

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# **INTERFACE BETWEEN HUMAN RIGHTS AND INTELLECTUAL PROPERTY RIGHTS**

AUTHORED BY - GAYATRI K. MAGIMATH<sup>1</sup>

## **Abstract**

The relationship between Human Rights and Intellectual Property Rights (IPR) has become an important subject of discussion in contemporary legal and policy debates. Human rights are fundamental rights and freedoms inherent to all individuals, recognized and protected under international instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Intellectual Property Rights, on the other hand, are legal rights granted to creators and innovators to protect their creations, inventions, artistic works, and designs. These rights aim to encourage creativity, innovation, and economic development by granting exclusive control over intellectual creations for a limited period.

The interface between human rights and intellectual property arises because both frameworks seek to protect important interests of individuals and society. Article 27 of the Universal Declaration of Human Rights highlights this connection by recognizing the right of everyone to participate in cultural life, enjoy the benefits of scientific progress, and also the right of authors to protection of the moral and material interests resulting from their scientific, literary, or artistic productions. Thus, human rights law recognizes the need to protect creators while also ensuring public access to knowledge, culture, and scientific advancements.

However, conflicts may arise when the enforcement of intellectual property rights restricts the enjoyment of certain human rights. For instance, strict patent protection on medicines can affect the right to health by making essential drugs expensive and inaccessible to the public, particularly in developing countries. Similarly, excessive copyright restrictions may limit the right to education and access to information. These situations demonstrate that while IPR promotes innovation and rewards creators, it must also be balanced with broader human rights considerations.

---

<sup>1</sup> Smt Gayatri K. Magimath, Assistant Professor, Sri Siddeshwar Law College, Vijayapura, Karnataka

**Key words:** Human Rights, Intellectual Property Rights, Right to Health, Rights to Education, Access to Medicines, Public Interest, Innovation, Creativity, Cultural Rights, Knowledge Sharing, Copyright, Patents, Trademarks, Traditional Knowledge, Biodiversity Protection.

## I. Introduction:

Human Rights and Intellectual Property Rights (IPR) are two important areas of modern legal systems that aim to protect human dignity and promote social development. Human rights are fundamental rights that belong to every individual by virtue of being human. These rights are recognized in international instruments such as the United Nations Charter and the Universal Declaration of Human Rights (UDHR), which guarantee rights like the right to life, health, education, and cultural participation.

Intellectual Property Rights, on the other hand, provide legal protection to creators and innovators for their inventions, literary works, artistic creations, and designs. International protection of IPR is mainly governed by agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), administered by the World Trade Organization.

The interface between human rights and intellectual property rights arises because both aim to promote human welfare but sometimes come into conflict. For example, strong patent protection may restrict access to essential medicines, affecting the human right to health. At the same time, protecting intellectual property encourages innovation and creativity, which ultimately benefits society.

Therefore, balancing the protection of creators' rights with the protection of fundamental human rights is essential. This relationship highlights the need for legal frameworks that ensure both innovation and the fulfilment of basic human rights for all people.

## II. Research Methodology:

This research adopts a doctrinal and analytical methodology to examine the interface between human rights and intellectual property rights. Primary sources such as international treaties, constitutional provisions, and judicial decisions are analyzed to understand the legal framework governing both rights. Secondary sources including books, research articles, reports, and scholarly journals are also reviewed to provide academic perspectives. The study

compares the objectives of human rights, particularly the right to health, education, and access to knowledge, with the protection provided by intellectual property laws. The research further evaluates conflicts and balances between these rights to determine how legal systems ensure both innovation protection and human welfare.

### **III. Research Hypothesis:**

This research hypothesizes that there is a significant interface between human rights and intellectual property rights (IPR), where both areas of law interact to promote social welfare, innovation, and human dignity. The study assumes that while intellectual property rights aim to protect the interests of creators and inventors, they must also be balanced with fundamental human rights such as the right to health, education, and access to knowledge. It further hypothesizes that excessive protection of intellectual property may sometimes restrict the realization of basic human rights, especially in developing countries. Therefore, an effective legal framework is required to harmonize intellectual property protection with human rights obligations, ensuring equitable access to medicines, technology, and cultural resources while still encouraging creativity and innovation in society.

### **V. Research Questions:**

- What is the relationship between human rights and intellectual property rights?
- How do international laws balance these two rights?
- Can intellectual property protection affect access to basic human rights?
- What role do courts play in resolving conflicts between them?
- How can both rights be harmonized effectively?

### **VI. Human Rights Instruments Reference to Intellectual Property Rights:**

Human rights instruments play an important role in shaping and regulating intellectual property rights (IPR). Human rights are the basic rights and freedoms that belong to every individual, while intellectual property rights refer to the legal protection given to creators for their inventions, literary works, artistic works, designs, symbols, and innovations. The relationship between human rights and intellectual property is significant because both aim to protect human creativity, dignity, and development.<sup>2</sup>

---

<sup>2</sup> United Nations, Universal Declaration of Human Rights 1948, Article 27,

One of the most important international human rights instruments is the Universal Declaration of Human Rights (UDHR). Article 27 of this declaration clearly explains the connection between human rights and intellectual property. It states that every person has the right to freely participate in the cultural life of the community, enjoy the arts, and share in scientific advancement and its benefits. At the same time, it also recognizes the right of authors and creators to the protection of their moral and material interests resulting from their scientific, literary, or artistic works. This provision highlights the balance between public access to knowledge and protection of creators.<sup>3</sup>

Another important human rights instrument is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 15 of this covenant protects the rights of individuals to benefit from scientific progress and cultural development. It also ensures that creators receive recognition and protection for their intellectual contributions. This covenant emphasizes that intellectual property rights should promote human welfare, education, and cultural participation.<sup>4</sup>

In the field of intellectual property law, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) is another important instrument. It was adopted by the World Trade Organization (WTO) in 1994. TRIPS establishes minimum standards for the protection and enforcement of intellectual property rights among member countries. Although TRIPS mainly focuses on trade and economic interests, it must also be interpreted in a way that supports public health, education, and social welfare.<sup>5</sup>

The World Intellectual Property Organization (WIPO) also plays a crucial role in promoting intellectual property protection worldwide. WIPO works with various countries to develop treaties and policies that encourage innovation while respecting cultural diversity and human rights.<sup>6</sup>

However, there is sometimes tension between intellectual property rights and human rights. For example, strict patent protection on medicines may make life-saving drugs

---

<sup>3</sup> World Intellectual Property Organization, *What is Intellectual Property?* WIPO Publication, Geneva.

<sup>4</sup> World Intellectual Property Organization, *WIPO Intellectual Property Handbook, Policy and Use*, Geneva.

<sup>5</sup> Laurence R. Helfer, "Human Rights and Intellectual Property, Conflict or Coexistence?" *Minnesota Journal of Law Science and Technology*.

<sup>6</sup> World Intellectual Property Organization, *Convention Establishing the World Intellectual Property Organization*, 1967.

expensive and inaccessible to poor people. This may affect the right to health. Similarly, excessive copyright protection may restrict access to education and knowledge. Therefore, international human rights instruments emphasize the need to balance private rights of creators with the public interest.<sup>7</sup>

## **VII. Negative Impacts of the Protection of Intellectual Property Rights on Human Rights:**

The protection of Intellectual Property Rights (IPR) is intended to encourage creativity, innovation, and economic development by granting exclusive rights to creators and inventors. However, excessive or strict protection of intellectual property rights may sometimes have negative impacts on human rights. When intellectual property laws are implemented without proper balance, they may restrict access to essential resources such as medicine, education, and information.<sup>8</sup>

One of the major concerns is the impact of patents on the right to health. Patent protection often gives pharmaceutical companies exclusive rights to produce and sell medicines for a certain period. This can lead to high prices for life-saving drugs, making them unaffordable for poor and developing countries. As a result, people may not receive necessary treatment, which affects their basic human right to health. The right to health is recognized in the International Covenant on Economic, Social and Cultural Rights, which emphasizes access to medical care for all individuals.<sup>9</sup>

Another negative impact is related to the right to education and access to knowledge. Strict copyright laws may limit the availability of books, academic journals, and educational materials, especially in developing countries. When educational resources are expensive or restricted, students and researchers may find it difficult to obtain the information they need for learning and research. This can hinder intellectual growth and limit educational opportunities.<sup>10</sup>

The protection of intellectual property rights can also affect cultural rights. Many traditional communities possess valuable knowledge about medicine, agriculture, and

---

<sup>7</sup> United Nations, International Covenant on Economic, Social and Cultural Rights, 1966, Article 12 (Right to Health) and Article 15.

<sup>8</sup>Paul Torremans (ed.), *Intellectual Property and Human Rights*, 2nd ed (Kluwer Law International 2008).

<sup>9</sup>World Trade Organization, *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)*, 1994.

<sup>10</sup> World Health Organization, *Public Health, Innovation and Intellectual Property Rights (WHO 2006)*.

biodiversity. Sometimes corporations patent products based on this traditional knowledge without proper recognition or compensation to the local communities. This practice, often called biopiracy, can exploit indigenous knowledge and violate the cultural rights of those communities.<sup>11</sup>

Another issue is the digital divide and restrictions on information sharing. Copyright laws may limit the free flow of information on the internet, restricting creativity, research, and innovation. Over-protection may prevent people from accessing scientific knowledge, cultural works, and technological developments that could benefit society as a whole.<sup>12</sup>

International agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights set minimum standards for intellectual property protection across countries. However, critics argue that these standards sometimes prioritize commercial interests over human welfare. Therefore, governments must ensure that intellectual property laws are implemented in a way that respects and protects fundamental human rights.<sup>13</sup>

In conclusion, while intellectual property rights are important for encouraging innovation and protecting creators, excessive protection can negatively affect human rights such as the right to health, education, culture, and access to information. A balanced approach is necessary to ensure that intellectual property laws promote both innovation and the well-being of society.<sup>14</sup>

### **VIII. Patent in regards to Human Rights in Indian Context:**

Patents are a significant form of intellectual property rights that provide legal protection to inventors for their inventions. A patent grants the inventor exclusive rights to make, use, sell, or distribute an invention for a limited period, usually twenty years. In India, patent protection is governed by the Patents Act, 1970, which aims to encourage innovation while also safeguarding public interest. However, the relationship between patents and human rights in India is an important issue because patent protection can sometimes affect fundamental human rights such as the right to health, access to medicines, and social welfare.

---

<sup>11</sup> World Intellectual Property Organization (WIPO), Intellectual Property and Traditional Knowledge (WIPO Publication, Geneva).

<sup>12</sup> Vandana Shiva, *Biopiracy: The Plunder of Nature and Knowledge* (South End Press 1997)

<sup>13</sup> Convention on Biological Diversity (CBD) 1992, which recognizes the rights of indigenous communities over traditional knowledge and Biodiversity.

<sup>14</sup> Peter Drahos and John Braithwaite, *Information Feudalism, who Owns the knowledge Economy?*

The right to health is considered an essential human right under Constitution of India, particularly through Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. The Supreme Court of India has interpreted the right to life broadly to include the right to health and access to medical treatment. In this context, patent protection on pharmaceutical products may sometimes create challenges because patented medicines are often expensive and inaccessible to poorer sections of society.<sup>15</sup>

India has tried to balance patent protection with human rights through several legal provisions. One important safeguard is compulsory licensing, which allows the government to permit other manufacturers to produce a patented product without the consent of the patent holder in certain circumstances, such as public health emergencies or when the patented medicine is not available at an affordable price. A well-known example is the compulsory license granted in 2012 by the Controller General of Patents, Designs and Trade Marks to an Indian pharmaceutical company to manufacture a cheaper version of a cancer drug originally patented by Bayer. This decision helped make the life-saving drug more affordable for Indian patients.<sup>16</sup>

Another important feature of the Indian patent system is Section 3(d) of the Patents Act, which prevents the patenting of minor modifications of existing drugs unless they show significant improvement in therapeutic effectiveness. This provision was highlighted in the famous case of Novartis AG v. Union of India, where the Supreme Court rejected the patent application of the pharmaceutical company Novartis for a modified cancer drug. The Court held that granting such patents could lead to “evergreening,” where companies extend monopoly rights without genuine innovation. The judgment was widely appreciated for protecting access to affordable medicines and promoting public health.<sup>17</sup>

At the same time, patent protection is also important for encouraging research and

---

<sup>15</sup> Constitution of India, Article 21 – Right to Life and Personal Liberty, interpreted by the Supreme Court to include the right to health and medical care.

<sup>16</sup> Consumer Education and Research Centre v. Union of India, (1995) 3 SCC 42 – The Supreme Court recognized the right to health as a fundamental right under Article 21.

<sup>17</sup> The Patents Act, 1970 (India), Sections 84–92 – Provisions relating to compulsory licensing in public interest and public health emergencies.

Natco Pharma Ltd. v. Bayer Corporation, Compulsory Licence Decision (2012), Controller General of Patents, India – allowed manufacture of a cheaper generic version of the cancer drug Sorafenib (Nexavar).

The Patents Act, 1970, Section 3(d) – prevents patenting of minor modifications of known drugs unless they show enhanced therapeutic efficacy.

development. Pharmaceutical companies invest large amounts of money in developing new drugs and technologies, and patent protection provides an incentive for such innovation.<sup>18</sup> Therefore, India must maintain a careful balance between protecting inventors' rights and ensuring that the public can access essential medicines.<sup>19</sup>

International agreements also influence India's patent laws. The Agreement on Trade-Related Aspects of Intellectual Property Rights under the World Trade Organization sets minimum standards for patent protection. However, the agreement also allows countries like India to use safeguards such as compulsory licensing to protect public health.<sup>20</sup>

## IX. Case Law's with respect to Human Rights and Intellectual

### Property Rights:

The interface between Human Rights and Intellectual Property Rights (IPR) has been addressed in several important judicial decisions in India and internationally. These cases mainly deal with issues such as access to medicines, right to health, freedom of expression, cultural rights, and protection of innovation. Some relevant case laws are as follows:

1. *Novartis AG v. Union of India*: The Supreme Court of India rejected the patent application of Novartis for a cancer drug (Glivec). The Court applied Section 3(d) of the Patents Act, 1970 and held that minor modifications of existing drugs cannot be patented. This judgment protected public health by ensuring access to affordable medicines.<sup>21</sup> 2] *Bayer Corporation v. Natco Pharma Ltd.*: This case confirmed India's first compulsory license for the cancer drug Nexavar originally patented by Bayer. The court allowed Natco Pharma to manufacture a cheaper version, promoting the right to health and access to medicines.<sup>22</sup> 3] *Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.*: The Supreme Court discussed compulsory licensing in copyright law and emphasized balancing the rights of copyright owners with public interest and freedom of access to cultural works<sup>23</sup>. 4]. *Indian Performing*

---

<sup>18</sup> *Novartis AG v. Union of India*, (2013) 6 SCC 1 – Supreme Court rejected the patent application for the modified cancer drug Glivec, preventing evergreening of patents.

<sup>19</sup> *Novartis AG v. Union of India*, (2013) 6 SCC 1 (Supreme Court of India).

*Bayer Corporation v. Natco Pharma Ltd.*, Compulsory Licence Decision,

<sup>20</sup> Controller General of Patents, Designs and Trade Marks, India (2012).

<sup>21</sup> *Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.*, (2008) 13 SCC 30 (Supreme Court of India)

<sup>22</sup> *Indian Performing Rights Society Ltd. v. Eastern Indian Motion Pictures Association*, AIR 1977 SC 1443.

<sup>23</sup> *R.G. Anand v. Deluxe Films*, (1978) 4 SCC 118 (Supreme Court of India).

*The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services*, 2016 SCC OnLine Del 5521 (Delhi High Court).

*Rights Society Ltd. v. Eastern Indian Motion Pictures Association*: This case dealt with copyright ownership in film music and clarified the rights of composers and producers. It emphasized protecting creators' moral and economic rights while considering public access to creative works.<sup>24</sup> 5]. *R.G. Anand v. Deluxe Films*: The Court discussed copyright infringement and the protection of artistic expression. It highlighted the importance of protecting creativity while ensuring that ideas themselves remain free for public use.<sup>25</sup> 6.] *University of Oxford v. Rameshwari Photocopy Services*: This case concerned photocopying of academic books for students at University of Delhi. The court allowed limited photocopying for educational purposes, supporting the right to education and access to knowledge.<sup>26</sup> 7]. *Roche Products Inc. v. Cipla Ltd.*: The dispute involved a patent for a lung cancer drug. The court considered public interest and affordability of medicines while deciding patent infringement issues, emphasizing the balance between patent rights and the right to health.<sup>27</sup> 8]. *Microsoft Corporation v. Yogesh Papat.*: This case dealt with software piracy and protection of software copyrights. The court emphasized the need to protect intellectual property while ensuring lawful use of technology.<sup>28</sup> 9. *Amarnath Sehgal v. Union of India*: The court recognized the moral rights of artists under copyright law. It held that destruction of an artist's work violates the author's rights and dignity, which are closely linked to human rights and cultural rights.<sup>29</sup> 10]. *Eldred v. Ashcroft*: This case examined the extension of copyright terms under U.S. law. The court discussed the balance between intellectual property protection and freedom of expression.

### Suggestion:

The interface between Human Rights and Intellectual Property Rights (IPR) is an important area of legal research, especially in the context of globalization, innovation, and social justice. One research suggestion is to examine how intellectual property protection affects the realization of fundamental human rights such as the right to health, right to education, and right to culture. For example, strong patent protection may encourage innovation but can also limit

---

<sup>24</sup> R.G. Anand v. Deluxe Films, (1978) 4 SCC 118 (Supreme Court of India).

The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services, 2016 SCC OnLine Del 5521 (Delhi High Court).

<sup>25</sup> Universal Declaration of Human Rights, 1948, Article 27 (protection of authors' rights and public access to culture).

<sup>26</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, Articles 12, 13 and 15.

<sup>27</sup> World Trade Organization, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994.

<sup>28</sup> Paul Torremans (ed.), Intellectual Property and Human Rights, 2nd edn (Kluwer Law International 2008).

<sup>29</sup> The Chancellor, Master and Scholars of the University of Oxford V. Rameshwari Photocopy /services, Delhi High Court, 2016

access to essential medicines, educational materials, and technology, particularly in developing countries.

Another research direction is to analyze the balance between protecting the interests of inventors and ensuring public welfare. International agreements such as the TRIPS Agreement under the World Trade Organization (WTO) provide strong protection for intellectual property, but they must also be interpreted in light of international human rights principles. Researchers can study how countries, especially India, implement these obligations while safeguarding public interest.

Further research can focus on judicial interpretations and landmark case laws where courts have attempted to harmonize human rights with intellectual property protection. Comparative analysis between different countries can also provide insights into best practices.

Finally, scholars may explore policy reforms that ensure intellectual property laws promote innovation while respecting human dignity, equality, and social justice. Such research will help create a balanced legal framework that supports both creativity and human rights protection.

### **Conclusions:**

The interface between Human Rights and Intellectual Property Rights (IPR) is an important area of legal research because both aim to protect human dignity and creativity, yet they sometimes conflict. Human rights focus on ensuring access to knowledge, health, culture, and development, while intellectual property rights protect the interests of creators and innovators. A research study in this field can examine how international legal frameworks balance these interests.

One research suggestion is to analyze international instruments such as the Universal Declaration of Human Rights and the TRIPS Agreement to understand how they address both protection of creators and public access. Another approach is to study the impact of patents on access to essential medicines, particularly in developing countries. Researchers may also examine how copyright laws influence the right to education and cultural participation. Comparative analysis of national laws and landmark judicial decisions can provide deeper insights. Overall, the research should focus on finding a balance between protecting innovation and safeguarding fundamental human rights.