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# 1. Human Rights in the Perspective of Intellectual Property Rights in India

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## **Abstract**

Protection of Intellectual Human rights and Human Rights are two different field which are separate in their nature. It is required to assess their interrelations as now a days there are number of cases of infringement or violation of Intellectual Property Rights of the original author or the person who had originated. The concept of human rights is not new to us but its relation with various incidences of infringement of the rights need to be examined.

The moral aspect and significance of for human rights has increases so much that human rights are now described as global human rights. They have formed a new identity and standards for civilization. Like labour force and raw materials were importance resources in the first industrial revolution, intellectual property is termed as a central place in information or knowledge based economy in which creative works, cultural heritage, and scientific knowledge are turned into property has significant human-rights implications. The concept of human rights as we are aware the rights inherit by the person since its birth on this wonderful earth irrespective of caste, creed, culture, race and culture. When the question of right arises violation is obvious and this research paper will discuss the relevance of human rights in perspective with Intellectual Property rights in this respect.

**Key words:** Protection, rights, creative works.

## **Introduction**

Intellectual property management explore the balance between moral and economic rights of creators and inventors with the broad interests and requirements and demands of the society. A maximum satisfaction to the inventor is the benefit of his invention to the society at large as far as patent and copyrights are concerned. The Constitution of United States, written in 1787, for example, vests the Congress with the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to

**Null Hyp:** There is relevance between Human Rights and Intellectual Property Rights.

**Alternate Hyp:** There is a conflict between Human Rights and Intellectual Property.

### **Methodology**

Review of literature involve reviewing of past research paper on work done related to said topic by the earlier researcher and review of past judicial decisions adopted by Hon'ble Indian Court of Justice in respect of Consumer Protection. The present research study is an empirical study, based on secondary sources of information from the various journals, books, newspapers, and Website. The facts and figures are collected by interviewed the respective authorities to prove or disprove the hypothesis set.

### **Scope and Relevance between Human Rights and Intellectual Property:**

Firstly, it considers whether intellectual property rights are human rights, Article 27 of the Universal Declaration of Human Rights, Article 15(1) the International Covenant on Economic, Social and Cultural Rights, and the report of the High Commissioner on Human Rights on the impact of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Secondly, it looks at the tensions between intellectual property rights and the right to health, specifically in relation to whether a rights-based approach to health can be used as a mechanism to facilitate access to medicines, re-examining Article 25 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social and Cultural Rights.

It is something of a mystery why intellectual property and human rights have remained unknown to each other for so long. No less than human rights law's foundational document – the 1948 Universal Declaration of Human Rights – protects authors' "moral and material interests" in their "scientific, literary or artistic production[s]" as part of its catalogue of fundamental liberties. In the mid-1960s, a similar clause was included in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has now been ratified by nearly 150 nations.

It was the human rights community that first took notice of intellectual property law. Two events caused intellectual property to be placed on the agenda for human rights lawmaking. The first was an emphasis on the neglected rights of indigenous peoples. The second was the consequence of linking of intellectual property and trade through the TRIPS Agreement. Both of

these events exposed the serious normative deficiencies of intellectual property law from a human rights perspective.

### **The Trips Agreement And Human Rights**

The second area of intersection between human rights and intellectual property relates to the TRIPS Agreement that is Trade Related Aspects of Intellectual Property Rights adopted in 1994 as part of the World Trade Organization. TRIPS adopted relatively high minimum standards of protection for all WTO members, including many developing and least developed states whose previous commitment to patents, copyrights, and trademarks was not in existence. Non-compliance with the treaty can be challenged through the WTO's hard-edged dispute settlement system, in which rulings by WTO panels and Appellate Body are backed up by the threat of trade sanctions. The U.N. human rights system turned its attention to TRIPS in 2000 just when the treaty's transitional periods were expiring for developing countries. In August of that year, the Sub-Commission on the Promotion and Protection of Human Rights adopted Resolution 2000/7 on Intellectual Property Rights and Human Rights. The resolution adopts an antagonistic approach to TRIPS.

- Intellectual property system must respect the freedom crucial for scientific research and creative activity;
- Intellectual property rights related to science must promote scientific progress and access to its benefits;
- Intellectual property system must encourage the development of international contact and cooperation in the scientific and cultural fields;
- Intellectual property rights must be logical and should not be inconsistent with the understanding of human virtue in the various international human rights instruments and the norms defined therein.

### **Conclusion**

There is always a controversy within the World Trade Organization WTO and WIPO regarding the status and working of Intellectual Property Rights in India and trade and intellectual property negotiators should embrace rather than resist opening up these organizations to human rights influence. Permitting greater opportunities for exploring a human rights perspective on intellectual property issues to make strong to legitimize of these organizations and to promote the integration of an increasingly dense thicket of legal rules governing the same

broad subject matter. Such merger will also allow national and international lawmakers and NGOs to turn to the more pressing task of defining the human rights-intellectual property interface with coherent, consistent, and balanced legal norms that extends both global economic welfare and individual rights. Hence we can prove the hypothesis that the infringement of intellectual property rights is nothing but a violation of the human rights of the creator.

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