards balancing these aspects involves leveraging this wealth of traditional knowledge within the framework of intellectual property. By recognizing the unique nature of traditional knowledge—its communal ownership, dynamic evolution, and connection to biodiversity—the country can create pathways that safeguard farmer's rights while promoting innovation. This involves devising mechanisms

that respect traditional knowledge without stifling the incentives for research, development, and technological advancements.

Furthermore, this convergence offers an opportunity to bridge the gap between formal intellectual property systems and grassroots-level agricultural practices. Integrating traditional knowledge into the intellectual property regime through sui generis systems or specialized protections acknowledges the distinctiveness of this knowledge and its essential role in sustainable agriculture. Such integration can foster an environment that values and protects the contributions of farmers and indigenous communities while encouraging responsible innovation.

However, navigating this landscape is not without challenges. Balancing the interests of various stakeholders, addressing issues of biopiracy, ensuring equitable benefit-sharing, and harmonizing differing perspectives on ownership and control of genetic resources require nuanced approaches and robust regulatory frameworks.

In conclusion, India stands at a critical juncture where aligning farmer's rights with intellectual property rights present both challenges and opportunities. Embracing this convergence entails recognizing the intricate interplay between traditional farming, biodiversity conservation, and intellectual property and devising strategies that honor the invaluable contributions of farmers while fostering innovation and sustainable agricultural development. This journey involves striking a delicate balance that respects the wisdom of traditional practices while harnessing the potential for technological advancement and progress in agriculture.

A STUDY ON THE IMPACT OF AI ON EMPLOYMENT OPPORTUNITIES AND JOB DISPLACEMENT IN INDIA

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Abstract

This research paper examines the impact of AI on employment opportunities and job displacement in Chennai. The objective is to understand the perceptions and attitudes of respondents towards AI's implications for employment trends. The research method followed here is **empirical** research. A total of **200** samples have been collected out of which all samples have been collected through convenient sampling methods. The sample frame taken here is in **Chennai.** The independent variables are age,gender, education, income and occupation and dependent variables are potential opportunities, shifts in employment trends, factors affecting the implementation of AI and impacts. The important findings reveal the need for investment in education and training programs, the importance of new industry development, and the recognition of the uneven distribution of job losses. The conclusion suggests strategies for addressing these challenges, including continuous investment in education and training, fostering the development of new industries, and promoting competitiveness among businesses. The research provides valuable insights to guide policymakers, businesses, and individuals in navigating the evolving landscape of AI and ensuring a smooth transition towards a future where AI and human workers can coexist effectively. The hypothesis that here is no relationship between AI and the impact on employment is hence disproved.

Keywords: Artificial intelligence, job displacement, employment, opportunity, job loss

Introduction

Artificial Intelligence (AI) has emerged as a transformative technology with the potential to reshape various aspects of society, including employment opportunities and job displacement. This research paper aims to investigate the evolution of the topic, government initiatives related to AI, factors affecting the topic, current trends, and a comparison with other cities, states, and countries. The field of AI has witnessed remarkable advancements over the past few decades. From its inception as a theoretical concept to its practical applications today, AI has grown in prominence. The development of machine learning algorithms, deep learning techniques, and the availability of vast amounts of data have accelerated the adoption of AI across various industries. As AI technologies continue to advance, it becomes crucial to examine the consequences they have on employment opportunities and job displacement.Recognizing the potential of AI, the Indian government has taken proactive measures to promote its development and adoption. In 2018, the Ministry of Electronics and Information Technology (MeitY) released a national AI strategy document that outlines the government's vision for AI development in the country. The strategy focuses on leveraging AI for economic growth, social inclusion, and sustainable development. Additionally, initiatives like the Digital India program and the Atal Innovation Mission have provided support and

funding for AI-related projects, fostering an ecosystem conducive to AI growth in cities across India. Several factors influence the impact of AI on employment opportunities and job displacement. One key factor is the rate at which AI technologies are adopted in various industries. Different sectors may adopt AI at different speeds, leading to variations in the extent of job displacement. Another critical factor is the level of workforce adaptability and re-skilling. The ability of individuals to acquire new skills and transition into AI-related roles can mitigate job displacement and open up new employment opportunities. Furthermore, economic factors, government policies, and the availability of AI infrastructure and resources also play significant roles in shaping the impact of AI on employment dynamics (Dholakia et al., 2020).

In India, the AI industry has been growing rapidly in recent years. The city has seen an increase in the establishment of AI startups, research labs, and corporate AI centres. These developments have created new job opportunities in areas such as data science, machine learning, natural language processing, and computer vision. However, as AI technologies automate certain tasks and processes, there is also a possibility for job displacement, particularly in industries that heavily rely on repetitive or routine work. Understanding the current trends in AI adoption, job creation, and displacement is crucial to assess the overall impact on employment .

To gain a comprehensive understanding of the impact of AI on employment, it is essential to compare the situation in Chennai with other cities, states, and countries. Different regions may have varying levels of AI adoption, workforce demographics, and government policies, leading to divergent outcomes. Comparing Chennai with other AI hubs, such as Bengaluru, Hyderabad, and international cities like San Francisco and Beijing, can provide valuable insights into the factors that contribute to varying levels of employment opportunities and job displacement in the AI sector.

In conclusion, studying the impact of AI on employment opportunities and job displacement in Chennai is crucial to comprehend the evolving dynamics in this rapidly changing field. By examining the evolution of the topic, government initiatives, factors influencing the topic, current trends, and making comparisons with other cities, states, and countries, this research paper aims to shed light on the complex interplay between AI and employment in Chennai

Literature Review

1. **Tiwari, Rudra. (2023),** This literature review aims to examine the current research on the impact of AI and ML on job displacement and employment opportunities. The review will explore the potential effects of these technologies on different industries and occupations, the potential for new job creation, and the implications for workers and policymakers. Additionally, the review will examine the impact of AI and ML on wages, income inequality, and economic growth, and provide guidance for future research and policy decisions..
2. **Zhao, Bohan. (2023).** The research aimed to study the technology progress of AI and rising no.of unemployed and breaded polarisation.The study also analysed the negative impact of AI,policies about taxation and subsidies.The research suggests that industrial relocation is a short term solution and reframing education is a long term solution

3. **Autor, D. (2019).**This paper examines the historical context of technological advancements and their impact on employment. It discusses the potential for AI to automate routine tasks and explores the implications for job displacement and the need for workforce re-skilling.

4. **Brynjolfsson, E., & McAfee, A. (2014).**This book analyses the economic consequences of technological advancements, including AI, on employment. It explores the concept of "technological unemployment" and suggests policy interventions to mitigate its effects.

5. **Manyika, J., Chui, M., & Miremadi, M. (2017).**This article presents a comprehensive analysis of the potential impact of AI and automation on different occupational sectors. It categorises tasks into automatable and non-automatable ones, providing insights into the likelihood of job displacement across industries.

6. **Arntz, M., Gregory, T., & Zierahn, U. (2016).** This study assesses the risk of automation across OECD countries, examining the potential for job displacement. It considers the variations in occupational structure, tasks, and skills required, providing a comparative analysis of the impact of AI on employment.

7. **World Economic Forum. (2018).** This report analyses the impact of AI and other emerging technologies on employment and skills in various industries. It discusses the potential for job displacement and emphasises the need for reskilling and upskilling the workforce to adapt to the changing labour market.

8. **Bessen, J. E. (2019** investigates the relationship between AI adoption and employment dynamics. It argues that the effects of AI on jobs are driven by changes in demand for tasks rather than the simple replacement of workers. It explores the potential for AI to create new job opportunities alongside automation.

9. **Chui, M., Manyika, J., & Miremadi, M. (2016)**. explores the potential impact of AI on employment and productivity across different industries. It highlights the importance of workforce adaptability and the need for education and training to navigate the changing job landscape.

10. **Frey, C. B., & Osborne, M. A. (2017)** analyses the susceptibility of jobs to computerization and estimates the potential percentage of jobs at risk across various occupations. It discusses the implications of AI and automation for the future of employment.

11. **McKinsey Global Institute. (2017).**This report assesses the potential impact of automation on the global workforce. It explores the sectors and activities that are most likely to be affected by automation and provides insights into the need for workforce transition and new job creation.

12. **Acemoglu, D., & Restrepo, P. (2019)**. examined the effects of automation, including AI, on labour markets and wage inequality. It discusses the relationship between automation and the creation of new tasks and explores the implications for employment dynamics.

13. **Arora, P., & Gambardella, A. (2017)**. explored the impact of AI and machine learning on innovation and productivity growth. It discusses the potential for AI to generate new economic opportunities and job creation in sectors that harness its capabilities effectively.

14. **Bessen, J. E. (2020).**This paper investigates the influence of labour market institutions on the impact of AI on jobs. It explores how factors such as labour regulations, unionisation, and wage-setting institutions shape the labour market outcomes of AI adoption.

15. **Arora, P., Cohen, W. M., & Walsh, J. P. (2016).** This study examines the relationship between technological advancements, including AI, and the acquisition and commercialization of inventions in the manufacturing sector. It provides insights into the impact of AI on employment and innovation in specific industries

16. **Susskind, R., & Susskind, D. (2015)** explores the impact of technology, including AI, on the legal profession and other expert-based occupations. It discusses the potential for automation to perform tasks traditionally carried out by lawyers and its implications for the future of legal work.

17. **Froomkin, A. M. (2017)** This article examines the use of AI technologies in the legal system, including AI-powered legal research, document analysis, and predictive analytics. It discusses the potential benefits, challenges, and ethical considerations associated with AI adoption in the legal field.

18. **Subotić, M., & Popović, A. (2020)** This paper analyses the potential impact of AI on legal jobs. It discusses the tasks that AI technologies can automate in the legal profession and explores the implications for job displacement and the changing skill requirements for lawyers.

19. **Sulea, O. M., Chiş, V. L., & Kifor, C. V. (2020)** This study investigates the impact of AI on legal professions, focusing on the tasks that AI technologies can perform and the potential effects on employment. It also explores the role of legal professionals in leveraging AI technologies for enhanced efficiency and client services.

20. **PWC. (2017)**It discusses the areas where AI is being implemented, such as contract review, legal research, and due diligence, and explores the implications for job roles and the need for upskilling in the legal field.

Objectives

- To study the potential impact of AI on employment opportunity
- To analyse the potential impact of AI on job displacement
- To suggest ways to effectively implement AI

Null hypothesis

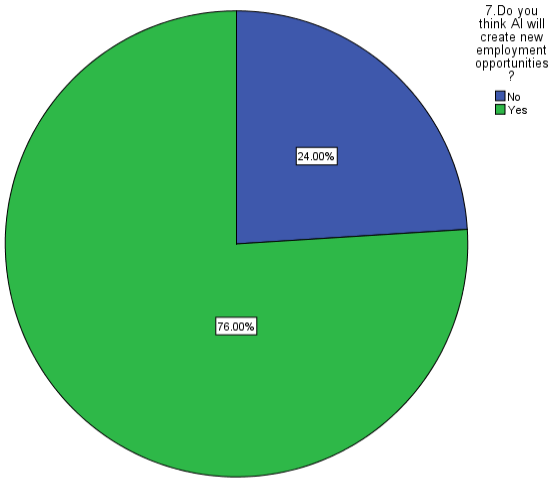
There is no relationship between AI and the impact on employment

Methodology

A mixed method approach has been adopted. The primary research method followed here is **empirical** research and secondary data research. A total of **200** samples have been collected out of which all samples have been collected through convenient sampling methods. The sample frame taken here is in **Chennai.** The independent variables are age,gender, education, income and occupation and dependent variables are potential opportunities, shifts in employment trends, factors affecting the implementation of AI and impacts. The statistical tools used by the are anova, graphical representation, chi square and pie chart.

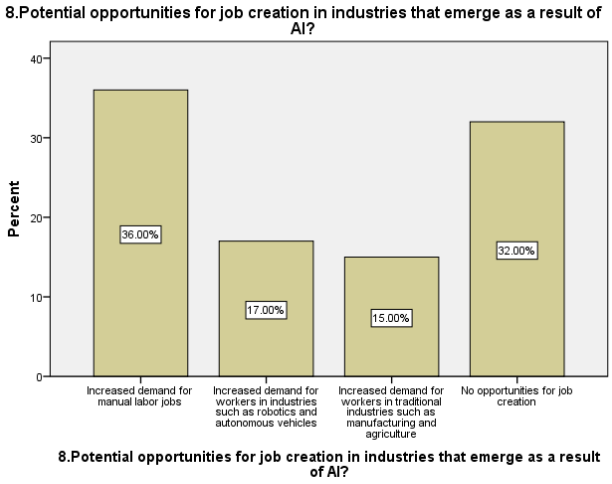
Analysis:

Figure 1



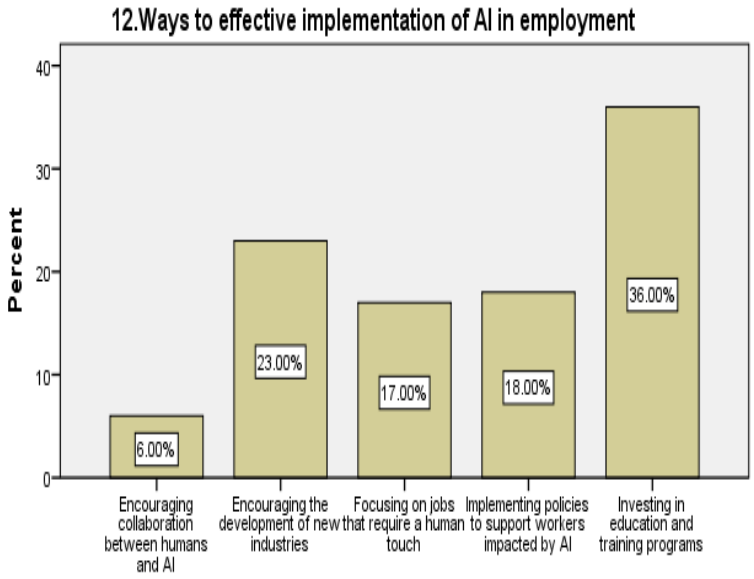
Legend: Fig 1 shows respondents' opinion on creation of employment opportunities due to AI

Figure 2



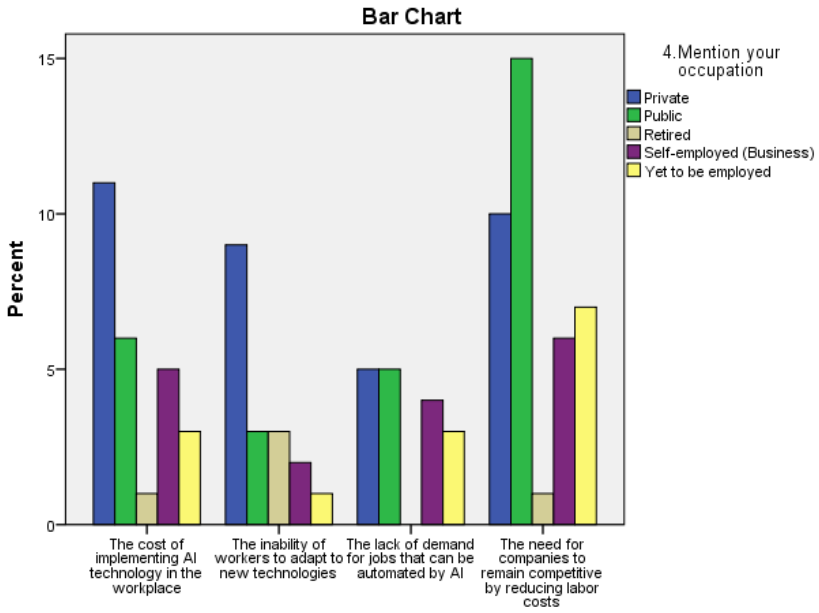
Legend: Fig 2 shows respondents' view on potential opportunities for job creation in industries that emerge as a result of AI.

Figure 3



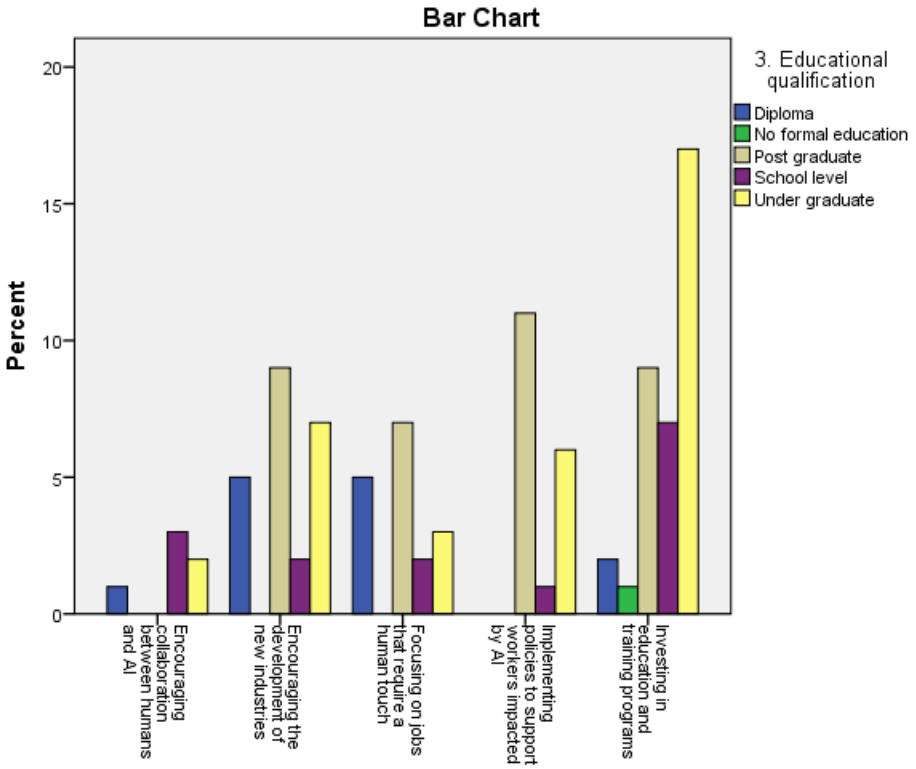
Legend: Fig 3 shows respondents opinion on ways to effective implementation of AI in employment

Figure 4



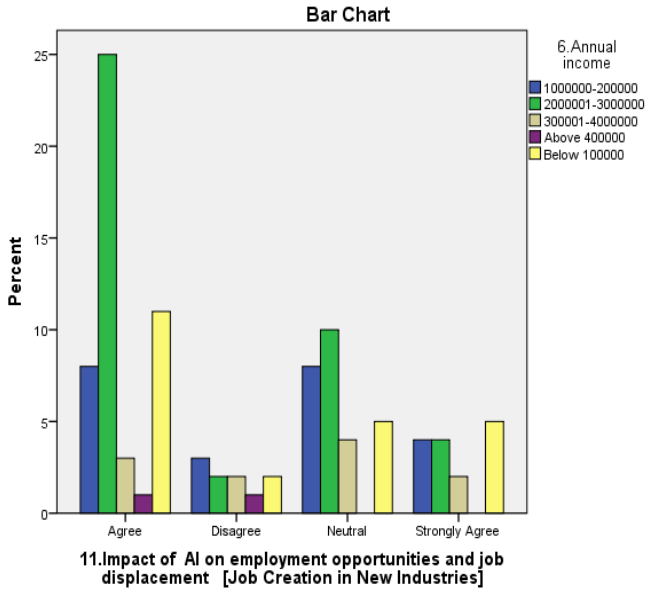
Legend: Figure 4 represents the factors that may contribute to job displacement and the occupation of the respondents.

Figure 5



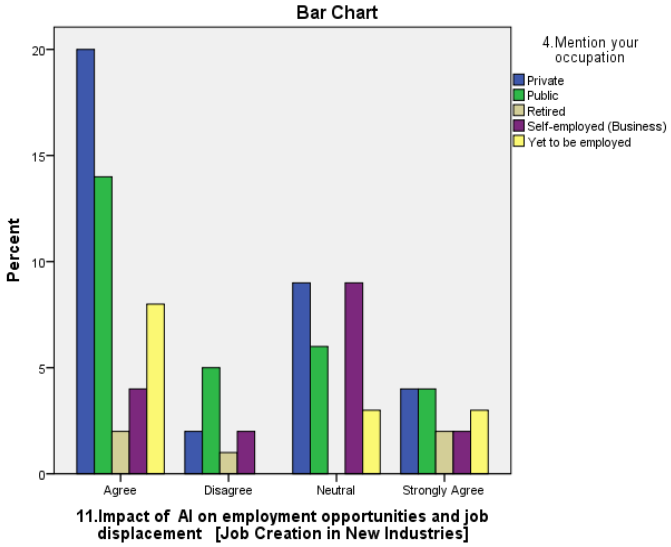
Legend: Figure 5 shows respondents' opinion of ways to effectively implement AI in employments opportunities varying with their education

Figure 6



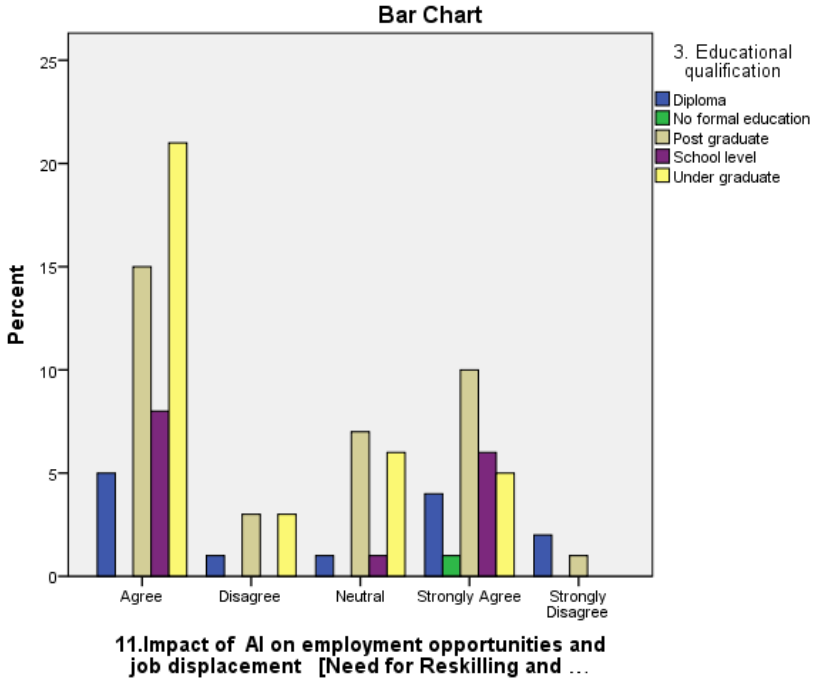
Legend: Figure 6 shows respondents' opinion on job creation as an impact varying with annual income of the respondents

Figure 7



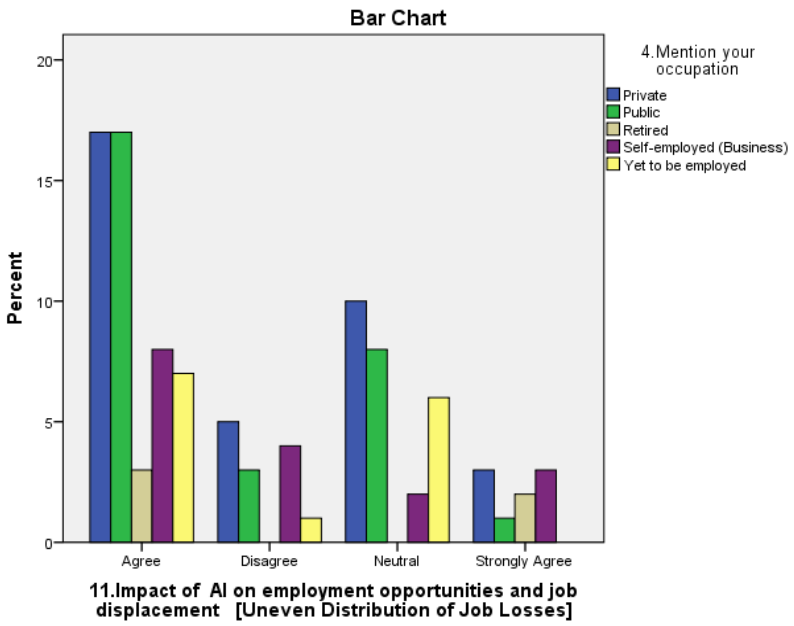
Legend: Fig 7 shows respondents' opinion on job creation as an impact varying with their occupation

Figure 8



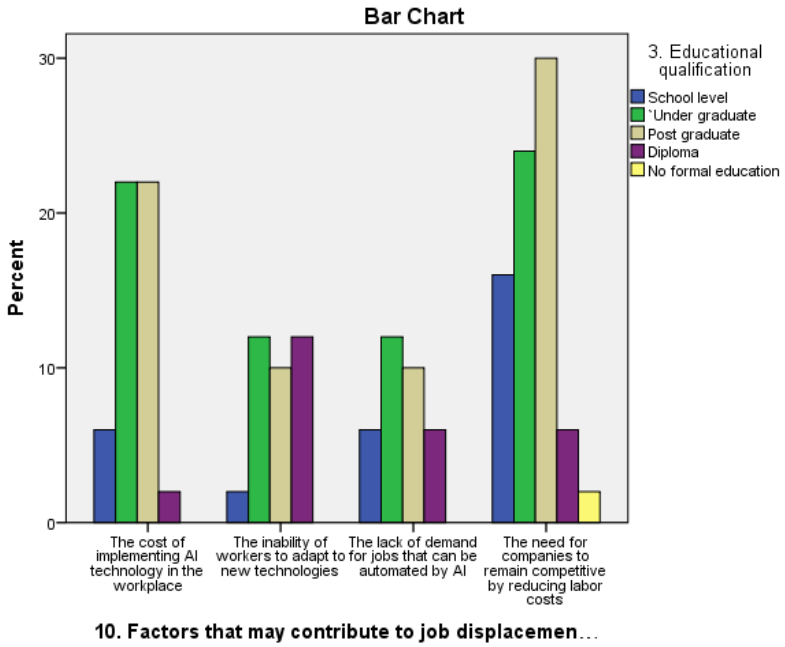
Legend: Fig 8 shows respondents opinion on reskilling and upskilling as a impact varying with educational qualification of the respondents

Figure 9



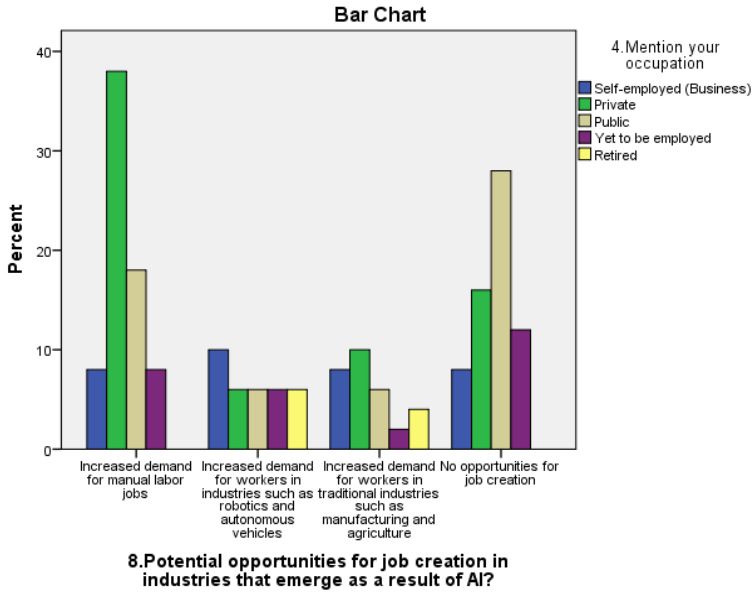
Legend: Fig 9 shows respondents' opinion on uneven distribution of job losses as an impact varying with their occupation

Figure 10



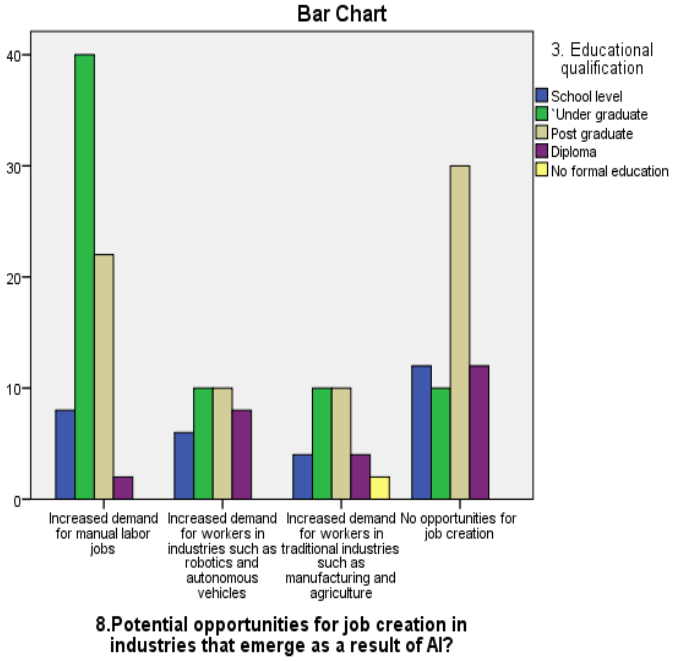
Legend: Fig 10 shows respondents opinion on factors that may contribute towards job displacement varying with their educational qualification

Figure 11



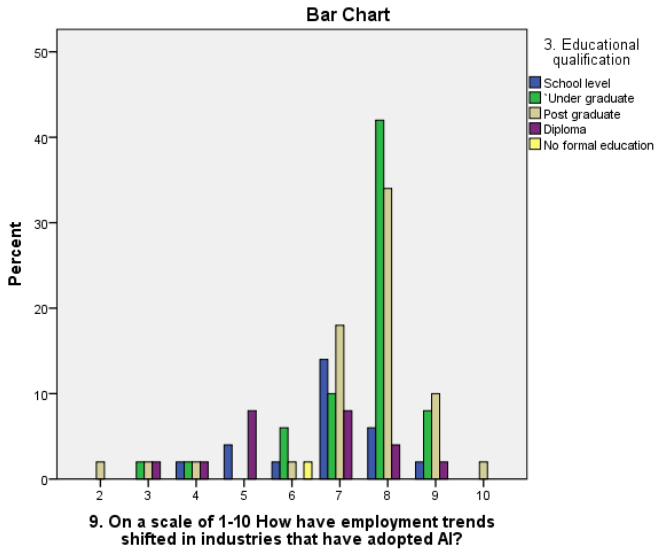
Legend: Fig 11 shows respondents' opinion on potential opportunities for job creation in industries that emerge as a result of AI varying with their occupation

Figure 12



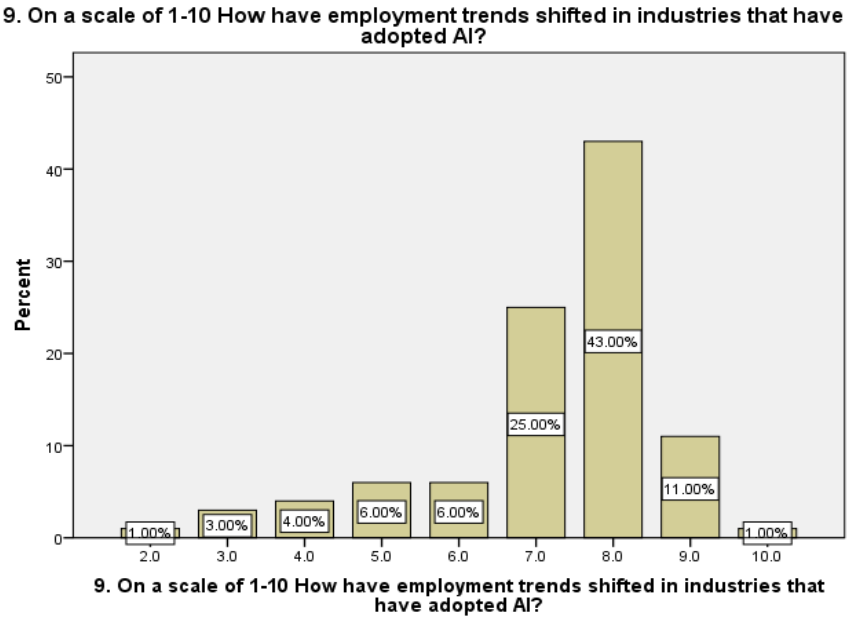
Legend: Fig 12 shows respondents' opinion on potential opportunities for job creation in industries that emerge as a result of AI varying with their educational qualification

Figure 13



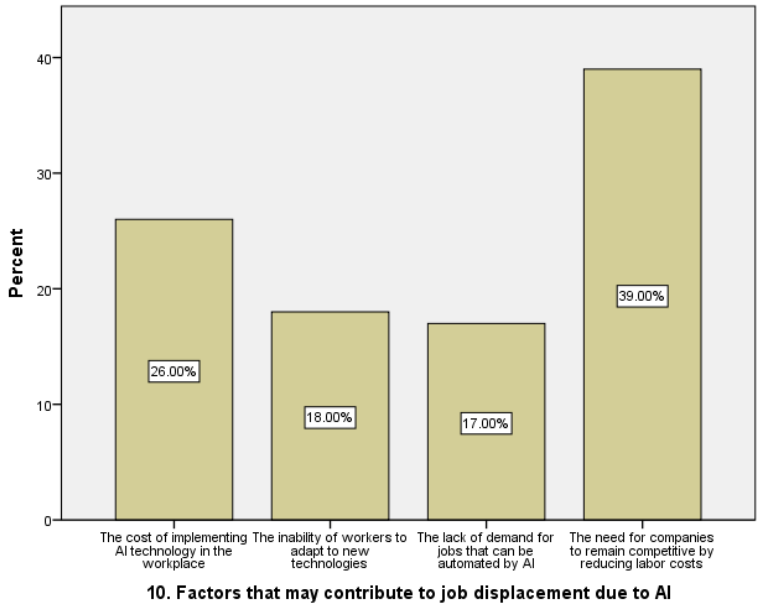
Legend: Fig 13 shows respondents opinion on shift in employment trends due to AI varying with their educational qualification

Figure 14



Legend: Fig 14 shows respondents' opinion on shift in employment trends due to AI

Figure 15



Legend: Fig 15 shows respondents opinion factors for job displacement

Table

Null Hypothesis: There is no association in education and potential opportunities for job creation

Alternate Hypothesis: There is an association in education and potential opportunities for job creation

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	10.954[a]	4	.027
Likelihood Ratio	10.824	4	.029
N of Valid Cases	200		

Interpretation: The calculated p value is 0. 027.Since P value < 0.05, null hypothesis is rejected at 5% level of significance. So there is an association in education and potential opportunities for job creation.

Results

From **Figure 1** 76 % of the respondents agree that creation of employment opportunities due to AI .**Figure 2** shows 36% of respondents say that there would be an increased demand for manual labour jobs whereas 32% feel that there would be no opportunities for job creation. **Figure 3** it is clear that 36% of respondents

say that investing in education and training programs and 32% say that encouraging the development of new industries would lead to effective implementation of AI. **Figure 4** shows that Private employees feel that the cost of implementing AI and most of public and business respondents feel that there is a need for companies to be competitive factor to job displacement.From **figure 5** it is clear that Most of ug students feel that we should invest in education and training programs for effective implementation of AI. **Figure 6** it is clear that Respondents with annual income of 20-30 lakhs Agree that AI will create jobs in new industries but respondents with lower incomes are neutral towards it. **Figure 7** it is known that Most of the business respondents are neutral towards job creation in new industries. From **Figure 8** it is known that t Most of the Undergraduate students have agreed that there would be a need for reskilling From **figure 9** it is known that Most of the respondents irrespective of their occupation agree that there will be an uneven distribution of job losses due to AI. From **Figure 10** Majority of diploma respondents feel that inability to adapt to new technologies contributes to job displacement. **Figure 11** shows that Private employees feel that there would be an increased demand for manual labour jobs and unemployed respondents feel that there is no opportunity of job creation due to AI. From **figure 12** it is known that most ug students feel that there would be an increased demand for manual labour jobs but pg students feel that there would be no new opportunities. From **figure 13** it is known that most ug students have agreed that there is a shift in employment trends in recent years due to AI. From **Fig 14** 43 % of respondents have responded that there is 8/10 chances that employment trends shifted in industries that adopted AI.From **Figure 15** it is clear that 39% of respondents feel that employers need to stay competitive and reduce labour costs is factor of job displacement.

Findings:

Analysis of Respondents' Perceptions

i. Creation of Employment Opportunities

In **figure 1** The high agreement rate among the respondents regarding the creation of employment opportunities due to AI could be attributed to the recognition of AI's ability to automate repetitive tasks and drive the development of new industries and job roles.AI could create new employment in the sectors like cybersecurity, data scientists, Agrotechnologists or medico diagnostics creating a cross-sectional workplace where machine learning and AI will sustain together. From **figure 2** it is clear that 36% of respondents anticipate increased demand for manual labour jobs, while 32% express concerns about limited job creation. This highlights divergent opinions on the potential effects of AI on job opportunities, with some foreseeing positive impacts and others expressing reservations. While AI can currently work on automated systems,answer user based inquiries based on the training data provided LLM() cannot work independent of a human agency. The concern of job creation though legitimate is not backed by any specific sanction. Though significant concerns raise around job loss the actual impact would be that of job displacement deviating from their original work structure. Moreover it was identified that the real concern lies with income inequalities suggesting policy reforms in that regard.

ii.Factors Affecting AI Implementation

From **figure 2** it is clear that 36% of respondents anticipate increased demand for manual labour jobs, while 32% express concerns about limited job creation. This highlights divergent opinions on the potential effects of AI on job opportunities, with some foreseeing positive impacts and others expressing reservations.While AI can currently work on automated systems, answer user based inquiries based on the

training data provided LLM() cannot work independent of a human agency.The concern of job creation though legitimate is not backed by any specific sanction.Though significant concerns raise around job loss the actual impact would be that of job displacement deviating from their original work structure.Moreover it was identified that the real concern lies with income inequalities suggesting policy reforms in that regard. From **figure 3** it is clear that36% of respondents emphasise the importance of investing in education and training programs for effective AI implementation, while 32% believe that encouraging the development of new industries is crucial. These findings underscore the recognition among respondents that education, training, and the creation of new industries are key factors in harnessing the benefits of AI effectively

iii. Perceptions across Different Demographics

The perception of public may help in determining the hypothetical outcomes of this research. From **figure 4** it can be inferred that Private employees prioritise concerns about the cost of implementing AI, while public and business respondents predominantly view companies' competitiveness as a significant factor contributing to job displacement. This highlights a wide range of varying and different perspectives among various groups regarding the challenges and drivers of AI's impact on employment. From **figure 5** it is clear that The majority of undergraduate students advocate for investing in education and training programs for effective AI implementation. This emphasizes the recognition among students of the importance of acquiring relevant skills to adapt to an AI-driven job market.From **figure 6** it is clear that Respondents with higher annual incomes (20-30 lakhs) generally agree that AI will create jobs in new industries. However, respondents with lower incomes remain neutral on this topic. Income levels appear to influence perspectives on the potential for job creation facilitated by AI.From **figure 7** it is clear that Most business respondents exhibit a neutral stance on job creation in new industries through AI implementation. This indicates a lack of consensus among business respondents regarding the potential for AI to drive job growth in emerging sectors.From **figure 8** it is clear that The majority of undergraduate students agree that there will be a need for reskilling due to AI's impact on employment. This implies the recognition among students of the necessity to update their skills to adapt to changing job market dynamics.

iv. Understanding Job Displacement and Adaptability

Understanding job displacement and adaptability is required to ensure that the negative effects can be diminished. **In figure 9** it is clear that most respondents, regardless of their occupation, agree that job losses due to AI will be unevenly distributed. This suggests a widespread belief that the impact of AI on job losses will not be evenly spread across industries or occupations. **figure 10** it is clear that majority of diploma respondents believing that the inability to adapt to new technologies contributes to job displacement suggests a recognition among this group that technological advancements, including AI, require individuals to continuously update their skills and remain adaptable in order to thrive in the changing job market.Thus even if there is job displacement adapting to technology by upskilling and reskinning can be suggested.

v. Diverse Perspectives on Job Creation and Demand for Manual Labor

From **figure 11** it is clear that The contrasting opinions between private employees and unemployed respondents regarding the demand for manual labour jobs and job creation due to AI may be due to different personal experiences and exposure to the job market. Private employees, who are likely currently employed, may perceive increased demand for manual labour jobs based on their observations, while unemployed respondents may have a more pessimistic view due to their struggle to find job

opportunities.figure 12 it is clear that The differing perspectives between undergraduate (UG) and postgraduate (PG) students on the demand for manual labour jobs and new opportunities could be influenced by their educational backgrounds and career aspirations. UG students, who are at an earlier stage of their studies, may perceive manual labour jobs as more prevalent, while PG students, who have advanced their studies, may have a more nuanced understanding of emerging job opportunities.

vi. Recognition of employment trends and solutions

From figure 13 it is clear that The agreement among undergraduate students that there is a shift in employment trends due to AI could be because they are witnessing the impact of AI on job markets and are more attuned to the changes happening in various industries.In figure 14 notable 43% of respondents believe that there is an 8 out of 10 chance that employment trends have shifted in industries that adopted AI. This suggests a widespread perception that AI has had a significant influence on employment patterns. The finding from From figure 15,it is clear that 39% of respondents believe that employers need to stay competitive and reduce labour costs as a factor of job displacement, suggests that respondents perceive cost-cutting and competitiveness as key drivers of job losses in the context of AI adoption.

Challenges

The challenges that will arise in the inclusion of AI will begin in business sector of ipr. Several questions like the copyrights of AI are emerging in the legal landscape across the globe, there is void that needs to be addressed. Concerns of privacy and cybersecurity are on the rise as well. Section 52 of the Copyright Act, 1957 outlines specific exceptions to copyright infringement, allowing for the limited utilization of copyrighted material without the explicit authorization of the owner, under the concept of fair use. Copyright claims by RAGHAV AI as coauthor, for commercial purposes raises ethical questions on creativity and substance of intellectual property. Since AI works on training data provided it raises legitimate issue of liability of AI from criminal offences like breach of trust and privacy violations.Further research will be required for better clarity and suggestions for the policy makers.

Conclusion

In conclusion, this research paper has examined the impact of AI on employment opportunities and job displacement in Chennai. The findings reveal diverse perspectives among respondents, with some acknowledging shifts in employment trends and others expressing concerns about limited job creation. Investing in education and training programs and encouraging the development of new industries emerged as important factors for effective AI implementation. Suggestions include continuous investment in education, addressing cost implications, and promoting competitiveness. The future scope lies in further exploration of long-term impacts, specific job roles, and strategies to mitigate job displacement. To navigate the dynamic landscape influenced by AI, it is essential to prioritize education and training, directing funding towards programs that equip individuals with the necessary skills. Encouraging innovation and the development of new industries will foster job creation opportunities, while simultaneously addressing income inequality through thoughtful policy implementation ensures equitable distribution of AI-driven job benefits. Regulating AI costs, developing reskilling initiatives, and promoting ethical AI adoption contribute to a responsible integration of AI into various sectors. Overall, a comprehensive approach is needed to navigate the changing landscape and ensure a smooth transition towards a future where AI and human workers can coexist effectively.

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GEOGRAPHICAL INDICATION AS INTELLECTUAL PROPERTY: ISSUES AND RECENT DEVELOPMENT

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Abstract

Geographical Indications (GIs) are a form of Intellectual Property Rights that protect indigenous knowledge. They associate certain products with a specific geographical origin, which enhances their commercial value and helps consumers identify quality and purity. GIs cover a wide range of goods, and several international mechanisms have been designed to protect the interests of creators. This paper provides an overview of GIs as a form of IPR, covering their historical background, current legislation, and provisions for the protection of Intellectual Property in India.

Keywords: Lisbon Agreement, Madrid Agreement, Paris Agreement, Geographical Indications, WIPP, TRIPS

Introduction

GIs are a comparatively newer type of property as compared to other IPs such as trademarks, copyrights, and patents, and have gained the attention of policymakers, lawyers, economists, and most important producers worldwide since the adoption of TRIPS in 1994.[1] Since GIs were incorporated into TRIPS, protection for GIs now extends to all TRIPS signatories, which include many of the nations that had originally implemented arrangements to protect GIs in their country when they were granted IP status for the first time under the Paris Convention.[2] Article 1(2) of the Paris Convention mentioned Geographical Indications as "appellations of origin" and "indications of source" to be subject to commercial property. In paragraph 3 the inclusion of indication of sources with special regard to agriculture products clearly shows that the policymakers' provisions for the protection of at least one of the foremost ancient Intellectual assets, as an example a number of the traditional brands have their products associated with a selected geographical origin.

This paper aims to supply a basic understanding of GIs, their origin and various provisions that are adopted nationally and Internationally for their protection. They are unique symbols or signs helpful to distinguish competing products but GI of origin also brings many challenges.

Methodology

This study delves into the complex nature of Geographical Indications (GIs) and their significance in today's era of globalization and commercialization. The author has adopted a doctrinal research method and referred to various national and international sources to gain an in-depth understanding of GIs. The articles cite various conventions, agreements, and legislation that provide provisions for GIs, giving insight into their current legal status in a global context. To further analyse the importance of GIs and the consequences of not having authenticated product origins, the author has also referred to various case laws,

[1] Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 3; 33 I.L.M. 1197 (1994)
[2] Paris Convention for Protection of Industrial Property, 1883

explaining why it was essential to protect such indications and why they have become a subject matter of Intellectual Property.

Concept of Geographical Indications

Geographical Indicators are labels placed on products that have a distinct origin and reputation, such as Darjeeling Tea, Banarasi Saree, Kullu Shawl, and more. These labels must identify a product as originating from a specific location, which is the most important factor in determining the qualities and characteristics of the product. The unique qualities of these goods are determined by their geographical origin and various attributes that are characteristic features of the places of production. Therefore, there is a close relationship between the products and their place of origin. According to Section 2(e) of the GI Act, a "geographical indication" is a label given to a product that is unique to a specific region or location where it is produced, has a higher demand for its quality, and is associated with security and assurance of quality because these items bear the label and are believed to belong to that particular location.

In ***Imperial Tobacco Company v Registrar of Trademark,*** the Calcutta High Court ruled that *"Geographical terms and words in common use which designate a locality, a country or a section of country which cannot be monopolised trademarks; but a geographical name not used in geographical to denote the place of origin, but use in an arbitrary or fanciful way to indicate origin or ownership, regardless of location, may be sustained as a valid trademark."*[3]

Trademark vs. Geographical Indications

Most people can't distinguish between a trademark and a geographical indication, Trademarks enable consumers to identify a product or service with a set of quality and status under the company that produces or offers it, whereas Geographical Indications identify a product as acquired from a specific location and allow consumers to associate it with a specific quality, characteristics, or reputation. Furthermore, a trademark can be assigned or licenced to anyone and can be used by the owner or another person authorised to do so, whereas a GI conforms to the place of origin of products or any name by which the product is known there, so it is used by people who, within that area produces the product continuously with a specific procedure. In ***Mohan Meakin v Scotch Whiskey***[4] The court agreed with the Registrar of the trademarks opinion that on the application for registration of the trademark on a whiskey brand manufactured and produced in India with the wording "Highland Chief", with a symbolic representation of a Scottish highland man gave the impression of Scottish origin thus the application was rejected.

3.1.1. Differences between Trademark and Geographical Indications

The Indian Trademarks Act of 1999 provides a definition of trademarks in section 2(1) (zb), while the Geographical Indications Act of 1999 defines geographical indicators in section 2(1) (e). Although the definitions of both terms are clear, there is still some confusion between them. Here are the primary differences between the two:

Geographical Indications (GIs) are a type of collective protection provided to a group of producers or manufacturers located in a specific area. The right of protection extends to the entire territory and cannot be assigned or licensed, unlike trademarks.

[3] *Imperial Tobacco Co v Registrar, Trade Mark* (1990) 1 All ER 873
[4] *Mohan Meakin Breweries Ltd. vs The Scotch Whisky Association*, 23 July, 1979, 17 (1980) DLT 466

GIs are always associated with a specific geographic location and can never be de-localized or sold, while trademarks can be assigned or licensed.

A registered trademark enables only one producer, but a geographical indication allows all producers of the same commodity with the same origin to use it.

A trademark may be anything, such as a phrase, number, or fragrance, while a GI can only be a geographical name or any sign linked to that area.

Trademarks are the result of purely human creativity and intelligence, while GIs are the result of factors such as topography, climate, and human efforts, and are devoid of human creativity.

3.1.2. Conflict between GIs tags and Trademark

Both markings are used to identify manufacturers on items, which has led to disputes over product protection. The territorial principle suggests that similar trademarks can be used for similar products or services outside the territory where the trademark is registered. However, with globalization, a new principle has emerged that states that a similar trademark can only be used for different goods or services until they become associated with different products and services. The priority principle indicates that the first person to register a trademark receives exclusive rights to it. Articles 24(5) and 16 of TRIPS govern the area of conflict between geographical indications and trademarks. Article 24(5) states that to obtain trademark protection, the trademark must be similar or identical to the GI, must be used in "good faith," and finally, must have been in use either before the date of application of the suitable TRIPS provision in the member state or before the GI is secured in the country of origin.[5]

As per Article 16, the owner of a registered trademark holds the exclusive right to prevent any third-party from using the same or similar trademark. This right does not constitute a waiver of any prior rights and does not affect the ability of members to make such rights accessible based on usage. However, Article 24(5) aims to protect already existing trademarks and thus creates an exception, which can lead to confusion. One such confusion is whether the protection of a geographical indication (GI) in the country of origin would prevent the registration of an identical trademark in other countries.

The exception under Article 24(5) raises several questions. For instance, what constitutes "good faith", who decides whether the user is acting in "good faith", and whether registration of a GI is necessary for protection. Additionally, is any unregistered trademark eligible for protection, and what evidence is required to obtain an exemption under Article 24(3)? Finally, could other member countries continue to protect a mark via an agreement to protect such trademarks, even when it conflicts with a recognized GI?

3.1.3 Principles for addressing the conflict.

A wide variety of legislations are in place to address this conflict between GIs and Trademarks for instance; the European Community states that a trademark has to be abolished which is identical in wording to any geographical name used to describe any table wine.[6] The WIPO Standing Committee observed in this regard that, A GI gets the best protection under trademark and the Unfair Competition legislations and thus a Trademark acquired in good faith needs protection as well against conflicting GI.[7] The International

[5] Agreement on Trade-Related Aspects of Intellectual Property Rights, art. 24 (5), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994) [hereinafter TRIPS Agreement].

[6] Wine Resolution – Recital 12 – Council Regulation (EC) No 2393/89 of July 24, 1989: *General Rules for the Description and Presentation of Wines and Grapes Musts*

[7] Draft Report of the International Bureau of WIPO, Geneva, 13-17 July 1998 at p2

Association For Protection Of Intellectual Property expresses that whenever there is a clash between trademarks and GIs,

the trademark office should reject the registration *ex officio*.

Any third party can oppose the application of registration and start the process of cancellation and prohibit the use of the mark.

Every legislation has to include a provision related to the resolution of such conflict based on principles laid down under existing bilateral and multilateral agreements and any interested party whose IPs are affected must have the right to intervene directly in the proceeding and question the validity of the marks.

In the UK Article 3 (1) (c) of the Trademark Act says that a trademark composed solely of signs or names used to indicate geographic origin must not be registered.[8] Geographic names can also be registered as certification or collective marks under Articles 49 and 50.[9]

3.1.4. Status of India in dealing with the conflict

The TRIPS Agreement provides rules for resolving issues between registered trademarks and geographical indications, the provisions of TRIPS are incorporated in the Indian Trademarks Act, 1999 and the GI Act, 1999. According to section 9 of the Trademark Act, they are marks or signs that can represent what is the type, quality, amount, intent, value, geographical origin or other features of goods and services.[10] The registration of trademarks that are unique or widely recognised for their usage cannot be denied before the date of application. When evaluating if a trademark is a well-known mark, the Trademark registrar must consider the following factors:

- Public awareness and popularity of the trademark.
- The scope, duration, and geographic area of the trademark.
- The duration, scope, and geographic area of a mark for promotion, including advertising, display etc. of any items related to such mark.
- The jurisdiction of registration granted to the trademark.
- The record of the rights enjoyed by the trademark i.e. trademark that is recognised as a well-known mark by the courts in 11(6).[11]

However, the validity of such marks or use shall not be prejudiced by the fact that they are similar or identical to a well-known mark if they are registered Bonafede and provide correct information to the registrar, or if the right is obtained in good faith before the act got into force.

Geographical Indications of Goods (Registration and Protection) Act 1999 has notable regulations on trademarks and prior users. Section 25 forbids the registration of geographical indications as trademarks. However, Section 26 protects trademarks that consist of a geographical indication applied for or a registration in good faith under the trademark law, or if they are being used in good faith before applying for geographical indicator registration.[12] It further states that this legislation excludes GIS of commodities that have acquired a generic name in India before January 1995 unless the nomenclature is likely to cause

[8] Trademark Act, 1994, sec 3(1)(c), (Act 20 of 1994) (United Kingdom)
[9] Trademark Act, 1994, (Act 20 of 1994) (United Kingdom)
[10] Trademark Act, 1999, sec 9 (Act 7 of 1999) India
[11] Trademark Act, 1999, sec 11(6) (Act 7 of 1999) India
[12] The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act.48 of 1999) . (India)

misunderstanding or misleads the public, no one can use such names. Furthermore, the act states that no action will be taken against the owner or user of the trademark after a period of five years from the date when the use or registration of the trademark breaches any registered GI.

3.2 Economic and Social Importance of Geographical Indications

Having a Geographical Indication offers several benefits. Customers value the origin of goods and are usually willing to pay more for such items. GIs can, therefore, help rural regions grow by providing a premium brand price. They also create local employment opportunities, which can reduce rural migration. Additionally, GI goods have a positive impact on tourism and cuisine. Marketing the region as a whole adds value to an area. Geographical Indications also aid in preserving regional cultures. The goods are developed using traditional methods passed down through generations by community members of a particular location. Some goods may also represent "traditional cultural expressions," such as handicrafts, of a specific region. India is such a diverse country with numerous items produced solely in certain locations. Thus, it is essential to protect Geographical Indications properly. Although there was no distinct legislation on Geographical Indications before 1999, the GI Act 1999 was created to comply with India's responsibilities under the TRIPS Agreement in 1994.

Background of Geographical Indications in TRI

The origin of GIs as an intellectual property right came into existence in April 1994 with the signing of the General Agreement on Tariffs and Trade (GATT).[13]

The Paris Convention

The Paris Convention was adopted in 1883 and the Madrid Protocol was added in 1891. The Paris Convention has 194 signatories as of March 2021. This is the first international agreement to safeguard the geographical indication of a product. Article 1 (2) of the Paris Convention contains a statement of source and origin. According to the Convention, the primary remedy for unlawful mark is to seize the goods at the point of entry, prevent its importation, or seize it once it has arrived in the nation. Paris Convention also mandates that members protect themselves from unfair trade practices and further includes a specific list of banned activities.[14] This convention laid the groundwork for preventing false GI marks but it offered no recourse in the event of a breach.

The Madrid Agreement

The Madrid Agreement was signed in 1891 and was later amended by the Stockholm Act of 1967, resulting in a total of 108 members. The Madrid Agreement is a broader convention than the Paris convention and covers different IPRs. The agreement specifies how seizures will be carried out and who will be in charge of carrying them out. It also includes a specific clause that allows national courts to decide matters for marks that are not included in the agreement because of their generic nature or regional names relating to the origin. Article 4 of the agreement gives specific protection to geographical indications linked to wine and spirits.

[13] General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 U.N.T.S. 187, 33 I.L.M. 1153 (1994).

[14] Agreement on Trade-Related Aspects of Intellectual Property Rights, art. 10bis, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994) [hereinafter TRIPS Agreement].

The Lisbon Agreement

On October 31 1958, the agreement was signed in Lisbon.[15] There are 33 members as of October May 2021. There are two main conditions for preserving GIs according to the agreement. Firstly, they must be protected in the country of origin itself, and secondly, must be registered in WIPO International Register.

TRIPS Agreement

TRIPS Agreement provides minimum criteria and a robust and effective dispute resolution process for GI protection under the WTO system. Periodic assessments and effective or better protection of GIs are mandated by Articles 71 and 23 of the TRIPS Agreement, respectively. The TRIPS Agreement was the first international treaty to include geographical indications in-depth. The agreement's Section 3 is the product of a lengthy and tough negotiating process and distinguishes between three degrees of GI protection: (a) for all goods, (b) for wines and spirits, and (c) exclusively wine-related geographical indication protection levels.

The agreement thus reflected the unique interests of European wine-producing countries when it was passed. In comparison to other products that have normal protection, European wine-producing countries favoured stronger protection for such items.

International Perspective of Geographical Indications.

TRIPS Agreement & Geographical Indications

Article 22.1 of TRIPS describes GI and 3 requirements for awarding such protection.[16] Firstly, The logo must identify a product, which can be a non-geographic name, an iconic, symbol, a word, or a phrase. Secondly, The product must have "established quality" or "reputation due to being designated to a specific geographic area. Lastly, The sign must identify the designated geographic area, services are also not included in the scope of section 3. TRIPS only provide minimum criteria thus, members can also opt to go beyond TRIPS standards and incorporate services into their national laws.

Top of Form

Bottom of Form

5.1.3. Articles 22, 23, and 24 of TRIPS

The World Trade Organization (WTO) completed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1994, after the General Agreement on Tariffs and Trade (GATT). The agreement covers various intellectual property rights such as patents, trademarks, and copyrights, and is supported by advanced economies like the United States, Japan, the European Union, and Switzerland. However, the protection of geographic indications was not included in TRIPS, despite some members' requests. This led to a conflict between New World wine producers and Old World wine producers after

[15] European Union, Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, 13 December 2007, 2007/C 306/01, available at: https://www.refworld.org/docid/476258d32.html. [accessed 14 October 2021]
[16] Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 3; 33 I.L.M. 1197 (1994)

the Uruguay Round, which resulted in the expansion of TRIPS to include strong protection for geographic indications too.[17]

TRIPS Article 22 defines geographical indications and lays out the requirements for their protection.[18] Members must modify their laws and prohibit the use of any indications that may mislead consumers about the source of goods. Additionally, members must avoid any practices of unfair competition as stated in the Paris Convention.[19] The definition of unfair competition is not clear, but it prohibits the use of any marketing techniques that may damage the competitive environment or mislead the public about the quality of a product. Finally, TRIPS Article 22, paragraph 3, mandates that members must not register incorrect or misleading geographic indications as trademarks.

Article 23 of TRIPS provides more protection for wine and spirits. For wine or spirits, member countries should prohibit the use of any type of false or inaccurate geographic indications, even if the sign appears to be in translation indicating that the product came from another place. Moreover, Article 23(2) prohibits the registration of any false or inaccurate geographic indications of wine or spirits brands. GIs of wines or spirits must be protected by member states via the multilateral registry mentioned under Article 23(4). Article 24 of TRIPS provides exceptions for producers who systematically use false or inaccurate geographic indicators or register such indicators as trademarks. Article 24(6) provides for false or inaccurate use of generic names to be kept beyond the scope of Articles 22 and 23. Finally, Article 24 also freezes at the same time as any other level of protection under Articles 22 and 23.

GI Registration in India and Its Introduction

In today's globalized world, advancements in technology and the worldwide economy have led to an increase in potential intellectual property rights infringement. The significance and controversy surrounding patents, copyrights, trademarks, industrial designs, and geographical indications have never been greater. These issues are often debated in relation to public health, food security, education, trade, industrial policy, traditional knowledge, biodiversity, biotechnology, the Internet, and the entertainment and media industries. In this knowledge-based economy, policymaking for all types of human progress requires the consideration of intellectual property rights. One relatively new topic in this area is Geographical Indications.

For a product manufacturer, obtaining a geographical indication provides numerous commercial benefits. The manufacturer becomes the sole seller of the commodity, and they have a monopoly on the product if the place of origin is the location where the GI is registered, as defined by rule 3 of the GI Rules 2002. The right to protect the registered GIs on specified items is only granted to the registered manufacturer. GI registration is a pro-producer law, meant to safeguard the industry for unique items that are characterized by their geographical location.

Thus, GI has significant commercial value as an intellectual property. A GI label also indicates that a product is of high quality and uniqueness. A consumer who buys a product with a GI tag can be assured that the product has all the qualities listed on the tag, providing good value for their money.

[17] Press Release, United States Department of State, U.S. Seeks Voluntary System on Protecting Wine, Spirits Naming Rights (Sept. 20, 2002) http://usinfo.state.gov/topical/econ/wto/02092001.html.

[18] Peter Brody, *Protection of Geographical Indications in the Wake of TRIPs: Existing United States Law and the Administration's Proposed Legislation*, 84 TRADEMARK REP. 520, 521-22 (1994)

[19] Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, as last revised July 14, 1967, 21 U.S.T. 1583, 828 U.N.T.S. 305

6.1. The case of late Realization in GI protection in India

The minimum level of protection is granted to Intellectual Property under TRIPS and the member states can extend the scope of such protection to any other products under Article 23 to their national laws. However, countries like the United States[20] have not adopted any other system for the protection of GIs they prefer to use trademark law for granting protection to geographical indications as well. Similarly, the Old World countries have adopted a powerful self-contained approach to protect geographical indications. The model of the EU is considered to be very advanced and is closest to the provisions given in Indian law.[21]

According to the GI Act, the Indian government is free to add any number of products under Article 23.[22]Compared to other developed countries such as EU member states India has not shown any specific need to enhance the level of protection for geographical indications. The issue of Basmati rice, patented by the American company RiceTec Ltd, gives us an idea about how important is to make GIs protection laws.

"Basmati rice would...be outside the protection mandated by the geographical indications provisions of TRIPS, because (it) was not afforded any kind of geographical indication protection within India. Under Article 24.9 exception to national treatment, WTO members are not obligated to protect geographical indications not recognized in their own country of origin. Therefore, India would have had very weak cases for protecting the...Basmati rice as TRIPS geographical indications, and even under the Article 23 absolute protection standard, success would have been unlikely".[23]

India lacks adequate national protection under the intellectual property law, which is largely responsible for the two Basmati incidents, But some people argued that the law was not perfect, and criticized the generic name provision.

6.3 Relevant Provisions on GI in GI Act

Article 22(1) of TRIPS describes Geographical Indications as *"indications which identify a good as originating in the territory of a member or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin."* [24] while section 2(e) of The Geographical Indications of Goods (Registration and Protection) Act, 1999 defines it as *"relation to goods means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods or originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other and in the case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be."*[25]

Section 2(f) of the act describes goods that are eligible to get protected under the GI act.[26] These are; Agricultural, natural, manufactured goods and any goods or handicrafts or any industrial product including

[20]Syracuse Science & Technology Law Reporter, 4 (2005) 10, 16.
[21] Connor Bernard O, *Sui generis protection of geographical indications*, Drake Journal of Agricultural Law, 9 (2004) 359.
[22] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 8 (Act 48 of 1999) . (India)
[23] Zou. J, *Rice and Cheese, anyone? The fight over TRIPS geographical indications continues,* Brooklyn Journal of International Law, 30 (2005)1173.
[24] Trademark Act, 1999, sec 22(1), (Act 7 of 1999) India
[25] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 2(e), (Act 48 of 1999) (India)
[26] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 2(f), (Act 48 of 1999) (India)

food. The rights available to registered GIs users are mentioned under section 21 of the GI act, which gives them the sole right to use GI for the product for which GI is registered subject to terms and restrictions in the registration. It also gives the right of registered owners to claim relief in case of any infringement. Section 22 of the act and Article 2 of TRIPS also mention provisions in cases of Infringement and mandate member countries to protect GIs in cases of unfair competition stated under article 10 of the Paris Convention 1967.

Criminal and Civil remedies under section 67 are granted in case of infringement by courts.[27] In civil remedies the order of Injunction is given, it can either be an interim or permanent injunction in the matter of disclosure of documents, or protection of infringed items other than documents related to the subject matter to suit. The court can also grant an order of Damages or accounts of profits but it shall not be granted in the cases where the defendant successfully satisfies the judges that he was ignorant in using the GI and has reason to believe the GI was not registered and he refrained from using such mark when he came to know about the GI. The court can also ask the defendant to give infringing labels for destruction or forfeiture of goods.

Section 38 to 44 of the act gives punitive punishments in cases like falsifying applications,[28] or selling goods which have false graphical indications the punishment given is jail time for 6 months-3 years and a fine amounting to 50 thousand to 2 lakhs.[29] While, in cases of falsely representing a mark as registered,[30] improperly describing the place of business associated with the GI registry, and false entry in the registry or for subsequent conviction the punishment of imprisonment ranges from 1 to 3 years and fine ranging from 1 to 2 lakhs.[31]

Judicial Interpretation & New Dimensions of GIs

In the complete absence of specific laws to safeguard geographical indications, the Indian judiciary has used the passing-off principle. Judges have heard complaints in matters of geographical indication violation and unfair activities that mislead the customer about the place of origin or constitute unfair trade practices. In such cases, they have issued remedies such as an injunction preventing the defendant from using such signals. As a result, it is important to consult the definition of passing-off action as well as the well-established legislation that gverns it.

In ***Imperial Tobacco Co*** v ***Registrar, Trade Mark***[32] the Calcutta High Court stated the concept of the geographic term *"...Geographical terms and words in common use designate a locality, a country, or a section of country which cannot be monopolized as trademarks... but a geographical name not used in the geographical sense to denote the place of origin... but used in an arbitrary or fanciful way to indicate origin or ownership regardless of location, may be sustained as a valid trademark..."*[33]

In the case of ***Consorzio del Proscuitto di Parma*** v ***Marks and Spencer***,[34] Justice Norse LJ, identified the essentials of a passing-off action:

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[27] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 67 (Act 48 of 1999) (India)
[28] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 38 (Act 48 of 1999) (India)
[29] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 39 and 40 (Act 48 of 1999). (India)
[30] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 42, (Act 48 of 1999). (India)
[31] The Geographical Indications of Goods (Registration and Protection) Act, 1999, section 44 and 41, (Act 48 of 1999). (India)
[32] *Imperial Tobacco Co v Registrar, Trade Mark* (1990) 1 All ER 873
[33] Consorzio Del Prosciutto Di Parma V. Marks & Spencer Plc And Others , *Reports of Patent, Design and Trade Mark Cases,* Volume 108, Issue 15, 1991, Pages 351–384
[34] *Consorizo de Proscuitto di Parma v Marks and Spencer* [1990] FSR 530

The goodwill the plaintiff has in the market;

The misrepresentation was done to him by the defendant with or without intention.

The damage was done due to the act of the defendant.

The Delhi High Court had the chance to address the idea and extent of 'passing off' action in ***Ellora Industries v Banarsi Dass.***[35] Purchasers were likely to believe that the defendant's firm had a close relationship with the plaintiffs, according to paragraph 35 of the court's decision, and misrepresentation of a connection with the plaintiffs was enough to establish the tort of unfair trade practice, which now is part the of the law of passing-off. In the famous case of ***Scotch Whisky Association*** v ***Pravara Sakhar Shakar Karkhana Ltd.***[36] The Bombay High Court ruled based on these facts:

Plaintiffs have a strong interest and capacity to stop the defendant from misrepresenting Indian whiskey as Scotch whisky.

The plaintiffs were granted a temporary injunction against the defendants because they submitted adequate prima facie evidence establishing that the defendants are misrepresenting their goods.

Although even accidental misrepresentation is illegal, the defendant is passing off its goods as 'Blended Scotch.' Furthermore, the defendants' efforts to rationalise their rationale were unsuccessful, implying that they were engaging in unfair trade practices.

As a result, the defendant is barred from advertising or offering for sale or distribution in any country non-Scotch whisky with a description such as "Blended with any word associated with "Scotch" or labels or cartons bearing the mark "Gold Tycoon" that contain the words "Scotch" or "Blended Scotch whisky" or "Blended with six years." This decision demonstrates that, despite the lack of particular law, the Indian judiciary provided enough protection to geographical markers.

In the case of, ***Imperial Tobacco Co. of India Ltd*** v ***Registrar of Trade Marks Another***[37] The firm then appealed to the Calcutta High Court, but it was dismissed for the following reasons: following reasons:

(i) 'Simla' is the name of a city, and is used in every day, geographical settings suggesting that it is neither a fancy or invented term nor one with a secondary meaning.

(ii) If a trademark would impede or disgrace traders or businesses in the region or nation where it will be registered in the future, it should not be permitted to be registered. In other words, the shape of snow-capped peaks in the trademark 'Simla' registration may restrict or humiliate future business or merchants in or around Shimla, and therefore is subject to the limitations of Section 9 subsection (1), cl. (d) of the Trade and Merchandise Marks Act, 1958.

Scotch Whisky Association v Michael Klotz,[38] the SWA argued that the word "Glen," which refers to a Scottish valley, is used in connection with whisky, infringes on the GI "Scotch Whisky," and is likely to confuse customers concerning geography. The court determined that a GI's "conceptual" closeness to the disputed name might result in an evocation. It is the first time that evocation has been proved beyond a

[35] *Ellora Industries vs Banarsi Das Goela And Ors,*19 October, 1979, AIR 1980 Delhi 254
[36] *Scotch Whisky Association v Pravara Sakhar Shakar Karkhana* Ltd AIR 1992 Bom 294
[37] *Imperial Tobacco Co. of India Ltd v Registrar of Trade Marks Another* AIR 1997 Cal 413
[38] *Scotch Whisky Association v Michael Klotz* C-44/17 The Court of Justice of the European Union (CJEU)

reasonable doubt even though the name is neither phonetically nor aesthetically similar to the registered GI.

Comité Interprofessionnel du Vin de Champagne v Aldi Süd Dienstleistungs-GmbH & Co. OHG,[39] The Comité Champagne (CIVC) had filed a lawsuit in Germany against Aldi Süd, a German grocery chain, seeking an injunction barring it from selling sorbet under the name "Champagner Sorbet." The ECJ determined that unlawful exploitation of a PDO's reputation involves using the PDO to take unfair advantage of its reputation. The German court will now have to decide if this sorbet does have a flavour that is predominantly associated with Champagne, allowing it to be labelled as "Champagner Sorbet."

The national courts must determine whether the use of PDO as an ingredient is to take unfair advantage of PDO's reputation. If the sorbet in issue does not contain a flavour that is primarily associated with Champagne, it is reasonable to assume that the term "Champagner Sorbet" on the product's packaging is a false indication, and therefore illegal.

Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego v Industrial Quesera Cuquerella SL and Juan Ramón Cuquerella Montagud.[40] The German court will now have to decide if this sorbet does have a favour that is predominantly associated with Champagne, allowing it to be labelled as "Champagner Sorbet." The national courts must determine whether the use of a PDO as an ingredient is meant to take unfair advantage of the PDO's reputation on a case-by-case basis. If the sorbet in issue does not contain a flavour that is primarily associated with Champagne, it is reasonable to assume that the term "Champagner Sorbet" on the product's packaging is a false or misleading indication, and therefore illegal.

Issues and Challenges in Geographical Indication Laws

When used proactively, a well-protected geographic indicator (GI) can serve as a successful marketing tool. It communicates to customers the quality level of certain products or services, as well as the unique qualities they possess. On the other hand, if no protection is provided, anyone can apply any geographic indicator to any product or service, regardless of whether it meets the original standards. This can cause confusion and deception among consumers.

GI Issues in India

The Act that governs GIs is written in the same style as trademark law, which favors traders over producers. India, however, may have mistakenly made it harder for its agricultural producers to acquire GI protection. Section 9 of the Act prohibits the registration of GIs that are determined to be generic names or indications of goods. An indication becomes generic when it returns to the public domain and is no longer exclusive to its place of origin or once it has fallen out of use in that home nation.

As a result, it will be up to the WTO member governments or courts to decide whether a particular GI has become generic or requires protection. It is suggested that India should have limited the scope of genericide as much as possible, allowing its courts to determine which words are generic and which are not based solely on the scenario in India and not on the distribution channel status.

[39] *Comité Interprofessionnel du Vin de Champagne v Aldi Süd Dienstleistungs-GmbH & Co. OHG*, Case C-393/16

[40] *Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego v Industrial Quesera Cuquerella SL and Juan Ramón Cuquerella Montagud* C-614/17,

Hurdles to GI Globally

The issue of IPR protection has gained significant attention recently. Developed nations with advanced knowledge-based technologies possess the most IPs and use IPR agreements to safeguard their interests. They often accuse developing countries of IP theft and lack of IPR protection. Thailand has introduced a GI protection plan to address the problem of name misappropriation based on origin. The Thai GI Act was enacted in response to biopiracy that affected Thai jasmine rice, which is well-known, and also due to restrictions imposed by the multilateral trade framework. However, the growing financial liberalization through bilateral FTAs and RTAs with global markets like the United States, and efforts to protect national assets by obtaining a patent for rice genomes, have put Thailand's GI protection at risk. Moreover, Thailand has never supported the patenting of biological organisms in international patent discussions.

The automatic protection of GI plant genetic resources under the ambit of GI protection is considerably more challenging, especially as many bilateral FTAs and RTAs have criticized the GI protection system's sui generis system. It is essential to find win-win solutions that benefit both opponents and advocates of GI protection, given the social, cultural, and economic significance of GIs worldwide. Many GIs encompass a wide range of agricultural stakeholders, from impoverished rural people to GI exporters, many of whom live in poverty in rural areas and may suffer if their "GI assets" are lost due to a lack of protection.

Conclusion

As mentioned earlier, the GI Registry in India has either registered or is in the process of registering numerous GIs of Indian origin. However, obtaining the significant benefits of GI registration in India poses several obstacles and issues. Firstly, it should be emphasized that determining which goods are suitable for GI protection is crucial, as not all products that have a specific geographical origin qualify for protection. The products that are eligible for protection should have unique characteristics and should be commercially viable in both domestic and foreign markets.

Apart from effective GI enforcement in critical regions, the product's marketing and distribution strategies, branding, and promotion activities also play an important role in maximizing a GI's economic viability. The community's real socio-economic potential is the consequence of its GI protection and its future progress. For stakeholders from resource-poor nations, the consumer's acknowledgement of and value for the merchandise link is important for effective advertising and sales, which ultimately helps in improving public opinion about the quality of the goods.

India's economy is largely dependent on agriculture, fisheries, crafts, and artisanal activities. These sectors provide a source of income for a large section of India's underprivileged section and deserve more investigation. However, the higher price a product receives as a result of GI protection is only limited to powerful stakeholders on the upper stream of the supply chain and is not transferred down to the underprivileged section of the supply chain downstream. This effectively nullifies GI protection's benefit to a large extent.

Therefore, India needs to consider the costs and benefits of GI protection as a whole, including the 'extension' under Article 23 explicitly. While passing such a measure may help Indians get better GI protection in the EU market, the benefits of such severe protection are likely to be highly skewed in the EU's favour. Additionally, given the TRIPS-plus character of the GI clauses in the bilateral agreement with the EU, India may be pushed to contribute more in the international sphere than it demands.

MAKE IN INDIA; DIGITAL INDIA; AND THEIR RELEVANCE IN DOING BUSINESS IN INDIA

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Abstract

This research paper aims to provide a thorough examination of the "MAKE IN INDIA" and "DIGITAL INDIA" initiatives, two flagship programs launched by the government of India with the objective of fostering economic growth, innovation, and inclusive development. The Make in India initiative seeks to transform India into a global manufacturing hub by promoting indigenous production and enhancing the ease of doing business. On the other hand, digital India envisions a technologically empowered nation, leveraging digital infrastructure to bridge the urban - rural divide and create a digitally inclusive society. The study explores the interconnectedness of these initiatives and investigations and how they complement each other in driving economic progress. it delves into the role of digital technologies in modernizing the manufacturing sector, promoting entrepreneurship, and fostering innovation. Additionally, the paper assesses the impact of the digital revolution on job creation, skill development, and overall economic competitiveness. Through a comprehensive analysis of government policies, industry trends, and case studies, this research paper aims to contribute valuable insights into the integration of manufacturing and digital advancements, offering a roadmap for policymakers, businesses, and researchers to harness the full potential of these initiatives in propelling India towards becoming a global economic powerhouse.

Key words: Make in India, digital India, government of India, technology, prime minister.

Introduction

The Make in India initiative was launched by the Prime Minister of India in September 2014 as part of a wider set of nation-building initiatives. Devised to make India into a global design and manufacturing hub, make in India was a timely response to a critical situation. By 2013, the much-hyped emerging markets bubble had burst, and nations growth rate had fallen to its lowest level over a period. The promise of the BRICS Nations (Brazil, Russia, India, China and South Africa) had diminished and India was tagged as one of the so-called 'Fragile Five'. Global investors debated whether the world's largest democracy was a risk or an opportunity. India's 1.2 billion citizens questioned whether the nation was too huge to succeed or too big to fail. India was on the brink of severe economic failure, desperately in need of a big push.

This initiative is a major national programme of the Government of India designed to facilitate investment, foster innovation, enhance skill development, protect intellectual property and build best in class manufacturing infrastructure in the country. The main objective of this initiative is to attract investments from across the nations and strengthen India's manufacturing sector. It is being led by the Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India. The Make in India programme is huge important for the economic growth of the nation as it aims at utilising the existing Indian talent base, creating additional employment opportunities and empowering secondary and tertiary sector. The programme also aims at improving India's rank on the Ease of Doing Business index by eradicating the unwanted laws and regulations, making bureaucratic processes easier, making the government more transparent, responsive and accountable. The focus of Make in India

programme is on 25 sectors. These include: automobiles, automobile components, aviation, biotechnology, chemicals, construction, defence manufacturing electrical machinery, electronic systems, food processing, IT & BPM, leather, media and entertainment, mining, oil and gas, pharmaceuticals, ports and shipping, railways, renewable energy, roads and highways, space, textile and garments, thermal power, tourism and hospitality and wellness.

The digital India programme was launched by the honourable Prime minister of India on July 1, 2015. The main goal or Objective of the Digital India is to come out with innovative ideas and practical solutions to the problems faced by people of our nation. This idea empowers the technological view of transaction from people's point of view. Prime Minister envisions transforming our nation and creating opportunities for all citizens by harnessing digital technologies. This system will be helpful to maintain the accuracy of money of the people in their day-to-day life. They can maintain good book keeping through recording every transaction digitally. The vision is to empower every citizen with access to digital services, knowledge and information. This Group will come up with policies and best practices from around the world to make this vision of a digital India a reality.

Literature Review

Make in India was launched against the backdrop of this crisis and quickly became a rallying cry for India's innumerable stakeholders and partners. It was a powerful, galvanizing call to action to India's citizens and business leaders, and an invitation to potential partners and investors around the world. But make in India is much more than an inspiring slogan. It represents a comprehensive and unprecedented overhaul of outdated processes and policies. Most importantly, it represents a complete change of the government's mindset – a shift from issuing authority to business partner, in keeping with Prime Minister's tenet of 'Minimum Government, Maximum Governance'.

To start a movement, you need a strategy that inspires, empowers and enables in equal measure. Make in India needed a different kind of campaign: instead of the typical statistics-laden newspaper advertisements, this exercise required messaging that was informative, well-packaged and most importantly, credible. It had to

(a) inspire confidence in India's capabilities amongst potential partners abroad, the Indian business community and citizens at large;

(b) provide a framework for a vast amount of technical information on 25 industry sectors; and (c) reach out to a vast local and global audience via social media and constantly keep them updated about opportunities, reforms, etc.

The Department for Promotion of Industry and Internal Trade (DPIIT) worked with a group of highly specialised agencies to build brand new infrastructure, including a dedicated help desk and a mobile-first website that packed a wide array of information into a simple and sleek menu. Designed primarily for mobile screens, the site's architecture ensured that exhaustive levels of detail are neatly tucked away so as not to overwhelm the user. 25 sector brochures were also developed - contents included key facts and figures, policies and initiatives and sector-specific contact details, all of which was made available in print and on the website.

The Make in India initiative has been built on layers of a collaborative effort. DPIIT initiated this process by inviting participation from Union Ministers, Secretaries to the Government of India, state governments, industry leaders, and various knowledge partners. Next, a National Workshop on sector specific industries in December 2014 brought Secretaries to the Government of India and industry leaders together to debate and formulate an action plan for the next three years, aimed at raising the contribution of the manufacturing sector to 25% of the GDP by 2020. This plan was presented to the Prime Minister, Union Ministers, industry associations and industry leaders by the Secretaries to the Union Government and the Chief Secretary, Maharashtra on behalf of state governments.

These exercises resulted in a road map for the single largest manufacturing initiative undertaken by a nation in recent history. They also demonstrated the transformational power of public-private partnership, and have become a hallmark of the Make in India initiative. This collaborative model has also been successfully extended to include India's global partners, as evidenced by the recent in-depth interactions between India and the United States of America.



The "Digital India" initiative in India has been centred around various pillars to promote the use of digital technology for governance and development. The specific pillars may evolve over time, but as of my last update, the nine pillars of Digital India were:

- Broadband Highways: The aim is to ensure high-speed internet connectivity in rural and remote areas.
- Universal Access to Mobile Connectivity: This pillar focuses on ensuring mobile network connectivity even in remote and inaccessible areas.
- Public Internet Access Program: This involves making internet access available to citizens in rural areas through Common Service Centres (CSCs).
- e-Governance: The goal is to transform India into a digitally empowered society and knowledge economy through various e-Governance initiatives.

- e-Kranti (Electronic Delivery of Services): This pillar focuses on delivering government services electronically to citizens, improving efficiency, and reducing paperwork.
- Information for All: This involves providing information about government services and initiatives to citizens through various digital platforms.
- Electronics Manufacturing: Encouraging the manufacturing of electronic goods within the country to promote the growth of the electronics industry.
- IT for Jobs: Promoting the use of information technology for job creation and skill development.
- Early Harvest Programmes: Implementing certain priority projects in areas such as banking, land records, and health, to demonstrate the benefits of digital technologies.

Pradhan Mantri Jan-Dhan Yojana (PMJDY), the world's largest financial inclusion initiative, was rolled out helping in new bank account enrolment of over 490 Mn beneficiaries till date for direct benefits transfer and accessibility to a host of financial services applications. **Aadhaar**, a flagship product of the Unique Identification Authority of India, serves as a straightforward yet effective means of verifying individuals and beneficiaries through their biometric information. Till date, 1.3+ Bn Aadhaar cards have been issued and 15 Bn Aadhaar based E-KYC verification has been done. Jan Dhan accounts, Aadhaar, and Mobile connections have laid the foundation for a Digital India, where a wide range of government services are directly accessible to citizens, greatly enhancing convenience and eliminating intermediaries. In order to enhance accessibility, approximately 8.50 lakh Bank Mitras have been deployed to deliver banking services in a branchless manner, ensuring convenience for account holders.

In 2021, the Indian government introduced e-RUPI to enhance the effectiveness of Direct Benefit Transfer (DBT) through digital transactions and revolutionize digital governance. This innovative system facilitates a seamless and secure two-step redemption process, eliminating the need for sharing personal information. Notably, e-Rupi can be utilized on basic mobile phones, enabling individuals without smartphones or in areas with limited internet connectivity to avail its benefits. 27,652 e-RUPI vouchers were created in December 2021 and it is intended to enhance the efficiency of Direct Benefit Transfer (DBT) in the country.

In 2022, the government launched UPI 123Pay, a quick and secure instant payment system designed specifically for feature phone users, enabling them to utilize UPI payment services effectively. UPI Lite, which was launched in the same year, on the other hand, is an on-device wallet feature that facilitates real-time, small-value payments for users and recorded 6.62 lakh transactions until 12th December 2022.

Objective

The "Make in India" initiative was launched by the Government of India with the primary objective of transforming the country into a global manufacturing hub. This initiative, launched in September 2014, aimed to promote domestic manufacturing, attract foreign investment, and create job opportunities within the country. The key objectives of the Make in India initiative include:

- Promoting Manufacturing: Encouraging the growth of the manufacturing sector by creating a conducive environment for businesses to set up and operate manufacturing units.
- Attracting Foreign Direct Investment (FDI): Focusing on attracting foreign investors and multinational companies to invest in India's manufacturing sector, thereby boosting economic growth and technology transfer.
- Creating Employment Opportunities: Generating employment opportunities by fostering the growth of industries, which in turn helps reduce unemployment rates and improve the standard of living.
- Enhancing Skill Development: Developing and upgrading the skills of the Indian workforce to meet the demands of modern manufacturing industries and align with global standards.
- Improving Infrastructure: Investing in and upgrading infrastructure such as transportation, logistics, and utilities to facilitate smoother manufacturing processes.
- Economic Diversification: Promoting the diversification of the Indian economy by reducing dependence on the services sector and increasing the contribution of manufacturing to the GDP.
- Sustainable Development: Encouraging sustainable practices in manufacturing, including the use of environmentally friendly technologies and energy-efficient processes.
- Ease of Doing Business: Implementing reforms to simplify regulatory processes, reduce bureaucratic hurdles, and improve the ease of doing business in India to attract both domestic and foreign investors.

The Make in India initiative reflects a comprehensive approach to boost the manufacturing sector, enhance competitiveness, and position India as a preferred global manufacturing destination. It seeks to leverage India's demographic dividend, technological capabilities, and market potential to create a robust and self-reliant manufacturing ecosystem.

The objective of Digital India is to transform India into a digitally empowered society and knowledge economy. The initiative was launched by the Government of India in 2015, with the aim of leveraging digital technologies to bring about inclusive growth, bridge the digital divide, and enhance the overall quality of life for citizens. Some key objectives of Digital India include:

- Broadband Connectivity: Ensuring high-speed internet connectivity in rural and urban areas to facilitate seamless communication and access to information.

- Universal Access to Mobile Connectivity: Extending mobile network coverage to remote and underserved areas to ensure that all citizens have access to mobile services.

- Public Internet Access: Promoting the establishment of Common Service Centres (CSCs) and Wi-Fi hotspots to provide public access to the internet, especially in rural and remote areas.

- E-Governance: Enhancing government services by leveraging technology to make them more accessible, efficient, and citizen-friendly. This includes initiatives like digitalization of government records and online delivery of services.

- Digital Literacy: Promoting digital literacy and skills development among citizens to enable them to use digital tools and technologies effectively.

- Electronics Manufacturing: Encouraging the growth of the electronics manufacturing industry in India to reduce dependence on imports and boost the domestic production of electronic goods.
- Job Creation: Fostering the growth of the IT and electronics sectors to create job opportunities and contribute to economic development.
- Digital Infrastructure: Strengthening the digital infrastructure, including secure and robust cybersecurity measures, to ensure a resilient and secure digital ecosystem.
- Innovation and Entrepreneurship: Promoting innovation and entrepreneurship in the digital space, with a focus on creating a conducive environment for startups and technology-driven enterprises.
- Digital Healthcare: Utilizing digital technologies to improve healthcare services, including telemedicine, electronic health records, and the implementation of health-related apps and platforms.
- Smart Cities: Implementing smart city initiatives to enhance urban living through the use of technology in areas such as infrastructure, transportation, waste management, and public services.

Overall, the Digital India initiative aims to harness the power of digital technologies to empower citizens, enhance efficiency in governance, and drive economic growth, ultimately leading to a more digitally inclusive and connected India.

Methodology

Methodology is a way to systematically solve the research problems. It explains the numerous steps that are usually adopted by the researcher in studying the research problems along with the logic behind it. In this section of the paper, the methods used in the study are discussed. This part of the paper talks about the tools and techniques that were applied in the data collection and the techniques used to perform data analysis. Qualitative and qualitative method of research was used in this study. Qualitative research is a type of research that explores and provides deeper insights into real-world problems. Instead of collecting numerical data points or intervene or introduce treatments just like in quantitative research, qualitative research helps generate hypotheses as well as further investigate and understand quantitative data. A systematic review of articles was done in the present study. I have limited the review of published articles from 2016 onwards. Therefore, the data are collected from various articles and web portals of government based on the initiative of make in India and made in India.

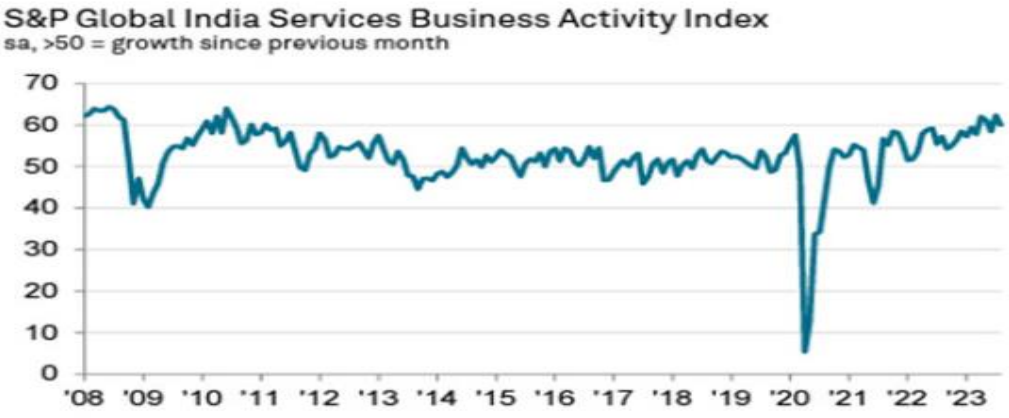
Results

In a short space of time, the obsolete and obstructive frameworks of the past have been dismantled and replaced with a transparent and user-friendly system. This is helping drive investment, fostering innovation, developing skills, protecting Intellectual Property (IP) and building best-in-class manufacturing infrastructure. The most striking indicator of progress is the unprecedented opening of key sectors – including railways, defence, insurance and medical devices – to substantially higher levels of Foreign Direct Investment.

The ministry has engaged with the World Bank group to identify areas of improvement in line with World Bank's 'doing business' methodology. Several workshops with Ministries and State governments have been conducted by the Department for Promotion of Industry & Internal Trade (DPIIT) and World Bank for Business Reforms Action Plan. An Investor Facilitation Cell (IFC) dedicated for the Make in India campaign was formed in September 2014 with an objective to assist investors in seeking regulatory approvals, hand-holding services through the pre-investment phase, execution and after-care support. The Indian embassies and consulates proactively disseminate information on the potential for investment in the identified sectors. DPIIT has set up a special management team to facilitate and fast track investment proposals from Japan. The team known as 'Japan Plus's was operationalized in October 2014. Similarly, 'Korea Plus', launched in June 2016, facilitates fast track investment proposals from South Korea and offers holistic support to Korean companies wishing to enter the Indian market.

Various sectors have been opened-up for FDI like defence manufacturing, railways, space, single brand retail, etc. Also, for ease of doing business, the regulatory policies have been relaxed to facilitate more investments. Across various regions of the country; six industrial corridors are being developed. Industrial Cities will also come up along these corridors.

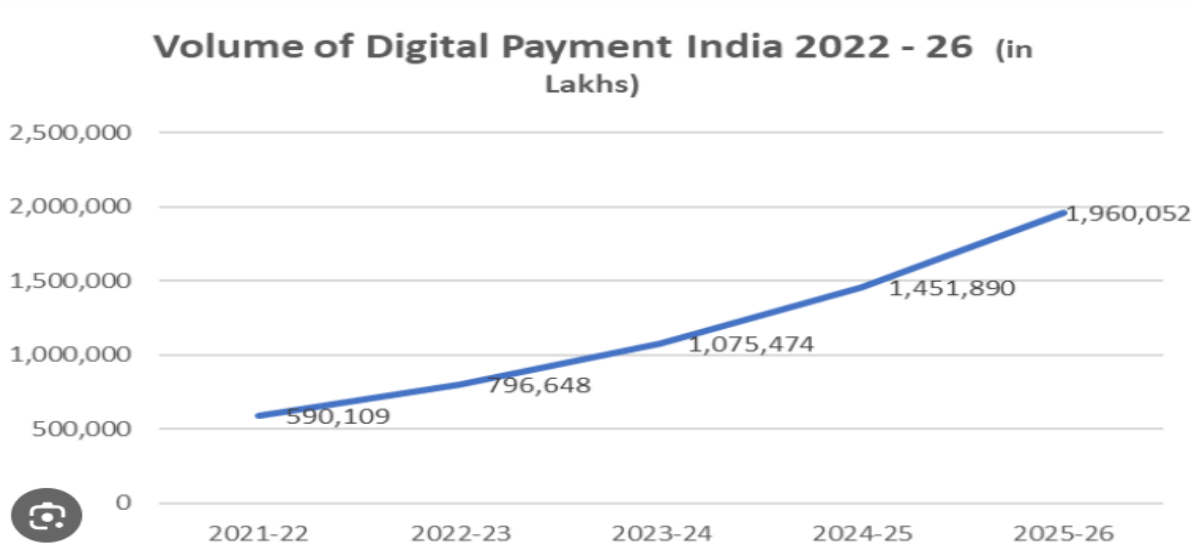
Today, India's credibility is stronger than ever. There is visible momentum, energy and optimism. Make in India is opening investment doors. Multiple enterprises are adopting its mantra. The world's largest democracy is well on its way to becoming the world's most powerful economy.



Over the past few years, India has witnessed an unprecedented surge in digital payment transactions. User-friendly and convenient digital payment methods such as Bharat Interface for Money-Unified Payments Interface (BHIM-UPI), Immediate Payment Service (IMPS), pre-paid payment instruments (PPIs), NACH, AePS and National Electronic Toll Collection (NETC) have experienced substantial growth, revolutionizing the digital payment landscape by facilitating both Person-to-Person (P2P) and Person-to-Merchant (P2M) payments.

Simultaneously, traditional payment modes such as debit cards, credit cards, NEFT, and RTGS have also experienced rapid expansion. India ranks #1 for Real-time payments globally, with 89.5 Bn payment transactions in 2022 (76.8% YoY growth (2021-2022)). India accounted for 46% of all real-time transactions worldwide in 2022.

BHIM-UPI has emerged as the preferred payment method among users. UPI has set a new record of processing over 9 Bn transactions (worth $ 179 Bn) in May'23. UPI accounts for 75% of the total retail digital payments in India.



Conclusion

In conclusion, the initiatives of "Make in India" and "Digital India" have played pivotal roles in shaping India's economic and technological landscape. "Make in India" has aimed at boosting domestic manufacturing, encouraging foreign direct investment, and fostering innovation across various industries. This initiative has not only contributed to job creation but has also enhanced India's self-reliance in key sectors.

On the other hand, "Digital India" has been instrumental in harnessing the power of technology to transform governance, empower citizens, and bridge the digital divide. The widespread adoption of digital technologies has facilitated easier access to services, improved transparency, and increased efficiency in various government processes. It has also opened up new opportunities for businesses, entrepreneurs, and individuals, fostering a more inclusive and connected society.

Together, these initiatives have synergistically worked towards propelling India into the forefront of the global economic and technological landscape. As the nation continues its journey towards development, it is essential to sustain and build upon the successes of "Make in India" and "Digital India" to ensure a resilient, inclusive, and technologically advanced future for the country.

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THE INDIAN EDUCATION SYSTEM AND ITS ADAPTABILITY TO BUILDING SKILLED BUSINESS ENTERPRISES

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Abstract

The idea of promoting entrepreneurship in education has aroused considerable enthusiasm in recent times. Entrepreneurship education, also known as business training that equips students with the necessary knowledge and abilities to become skilled technicians or pursue various businesses. Future challenges and opportunities in entrepreneurship education abound. Based on the knowledge they acquire; students can become highly motivated by creating value for other people and this can promote entrepreneurship education and illustrate the practical relevance of the related knowledge. Entrepreneurship education is to transform unskilled individuals into skilled professionals in their fields. Skill development refers to productive talents acquired through education and training including on-the-job.

The main objective of this research is to focus on some basic principles of entrepreneurship in education as applied in the context of businesses adapting to the changing business environment. The purpose of this study is to broaden and provide professionals with a more in-depth understanding of the intellectual property content and entrepreneurship education. This will help professionals practice and process intellectual property that is protected through "patents, trademarks, copyrights, designs and geographical indications." In addition to meeting the prerequisites for potential career paths in this field, this paper aims to develop intellectual property education in the field of entrepreneurship education. This research report will argue in line with the progress of when to include entrepreneurship in education. Its model, the question of what impact to focus on should also change progressively with time in the education system. Contains existing education research primarily in entrepreneurship.

Key Words: businesses, entrepreneurship, adaptation, education, Socity.

Introduction

The aim of this research is to clarify some of the basic principles of entrepreneurship in education by focusing on what it is, why it is relevant to society, when it is applied and how to put it into practice. One of the most important means for the progress of a country is education. Gurukul was a type of educational institution in ancient India in which the disciples lived in the residence of the guru. Many branches of knowledge systems originated in India. Students from all over the world were attracted to the knowledge systems of India. In ancient India, education was considered a high virtue. In terms of education, the British took control over Indian affairs, on the other hand, the British developed the modern education system which is still used in India. The Indian education system has long suffered from inaccessibility and low-quality education, which has hobbled India's human resources.

With the innovations we are seeing in the modern world, the place of intellectual property in entrepreneurship education is rapidly increasing. The changes in entrepreneurship education in higher education institutions in the global and technological environment are ideological as well as technological. The global environment has brought about a shift in the evolution of business models in which intellectual property plays a central role in determining value and potential for growth. The

country has recently enacted several new laws aimed at strengthening its international obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

The Indian education system was established through the Kothari Commission. All people should get equal opportunities for national and social unity. According to the Commission, Students are not divided into neighborhood schools based on social or religious differences. Indian Education Service (IES) came into existence. Article 21-A was added to the Constitution by the 86th Amendment Act 2002, which provides free and compulsory education to all children of the age of six to fourteen years as a fundamental right. The Right to Education Act was enacted to implement this fundamental right. This Act provided the necessary legal support to implement the Sarva Shiksha Abhiyan (SSA). To develop curriculum in accordance with the values enshrined in the Constitution, to ensure all-round development of children, a child-friendly and child-centred system of education. To further inclusivity, 25% reservation is provided for disadvantaged students in private schools.

Some schemes and campaigns are being run by the central and state governments to overcome the problems of the Indian education system. These schemes have improved the Indian education system to a great extent. Some of such schemes and campaigns are as follows: Launched in 2001 with the objective of promoting 'Education for All', strengthening the existing infrastructure of schools and construction of new schools. It is a flagship program of the Government of India, which was started in 2001. It was launched with the aim of achieving Universalization of Elementary Education (UEE). SSA is called the 'Education for All' movement, pioneered by former Prime Minister of India Atal Bihari Vajpayee.

As per 2011 census data, the number of populations attending any educational institution in the country 'below primary' was 32.6 per cent, while in the previous census (year 2001) it was 42.27 per cent. According to the 2011 census, India's literacy rate is 74 percent. The literacy rate of males is 82.1 percent while the literacy rate of females is 65.5 percent. Kerala at first position in ranking; Bihar ranks lowest among the states. Despite improvements in adult and youth literacy rates, India's illiteracy rate remains the same as the country's population at the time of independence. The gender gap in literacy still lags far behind the global female literacy rate of 7% and India's literacy rate remains below the global average of 86.3 percent (UNESCO 2015). Many states rank in the average, which is slightly higher than the national average of 64.8 percent. The other goal in the Sustainable Development Goals (SDGs) is related to education which ensures equitable, inclusive, and quality education while promoting lifelong learning opportunities for all by 2030.

Only a small percentage of the country's total population has completed higher education. According to the 2011 census, more than 26% of Indians are still illiterate. Tertiary education is given high priority when it comes to government spending. The quality of education is poor. In the 2018 Annual Status of Education Report, weakness in core reading and arithmetic skills (ASER) was noted. India's educated youth are still unemployed due to lack of industry level skills. Fundamentals are not given priority in the Indian education system. Skill development programs will not be successful if they do not lay a strong foundation. GER is a statistical measure to determine the number of students enrolled in undergraduate, postgraduate and research level studies within a country and is expressed as a percentage of the population.

Intellectual property is important to the business process. Since intellectual property is not a physical asset, it can be easily ignored. The success of intellectual property depends on its ability to develop and transform a successful business. Knowing how to protect an idea, whether it is an invention or a brand name, copyright, or quasi-rights an entrepreneur may have a good idea and a good market, but he does not know what kind of intellectual property rights he has. Or he is not even aware that he has intellectual property rights. Entrepreneurs often overlook intellectual property protection. They fail to

acknowledge the invaluable intangible assets they possess. Delaying intellectual property protection cases can result in loss of rights and liabilities.

Intellectual property is a type of intangible property used to protect something. In recent years, intellectual property has been used to protect things that were once private, such as "geographical indications, protection of plant diversity, and protection for semi-conductors and integrated circuits". Intellectual property includes things like “inventions, literary and artistic works, and “symbols, names, images, and designs” that are used in business. Industrial property, including inventions (patents), and copyrights". Intellectual property includes artists' rights to their performances and recording rights. Intellectual property rights provide protection to creators by giving them property rights that they can use to protect their works. These are all examples of rights that come under copyright.

Research Methodology

The research is descriptive in nature. All facts, meterial and theories are taken from secondary sources of reports, websites, and blogs. The review literature sheds light about intellectual property rights importance and all the literature is taken from various published magazines, books, and articles.

Objective of the Study

The main goal of “Intellectual Property Rights (IPR)” around the world is to let people create new knowledge and encourage them to acquire it legally by protecting their rights IPR is a new field of study • Areas of knowledge and developing special education in its complexities and various aspects of the subject. • To examine the educational perspective of IPR to make the country more advanced and the general well-being of the society, intellectual property should be used for the betterment of the people. Because of this, IPR has become an important part of economic development in the 21st century. So, it is the legal protection that has given it great importance especially in India and other developing countries. It is important for everyone involved to know about the IPR regime so that they can keep track of how fast science and technology change. Have been. We must make good use of it to encourage new ideas

What is the Indian Education System in IPR?

The Indian education system was established through the Kothari Commission. The 10+2+3 pattern was used to standardize the education system. The importance of incorporating work experience, community involvement and national service into education was stressed. To achieve national and social unity, all people should get equal opportunities. NEP 1968 called for equality of educational opportunities to improve national unity. It increased government expenditure on education from 5% to 6% of GDP. As a result, teachers were able to receive more education and training. NEP 1985 mission is to eliminate disparities in education and provide equal educational opportunities to all members of society, especially the marginalized. IGNOU was established through this education policy. This "rural university" approach was adopted based on Gandhi's philosophy at the grassroots level in rural India. It suggested that the government needed to take several initiatives to improve India's education system. The National Accreditation Board (NAB) should integrate the existing accreditation bodies.

NEP, 2020 is based on the recommendations of the Kasturirangan and TSR Subramaniam committees. NEP 2020 emphasizes on reforming education at all levels from pre-primary to higher education. It aims to transform India's education system in line with contemporary needs: Universal education by 2030 through 100% Gross Enrollment Ratio (GER) from pre-primary to secondary. Need

for 5+3+3+4 curriculum system to replace the existing 10+2 system. Teaching in mother tongue till class 5 and not imposing any other language.

To provide comprehensive, multidisciplinary, holistic UG (Undergraduate) education with flexible curriculum provisions, integration of vocational education, multiple entries and exit points with respective degrees and introducing graduate programs in regional languages. To establish the Higher Education Commission of India (HECI) as the regulator for all education except legal and medical education. Adding professional courses including internships is another excellent feature of the program. This will also help in achieving the goal of Skill India Mission. According to NEP, Right to Education (RTE) should be provided to all children up to 18 years of age.

According to the report, the world's top 100 universities will be allowed to open campuses in India. As a result of this influx of international perspective and innovation, India's education system will become more efficient and competitive. Higher education generally has three levels namely undergraduate, masters and postgraduate (MPhil/PhD). To meet the needs of higher education, the government has launched Rashtriya Uchchatar Shiksha Abhiyan (RUSA).

What is Entrepreneurship in Education in IPR?

Building an entrepreneurial culture is a complex task that requires the efforts of many dedicated individuals. Entrepreneurship education and skill development are interlinked and are extremely important for business growth. It not only provides technical expertise but also promotes problem-solving and essential life skills. Entrepreneurship education skills are versatile and make individuals adaptable and adept in diverse work areas. Entrepreneurship education is important to help youth develop entrepreneurial skills, attributes and behaviors as well as adopt entrepreneurship as a career option.

Funding to help developing countries improve their economies' ability to harness intellectual property and innovation by targeting more of the world's most creative countries. Helping people protect their intellectual property rights through technical assistance Protection of intellectual property rights is essential for the development of the economy Strong protection of intellectual property rights is related to economic growth as well as innovation. It encourages businesses to invest in research. Balancing interests and protecting intellectual property rights is a difficult task. While it is extremely important to protect intellectual property rights, it does not restrict competition, flow of information and knowledge.

The technologies emergence presents new challenges to intellectual property rights. The proliferation of new technologies such as artificial intelligence, blockchain are associated with these innovations. It is necessary to remain a proactive and adaptive approach to intellectual property rights protection to strike a balance between innovation and the public interest. In general, intellectual property rights is a complex and constantly evolving field A wide range of economic, legal, and social factors need to be carefully considered.

Why is Enterpreneurship Education Relevant in IPR?

In today's world, change is the only constant, and traditional jobs are no longer guaranteed. One of the major benefits of incorporating entrepreneurship skills in education is that it helps students develop the foundation needed to succeed in an increasingly global and dynamic economy. The importance of teaching entrepreneurship cannot be underestimated. It also helps students develop a mindset that believes they can succeed by improving through effort and learning.

Protection of intellectual property rights is an essential component in the educational environment. Intellectual property rights have the potential to influence the educational system and the dissemination

and use of information. Intellectual property rights act to protect the creators of original works, such as writers, artists, and inventors, and to give them their Exclusive rights on creations. Copyright is one of the laws governing intellectual property that allows students and teachers to use and distribute copyrighted resources. In addition to copyright law, there are patents and Laws related to trademarks also apply in the context of education.

Entrepreneurship education also has the potential to benefit society. A leader is needed to keep a team together. Students can also develop the expertise needed to start their own firm. Entrepreneurs must be comfortable setting goals and encouraging others on their path to success. While leadership is certainly a great skill for a founder, it is equally important for future employers. Entrepreneurship education can help students become responsible moral citizens by emphasizing the importance of ethical decision making and social responsibility. This is especially important in today's world, where there are many serious social and environmental challenges that need to be addressed and bring positive change to the world. The overall approach of entrepreneurship training is to develop students into versatile and holistic personalities. With the constant advancements in technology and the need to constantly innovate to move forward, there are plenty of opportunities for students to leverage their entrepreneurial skills.

How to do Enterpreneurial Education in IPR?

It can only be achieved through learning-by-doing or direct observation". This leaves the unanswered question, “Learn by doing what?” with. Need solid advice on what to do so that students can develop their entrepreneurial skills. Implementation is described as an iterative process of making decisions and gaining active commitment that results in the creation of new value, where each iteration addresses questions such as "Who am I?", "What should I do?" Starts with questions like. and "Who do I know?" Viewing entrepreneurship as a general methodology has great potential in the field of entrepreneurship education, but there needs to be an emphasis on acting, value creation and using creativity as tools. Entrepreneurship education helps students identify problems and solutions that lead to new experiences and unexpected results, a skill that all businesses hold in high regard.

Adaptability in IPR

Entrepreneurship Education (EE) has advanced to educate the new workforce of the twenty-first century by giving students the study and skills to be creative, innovative, and entrepreneurial. As workforce demands change over time, entrepreneurs destroy old paradigms and invent new paradigms. So, find a community of like-minded leaders to keep you accountable. Entrepreneurship requires a “never give up” attitude. No problem is so big that it cannot be solved and there is always a way. To address any crisis, evaluate existing challenges with team members.

Develop skills early on on the different ways technology can quickly improve processes. Constantly challenge yourself to find innovative solutions to any problem. Additionally, Entrepreneurship education plays an important role in promoting gender equality by providing girls with in-demand skills in their local economies, empowering them economically. They equip girl students with practical skills, knowledge, and valuable life skills, enabling them to secure employment and adapt to the changing work environment. Knowledge is power and you can develop that knowledge by learning and applying it to your experiences. There is no better teacher than personal experience, so I believe that is one of the best ways to develop adaptive skills. The more you do not shy away from teaching moments, the more skills you gain. These acts provide a comprehensive legal framework for protecting and enforcing intellectual property rights in India.

"The Copyright Act, 1957": The Copyright Act provides for the protection of original literary, artistic, musical, and other works, and the rights of the authors of such works.

"The Patents Act, 1970": The Patents Act sets out the requirements for patentability, the procedures for obtaining a patent, and the rights and obligations of patent holders. The Act was amended in 2005 to promote innovation and research and development.

"The Trade Marks Act, 1999": The Trade Marks Act provides for the registration of trademarks, the cancellation and rectification of trademarks, and the rights and remedies of trademark owners.

"The Geographical Indications of Goods (Registration and Protection) Act, 1999": The Geographical Indications of goods Act provides for the registration and protection of geographical indications of goods. "Geographical indication" in relation to goods means an indication which identifies goods such as agricultural goods, natural goods or manufactured goods produced or manufactured in a territory of a country, or a region or locality within that territory, as the case may be;

"The Designs Act, 2000": The Designs Act sets out the requirements for design registration, the procedures for obtaining and maintaining design registration, and the rights and remedies available to design owners.

"The Semiconductor Integrated Circuits Layout-Design Act, 2000": "This Act" provides for the protection of layout designs of integrated circuits.

Conclusion

Incorporation of Intellectual Property Rights into the fundamental education system and facilitating IPR recognition through empowerment of innovators and developers are both essential tasks for policy makers. The protection of people's intellectual property is extremely important for the long-term development of any society that operates based on knowledge. Schools in India generally offer one or two vocational subjects. The government is equally dedicated to promoting and supporting vocational training as it recognizes its immense value to individuals interested in acquiring new skills to advance their careers.

Vocational education is often a certificate or diploma. Students can receive official vocational training directly as apprentices or trainees, regardless of their formal qualifications. For Indian youth to secure employment and work towards its desired outcomes, India needs a strong institutional mechanism and large-scale capacity building. For Indian youth to secure employment and work towards their desired outcomes, it is essential to enhance their mental and physical development. Equipped with the necessary skills, Indian students can build a promising future, as they represent the future of the country.

Low skill levels contribute to inequality and poverty. When skill development and vocational education are implemented effectively, they can reduce unemployment and raise standards of living. The form of vocational training provides them with information to be job ready. Vocational training exposes students to the work environment, allowing them to more effectively complete tasks in their real jobs. Be self-reflective and curious about whether your colleagues are open to learning and change. Success does not depend only on you. It is important to adopt a growth mindset to develop the skills to accept business challenges as opportunities. Entrepreneurs with a growth mindset emphasize learning and mastery along with business results. Become capable of taking effective decisions in crisis.

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FUELLING PROGRESS: LEVERAGING INTELLECTUAL PROPERTY RIGHTS (IPRS) FOR ACHIEVING SUSTAINABLE DEVELOPMENT GOALS (SDGS) IN INDIA

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Abstract

The year 2023 ended with India being recognised as the world's fastest growing economy. India is a burgeoning economy with significant potential for innovation, creativity, and expansion, which can leap further with an efficient Intellectual Property Rights (IPRs) framework. IPRs plays a crucial role in growth – both economic and technologically, which in turn are critical for achieving Sustainable Development Goals. These Goals have been designed with the intent to address the current needs of our generation without jeopardizing the demands of future generations. SDGs entail pursuing economic, social, and environmental goals in a balanced and integrated manner way. These goals can be attained only when technology and innovation become the key drivers and enablers for growth and sustainable economic development, which can be done by proficiently managing the IPRs. However, the protection granted under IPR may restrict the unfettered flow of technologies which are essential for advancement of SDGs. Therefore, it is essential to comprehend and examine the significance of IPR in achieving the targets set under SDGs in India.

This research paper aims to examine the support rendered by Intellectual Property Rights (IPRs) in achieving Sustainable Development Goals (SDGs) in India. Part I of the paper delves into the current IPR regime applicable in India. Part II of the paper elaborates on the specifics related to SDGs. Part III of the paper analyses the influence of IPR in attaining the goals set by India and the steps taken in this regard. Part IV summarises the conclusion and recommendations.

Keywords: Intellectual Property Rights; Fuelling Progress; Sustainable Development Goals; Economic Growth; and India

Introduction

"By defining our goals more clearly, by making it seem more manageable and less remote, we can help all people to see it, to draw hope from it, and to move irresistibly towards it" ~ John F. Kennedy[1]

All jurisdictions across the world are facing significant pressure on their existing natural resources due to common critical factors like globalization, rising population, industrialization, and increasing pollution, leading to over-exploitation and depletion of natural resources, including land, water, flora and fauna, and biodiversity.[2] This has led to grave concerns which are affecting the planet as whole and not merely Global North or South, though the proportion of effect of climate change may vary.[3]

[1] John F. Kennedy, 'American University Commencement Address', 10 June 1963, Washington, D.C. <https://www.americanrhetoric.com/speeches/jfkamericanuniversityaddress.html> accessed on 4 March 2024

[2] Aeiforia, 'Need and Importance of Sustainable Development: Objectives, Goals', <https://www.aeiforiaarchitects.com/blogs/need-and-importance-of-sustainable-development> accessed on 4 March 2024

[3] Gerardo Bandera, Fair Planet, 'How climate colonialism affects the global south,' 28 September 2022 <https://www.fairplanet.org/story/how-climate-colonialism-affects-the-global-south/#:~:text=The%20climate%20crisis%20is%20a,or%20respond%20to%20natural%20catastrophes> accessed on 4 March 2024

Amongst the array of factors that can be blamed for the current state, technology plays a significant role.

Today, all tasks are accomplished using technology and diverse tools. Cutting-edge technology, automation and Internet of Things (IoT) such as mobile phones, smart watches, smart lighting and even AI assisted devices like Alexa and Google Siri are enabling consumers to incorporate and enjoy technology with voice commands, or access via mobile phones.[4] With ever increasing reliance on newer appliances and technologies, electricity, semiconductors and similar resources have become critical components for routine life. This has led to more and more demand on usage natural resources without restraint, thereby causing long-term damage to the planet. In order to ensure the well-being of future generations, the significance of sustainable development has grown rapidly.

Sustainable development entails satisfying the requirements of the present generation while ensuring that the capacity of future generations to fulfil their own needs remains unimpaired. Living in a sustainable manner today is crucial for a brighter tomorrow, as it involves fulfilling needs of present generation without jeopardizing the ability of future generations to meet their own needs. The endurance of our societies and the well-being of our shared planet hinge upon fostering a more sustainable world.[5] Therefore, it is critical that technology is intertwined with sustainability. Modern innovations, such as green technology and eco-friendly products should be promoted and protected. Such creations are fuelled by innovation, which can only exist with an efficient Intellectual Property Rights (IPRs) framework.

Part I – IPR Regime in India

IPRs refer to the rights granted to persons over their intellectual creations. It is a collective term which includes various forms of rights that can be individually created, protected and enforced by the owner. These different forms include Patents, Copyrights, Trade marks, Industrial designs, Geographical Indications, Traditional Knowledge and Trade Secrets.[6] The protection of these forms of IPRs provide an exclusive right to the creator for monetising his or her creation for a specified period of time and ensuring that no other person can use these IPRs without the permission of owner, however, certain limitations and exceptions are enacted. Protecting IPR is essential for the advancement and progress of any national economy. The social purpose of these laws is to ensure that the development of new technology is incentivised and safeguards the investments done. It promotes transfer of technology through avenues such as Foreign Direct Investment (FDI), Joint Ventures (JVs) and licensing.[7]

On ratifying the agreement for establishing the World Trade Organization (WTO), which envisages the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), India formulated and implemented the following laws, which provide a robust and firmly established legal framework for the IP covered:

Trade Marks Act, 1999

It defines a "trade mark" as a mark which is capable of being represented graphically and distinguishing the products (goods or services) of one business from other. A trade mark which can be filed for protection under this Act may include a sign, words, letters, numbers, drawings, pictures, emblem, colours or combination of colours, shape of goods, graphic representation or packaging or sound or

[4] Daniel Susskind, *A world without work: Technology, automation and how we should respond*, Penguin UK, 2020

[5] UN, Fast Facts – 'What is Sustainable Development?', 08 Aug 2023|Sustainable Development Summit <https://www.un.org/sustainabledevelopment/blog/2023/08/what-is-sustainable-development/> accessed on 4 March 2024

[6] R. Saha, 'Management of intellectual property rights in India,' Department of Science and Technology and Director, Patent Facilitating Centre, Technology Information, Forecasting and Assessment Council, New Delhi (2006)

[7] WTO, 'TRIPS: What are IPRs' <https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm> accessed on 4 March 2024

any combination of these. The Act covers the filing, enforcement, infringement, assignment and all other key details related to trade marks. A trade mark registration provides exclusive rights to the registrants for a term of 10 years, which is renewable infinitely.[8]

The Patents Act, 1970 (as amended in 2005)

This Act states that protection can be granted to patents which are new, non-obvious and useful. It envisages that any "New invention" refers to any invention or technology which was not published anywhere before date of filing of patent application with complete specification. It also clarifies that invention should be capable of being made or used in an industry. The registration grants exclusive rights to inventors to prevent others from manufacturing, using, selling, or importing their invention without permission for a period of 20 years from the date of filing.[9]

The Copyright Act, 1957

Copyright is a right granted to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. It is a bundle of rights including rights of reproduction, communication to the public, adaptation and translation of the work. A unique feature of Copyrights is that it is an automatic right which commences with the completion of subject-matter and is valid for a period of lifetime of author plus 70 years.[10]

The Designs Act, 2000

This Act covers the protection of Industrial designs, which is defined by the features including shape, configuration, pattern, ornament or composition of lines or colours of the article. It protects the visual appearance of the registered product for a period of 10 years and renewable for a further period of 5 years.[11]

The Geographical Indications of Goods (Registration and Protection) Act, 1999

This Act protects the goods (agricultural, natural or manufactured) which originate in a particular territory or region and that the quality, reputation or characteristics of these goods are attributable to the geographic origin of such territory or region. Any association of persons, organisation or authority can file a GI application and become the registered proprietor, which will accord protection to that specific indicator for a term of 10 years, which is further renewable.[12]

The Semiconductor Integrated Circuits Layout Design Act, 2000

This Act was enacted to provide protection to Semiconductor Integrated Circuit Layout-Designs and for related matters. Under this Act, protection cannot be granted if the Layout-Design is not original or has been commercially exploited anywhere in India or if the design is not distinctive; thus, it protects only those layout-designs which are considered as original and are valid for a term of 10 years.[13]

The Protection of Plant Varieties and Farmers' Right Act, 2001

This Act protects the new plant varieties, rights of farmers and plant breeders and also, encourages development of new varieties of plants. It also acknowledges and safeguards the rights of farmers

[8] The Trade Marks Act, 1999 (Act No. 47 of 1999)
[9] The Patents Act, 1970 (39 of 1970)
[10] The copyright act, 1957 (14 of 1957)
[11] The Designs Act, 2000 (Act No. 16 of 2000)
[12] Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act No. 48 of 1999)
[13] The Semiconductor Integrated Circuits Layout-Design Act, 2000 (Act No. 37 of 2000)

concerning their contributions to conservation, improvement and accessibility of plant genetic resources for the creation of novel plant varieties.[14]

There are no distinct laws or regulations which cover the trade secrets or confidentiality of information and the same are covered under the Indian Contracts Act.[15] Furthermore, the Traditional Knowledge Databank has been created to ensure that the traditional Indian medicinal knowledge is protected and their unauthorized use at International Patent Offices can be prevented.[16]

The regulation and enforcement of IPRs in India is thorough and advanced, encompassing a variety of laws and regulations. Nevertheless, there is still a requirement for ongoing efforts to enhance the regulations to encompass the newer development, encourage innovation and economic development while simultaneously assuring public access to these advancements.

Part Ii – Sustainable Development Goals

The idea of sustainable development has a history spanning several decades, with its modern inception traced back to the Brundtland Report in the year1987. It is defined as development that meets current global needs while preserving opportunities for the future. The concept of sustainable development adheres to 5 core principles: living within environmental boundaries, fostering a robust, healthy, and equitable society, attaining a sustainable economy, and advocating for responsible governance and dissemination of information as societal responsibility.[17]

In the year 2015, every nation in the United Nations unanimously adopted the 2030 Agenda for Sustainable Development, outlining 17 goals encompassing 169 targets. These Goals are together called "Sustainable Development Goals (SCGs)" with call to action for all member countries with the motive to bring an end to poverty, preserve the planet, and ensure that everyone enjoys peace and prosperity by the year 2030. These comprehensive and ambitious Goals are interconnected, and are accompanied by indicators for assessing progress. The short titles of these 17 SDGs are as follows: "No poverty (SDG 1), Zero hunger (SDG 2), Good health and well-being (SDG 3), Quality education (SDG 4), Gender equality (SDG 5), Clean water and sanitation (SDG 6), Affordable and clean energy (SDG 7), Decent work and economic growth (SDG 8), Industry, innovation and infrastructure (SDG 9), Reduced inequalities (SDG 10), Sustainable cities and communities (SDG 11), Responsible consumption and production (SDG 12), Climate action (SDG 13), Life below water (SDG 14), Life on land (SDG 15), Peace, justice, and strong institutions (SDG 16), and Partnerships for the goals (SDG 17)."[18]

The 2030 Agenda and the target Goals provide an all-encompassing perspective for sustainable development which is not limited to "developing" countries as was the case with the Millennium Development Goals (MDGs), but are global in nature evidenced by the slogan "Leave No One Behind". The SDGs are based on values and human rights with reliance on comprehensive approaches and partnership of multiple stakeholders aiming towards Universal Health Coverage (UHC). The Secretary-General of the United Nations submits an annual report on the progress of the Sustainable Development Goals (SDGs), which is collaboratively crafted with the UN System, relying on the global

[14] The Protection of Plant Varieties and Farmers' Rights Act, 2001 (Act No. 53 of 2001)
[15] The Indian Contract Act, 1872 (Act No. 9 of 1872)
[16] CSIR, Traditional Knowledge Digital Library, <https://tkdl.res.in/tkdl/langdefault/common/Home.asp?GL=Eng> accessed on 4 March 2024
[17] Jennifer Elliott, *An introduction to sustainable development*, Routledge, 2012
[18] UNDP, The SDGs in action, '*What are the Sustainable Development Goals?*' <https://www.undp.org/sustainable-development-goals> accessed on 4 March 2024

indicator framework and data generated by national statistical systems, along with information gathered at the regional level.[19]

SDGs are rooted in the extensive efforts of countries and the UN, encompassing decades of work, including contributions from the UN Department of Economic and Social Affairs. The efforts commenced with the setting up of the Commission on Environment and Development, or the Brundtland Commission in the year 1987, which highlighted the concept of Sustainable Development in the report titled "Our Common Future". It was followed up by the Earth Summit in Rio in the year 1992, wherein the "Agenda 21" was adopted. In the year 2000, all the member states together adopted the Millennium Declaration at UN Headquarters in New York, which envisaged the 8 Millennium Development Goals (MDGs) to reduce extreme poverty by the year 2015. Though MDGs achieved many milestones like upliftment of more than 1 billion people out of extreme poverty, reduction of child mortality rate and decrease in the spread of HIV/AIDS infections, these Goals were deemed insufficient, leading to the Rio +10 World Summit on Sustainable Development in Johannesburg in the year 2002 and consequently, the UN Conference on Sustainable Development or the Rio+20 the year 2012, wherein the document "The Future We Want" was adopted by the members. It was in this document that the 17 goals with 169 targets and 232 indicators were adopted based on the 5 pillars: "People, Planet, Prosperity, Peace, and Partnership".[20]

Part III – Influence of IPR on SDGs and Status in India

IPRs are crucial for safeguarding innovation, creativity, and knowledge. Implementing IPR in the context of SDGs is a challenging process. The SDGs draw attention to areas of inequality that necessitate inventive resolutions, namely addressing sociological and economic obstacles presented by climate change.[21] Additionally, they acknowledge the negative effects of Covid-19 pandemic on individuals and their means of living along with global food crisis, and the escalating geopolitical tensions.[22]

IPRs is expected to play a significant role in driving advancements in sustainability, thanks to its distinct attributes, including the absence of any tangible negatives, easy scalability, facilitation of creativity and innovation in addition to its widespread recognition and conformity. The various IPRs collaborate to promote growth, particularly in the areas of sustainable innovation and the economy.[23] Furthermore, the World Intellectual Property Organization (WIPO) has provided an indepth study of linking IPRs with SDGs. It enumerates that SDG 9 (Industry, Innovation and Infrastructure), which is central to the mission of leading the development of the international IP system for the benefit of all.[24]

IPRs are legal protections for inventions, creations, and innovations which stem from human intellectual endeavors. IPRs have been increasing in popularity as an important tool to advance sustainable development. The benefits of encouraging sustainable development are diverse and plentiful, such as the advancement of innovation and creativity, fostering technology transfer, advancing access to knowledge, and generating employment opportunities and strong economic expansion. One key advantage of IPRs in advancing sustainable development is the promotion of innovation and resourcefulness. IPR protection incentivises inventors, creators, and innovators along with investors of

[19] United Nations, Department of Economic and Social Affairs, '*Sustainable Development*' <https://sdgs.un.org/goals#history> accessed on 4 March 2024

[20] Buckler, Carolee, and Heather Creech. Shaping the future we want: UN Decade of Education for Sustainable Development; final report. UNESCO, 2014

[21] Fleming, Aysha, et al. "The sustainable development goals: A case study." Marine Policy 86 (2017): 94-103.

[22] IISD, SDG Knowledge Hub, A project by IISD, "WIPO Illustrates How Innovation, Intellectual Property Can Support SDGs" <https://sdg.iisd.org/news/wipo-illustrates-how-innovation-intellectual-property-can-support-sdgs/> accessed on 4 March 2024

[23] Gao, Xing, Jin Zhu, and Bao-Jie He. "The linkage between sustainable development goals 9 and 11: Examining the association between sustainable urbanization and intellectual property rights protection." Advanced Sustainable Systems 6.3 (2022): 2100283.

[24] WIPO, SDGs, https://www.wipo.int/sdgs/en/ accessed on 4 March 2024

new products and technology by providing them with exclusive usage rights and making use of their creations. This, in turn, fosters the creation of innovative products and technologies that are eco-friendly and socially advantageous. IPR also promotes sustainable development by fostering technological advancement from Global North to Global South[25]. Countries can assist in narrowing the technological disparity and advancing sustainable development. The technology transfer can enhance productivity of underdeveloped countries. Competitiveness can assist in reaching sustainable development objectives. IPR can also be utilized to facilitate access to information, promote innovation and creativity. Disseminating knowledge by motivating inventors and innovators to share their work and share expertise with others. This fosters the creation of novel ideas and technology, which can aid in advancing sustainable development[26].

Furthermore, IPRs have the capacity to generate employment opportunities and stimulate economic development. IPRs foster the growth of new industries and businesses, leading to new work opportunities and stimulate economic expansion. This can facilitate the advancement of sustainable development by enabling individuals to fulfil their fundamental requirements and enhance their quality of life. IPR has the ability to significantly contribute to achieving sustainable development through promoting innovation, creativity, technological transfer, and access. [27]

In developing nations such as India, the possible adverse impacts of Intellectual Property Rights (IPR) on the environment are a concern. One of the major obstacles in applying IPR within the framework of sustainable development is that it may impede access to knowledge and technology transfer. Developing nations such as India depend on facilitating the transmission of knowledge and technology to stimulate economic growth and development.[28] Patent laws, for example, can create challenges in obtaining crucial medicines and medical technologies. This is especially troubling because access to vital medications is necessary for public health and well-being. Inadequate access to vital medications can result in fatalities and have adverse effects on the economy. Researchers depend on access to prior research to progress in their work and limiting access to knowledge can impede scientific advancement.[29] This is especially worrisome in the framework of sustainable development as scientific research is crucial for discovering answers. Another major problem in adopting IPR in the context of adverse impacts on the environment. Seeds in agriculture exemplify how IPRs can have a detrimental effect on the environment. Proprietary seeds are engineered to withstand pests and diseases, but their lasting impact on the ecosystem remains unknown. There is worry that utilizing patented seeds may result in a reduction of biodiversity, soil degradation and further environmental issues.[30] Moreover, IPRs might impede progress and growth even in implementation of eco-friendly technologies if licensing fees for patented technologies is unaffordable for small enterprises and developing countries. This may result in a delayed acceptance of sustainable technologies and impeding advancement to accomplish SDGs.[31] It is therefore, crucial to strike a balance between safeguarding IPRs and fostering

[25] Barton, J. (2003), Preserving the Global Scientific and Technological Commons (Stanford: Stanford University).

[26] Joonas Mattsson, Sustainable Development Goals in the Light of Intellectual Property Rights and Competition Law, University of Helsinki, June 2022

[27] Palak Jain, Sustainable Development and IPR, All India Legal Forum, 3 September 2021, https://allindialegalforum.com/2021/09/03/sustainable-development-and-ipr/ accessed on 4 March 2024

[28] Ricardo Meléndez-Ortiz and Pedro Roffe, *Intellectual property and sustainable development: Development agendas in a changing world*, Edward Elgar Publishing, 2009.

[29] Tomáš Hák, Svatava Janoušková, and Bedřich Moldan, 'Sustainable Development Goals: A need for relevant indicators', Ecological indicators 60 (2016): 565-573.

[30] Viola Profti, Intellectual Property Models for Accelerating Sustainability Transitions (IPACST), 'Intellectual Property Models for Accelerating Sustainability Transitions How can intellectual property contribute to the 2030 Agenda for Sustainable Development?' 10 July 2020 <https://ip4sustainability.org/2020/07/10/how-can-intellectual-property-contribute-to-the-2030-agenda-for-sustainable-development/> accessed on 4 March 2024

[31] Hans Morten Haugen, *Why are intellectual property rights hardly visible in the United Nations Sustainable Development Goals?*, Edward Elgar Publishing, 2021, 12-37.

growth. Policymakers must take into account the challenges of sustainable development when creating policies and rules concerning IPRs.

India has implemented different techniques to increase sustainability through IPRs. India has a history of embracing technology and engaging in technology transfer in addition to creating native patents. Indian companies have worked towards enhancing competitiveness and innovation to achieve greater sustainability. The government has been enhancing the capacity of its citizens through capacity building initiatives to utilize and advance technology with the aid of education and training programs on IPRs and SDGs. These programs have been targeted towards entrepreneurs, innovators, and researchers to provide them with the necessary information and skills. The government has initiated multiple programs to increase awareness through campaigns in not just urban, but rural areas as well.

Indian government established and implemented the National Intellectual Property Rights (IPR) Policy in the year 2016, with the intent to establish a robust and thorough legal framework for safeguarding and implementing IPRs in India. The policy aims to stimulate innovation and foster entrepreneurship, promote an environment that encourages innovation and teamwork.[32]

The business sector has been crucial in contributing towards advancing SDGs through IPRs in India. Several companies have implemented initiatives to create sustainable products and technologies. These corporations emphasise the significance of sustainability for long-term growth, making investments and conducting R&D to establish sustainable solutions. They have also concentrated on creating sustainable products and procedures to minimise environmental harm.

India utilises various methods to advance sustainable development through IPRs including technology transfers, capacity building, public awareness campaigns, and government measures.

Part IV– Conclusion and Recommendations

In conclusion, the SDGs that are impacted by IPRs are summarised as under[33]:

SDG 13: Climate Action

This Goal observes a crucial contribution from the IPRs towards promoting environmental sustainability by encouraging the advancement of green technologies and nurturing eco-friendly innovations. By establishing robust IP protections, the businesses enable smooth transfer and broad adoption of sustainable practices, making a substantial contribution to the worldwide initiative to address climate change. The legal safeguards offered by intellectual property frameworks not only stimulate the development of environmentally friendly solutions but also expedite the global dissemination of these vital technologies.

SDG 7: Renewable Energy and Clean Technology:

The connection between intellectual property and advancements in renewable energy is becoming more stronger. Patents, specifically, are pivotal in propelling progress in solar energy innovation. This encompasses technologies that enhance the efficiency of solar panels or solar windows. Similarly, patents play a crucial role in driving advancements in wind energy, including various patented technologies utilized with wind turbines. Ongoing developments in other sustainable technologies, such as grid integration or tidal energy, further underscore the importance of protecting these innovations

[32] Srinjoy Ganguly, *Towards a Model National IPR Policy for India,* (2015).
[33] Medium, Copperpod IP, 'The Crucial Role of Intellectual Property in Achieving Sustainable Development Goals (SDGs)', 2 August, 2023 <https://copperpod.medium.com/the-crucial-role-of-intellectual-property-in-achieving-sustainable-development-goals-sdgs-68365e957686> accessed on 4 March 2024

and their patents. This protection is integral to the overarching objective of achieving accessible, reliable, sustainable, and contemporary energy for all.

SDG 6: Clean Water and Sanitation

Research has revealed that billions of individuals still face a daily scarcity of clean water and even a higher number lack access to safely managed sanitation. This underscores the pressing demand for innovations and IPRs in the realm of effective water management systems. Consequently, pioneering technologies associated with clean water and sanitation, such as waterless sanitation systems or environmentally-friendly sewage treatment, play a pivotal role in fostering sustainable sanitation practices. Initiating the deployment of intelligent water metering and greywater recycling systems at both residential and industrial levels could serve as a significant initiative to encourage water conservation.

SDG 3: Healthcare and Well-Being

Within the realm of this Goal, IPRs act as a crucial catalyst for advancement. Patents play a pivotal role in advancing medical inventions and pharmaceuticals, delivering transformative advantages to global health. Beyond merely fostering R&D in the medical sector, these protections also streamline distribution of life-saving technologies. Consequently, IPR plays a crucial part in contributing significantly to the overarching objective of promoting good health and well-being worldwide.

SDG 2 and 12: Agriculture and Sustainable Food Production

Shifting our attention to sustainable food production, IPR plays a central role in addressing SDGs related to hunger and responsible consumption. Specifically, patents serve as incentives for researchers and innovators to explore enhanced methods of crop cultivation, develop innovative farming tools, and adopt sustainable farming practices. The introduction of these novel technologies and approaches holds the potential to increase food production, consequently contributing to the advancement of SDGs 2 and 12, which focus on zero hunger and responsible consumption, respectively. The protection of these innovations becomes paramount, ensuring our ability to meet the growing demand for food while minimizing environmental impact, thereby fostering a more sustainable and resilient food system. Geographical Indications (GIs) also help in authenticating the produce of a specific region or territory to the products which possess qualities, reputation, or characteristics that are essentially attributable to the place of origin.[34]

Therefore, IPR protection fosters innovation and creativity by granting inventors and artists sole rights to their creations. In India, robust IPR system motivates businesses and innovators to invest in R&D for innovative technologies that are sustainable and eco-friendly. This can result in the generation of new employment opportunities, economic expansion, and enhanced future sustainability. India possesses a wealth of traditional knowledge and customs that need to be safeguarded essential for sustainable development. The country possesses a wide variety of traditional expertise in Ayurveda, Yoga, and traditional agricultural methods. IPRs assist in preserving these practices and prevent their misuse. It can also serve as a forum for traditional knowledge bearers to profit from their expertise through licensing it to others. It empowers inventors and creators with exclusive rights to their clean innovations, which can result in the development of new technologies that are more energy-efficient, eco-friendly, and economical. IPR protection can also draw in foreign investment and technology transfer can expedite the adoption process of renewable technology in India. IPR protection can safeguard India's diverse range of living organisms and ecosystems by encouraging the creation of new

[34] I am IP, Industry Trends, 'The Nexus Between Intellectual Property and Sustainability', 18 January 2023, <https://iamip.com/the-nexus-between-intellectual-property-and-sustainability/> accessed on 4 March 2024

plant and animal species with increased resistance to pests and illnesses. This can result in a more sustainable and efficient agriculture system. Practices that can mitigate the negative effects of agriculture on the ecosystem. IPRs also stimulate the invention of novel medications and drugs through natural resources that have the potential to positively impact both human health and the environment. Therefore, the Indian government should bolster its IPR legislation and enforcement methods to offer improved protection to innovators, creators and traditional knowledge holders. This can foster innovation, preserve historic knowledge and advance the innovation of clean technology. The Indian government should enhance awareness of IPR among entrepreneurs, innovators, and traditional knowledge holders. This can occur by organizing workshops, training programs, and outreach activities, educating individuals on advantages of IPRs and providing guidance on the process of obtaining it. Furthermore, the Indian government should promote collaboration among many parties, such as industry, academia, and civil society so that the targets linked to SDGs can be achieved.

EXAMINING THE ROLE OF WOMEN IN DRIVING INNOVATION POLICIES AND PRACTICES WITHIN INTELLECTUAL PROPERTY AND CORPORATE LAW REGIMES: A COMPARATIVE ANALYSIS

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Abstract

Women have historically been underrepresented in the fields of intellectual property and corporate law, and their contributions to driving innovation policies and practices within these regimes have often been overlooked. However, as the representation of women in these fields continues to increase, it is becoming increasingly important to understand and highlight the unique perspectives and experiences that women bring to the table. In this paper, we aim to examine the role of women in driving innovation policies and practices within intellectual property and corporate law regimes through a comparative analysis. This study conducts a comparative analysis to examine the pivotal role of women in driving innovation policies and practices within intellectual property (IP) and corporate law regimes. With a focus on exploring gender dynamics in innovation ecosystems, the research delves into how women contribute to shaping legal frameworks, fostering creativity, and advancing technological progress. By scrutinizing various jurisdictions and organizational contexts, the study elucidates disparities, challenges, and opportunities faced by women in intellectual property and corporate law domains. By promoting the representation and inclusion of women in these fields, we can unlock the full potential of innovation and create a more just and sustainable future for all.

Keywords: intellectual property, corporate law, women's leadership, ecosystems, frameworks

Introduction

Over the past 50 years, women have entered the workforce at all levels in ever greater numbers. This trend has been accelerated in part by government policies, and with good reason: studies show that including women equally in the formal economy could spur growth in gross domestic product (GDP) by 26 per cent[1].To obtain the full benefit of women's participation in the workforce, however, women must be able to secure the fruits of their innovative and creative labors,especially as intangible value now makes up an ever increasing part of business value and investment[2]. Access to and the effective use of intellectual property rights (IPRs) will be critical to women's ability to capitalize on this value.

Despite the importance of women participating fully in all aspects of economic activity, previous research has shown that women are neither participating in the intellectual property (IP) system at the same rates as men, nor receiving the same benefits[3]. In short, there is an IP gender gap. For example,

[1] McKinsey Global Institute: "The Power of Parity: Unlocking the Untapped Potential of Women in the Economy" (2015)
[2] Stanford Law School – Law & Policy Lab: "Women in Innovation: Leading the Way in Tech and Beyond" https://news.stanford.edu/report/2023/04/05/reflections-on-leadership-stanford-women-leaders-share-what-sets-women-leaders-apart-offer-advice-and-inspiration/.
[3] World Intellectual Property Organization (WIPO): "Intellectual Property, Gender, and Diversity" https://www.wipo.int/women-and-ip/en/

although women account for roughly half of the global labor force and more than half of college graduates worldwide,they receive far fewer patents than men.

Innovation is the engine of economic growth and societal progress. Effective legal frameworks play a crucial role in fostering innovation by providing incentives, protecting intellectual property rights, and promoting collaboration.

Five Challenges Contributing to the IP Gender Gap:

If a problem is caused by a single, obvious challenge, finding a solution is likely to be relatively

simple. As with most challenging social problems, however, the IP gender gap[4] stems from a

number of interrelated and wide-reaching challenges that arise at many levels. Like a leaking pipe with many holes, each of these challenges must be addressed before positive results will become visible at the end of the pipeline. For policy initiatives to be most effective, it is important to understand the many interrelated factors that inhibit women entrepreneurs, creators and innovators from fully engaging with IP systems.This section identifies five groups of challenges that correspond to five groups of policies designed

The challenges include the following:

1. More data is needed to understand the scope and nature of the IP gender gap.[5]
2. Women are less likely to be encouraged and trained to enter science, technology,

Engineering and mathematics (STEM) fields. They are also less likely to receive the

Resources they need to succeed in business.[6]

3. Women are less likely to enter careers in IP law and administration.[7]
4. There is a general lack of understanding among innovators, creators and entrepreneurs

Of the value of IP rights and how the IP system works.[8]

5. Women are less likely to receive the same mentoring and opportunities as men for

Advancement in IP-intensive fields.[9]

However, the crucial contributions of women in shaping these legal frameworks and driving innovation practices often remain unrecognized. For policy initiatives to be most effective, it is important to understand the many interrelated factors that inhibit women entrepreneurs, creators and innovators from fully engaging with IP systems. Addressing these challenges is crucial to closing the IP gender gap and ensuring that women can fully participate in the innovation economy.

The role of Women in Shaping IP and Corporate Law Frameworks

Women have played a significant and evolving role in shaping the frameworks of both intellectual property (IP) and corporate law, despite historically facing challenges in these male-dominated fields. Here's a breakdown of their contributions:

[4] World Intellectual Property Organization (WIPO): "Policy Approaches to Close the Intellectual Property Gender Gap" https://www.wipo.int/ip-development/en/agenda/docs/literatur
[5] https://www.wipo.int/about-ip/en/ip_innovation_economics/gender_innovation_gap/index.html
[6] National research organizations or reports on women in STEM fields in your region
[7] Reports by organizations promoting women in law or intellectual property.
[8] Resources from government IP offices or educational institutions promoting IP awareness.
[9] Research on women's professional networks or mentorship programs in IP.

Trailblazers: Judges like Pauline Newman[10] brought unique scientific perspectives to patent law, influencing rulings on biotechnology and inventor rights.

Advocates: Individuals like Ruth Bader Ginsburg[11] championed gender equality in IP law, paving the way for fairer treatment of women inventors and entrepreneurs.

Policymakers: Women in legislative and regulatory roles have shaped IP frameworks to better address issues like traditional knowledge[12] protection and access to essential medicines.

Ongoing Contributions:

Diverse Perspectives: Women bring different viewpoints to legal discussions[13], enriching IP and corporate law by considering the impact on various demographics and fostering more inclusive frameworks.

1.Focus on Underrepresented Areas: Women lawyers often advocate for areas traditionally overlooked, such as protection of indigenous knowledge and intellectual property rights of women creators.

2.Leadership and Mentorship: As women rise to leadership positions in law firms and corporations, they inspire and mentor future generations, promoting diversity and inclusion in the legal field.

Comparative analysis across jurisdiction:

A comparative analysis of approaches to gender equality in IP and corporate law; While the pursuit of gender equality within IP and corporate law is a global goal, different countries have adopted varying approaches. Here's a comparison highlighting some successful initiatives and areas for improvement:

Approaches:

1.Top-down legislation:

Successful initiatives: Countries like Iceland[14] and Norway[15] have implemented quota systems for women on corporate boards, leading to a significant increase in female representation.

Areas for improvement: Critics argue quotas are temporary solutions and might not address underlying systemic issues.

2.Promoting awareness and education:

Successful initiatives: The World Intellectual Property Organization (WIPO)[16] launched the IP and Gender Action Plan (IPGAP), providing resources and training programs to empower women in using IP systems.

Areas for improvement: Ensuring these resources reach the intended target audience and creating awareness campaigns tailored to specific cultural contexts.

3. Financial and social support systems:

[10] Pauline Newman, "I Met Judge Pauline Newman. She Proves Age Is Just a Number" (National Center for Lesbian Rights, September 2023)
[11] Memory of Justice Ruth Bader Ginsburg: A Champion for Equality" (https://www.aclu.org/documents/tribute-legacy-ruth-bader-ginsburg-and-wrp-staff).
[12] Jane Winn: "Building Bridges: Intellectual Property and Traditional Knowledge" (World Intellectual Property Organization, 2010)
[13] Valarie Aurora & Deborah L. Rhode, "Women in Law: Moving Up and Moving Forward" (Stanford Law Review, Vol. 64, No. 6, 2012)
[14] World Economic Forum, GLOBAL GENDER GAP REPORT 2023
[15] Catalyst, Women CEOs of the S&P 500 https://www.catalyst.org/topics/women-ceos/
[16] United Nations Development Programme (UNDP): "Empowering Women: A Matter of Law" https://www.undp.org/jposc/un-women

Successful initiatives: Canada[17] offers childcare subsidies for female entrepreneurs and maternal leave policies that encourage women to re-enter the workforce.

Areas for improvement: Expanding access to such programs and ensuring they are affordable and accessible to all women, regardless of socio-economic backgrounds.

4. Mentorship programs:

Successful initiatives: Organizations like Women in IP (WIP) in the US connect women with experienced professionals, providing them guidance and fostering career development

Areas for improvement: Scaling these programs globally and ensuring they are inclusive and cater to diverse needs.[18]

Challenges faced by women in these fields

1.Cultural Bias and Societal Norms:

Early discouragement: From a young age, girls are often subtly discouraged from pursuing STEM (Science, Technology, Engineering, and Math) fields, which form the foundation of many IP and corporate careers[19]. This can limit their interest and confidence in these areas, impacting their educational and career choices later on.

Unconscious bias: Even in professional settings, women can encounter unconscious bias based on gender stereotypes[20]. This can manifest in various ways, including:

- Being seen as less competent or qualified than male colleagues.
- Being assigned less challenging work or being overlooked for promotions.
- Facing microaggressions or subtle forms of discrimination in the workplace.

2. Work-life balance:

Balancing careers and family: The corporate and IP fields often demand long hours and significant travel, making it difficult for women, who often carry a larger share of childcare and domestic responsibilities, to achieve work-life balance[21]. This can lead to career stagnation or decisions to leave the workforce altogether.

Lack of family-friendly policies[22]: Some organizations may have inadequate family-friendly policies, such as limited parental leave or inflexible work arrangements, hindering women's ability to manage their careers alongside personal responsibilities.

Recommendations for Promoting Gender Equality:

The paper will propose concrete recommendations for stakeholders, including policymakers, legal institutions, and corporations, to create a more inclusive environment for women in IP and corporate law, ultimately fostering a more diverse and innovative legal landscape.

1.Implement programs and initiatives that target gender equality in the intellectual property field, such as mentorship programs, networking events, and training workshops.

[17] Government of Canada, "Canada Child Benefit"
[18] United Nations Development Programme (UNDP), "Leaving No One Behind: The Imperative of Inclusive Development"
[19] Carol Dweck, Mindset: The New Psychology of Success (Ballantine Books, 2006)
[20] Lisa Delpit, Other People's Children: Cultural Competence in the Classroom (New Press, 2006)
[21] Organization for Economic Co-operation and Development (OECD), Society at a Glance 2023
[22] Failing its Families: Lack of Paid Leave and Work-Family Supports in the US https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare (Human Rights Watch, 2011)

2.Encourage and support female participation in STEM fields[23], which are often underrepresented in the intellectual property industry.

3.Advocate for gender diversity on company boards and in leadership roles within intellectual property organizations[24].

4.Raise awareness about the importance of gender equality in intellectual property through education and outreach efforts.

5.Support policies that promote equal pay and opportunities for women in the workplace, including in the intellectual property field.

6.Prioritize diversity[25] and inclusion in recruitment and hiring practices within intellectual property organizations.

7.Provide resources and support for women to advance their careers in the intellectual property field, such as professional development programs and access to funding opportunities.

8.Collaborate with other organizations and stakeholders to promote gender equality in intellectual property through joint projects and initiatives.[26]

9.Recognize and celebrate the achievements of women in the intellectual property field to inspire future generations of female leaders[27].

10.Create a supportive and inclusive work environment that values diversity and fosters equal opportunities for all employees, regardless of gender.

In addition to these specific recommendations, it is crucial to create a culture of respect, diversity, and inclusion throughout the entire IP ecosystem. By implementing these measures, individuals, organizations, and policymakers can work together to create a more equitable and rewarding environment for women in the field of intellectual property.

The Specific Impact of Women-Led Initiatives on Shaping Innovation Policies and Practices

Women-led initiatives are making significant and impactful contributions to shaping innovation policies and practices. Here's a breakdown of their specific impact:

1. Identifying and Addressing Unforeseen Biases:

Diverse perspectives: Women often bring different lived experiences and perspectives to the table, leading to the identification of potential biases and blind spots in existing innovation policies and practices.

Focus on underrepresented groups: Women-led initiatives often champion the needs and concerns of underrepresented groups, ensuring innovation benefits a wider range of people.

2. Prioritizing Inclusivity and Equity:

Focus on ethical considerations: Women-led initiatives often place a strong emphasis on ethical considerations within innovation, advocating for responsible and inclusive development practices.

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[23] American Association of University Women, Closing the Gender Gap in STEM Education
[24] Som.yale.edu/blog/diversity-inclusion-national-security-imperative-0
[25] Harvard Business Review on Diverse Teams: https://hbr.org/2016/11/why-diverse-teams-are-smarter
[26] **WIPO INTELLECTUAL PROPERTY (IP) AND GENDER ACTION PLAN**
[27] Firms (AIPF), "Empowering Women in IP: Recognizing the Impact of Female Leaders in the Industry," accessed September 28, 2021, https://aipf.com/women-in-ip/

Promoting social impact: These initiatives frequently champion innovations that address social challenges and promote sustainable development, contributing to a more equitable and just society.

3. Fostering Collaboration and Shared Ownership:

Collaborative approaches: Women-led initiatives often employ collaborative and participatory approaches, fostering a sense of shared ownership and responsibility for shaping innovation policies and practices.

Building community: These initiatives can build strong communities around specific innovation areas, fostering collaboration and knowledge sharing among diverse stakeholders.

4. Addressing Gender Gap in STEM Fields:

Inspiring future generations: By showcasing successful women leading innovation initiatives, these efforts inspire and empower younger generations of women to pursue careers in STEM fields, thereby contributing to closing the gender gap in these crucial areas.

Advocating for supportive policies: Women-led initiatives frequently advocate for policies that support women's participation in STEM fields, such as funding for research projects led by women or mentorship programs for girls interested in STEM careers.[28]

Examples of Impact:

Women's Equality Network [29](WEN) in the United States advocates for policies that promote women's leadership in clean energy innovation.

The Gender Innovation Alliance (GIA)[30], a global network, promotes the inclusion of women in science, technology, and innovation (STI) policymaking.

Overall, women-led initiatives play a crucial role in shaping innovation policies and practices that are more inclusive, equitable, and impactful, contributing to a more sustainable and just future.

The Evolving role of Technology and Legal Tech in Creating a More Inclusive Environment for Women in these Fields

Technology and legal tech have the potential to play a crucial role in creating a more inclusive environment for women in these fields. The evolving role of technology in enabling remote work and flexible schedules has been especially beneficial for women, who often face unique challenges in balancing work and family responsibilities[31].Legal tech tools, such as case management software, document automation, and online legal research platforms, can help lawyers work more efficiently and effectively, reducing the time and resources needed to complete tasks. This can be particularly beneficial for women who may be juggling multiple responsibilities and need to optimize their time. Additionally, technology can help in reducing bias and promoting diversity in the legal profession. AI-powered tools can be used in recruitment processes to eliminate bias in candidate selection and promote a more inclusive workforce.

These tools can also help track diversity and inclusion metrics within organizations, allowing companies to measure progress and identify areas for improvement.Furthermore, technology can facilitate networking and mentorship opportunities for women in the legal field. Online platforms and social

[28] National research organizations or reports on women in STEM fields in your region
[29] Women's Equality Network.
[30] Gender Innovation Alliance (GIA)
[31] Technology facilitating remote work and flexible schedules offers potential advantages, particularly for individuals facing challenges in balancing work and family commitments, which can disproportionately impact women.

media can connect women with mentors and peers, providing support and guidance that may be lacking in more traditional networking channels.Overall, the evolving role of technology and legal tech has the potential to create a more inclusive environment for women in these fields by breaking down barriers, providing flexibility, and promoting diversity and inclusion. It is important for organizations to embrace these tools and leverage them to support the advancement and retention of women in technology and legal professions.

By fostering a more inclusive and diverse legal ecosystem, we can empower women to become key drivers of innovation, shaping a brighter future for all.

Literature Review

This literature review explores the role of women in driving innovation policies and practices within intellectual property (IP) and corporate law regimes. It aims to identify the existing research on:

- Gender disparity in IP ownership and leadership in corporate governance.
- Global and national initiatives promoting women's participation in innovation.
- The impact of women-led initiatives on shaping IP and corporate law frameworks.
- The specific challenges and opportunities faced by women in these fields.

1.Gender Disparity in Innovation

Research consistently highlights a significant gender gap[32] in various aspects of innovation:

IP ownership: Studies show a substantial underrepresentation of women as inventors and patent holders (Walsh et al., 2008).

Corporate leadership: Women remain significantly underrepresented in leadership positions within corporations[33] (Catalyst, 2023).

This gap is attributed to various factors, including:

Lack of encouragement for women in STEM fields (science, technology, engineering, math), which are crucial for many innovation sectors (Buehler & van der Meulen Rodgers, 2020[34]).

Limited access to resources and funding for women entrepreneurs (Kelley et al., 2018).

Implicit bias leading to discrimination against women in hiring, promotion, and opportunities within legal and corporate environments (Hoobler et al., 2020)[35].

2. Global and National Initiatives

International organizations like the World Intellectual Property Organization (WIPO) have recognized the need for change. They identify key areas for improvement and successful national initiatives that can be shared:

Awareness campaigns: Educating women about the value of IP and navigating the IP system (WIPO, 2023).

[32] (Walsh et al., 2008)
[33] (Catalyst, 2023)
[34] Buehler & van der Meulen Rodgers, 2020
[35] Hoobler et al., 2020

Mentorship programs: Connecting women with experienced professionals in IP and business[36] (Global Innovation Coalition, 2023).

Funding and incentives: Providing financial support specifically for women-led businesses and innovations (UN Women, 2023).

Legal reforms: Removing discriminatory practices[37] and promoting equal opportunities within corporate structures (OECD, 2022[38]).

3.. Impact of Women-Led Initiatives:

Research suggests that women-led initiatives bring diverse perspectives and priorities to the table, leading to:

- Identification of unforeseen biasesin existing policies and practices (Brush, 2011).
- Focus on inclusivity and equity ensuring innovation benefits all (Bhattacharya et al., 2020).[39]
- Prioritization of ethical considerations and responsible development (Mazzucato, 2018)
- Fostering collaboration and shared ownership among stakeholders (OECD, 2021).

Examples include the Women's Equality Network (WEN) in the US, advocating for women's leadership in clean energy innovation, and the Gender Innovation Alliance (GIA), promoting women's inclusion in science, technology, and innovation (STI) policymaking.

4.Challenges and Opportunities:

Despite progress, women still face challenges:

Systemic barriers: underrepresentation in STEM fields, implicit bias, and work-life balance issues continue to hinder women's advancement[40] (European Commission, 2020).

Lack of role models and mentors: Scarcity of female leadership figures can discourage women from pursuing leadership roles (Hewlett et al., 2008).

Limited access to networks:Traditional networking spaces might be dominated by men, making it difficult for women to build connections[41] (Schiebinger, 2009).

5.Addressing these challenges requires a multifaceted approach:

Encouraging girls and young women to pursue STEM education and careers.

Implementing unconscious bias training for legal professionals and institutions.

Supporting policies that promote work-life balance.

Creating mentorship programs and fostering an environment for women's networking.

Collecting and analyzing data to identify and address specific gender disparities.

This review highlights the significant underrepresentation of women in driving innovation policies and practices within IP and corporate law realms. While global and national initiatives are emerging to

[36] (Global Innovation Coalition, 2023)
[37] UN Women, 2023
[38] OECD, 2022
[39] Bhattacharya et al., 2020)
[40] European Commission, 2020
[41] Schiebinger, 2009

address this gap, systemic barriers and lack of access to opportunities remain major challenges. Recognizing the unique contributions of women and addressing these

challenges are crucial to fostering a more inclusive, equitable, and impactful innovation ecosystem.

Methodology

This research will employ a multi-methodological approach, combining:

Case studies: The paper will analyze specific examples of women who have made significant contributions to shaping innovation law in different jurisdictions.

Case Studies of Women Shaping Innovation Law in Different Jurisdictions

1. Dr. Rochelle Cooper Dreyfuss (United States):

Contribution: A leading scholar[42] and legal practitioner specializing in intellectual property law and international trade.

Impact:

Instrumental in shaping U.S. trade policy regarding intellectual property, particularly in the context of agreements like the General Agreement on Tariffs and Trade (GATT) and the North American Free Trade Agreement (NAFTA).

Co-authored the seminal book "International Intellectual Property Law and Policy," a cornerstone text in the field.

Actively involved in shaping global intellectual property discourse through her work at New York University Law School and various international organizations.

2. Professor Jane Kelsey (New Zealand)[43]:

Contribution: An internationally renowned legal scholar specializing in intellectual property law, trade, and access to medicines.

Impact:

Led a legal challenge against pharmaceutical companies' aggressive use of patents in developing countries, impacting access to life-saving medicines.

Author of influential books like "Unequal Treatment: How Trade Can Undermine Public Health" and "Making intellectual property work for development," contributing significantly to debates on intellectual property and global development.

Served as a UN Independent Expert on the right to development, bringing her expertise to bear on global policy discussions.

3. Dr. Wan-Chen Lee (Taiwan)[44]:

Contribution: A renowned legal scholar and advocate for intellectual property reform in Taiwan.

[42] Rochelle Dreyfuss – NYU Law." New York University School of Law, https://its.law.nyu.edu/facultyprofiles/profile.cfm?personID=20093

[43] Kelsey, J. (2013). The Trans-Pacific Partnership Agreement: a disaster for global health? Journal of Public Health, 35(4), 488-489.

[44] Wan-Chen Lee, "The Impact of Intellectual Property Rights on Innovation in Taiwan," Journal of Intellectual Property Law, vol. 15, no. 2 (2017): 35-48.

Impact:

Played a key role in reforming Taiwan's intellectual property laws to better balance the interests of rights holders, innovators, and the public.

Advocated for strengthening patent examination procedures and promoting open access to scientific knowledge, influencing policy development in Taiwan.

Actively engaged in international discussions on intellectual property law and policy, representing a critical perspective from a developing economy.

4. Ms. Mary Onyeki (Kenya):

Contribution: A leading lawyer and advocate for intellectual property rights in Africa[45].

Impact:

Founded and leads the African Intellectual Property and Innovation Network (AIPIN), a crucial organization supporting innovation and capacity building in Africa.

Instrumental in establishing the Regional Intellectual Property and Innovation Office (ARIPO) in Africa, promoting regional cooperation on intellectual property matters.

Champions the use of intellectual property for local development and economic empowerment in Africa, influencing policy and practice.

5. Ms. Sue Bignell (Australia)[46]:

Contribution: A successful entrepreneur, investor, and advocate for women in technology and innovation.

Impact:

Founded and led successful technology companies, demonstrating the potential of female entrepreneurship and leadership in the innovation ecosystem.

Actively involved in advocating for increased participation of women in STEM fields and supporting female-led startups through various initiatives and programs.

Serves as a role model and inspiration for aspiring female innovators and entrepreneurs globally.

6. Prathiba Singh (India):

Prathiba Singh is a prominent Indian intellectual property lawyer who has made significant contributions to innovation law in India. She has been involved in several landmark intellectual property cases and has been instrumental in shaping the legal landscape concerning patents, trademarks, and copyrights in India. Singh's expertise and advocacy have helped to clarify and strengthen intellectual property rights in the country.

7. Anuradha Challu: (India)

Anuradha Challu is a leading Indian lawyer specializing in technology, media, and telecommunications law. She has been actively involved in shaping innovation law in India by advising technology companies, startups, and policymakers on legal and regulatory matters related to intellectual property,

[45] Mary Onyeki: The Leading Advocate for Intellectual Property Rights in Africa." Intellectual Property Watch, 15 Oct. 2019, www.ip-watch.org/2019/10/15/mary-onyeki-leading-advocate-intellectual-property-rights-africa/

[46] Sue Bignell's entrepreneurial ventures include founding and leading several technology startups in Australia, contributing to the country's vibrant startup ecosystem

data protection, and cybersecurity. Challu's expertise and advocacy have helped to navigate legal challenges and promote innovation in India's rapidly evolving technology landscape.

Their diverse backgrounds and approaches highlight the multifaceted nature of this field and the crucial role women play in shaping its future

Comparative Analysis

Countries around the world have adopted various legal frameworks and initiatives to promote gender equality in intellectual property (IP) and corporate law. While each country may have different approaches, the overall goal is to level the playing field and create opportunities for gender diversity in these fields.

One common initiative is the implementation of gender diversity quotas or targets in corporate boards and leadership positions. For example, countries like Norway[47], France, Germany, Spain, and Italy have laws requiring a certain percentage of women on corporate boards. These quotas are meant to ensure that women have equal representation and decision-making power in corporate governance. In terms of IP law, countries have started to consider gender perspectives in copyright and patent legislation. For example, some countries have implemented policies to recognize and protect traditional knowledge and innovations developed by women, particularly in indigenous communities. This helps to ensure that women are not marginalized or excluded from benefiting from their intellectual property rights.

Some countries have also established specialized programs and funding opportunities to support women entrepreneurs and creators in the IP and corporate sectors. These initiatives provide training, mentorship, and resources to help women succeed in traditionally male-dominated industries. Overall, the legal frameworks and initiatives adopted by countries to promote gender equality in IP and corporate law vary, but they all share the common goal of creating a more inclusive and diverse environment for women in these fields. By implementing these measures, countries can help address gender disparities and empower women to achieve success in their professional careers.

Expected Findings

This research is expected to reveal the following key findings:

Women have played a significant, yet often under-recognized, role in shaping IP and corporate law frameworks that impact innovation.

- ***To improve diversity in the use of IP for the good of everyone, everywhere, WIPO is guided by two documents.***

The Intellectual Property and Gender Action Plan (IPGAP) is our strategic plan for WIPO's work to promote and advance women's engagement in all aspects of IP and innovation. Through the IPGAP, WIPO[48] will raise awareness about the economic benefits of strengthening the role of women in innovative and creative activities, help equip governments and stakeholders with data and policymaking tools to improve national ecosystems in support of women and girls, and deliver concrete impact-driven activities that encourage women's use of IP in their entrepreneurial activities.

WIPO's Policy on Gender Equality is our overall guidance to ensure the equal participation of diverse women and men in both the innovation ecosystem and in the structures and organizations that support

[47] World Economic Forum, Global Gender Gap Report 2023

[48] World Intellectual Property Organization (WIPO): "Women in Innovation: Leading the Way" https://www.wipo.int/ip-outreach/en/ipday/2023/story.html.

it. We are committed to promoting gender equality and diversity within our own Organization and work systematically to mainstream gender equality considerations across all functions and areas of work.

● *Systemic barriers continue to hinder women's full participation and leadership in shaping innovation law, requiring concerted efforts to address these challenges.*

While progress has been made, systemic barriers continue to hold women back from fully participating in and leading the development of innovation law. It's crucial to address these challenges to ensure a more equitable and diverse field.

To address these challenges, a multifaceted approach is needed:

□ Encouraging girls and young women to pursue STEM education and careers.

Implementing unconscious bias training for legal professionals and institutions.

□ Supporting policies that promote work-life balance, such as flexible work arrangements and accessible childcare options.

□ Creating mentorship programs and fostering an environment where women can connect and network with other female legal professionals and leaders.

□ Collecting and analyzing data to identify and address specific gender disparities within the field.

□ By acknowledging the systemic barriers and implementing comprehensive solutions, we can work towards a future where women can fully participate in and lead the way in shaping innovation law.

Conclusion

By promoting gender equality within IP and corporate law, we can unlock the full potential of women's talent and perspectives, leading to a more diverse, inclusive, and ultimately, more innovative legal landscape. This paper aims to contribute to this crucial conversation by providing valuable insights and actionable recommendations for stakeholders seeking to create a level playing field for women in shaping the future of innovation law.

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ANALYSIS OF CHALLENGES IN IP ENFORCEMENT IN INDIA

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Abstract

In this article we will analyze the enforcement of intellectual property rights in India. It includes the role of court and government for protecting this right. This research paper evaluates the present state of IPR protection in India. This paper determines a challenge faced by individual and businessman for protection IPR in India. The article will emphasize importance of IPR for promoting innovation and creativity which contribute to the economy.

The study of this paper tells us about progress made in recent year for promoting IPR in India which includes the amendment of the patent law in 2005. Through this amendment of patent law, the implement of e- filling system and establishment of special type copyright courts have been established. Although improvement has made in the enforcement of IPR. This paper has drawn attention on the weakness of IPR framework in India and its prevalence of piracy and counterfeiting in certain sector, The slow and ineffective judicial system has not capable enforce an IPR. This research will analyze the efficiency in courts and government in enforcing IPR in India. This study shows the enforcement of IPR is complex in India and it depend various factors such as shortage of specialized personnel and resources. There are huge number of cases on courts leading to long delay in the resolution of IPR disputes. The penalties of IPR infringement are not sufficient. To tackle this situation, government has taken step to improve enforcement of IPR in India and setting up specialized cell in various agencies.

Keywords: Intellectual Property Rights, India, Enforcement, Courts, Government, Challenges, Innovation

Introduction

Intellectual property right is important limb of current economy. It provides a framework for protecting and monetizing the creation of individuals and business. They also include patent, trademark, copyrights and trade secret etc. It is right which is given a person who has created invention, literacy and artistic, symbol, names &images by applying a mind. This right is given under Article 27 of the Universal Declaration of Human Right. It also gives right to protection of moral and material interest of authorship of scientific work, artistic work, literary. The intellectual property rights were the first established in Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literacy and Artistic Works (1886).

These treaties are regulated by the World Intellectual Property Rights Organization (WIPO).[1] The enforcement of intellectual property rights is big concern in India, there are many cases of counterfeit, piracy and infringement. The govt has made effort to strengthen intellectual property rights in India.

Objective

This paper is research is based on secondary sources for the analysis of challenges in IP enforcement in India.

Diferent Type of IPR in India

[1] <www.drishtiias.com/to-the-points/paper3/intellectual-property-rights > accessed 21st February 2024

There are four types of IPR in India

- **Copyright-:** It protects the rights of original work such as literary, musical and artistic works. In Indian Copyright Act 1957, it gives exclusive rights to owner for their reproduce, distribute, display of their works.
- **Patent-:** The Indian Patent Act 1970 has given right to owner for the protection of invention or discoveries.
- **Trademark-**: Trademark is identifying tool of goods or service provider company and individual. The trademark law is governed by the Trade Mark Act 1999.
- **Design -:** It is composition shape, pattern, ornament or combination of lines. The protection of design is given under the Design Act.

National IPR Policy

1. National Intellectual Property Policy was introduced in 2016, it has vision to guide the future development in the IPR.
2. It has clear agenda "Creative India, Innovative India."
3. It has aim to bring single platform all IPRs.
4. It has setup specialized institution mechanism for the implement for monitoring and review. They have aim to incorporate and adopt global practice.
5. Department of Industrial Policy & Promotion (DIPP) is constituted under the ministry. of commerce, government of India. Nodal Department has established to guide and oversee implement & development of IPR.
6. Cell for IPR Promotion & Management has setup under control of DIPP, it also gives the main objective of IPR policy.
7. India Regime has complied with the WTO Agreement on Trade- Related Aspect of Intellectual Property Rights.

Achievement under New Policy

- Improvement in GII Ranking: India's rank in the Global Innovation Index has been improve from 81st in 2015 to 51st in 2019.
- Strengthening Institutional Mechanism regarding IP protection and promotion.
- Clearing Backlog / Reducing Pendency in IP Application: The govt has enlarge the technical power due to which drastic reduction come in pendency in IP application.
    - There is also system of automatic of generated patent and trademark certificate
- **Increase in Patent and trademark filing:** Patent filing has been increased around 7% in the first 8 month of 2018-19.
- **IP Process Re-engineering-:** Patent Rules 2003 has been amended to streamline process and make friendly to user.
- **Creating IPR Awareness:** IPR awareness program has been launched in the academic institution through the satellite communication.
- **Technology and Innovation Support Centers:** In collaboration with WIPO, they have been established in various institution across different states.[2]

Challenge Emerging in Pharmaceutical Industry

[2] Ibid

The pharmaceutical industry is dynamic industry and changing day by day. It has various emerging challenges affecting its growth and regulation. These challenges and opportunities are influenced by the different law that govern pharmaceutical sector.

1. **Digital Health and Telemedicine:** There is an adoption of digital health technologies and telemedicine has change healthcare system including pharmaceutical industry. Digital health has contained various technologies like electronic health records (EHRs), health information exchange (HIE), telehealth, mobile health, mobile health (m health) and analytics. This technology help provide remote monitoring, teleconsultation, medication management and personalized healthcare. In India, the ministry of Health and Family Welfare has issued a notification of Telemedicine Practice Guideline in March 2020. This guideline has setup regulatory framework for telemedicine practice in India.
2. **Data and Privacy:** The pharmaceutical industry has dealt with number of sensitive patient data, including health record, clinical trail data and personal information. There has been increased use of digital technology and data analytics raise concern about data protection and privacy. There is lot of data breaches, unauthorized access and misuse of data have severe consequences. The Personal Data Protection Bill 2019 has proposed legislation and aim to regulate the processing of personal data.
3. **Regulatory Compliance and Quality Assurance:** The pharma industry has duty to compliance with regulation regarding drug approval, manufacturing, distribution & marketing. When pharma industry does not obey with the rule and regulation, they can suffer from huge fine and penalties. The Central Drug Standard Control Organization (CDSCO) act as the regulatory authority responsible for the approval, regulation and quality control of pharmaceuticals. There are primary act governing drug and cosmetic regulating in India such as Drugs and Cosmetic Act, 1940 and Rules, 1945.
4. **Intellectual Property Rights:** Intellectual property protection is essential for encouraging for innovation in the pharmaceutical industry. This protection helps companies to recover their research development and investment and prevent unauthorized use of innovation. There is lot of debate and challenges concerning between the IP Protection and affordable medicine. The Patent Act 1970 is primary legislation that govern patent protection for pharmaceutical industry. The provision of this act is including patentability criteria, compulsory licensing and limitation on patent rights.
5. **Pricing and Reimbursement:** Pricing and Reimbursement policies which has produce a huge impact on the availability and affordability of medicine. The Indiana govt is regulating the prices of pharmaceutical industry and ensures the accessibility of general public. There is challenge to find the balance affordable medicine and innovation for sustainability of pharmaceutical industry.
6. **Counterfeit Medicine:** Counterfeit medicine is serious indicator for public health and patient safety. This medicine does not have any identity, source, quality, etc. These medicines can have harmful ingredient or lack active ingredient. This can lead to treatment failures, adverse reaction and even fatalities. The Drugs and Cosmetic Act, 1940 and rules 1945 have provision for regulating and controlling counterfeit medicine. This act prohibits the manufacturing, sale and distribution of counterfeit medicine. There also provision of imposing a fine for violation. Although, there are ongoing challenges of counterfeit medicine still exist in India. They are also requirement strong regulatory enforcement towards counterfeit medicine and improved supply chain.
7. **Clinical Trial and Ethical Concern:** Clinical trial has significant role in drug development and provides essential data on drug safety and efficacy. There are many ethical issues like informed consent, patient right and transparency. The Drugs and Cosmetic Act, 1940 has regulated

clinical trials. It also includes the provision of clinical trial, responsibility of investigation and sponsors and the right of trial subject. The Indian Council of Medical Research has also issued guideline for clinical trials.

8. **Environmental Concern:** Pharma Industry releases many harmful chemicals causing water pollution and air pollution. There is need to increase awareness of sustainable practices and environmental protection in India. Ministry of Environment, forest and Climate Change have many acts and regulation to deal with issue of pharma industry. This act and regulation have setup standard for environmental management and control of pollution in the industry.
9. **Access to Medicine for Unreserved Population:** There is need to setup system for ensuring essential medicine to unreserved population and also include remote areas, low-income communities and marginalized is challenge. There is limited access medicine to marginalized people and create health disparities. The Indian govt has taken-out various activities to make accessible medicine to all unreserved people. The govt has launched a scheme which name is "Jan Aaushadhi" with aim to provide generic medicine to all marginalized people. These Jan Aaushadhi stores are owned by govt of India. This policy has adopted for promoting generic medicine which is affordable more than branded medicine.
10. **Intellectual Property Rights and Patent:** There has been major concern about the intellectual property rights and patent in the pharmaceutical sector. Patent has given exclusive right to inventor of a drug through which they can recover the cost of research and development from the profits. Although, there is need of maintain balance between protecting IPR and ensure affordable medicine in the developing nation. The Patent Act 1970 has amendment and govern the granting and enforcement of patent in the pharmaceutical industry. This act includes the provision of compulsory license which also forbid the third-party manufacturing of drug. There is ongoing debate about the legal dispute exist in pharma industry which is concern issue between affordable generic medicine and patented drug, pharmaceutical industry is most important sector which plays important role in the global health outcome. There is regulatory modification and ethical concern about the pricing and affordability of medicine for unreserved population. Government has regulatory agencies to govern the pharmaceutical industry and address the emerging issue in this industry. This step has taken for enhancing transparency, promoting sustainable practice.

Laws Related to TRIPS Agreement on Indian Pharmaceutical Industry

India has signed a TRIPs agreement to fulfills its obligation about the patenting. They have also enacted various acts and law.

Patent Act 1970: This act is primary legislation in India. It also governs the granting and enforcement of patent. This act was amended in 2005 for ensure compliance with TRIPs Agreement. The amended patent act has also included the provision

a. *Patentable Subject Matter:* The patent act 1970 has encourage innovation of product or involving inventive step. There is certain exclusion from patentability which is contrary to public order, morality, health etc.
b. *Compulsory License:* The amended patent act has enacted the various provision of compulsory license. They have also granted a patent of any product and forbid third party to manufacture without the consent of patent holder.
c. *Bolar exemption:* The amended provision of patent act 1970 which is include bolar exemption and allows manufacturers to conduct and research on patent drugs. This provision can be used to ensure affordable medicine to general public at reasonable price.

d. *Patent Term:* The patent act 1970 has stated that the term of patent is 20 years.
e. *Section 3(d) of the amended act 1970:* This amendment has introduced to prevent the practice of evergreen patent. It states that when any new form substance known and does not create efficiency. These new forms of substance are not eligible for patent. This provision has inserted for the prevent the grant weak patent. They could be making difficult accessibility of generic medicine to the general public.

Drugs and Cosmetic Act, 1940: This law is crucial in India that govern import, production, distribution and sale of drugs. It also setup a regulation for quality control, licensing of drug manufactures, drug registration and drug pricing all other aspect. This law ensures the quality of pharmaceutical and provide accessible to public at reasonable price.

National Pharmaceutical Pricing Authorities: The NPPA is legally constituted body under the act of Drug Price Control 2013. They also control monitoring and regulate the price of schedule drug which is essential medicine and makes affordable to general public. It can also regulate non-schedule drugs during the pandemic period.

Indian Patent Office (IPO): The IPO is authorizing body in India and its responsible for granting and managing patent. They also handle the task of receiving and review application. It can also decide whether the patent is rejected or accept.

Intellectual Property Appellate Board: The IPAB is constituted tribunal under the amendment act of patent. It has duty to hear and resolve the dispute related the patent, trademark, copyright etc. This tribunal also handles appeal against the IPO and resolve dispute which is related to pharma patent and other intellectual property right in India.

Guideline for Examination of Pharmaceutical Industry: The Indian Patent Office specifies a new guideline for examination of pharmaceutical patent and ensure compliance with TRIPs agreement to prevent granting of weak patent. They have also issued detailed guideline criteria for evaluating pharmaceutical patent application. These guidelines also ensure that pharmaceutical patent is meeting requirement of TRIPs agreement and do not create any obstacle provide accessible affordable medicine to general public.

Compulsory Licensing Guideline: This Indian Patent Office has duty to issue a guideline for granting compulsory license under the amended patent act 1970. These guideline frame procedure and criteria for issuing compulsory license. This guideline has played significant role in ensuring that compulsory license is granted in fair and transparency manner.

Challenge in Protection/ Grant of Patent Right in India

The Indian Patent Act has specific provision mentioned under the section 3 that makes patent of invention which is related subject matter such as (a) derivative of pharma drugs (b) patentability of stem shell (c) diagnosis method and kit (d) isolated DNA sequence (e) computer related innovation etc. The guideline has issued in relation patentability of software, biotech innovation, pharmaceutical innovation which is issued by Indian Patent Office. There are some challenges faced by the patent holder mentioned below.

a. **Computer Related Innovation:** Under section 3(k), it prohibits the patentability of computer program per se or algorithm. This provision also object of all computer-related innovation.

b. **Patentability of derivative of pharmaceutical substance:** Under section 3(d), it restricts the patentability of derivative/ of a pharmaceutical compound. This derivative of pharmaceutical compound has significant difference in therapeutic efficacy. This is based on explanation and decision of the courts that under the section 3(d) objection have raised for only derivative of pharmaceutical substance.
c. **Patentability in Life Science/ Biotechnology:** The life science has faced a hurdle in the patent. Isolated DNA Sequence has become the subject of objection for not satisfy the novelty requirement.[3]

Challenge in IP Enforcement of Patent Right in India

Patent dispute can be enforced by the courts in India. There are no IP courts to dealing with the case.

a) **Backlog and time for final decision:** There is a lot of challenge in the enforcement of patent right and courts takes time to make final decision. Patent Lawsuit can take approximately five to seven years to be decided. The commercial courts act has been setup for speedy hearing of cases and time bound trials. There is a backlog of many cases and shortage of judicial officer. This type of problem can take more time to decide a case.
b) **Subject Matter Expert:** Under Section 115 of the Patent act provide an appointment of scientific advisor to give opinion on technical aspect of that matter. This provision has not frequently use by the court. The appointment of scientific advisor will not provide any help in infringement suits and does not improve quality of the final decision.

Positive Development

i. There has been significant shift in judicial think. The court have started granting interim injunction for patent matter. This was not practice in the past. The court also said that the patent related matter has involve complexity and require full trail. In Sterlite Technologies v. ZTT India Private [4],the court has order interim injunction in patent infringement suit as the "need of the hour".
ii. The interim injunction was granted to the plaintiff because defendant has not launched product yet. This was decided by Delhi High Courts in Briston-Mayers Squib &Ors. V. MR. JD JOSH.[5] The court has observed: "The defendant has not launched the product in the market, no loss or irreparable harm will be caused to BDR Lifesciences Private Limited if they are restrained from doing the activities. Because they have not commenced."[6]

Conclusion

Intellectual Property Right is an essential part of economic development and significant for fostering an innovation and creativity. Intellectual Property Right safeguard the right of creators and also encourages a culture of innovation and progress. If you are artist, inventor, business owner or consumer understanding IPR is crucial today quickly change digital landscape. Breach of IPR can be discouraging but Indian legal framework also provide mechanism to secure right of IPR. These remedies and procedure can ensure that creator create any invention in safe environment.

[3] < https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4472790 > accessed 25th February 2024
[4] In Sterlite Technologies v. ZTT India Private (CS [COMM] 314/2019, IA NO. 8386/2019, IA No. 8389/2019 & IA No. 8390/2019)
[5] Briston- Mayers Squib & Ors. v Mr. JD Joshi & Anr. (IA No. 1520/2009 in CS [OS] and IA No.5910/2013 in CS[OS] No. 679/2013)
[6] <https://www.managingip.com/article/2a5bsc7vmakvohn4kh3i8/india-challenges-faced-in-the-protection-and-enforcement-of-patent-rights> accessed 27th February 2024

NAVIGATING GENDERED CHALLENGES: WOMEN-LED STARTUPS, INTELLECTUAL PROPERTY, AND FAIR LABOR PRACTICES IN INDIA

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Abstract

This paper explores the interconnectivity of gender dynamics in the startup ecosystem, focusing on the opportunities and challenges faced by women entrepreneurs in protecting their IP while navigating labour practices such as unpaid internships. India's women led startups confront multifaceted challenges such as limited access to funding, mentorship and networks, which are exacerbated by gender inequality and bias in this uprising industry. Intellectual property protection is essential for startups to secure their inventions, technology and brands. However, because of systemic gender disparities and resource limitations, women entrepreneurs frequently face extra challenges. Consequently, many resort to unpaid internships as a means to manage costs, perpetuating socioeconomic disparities and excluding marginalised groups from valuable work experience. A multifaceted strategy is needed that incorporates industry initiatives, legislative changes, and larger campaigns to advance gender equality and ethical work standards to address these issues. Legislative initiatives that promote paid alternatives to internships and regulate them can lessen the exploitation of young talent and provide more equitable career options. activities to assist women-led enterprises can also help female entrepreneurs manage the complexity of the innovation ecosystem. Examples of these activities include campaigning for gender-responsive IP regulations, financing access, and mentorship programs. By identifying the intersection of women-led startup, intellectual property leading to unpaid internship in India, this paper highlights the urgent need for systemic reforms to create a more equal business environment for women entrepreneurs and aspiring professionals in need. We can cultivate an inclusive innovation ecosystem that enables women to flourish as leaders, innovators, and contributors to India's social and economic development by working together as policymakers, industry stakeholders, and civil society members.

Keywords: women entrepreneurs, intellectual property, unpaid internship, gender inclusivity

Introduction: An Overview of the Startup System

India has seen an exponential increase in entrepreneurial activity over the last ten years, making it one of the world's top startup ecosystems. The Global Startup Ecosystem Index ranks the Indian startup ecosystem as the 20th in the world.[1] Three primary criteria are used to assess ecosystems worldwide: the total number of start- ups, the calibre of companies, and the general business climate.

Three Indian cities—Bengaluru ranking10th, New Delhi at 14th, and Mumbai at16th—are included in the top 20 global city ecosystems. However, India has the 3rd largest startup ecosystem globally, behind

[1] Startup genome, "the global startup ecosystem report 2021" (startup genome,2022) <https://startupgenome.com/report/gser2021 > 4th march 2024

the US and China, in terms of the quantity of unicorns (startups valued at $1 billion or more) that are created.[2]

Factors for Start- ups in India

One of the important driving factors for startups in India is the government focusing and supporting entrepreneurship. The government of India launched "startup India" in 2016, to further strengthen the startup economy in India. Start up India acts as a catalyser to the startup culture and builds a strong and inclusive ecosystem for innovation and entrepreneurship.[3]

Another important factor for growth of Indian startups is the access to capital. Although getting capital was once a big obstacle for Indian businesses, things have changed for the better in recent years. India is currently home to an increasing number of angel investors and venture capital firms, and the past few years have seen a sharp increase in startup investment in the nation.

Last but not least, entrepreneurship is encouraged in India, where more and more individuals view it as a realistic career option. This is demonstrated by the rise in co-working spaces and incubators, as well as the amount of startup conferences and events that are happening all across the nation.

In spite of the economic crisis brought on by the COVID-19 outbreak, the Indian startup ecosystem shown incredible resiliency. In 2021, the Indian startup ecosystem welcomed 24 new unicorns, representing a 100% increase from 2020 (Figure 1). Furthermore, during the initial half of the year 2021 (January to June), Indian entrepreneurs raised $13.05 billion, a 160% increase over the $5.2 billion generated during the same period in 2020.

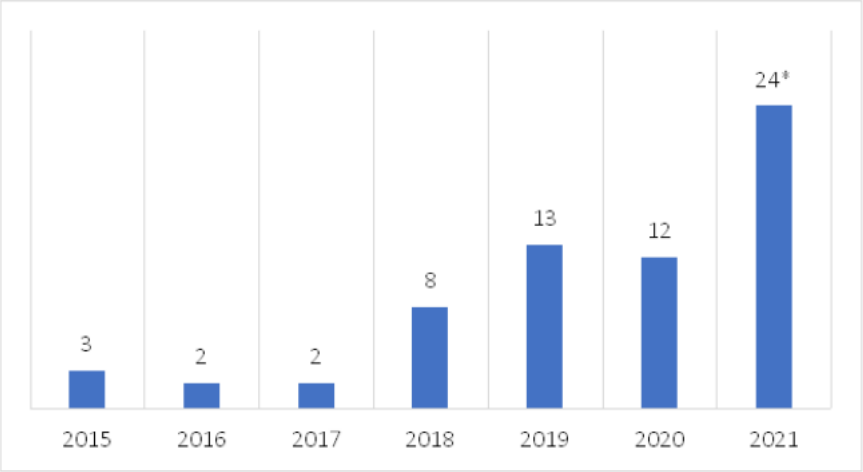


Figure 1: Number of unicorns added year-on-year (2015–21).

Image source: Tracxn, 2021; Inc42, 2021, 3 September, 2021.

Gender dynamics in Entrepreneurship

[2] Ibid

[3] Rajeev Gupta, "How start-up ecosystem is working in India"(times of India, 19th march 2023)< https://timesofindia.indiatimes.com/blogs/myview/how-start-up-ecosystem-is-working-in-india/ > 4th march 2024

The entrepreneurial scene has seen a dramatic transition over the last fifty years, with women entrepreneurs seeing substantial growth and success. In spite of societal restrictions and prejudice, women entrepreneurs suffer from not only expanded but also prospered in their pursuits. The number of women-owned enterprises has increased dramatically in the United States alone, in 1972 from 402,000 to an amazing 12.3 million at now. This increase is a reflection of women's will to break free from society and patriarchal restrictions and become financially independent.

A Start- up India is committed to give power and strengthen the women entrepreneurship in India. As a result of this, 45% startups had at least one women member in the founder team was recognised by the DPIIT.[4] This representation is however still very low in the overall startup economy. India is ranked 57th out of 65 countries on the MasterCard Index of Women Entrepreneurs, which measures the advancement of women in business worldwide. Government data indicates that just 1 in 5 of the nation's firms are run by women.[5]

The idea that women in business have the same chances and encounter the same difficulties as males is one that is still widely held. Nonetheless, the data and studies show that women have a very difficult time getting access to networks, financing, and mentorship possibilities. Obstacles including gender preconceptions, prejudices, and juggling the demands of family obligations and enterprise are added. Aspiring female entrepreneurs are deterred by the underrepresentation of women in positions of power and the absence of clear role models. It is imperative to tackle these gender-specific obstacles in order to provide fair and equal opportunities in the entrepreneurial realm.

Objectives of Study

The write- up delves into the following aspects:

1. Understanding the challenges faced by women in start- ups and IP sector.
2. Understanding why start- ups, particularly women led start- ups rely on unpaid interns and what are its consequences on the interns.
3. Ways to promote inclusive entrepreneurship and proposed policy for the same.

Research Methodology

The research will employ a mixed-method approach, incorporating both qualitative and quantitative methods. It will involve a comprehensive review of existing literature, analysis of governmental policies and frameworks, and views of relevant experts and law enforcement official to gain insights into the initiatives and challenges in combating gender inequality in start up culture leading to labour practices like unpaid internship.

Literature Review

The literature reviewed in the write- up is as follows:

1. **Colette Henry, Barbara Orser & Susan Coleman (Global WEP) Jonathan Potter & David Halabisky (OECD), "Women Entrepreneurship Policy" (International council for small business, 24th December 2023), 6th march 2024:** This literature review talks about the OECD. It has noted an important progress in closing the gender gap in entrepreneurship, with a decline in self-employment in 25 out of 31 countries between 2000 and 2019. However, progress has been slower

[4] Ministry of commerce and Industry, " Annual Report 2023"(PIB, 1st January 2024)< https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2002100#:~:text=Sustained%20e%EF%AC%80orts%20by%20the%20Government,jobs%20creating%20signi%EF%AC%81cant%20economic%20impact. > 5th march 2024

[5] Mastercard, "The Mastercard Index of Women Entrepreneurs" (mastercard, march 2022)< https://www.mastercard.com/news/media/phwevxcc/the-mastercard-index-of-women-entrepreneurs.pdf> 5th march 2024

in closing other gender gaps, such as the share of men and women entrepreneurs who employ others, and addressing specific entrepreneurship skills and access to finance.

2. **Anish Tiwari, "Mapping the Start- up Ecosystem in India" (EPW, 14th august 2023), 6th march 2024:** This article looks at the primary developments in the Indian startup ecosystem based on three main factors: the formation and funding of new ventures, the founding teams' traits, and the many ways that entrepreneurs exit their businesses, particularly through acquisitions. By aggregating information from top databases and trade publications, it illustrates the most significant changes in these metrics throughout the previous ten years (2010–2020). Global Entrepreneurship Monitor, Crunchbase, and Tracxn are the main data sources.
3. **Pranav Dixit, "Women-led start- ups setting the standard for gender equity" (Business today, 4th November 2023), 5th march 2024:** This article delves into the report titled "Women in India's Start-up Ecosystem Report (WISER)." The WISER research credits a number of elements for this achievement, including the gender-specific DEI (Diversity, Equity, and Inclusion) targets set and attained by women-founded firms, an inclusive work environment, and effective mentorship from senior women leaders. One of the report's main conclusions is that female-founded firms actually work to achieve gender equity rather than just talking about it. Their outstanding track record of attaining gender equity at senior levels is largely due to their dedication to promoting diversity.
4. **International Finance Corporation, "Venture Capital and the Gender Financing Gap: The Role of Accelerators" (IFC, 15th February 2020), 4th March 2024:** According to recent data, women still have significantly uneven access to financing even though females are the leaders of half of the start-ups that take part in accelerators, which are programmes created to assist and train emerging businesses in order to get them ready for investment. The World Bank Group Gender Innovation Lab, in collaboration with Village Capital and We-Fi, developed "Venture Capital and the Gender Financing Gap: The Role of Accelerators," which examines the stark differences in financing for start-ups led by women and men after acceleration and concludes that investor bias and perceived risk are the most likely causes.

Analysis of the Challenges faced by women in start- ups and IP sector

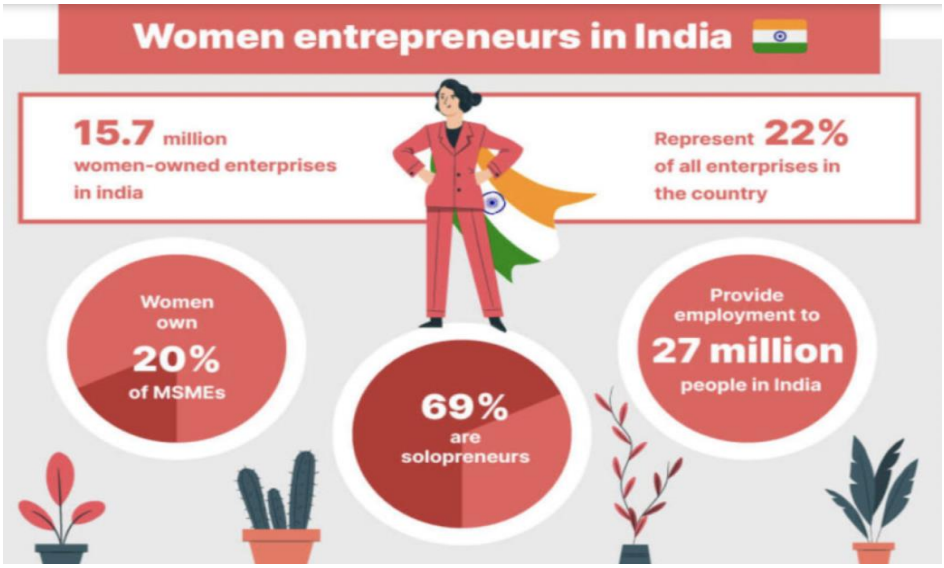


Image source: "Challenges Confronting Today's Women Entrepreneurs in India: A Top 7 Overview" published by the address: your destination of growth on 24th November, 2023

During the earlier times women led start- ups was a rare occurrence. However, in recent times we have come a long way and the magnitude of women led start- ups have significantly increased. A study has

shown that once women start having the same presence as men in the Indian economy then the economy could expand at the rate of 60% by 2025. But at the moment, just 14% of businesses are being led by women. Some of the challenges faced by women in start- ups and IP sector are:

Financial Constraints: Obtaining capital is essential for launching a firm, but it presents more challenges for Indian women entrepreneurs. Because they lack collateral, about 90% of them are unable to obtain funding from traditional institutions. Women have no assets registered in their names because traditional customs prioritised giving male descendants the ability to inherit property and money.

Research indicates that investors' evaluation of start-ups significantly influences their funding access, with women-led ventures receiving less funding than men-led ones. Entrepreneurial activities, particularly venture capital, significantly impact economic growth and expansion in specific regions, with gender significantly influencing funding access. In 2021, only 14.5% of the global venture capital is what women led start- ups had received.[6]

i. Evaluation criteria by investors and accelerators

The below figure shows that the scores given by the investors and accelerators[7] was high when it came to men led start- ups but comparatively lower when it came to women led start- ups. This gave a clear indication that they favoured men led start- ups much more than women led start- ups. The latter half of the graph given below shows that investors and accelerators gave decreased scores to men led start-ups and higher scores than before to women led start- ups which shows their conscious efforts to bridge down the gap created by their biasedness towards men led start- ups. The only reason they could figure out that there was a gap in funding in existence was because of the evaluation framework used by them.

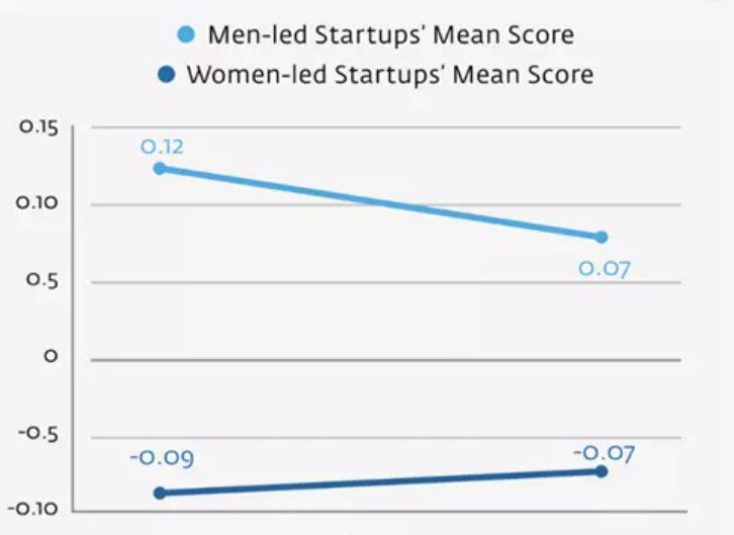


Image source: "Reducing the gender financing gap: Getting more capital for women-led startups" published on official website of International Growth Centre Organization, 15th January, 2024

ii. The result of the Evaluation framework: Reduction of discrepancies

Adopting evaluation frameworks by the investors and accelerators will lead to a proper analysis and assessment of the start- ups. There are several factors which the investors keep in mind to get a more comprehensive assessment such as assembling information about the growth as well as risk management of each start- up, ascertaining the ability of the start- up to improve their presence and operation and lastly, defining which criteria accounts for the highest share in the assessment of a

[6] International Finance Corporation, "Venture Capital and the Gender Financing Gap: The Role of Accelerators" (IFC, 15th February 2020) < https://www.ifc.org/en/insights-reports/2020/vc-gender-financing > 4th March 2024

[7] Accelerator refers to programs which assist in the growth and scaling of start- up companies.

company. The figure below shows how the investors and accelerators were able to reduce the gender disparities and contribute towards five- fold increase in women start- ups by keeping the aforementioned factors in mind while conducting the evaluation.

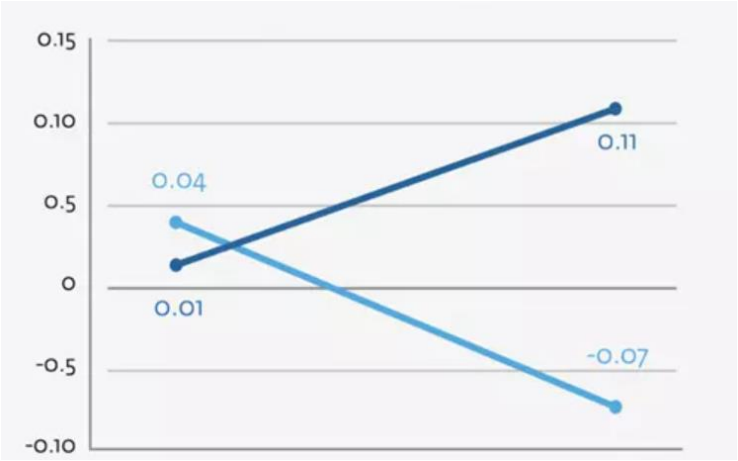


Image source: "Reducing the gender financing gap: Getting more capital for women-led start-ups" published on official website of International Growth Centre Organization, 15th January, 2024

Establishing a balance between work and responsibilities at home: In India, conventional gender roles frequently place the majority of domestic and childcare responsibilities on women. It is difficult for women entrepreneurs to devote enough time and effort to both their enterprises and their personal lives because of this societal demand. Women who don't have enough support from their families may find it difficult to balance job and home life. Work-life balance is made more difficult by a lack of family support or dependable day care options. Juggling work and personal obligations can result in excessive anxiety and exhaustion, which can be harmful to one's health as well as the productivity of the company.

***Underestimating the leadership authority of women*:** Management positions are frequently the target of prejudice against women. It can be challenging for women to establish themselves since what males may perceive as assertiveness can occasionally be interpreted as bossiness. Long-standing cultural prejudices continue to imply that some jobs or sectors of the economy are more appropriate for men, which can prevent women from getting the credit they merit. Gender-specific leadership issues can make it difficult for women to get their commands followed when they are in charge of teams comprising male members.

Establishing a good network of people[8]: Successful entrepreneurship requires a strong professional system, but women don't always have complete utilization of it. Many female business owners find it difficult to get into existing connections in their industry. Less availability of mentors and finance growth that might foster company expansion are further implications of this.

However, on the upside, a report titled Women in India's Start- up Ecosystem Report (WISER) had showed a remarkable development in the start- up landscape of India where women led start- ups presented an increase of 2.5 times more than before in terms of participation of women in senior roles. This showed a major breakdown of barriers by women start- ups by encouraging more and more women for occupying positions of seniority. The role of women as directors and vice presidents has

[8] Adam Uzialko, "Challenges faced by women entrepreneurs- Plus some of the most successful women to follow" (Business News Daily, 8th November 2023) <https://www.businessnewsdaily.com/5268-women-entrepreneur-challenges.html> 5th March 2024

increased to 21% in start- ups. This shows progressive efforts towards the achievement of gender equality in the economic landscape of India.[9]

Why Start- Ups and IP Sector, Particularly Women- Led Start- Ups Rely on Unpaid Interns: Reasons and Consequences

How start- ups evade from treating unpaid interns as employees of the company

Start- ups might rely on unpaid inters for a variety of reasons because the very option of having unpaid labor in the workforce might seem appealing to them. The programme may be used to attract and market the business, as well as a wonderful tool to network and find more staff without having to incur the costs associated with hiring new personnel. On one hand, there might be the mentioned advantages but there always is a downside to everything. For instance, the downside of having an unpaid internship program could be the legal risk which is imposed on a company. Once the intern starts functioning like how a normal employee of the company would they might become obligated to treat the interns as normal employees such as paying them a salary and giving them employment benefits.

However, there are several ways which the companies rely on when it comes to avoiding the treatment or the consideration of the interns in the same category as the employees such as[10]:

- Placing emphasis on the fact that the internship program is for the sole purpose of providing the intern with practical knowledge and education regarding how things operate in the real- world setting and not for the benefit of the company.
- The training undergone by the interns in a company- set up is just the application of the educational knowledge to a practical set- up and involves the same amount of training which any normal educational institution would offer.
- Ensuing that the headcount of the interns does not exceed that of the employees.

Reasons for relying on unpaid interns by women- led start- ups in particular

There are several reasons why the women led start- ups would particularly rely on unpaid interns. However, it is also important to observe that unpaid internship might raise ethical concerns and contribute towards being and extended version of unfair labour practices. Few of the reasons why women led start- ups would rely on unpaid interns are mentioned below:

1. There is a high degree of financial constraints faced by the start- ups especially in their initial stages. On top of that if a start- up I women led there will be additional challenges when it comes to funding. This is due to a variety of reasons such as pre- conceived notion of women being inefficient in leadership roles, their lack of network to get additional sources of funding as well as the stereotypes associated with women start- ups. All these challenges may present them with a lack of opportunity to hire full- time employees due to which they depend on unpaid interns as it is a cost-saving measure.
2. As mentioned above, some start- ups might argue that they contribute towards the development of valuable skills and experiences of interns. Such skills and experiences are what the companies consider to be of utmost importance when the interns are in the search of their job after completing their degree as they mould the interns into a way that the future recruiters start considering them as valuable. Some start- ups might emphasize on the fact that the development of skills and experiences compensates for the lack of monetary compensation provide by them.

[9] Pranav Dixit, "Women-led start- ups setting the standard for gender equity: Report" (Business Today, 4th November 2023) <https://www.businesstoday.in/latest/trends/story/women-led-startups-setting-the-standard-for-gender-equity-report-404581-2023-11-04> 5th March 2024

[10] Latham Drive, "Advice for start- ups hiring unpaid interns" (Latham and Watkins LLP, March 2022) < https://www.lathamdrive.com/resources/insights/advice-for-startups-hiring-unpaid-interns > 5th March 2024

3. The companies also highlight the fact that it is necessary for the interns to have strong social skills as it forms a necessary component of employable skills. They should have the ability to build a strong social network by themselves without relying on any external support. Their internship in the start-ups would just act as a means to guide them to the path of having a strong social network, however, the actual efforts have to be made from their side. The initiative of the intern to contribute to a work also highly depends on their social skills. If the intern proves out to be efficient in terms of work as well as networking skills, then the start- ups might refer them to good paid positions.
4. Start- ups could take advantage of the fact that people who start interning in the initial stages are more prone and willing to work for free as their priority is gaining an experience by seeing how things work in a corporate or an IP set- up. Such individuals are genuinely passionate about their work and in contributing towards the success of the company. Start- ups might entice the passionate interns by providing them with a little bit of flexible arrangements or opportunities making it seem like they are providing them with an opportunity to balance work along with their other commitments.

Impact on the Unpaid Interns being Hired by Start- ups

The aforementioned analysis might present a positive image of hiring unpaid interns from the company's side. However, there are negative consequences on the interns I they are provided with unpaid internships and each one of the aforementioned positive connotations would have a negative connotation.

1. While hiring unpaid interns may seem like a cost- effective measure, there might be legal implications because of the fact that the interns are not being monetarily compensated. It is necessary that an internship meets the specific legal criteria for it to be considered as permissible. If the start- up fails to comply with the labour laws, then it can lead to consequences such as fines or damages and also tarnish the reputation of the start- up.
2. While development of valuable skills and experiences is necessary for the interns, so is compensating the for their efforts. At times, the contribution of the interns might be so significant that they lead to an economic advantage for the start- up. If the interns feel secure about the fact that their efforts are yielding them monetary benefits and the efforts are not going in vain, only then they will feel more encouraged to contribute towards the success of the organization. Lack of monetary compensation might lead to decreased morale of the interns and they would start feeling undervalued which in turn hampers their productivity.
3. While start- ups might provide a pool for opportunities for the interns to develop their social skills, at the same time there might be many missed opportunities which the interns have to undergo. The paid counterparts of the interns might have an upper hand in receiving proper training and mentorship which deprives the unpaid interns of the same degree of training and mentorship.
4. Individuals who are genuinely passionate about the internship might lose the fire if they continue to be burdened with work with a lack of monetary compensation. They might develop a lack of fulfilment within themselves which can give rise to various mental health issues such as anxiety and depression. Besides If the start- up companies are allowed to exploit the passion of the interns towards their work and not paying them, then it will encourage the start- ups even more to engage in unfair practices which further increases their potential to involve in exploitative practices.

Ways to Promote Inclusive Entrepreneurship and Proposed Policy for the Same

In these recent years, policy makers and industry stakeholders in India have recognized the importance of promoting gender equality and inclusive entrepreneurship in the startup ecosystem. Various policies

interventions and industry initiatives have been implemented to address the systematic barriers facing women entrepreneurs and spiring professionals.

Government of India has introduced various schemes like Startup India initiative in 2016, aimed at fostering a conductive environment for startups to thrive through policy reforms and financial support mechanisms. In addition to government- led initiatives, industry stakeholders have played a crucial role in promoting women startups. All of this aim to connect, collaborate and access resources to women entrepreneurs.

One of the untouched and debated area is unpaid internship. Article 41 and Article 39(d) of the Indian constitution, along with Directive principles of state policy, ensure equal pay for equal work. However, the issue of internships remains a void, despite existing laws aiming to combat gender bias in wages.

Therefore, the Central or state government must consider these principles when creating laws:

- ***Effectiveness:*** All of these Women's entrepreneurship polices are a "work in progress" than a finished product. There is a lack of an effective overarching policy and the presence of policy and the programmes are inconsistent.
- ***Closing the loop:*** Policymakers should create a "closing loop" mechanism to ensure the effectiveness of programs promoting women's entrepreneurship. However, few countries have developed systematic procedures for tracking policy goals, assessing progress, and evaluating the impact of these programs. This lack of evidence leads to vulnerability in program funding and hinders the learning from high-impact policy interventions.
- ***Greater efforts are needed:*** to address gender gaps in entrepreneurship skills, offering dedicated training for women entrepreneurs. Benefits include increased involvement in business creation, improved start-up quality, and enhanced support. However, inadequate design and duplication of offers can create confusion. Governments should contextualize and bundle support into cohesive systems.
- ***Interventions must be contextual:*** Entrepreneurship policies in developed economies like the United States, the United Kingdom, and Australia focus on expanding the entrepreneurial ecosystem to benefit women entrepreneurs. In contrast, developing economies focus on foundational challenges to gender equity, social justice, economic security, and empowerment. Women-focused programs reflect the institutional, cultural, and normative characteristics of the respective countries. Governments may create legal and regulatory frameworks, provide resources, or play a more directive role in creating infrastructure, funding, and establishing small business support networks. Both approaches can work, reflecting corresponding differences in country-level entrepreneurial contexts.
- ***Gender neutral education:*** Entrepreneurship education is crucial in closing the gender gap in skills, particularly for women. Dedicated training programs are insufficient, and gender-neutral education is needed to instil confidence and skills in young girls, particularly in disciplines dominated by women, such as Humanities.
- ***Need for policies:*** there are no policies which talks about policies related to unpaid internships. The 2018 AICTE internship policy mandates mandatory internships, making it difficult for middle-class families to participate, leading to unskilled and unexperienced students who may not have the necessary skills.

Steps that can be Taken by the Policy Makers

To address the systemic barriers facing women entrepreneurs and aspiring professionals in the Indian start- up ecosystem, policymakers can consider implementing the following policies and initiatives:

1. *Gender-Responsive IP Policies:* Women entrepreneurs are increasingly utilizing IP to support their start- ups, demonstrating the importance of gender-responsive policies that ensure equitable access to IP protection for women-led businesses.
2. *Mandatory Paid Internship Programs:* Enact a legislation highlighting a minimum wage for interns. Women and young professionals are increasingly participating in internships in start- ups, a trend that has led to a rise in unpaid labour, highlighting the need for fair compensation and tax incentives for these opportunities.
3. *Gender-Inclusive Funding Initiatives:* Targeted funding schemes and incentives can boost investment in women-led start- ups, counteracting gender bias in investment decisions. These schemes include government venture capital funds, tax credits, and gender-sensitive criteria for evaluating funding applications, ensuring a more inclusive and supportive environment.
4. *Capacity-Building Programs:* Women entrepreneurs can benefit from tailored capacity-building programs that offer support and training. These programs can expand entrepreneurship education, provide mentorship, and offer financial literacy courses, ensuring women have the necessary knowledge and skills to succeed in the entrepreneurship industry.
5. *Incubators and Accelerators for Women-led Start- ups:* Support for women-led start- ups is provided through services and opportunities, specifically tailored to address their unique challenges, fostering a more inclusive and supportive environment for their growth and success.
6. *Gender Diversity Mandates for Corporate Boards and Leadership Teams:* Introduce legislation requiring companies to achieve a minimum level of gender diversity on their boards and leadership teams. This could involve setting quotas for women's representation in decision-making positions and requiring companies to disclose their gender diversity metrics in annual reports.
7. *Awareness Campaigns and Sensitization Programs:* Sensitization programs and public awareness campaigns are being launched to challenge cultural norms and stereotypes that hinder women's participation in leadership roles. These campaigns, involving media campaigns, workshops, and community outreach, aim to promote positive role models and foster inclusivity in the start- up ecosystem.

Conclusion

The study highlights the ongoing gender gaps in women-led businesses, particularly in resource availability and the frequency of unpaid internships. This raises concerns about economic inequality and the risk of unintentionally feeding the loop of unpaid labor. To combat this, a multifaceted strategy including industry-wide efforts, regulatory interventions, and public awareness is needed. Stakeholders, including governmental organizations, trade groups, and individual business owners, must work together to create an inclusive entrepreneurial ecosystem.

INTELLECTUAL PROPERTY (IP) AND SUSTAINABLE DEVELOPMENT

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Abstract

Intellectual Property (IP) plays a crucial role in promoting sustainable development by incentivizing innovation and creativity. This explores the relationship between IP and sustainable development. IP rights such as patents, trademarks, and copyrights, provide creators and innovators with the exclusive rights to their inventions and creations, allowing them to commercialize their ideas and benefit from their investments. This incentivizes individuals and companies to invest in research and development, leading to the creation of new technologies, products and services that can address pressing global challenges, such as climate change, poverty and inequality.

By protecting and rewarding innovation IP rights encourage the development and dissemination of sustainable technologies and practices that can help reduce environmental impact, conserve natural resources, and improve quality of life. For example, patents can incentivize the development of clean energy technologies, while trademark can help consumers identify and support sustainable products and businesses. IP rights can facilitate technology transfer and collaboration between developed and developing countries, enabling the spread of knowledge and expertise that can support sustainable development efforts worldwide. By festering innovation, creativity, and collaboration, IP rights can play a key role in achieving the United Nations sustainable development goals and building a more sustainable and equitable future for all. Overall IP rights are essential tools for promoting sustainable development by incentivizing innovation festering technology transfer, and supporting the creation and dissemination of sustainable solutions. Policymakers, businesses, and individuals must work together to harness the power of IP rights to address global challenges and build a more sustainable world.

Keywords: Intellectual Property, Sustainable development, Innovation, technology transfer, Access to knowledge

Introduction

Intellectual Property (IP) rights are legal protections granted to creators and innovators to incentivize the creation and dissemination of new ideas, products, and technologies. These rights include patents, copyrights, trademarks, and trade secrets, and are intended to encourage innovation and creativity by providing creators with exclusive rights to their work for a limited period of time.

At the same time sustainable development aims to meet the needs of the present without compromising the ability of future generations to meet their own needs. This includes promoting economic growth, social inclusion, and environmental sustainability. The question arises: how can IP rights be leveraged to support sustainable development goals, rather than hinder them?

This paper will explore the various ways in IP rights can impact sustainable development, and will propose strategies for maximizing the positive impact of IP on sustainable development.

Objective

1. To know that the Role of IP in Sustainable Development.
2. To know about the Strategies for Harnessing the Power of IP for Sustainable Development.

3. To know about the Sustainable Development Goals and Sustainable Development Goals which are relevant to IP.

Research Methodology

For the present study, we have used Secondary data which is taken from the various newspapers, articles, commentaries etc.

The Role of IP in Sustainable Development

IP rights can play a crucial role in promoting sustainable development by incentivizing innovation and technology transfer. For example, patents can encourage the development of new technologies that address environmental challenges, such as renewable energy sources or sustainable agriculture practices. Copyright can protect the rights of indigenous communities to their traditional knowledge and cultural expressions, ensuring that they benefit from the commercialization of their heritage.

On the other hand, IP rights can also pose barriers to sustainable development by restricting access to essential goods and services. For example, patents for life-saving drugs can limit access to affordable healthcare in developing countries, which copyright restrictions can impede the dissemination of educational materials and scientific research.

Strategies for Harnessing the Power of IP for Sustainable Development

To maximise the positive impact of IP on sustainable development, it is essential to strike a balance between promoting innovation and ensuring access to essential goods and services. One strategy is to use flexibilities in the IP system, such as compulsory licencing and parallel imports, to ensure access to essential medicines and technologies in developing countries. Another strategy is to promote technology transfer and capacity building through partnerships between developed and developing countries. This can help to ensure that new technologies are adapted to local needs and priorities, and that the benefits of innovation are shared more equitably.

Sustainable Development Goals

1. To promote the kind of development that minimises environmental problems.
2. To meet the needs of the existing generation without compromising with the quality of the environment for future generations.

Achieving Sustainable Development

Sustainable Development can be achieved if we follow the following points:

- It can be achieved by restricting human activities.
- Technological development should be input effective and not input utilizing.
- The rate of consumption should not surpass the rate of salvation.
- For renewable resources, the rate of consumption should not surpass the rate of production of renewable substitutes.
- All types of pollution should be minimised.
- It can be achieved by sensible use of natural resources.

The 17 Sustainable Development Goals (SDGS) are:

Goal 1: No poverty

Goal 2: Zero Hunger

Goal 3: Good Health and Well-being

Goal 4: Quality Education

Goal 5: Gender Equality

Goal 6: Clean Water and sanitation

Goal 7: Affordable and Clean Energy

Goal 8: Decent Work and Economic Growth

Goal 9: Industry, Innovation and Infrastructure

Goal 10: Reduced Inequality

Goal 11: Sustainable Cities and Communities

Goal 12: Responsible Consumption and Production

Goal 13: Climate Action

Goal 14: Life Below Water

Goal 15: Life in Land

Goal 16: Peace, Justice and Strong Institutions

Goal 17: Partnerships to Achieve the Goals

Our Common Future

The Concept of Sustainable Development gained significant attention after the publication of Brundlan Report (1987), also known as 'Our Common Future', by the World Commission on Environment and Development. The report defined sustainable development as 'development that meets the need of the present without compromising the ability of future generations to meet their own needs.' Sustainable Development has become a global goal, with many countries and organizations committing to integrating its principles into policies, strategies and projects. The United Nations 2030 Agenda for Sustainable Development, adopted in 2015, outlines 17 SDGs aimed as addressing various social, economic, environmental challenges and achieving sustainable development worldwide by 2030.

Sustainable Development Goals which are Relevant to IP are given Below

SDG 2 – End hunger, achieve food security and improved nutrition, and promote sustainable agriculture.

SDG 3 – Ensure healthy lives and promote well-being for all at all-ages.

SDG 4 – Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

SDG 7 – Ensure access to affordable, reliable, sustainable, and modern energy for all.

SDG 8 – Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all.

SDG 13 – Take urgent action to combat climate change and its impact.

Achieving Different Dimensions of SDGs through IPR

The Intellectual Property (IP) regimes in most World Trade Organization member countries have changed since the introduction of Trade-Related Aspects of Intellectual Property Rights (TRIPS). The TRIPS agreement sought to harmonise intellectual property protection across World Trade Organization member countries, ensuring that all inventions in various sectors receive a minimum level of protection.

Intellectual Property Rights in Sustainable Development Fora

Intellectual Property Rights (IPRS) play a significant role in the context of Sustainable Development fora, where various stakeholders, including governments, international organizations, businesses, and civil society, come together to address environmental, social, and economic challenges.

Sustainable Development Fora often focus on finding innovative solutions and technologies that can promoter sustainability, reduce environmental impact, and improve social well-being IP is crucial in this context as it provides the legal framework for protecting and encouraging innovation, which is essential for advancing sustainable development goals.

Interlinking IP and Sustainable Development

Intellectual Property (IP), through its passive presence, has touched all domains of knowledge like education, entertainment-media, art, technology, literature, music, etc. The role assumed by the Intellectual Property Laws has widened over the years due to their interaction with other laws and international agreements. It has taken the character of an 'enabling' principle. The same stands true when one says that IP influences sustainable development goals. On the one hand, IP enables development by incentivizing innovation, and, on the other hand, it also hampers it by locking inventions, specifically in agriculture and pharmaceuticals, by granting exclusive rights to the proprietors.

The Sustainable Development Goals (SDGs) adopted by the UN General Assembly in 2015 lay down border goals than the Millennium Development Goals (2000-2015). The SDGs indicate the interlinkage between IP and Development by providing for a goal to "build resilient infrastructure, promote sustainable industrialization, and foster innovation." WIPO's (World Intellectual Property Organization) Director General Francis Gurry, emphasizing the relationship between the two, said that IP "exists to create an enabling environment for and to stimulate investment in innovation."

Also, the UNHRC and the WIPO in their joint-publication, namely, 'IP and Human Rights,' concluded that "appropriate IP protection can contribute to the economic, social and cultural progress of the world's diverse population."

Initiatives and Contribution to Bridge Gaps between IP and Sustainable Development

Several initiatives and contributions have been made to bridge the gap between IP and Sustainable Development, recognizing the need to align IP systems with broader societal and environmental goals. Here are some key initiatives and approaches that aim to promote a more harmonious relationship between IP and Sustainable Development:

- The World Intellectual Property Organization (WIPO) Development Agenda
- Protection of Traditional Knowledge and Genetic Resources
- Green Technology and Clean Energy Incentives
- Global Access to Research in Agriculture Network (AGRA)
- Creative Common Licencing
- Open Access Publishing

- SDG-Aligned IP Policies
- Public-Private Partnerships for Sustainable Development
- Socially Responsible Patenting

Overall, these initiatives and contributions demonstrate the ongoing efforts to harmonize intellectual property systems with sustainable development.

The TRIPS Agreement Aids Sustainability

- Intellectual property rights through the TRIPS agreement promote sustainability. TRIPS is short for Trade-Related Aspects of Intellectual Property Rights.
- Its coverage extends to intellectual property rights like patents, trademarks, and industrial designs. Certain sections of the agreement promote sustainability and use intellectual property rights as a channel.
- For example, under this agreement, any invention that aims to protect life and health or the environment may not enjoy patent protection. One can interpret this to mean inventions that promote sustainable development will not have exclusive ownership rights.
- Some other sections in the agreement recommend sharing technological advancements with developing countries. This is a nod to knowledge sharing, one of the tenets of sustainability.
- However, the TRIPS agreement is largely not enforceable. Although the member-states acknowledge the agreement, they may decide to or not to implement the agreement.
- On the one hand, this lack of enforceability looks like a downside to the agreement, making a mockery of its provisions. But on the flip side, one may see it as a motivation for the member-states to draft their respective laws based on these provisions, and they can back their laws with sanctions.

Geographical Indicators Can Boost Sustainability

- Geographical Indicators (GIs) are another way for intellectual property rights to support sustainability efforts. A geographical indicator is a sign that appears on products manufactured in a particular location and has qualities to prove that it comes from that place.
- For example, the drink “champagne” gets its name from Champagne, a region in France from which it originates. As a result, the only bottles allowed to have the name “champagne” on their label are those bottled within a 100-mile radius of the French town. Irish whiskey, Tequila, and Swiss watches are some other examples of this geographical indicator’s principle.
- These Geographical Indicators aim to limit third-party use from other areas of the world, where the third-party’s products are potenitally not up to the required standard, due to e.g. different local conditions. As a collective intellectual property right, geographical indicators differ from IP rights like copyright and patent.
- For one, an individual cannot have exclusive rights to it; everyone in that geographical region can enjoy GI protection.
- In this context, geographical indicators can improve the quality of life and social sustainability in rural areas. For one, the GI intellectual property rights lie with local manufacturers who get to enjoy any value resulting from it.
- This can translate to better job opportunities for people in that region and higher income for local manufacturers. With social sustainability comes improvement in other sustainability domains.
- So, in some way, intellectual property led to social, economic, and environmental sustainability in one ripple effect.
- However, this can go sideways if not controlled. Since geographical indicators over an area translate to increased production and other economic activities, the degradation and depletion

of natural resources is a scary possibility. Therefore, well-formed policies should accompany these geographic indicators to strike a balance.

Conclusion

In conclusion, Intellectual Property Rights can both promote and hinder sustainable development goals. By leveraging the power of IP to incentivize innovation and technology transfer, while also ensuring access to essential goods and services, we can harness the potential of IP to support sustainable development for all. It is essential for policymakers, businesses, and civil society to work together to find innovative solutions that maximize the positive impact of IP on sustainable development.

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A LEGAL ANALYSIS OF INTELLECTUAL EQUALITY IN THE COPYRIGHT INDUSTRY

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Abstract

The name 'Robert Galbraith' is not as famous as J.K. Rowling but what if you come to know that this name belongs to the same person who is the author of the world-renowned book series 'Harry Potter? The book not only transformed the world of literature but also became a very successful movie series. But the journey to glory was not that simple, J.K. Rowling had to use her initials as suggested by her publisher, as he thought that if they could 'disguise' her with a male name the book would become more successful. And way before that she used the name 'Robert Galbraith' a male name to write books of different genres. This is only one example where a woman was masked and her true identity was hidden from her work. Section 56 of the Indian Copyright Act, of 1957 talks about moral rights, which include the right to **paternity** it means that an author has an entitlement to be recognized for his/her work. The basic right to claim 'authorship' over the work that a person has created is not available for women shows the real status of women in the 'copyright industry'.

In this research paper, the researcher will explore:

The various scenarios in the contemporary world, suggest biasedness against women in the copyright industry;

Indian and International Laws that can help women in protecting their copyright;

Solutions for achieving real equality in the copyright law.

Key Words- Author, Copyright Industry, Copyright Law, Moral Rights, Women.

Introduction

The progress of society depends upon human innovation and ingenuity. Female and male inventors and creators from all areas of life have revolutionized our world through the strength of their creativity and inventiveness from the beginning of time. The issue of women and copyright law has obtained attention in recent years. Women have historically been underrepresented in the creative sectors, and their work is frequently underestimated or taken and copied without their permission.

When Europe and the United States passed their first copyright laws, however, women were primarily excluded from this legislation, as well as the male-dominated creative sectors. Women were frequently denied access to formal schooling and discouraged from pursuing jobs in the arts, limiting their capacity to create original works and express their rights as creators.

Despite these obstacles, women have made substantial contributions to the creative industries and the law of copyright.

What is Copyright?

Section 14 of the Indian Copyright Act, 1957 defines Copyright as the *'exclusive right'*, subject to the provision of the Copyright Protection Act, 1957, to do or authorize the doing of any of the following actions concerning a literary, musical, or dramatic work or any significant portion of it, namely:

i. *"To reproduce the work in any material form, including the storing of it in any medium by electronic means*[1]*;*
ii. *To issue copies of the work to the public not being copies already in circulation;*[2]
iii. *To perform the work in public or communicate it to the public;*[3]
iv. *To make a cinematograph film or sound recording in respect of the work;*[4]
v. *To create any translation of the work;*[5]
vi. *To make any adaptation of the work;*[6]*"*

A subset of intellectual property rights known as copyright grants the creator of a work exclusive legal protection, this legal protection can be termed as 'copyright law'.

What is the Copyright Industry?

Copyright industry is the area of the economy that deals with the development, manufacturing, marketing, and distribution of content protected by copyright. This covers sectors including publishing, software development, music recording and distribution, film and television production, and other creative fields. To guarantee that producers and artists can profit monetarily from their creations, the copyright business depends on the preservation of intellectual property rights.

Feminism and Copyright Law

The case of Suntrust Bank v. Houghton Mifflin Company US 11th Court of Appeals 2001 AIPC 301

Facts of the case-The *'Wind Done Gone'* was published in 2001 by Alice Randall. In her book, she retold Margaret Mitchell's classic narrative from the perspective of an enslaved person, criticizing the racism of 'Gone with the Wind.' Margaret Mitchell's estate was unhappy, and they prosecuted Alice Randall for copyright violation. After months of litigation, Randall was able to strike a settlement deal with the help of a significant publishing business and a team of competent lawyers, and the injunction that prevented the book from being published was lifted. Alice Randall was attempting to participate in a discussion with the culture around them, as well as the myths and idols that have been entrenched in our society as dominant narratives. Society not only rejects the idea of a woman's creator but also neglects any storytelling from their perspective. Alice Randall said in an interview given to CNN,

"My book is a parody of "Gone with the Wind." "Gone With the Wind," in certain ways, divides the nation into white and black. My book unites the nation. Ultimately, most of the characters in my book turn out to be black, which is a way to make that line invisible. So, my book is a critique of "Gone with the Wind" in the form of a parody."[7]

Feminism and intellectual property law connect in a variety of ways. Feminist scholars and activists have long maintained that present copyright legislation might perpetuate gender inequities and hinder women's access to and use of creative works. Feminists contend that copyright legislation can restrict access to knowledge, particularly for underrepresented groups like women. Copyright limitations on

[1] Section 14(a)(i), The Copyright (Amendment) Act, 1994, No. 38 (w.e.f 10-5-1995)
[2] Section 14(a)(ii), The Copyright (Amendment) Act, 1994, No. 38 (w.e.f 10-5-1995)
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[4] Section 14(a)(iv), The Copyright (Amendment) Act, 1994, No. 38 (w.e.f 10-5-1995)
[5] Section 14(a)(v), The Copyright (Amendment) Act, 1994, No. 38 (w.e.f 10-5-1995)
[6] Section 14(a)(vi), The Copyright (Amendment) Act, 1994, No. 38 (w.e.f 10-5-1995)
[7] ("CNN.Com - Alice Randall, Author of 'The Wind Done Gone' - June 22, 2001," n.d.)

educational resources can make it harder for women to obtain them and result in a gap in achieving real intellectual property equality.

Rights of Women as a Performer

In the early era of copyright development, no recognition was given to the performers under the copyright law because they were of a transient nature. However, after the technological advancements, their rights were considered to be copyrightable as they could be stored in a digital medium for a longer period. It was only after the Rome Convention of 1961, which was responsible for the protection of performers' rights. The Amendment of 1994 inserted the definition and rights of the performer in the Copyright Act. Section 2(qq) of the Copyright Act of 1957 gives an inclusive description of the performer that embraces actors, singers, instrumentalists, conjurers, acrobats, jugglers, dancers, snake charmers, and even a person delivering a lecture, or any other human being who performs. Although no gender specification has been mentioned in the law, in the real world, female performers have always been paid a lesser amount rather than their male counterparts. The gender pay gap across the globe is prominent and can also be seen on the big screen; when the credit rolls down on the big screen, the name of the male actor comes first to show that the importance of his character is more than that of a female character. One exception is the 'Chennai Express,' where the name of the female performer came before the male performer. But the question is, why are women paid less than men? Why they have not been given enough credit for their work?

The answer is not that simple, but it lies somewhere in the deep-rooted cultural stereotype that says that women can't work as hard as men because of their physiological structure. But if a woman is a performer in the copyright industry, she is not considered a person who could bear the burden of a film on her shoulders. This can only be done by a male performer who can attract the public and run a hit cinematographic work. A woman is considered only a supporter of males and not the sole runner of the show. Even the characters written for women are always shown as less intelligent than the male characters. In the Hindi film industry, a woman can be either beautiful or intelligent; she can't be both. She is always praised for her beauty and not her brain. This cliché in the industry not only obstructs women's intellectual growth but also their economic growth.

In the early years of Indian cinema, women were not involved in the process of the filmmaking process, as it was solely designated for men. Even the roles of the females were done by males. Female performers were contemplated anathematic in society and were not considered 'respectful.'

Males dominate copyrightable works, and they receive more money. Rendering the World Economic Forum, women typically receive 54 cents for every $1 earned by men. At the current rate of development, it will take 202 years to bridge this gap.[8] The difference created by the earlier societies is being carried by the contemporary female performers.

Authorship Rights of Women

Research by famous sociologist Dana Beth Weinberg and Adam Kapelner, a mathematician, found that books written by women in North America between 2002 and 2012 were priced forty-five percent less than those of a male author. This does not imply that the work created by women is not valuable or worthwhile; it simply signifies that their effort is not valued enough. This price gap in the selling price of books, novels, and other literary works is also reflected in the royalties provided to women.

A famous and talented writer like J.K. Rowling chose to write with a pseudo name, 'Robert Galbraith.' She thought that her name didn't suit her 'writing persona.' Her greatest work 'Harry Potter' was rejected

[8] ("An Economist Explains Why Women Are Paid Less" 2019)

by twelve publishing houses before it was accepted by Bloomsbury. And when it was accepted by Bloomsbury, they wanted her to publish the work with her initials only. The publisher thought that if he could create an illusion that the book was written by a male author, it could become more successful because people often consider women-created literary work as not intellectual enough. If the basic moral right 'Right of Paternity' which is provided to establish a claim on the work created by the author, is not available to the women, it shows the real position of women in the copyright industry; after all, it is the *'right to paternity.'* The word 'paternity' used here indicates that copyright laws were created by men for men.

Gender discrimination not only violates women's moral rights but also affects their economic rights. Section 14 of the Copyrights Protection Act, 1957 defines copyright as an 'exclusive right' of the author. The exclusive rights defined here are also known as economic rights. These rights are given to an author to create a monopoly over his work. But due to the discrimination and gender gap in intellectual property rights, women are unable to exercise these rights.

The Unidentified Creators

Most women in India are creators of various kinds of embroidery, needlework, drawings, paintings, and many more. It is their traditional knowledge that is not protected by copyright law. Designers with big names and brands can easily take advantage of their work and make so much money from a single piece of work that a single artisan cannot even make in his lifetime. For example, the majority of Mahbubani artists are females, and it is through their work that they preserve their particular local customs, folk tales, and traditions. These paintings are created by women of all castes, giving rise to several schools within the Mahbubani society, such as Brahmin, Kayasth, and Tattoo, each with its own color schemes, patterns, and forms.

The Madhubani method largely employs line drawings filled in with natural dyes; such designs are quite simple to reproduce. As a result, low-cost reproductions of such paintings created on basic paper with chemical color have saturated the market to the point that they are now duplicated on a range of home items and garments. These reproductions are painted by anybody other than original Madhubani female painters, and in certain cases, they are mechanically printed and mass-produced. Although their cultural manifestations are appropriated and commercialized, the original Madhubani women continue to remain anonymous, with no lawful claim to their intellectual property and no legal remedies to halt improper commercial exploitation. This not only results in non-acknowledgment of one's work but also affects their economic rights. There is a need to widen the horizons of intellectual property law to include the artisan and the unidentified creators in the IP industry.

Copyright Protection for Women in International Laws

Several national and international legislation exist to protect women from copyright infringement. Among these statutes are the following:

A. ***'The Berne Convention for the Protection of Literary and Artistic Works, 1886'***: This is an international agreement that establishes minimum copyright protection criteria. It states that writers of literary and creative works, including women, have the right to have their works protected without the necessity for registration or other procedures.
B. ***'Universal Declaration of Human Rights, 1948 (UDHR)':*** According to Article 27 (1) of the UDHR,

"Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts, and to share in scientific advancement and its benefits."[9]

Article 27 (2) of UDHR also talks in the same manner and says that,

"Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author."[10]

The inclusion of copyrightable works in the UDHR not only increases their relevance but also makes us realize that these rights are as important as any other human right on the face of the earth.

C. *'The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)'* under the World Trade Organization (WTO) recognizes the importance of protecting intellectual property rights, including those of women.
D. *'The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)'* also recognizes the importance of protecting women's intellectual property rights and asks for the elimination of all forms of discrimination against women in this regard.
E. *'The Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women'* in 1995, also recognizes the importance of protecting women's intellectual property rights and calls for measures to guarantee that females have equal access to and control over intellectual property.
F. *'The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty'* also address the protection of intellectual property rights, including those of women.

Remedies Available for Infringement of Copyright under the Copyright Act of 1957

The Copyright Act of 1957 does not give any special remedy to women in case of infringement of copyright. The Copyright Act in India is gender-neutral. There are three kinds of remedies provided in this Act, namely:

i. Civil remedies;
ii. Criminal remedies; &
iii. Administrative remedies.

Civil Remedies

Section 55 of the Copyright Act deals with the civil remedies for the infringement of copyright. Civil remedies are further divided into two categories, i.e., preventive civil remedies and compensatory civil remedies.

Preventive Civil Remedies

The Preventive civil remedies for the infringement of copyright are as follows:

A. Interlocutory injunction- In such a situation, three conditions must be met:
(a) There must be a *prima facie* case;
(b) There must be a *balance of convenience* and
(c) There must be *irreparable harm.*
B. Anton Piller orders- An Anton Pillar Order has the following essentials:
(a) First, an injunction barring the defendant from destroying or infringing on goods is issued;

[9] (Nations, n.d.)
[10] (Nations, n.d.)

(b) Second, an order authorizing the plaintiff's attorney to inspect the defendant's premises and seize any property in their safe possession and

(c) Third, an order directing the defendant to disclose the names and addresses of providers and customers.

C. Mareva Injunction When the defendant is suspected of trying to obstruct or postpone the execution of any order that has been made against him, the court may use the Mareva injunction. The court has the power to mandate that he turn over all or a portion of his assets to comply with the ruling.

D. John Doe Order/Ashok Kumar Order- The "Ashok Kumar order," also called the "John Doe order" in India, is issued when the defendants involved are primarily unidentified. Such unidentified individuals are the subject of injunctions. Order 39 Rule 2 of the Civil Procedure Code, when read in connection with Section 151 of the CPC and covered by the provisions of the *'Specific Relief Act, 1963'*, authorizes the Court to issue an order of this kind, even though the general rule was that the defendants' data should be given.

E. Permanent injunction/ perpetual This type of injunction is given only in very few situations in which the Court is certain that the defendant has infringed the copyright. Permanent injunctions are often granted by courts when responsibility is proved, and there is a fear of continued violation.

Compensatory Civil Remedies

There are three types of compensatory civil remedies for copyright infringement which can be described as follows-

i. **Damages–** The objective of providing damages to the plaintiff or the original author of the work is to help him return to his pre-infringement position. That is why damages come under the category of compensatory civil remedies.

ii. **Delivery of infringing copies-** Section 58 of the Copyright Act, 1957 says that all plates used or planned to be used for the creation of such infringing copies must be assumed to be the property of the owner of the copyright. This right of the owner is against those who possess or deal with infringing copies of works in which copyright exists. This remedy is used for returning copies of the work to the original author of the work.

iii. Account for profit- As a complement to the injunction, equity may demand a defendant to account to a plaintiff for the gains through wrongdoing, such as copyright infringement in suitable instances. As a result, the plaintiff has the right to hold the defendant accountable for the gains he gained as a result of the former's copyright infringement. This is not a hypothetical calculation like damages but rather an examination of real accounts. The account is for net earnings, which are the sale price of the infringing goods, less the manufacture and delivery costs.

Criminal Remedies

Copyright infringement is a serious violation with significant penalties. In India, criminal sanctions for copyright infringement are possible under Sections 63 and 63-A of the Copyright Act of 1957. According to Section 63, the first offense carries a sentence of at least six months and up to three years in jail, as well as a fine between Rs. 50,000 and Rs. 2 lakhs. For a second or subsequent conviction of copyright infringement, Section 63 allows for penalties of up to Rs. 2 lakh and a maximum sentence of three years in jail.

Administrative Remedies

To prohibit the importation of infringing copies into India, the Copyright Act of 1957 provides the owner of the copyright with an efficacious and swift administrative remedy. On the application of the copyright owners of such work, or his duly authorised agent, and after conducting such inquiry as he deems fit, Section 53(1) of the Act empowers the Registrars of Copyrights to issue an order limiting the import and sale into the country of copies of a copyrighted work which was made out of India that, if created in India, would contravene copyright in the work.

Suggestions for Achieving Equality in Intellectual Property

i. If copyright rules fail to sufficiently appreciate women's creative labor, it may be necessary to alter the laws themselves, broadening current protections so that more kinds of creative works are explicitly recognized as copyrightable. It is believed that increasing the number of copyrightable works will not only boost innovation but also the circulation of creative works in ways that benefit women.
ii. Additionally, India urgently needs to create an independent organization whose members include academics, lawyers, policy consultants, human rights activists, art experts, and members of civil society who can create a gender-focused, all-inclusive plan to safeguard the economic and cultural rights of traditional communities, with a special emphasis on women.
iii. Although the laws, whether national or international, do not discriminate between male or female authors, it is the intermediaries and the consumer who think less of a work created by women. There is a requirement to create awareness among the public, and the intermediaries need to promote the work created by women as they promote works created by male authors.
iv. Copyright rules permit, but do not encourage, writers to share beneficial knowledge and creative approaches, presuming they maintain or do not claim "ownership" of copyrights around their own works. The copyright rules mainly prohibit the distribution of others' works without permission from and remuneration to copyright holders. Large copyright holders have had a lot of success recasting every act of copying, particularly of digital works, as a presumptive copyright violation. Relatively recent high hurdles copyright changes have harmed numerous cultural institutions, such as dwindling public library holdings. Because women are the major consumers of public libraries, it indirectly affects women.

Conclusion

Intellectual property rights (IPR) are an important part of economic growth and women's empowerment since they not only restore financial incentives for women but also allow them exclusive control over their unique innovations. IP rights, when handled correctly, may lead to substantial advances in entrepreneurship by motivating women to come up with inventive ideas and innovations. Giving women equal intellectual property rights is a win-win situation for all governments. Women's living conditions are exacerbated in developing countries with weak IP regimes and a large population, whereas industrialized countries often have more solid IP protection regulations. Protection of these rights shall be provided.

The protection of these rights will ensure that there are always economic incentives to develop and create. It would also result in global economic development and prosperity. Everyone should honour women's roles by not only recognizing their previous accomplishments but also pushing them to pursue future goals, advancement, and growth.

CRITICAL ANALYSIS OF INTERFACE BETWEEN INTELLECTUAL PROPERTY LAW AND COMPETITION LAW

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Abstract

The relationship between competition law and intellectual property rights (IPR) has become a crucial and intricate part of the legal system. This point of intersection is where the necessity of promoting competition in markets and the exclusive rights bestowed by intellectual property protection must be balanced. Innovation is encouraged by intellectual property rights (IPR), which include trade secrets, patents, trademarks, and copyrights. IPR gives inventors and innovators a monopoly on their creations. It can, however, result in anti-competitive behavior when used excessively, which would impair market dynamics. Conversely, the goal of competition law is to guarantee fair competition by outlawing actions that impede it. When the exercise of intellectual property rights leads to anti-competitive behavior, like abuse of dominance or restrictive agreements, intellectual property rights and competition law interact. To avoid monopolistic practices and maintain incentives for innovation, the proper balance must be struck. The boundaries of this interface are a challenge for courts and regulatory agencies around the world. Licensing agreements, standard essential patents, and the misuse of dominant positions in technology-driven businesses have all been made clear by recent cases. Creating complex frameworks that promote innovation without sacrificing the values of fair competition is a difficult task for policymakers. The continuous conversation emphasizes the necessity of a standardized and flexible legal system that can handle the intricacies of the contemporary knowledge economy. To create an atmosphere that is favorable to innovation and market competitiveness, it is necessary to continuously monitor how IPR and competition law interact.

Keywords: Competition law, IPR, anti-competitive behaviour, monopoly, innovation, abuse of dominant

Introduction

Intellectual Property Rights (IPR) encompass legal protections granted to the creations of the mind, fostering innovation and creativity by providing exclusive rights to inventors and creators. Common forms of IPR include patents for inventions, trademarks for brand identity, copyrights for original works of authorship, and trade secrets for confidential business information. These rights are essential in encouraging individuals and organizations to invest in research, development, and creative endeavors, as they offer a temporary monopoly over the use and exploitation of the intellectual property. Competition law, on the other hand, is concerned with fostering honest competition in the market. It seeks to stop anti-competitive behavior that might be detrimental to rival businesses, customers, or the market structure itself. A level playing field for all market participants, the prevention of monopolies, and the prohibition of unfair commercial activities are important components of competition law. The basic goal of competition law is to preserve a market environment that is competitive in order to promote efficiency, innovation, and the welfare of consumers. There are many complicated questions when IPR and competition law collide. Exclusive rights are granted under IPR, however when these rights are misused to impede competition, problems with competition may occur. There are constant challenges for legal frameworks around the world, particularly in India, in striking a balance between the need to ensure fair competition and to encourage innovation through IPR.

Ensuring fair competition and safeguarding intellectual property (IP) requires careful balancing in order to promote economic growth, innovation, and consumer welfare. The unique rights that inventors and innovators have over their discoveries are known as intellectual property rights, or IPR, and they operate as a strong motivator for funding R&D. By enabling creators and innovators to profit from their labors, this protection fosters innovation and supports a thriving, dynamic economy. On the other hand, monopolies and anti-competitive behavior may result from an unregulated concentration on IP protection without proper consideration for fair competition. In addition to hurting smaller market actors and consumers alike, excessive protection can lead to market inefficiencies that impede new entrants and stifle competition. A balance must be struck between preventing the infringement of intellectual property rights and allowing for the ongoing promotion of innovation. Maintaining a balance between these interests protects the market's integrity by guaranteeing customers access to a wide range of options, affordable pricing, and high-quality products. By creating an atmosphere in which various actors can participate and compete based on merit, fair competition not only supports economic efficiency but also ongoing innovation.[1] Therefore, maintaining a vibrant and healthy market that benefits both creators and customers depends critically on finding the ideal balance between IP protection and competition.

Legal Framework in India

Statutes related to IPR and Competition law

In India, Intellectual Property Rights (IPR) and Competition Law are governed by several statutes, each addressing specific aspects of these legal domains.

1. Patents Act, 1970:
   - The Patents Act regulates the grant and revocation of patents in India, outlining the rights and limitations of patent holders.
   - It encourages innovation by providing inventors exclusive rights over their inventions for a limited period, balancing the need for protection with the promotion of public interest.
2. Trade Marks Act, 1999:
   - The Trade Marks Act governs the registration and protection of trademarks in India.
   - It establishes the legal framework for the registration, assignment, and protection of trademarks, safeguarding the distinctive identity of goods and services.
3. Copyright Act, 1957:
   - The Copyright Act provides protection to original literary, artistic, and musical works.
   - It grants creators exclusive rights to reproduce, distribute, and display their works, fostering a conducive environment for artistic and literary endeavors.
4. Designs Act, 2000:
   - The Designs Act focuses on the protection of industrial designs.
   - It grants exclusive rights to the visual design of objects, preventing unauthorized use and reproduction of aesthetically appealing designs.
5. Competition Act, 2002:
   - The Competition Act is the primary legislation governing competition-related matters in India.
   - It addresses anti-competitive agreements, abuse of dominant positions, and regulates mergers and acquisitions to ensure fair competition in the market.
6. The Consumer Protection Act, 2019:
   - While not exclusively related to IPR or Competition Law, the Consumer Protection Act safeguards the rights of consumers.

[1] Eshan Ghosh, 'Competition Law and Intellectual Property Rights with Special Reference to the TRIPS Agreement' (2010) Research Paper for the Competition Commission of India.

- It complements IPR and Competition Law by addressing issues related to unfair trade practices and protecting consumers from misleading advertisements and deficient goods/services.

These statutes collectively create a comprehensive legal framework that seeks to balance the protection of intellectual property with the promotion of fair competition in India. The interplay between these laws is critical in fostering an environment that encourages innovation, ensures market efficiency, and safeguards consumer interests.

Provision related to competition Act and various IP legislations:

Laws dealing with competition Act:

- **Anti-Competitive Agreements (Section 3):**
  -The Competition Act prohibits agreements that cause or are likely to cause an appreciable adverse effect on competition.
  -It covers practices such as price-fixing, bid-rigging, and market-sharing, aiming to prevent collusion among competitors.
- **Abuse of Dominant Position (Section 4):**
  -Section 4 addresses the abuse of a dominant position by entities in the market.
  -This provision ensures that dominant players do not engage in practices that harm competition, such as predatory pricing or exclusionary tactics.
- **Regulation of Combinations (Section 5 and 6):**
  -Sections 5 and 6 regulate mergers and acquisitions to prevent combinations that may have an adverse impact on competition.
  - The Competition Commission of India (CCI) assesses the potential anti-competitive effects of such combinations.
- **Competition Advocacy (Section 49):**
  -Section 49 empowers the CCI to engage in advocacy efforts to promote competition.
  -It allows the CCI to provide recommendations on competition-related matters, contributing to the development of a competitive market.

Laws dealing with various IP legislations:

- **Patents Act, 1970:**
  -The Patents Act grants exclusive rights to inventors, fostering innovation.
  -Section 3 ensures that patents are not granted for inventions that may harm public health, morality, or the environment.
- **Trade Marks Act, 1999:**
  -The Trade Marks Act protects distinctive signs, preventing confusion among consumers.
  -It safeguards the reputation of trademarks and discourages unfair competition through deceptive use of similar marks.
- **Copyright Act, 1957:**
  -The Copyright Act protects the rights of creators over their original works.
  -Fair use provisions balance the exclusive rights of copyright holders, allowing limited use for purposes such as criticism, comment, news reporting, teaching, and research.
- **Designs Act, 2000:**
  -The Designs Act protects the aesthetic aspects of industrial designs.
  -It prevents the unauthorized reproduction of visually appealing designs, promoting innovation in product aesthetics.
- **Interface with Competition Law:**
  -While IP laws grant exclusive rights, Competition Law ensures these rights are not abused to stifle competition.
  -The Competition Act acts as a check, preventing anti-competitive behavior arising from the exercise of IP rights

The analysis reveals that the Competition Act and India's several IP regulations have been meticulously aligned. This collaboration seeks to foster innovation and creativity by upholding fair competition and refraining from the misuse of market power. Together, these regulations are necessary to maintain the competitiveness and stability of the Indian economy.

Interface between Intellectual Property Law and Competition Law in India

Competition law may be used in situations when some intellectual property rights (IPRs) have not been earned or have not been gained legally, such as when patents have been obtained by tricking the patent office.[2] That may, however, also be used in specific situations when IPRs have been approved. Regarding how intellectual property law and competition law interact, there are two schools of thought.[3] The first claims that there is a conflict between intellectual property rights (IPR) and competition law, contending that IPR laws provide creators and inventors with a limited monopoly, while competition law aims to eradicate monopolies and promote competition. These arguments contend that the primary purpose of intellectual property rights (IPR) regulations is to appropriately assign and protect property rights over assets with monetary worth. Conversely, minimizing the negative effects of monopoly power resulting from intellectual property rights ought to be the primary objective of competition legislation. That being said, this strategy is no longer relevant and is not used nowadays.

The second view contends that competition law continues to be a vital means of ensuring continued innovation and economic growth. The aims and objectives of IPRs and competition laws are complementary, as both aims to encourage innovation, competition and enhance consumer welfare. It is vitally important to preserve competition in innovation because competition ensures the best outcome for consumers.

The Raghavan Committee noted in their report that intellectual property rights and competition law conflict. "All forms of intellectual property have the potential to raise Competition Policy/Law problems," according to clause 5.1.7 of the Raghavan Committee Report. The right to engage in creative or commercial activity is granted to the owner of intellectual property; however, this does not include the ability to monopolize or impose restrictions on others in a market or society. Intellectual property rights should unquestionably be granted in the sake of human ingenuity, which should be recognized and rewarded. This right gives the holder (creator) the ability to stop other people from using their ideas, inventions, or other works of art. However, anti-competitive behavior that might emerge during the exercise of intellectual property rights must also be curbed and prevented. Sections 3 and 4 of the Competition Act of 2002 contain provisions aimed at addressing precisely these kinds of issues.

Section 3

Under Section 3 of the Competition Act, 2002, the Competition Commission is required to look into agreements which are anti-competitive in nature and those found to be anti-competitive are declared void. The Competition Act incorporates a blanket exception for IPRs under Section 3(5). It preserves the rights of the IPR holder to prevent infringement and protect these rights, as long as the restrictions imposed by the agreement are reasonable, ensuring that competition policy does not interfere with the reasonable use of IPRs. However this protection is not absolute. If the restrictions imposed are unreasonable the same can be tried under Competition law. Section 3(5) reads as:

(5) Nothing contained in this section shall restrict-

[2] Salil Arora, 'Does Commercial Exploitation of Intellectual Property Rights Inherently Result in Anti-Competitive Practices?'(2012) Research Paper for the Competition Commission of India.

[3] Allan Asher , Public Lecture on 'Interface between the Indian Competition Act 2002 and the IPR Laws in India' (2009).

(i) The right of any person to restrain any infringement of, or to impose reasonable conditions, as may be necessary for protecting any of his rights which have been or may be conferred upon him under-
   (a) The Copyright Act, 1957 (14 of 1957);
   (b) The Patents Act, 1970 (39 of 1970) ;
   (c) the Trade and Merchandise Marks Act, 1958 (43 of 1958) or the Trade Marks Act, 1999 (47 Of 1999);
   (d) The Geographical Indications of Goods (Registration and Protection) Act, 1999 (48 of 1999);
   (e) the Designs Act, 2000 (16 of 2000);
   (f) the Semi- conductor Integrated Circuits Layout- Design Act, 2000 (37 of 2000);

(ii) The right of any person to export goods from India to the extent to which the agreement relates exclusively to the production, supply, distribution or control of goods or provision of services for such export

The wording of the section itself suggests that the section only protects reasonable conditions imposed by the IPR holder and any unreasonable condition imposed can be dealt under Competition Law. Hence, the exception is only allowed for the purpose of protection of the rights to the extent granted by the IP law; the requirement of reasonableness.[4] The same has been held in various cases.

The CCI accurately noted in **FICCI Multiplex Association of India v. United Producers/Distributors Forum**[5] that intellectual property rules do not completely supersede competition law. The language used in Section 3(5) of the Act makes it obvious that the non-obstante clause's scope is not absolute; rather, it shields the right holder from the strictures of competition law in order to prevent infringement of his rights.

The Bombay High Court ruled in **Aamir Khan Productions v. The Director General**[6] that the CCI is authorized to handle competition matters involving intellectual property rights. It was also established in **Kingfisher v. Competition Commission of India**[7] that the CCI could take up any matter that came before it as well as the Copyright Board.

Section 4

Section 4 of the Competition Act, 2002 deals with abuse of dominant position. The section prohibits the abuse of dominant position and not its mere existence. It further explains what is meant by abuse of dominant position and enumerates the practices which are to be considered abusive. What is noteworthy and relevant to the current discussion, is that no exception has been created for IPRs under Section 4. Such an exception has not been carved in Section 4 for a number of reasons. Firstly, IPRs may not confer a dominant position in the market; the legal monopoly conferred by IPRs may not necessarily lead to an economic monopoly and it is the latter that the competition law is concerned with. Secondly, even if IPRs do grant a dominant position, mere existence of market power is not prohibited under Section 4; it needs to amount to an abuse of dominant position.

In **Singhania & Partners LLP v. Microsoft Corporation (I) Pvt Ltd & Others**, the Competition Commission came to the same conclusion.[8]The CCI examined the issue of Microsoft controlling more than 80% of the market when it came to the sale of Windows and Office 2007 software, and whether

[4] Salil (n 13).
[5] Case No 1 of 2009, CCI order dated 25 May 2011.
[6] 2010 (112) Bom LR 3778.
[7] Writ petition no 1785 of 2009.
[8] Case no 36/2010, decided by the Commission on 22 June 2011.

or not it had engaged in anti-competitive behavior and abused its dominant position. Nevertheless, the CCI was unable to discover any infractions of the competition laws. The Commission noted that it Is reasonable and typical in the market to charge varying prices for the same product under various types of licenses. The Commission stated that there was insufficient evidence to conclude that Microsoft's dominating position forced any competitors out of the market. Therefore, it was decided that Microsoft had not broken any laws pertaining to competition.

Therefore, the Competition Policy voluntarily acknowledges any dominance that may arise from the holder's exercise of their IPRs; competition law only becomes involved when this abuse occurs. The fact that IPRs are the source of market dominance in the event of such abuse is irrelevant. Consequently, market power derived from IPRs is not exempted under Section 4.[9] There are several US court rulings as well as European Court of Justice (ECJ) decisions that address the topic of anticompetitive agreements and intellectual property rights (IPRs), even though there has been a lot of jurisprudence regarding IPR under Competition Law[10] developed in recent years and is still developing.

(a) **Independent Ink, Inc. v. Illinois Tool Works Inc.**[11] The Honorable Supreme Court of the United States decided unanimously in this case that when the sale of a patented product is contingent on the sale of another product in a tying arrangement, there is no assumption of market dominance under the Sherman Antitrust Act. Instead, the burden of proof for a plaintiff alleging an antitrust infringement is to show that the defendant has a monopoly on the patented product.

(b) In the case of **Windsurfing International v. Commission**[12], among other constraints, the licensees were required to use and market the sailboard and rig in tandem. Windsurfing International had previously granted patent licenses to a number of German partners for its "windsurfing" invention. According to Windsurfing International, the licensing arrangement's "field of use" limits and limitations were not intended to competition, but just to make sure the sailboards weren't of a lower caliber, that these quality controls were valid due to product liability under Californian law, and to stop cheap knockoffs of the boards. The European Court of Justice (ECJ) rejected the arguments made and determined that Windsurfing's ability to differentiate its licensed sailboards sufficiently was only a tactic to protect their position as the market leader, so stifling competition. Therefore, the Court determined that the firm's "field of use" limits, which went beyond the parameters of the licensed technology and allowed the company to increase the invention's utility and sales, hampered competition among its licensees.

(c) In **Consten and Grundig v. Commission**[13], the parties agreed that Consten, as the sole distributor of Grundig goods in France, would not ship goods directly or indirectly to any country other than France. Additionally, Grundig required all of its European distributors to refrain from shipping goods outside of their designated regions. The goal was to shield its merchants from imports that were not authorized. As a result, Grundig granted Consten complete territorial protection, making it impossible for French consumers to purchase goods from anybody else. Even if the arrangement sought to stop parallel imports, the European Court of Justice found that the exclusive agreement as such was not forbidden under Article 81 EC Treaty.

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[9] Gitanjali Shankar and Nitika Gupta, 'INTELLECTUAL PROPERTY AND COMPETITION LAW: DIVERGENCE, CONVERGENCE, AND INDEPENDENCE' (2011) 4 NUJS L. Rev. 113.

[10] Aamir Khan Productions v. Director General, 2010 (112) Bom LR 3778; Consumer Online Foundation v. Tata Sky Limited & Others, CCI order dated 23 March 2011, FICCI Multiplex Association of India v. United Producers Distribution Forum, Case no. 1 of 2009, CCI order dated 25 March 2011.

[11] 547 U.S. 28.

[12] [1986] ECR 611.

[13] [1966] ECR 299.

(d) It was decided in **Ansul Co v. Uniroyal**[14] that a patent holder could not place consumer restrictions on those who bought the patented product, as such vertical restrictions were illegal in and of themselves.

Penalty Provisions

The Commission has the authority to investigate any unjustifiable terms included in intellectual property agreements and to penalize any right holders or businesses involved in such agreements or abuse. The maximum penalty that the Commission may impose is 10% of the average turnover from the three most recent fiscal years. Any culpable directors or officials of an enterprise that qualifies as a "company" may face legal action and punishment.[15] Furthermore, the Commission can issue any or all of the following instructions, among other things.[16]

- direct the parties to discontinue and not to re-enter such agreement;
- direct the enterprise concerned to modify the agreements;
- direct the enterprises concerned to abide by such other orders as the Commission may pass and comply with the directions, including payment of costs, if any; and
- pass such other order or issue such directions as it may deem fit.

Moreover, the Commission may mandate the division of an enterprise in addition to the aforementioned sanctions in cases where an enterprise abuses its dominant position under Section 4 due to an IPR.[17] Thus, IPRs are not completely outside of the Competition Law's jurisdiction. Competition law also has nothing against the granting of intellectual property rights (IPRs); rather, its goal is to ensure that customers are not subjected to unjustifiable restrictions when using their rights.

Conclusion

IPR and competition policy work together in a complementary manner rather than in opposition to one another. Both laws have the same goal of encouraging innovation. New innovations bring about healthy rivalry at the macro and microeconomic levels, which in turn fuels greater competition for innovation and ultimately propels the nation's economy forward. Nonetheless, the general public shouldn't suffer as a result of this. Since a balance between the two laws would result in both economic and consumer welfare, the competition authorities must ensure that competition policy and IP laws coexist.[18] The goal of consumer welfare is further pursued by both IP law and competition law. In an attempt to encourage people to invest in items that society needs, the law of property grants an exclusive right. The goal of competition legislation is to offer customers the best products and services at the most competitive price. To reach the same objective of promoting consumer welfare, they each take distinct approaches. Thus, the goals of the two bodies of law are complemented and strengthened when appropriately applied. On the other hand, the goals of both can be compromised by improper application of either. The purposes of antitrust laws may also be jeopardized if intellectual property owners are prevented from benefiting from inventions by antitrust enforcement. Furthermore, giving out intellectual property rights in an unsuitable or overbroad way could stifle the competition that frequently spurs innovation. To safeguard the interests of both innovators and consumers, IP and competition rules must be implemented simultaneously.

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[14] 448 F.2d 872.

[15] Intellectual Property Rights under the Competition Act, 2002, Advocacy Booklet of Competition Commission of India http://competitioncommission.gov.in/advocacy/PP-CCI_IPR_7_12.pdf accessed 2 March 2014.

[16] Competition Act 2002, s 27.

[17] Competition Act 2002, s 28.

[18] Poorvi & Madhooja, 'Competition Law and Intellectual Property Laws' (2009) Legal Service India http://www.legalserviceindia.com/article/l307-Competition-Law-and-Intellectual-Property-Laws.html accessed 3 March 2014.

DEMANDING SITUATIONS FOR THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS IN ELECTRONIC FORM

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Abstract

The virtual age and the worldwide economy are now strongly related. due to the fact Nineties, the facts technology have accounted for a big percentage of funding and made a sizeable contribution to financial boom, supported through an intellectual belongings device that has furnished powerful safety for digital technology in the new economic system. organizations, people and governments have all profited from the advantages added with the aid of the ever-increasing and broadening use of the internet. The explosion of the internet, and the growth in .com enterprises, has profoundly shaken the financial global and has generated new industrial fashions; they have also affected the felony international by way of posing new issues, inter alia, in terms of the protection of intellectual assets on the net.

one of the key traits of the 21st century global economy is that expertise and intangibles have become more and more critical both as manufacturing factors and as consumption goods. it's far, therefore, hardly ever pretty that intellectual belongings rights (IPRs) have turn out to be a controversial issue. groups undergo greater investments in research and improvement (R&D) and design that allows you to generate and bring to the marketplace new services and products. that is at the root of the traditional anxiety among innovators and imitators, a tension that for lengthy happened often in the countrywide scene and that now has taken a worldwide size. The boom in global change and overseas direct funding, related to the rise of latest actual and potential markets, has in truth improved the propensity of groups to search for earnings associated with their innovations and intangibles also at the worldwide level. The generation of know-how is some distance from being geographically uniformly distributed.

Keywords: Electronic Form, Intellectual Property Rights, Legal Framework, Digitalization, Copyrights

Introduction

The edition of intellectual property regimes to the new economy is needed not most effective to boost incentives to innovate, but also to adequately defend rights embedded in new technologies. New technology may make contributions to facilitating the supply of intellectual property services. As an instance of these tendencies, the current chapter provides works at the interface of intellectual assets and the brand new financial system undertaken in the international alternate business enterprise (WTO) and the sector intellectual assets agency (WIPO). It also notes that traits taking place in other organizations may have an effect on intellectual assets regimes, and net organisation for Assigned Names and Numbers (ICANN). As technology evolve, so must the protection of intellectual belongings rights. The virtual revolution and the emergence of a new economy have generated a continuous strain for the variation of intellectual property regimes to the brand new desires of rights-holders. This

bankruptcy goals to offer with an outline of worldwide and country wide legal trends or projects, which might be precipitated by way of technological changes and relate to intellectual assets[1].

The Sector Extensive Net, Digitization and Migration of Intellectual Property on Internet

in the early Nineteen Nineties, the term internet turned into more and more used to explain the growing community that depended on the NSFNET backbone and more and more, regional extensions of the network had been being constructed via for-income firms. In 1995, NSF introduced that it would withdraw help for the net's spine community. business vendors stepped in to soak up the slack, and the regulations at the net's business use were eventually withdrawn. during the Nineteen Eighties and early Nineteen Nineties the internet enjoyed consistent, sustained growth. In 1989, Tim Berners-Lee of the european organisation for Nuclear studies (CERN) wrote a proposal for organising a international hypertext machine with the recommended name of MESH. It laboured its way from thought to demonstrable prototype to complete fledged machine over the next numerous years. however the lid was in the end blown off the relatively complacent evolution of the net whilst, in the mid-1990s, the sector huge net became available to millions, way to the improvement of user friendly web browsers, starting with Mosaic.16 The Mosaic Communications Corp. (now Netscape), created in March 1994, become staffed with the aid of the original group of developers from the college of Illinois. At that factor, all the previous soul-looking approximately the right makes use of of the net and discretion concerning its commercialization have become moot troubles as the prevailing walls installation through instructional and government efforts were flattened through the incoming stampede of interests from every sector[2].

The Intellectual Assets and Information Age: Shifting Paradigms in Cyber Space

The IPRs gadget has dramatically modified in recent times. As a recent take a look at notes: "the on-going shift closer to a worldwide, expertise-primarily based economy has resulted within the regulation and economics of intellectual assets rights converting extra inside the final five years than inside the remaining centuries. under the original patent machine, society's gain was the advent of a brand new art or era in usa. via the overdue eighteenth century, but, a first-rate change in the economic role of patents befell, moving the emphasis from the creation of finished merchandise into trade to the advent of new and useful records. The "primary gain changed into seen as the technological knowhow in the back of the inventor's patent. The beneficiaries in this view have been now not simply the general public at huge, however rather others skilled inside the technical arts who ought to research something from the patentee's invention.36 intellectual assets regimes aren't best a device for the promoting and protection of innovation and new technology; they can also use new technologies, inclusive of the internet, with the intention to facilitate and enhance the rendering of intellectual belongings offerings, inclusive of rights' control or exchange of applicable records. The WIPO has as a consequence moved towards the usage of digital systems to enhance and make its services greater green. several initiatives can be invoked. First, in March 1998, the WIPO member States authorized the status quo of a software to put in force a global statistics community for intellectual belongings places of work. This program - referred to as WIPO internet - is specifically meant to promote international co-operation via facilitating the virtual alternate of intellectual assets information between intellectual belongings places of work of its member States. functions of WIPO net also consist of: the digital submitting of programs for the registration of patents, emblems and commercial designs; the digital alternate of administrative facts beneath the worldwide protection structures administered by WIPO; the online dissemination of intellectual assets data culminating inside the development of a global-huge digital library. In doing so,

[1] Philippe Cullet, Intellectual Property and Sustainable Development, Lexis Nexis Butterworths, 2005, p.10.
[2] Lionel Bentley, Brad Sherman, Intellectual Property Law, Oxford University Press, New York, 2009, p.1.

WIPO internet strives to promote the modern improvement and alertness of global requirements and recommendations; and beautify the global use of strategic statistics for extra powerful protection and enforcement of intellectual property rights[3].

Copy Rights in E-Form

Copyright regulation protects expressions of ideas instead of the thoughts themselves. Copyright refers to a package deal of exclusive rights vested inside the owner of copyright. there's a near courting between intellectual property and the net, each in phrases of the technical infrastructure of the community and the products which might be traded on it. This migration of intellectual property onto the internet can be visible with recognize to every species of rights. within the area of copyright, good sized numbers of works of literature, film and artwork, and notably computer packages, have already transferred to the virtual environment. The content material this is distributed thru the internet, both lawfully or unlawfully, consists of software program, textual content, song and movies, products which are at the heart of the copyright system. software, protected as a shape of intellectual assets by way of patent and copyright law, underlies the operation of all virtual technology. structures software, including utilities and operating structures, enable our computers to function, even as utilities software program provides us with the applications that make the virtual networks so useful.46 lots software program is included via intellectual belongings law, and its robbery is endemic. Textual works inclusive of books and newspapers are ideally suited to digitization and, although on line publishing of famous literature has had a combined reception with a public conversant in paper and ink, there may be proof of a growing call for for e-books. there has been actual fulfillment in the online availability of technological know-how, era and medical guides, wherein the demand for charge-based totally research has supported the e-publishing enterprise. online newspaper publishing is also prolific, although a lot of those to begin with unfastened websites are actually in search of to introduce subscription access. net logs or journals, that permits people to make their views available to the public without the need for intermediation by massive publishing houses or vendors.[4]

Copyright Issues at the Internet

the invention of the printing press, phonograms, radio and television broadcasting, cable and satellite transmission, videocassette recorders, compact disc (CD) and virtual flexible disc (DVD) era and, now, the net, has affected both the shape and the substance of intellectual belongings rights. Ever adaptable, intellectual belongings has now migrated to the net and is being modified to fit the web environment in various methods. It must be states that intellectual belongings has gained significance on this virtual environment as, increasingly more, enterprise assets are contemplated in intellectual in place of physical belongings. The price of many on line organizations, as an example, can be observed in their substantial databases of purchaser records, which can be the situation of intellectual belongings protection. within the realm of copyright too massive numbers of works of literature, film and artwork, and significantly pc packages, have already transferred to the digital surroundings. software, covered as a form of intellectual property with the aid of patent and copyright regulation, underlies the operation of all virtual technologies. systems software, such as utilities and working systems, enable our computers to perform, at the same time as utilities software program presents us with the applications that make the virtual networks so useful. more and more, numerous newshounds, aspiring writers eminent social figures, academics, actors have engaged in on line publishing to publish 'blogs', net logs or journals, that allow individuals to make their perspectives available to the public without the need for intermediation through massive publishing homes or distributors. similarly inside the discipline of first-

[3] Ibid

[4] Roger Schechter, John Thomas, Intellectual Property: the Law of Copyrights, Patents and Trademarks, West Group Washington, 2003, p.7 (stating the monopoly was granted in 1557).

rate artwork, indigenous craft and artifacts, numerous museums and artwork galleries have digitized their collections and made them to be had for viewing on the internet. One such website online, Art net, lets in users to get right of entry to works by over sixteen, artists and in over , hundred art galleries. interesting questions have arisen as to whether the digital pictures of works of art, themselves, turn out to be derivative works entitled to copyright protection. There are also many artists the use of the digital technology themselves, to create artwork specially for the virtual networks[5].

Patents in Electronic Shape

A patent is an exclusive proper to make, use or promote an invention in a certain united states of america and it is a central authority granted monopoly on an invention. An invention usually is a tool or product or a way of creating a product, although also strategies for processing a sign can be patentable. In now a days's dot com international, many players are spending big sums on obtaining digital commerce "e-commerce" patents. maximum of these patents are a touch bit software patents, a little bit commercial enterprise approach patent, and likely invalid. there may be indeed developing subject among incorrect due to the fact a patent, as soon as issued, is presumed to be legitimate, that's one of the troubles, certainly. fact demonstrates that many e-commerce patents are not objectively valid and are rising from prosecution playing the equal presumption of validity that each one patents enjoy. In fact, many commercial enterprise approach and software program patents that have been issued had been confirmed to be invalid. traditionally it was best viable to reap patents on technological innovations, like mild bulbs, shavers, drug treatments and so on. New economic strategies or methods of selling matters have been frequently explicitly excluded in patent laws. This used to maintain authentic for software as properly, however because of the large boom of the software program enterprise and the growing desire to shield software-associated innovations, it have become possible approximately 10 years ago in maximum Western nations to patent software[6].

Conclusion

Therefore, it may be concluded that in the span of only a few years, the net has advanced from a technical curiosity to an increasingly crucial and pervasive element of present day commercial enterprise and subculture. With its worldwide attain, the net affords intellectual belongings proprietors with a seemingly unlimited marketplace for their works. at the same time, but, the net offers in addition improved opportunities for the ones seeking to infringe the rights of others, at the same time as making the detection and elimination of such infringement extraordinarily tough.

The project that the law has confronted in the recent years is a way to foster the development of intellectual belongings on the net even as preventing its unauthorized exploitation. In fashionable, unauthorized use on the internet of every other's written words, logos, change names, service marks, literary characters, fix, song or sound is a violation of that birthday celebration's intellectual belongings rights, just as it might be in a non-net medium beneath conventional standards of intellectual property law. due to the fact intellectual assets infringement takes region at the net infinite instances every day, but, intellectual property owners have to make hard decisions approximately -the way to allocate resources to discover and prevent infringement. moreover, a number of the most common net infringements concerned an-prepared web sites committed to numerous components of famous way of life, intellectual property owners may also chance alienating their purchasers and/or creating a possible public family members backlash via too aggressively defensive intellectual assets rights. finally, intellectual assets proprietors should be mindful of recent styles of possible intellectual belongings

[5] Jeremy Phillips, Alison Firth, Introduction to Intellectual Property Law, Oxford University Press, New York, 2005 p.19
[6] Id. at p. 457.

infringement that rise from the specific nature of internet generation, consisting of linking, framing, using metatags, spamming, and similar ideas.

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CHANGING DIMESNSIONS OF PUBLIC INTEREST UNDER IP AND CORPORATE SECTOR

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Abstract

The Indian Council of Historical Research has a well-established Documentation Centre and has been preserving the documentation in its many forms. The centre's primary goal is to become more visible in the online information-seeking world to reach the scholars and expand awareness of the collections, services, and their significance. The decision to replace print copies with digital is the documentation centre's preferred choice of preservation surrogate. This article discusses the collection development policy, technologies, challenges, and issues of IPRs of digital preservation etc. Intellectual property is an area of law that has evolved with development of technology. The increasing use of both computers and communication technology has given rise to a digital economy. This new economy is changing the way products are produced, the nature of products and their distribution. Certain distinctive qualities of the digital medium have given rise to challenging legal issues. Thus, intellectual property rights (IPR) have come to be recognized as an important tool for economic dominance. The objective of this paper is to analyse an emerging digital IPR regime with respect to copyright protection. Intellectual property systems should balance the protection and enforcement of intellectual property rights with public interest considerations. Article 7 of the TRIPS Agreement recognises this balance, providing that "the protection and enforcement of intellectual property rights 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." Article 8 allows members to adopt measures necessary to promote the public interest, including to protect public health – so long as those measures are consistent with the TRIPS Agreement. Safeguards and flexibilities built into the TRIPS Agreement provide avenues for WTO members to pursue public interest objectives within the TRIPS legal framework. Since 2017, members have discussed the relationship between intellectual property and the public interest in the WTO TRIPS Council. These discussions have been initiated by certain members. Topics covered under ad hoc agenda items include the promotion of public health through compulsory licensing, regulatory review exceptions and competition law and policy, research, and development (R&D) costs and pricing of health technologies as well as the "three-step test" in the context of limitations and exceptions to copyright.

Keywords: Intellectual Property Rights, Copyright, Emerging Challenges, Changing Dimensions

Introduction

What are Intellectual Property Rights?

Intellectual Property is not a single property but also a bunch of intangible properties.

Intellect

Intellect is an intangible creation of the human mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce, if we expressed it in a tangible form that is assigned certain rights of property. Examples of intellectual property include an author's copyright on

a book or article, a patent on the process to manufacture racing motorcycle design, a distinctive logo design representing a soft drink company and its products etc.

Property

Property identifies those things that are commonly "one's own thing." A right of ownership is associated with that property. One can do anything with that property e.g. buy or sell.

Properties are of two types:

- **Tangible Property** (physically present)
- **Intangible Property** (spiritual form)

Building, land, house, cash, jewellery are a few examples of tangible properties which can be seen and felt physically. On the other hand, there is a kind of valuable property that can't be felt physically as it does not have a physical form. Intellectual property is one of the forms of intangible property. It is above the value of a tangible asset.

Rights

It is certain laws or acts given to that creator for their creation in certain period.

Definition of IPR

According to the World Intellectual Property Organization (WIPO), "Intellectual Property (IP) refers to creations of the mind, such as inventions; literary; and artistic works; designs; and symbols, names and images used in commerce."

Significance of Intellectual Property Rights in modern era

The main purpose of intellectual property law is to give protection, encourage the research innovation and rewarded for their original work. Without IPR, creators and inventors would derive no benefit/ gain from new ideas from their work, and the investment made in that works would never be compensate. It can valuable because it represents ownership and an exclusive right to use, manufacture, reproduce, or promote a unique creation or idea. Like other forms of property, Intellectual Property is also an asset which can be owned, sold, and exchanged.

The importance of intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World Intellectual Property Organization (WIPO). IPRs have assumed significant importance since the signing of the Agreement on Trade Related Intellectual Property Rights (TRIPS) under World Trade Organization (WTO). India has been a World Trade Organisation (WTO) member since 1995.

Rights protected under Intellectual Property

The intellectual property rights are the bunch of rights. Different types of intellectual property rights are there. The major types of Intellectual Property Rights are:

I. Copyrights and Related rights
II. Patent
III. Industrial Design
IV. Trademark
V. Trade Secrets
VI. Geographical Indications

VII. Integrated Circuits layout design
VIII. Protection of new plant varieties etc.

Copyrights and Related Rights

Copyright is generally understood as a right or license free copying. It is a legal right to prevent others from illegal copying. Copyright is a legal right given to creators of literary works (i.e. written works, source codes of computer programs), dramatic works (i.e. scripts for films and dramas), musical works (i.e. melodies), artistic works (i.e. paintings, photographs, architecture, and sculpture etc.), sound recordings, films, television and radio broadcasts, cable programmes and performances etc. (The period of copyright protection covers the life of the author plus 60 years after death).

Copyright protects the expression of ideas: ideas alone are not protected. It means copyright does not cover ideas or concepts, procedures, methods, and information themselves, only the form or way they are expressed.

Patent

A patent is an exclusive right granted by a country for an invention to prevent others from making, using, and selling a patented invention for a fixed period (Once patent is granted, they are valid for 20 years from the date of filing an application, subject to an annual renewal fees). The purpose of this law is to encourage inventions by promoting their protection and proper utilization of invention. ***Example:*** Patent may be a new product, process or design that provides a new way of doing something. The figure shown below is Erik Buell Racing Patents Hybrid Motorcycle Design.

Industrial Design

An industrial design protects the visual design or formal appearances of an industrial object i.e. configuration pattern, colour, and style. It is also known as engineering design. An industrial design focuses on user aspects of products so it used to improve the production as well as marketable. The main purpose of design law is to promote and protect the design element of industrial production. It is also intended to promote innovative activity in the field of industries. It may be two dimensional or three dimensional. Example: Any industrial product is coming under industrial design i.e. different models of cars, motorcycles, bicycles, phones, or any other industrial commodity etc. The figure shown below is an industrial model of bicycle.

Trademark

A trade mark is a visual symbol which may be a word, letters, numerical, name, sign, signatures, symbol, design, or an expression distinguishes products or services provided by an individual or a company. It is popularly called as "Brand name." It is mainly used in commercial sector. Its nature and quality indicated by its unique trademark to help consumers to identify and purchase product or services. The initial registration term is valid up to 10 years; after it may be renewed time to time. Below figures are different trademark of different enterprises.

Geographical Indications

Geographical indications are signs used on certain products and this product possesses certain qualities, reputation which corresponds to a specific geographical location or origin (It may be a country, a region, town, or a village). Most commonly, a geographical indication includes the name of the place of origin of the goods.

Examples: Bordeaux (wine), Darjeeling (tea) and Tuscany (olive oil). Below figure is the geographical indication of Darjeeling tea.

Evolution in India

- Origin of Copyright in India: Copyright law arrived in India in 1847 during the East India Company's rule, with a copyright term of 42 years plus seven post-mortems. Registration was mandatory to enforce rights. In 1957, India enacted the Copyright Act, aligning with the Berne Convention's provisions. This act has seen several amendments, the most recent in 2012.
- Origin and History of Trademark: Trademarks have been in use since the 13th century in England, with bakers being among the earliest adopters. England passed trademark legislation in 1266, distinguishing products through unique marks. Modern trademark legislation began in France in 1857, followed by the Merchandise Act in England in 1862.
- Origin of Trademarks in India: In India, the Trademark Act of 1940, borrowed from the British Trademark Act of 1938, marked the beginning of trademark regulations. Post-independence, the Trade and Merchandise Act of 1958 was enacted. Subsequent amendments led to the Trade Marks Act of 1999, currently in force. This act serves to protect owners from competitors' mark confusion and safeguards the goodwill associated with trademarks.

The 1873 World Exposition in Vienna spurred the need for international protection of inventions, leading to the Paris Convention for Industrial Property and inventions in 1883. The Berne Convention, advocated by Victor Hugo, followed in 1886 to protect literary and artistic works globally. In 1891, the Madrid System for international trademark registration emerged with the Madrid Agreement.

The United International Bureau for the Protection of Intellectual Property (BIPRI) was established in 1893, eventually becoming the World Intellectual Property Organization (WIPO) in 1970. WIPO, a specialized UN agency since 1974, now includes 193 member states and administers 26 treaties, including the WIPO convention.

Emerging Trends and Challenges in IPR

- Biotechnology

The emergence of biotechnology and the patenting of life forms have raised complex legal and ethical questions. In the United States, the patentability of proteins derived from natural sources has been a contentious issue. While the U.S. generally allows the patenting of purified natural products, the UK takes a different stance. This has led to international policy debates over the patentability of natural genes and their availability for scientific research6. One major challenge in biotechnology patenting is identifying the specific point of invention, as many firms work simultaneously on similar proteins or sequences.

Delays in patent approval exacerbate this issue, as competing firms invest years in research without clarity on patentrights7. The sequencing of genes in the human genome project has reversed the traditional process of identifying therapeutic value before sequencing, posing further challenges to patent eligibility. The involvement of living organisms in biotechnology raises ethical and technical questions, such as whether a patent should extend to the progeny of apatented life form8. International organizations like WIPO and UPOV have addressed these issues more comprehensively than the U.S. Congress, offering substantive proposals for intellectual property protection in biotechnology. The European Community has also proposed sui generis protection for biotechnology, but it faces resistance on ethical and environmental grounds.

- Computer Program

Computer programs present unique challenges in intellectual property law. While they are essentially text, they also exhibit behaviour, raising questions about the nature of protection they should receive. The ease of reproducing software, cheap copying, and code translation make copyright protection vital to prevent direct copying.

However, once beyond copying, the rights of software producers become unclear. Should users be allowed to decompile programs for reverse engineering? Should software be protected against other software using similar code or program outlines? Should protection extend to a program's user interface ("look and feel"), novel algorithms, and standards/interfaces associated with programs?

These issues have arisen in an industry more akin to engineering than literature, involving team-based development, constant updates, and the emergence of open systems with evolving standards. Future challenges may arise with programs for parallel processing and artificial intelligence, adding complexity to intellectual property implications. In contrast to biotechnology, which faces complex issues but relatively well-defined statutes, software law relies on copyright, which presents significant challenges. While courts have extended copyright-like protection to structural features and the look and feel of programs, critics argue this provides patent-like protection without requiring patent-quality innovation.

In response to these difficulties, some firms seek software patents, although this area remains opaque and contentious. Software's eligibility as patentable subject matter is debated, with the relevant innovation often residing in the program or algorithm itself, rather than its embodiment or application. Various countries have explored their legal approaches, with Japan excluding program languages, rules, or algorithms from protection, and the European Community adopting asui generis directive with specific rules, including challenges related to program interfaces. Overall, software lawgrapples with complex questions and an ill-adapted statutory framework, suggesting the need for a sui generis approach rather than relying solely on copyright.

- Integrated Information Network

The integration of data networks, exemplified by services like Prodigy, CompuServe, or Lexis, presents unique intellectual property challenges. These networks grant computer access to a vast array of information sources, from published data to real-time financial data, with the potential for enormous growth. While the costs of distributing and searching for information on these networks approach zero, the expense of creating the information remains high. Two major intellectual property issues emerge. First, defining the rights held by the network itself, particularly in protecting the complex software necessary for searching, linking, and translating data across databases.

Questions arise about whether such software should receive distinct treatment and how far intellectual property law should go in safeguarding a network from undesirable uses. The second issue involves protecting the information within databases. As network computer capabilities advance, databases become more sources of information than forms of expression. For instance, human language material may be automatically translated by the network, blurring the line between information and expression.

Copyright law precedents, such as Cable/Home Comm. Co. v. Network Prod. Inc10 provides some guidance but also raises questions about a network's control over the manipulation and combination of its content. Further complications arise from evolving technologies that enable more sophisticated computer-based analysis of text, challenging the boundary between information and expression.

The copyright system, which may not adequately address these evolving issues, poses significant challenges for both software and databases. Unlike the software domain, where the National Commission on New Technological Uses of Copyrighted Works (CONTU) provided guidance, data

networks have no such extrajudicial analysis, leaving U.S. courts to grapple with these intricate problems independently. The European discussions about the copyrightability of interfaces offer some insight into this evolving landscape, which could significantly impact the global information industry's structure.

- Artificial Intelligence

AI-related inventions and creations raise significant intellectual property rights (IPR) challenges. The patentability of AI inventions is a key concern due to their complexity and categorization difficulties. To secure apatent, an invention must be novel, non-obvious, and useful. AI inventions often blur these criteria, leading to uncertainty. Another IPR issue is copyright protection for AI-generated works. Copyright typically applies tooriginal and creative works, but when AI entirely generates content, ownership becomes unclear. If AI is considered a rights holder, issues of infringement and enforcement arise. However, treating AI as a legal entity for such matters is impractical. Accountability is a pressing concern when AI infringes on third-party rights.

In copyright cases, providing access to protected work becomes easier. Transparency is essential, especially if AI systems hold IP rights as trade secrets, hindering transparency and responsibility in decision-making. The challenge lies in maintaining transparency when AI involves multiple data sources, dynamic development, andopaque elements, both for technological and legal reasons12. Addressing these issues requires thoughtful adaptation of intellectual property laws and a deeper understanding of AI's role in the creative and inventive processes.

Blockchain technology, characterized by encrypted and linked blocks, has a dual relationship with intellectual property (IP). IP safeguards blockchain, while blockchain enhances the IP regime's strength. In recent years, there has been a surge in patent applications related to blockchain technology, with a notable contribution from Indian applicants filing 39 out of 112 published applications at the Indian Patent Office. Blockchain's attributes immutability, security, efficiency, and federation can be leveraged across the IP lifecycle, including registration, licensing, contractual agreements, and enforcement.

Blockchain's potential applications in IP include:

- Creation of IP: Blockchain can establish evidence of first inventorship, creatorship, or first use in trade, reducing litigation and identifying rightful owners.
- Transmission of Data on Blockchain for IP Rights: Filing data stored on the blockchain can provide strong evidence for "First-to-File" regimes, ensuring data integrity.
- Synchronized Search Databases: Blockchain can synchronize internal and external search databases, aiding patent examiners in anticipation searches.
- Record Keeping and Ledger Maintenance: IP offices can maintain tamper-proof registers using blockchain, ensuring data correctness and real-time updates during rights transfers, with audit trails for verification.
- Collaboration with WIPO: Immutable and traceable blockchain data facilitates collaboration with other IP offices, streamlining processes like the Patent Prosecution Highway (PPH) and information sharing with the World Intellectual Property Organization (WIPO).
- Detecting and Preventing Counterfeiting: Blockchain assists in tracking and detecting IP violations, such as counterfeit goods and fake drugs, by providing evidence of genuineness and enabling robust supply chain tracking.

Conclusion

IPR can generally be concluded as the rights given to persons over the creations of their minds. In the present information age Intellectual Property Right (IPR) is very much important tool. It is safeguard

creators and other producers of intellectual goods and services by granting them certain time-limited rights to control their use. It is a blessing for authors, inventors and any other innovative ideas which can unique for our society particular library professionals are religious duty to protect of this law.

For innovators and creators to properly safeguard their intellectual property, government activities to raise awareness of IPR are essential. IPR concerns become more important as artificial intelligence (AI) advances. To establish clear frameworks for patentability, copyright protection and trade secret safeguards in the context of AI, collaboration among businesses, legislators, and legal experts is crucial. In addition to encouraging innovation, these initiatives will safeguard the rights of artists and innovators, ensuring that IPR continues to adapt and flourish in our quickly changing technological environment.

EVOLUTION OF THE CONCEPT OF INTELLECTUAL PROPERTY AND BUSINESS STUDIES HISTORICAL PERSPECTIVES

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Abstract

The term "ownership" of mental creations, including inventions, literary and creative works, designs, symbols, names and pictures used in trade, is known as intellectual property (IP). A variety of legal protections are available for such "property," the most well-known being patents, utility models, copyright, trademarks, and industrial designs. Innovation is hard to come by in the absence of intellectual property protection. This is because there are no legal safeguards (like exclusive licences) that can be used to keep out non-paying users, or "free-riders," while still allowing full or restricted access to those who do pay for the innovation. As a result, inventors are not motivated to profit from their study findings. In the absence of an intellectual property system, there are limited means of retaliating against "free-riders" who try to misuse or pilfer innovations. On the other hand, IP systems may be overly restrictive and eventually impede innovation. The inventiveness of the businesses engaged in invention creation determines how an IP system is applied. One essential element of healthy innovation ecosystems is the existence of strong IP protections. However, they are merely one of several magnets or enablers that promote innovation. Open source ideas have recently joined them, whereby the original inventor makes their innovation accessible to outside parties in an effort to spur further development. Even "open innovations" are subject to strict usage and development guidelines set by the original organisation.

Keywords: Evolution, Intellectual Property Rights, Tribal, Copyright

Introduction

The legal rights granted to the creator or inventor as an exclusive privilege to preserve his creation or innovation for a set amount of time are known as intellectual property rights, or IPRs. At first, just industrial patents, copyrights, and trademarks although design was once protected by the IPR, its definition has since expanded. IPR is a tool to combat infringement, unauthorised use, and piracy, which advances technology.

Trade secrets and confidential information, which are crucial components of businesses and research and development organisations, are protected by it. Pharmaceuticals and drugs are the combination that need a robust intellectual property system since invention. At the developmental stage, new pharmaceuticals come with all the hazards that go along with them. In this case, scientific knowledge concepts—rather than manufacturing know-how—are what drive competition.

The non-fundamental human rights, or intellectual property rights, are subject to state intervention in order to achieve their requirements. Included in the evolution of the IPR are all legally recognised rights. The expansion of intellectual the assessment of property rights' relevance to human rights has been a topic of controversy.

The IPR states that because traditional knowledge does not fit the requirements for private ownership or protection and security, it is deemed to represent a significant portion of the public regime or domain. The IPR holders, proprietors, or creators have the guarantee monopoly on the use of a product, asset, or research for a predetermined period of time.

The encouragement and stimulation of research and development is made possible by intellectual property rights. This is to safeguard the rights of people and groups, to safeguard their creative concepts and original research, and to enable them to benefit from their diligence, as individual efforts play a crucial role in the advancement and development of mankind.

Intellectual property (IP) gives businesses, people, or other organisations the ability to prevent others from utilising their inventions or names without permission. As a result, it provides investors with a justification for returning their investment, namely in the area of R&D. It promotes the creatives' disclosure, publication, and dissemination, preferring to make their discovery or invention public as opposed to keeping it a secret.

Origin of Intellectual Property Rights

The word "intellectual property" (IP) refers to creations or works of art that are the product of someone's unique inventiveness. In essence, it refers to the rights that result from an Intellectual pursuit in any discipline, including the arts, sciences, and literature, among others. It encompasses the outcomes that come from one's creative imagination. Intellectual property and related rights were not the topic of any international trade discussions prior to the General Agreement on Tariffs and Trade (GATT). There is an extensive past of the Intellectual property is fascinating and incredibly complex. The origins of it date back to 500 BCE, when the Greek kingdom of Sybaris allowed its people to apply for a one-year patent on "any new refinement in luxury." Since then, we can infer that although the aim behind patent, copyright, and trademark laws has changed throughout the ages, they have remained very simple. Europe is where the rules and legal procedures pertaining to intellectual property originated. In the 14th century, when the tendency of patents began, their technological sophistication lagged behind that of England. Nonetheless, it appears that Italy is where the first copyrights were ever established. It was believed that intellectual property regimes originated in Venice. Although the idea of patents is roughly 150 years old, the British Patent System served as the foundation for its original adoption. To encourage creativity and make sure that the innovator can profit from their inventions.

Intellectual Property refers to:

1. Inventions,
2. Innovative designs,
3. Products of human creativity,
4. Identifiers of organizations or their products and services or
5. Unique products that have a geographical attribute.

Types of Intellectual Property

1.Patents: A patent is a document that the government issues in response to an application, usually in order to safeguard the intellectual property rights of novel concepts, ideas, or scientific advancements. The government must receive payments from patent holders on a periodic basis for renewals. As a result, the approved patent is only valid for a short time.

2. **Copyright** – This protects all creative and literary works, such as plays, novels, poems, films, music, architectural designs, images, and so on. In addition to addressing the rights of intellectual creators, it also covers those of creators and inventors, performers, producers, and broadcasters.

3.**Trademarks**: These legally safeguard an individual's creative creations, including colours, sounds, designs, phrases, and symbols. It displays the source of the trademark owner as well as the trade origin. It provides the licensor with the authority to manage authorization, marketing strategies, financial

agreements, and the calibre of his output. They could be awarded independently of patent and know-how licences.

4. **Trade Secrets**: This refers to any organization's systems, procedures, methods, plans, or any type of proprietary information. This is mostly done to give these organisations a competitive edge in the market because they are essential to the expansion of the business.

Infringement and Enforcement

Depending on the kind of intellectual property involved, the jurisdiction, and the circumstances of the violation, intellectual property rights violations—also known as "infringement" with regard to patents, copyright, and trademarks, and "misappropriation" with regard to trade secrets—may violate either civil or criminal law take action.

In 2011, the global trade in counterfeit copyrighted and branded works was valued at $650 billion, making up 5-7 percent of all trade. IP has been taken into mind during the Russian invasion of Ukraine in 2022. Trade sanctions as a means of punishing the aggressor, has been suggested as a way to stop future nuclear-weapons-related aggression wars, and has raised concerns about impeding innovation by withholding patent information.

Patent Infringement

Using or selling a patented invention without the patent holder's, or the patent owner's, consent is usually what constitutes patent infringement. The extent of protection or the breadth of the patented innovation is specified in the granted patent's claims. Many governments allow the use of a patented innovation for research purposes. In the US, there is no such safe harbour unless the research is conducted for strictly philosophical reasons or to collect information for a drug's regulatory approval application. Most cases involving patent infringement are handled in civil law (such as those in the United States), although several countries—such as Argentina, China, France, Japan, Russia, and South Korea—also include infringement under criminal law.

Copyright Infringement

Reproducing, distributing, exhibiting, performing, or creating derivative works without the owner's consent—typically a publisher or other business—is known as copyright infringement. Representing or given by the author of the piece. Many refer to it as "piracy." Even though copyright is generated in the US the moment a work is fixed, the owner of the copyright typically has to register it in order for the holder to receive monetary damages.

In most cases, the copyright holder is in charge of copyright enforcement. The United States, Japan, Switzerland, and the EU signed the ACTA trade agreement in May 2011, but it hasn't gone into effect yet. Its parties are required to impose criminal penalties, such as jail time and fines, for copyright and trademark infringement. They are also required to actively police for infringement. Copyright has restrictions and exceptions that permit restricted usage of protected works without violating the law. The fair use and fair dealing doctrines are two examples of these concepts.

Trademark Infringement

When a party uses a trademark that is confusingly similar to or identical to another party's trademark in connection with goods or services that are the same as or comparable to the goods or services provided by the opposing party. A trademark is protected even in many non-registered nations, however registration offers advantages in terms of legal enforcement. Infringement may be dealt with by criminal law in some jurisdictions as well as through civil lawsuits.

Intellectual Property System in India

The earliest intellectual property protection system was introduced in the form of a historical Venetian Ordinance in 1485. It was followed in England in 1623 by the Statute of Monopolies, which increased the patent rights for technology. Inventions. The United States instituted patent laws in 1760. Most European nations' patent laws were created between 1880 and 1889. The Indian Patent Act was first enacted in 1856 and was in effect for almost 50 years. It was later updated and renamed "The Indian Patents and Designs Act, 1911." Following independence, a comprehensive patent rights bill known as "The Patents Act, 1970" was passed.

Only a few categories of intellectual production were protected by particular statutes; up until recently, only four types were. The copyrights, patents, trademarks, and designs were granted as forms of protection. In India, copyrights were governed by the Trade and Merchandise Marks Act of 1958, the Patents Act of 1970, the Designs Act of 1911, the Copyright Act of 1957, and the Patents Act of 1970. Only a few categories of intellectual production were protected by particular statutes; up until recently, only four types were. The copyrights, patents, trademarks, and designs were granted as forms of protection. The Trade and Merchandise Marks Act of 1958, the Patents Act of 1970, the Designs Act of 1911, the Copyright Act of 1957, and the Patents Act of 1970 all governed trademarks, patents, and designs in India. Following the creation of the World Trade Organisation (WTO) and India's signature of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), numerous new laws were created to protect intellectual property rights. Fulfil your international commitments. Among them were the following: The Designs Act, 1911 was modified by the Designs Act, 2000; the Trade Marks Act, 1999 replaced the Trade Mark Act; the Copyright Act, 1957 saw multiple revisions, the most recent of which being the Copyright (Amendment) Act, 2012; and the Patents Act, 1970 underwent recent revisions in 2005. In addition, new laws were passed that addressed regional indicators and plant varieties. These are known as the Protection of Plant Varieties and Farmers' Rights Act of 2001 and the Geographical Indications of Goods (Registration and Protection) Act of 1999.

Over the past fifteen years, intellectual property rights have grown to a point where they now significantly contribute to the development of economies around the world. Many laws and regulations in this field were reinforced in the 1990s. Nations on their own. The successful conclusion of the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) resulted in improved protection and enforcement of IPRs at the multilateral level, up to the level of solemn international commitment. Stronger intellectual property rights (IPR) protection are thought to provide incentives for inventions and increase the returns on international technology transfer in the context of a global competitive environment.

Copyright Act, 1957

One of the earliest statutes pertaining to intellectual property rights is the Copyright Act of 1957. It has undergone numerous revisions to better reflect international trade and business. The law pertains to individual innovation and upholds the of creative, musical, literary, and cinematographic works as well as sound recordings. For example, it grants the author copyright during his lifetime and for sixty years following his passing. Qualitative work is not necessary to be qualified for registration under this legislation; any original work that shares very little with any other work can be deemed eligible for this purpose.

The author has the right to authorship as well as the restriction that prevents changes to his work without his prior consent when it comes to copyright. Should any changes be made that go against his wishes, they could brought before the court by the writer, who may get an injunction to recoup any damages

and to cease the act right away. Copyright plays a critical role in the digital business. Computer programming was included in the Act in 1984 as literary work in order to preserve and recognise computer programming. However, the later in 1994, a different definition was given for the same.

Nature of Intellectual Property

Rights Over Tangible Property That Are Intangible: Intellectual property (IP) differs from other types of property primarily due to its intangibility. Even if there are numerous significant distinctions between the various types of IP, one element. They have one thing in

common: while intangible assets and intimate connections are tangible objects, they provide property protection over ideas, innovations, signs, and information. Which they are integrated into. When works are used for profit, it enables the creators or owners to profit from their creations.

Ability to sue: Intellectual property is defined by law as an asset that can be owned and managed. The majority of intellectual property is disputed in rights of action that can only be upheld by the parties with the relevant legal authority. Intellectual property is a characteristic. As a result, it is transferable and can be purchased, given as a gift, sold, licenced, entrusted, or pledged. An owner of an intellectual property right (IPR) is entitled to use certain types of property as he pleases, subject to certain limitations. He can also file a lawsuit against anyone who uses his innovation without permission and pursue recompense against real property.

Rights and Duties: Intellectual property (IP) gives rise to both property rights and duties. The intellectual property owner is entitled to carry out specific tasks in connection with his creation. The sole authority to create the work, make Copies of the product, advertising, etc. Preventing other parties from exercising their statutory rights is another negative right. Coexistence of several rights: Depending on a given function, several IPR kinds may coexist. An invention, for instance, might be patented, and the invention photo might be protected by copyright. A layout can be covered by the Design Act's protections, and the design may be included in a trademark. The several intellectual property rights that can coexist are characterised by both significant similarities and variances. For instance, there are similarities between industrial design and patents, copyright and adjacent rights, trademarks and geographical indications, and so forth. Positive rights make up a small portion of intellectual property rights; negative rights make up the majority. Exhaustion of rights: In general, the idea of exhaustion applies to intellectual property rights. Essentially, exhaustion means that following the first sale made by the right holder or by the authority designated by it, the right holder's rights end and he is not allowed to halt the products' continued transportation. Therefore, an IP rights holder cannot stop a physical product from being resold after it has been sold and has IP rights linked to it. With the initial consent, the right expires. This principle is predicated on the idea of free movement of products, which is permitted by the holder of the relevant rights or with their consent. It is not permitted to use the exclusive right to sell products twice in respect to the same products.

Since the right holder has already earned his share by placing goods for the first sale in the market, the right to limit subsequent movements has expired.

Dynamism: Intellectual property rights are always evolving. As Technology is changing quickly in every aspect of human endeavour, and intellectual property is no exception. The scope of intellectual property rights (IPR) is expanding to include new objects and the scope of its preservation is changing to meet the demands of scientific and technical advancement. Plant biodiversity protection, software copyrights, and bio patents are a few terms that highlight recent advancements in the IPR space. There is no doubt about the value of intellectual property and how it is reflected at all levels, including legislative, administrative, and judicial.

Scope of Intellectual Property

Intellectual property has a wide range of applications; it can be classified as either industrial property or copyright using one of two methods. Trade names, trademarks, patents, and inventions are examples of industrial properties. Rights to plant breeding, biodiversity, and other business interests. The exclusive right to utilise intellectual property for the purpose of profiting from an innovation is granted to the owner of a patent.

A novel creation, method, tool, or manufacturing process is what constitutes an invention. While copyright protects the expression of ideas that are distinct from patents, it does not grant you the exclusive right to an idea. Copyright Spans a wide range of disciplines, including software, scientific endeavours, and art and literature. Copyright rules extend to audio-visual works, including music. Copyright protection is in effect for 60 years following the creator's passing. That is to say, a writer's work is protected by copyright for the duration of his life and for 60 years following his passing. In contrast to patent laws, copyright laws do not necessitate the administrative procedure.

If IP Rights are Available for Tribal Tunes, How can one Obtain Them?

In terms of folk and ethnic culture, India is a diversified nation, home to several ethnic, linguistic, and religious groups with hundreds of different origins and lifestyles that have been split apart throughout ages and separated into distinct regions. The idea that in India, folklore is not raw and transient; rather, it is linked to a variety of art forms, mostly those of tribal and ordinary rural people. The existence of hundreds of ethnic groups, each with its own language and dialect, costumes, paintings, mythology, stories, songs, music, dance, and theatre, complicates folklore and its laws. Several common denominators, including economy and community size, are used to simplify this folklore.

Folk arts have experienced a significant return in popularity recently, and in India, unscrupulous businesspeople have exploited folklore forms for financial benefit. These have no connection whatsoever to the beginnings of Exploitative communities, nor do they acknowledge or make financial contributions to the well-being of the communities that their revenues support. This indicates that, despite rules being designed to safeguard Indian folklore, they are not being followed. In response to growing concerns about the intellectual property rights of indigenous knowledge holders, the WIPO programme and the 1998–1999 budget were started.

Conclusion

Intellectual property rights are monopoly rights that give their holders temporal advantages for the sole exploitation of the revenue rights derived from inventions and artistic expression. A must have valid justifications for a the right's proponents offer us three generally acknowledged explanations for why society should allow certain of its members to enjoy such privileges, which serves as justification for the protection of today's interconnected intellectual property rights worldwide. It is evident that managing intellectual property rights (IPR) and intellectual property (IP) requires a variety of skills and approaches that must be in compliance with international conventions, national laws, and best practices. The national perspective is no longer the only one driving it.

Variations in intellectual property rights necessitate distinct approaches to management, planning, and tactics, as well as individuals' involvement with other fields of expertise, including science, engineering, medical, law, finance, marketing, and economics. Rights to intellectual property (IPR) have social, economic, Political and technical ramifications.

Rapid technological advancement, globalisation, and intense rivalry make it necessary to use intellectual property rights (IPRs) including patents, trademarks, service marks, industrial design registrations,

copyrights, etc. commercial secrets. Nonetheless, intellectual property rights are still being violated. Additionally, the government is acting to put an end to them. Laws are in place to guard against intellectual property rights being violated.

LEGAL FRAMEWORK AND POLICY CHALLENGES IN ENFORCEMENT OF IP IN INDIA

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Abstract

India, with a population of over 1.3 billion, holds a significant position as the second most populous country in the world. However, what sets India apart is its immense reservoir of brain power, making it a true "sea of prospective Intellectual Property (IPR)."Over the past few decades, there has been a global recognition of creativity and other intellectual properties as individual properties that can be owned, developed, and transferred just like physical assets. This recognition has paved the way for the emergence of a new asset class - Intellectual Property (IPR).Intellectual property is an intangible asset that cannot be secured by a fence or by having a key. It takes a distinct approach to recognize intellectual property or protect it for individual or social intent. This study explores the challenges hindering the enforcement of intellectual property rights (IPRs) in India, focusing on judicial, administrative, and legislative hurdles. Despite their crucial role in fostering innovation and economic growth, IPR enforcement remains a challenge in developing nations like India. The paper highlights deficiencies in the current legal framework overseeing patents and trade secrets, advocating for comprehensive reforms to address emerging concerns in technology advancement and trade dynamics. Emphasis is placed on recent reforms such as the dissolution of the Intellectual Property Appellate Board (IPAB) and associated procedural delays. Urgent collaborative efforts are needed to strengthen the legal framework, judicial capacity, and administrative procedures, crucial for promoting innovation and economic growth in India.

Keywords: Intellectual Property, Enforcement, Legal Challenges, Indian Legal Framework

Introduction

Intellectual Property (hereinafter referred as IP) is an intangible property which is generated with the help of the human labour, mind, skills and intellect. Due to its origin from the mind itself, this kind of property is called as intellectual property. IP promotes the creativity, innovation, scientific, technological development and so on. To protect the invention, creativity, design, secret, various laws have been enacted such as Patent Act, Trademark Act, Copyright Act and so on and by virtue of these IP laws, many kinds of rights have been provided. The prime focuses of these laws are to protect the invention or creativity from getting violated or misused by the third party. Indian IP Laws are updated and made in compliance with the Agreement on Trade Related Aspects of Intellectual Property Rights (hereinafter referred as TRIPs), 1995. TRIPs has majorly focused upon three things which are Minimum Standard, Enforcement and Dispute Settlement. These three features are the essential characteristics of the TRIPs. TRIPs has obliged its member countries that to follow these things and comply in their domestic laws. The term "Minimum Standard" means that few elements are mandatory for each and every country to comply and implement in their domestic IP laws. These elements are like subject matter, validity period, rights provided to the IP holder and other related things. The term

"Dispute Settlement" means that TRIPs has provided the mechanism/system to resolve the dispute related to TRIPs with the help of the Dispute Settlement Body. Regarding this World Trade Organization has provided the rules which regulate the disputes. The rules are framed under the Dispute Settlement Understanding (DSU).

TRIPS and Enforcement of IP

This paper will emphasize more upon the provisions of 'Enforcement'. The provisions related to the enforcement are provided in the form of civil remedy, criminal measures and administrative procedures. These remedies are provided so that rights can be enforced by the IP holder in effective and efficient manner. Part III of TRIPs deals with the enforcement of intellectual property rights. Under Part III[1], TRIPs has provided various measures which can be taken for the enforcement of IP. From Art 41[2] to Art 61[3], it deals with the enforcement mechanism. Art 41[4]provides the general obligation upon the member countries that they should have law by which effective action can be taken against the infringement and at the same time, it is required to have remedial provisions as well. Art 42[5] lays down guidelines with respect to the procedure and ensures that there should be compliance of principle of natural justice. Art. 43[6] talks about the presentation of evidences which lies in the control of the opposite party and it is the authority of the judicial body to take positive or negative action against the person who is obstructing the procedure. Art 44[7] has provided a very important remedy in the form of the Injunction by which the authority can stop any person or goods from causing infringement of the IP. Art 45[8] provides the remedy of damages for the loss or injury which has been caused to the IP holder. In addition to this, it also empowers the members that to have the provisions with respect to the payment of the attorney fee, recovery of profits and payment of liquidated damages. Art 46[9] lays down the other remedy under which the infringing goods can be disposed off in manner which don't affect the rights of the IP holder.

Art 48[10] is having a system of indemnification of the defendant in cases where the procedure has been abused by the plaintiff. Art 49[11] empowers the members to adopt the administrative procedure if it can provide any civil remedy. Section 3 of Part III by virtue of Art 50[12] has laid down the provisional measures which can be utilized in order to provide the prompt and effective remedy in cases such as prevention of infringement of Intellectual property right or preventing from irreparable loss and others. Further, it has also laid down the procedure for providing the provisional measures. Section 4 has provided the border measures where the custom authority is empowered to take action with respect to the infringing goods. Custom authority may suspend the release of goods in free market. Further from Art 52[13] to 60[14], it has stated about the procedure, remedy and actions. In last, under section 5, Art 61[15]provides criminal procedure which can be taken when there is wilful infringement of intellectual property on commercial scale. It discusses about the imprisonment, fine and penalty which can be imposed upon the infringer.

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[1]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, Part III.
[2]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 41
[3]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 61
[4]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 41
[5]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 42
[6]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 43
[7]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 44
[8]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 45
[9]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 46
[10]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 48
[11]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 49
[12]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 50
[13]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 52
[14]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 60.
[15]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 61.

Legislature Climate and Challenges To Enforcement of IPR

Indian IP laws are well updated and made in compliance with the TRIPs and other relevant international instrument related to IPR. India is having laws with respect to each and every kind of IP such as in order to regulate the invention, we have the Patent Act, 1970, in order to govern the creativity, we do have Copyright Act, 1957, to protect the design, we do have Design Act, 2000. In order to protect the mark, brand, we do have the Trademark Act, 1999. In brief, it can be said that for protecting maximum intellectual property, India is having law regarding that. But the existing updated laws are posing few issues and the same causes a problem in enforcement of IPR.

In order to address the issue of enforcement of IP, this paper will deal with respect to two IP laws issues such as Patent law and Trade Secret Law. The scope of the paper will be limited to Patent Law and Trade Secret law only.

The commercialization of intellectual property in India is hindered by numerous legislative obstacles and limitations, even in spite of certain encouraging advancements. For example, the application and interpretation of patent law can be erratic and uneven, especially when it comes to crucial topics like defining what constitutes patentable subject matter, pre-grant opposition procedures, and rules controlling the issuance of compulsory licenses.

Patent Act, 1970 was enacted to provide the protection to the invention and promote the innovation in India. This Act was developed in light of the recommendations made by the Justice N. RajagopalaAyyangar. This Act was amended majorly three times. First it got amended in the year 1999, secondly got amended in the year 2002 and thirdly in the year 2005. These amendments were made after the introduction of TRIPs in the year 1995.

Challenges in Enforcement of Patent in India

Patentability of Microorganism

The first issue under Patent Act is raised by the section 3[16]. Section 3[17] deals with those kinds of inventions which are not invention at all meaning thereby that these inventions can't be patented. There are a series of inventions such as invention related to computer program, invention based on traditional knowledge, invention based on plant or animal and so on. All these inventions can't be patentable.

Section 3(j)[18] states that animals, plant, seeds, varieties, biological processes for production or propagation of plant and animals can't be patented but microorganism can be patented. This provision is a result of the joining of the Budapest Treaty, 2001 and further

India acquired the position of International Depository Authority in Microbial Type Culture Collection (MTCC) and Gene Bank of the Institute of Microbial Technology, Chandigarh 4th October, 2002.[19] Budapest treaty was enacted to provide the international recognition of the microorganism. It allows for the international deposit of the microorganism for the purpose of Patent procedure. India complied with the Art 27(3)[20]to provide protection to the microorganism but at the same time the term has not been defied in the Act itself and which causes a issue in interpretation of the same. For the first time, in India the patent on microorganism was provided in the case of **Dimminaco A.G v. Controller**[21]. The High Court held that vaccine will be patentable even if it contains the living virus in itself and it will be

[16]The Patent Act 1970, s 3
[17] Ibid.
[18]The Patent Act 1970, s 3(j)
[19]Daksh Dhawan& Divyanshi Saxena,' Conceptual Issues In Patenting Of Life Forms' [2020] 18 Supremo Amicus
[20]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 27(3).
[21]*Dimminaco AG v Controller of Patents and Designs* [2002] I.P.L.R. 255 (cal).

covered under the manufacture. This judgment paved the way for patenting the micro-organism in India. **Monsanto V/S Nuziveedu[22],** in this case the Supreme Court held that the plaintiff was not having a valid patent and hence the genetically modified organism which was granted patent by the authority, is invalid. The plaintiff developed the cotton seeds and for the same the patent was awarded which got challenged by the defendant on the ground that the product is obtained from the nature itself and not human made.

Enforcement of patenting of microorganism is a challenge in India due to these following causes such as the lack of definition or clarity between discovery and invention. Since microorganism are developed in nature itself and as per the basics of patent law and by virtue of section 2(m)[23], the patent is granted for the invention only, thus it creates an issue with respect to the patentability of the microorganism. Under the Patent Act, there is no as such provision which provides concept based definition of discovery and invention of the biotechnology related microorganism.**The issue with respect to the patenting of microorganism arises with respect to the criterion of patenting. As there are three essentials of patent like novelty, inventive step and industrial application. While judging the criterion of novelty, it becomes an issue because microorganisms are already in the existence or in nature, hence it becomes difficult to decide the novelty character of a microorganism. Since, In India there have not been many cases with respect to the patenting of microorganism, due to that the concern of patenting of biotechnology much have not been raised. In U.S. and U.K. there have been series of cases with respect to the patenting of microorganism and these jurisdictions have raised issue with respect to the patenting criteria. These jurisdictions have realized that criteria of inventive step and obviousness require modification because when the statute was made, the advancement in the new era of technology was not expected. Therefore there have been different standards with respect to the criteria of obviousness and the same have created a lot of confusions. These jurisdictions have also observed that standard of inventive step and obviousness is not remaining same for each single case in biotechnology issues.**

Protection to the Computer Software

Section 3(k)[24] states that mathematical or business method or computer program *per se* or algorithms are not patentable. Here the discussion will focus upon only the computer program. It has been a drastic issue whether the computer program should be granted patent protection or some other kind of IP protection to be granted. Current legal IP regime which is protecting the computer program is copyright. Because it is observed that inherent nature of computer program consists of merely mathematical formulas which is accompanied by group of commands to be followed, in order to achieve the goal.[25]There is guideline with respect to the patentability of Computer Related Invention (CRI), 2017 which has ended the test of patentable and non-patentable claims. It has also ended the test or determinants of CRI inventions.

The first issue which is present in current IP law with respect to the computer program is copyright protection because this is not at all strong IP protection to the creation of mind. In modern world of advance technology, the risk of piracy is too much related to software related inventions. The criteria of patent are also satisfied in the case of computer program because the computer program is novel, having inventive step and usefulness as well. In spite of this, it has not been given patent protection. Copyright protects the originality of the idea or expression of an original idea of computer program but at the same time, it is not able to protect the functional aspects of the computer program which is one of the essential parts of computer program. There is a difference between the computer program and

[22] *MONSANTO V NUZIVEEDU* [2004]Civil Appeal No. 6472.
[23] The Patent Act 1970, s 2(m)
[24] The Patent Act 1970, s 3(k)
[25] Swinson J'Copyright or patent or both: An algorithmic approach to computer software protection' [1991]5 Harvard Journal of Law and Technology.

other kind of literary work which is protected under it.[26] Protection of patent is suitable for the protection of functionality of software and it will also prohibit the protection of same software. There is ambiguity and dispute with respect to the interpretation of term *per se* and there is no set rules for interpreting of this term. This means that computer program itself not patentable but when it is integrated with the computer hardware then it can be patentable.

Jurisdictional Issue between CCI and Controller of Patent

It has been a consistent issue between the competition Law regulator namely Competition Commission of India (CCI) and the specific sector regulator such as Telecom Regulatory Authority of India (TRAI) , Insurance Regulatory and Development Authority (IRDA) etc with respect to the jurisdiction. Similarly the debate related to jurisdiction between the Intellectual Property Law and competition law has been in picture. One law states for monopoly whereas the other advocates against the monopolization. This debate has now become more serious because of emergence of new kind of Patent i.e. Standard Essential Patent. Standard Essential Patent (SEP) is set by the standard developer or Standard Setting Organization (SSO). These patents govern the standards which have been incorporated into the standard of technology. For each there are a lot of patents available but SSO decides few patents as a standard for the particular technology and the same is followed by the industries and ousts the competitor as well as patent developers. These patents are granted license on the basis of FRAND terms. FRAND means Fair, Reasonable and Non-discriminatory.

In India there is a conflict of jurisdiction between CCI and Controller of Patent which has raised concern with respect to the enforcement of SEPs. This issue is important to get addressed with the suitable solution soon because many international companies are involving in setting SEPs and many companies in India related to telecom sector are using those SEPs. If this issue is not solved soon, It may affect the international trade also and development of telecom sector as well.Earlier in 2016 the Delhi High Court in the case of *Telefonaktiabolaget* LM *Ericsson (Ericsson) v CCI and Anr*[27], held that jurisdiction of CCI can't be ousted by the Patent Act in the matter of probe related to the anti-competitive agreement and abuse of dominant position. Basically, it made this thing very clear that CCI will supersede over the power of Controller of patent. Subsequently, this judgment was challenged before the Divisional bench of the Delhi High Court. The Divisional Bench of DHC in *Telefonaktiebolaget Lm Ericsson (PUBL) vs. CCI*[28] held that Controller is a competent authority which can decide the reasonableness of the conditions of license agreement and rate of royalty as well. Controller is empowered to do so by virtue of Chapter XVI[29]. Subsequently it was also observed that the Patent Act is competent to decide the unreasonable conditions in agreements of licensing, abuse of status as a patentee, inquiry in respect thereof and relief that is to be granted.[30]

Due to this judgment, there has been now a confusing situation with respect to the jurisdiction i.e. which authority is finally having power to decide the cases which is having issue related to competition and abuse of dominant position. Because there have been earlier judgments where it has been observed by the Court that in order to check the reasonability of the conditions of any licensing agreement related to IPR, the CCI will be having power to decide it.[31]

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[26] B H Hall 'On Copyright and Patent Protection for Software and Databases: A Tale of Two Worlds'[2002]June Paper forGranstrand Volume.
[27] *Telefonaktiabolaget* LM *Ericsson (Ericsson) v CCI and Anr*[2014]W.P.(C) 464
[28] *Telefonaktiabolaget* LM *Ericsson (Ericsson) v CCI and Anr* [2016] LPA 247
[29]Patent Act 1970, chap XVI
[30]MM Sharma 'Debate On Sep Under Frand Terms Revive In India -Ericsson Wins The Second Round Before Delhi High Court - Smartphone Patent Wars Continue In India'[2023]Manupatra.
[31] Amir Khan production v. The Director General [2010] (112) Bom L R 3778

There are several other issues or problems in Patent law which is causing challenges in enforcement of IP or patent rights. The issue such as compulsory license is one of the biggest issue for the U.S..

No Law for the Protection of Trade Secret in India

Trade secret is a kind of intellectual property which is provided on secret information and if the same is having business or commercial value. There is no fixed definition of trade secret in India because there is no specific legislation for the protection of secret information. Trade secret can include the formula, pattern, process, design and so many other things. Trade secret is important to make a business successful. Art 39[32] talks about the protection of undisclosed information. It has provided the conditions of trade secret as well. In India, there is no specific law to deal with the trade secret. India is protecting the trade secret with the help of the other legislation such as Contract Act, Indian Penal Code and few principles of common law. This term has been interpreted by the judiciary as per its own discretion and that has provided a lot of ambiguity with respect to the protection and definition of trade secret. The Indian legislature can take the reference of US law on trade secret i.e. Uniform Trade Secret Act, 1979 and Economic Espionage Act, 1996 and provide the provisions related to civil and criminal liability.In case of violation of trade secret, certain liabilities can be imposed like injunction, returning all confidential and proprietary information, and compensation or damages to the aggrieved party.[33]

The protection of trade secret is important in order to promote the competition in the market, commercial ethics and also ensures the growth of business. If India will have the law on trade secret, it will give an opportunity to the owner that to obtain trade secret protection upon their invention or creativity and that will reduce the burden upon the other intellectual property offices. In India, there is only imposition of civil liability under section 27[34] for the breach of trade secret. In India there is no imposition of criminal liability in case of breach of confidential information. Being a member of TRIPs, India must have done something in order to comply with the minimum standards of TRIPs. The court may also order the party at fault to “deliver-up” such materials.[35]

Judicial/Administrative Challenges

The judiciary can only bring about the effective protection of intellectual property by the interpretation of laws, statutes, and decisions. These rulings and interpretations create a certain kind of law. However, it is crucial that the decision made later on be adhered to consistently. Leading international jurist Archibald Cox accurately stated, "The court... decisions often shape the course of our nation's life," in his book The Court and the Constitution.

Intellectual property rights are protected by laws including the Copyright Act of 1957, the Patent Act of 1970, the Trade Mark Act of 1999, and the Design Act of 2000. The laws mentioned above are not limited to intellectual rights activists; rather, general laws pertaining to lawsuits under the Code of Civil Procedure, complaints for offenses under the Criminal Procedure Code and Indian Penal Code, contract law, and other minor criminal and civil laws cannot be separated from their practice.

Due credit should be given to intellectual property for its contribution to a country's GDP, and infringement must be discouraged. Any violation of intellectual property rights has the potential to result in enormous losses for individuals or the country, losses that may be difficult to quantify, hidden, or even unnoticed.

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[32]Agreement on Trade Related Aspects of Intellectual Property Rights 1995, art 39.
[33]Deepak Gogia&Chakravarty, *Chakravarty's Intellectual Property Law: IPR* (Ashoka Law House 2010).
[34]The Indian Contract Act 1872, s 27.
[35]Parameswaran Narayanan,*Intellectual Property Law* (Eastern Law House 1990)

Judiciary Needs Reformation

When it comes to handling intellectual property, our judiciary needs to be improved. It seems that the concept of intellectual property and all of its implications and facets are unfamiliar to our esteemed justices. This has led to several absurd rulings in this area, which we hope will be overturned shortly.[36] Industry estimates indicate that there are about 600 IPR cases pending in various courts, mostly because there are no particular courts or judges with the necessary training.

Lower courts have seen that social empathy is used more often than laws, statutes, and economic considerations when making decisions in patent and trademark issues. This is a result of lower judiciary members' inadequate knowledge of intellectual property law. Judge sought to be true jump, jerk, and jolt of R&D experienced. They need to receive training in order to comprehend the subtleties of scientific research, technological concepts, and the intricate details of engineering and construction. IP cases, particularly those pertaining to patents, remain lingering for decades due to ignorance. Programs like "pilot programs," even in the Indian judiciary, are necessary. This program was started to teach US district judges to become more knowledgeable about patent cases.

At a World Intellectual Property Day event, Madan Lokur, a former acting chief judge of the Delhi High Court, stated that certain courts had demonstrated their expertise by resolving cases swiftly. However, he noted that about 85% of the rulings are challenged once more, increasing the quantity of IPR cases in higher courts.

IPAB & its Abolition

The Tribunal Reforms (Rationalization and Conditions of Service) Ordinance, 2021, which the Indian government released on April 4, 2021, abolished five distinct appellate tribunals, including the Intellectual Property Appellate Board (IPAB). A system for submitting appeals directly to the high courts was established by the Ordinance. The IPAB was a quasi-judicial organization that was founded in 2003. The establishment of IPAB was intended to guarantee the prompt and reasonably priced administration of justice in IP cases. The Delhi High Court was initially approached by those who were unhappy with the way IPAB was operating. The Court discovered that 3935 cases from all of the IPAB's benches were awaiting decision. The Central Government was not filling the vacancies, which was the cause of the pendency.[37]

The high courts have been given the cases that were pending before the boards, which has increased their backlog and caused a great deal of burden. In addition, the IPAB's influence has diminished due to its dissolution; in addition to proceedings taking longer than expected, the High Court lack the expert staff needed. Unquestionably, this change might have a significant impact on the nation's intellectual property laws.[38]Judge Prabha Sridevan, a former chairperson of the IPAB, feels that the board needed to be eliminated for a number of reasons, including the IPAB's dysfunction, overlapping litigation, the lack of technical expertise, infrastructure limitations, and ongoing lawsuits. Already a great deal of cases are need to be decided by the High Courts, and now that IPAB matters are being transferred, stakeholders are quite concerned. Even though the government intended for the Ordinance to speed

[36]PrernaWardhan, 'Indian Judiciary-Whether Ready for Intellectual Property Right Justice' (2012) https://ssrn.com/abstract=1980112 accessed 06 March 2024

[37]Ferrao, Ranjana, 'Taking Measures without Measurements: Abolition of Intellectual Property Rights Appellate Board' (2021) 61 Indian Journal of International Law.

[38]SaieshaDhawan, 'The Aftermath of Change: The Abolishment of the IPAB and the Establishment of the IPD' (Excelon IP) <https://excelonip.com/the-aftermath-of-change-the-abolishment-of-the-ipab-and-the-establishmeipd/#:~:text=Justice%20Prabha%20Sridevan%2C%20who%20is,on%20the%20functioning%20of%20the> accessed 05 March 2024.

the resolution of IP challenges and streamline the processes, the Ordinance has raised a number of issues and concerns.

First off, unlike IPAB, the High Court will not have a quorum failure or years of inactivity; rather, it will experience a shortage of "technical members." In addition, the judges will rotate on a regular basis. Second, the cases must be resolved within a year according to the Commercial Courts Act. The High Court will be overburdened with cases due to the transfer of IPAB matters, and resolving cases in less than a year will be unattainable. Thirdly, compared to the High Court, the IPAB's process was simpler, less expensive, and less time-consuming. The cost of litigation will undoubtedly leave the victims of IPAB's dissolution with empty pockets. Last but not least, the Ordinance makes no mention of who has jurisdiction over new or ongoing cases.[39]

Issue of the hour

There isn't yet a standardized IP legal structure in India. The removal of a tribunal that has consistently issued significant rulings has made a consistent intellectual property redressal process imperative. The establishment of the IP Division bench by the Delhi High Court has set the groundwork, but where will the other High Courts go from here, or will they create their own system? Uncertainty like this can undoubtedly result in an uneven system for delivering IP justice, which could be fatal to the IP ecosystem as a whole. The negative effects of this decision are not implausible; by conflicting with the government of India's easy-to-do business agenda, the repeal may significantly deter foreign corporations from pursuing economic interests in India.

Even though there has been some progress, it is at risk of being undermined by lack of enforcement in intellectual property rights by the police and courts, a lack of experience with investigative methods, the absence of a centralized agency responsible for enforcing IP laws, and a failure to coordinate efforts at the state and federal levels.

Issues in Commercialization of Patent

The commercialization of intellectual property in India is hindered by numerous legislative obstacles and limitations, even in spite of certain encouraging advancements. For example, the application and interpretation of patent law can be erratic and uneven, especially when it comes to crucial topics like defining what constitutes patentable subject matter, pre-grant opposition procedures, and rules controlling the issuance of compulsory licenses.[40]Opposition to a post-grant patent may result in protracted legal disputes, high costs, and uncertainty, all of which could impede innovation and undermine market stability. While allowing third parties to contest issued patents is meant to improve the quality of patents, post-grant patent opposition can come with a number of difficulties. Protracted legal disputes could result from it, raising expenses for both the patent holder and the challenger. Moreover, it might impede investment decisions and innovation for companies that depend on patented technologies. Furthermore, there's a chance of strategic abuse, in which parties manipulate opposition procedures to their advantage rather than addressing legitimate doubts about the validity of the patent.

Conclusion

India being a developing country is required to have effective & efficient IP laws which can ensure the proper enforcement of IP laws. Proper enforcement of IP laws will affect the international trade with

[39] RK Dewan& Co, 'The gridlock of Copyright disputes in India - Abolition of Appellate Boards' (Lexology, 26 April 2021) https://www.lexology.com/library/detail.aspx?g=e6bbd8f7-c0a5-48be-881c-4e0ea58cf506 accessed 6 March 2024.

[40]U.S. Department of Commerce, 'India-Protecting Intellectual Property' (Trade.gov, 12 January 2024) <https://www.trade.gov/country-commercial-guides/india-protecting-intellectual-property> accessed 5 March 2024

other country and that can have impact upon the economy of the country also. It is noteworthy that strong IP laws attract the trade from the developed countries more. National IP Policy, 2016 has laid down the objectives which focus upon the enforcement of IPR, specialized judiciary, skilled investigating authority and many more. All these objectives are laid down in order to make India more creative and more innovative. The laws related to patent is needed to be revisited in light of the advancement of technology. The laws which were made 50 years ago now needs certain changes so that advancement of technology can be complied and issue related to patentability of software, microorganism and many others can be harmonized. There is need to have settlement with respect to the jurisdictional issue between the CCI and Controller of Patent so that it can be settled that which authority will decide the issue. This uncertainty has caused the delay in decision related to IP litigation. There is also requirement that for left areas of IP, which are not governed by any specific law, needs to governed by certain law and also it can be ensured that India has complied with the TRIPs Agreement as well.

GENDER PERSPECTIVE IN BUSINESS

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Abstract

The gender perspective looks at the impact of gender on people's opportunities, social roles and interactions. Successful implementation of the policy, programme and project goals of international and national organizations is directly affected by the impact of gender and, in turn, influences the process of social development. Gender is an integral component of every aspect of the economic, social, daily and private lives of individuals and societies, and of the different roles ascribed by society to men and women.

Sex refers to the permanent and immutable biological characteristics common to individuals in all societies and cultures, while gender defines traits forged throughout the history of social relations. Gender, although it originates in objective biological divergencies, goes far beyond the physiological and biological specifics of the two sexes in terms of the roles each is expected to play. Gender differences are social constructs, inculcated on the basis of a specific society's particular perceptions of the physical differences and the assumed tastes, tendencies and capabilities of men and women. Gender differences, unlike the immutable characteristics of sex, are universally conceded in historical and comparative social analyses to be variants that are transformed over time and from one culture to the next, as societies change and evolve.

Gender relations are accordingly defined as the specific mechanisms whereby different cultures determine the functions and responsibilities of each sex. They also determine access to material resources, such as land, credit and training, and more ephemeral resources, such as power.

Keywords: Gender Equality, Business, Discrimination, Corporate Engagements

Introduction

For several years now, governments and development agencies have given top priority to gender issues in development planning and policies. Gender equity, concerning resource access and allocation as well as opportunities for social and economic advancement, has been a prominent item on the agendas of all recent international meetings, which have also investigated the basic link between gender equity and sustainable development, defining specific mechanisms and objectives for international cooperation.[1]

The 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro (known as the "Earth Summit") explicitly included gender issues in Agenda 21, its platform statement. The World Conference on Human Rights, held in Vienna in 1993, also made significant progress in recognizing the rights of women and girl-children as an inalienable, integral and indivisible part of universal human rights. This principle was taken up again by the International Conference on Population and Development, held in Cairo in 1994. Discussions focused on gender issues, stressing the empowerment of women for equitable development: "...the objective is to promote gender equality in all spheres of life, including family and community life, and to encourage and enable men to take responsibility for their sexual and reproductive behaviour and their social and family roles." The World Summit for Social Development, held in Copenhagen in 1995, took gender equity as the core strategy for social and economic development and environmental protection. The 1995 Fourth World Conference on

[1] Ibid, p. 106, Strategic Objective H3: Generate and disseminate gender-disaggregated data and information for planning and evaluation.

Women, held in Beijing, reiterated the importance of these new options, drawing up an agenda to strengthen the status of women and adopting a declaration and platform for action aimed at overcoming the barriers to gender equity and guaranteeing women's active participation in all spheres of life. Governments, the international community and civil society, including NGOs and the private sector, were called upon to take strategic action in the following critical areas of concern.[2]

· The persistent and increasing burden of poverty on women;

· Inequalities and inadequacies in, and unequal access to, education and training;

· Inequalities and inadequacies in, and unequal access to, health care and related services;

· Violence against women;

· The effects of armed or other kinds of conflict on women, including those living under foreign occupation;

· Inequality in economic structures and policies, in all forms of productive activities and in access to resources;

· Inequality between men and women in the sharing of power and decision-making, at all levels;

· Insufficient mechanisms, at all levels, to promote the advancement of women;

· Lack of respect for, and inadequate promotion and protection of, the human rights of women;

· Stereotyping of women and inequality in women's access to, and participation in, all communication systems, especially the media;

· Gender inequalities in the management of natural resources and the safeguarding of the environment;

· Persistent discrimination against, and violation of the rights of, the girl-child.

Governments and international organizations were urged to promote the search for, and the dissemination of, information on the main aspects of gender issues, and to encourage the production and dissemination of gender-specific statistics for programme planning and evaluation.

Specific recommendations concerning statistics were formulated. Strategic objective of the Platform for Action states that all statistics concerning individuals should be gathered, compiled, analysed and presented as gender-disaggregated data, mirroring the concerns and issues of women in society.

Gender and Development

Planners and policy-makers must be mindful of the major aspects of socially ascribed gender functions and the specific needs of men and women. If development policies are to be sustainable, they must consider existing gender disparities in employment, poverty, family life, health, education, the environment, public life and decision-making bodies.

1. Poverty

Poverty can be defined as the combination of uncertain or non-existent income and a lack of access to the resources needed to ensure sustainable living conditions. It often goes hand-in-hand with hunger,

[2] UN 1995 Critical Areas of Concern .In Report of the Fourth World Conference On Women Beijing 4-15 September 1995 Chapter III, Item 44, p. 23, United Nations A7CONF.177/20.

malnourishment, poor health, high mortality and morbidity rates, insufficient education and precarious and unhealthy housing.

Studies have revealed an increasing feminization of poverty. Compared with men, the number of women living below the poverty line increased between 1970 and 1980. By 1988, an estimated 60 percent of poor people were women.[7] As well as sexism in the employment sector, contributing factors included the economic restructuring imposed on many countries, government budget cuts and the adoption of neo-liberal economic models. Women have borne the brunt of cutbacks in civil service jobs, social services and benefits. Their workload has increased as welfare structures have broken down, leaving them in sole charge of children and of elderly, ill and disabled people who were previously looked after, at least partially, by the social services sector. While trying to cope with the impact of the crisis of the welfare state, women are also desperately trying to juggle their meager resources. The feminization of poverty is much more visible among female-headed households. In a male-headed household, both the man and the woman contribute to the family's welfare; the man brings in income and the woman, in addition to the goods and services she provides the family, may also seek paid work outside the home.

The indices of even limited studies show that the status of female heads of household with dependent children is comparable to that of older widows living alone - both tend to be poorer than men.

In rural areas, where services and job opportunities are even fewer than in urban areas, poverty is also more acute. The situation is worse for women, who are less likely to have access to production factors, services and resources such as credit, land, inheritance, education, information, extension services, technology and farm inputs, as well as a say in decision-making.

Another reason for the persistence of female poverty is gender vulnerability within the home. When poor families cannot afford to send all of their children to school, parents favour investing in the boy-children, keeping the girls at home to help with domestic work or some income-generating activity.

2. Family life

In all societies women are the prime carers of children, the elderly and the ill, and do most of the domestic tasks.[9] Women's lives are greatly affected by reproduction, which has an incisive and direct impact on their health and on their educational, employment and earning opportunities. In societies where women marry very young and much earlier than men, wives defer more to husbands, and this has a substantial bearing on women's chances of finding paid work and receiving an education.

Growing male migration in search of work has combined with unstable conjugal arrangements to increase the number of female-headed households. There are also more widows then widowers because women tend to live longer and men are more likely to remarry or seek alternative living arrangements. The 1990 censuses showed that 21 percent of Latin American households were headed by women while, in the Caribbean, the figure was 35 percent - the highest of any region worldwide.[10]

A study of three cities in Mexico showed that women spent an average of 56 hours per week on household tasks, while men spent seven hours. The sexes also did different tasks; men mostly shopped and took the children to school and women did the remainder of the work in the home

The differences between female- and male-headed households usually have a bearing on all aspects of family life: the size and composition of the family and how it is run; nutrition; raising children; and available income.[11] A single female head of household has a double responsibility - she must earn a living and, at the same time, run a home.

Whoever bears the family name is usually listed as the head of household. Stereotypically, an adult male is often automatically considered to be the head of the family even when a woman is economically and otherwise responsible for that family. Most female-headed households are, therefore, also one-parent households.

3. Health and nutrition

Biologically, men and women have different health needs, but lifestyles and socially ascribed roles arising from prevailing social and cultural patterns also play a part in the health picture. Men are more likely to be the victims of occupational diseases, accidents at work, smoking, alcohol and other forms of substance abuse. Men[12] have a higher incidence of cancer and of cardiovascular lesions and diseases (the principal cause of male mortality). Women's health risks, which are mainly linked to reproduction, make them more vulnerable during pregnancy to anemia, malnutrition, hepatitis, malaria, diabetes and other illnesses.

Women's life expectancy is greater than men's - women live for five to 12 years longer than men in Europe, North America and some countries of Latin America. There are a number of hypothetical explanations for this phenomenon, ranging from genetics and biology to environmental and social causes, but no definitive consensus has yet emerged.[13] Female life expectancy does not conform to this pattern in some Asian countries, where cultural norms and religious precepts restrict women's access to medical care and health services.

Despite the generally poor provision of health services, particularly in rural areas, there has been a surge of interest in the family planning, maternal and child health care services offered by NGOs, which have benefited mothers, children of both sexes and adult women in general.

Custom, social constraints and lack of resources also give rise to gender disparities among children in terms of nutrition, morbidity and mortality. The two sexes do not receive equal attention and care; the tendency being to favour boy-children. Males are also fed more and better.

Because food production in the rural zones of many countries is largely carried out at home by women, their own and their families' nutritional status would benefit from women having greater access to the agricultural credit, technology and services necessary for increased productivity.

4. Education:-

"Education" here is taken to mean "schooling", as the word has connotations far beyond mere formal instruction.

The increasingly competitive labour market demands ever-higher levels of education. People without it are at a growing disadvantage.

At the same time, there is broad consensus that education can, in times of change, move marginalized, excluded people into the mainstream. Despite this, socio-cultural barriers and prejudices that restrict women's access to education persist in a number of societies.

More women than men are illiterate; and the lower a country's literacy rate, the wider the gap between the two sexes. The United Nations Educational, Scientific and Cultural Organization (UNESCO) estimates that 41 percent of women in developing countries are illiterate, compared with 20 percent of men. In some countries, the illiteracy rate of rural women between the ages of 15 and 24 years is twice to three times that of women in urban areas.[15] Girls leave school earlier, especially in rural areas where

they are needed to help with domestic and productive work. The lack of transport or of schools located near the home widens the literacy gap by directly affecting girls' school attendance, as parents tend to worry about the personal safety of their daughters. In some societies, rigid cultural patterns and social rules restrict women's movements outside the home.

In some parts of the world, such as the Caribbean and western Asia, the number of women enrolling in institutes of higher learning is increasing, sometimes even exceeding male enrolments. However, the chosen fields of study differ greatly. Cultural traditions, prejudices, stereotypes and family reluctance frequently result in the exclusion of women from the scientific and technical fields, inducing many to opt for the more "feminine", but less remunerative and less promising careers - a choice that aggravates segregation in the job market.

5. The environment:-

The impact of environmental degradation is gender-differentiated in terms of workloads and the quality of life; women are the first to be affected by the depletion of natural resources. In rural areas in most developing countries, women are responsible for the daily management and use of natural resources, as well as providing for the family by raising food crops, gathering forest products and fetching wood and water. Widespread and growing deforestation and the drying-up of water sources force women to range ever further afield, spending more time and energy in producing and finding essential commodities and making it even harder for them to engage in more productive, more lucrative activities.

A series of case studies by the United Nations Population Fund (UNFPA) to evaluate the impact on women of environmental degradation revealed the increasing difficulty of finding fuel and water. [3]Environmental degradation caused by poorly managed and utilized waste products and pollutants can have a disproportionate impact on women, who seem to be more susceptible to the toxic effects of certain chemicals. The health risk is even higher among the lower-income strata of the population, who tend to live near industrial urban areas, or among rural people living near fields that are sprayed from the air.

Consumption patterns and industrial production in developed countries are very detrimental to sustainable development, natural resources and people everywhere. Global warming, the shrinking ozone layer and reduced biodiversity are some of the better-known effects of environmental degradation.

In many countries the lives of rural people are wholly dependent on the availability of natural resources. Both men and women overexploit natural resources in a struggle for survival in which soils are depleted, wildlife, plant and marine resources destroyed, and the quality of water downgraded. Environmental degradation is most keenly felt by the most vulnerable members of the community and those who rely heavily on nature's bounty. For this reason, gender disparities in natural resource management and participation in policy-making must be clearly understood.

The public and policy-making spheres

Gender inequality is a persistent feature of the public and policy-making spheres. Women continue to be under-represented in governments, legislative bodies and many other crucial sectors affecting public opinion, such as the mass media, the arts, religion and culture. Worldwide, there are only 16 countries

[3]See UNFPA. 1995. *State of World Population 1995*. New York. For data on women with respect to water and fuel scarcity, see also op. cit., footnote 6.

in which more than 15 percent of ministerial posts are held by women, and in 59 countries there are no women ministers at all.[17] Although women have the right to vote in nearly every country in the world, there are very few women in government; in 1994, only 10 percent of the world's parliamentary deputies were women

6. Constraints In Development Policies

Studies by FAO and other institutions show that policies adopted in various parts of the world to promote sustainable development and regulate access to productive resources and services, such as land, water, technology, research, training and financial resources, have not always been successful in reducing rural poverty and increasing food supplies. Such policies have, indeed, often had a negative impact. Two reasons for this have already been made clear: women agricultural producers have been left out of the equation; and many development policies and projects do not take gender issues into consideration.

The lack of gender-disaggregated data has probably been the main constraint to serious consideration of women's real role in agriculture. Such data would help to enlist women's full participation in the formulation of rural development and food security strategies. In addition, gender-disaggregated data would illuminate gender-differentiated impacts on food and cash crop production, financial management and supervision, and the storage and sale of agricultural products.

7. Land rights

FAO studies have shown that insecure rights to landownership and use are a crucial, gender-based barrier to enhancing women's agricultural productivity and income. Secure land rights encompass the rights to lease public land and use community-owned property, and not just the right to own private property. Women would certainly make better use of land to which they had some sort of guaranteed rights, as such rights would help and encourage them to make the correct long-and short-term input and management decisions and achieve higher yields.

Women have had limited access to land nearly everywhere throughout history. Even agrarian reform or resettlement programmes have failed to solve this problem - indeed they have aggravated it by allocating land to the head of the family, who is presumed to be a man. Those responsible for the design and execution of such programmes have paid little attention to the question of who is really responsible for the household or productive unit.

In addition, the modernization of agriculture has often led to whole populations being moved off the best land to make room for cash crops, making once self-sufficient farmers dependent on getting food from other sources. In contrast, however, agrarian reform in some countries, such as Thailand, China, Nicaragua, Malaysia and Cuba, has led to changes in systems that once relegated women to a subordinate position in family food production. Many women have also organized themselves to claim access to collectively owned land.

Limited access to land is still a major constraint to women's full participation in rural development. The Beijing Platform for Action underlined this aspect as a direct cause of female poverty. Among the options for eradicating poverty, it urged governments to implement policies to promote women's access to and control over land, and to reform legislation that deprived women of the right to own and inherit land.

8. Water distribution

Water policies and programmes frequently restrict women's rights to the use and sustainable management of water, despite the important role they play in water management. In rural areas, where fetching water can take all day, women are responsible for providing it to the family unit. Water is needed for food preparation, drinking, personal hygiene and watering the garden and livestock. Women cannot afford to waste a drop of it. They know the local sources of good drinking-water, which they have to fetch, store and manage. They recycle it for washing and watering, maximizing water use and keeping it as clean as possible. They have acquired real expertise in water management, and consideration and recognition of this is crucial to the success of water conservation programmes and policies.

Despite this, agricultural sector policies tend to favour monocropping for cash over the crop diversification that is typical of (and essential to) rural food production. One feature of this approach is that little attention is paid to small-scale irrigation and water supply systems that are appropriate to small farmers. The needs, as well as the water management expertise, of the men and women in this subsector are overlooked.

In many cases, water is monopolized and channeled, and rivers and streams are diverted for commercial irrigation, depriving many small settlements and farm plots. Drainage systems are built and cause water supplies to become polluted with pesticides and other contaminants. Water is wasted, and no thought is given to recycling this resource, or even using it in a rational way.

Decisions regarding the scheduling of water in irrigated zones tend to be made without women's on-farm and home activities being taken into account. The exclusion of women from water management and irrigation projects is a key factor in the frequent failure of both water and poverty alleviation projects.

Conclusion

The principal causes of the growing concentration of poverty and food insecurity among rural women and their families are:

· Limited access to inputs and to social, agricultural and commercial services;

· Unemployment or underemployment and unequal pay and work opportunities;

· Exclusion from or restricted participation in decision-making processes aimed at enhancing agricultural productivity and natural resource management;

· Unfavourable or discriminatory legislation.

The Plan formulated three stragetic objectives designed to solve these problems, improve living standards, achieve a satisfactory level of food security, eradicate poverty among rural women and their families and secure sustainable development.

Strategic objective 1: To promote gender-based equity in the access to and control of productive resources.

FAO action to achieve these objectives is centred on: ·

· Promoting policies, programmes and projects that improve rural women's access to and control over productive resources, inputs and services; ·

· Undertaking research and action programmes to identify the legislative and policy changes needed to achieve gender equity in all sectors; ·

· Providing guidance and technical assistance to countries that are reorienting their agricultural policies, and reducing institutional barriers to women's access to land, capital, credit, extension, research, training, markets and producers' organizations.

Strategic objective 2: To increase women's participation in decision- and policy-making at all levels.

FAO action to achieve this objective is centred on: ·

· Fostering awareness of the need to promote the participation and leadership of women in local, regional and national decision-making bodies; ·

· Promoting the establishment of data exchange networks and ensuring that rural women's interests are represented in international and national policy-making; ·

· Supporting research, consultation and communication to ensure that women are considered as agents of change and not the passive beneficiaries of plans, projects and programmes.

Strategic objective 3: To promote a reduction in rural women's workloads and enhance their opportunities for remunerated employment and income.

FAO The Food and Agriculture Organization (FAO) is a specialized agency of the United Nations leading international efforts to defeat hunger. FAO's goal is to achieve food and security for all and make sure that people have regular access to enough high-quality food and lead active, healthy lives. Action to achieve this objective is centred on: ·

· Improving the production and dissemination of gender-responsive statistics so as to recognize and enhance the unpaid work of rural women, gain a better understanding of the situation of rural men and women, and supply appropriate data for policy-making, planning and project formulation; ·

· Supporting initiatives to address policies and practices that reinforce rural women's employment in food production, agriculture, forestry and fisheries; ·

· Facilitating the utilization of productive and domestic labour-saving technologies; ·

· Enhancing rural women's income-generating opportunities and access to agricultural education and more lucrative agricultural occupations.