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Intellectual Property Rights and Human Rights: Conflict or Harmony?

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ABSTRACT

Can the exclusive privileges of intellectual property coexist with the expansive promises of human rights, or will they be in constant conflict? The paper explores the subtly controversial overlap or boundary between Intellectual Property rights (IPRs) and Human rights. These two previously accepted spheres are now showing considerable overlap in the globalized, knowledge-based economy. Although IPRs are meant to promote innovation and safeguard the interests of the creators, they sometimes result in hindering access to necessary items like life-saving drugs, educational materials, and cultural assets which are the fundamental things that are safeguarded by the human rights regime, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). This paper sheds light on real-world legal struggles and policy controversies through the exploration of various important conflicts, such as those between pharmaceutical patents and the right to health, copyright limitations and freedom of expression, as well as biopiracy and indigenous rights.

Notably, the study also covers mechanisms of harmony: TRIPS flexibilities, fair use doctrines, compulsory licensing, and participatory policymaking show how reconciliation between these spheres might work. India, South Africa, and the international access-to-medicines movement case studies highlight the way courts, civil society, and international institutions manoeuvre around these tensions. Furthermore, this paper presents the debate on a balanced and human rights-centered approach to the governance of intellectual property, advocating for the creation of flexible legal systems that favor both innovation and the interests of the people, thereby promoting inclusive and equitable global growth.

Keywords: Intellectual Property Rights, Human Rights, Access to Medicines, Traditional Knowledge, Freedom of Expression, Legal Harmonization

I. INTRODUCTION

Intellectual Property Rights (IPR) safeguard the results of human creativity, innovation, literary and artistic works, symbols, and designs through legal mechanisms such as patents,

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copyrights, trademarks, trade secrets, and geographical indications.² They are aimed at protecting the moral and material interests of creators and inventors and stimulating creativity and economic development.³ According to the seminal international instruments, e.g. Paris and Berne Conventions, and as managed by WIPO, IPR has a two-fold purpose, i.e., to reward creators as well as to participate in societal development.⁴

Human Rights, on the other hand, are universal rights which everyone is entitled to, and are written down in various documents like the *Universal Declaration of Human Rights (UDHR, 1948)*⁵ And legally binding treaties like the *International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966, effective 1976)*.⁶ The ICESCR places duties on states to guarantee rights to health, education, cultural life, science, and an adequate standard of living-housing and food. Interestingly, these frameworks overlap: *Article 27 of the UDHR*.⁷ and *Article 15 of the ICESCR*⁸ Specifically mention the right of creators to the protection of their moral and material interests in scientific, literary, or artistic productions, reconceptualizing IPR as a well-established human right.⁹

A. Research Objective

The paper seeks to critically look at the overlapping of Intellectual Property Rights (IPR) and Human Rights and to interrogate whether they are in conflict or can be reconciled. It attempts to describe both terms in the context of international laws, find points of tension, especially in the sphere of public health, education, and cultural rights, and examine flexibilities in international treaties and national laws, such as exceptions under TRIPS.¹⁰ And mandatory licensing.¹¹ The study explains, through global case studies, how courts and policymakers are

² IPLawmastery, The Role of IP in International Human Rights Law Explained, <https://iplawmastery.com/ip-in-international-human-rights-law> (last visited June 15, 2025).

³ Chelsea Bodimeade & Felicity Deane, Evolving Theory of IP Rights: Promoting Human Rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights, 18 J. Intell. Prop. L. & Prac. 603 (2023), <https://doi.org/10.1093/jiplp/jpad056>.

⁴ Mahima Kejriwal, Intellectual Property Rights as Human Rights: An Analysis, 2 Indian J. Integrated Rsch. L. 1 (2022), <https://ijirl.com/wp-content/uploads/2022/05/INTELLECTUAL-PROPERTY-RIGHTS-AS-HUMAN-RIGHTS-AN-ANALYSIS.pdf>.

⁵ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (Dec. 10, 1948).

⁶ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976).

⁷ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71, art. 27 (Dec. 10, 1948).

⁸ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, art. 15 (entered into force Jan. 3, 1976).

⁹ International Covenant on Economic, Social and Cultural Rights, Wikipedia, https://en.wikipedia.org/wiki/International_Covenant_on_Economic_Social_and_Cultural_Rights (last visited June 15, 2025).

¹⁰ Zachary A. Hale, Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection, UALR Ctr. for Appl. Rsch. on Soc. Change Blog (Apr. 4, 2018), <https://ualr.edu/socialchange/2018/04/04/patently-unfair>.

¹¹ Vedansh Batwara, An Analysis of Interrelationship Between Human Rights and Intellectual Property Rights, 3

striking a balance between these interests, and it concludes by offering reforms to a human rights-based IP regime that would safeguard both IP innovation incentives and access by the public to necessities.¹²

B. Research Methodology

This paper utilizes a strictly doctrinal research approach. Doctrinal research, known as library-based research, primarily involves the study and analysis of legal statutes, case law, and academic writings. This method is ideal for exploring the theoretical and conceptual dimensions of law. It systematically presents legal doctrines and principles. In doctrinal research, primary sources include statutory materials, judicial decisions, and authoritative literature. Secondary sources like commentaries, articles, and legal summaries are also essential. The research process entails identifying, gathering, and critically evaluating these sources to assess existing gaps and propose reforms within the international legal framework.

II. LEGAL FRAMEWORK

Intellectual Property Rights (IPR) and Human Rights fall under the international human rights instruments and IP treaties. Article 27(2) of the Universal Declaration of Human Rights (UDHR),¹³ Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁴ acknowledge the rights of creators, but protect the access of everyone to culture and the scientific advantages.¹⁵ Cultural rights of minorities are safeguarded by the International Covenant on Civil and Political Rights (ICCPR), Article 27.¹⁶ The international standards concerning IP are established by key IP treaties, such as the Paris and Berne Conventions, as well as the TRIPS Agreement (1994), and the public health flexibilities, such as compulsory licensing, are declared in the Doha Declaration (2001).¹⁷ General Comment No. 17 of the UN Economic and Social Council in 2006 called attention to the balancing of IPR and socio-economic rights. More recent instruments such as the UNDRIP, the Nagoya

Pen Acclaims 1 (2018), <https://www.penacclaims.com/wp-content/uploads/2018/09/Vedansh-Batwara.pdf>.

¹² Free, Prior and Informed Consent, Wikipedia, https://en.wikipedia.org/wiki/Free_prior_and_informed_consent (last visited June 15, 2025).

¹³ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71, art. 27(2) (Dec. 10, 1948).

¹⁴ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, art. 15 (entered into force Jan. 3, 1976).

¹⁵ Audrey R. Chapman, A Human Rights Perspective on Intellectual Property, Scientific Progress, and Access to the Benefits of Science, WIPO Doc. WIPO/UNHCHR/IP/Pnl/98/5 (1998), https://www.wipo.int/edocs/mdocs/tk/en/wipo_unhchr_ip_pnl_98/wipo_unhchr_ip_pnl_98_5.pdf.

¹⁶ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 27 (entered into force Mar. 23, 1976).

¹⁷ Declaration on the TRIPS Agreement and Public Health, WTO Doc. WT/MIN(01)/DEC/2 (Nov. 14, 2001), https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm.

Protocol, or the WIPO Traditional Knowledge Treaty (2024)¹⁸ can help preserve the rights of Indigenous people and ensure fair benefit-sharing.

III. INTERNATIONAL TREATIES AND BODIES

At the very top, there are the Universal Declaration of Human Rights (UDHR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), which assure the simultaneous acknowledgment of the rights of creators and the interests of society in culture, science, and education.¹⁹ Article 27 UDHR already considers the moral and material interests of creators, and Article 15 ICESCR also covers scientific advancement and the right to participate in culture.²⁰ Tensions between IPR and human rights are regularly considered by the Human Rights Council (UNHRC) - currently headed by Jurg Lauber (2025) - and its Special Procedures, especially in the fields of health and cultural access.²¹

The Paris and Berne Conventions established minimum standards on the IPR front, which are strengthened by the TRIPS Agreement.²² Operated through the WTO. Importantly, the Doha Declaration of 2001 clarifies that flexibilities of the TRIPS system, such as compulsory licensing and parallel imports, are essential in protecting public health and access to affordable medicines.²³ WIPO is the UN agency with 188 member states, serving as the main negotiation and implementation platform of IP standards, policy advice, and capacity-building.²⁴

IV. INSTITUTIONAL DEVELOPMENTS & NORMATIVE DIALOGUE

The 2025 Committee on Development and IP (CDIP) of WIPO (a part of its Development Agenda)²⁵ Works on aligning IP policy with public health, gender equality, climate change, and sustainable development objectives.²⁶

¹⁸ WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, World Intell. Prop. Org., <https://www.wipo.int/en/web/traditional-knowledge/wipo-treaty-on-ip-gr-and-associated-tk> (last visited June 15, 2025).

¹⁹ Cora True-Frost, *Harmony and Dissonance at the Intersections of International Human Rights Law*, Mich. J. Int'l L. (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3848129.

²⁰ Volker Heins, *Human Rights, Intellectual Property, and Struggles for Recognition*, 9 Hum. Rts. Rev. 213 (2008), <https://doi.org/10.1007/s12142-007-0042-2>.

²¹ Free, Prior and Informed Consent, Wikipedia, https://en.wikipedia.org/wiki/Free,_prior_and_informed_consent (last visited June 15, 2025).

²² TRIPS Agreement, Wikipedia, https://en.wikipedia.org/wiki/TRIPS_Agreement (last visited June 15, 2025).

²³ Doha Ministerial Declaration (World Trade Organization), <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/2790/download> (last visited June 15, 2025).

²⁴ Peter K. Yu, *Intellectual Property and Human Rights 2.0*, 53 U. Rich. L. Rev. 1375 (2019), <https://lawreview.richmond.edu/files/2019/05/Yu-534-master.pdf>.

²⁵ WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, Wikipedia, https://en.wikipedia.org/wiki/WIPO_Treaty_on_Intellectual_Property,_Genetic_Resources_and_Associated_Traditional_Knowledge (last visited June 15, 2025).

²⁶ WIPO Development Agenda News 2025, World Intell. Prop. Org., <https://www.wipo.int/ip->

Indigenous and cultural rights, the ground-breaking WIPO GRATK Treaty (2024), seeking to combat biopiracy and protect traditional knowledge and genetic resources, heralds a new era in the protection of indigenous and cultural rights. Moreover, the next Intellectual Property Judges Forum (October 2025), organized by WIPO, will foster intellectual property judicial dialogue on challenging, cross-border issues.²⁷

V. INSTRUMENTS OF LEGAL INTERPRETATION

Treaty text interpretation is guided by the Vienna Convention on the Law of Treaties (VCLT, 1969), Articles 31-33.²⁸ This stresses textual, contextual, and teleological interpretation. Other specialized interpretive approaches, including human rights-informed or feminist treaty reading, contend that greater IP law interpretive integrity must be brought to bear on the greater public interest and equitable result.²⁹

Joint interpretive statements and subsequent practice (under VCLT Article 31) are also becoming more prominent, although there is still debate as to their binding nature.³⁰ Overall, this lively institutional environment and emerging tools of treaty interpretation allow a reading of IPR that prioritizes human rights, equity, and the common good.³¹

VI. AREAS OF CONFRONTATION

1. Health & Access to Medicines Right to Health

The patent exclusivity has been a major barrier to necessary drugs. The patent office of India disapproved the patent of dolutegravir, almost ten years after the first legal challenge, overturning efforts to prolong patent duration through "evergreening" and bringing low-cost generic manufacture and competitive pricing of the treatment.³² In April 2024, Colombia granted its first compulsory license on dolutegravir - patent barriers were broken to permit generic imports targeting children, facilitated by UNAIDS.³³ The voluntary licensing of

development/en/agenda/news/2025/index.html (last visited June 15, 2025).

²⁷ World Intellectual Property Organization, United Nations Global Marketplace, <https://www.ungm.org/Shared/KnowledgeCenter/Pages/WIPO> (last visited June 15, 2025).

²⁸ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf (entered into force Jan. 27, 1980).

²⁹ Sissy Katsoni, Feminist Treaty Interpretation in International Law, Yale J. Int'l L. (Jan. 26, 2025), <https://yjil.yale.edu/posts/2025-01-26-feminist-treaty-interpretation-in-international-law>.

³⁰ Fuad Zarbiyev, Are Joint Interpretive Agreements Conclusive? The International Law Commission and the Black Box of Authentic Treaty Interpretation, ESIL Reflection, vol. 13, no. 3 (2024), <https://esil-sedi.eu/esil-reflection-are-joint-interpretive-agreements-conclusive-the-international-law-commission-and-the-black-box-of-authentic-treaty-interpretation> (last visited June 15, 2025).

³¹ Volker Türk, High Commissioner Launches Appeal for 2025: "Human Rights Must Be One of the Top Priorities Across the Globe", Off. U.N. High Comm'r for Hum. Rts. (Jan. 30, 2025), <https://www.ohchr.org/en/statements-and-speeches/2025/01/high-commissioner-launches-appeal-2025-human-rights-must-be-one-top>.

³² Dolutegravir, Wikipedia, <https://en.wikipedia.org/wiki/Dolutegravir> (last visited June 15, 2025).

³³ Gilead Signs Deals With 6 Generic Drugmakers to Sell HIV Drug in Low-Income Countries, Reuters

lenacapavir³⁴ By Gilead to six generic manufacturers in 120 low-income countries was celebrated, although the exclusion of upper-middle-income countries was criticised by civil society, as South Asian jurisprudence has strongly favoured access over green patents.

2. Right to Food & Traditional Knowledge

The Traditional Knowledge Digital Library (TKDL) developed by India helps guard against biopiracy of indigenous healing wisdom (e.g., haldi, neem) by making patent examiners across the world aware of the prior art Navdanya, the NGO founded by Vandana Shiva, operates community seed banks to safeguard local biodiversity and the rights of farmers.³⁵ Such biodiversity laws as the Nagoya Protocol and UNDRIP require prior informed consent and benefit-sharing, which are crucial to aligning national and global IPR regimes with human rights requirements.

3. Expression and Cultural Participation

Restrictive copyright laws may restrain creativity and cultural sharing, and indigenous peoples are requesting refined IP protection. This increasing need is represented in the recent work on traditional cultural expressions by WIPO.³⁶

4. Right to Education & Access to Knowledge

Academic publishing behind paywalls is still slowing down research. The Open Science mandate of the White House is one reaction to this obstacle, and the chief scientist of Australia has recommended a national digital library to democratise access.³⁷

On top of this impetus, India is launching its own “One Nation, One Subscription” scheme (January 2025), which will give researchers free access to 13,000 journals,³⁸ But there are questions over the sustainability of such a solution, which places research outcomes at the mercy of publisher decisions.³⁹

(Oct. 2, 2024), <https://www.reuters.com/business/healthcare-pharmaceuticals/gilead-signs-deals-with-6-generic-drugmakers-sell-hiv-drug-low-income-countries-2024-10-02>.

³⁴ Lenacapavir, Wikipedia, <https://en.wikipedia.org/wiki/Lenacapavir> (last visited June 15, 2025).

³⁵ Traditional Knowledge Digital Library, Wikipedia, https://en.wikipedia.org/wiki/Traditional_Knowledge_Digital_Library (last visited June 15, 2025).

³⁶ Liberated Wisemonk, An Important Topic: India Must Patent Its Indigenous Plants and Invest in Research to Secure Its Future, Reddit, r/india (Mar. 2025), <https://www.reddit.com/r/india/comments/1j6qc82> (last visited June 15, 2025).

³⁷ Julia Kostova, Paywalls Are Slowing the Quest for a Cancer Cure, Time (Dec. 19, 2023), <https://time.com/6548840/open-science-journal-paywalls/>.

³⁸ bbyfog, India Takes Out Giant Nationwide Subscription to 13,000 Journals, Reddit, r/RegulatoryClinWriting (Dec. 2024), https://www.reddit.com/r/RegulatoryClinWriting/comments/1h6b7w4/india_takes_out_giant_nationwide_subscription_to/ (last visited June 15, 2025).

³⁹ Caitlin Cassidy, Australia's Chief Scientist, Takes on the Journal Publishers' Gatekeeping Knowledge, The Guardian (Mar. 9, 2024), <https://www.theguardian.com/australia-news/2024/mar/10/australias-chief-scientist-is->

VII. BALANCING IPR AND HUMAN RIGHTS

1. Legal Regime Flexibilities

TRIPS Agreement has several flexibilities, like, public interest exceptions, compulsory licensing, and parallel imports that enable governments to overcome IP rights in times of health crisis. India, as an example, limits evergreening through its Patent Act Section 3(d), and its 2023 compulsory license on bedaquiline to treat MDR-TB illness is an example of proactive exercise of such flexibilities. The national laws, such as the fair-use provisions of Section 52 of the Copyright Act of India, have a provision of the public interest, which allows a wider educational or non-commercial use.⁴⁰

2. Policy and Ethics Strategies

Human rights impact assessments (HRIAs) are becoming part of IP policymaking to guarantee that decisions made do not adversely impact the vulnerable population. Global access commitments have been added to Corporate Social Responsibility (CSR) pharma programs, e.g., by Gilead and Novartis. In the meantime, public-private partnerships such as Unitaid and Medicines Patent Pool strike the balance between innovation and fair access. Open-source and open-access movements are transforming innovation ecosystems: the Diamond Open Access platform in India, called IndiaJOL, and global academic mandates such as Plan S are signs of attempts to democratize knowledge.⁴¹

3. Engagement of Institutional & Civil Society

Bodies of the UN and WIPO, such as the Human Rights Council, WIPO Development Agenda, and CDIP, are contributing to a normative discourse regarding the human rights aspects of IP. Transparency and inclusive policymaking and limiting inequitable IP enforcement continue to be pushed by civil society organizations such as Knowledge Ecology International and Infojustice.

4. Regional & National Examples

The patenting system of India, as exemplified in Section 3(d), its Biodiversity Act and through judgments of its Supreme Court such as in the Novartis v India case, shows strong legal balancing of IP and the public health and traditional rights Thailand and South Africa have

taking-on-the-journal-publishing-monopoly-gatekeeping-knowledge.

⁴⁰ Fair Use or Fair Abuse? Exploring the Prevailing Tensions Between Academic Freedom and Copyright, GLC Mag. (June 3, 2025), <https://glcmag.com/2025/06/03/fair-use-or-fair-abuse-exploring-the-prevailing-tensions-between-academic-freedom-and-copyright/>.

⁴¹ Cailean Osborne, What's Next for Open Source?: Workshop Highlights and Calls to Action to Inspire Progress for Global Sustainability, Linux Found. (July 22, 2024), <https://www.linuxfoundation.org/blog/whats-next-for-open-source-workshop-highlights-and-calls-to-action-to-inspire-progress-for-global-sustainability>.

issued compulsory licenses in times of public health emergencies, most recently against COVID-19 antivirals and cancer drugs, affirming state sovereignty over IP. Collectively, these processes and programs describe how IPR can be designed to support both innovation and human rights in balance.

VIII. THEORETICAL AND SCHOLARLY PERSPECTIVES

• **Polarized Scholastic Opinions: Combat versus Complementarity**

The intellectual discourse on the linkage of Intellectual Property Rights (IPR) and Human Rights is an entrenched controversy. The first school of thought considers IPR as fundamentally contrary to human rights, mainly socio-economic rights such as the right to health, education, and culture.⁴² In the arguments of academics such as Peter Drahos and Susan Sell, the modern global IP system favours private monopolies over the collective good and fairness because it is influenced by business IP interests and trade agreements such as the TRIPS agreement.

But there is an alternative scholarly tradition that argues the case of complementarity, where well-calibrated IP systems can co-exist and even aid the human rights agenda. In his seminal study of “Human Rights and Intellectual Property,” Laurence Helfer advocates a rights-based approach to the interpretation of IP treaties, welcoming the harmonization of IP protection with the protection of the public interest.⁴³

This divide has only been sharpened in recent debates, especially following COVID-19 and the international vaccine equity crisis, and now many scholars are proposing hybrid models that combine elements of public health, knowledge commons, and innovation incentives.

• **Post-Colonial criticism of the role of IP in Cultural Dispossession**

A critical interrogation of how IP regimes, which have historical ties to European legal traditions, have been deployed as a form of cultural appropriation and dispossession is undertaken by post-colonial legal theorists.⁴⁴ The inability of patent and copyright law to acknowledge the existence of indigenous knowledge systems, oral traditions, and innovations held by communities has been documented by scholars such as Ruth L. Okediji and Madhavi

⁴² Peter K. Yu, Intellectual Property and Human Rights 2.0, 64 Rich. L. Rev. 1375 (2019), <https://lawreview.richmond.edu/files/2019/05/Yu-534-master.pdf>.

⁴³ Emily Behzadi Cárdenas, Desettling Fixation, 102 N.C. L. Rev. 865 (2024), https://northcarolinalewreview.org/wp-content/uploads/sites/5/2024/04/Behzadi-Ca%CC%81rdenas_FinalforPrint.pdf.

⁴⁴ Carsten Stahn, Colonial and Post-colonial Continuities in Culture Heritage Protection: Narratives and Counter-narratives, in *Confronting Colonial Objects: Histories, Legalities, and Access to Culture* (Oxford, 2023; online ed. Oct. 19, 2023), <https://doi.org/10.1093/oso/9780192868121.003.0007> (last accessed June 15, 2025).

Sunder, who often accompany this with the way these laws enable global corporations to exploit these communities.⁴⁵

This critique is supported by case studies of biopiracy in India (e.g., neem, turmeric, and basmati rice) and the conflicts about sacred symbols or traditional patterns. The post-colonial reading amplifies that modern IP law enforces a power imbalance in the world by giving superiority to the Western notion of innovation and property.

This criticism has been recently extended to the concept of digital colonialism, in which the proprietary accumulation of AI models, digital archives, and genetic information further entrenches the marginalization of non-Western epistemes within the worldwide knowledge economy.⁴⁶

IX. CASE STUDIES

1. *Novartis v Union of India – Right to Life-Saving Medicines*

Section 3(d) has been used by the Indian Supreme Court in 2013 in dismissing an attempt by Novartis to patent the drug Glivec (imatinib), on the ground that it was an attempt at evergreening of known compounds. This path-breaking ruling protected generic forms of the medication in India and reinstated the preference for societal health.⁴⁷ Similarly, a 2024 Delhi High Court decision in *Natco Pharma v Novartis* refused an interim injunction on copycat cancer drug Zykadia, further strengthening Indian opposition to monopolistic patent protection.⁴⁸

2. *Hoffmann-La Roche v Cipla – Generic Anti-Cancer Drugs*

The Delhi High Court in 2008, in a landmark case involving the drug Erlotinib, sold under the brand name Tarceva, rejected a plea by Roche to enjoin the manufacturing of a low-cost generic version of the drug by Cipla, a case in which it considered the public interest against

⁴⁵ Penelope Anthias & Kiran Asher, *Indigenous Natures and the Anthropocene: Racial Capitalism, Violent Materialities, and the Colonial Politics of Representation*, *Antipode: A Radical Journal of Geography* (online July 15, 2024), <https://doi.org/10.1111/anti.13078>.

⁴⁶ Gunjan Arora, *Preservation or Protection? The Intellectual Property Debate Surrounding Traditional Cultural Expressions*, HALO x HILJ Collaboration (Harv. Int'l L.J., online Mar. 12, 2025), <https://orgs.law.harvard.edu/halo/2025/03/13/preservation-or-protection-the-intellectual-property-debate-surrounding-traditional-cultural-expressions> (last visited June 15, 2025).

⁴⁷ H.N. Mallika, *Novartis Vs Union of India: A Landmark Case in Intellectual Property Law*, Khurana & Khurana (IP Attorneys & Advocates Blog, Oct. 24, 2024), <https://www.khuranaandkhurana.com/2024/10/24/novartis-vs-union-of-india-a-landmark-case-in-intellectual-property-law/> khuranaandkhurana.com+2

⁴⁸ Shivam Kaushik, *Natco v Novartis 2024: Delhi High Court's Novartis Moment & Indian Patent Law's Déjà Vu*, *SpicyIP* (May 5, 2024), <https://spicyip.com/2024/05/natco-v-novartis-2024-delhi-high-courts-novartis-moment-indian-patent-laws-deja-vu.html>.

interim enforcement of the patent.⁴⁹ Though it identified the patent validity in the case of Roche, the court identified that the product produced by Cipla was different enough to provide access to the medicine at an affordable cost.⁵⁰ In 2015, however, a Division Bench overruled this and held that the Cipla polymorphic form continued to infringe the patent of Roche and directed an accounting of profits. This case order depicts the fine ripcord existing between patent rights protection and public access to affordable medicine- it shows how Indian courts are careful in treading the fine line between IP protection and public health.⁵¹

3. Biopiracy -Neem, Turmeric, Basmati

Natural products Patents on ancient Indian remedies such as neem and turmeric have been patented in other countries, but subsequently cancelled after demonstrating prior traditional use, as in the case of the U.S. neem patent cancellation (2000) and the USPTO cancellation of turmeric patents in 1997 and 1998.⁵²

The Indian laws on biodiversity, including the Biological Diversity Act (2002)⁵³ And international agreements, such as the Nagoya Protocol, are ongoing to influence fair benefit-sharing and prior informed consent.

4. Plain Packaging Controversies -Trademark or Public Interest

In 2012, Australia implemented required plain packaging of tobacco products, banning branding in an attempt to reduce smoking. This got court support from public health priorities, on strong IP-based challenges from big tobacco. The trend of countries adopting such laws shifted the paradigm towards the common good and away from IP aesthetics, as 25 countries had such laws by early 2024.⁵⁴

⁴⁹ Khomba Singh, Delhi High Court Dismisses Roche's Patent Suit Against Cipla, The Economic Times (Sept. 8, 2012), <https://economictimes.indiatimes.com/industry/healthcare/biotech/pharmaceuticals/delhi-high-court-dismisses-roches-patent-suit-against-cipla/articleshow/16303910.cms>.

⁵⁰ Ketan Aggrawal, F. Hoffmann-La Roche Ltd. v. Cipla Ltd., Mumbai Central 2015 SCC OnLine Del 13619, Centre for Study and Research in Intellectual Property Rights, NUSRL (Mar. 3, 2022), <https://csriprnusrl.wordpress.com/2022/03/03/f-hoffmann-la-roche-ltd-vs-cipla-ltd-mumbai-central-2015-scc-online-del-13619/>.

⁵¹ Roche v Cipla, SpicyIP, <https://spicyip.com/tag/roche-vs-cipla>.

⁵² Anusree Bhowmick, Smaranika Deb Roy & Mitu De, A Brief Review on the Turmeric Patent Case with Its Implications on the Documentation of Traditional Knowledge, NDC E-BIOS, Vol. 1, at 83, 83–88 (2021), <https://www.ndcebios.in/v1n1/2021010110.pdf>.

⁵³ Biological Diversity Act, No. 18 of 2002 (India).

⁵⁴ Matthew Rimmer, Cigarettes Will Kill You: The High Court of Australia & Plain Packaging of Tobacco Products, WIPO Magazine (Feb. 4, 2013), <https://www.wipo.int/web/wipo-magazine/articles/cigarettes-will-kill-you-the-high-court-of-australia--plain-packaging-of-tobacco-products-38372>.

X. TOWARDS A BALANCED FRAMEWORK

- **Proportionality & Public Interest principles**

The key to striking the balance between IPR and human rights is proportionality- making IP exclusivity reflect the public interest. Proportional rights-holding is a guarantee that rights are not absolute.⁵⁵ This concept is at the basis of disclosure requirements in the new 2024 WIPO GRATK Treaty and access obligations in the Nagoya Protocol, all of which are meant to make IP consistent with equitable results.

- **Multi-Stakeholder Governance Types**

An increase in the use of multi-stakeholder governance combines law, policy, civil society, and the private sector contribution. Such institutions as the WIPO IGC, CBD COP, and UN-related discussions construct inclusive decisions. That type of framework, also replicated in Voluntary Principles on Security & Human Rights and the UN-led Cali Fund, can boost accountability and legitimacy.⁵⁶

- **Fair Benefit-Sharing in Bioresources & TK**

The Cali Fund 2024 (CBD COP-16)⁵⁷ Routes finance from the private sector into equitable payment to utilize genetic information, protecting communities rich in biodiversity. Meanwhile, the WIPO GRK Treaty introduces disclosure requirements in patent applications to give protection to the source country and the TK community. It supplements the ABS mechanisms and national legislation (e.g., the Biological Diversity Act in India) of the Nagoya Protocol to ensure prior informed consent and equitable benefit sharing.⁵⁸

Such a balanced system combines normative principles with participatory governance and pragmatic benefit-sharing, and opens a new era of IP policy that can balance innovation with human rights and cultural integrity.

The cases they present bring into relief some of the many tensions and resolutions in which IP law brushes up against some of the most fundamental human rights issues: access to medicine, protection of cultural heritage, public health, and biodiversity.

⁵⁵ Nations Agree Landmark Treaty on Traditional Knowledge, Protecting Indigenous Peoples' Rights, UN News (May 24, 2024), <https://news.un.org/en/story/2024/05/1150231>.

⁵⁶ Kriti Sharma, Traditional Knowledge Protection: Leveraging Kunming-Montreal Global Biodiversity Framework Adoption in WIPO-IGC Negotiations 2024, Cambridge Core Blog (Jan. 24, 2024), <https://www.cambridge.org/core/blog/2024/01/24/traditional-knowledge-protection-leveraging-kunming-montreal-global-biodiversity-framework-adoption-in-wipo-igc-negotiations-2024/>.

⁵⁷ Cali Fund, Wikipedia (last visited June 16, 2025), https://en.wikipedia.org/wiki/Cali_Fund.

⁵⁸ United Nations, Nations Agree Landmark Treaty on Traditional Knowledge, Protecting Indigenous Peoples' Rights, UN News (May 24, 2024), <https://news.un.org/en/story/2024/05/1150231>.

XI. DISCUSSION & RESULTS

As this paper unveils, although Intellectual Property Rights (IPR) and Human Rights seem to be opposing each especially in the areas of public health, traditional knowledge, and access to culture, the legal and policy systems are growing to see the necessity of the balance. Seminal cases such as *Novartis v. India* and *Hoffmann-La Roche. Cipla* confirms the increased dependence of courts on the idea of public interest. At the international level, the 2024 WIPO GRATK Treaty and the Cali Fund are some of the steps towards the fair sharing of benefits and participatory governance. The polarized consensus in theoretical discussions is that the protections of human rights and the stimulation of innovation are compatible, however, by proportionality, flexibilities in law, and multi-stakeholder cooperation. As a conclusion of the paper, it is stated that balancing IPR and human rights is not only feasible, but very necessary in the sustainable global justice.

XII. CONCLUSIONS & RECOMMENDATIONS

This paper highlights the complicated yet mutually more compatible relationship between Human Rights and Intellectual Property Rights (IPR). As long as the conflicts identified, especially in the areas of healthcare access, protection of traditional knowledge, and cultural participation, endure, recent legal, institutional, and policy changes show that there is a way to harmony.

The paper emerges with the demand for flexible and context-sensitive IP regimes that were integrated with human rights safeguards. This involves the rewriting of international agreements such as the TRIPS, broadening of compulsory licensing, and making sure that patent legislation is flexible to take into consideration the common good. It is necessary to strengthen open innovation models, support the ethical impact assessment, and empower civil society and indigenous communities in the policy-making process. The frameworks of the future should focus on equal sharing of benefits, openness, and participatory governance, where innovation becomes commercial as well as addresses the wider needs of human dignity, public health, and cultural integrity.
