

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 7 | Issue 1

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2024

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# Role Intellectual Property Rights in Achieving the Sustainable Development Goals

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## ABSTRACT

*Sustainable development is "development that meets the needs of the present, without compromising the ability of future generations to meet their own needs." Human, social, economic and environmental development are meant for sustainable development. The only hope of the present lies in the scientific advancement and innovations that lead to sustainability in future. Those innovations are fostered by conferring the rights to those innovators as their intellectual property(IP). Protecting IP rights will encourage the investment, research and development in the targeted industries which would play a vital role in realizing the sustainable development goals (SDGs). There are 17 Sustainable Development Goals that were adopted in the 2030 Agenda for sustainable development in 2016 covering from poverty to climate change in which the role of the international IP framework is significant. Already the IP protection was extended to green-tech, Clean-tech to foster new ideas and to reduce the first mover disadvantage. This paper primarily attempts to analyze the IP framework in India whether it catalyzes the investment for innovation in sustainable projects meant to realize the SDGs by 2030. Secondly, examining the conducive nature of IP legislation strengthening the industrial property from design to trademark. Finally, analyzing the balancing nature of IP as a vector of life saving drugs and breakthrough technologies made available in the market for public purposes and preserving the interest of innovators.*

**Keywords:** Sustainable Development Goals (SDGs), Intellectual property rights, industrial property, essential drugs, sustainable projects.

## I. INTRODUCTION

The concept of property has evolved along with the civilization of humanity in this world. In those nomadic times the cattle and movables of the community were regarded as property. Then the agricultural settlement of the nomads made the cultivable land as immovable property. Similarly the industrial revolution, advancement of science and technology resulted in creation

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of intangible properties that are capable of generating revenue. The intellectual property rights were created and protected by National and International law. The intellectual property could be the catalyst in promoting Sustainable Development Goals for realizing the "One Earth, One Family, One Future"<sup>2</sup>.

### **(A) What does intellectual property mean?**

The World Intellectual Property Organization defines intellectual property as "creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce"<sup>3</sup>. Legally speaking intellectual property law refers to a loose cluster of legal doctrine that regulates the use of different sorts of ideas and insignia. Under the IPR mere ideas won't be protected; the expression of that particular idea can only be protected. Likewise the expression of one's idea is categorized for protection as patent, copyright, trademark geographical indications, Industrial property, Design, Trade secret<sup>4</sup>.

### **(B) Theories of IPR explaining the balance between innovations and economic growth.**

In order to understand the role of IPR in attaining sustainable development the very purpose of providing certain rights to creators under law must be understood. The IPR should optimally meet equilibrium between social benefit and private benefit. So that IPR operates in such a manner that would not prejudice to foster cutting-edge technology. Many theories<sup>5</sup> have been attempted to explain the relation between intellectual property systems and economic theories.

Some of them are;

1. Natural theory
2. Labour theory
3. Utilitarian theory
4. Hegelian theory
5. Incentive theory
6. Incentive to invent theory
7. Incentive to Innovate theory

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<sup>2</sup> Lakshmidēvi Somanath, Implementing a unitary patent system in G20 countries: A legal analysis, Published on : 16 Sep 2023, 1:28 pm, Bar and Bench <https://www.barandbench.com/columns/implementing-a-unitary-patent-system-in-g20-countries-a-legal-analysis>

<sup>3</sup> United Nations Sustainable development goals, Take Action for the Sustainable Development ( sep 20,2023, 8:00 A.MGoals). ,<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>4</sup> Elizabeth Verkey & Jithan Saji Isaac, Intellectual Property 1 (2d ed. 2021)

<sup>5</sup> James Boyle, "WIPO and Intellectual Property Reform" (September 2004) 7(14) SEATINI BULLETIN, 5.

8. Reward theory
9. Schumpeterian theory
10. Prospect theory

Though all these theories emphasize the protection of intellectual property in the creator perspective the social benefit out of those protection is rarely discussed.

### **World in the path of sustainable development goals.**

"Unless we act now, the 2030 Agenda will become an epitaph for a world that might have been."

- António Guterres Secretary-General, United Nations

Sustainable development goals means a set of interlinking objectives that has been fixed by the United Nations Assembly by passing resolutions that replaced the earlier Millennium sustainable Goals and the same was adopted On 6 July 2017. It is "a shared blueprint for peace and prosperity for people and the planet, now and into the future" for achieving a sustainable future. Global cooperation is very significant so that every member nation at its option can voluntarily disclose its plan for sustainable development and high commission report on its contribution in achieving SDGs.

However, the Department of Economic and Social Affairs of the UN published a report examining the trajectory of developed nations, developing nations and low developing nations that are in alignment with 17 SDGs proposed to be achieved before 2030.

#### **SDG 1: No Poverty**

The first and foremost goal of the UN is to eradicate global poverty. In alignment with the goal many nationwide strategies were formulated but if the current trend continues without additional measures 575 million people will still be living in extreme poverty. On one hand, the worldwide governmental spending on education, health and social protection increased to 53% in 2021 from 47% in 2015. On the other hand, only 8.5 percent of children, 7.9% of vulnerable people and 23.2% of older people were covered by social protection.<sup>6</sup>

#### **SDG 2: Zero Hunger**

The United Nations aimed to end hunger through achieving food security with sustainable agriculture. It alarmed more than 600 million people at the risk of hunger in 2030.<sup>7</sup> It reported in 2022, over 148 million affected by stunting 45 million by wasting 37 million by overweight

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<sup>6</sup> United Nations, Department of Economic and Social Affairs Sustainable Development (Sep 20,2023, 8:00 A.M) <https://sdgs.un.org/goals>

<sup>7</sup> *ibid*

belong to the children aged below 5 years

#### SDG 3: Good Health and Well-Being

Sustainable Development Goal 3 of the 2030 Agenda for Sustainable Development is to “ensure healthy lives and promote well-being for all at all ages”. The associated targets aim to reduce the global maternal mortality ratio; end preventable deaths of newborns and children; end the epidemics of AIDS, tuberculosis, malaria and other communicable diseases; reduce mortality from non-communicable diseases; strengthen the prevention and treatment of substance abuse; halve the number of deaths and injuries from road traffic accidents; ensure universal access to sexual and reproductive health-care services; achieve universal health coverage; and reduce the number of deaths and illnesses from hazardous chemicals and pollution.<sup>8</sup>

#### SDG 4: Quality education

As per 2022 report the world is lacking in achieving quality education unless the additional measures taken there would 84 million children denied access to school 300 million children will lack basic literacy and numeracy leads to lower demographic dividends.<sup>9</sup>

#### SDG 7: Energy

It is aimed to ensure access to affordable, reliable, sustainable and clean energy for all but if the current trend goes on 675 million will be deprived of electricity and 1 out of every 4 people will be subject to unsafe cooking systems by 2030. In order to achieve the 2030 goal the energy efficiency improvement must be doubled.

#### SDG 9: Industry, Innovation and Infrastructure

Building resilient infrastructure, promoting inclusive and sustainable industrialization and fostering innovations are the prominent measures accompanied by national plans towards the goal however global manufacturing was slowed by 3.3% in 2022 due to inflation, energy price shocks, supply chain breakage. However, the global average growth rate in medium, high technology nations is 47.7% but low developing countries are far less to reach the 2030 goals.

#### SDG 13: Climate change

Combating climate change needs 6 trillion dollars by 2030. But the present efforts are insufficient to achieve net zero emissions by 2050.<sup>10</sup>

#### SDG 15: Life and land

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<sup>8</sup> *ibid*

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

The UN aimed to protect, restore and promote the sustainable use of terrestrial ecosystems. However, from 2015- 2019 , within the span of 5 years, 100 million hectares of healthy and productive land was degraded every year and it is reported that the world is facing the largest species extinction ever since the dinosaurs age.

Since the SDGs were fixed in the General Assembly 2016 in the Agenda 2030 conference on sustainable development it has become the norm that every member country contributes to the goals through National Action Plans and international cooperation of members.<sup>11</sup>

#### SDG 17: Revitalize the Global Partnership for Sustainable Development

Technology, science and capacity building are major pillars of the Means of Implementation of the Post-2015 Agenda and of the Rio+20 follow-up processes. The research, development, deployment, and widespread diffusion of environmentally sound technologies in the context of a Green Economy is also closely linked to other core elements and means of implementation, including innovation, business opportunities and development, trade of environmental goods and services, finance and investment, and institutional capabilities.<sup>12</sup>

However, the 2022 sustainable report by the department of economic and social affairs shows the entire world fell short of its target. This article examines the role of IPR in fostering the SDGs and possible IPR policy changes that might help the nations who lacked behind the proposed goals.

## II. COMPARATIVE PATENT PROTECTION IN INDIA WITH THE TRIPS AGREEMENT

Indian became a party to the TRIPS Agreement,1995 and pledged its responsibility to incorporate the principles of the TRIPS Agreement in its domestic law within 1st January of 2000 by providing reservation under Article 1 of the TRIPS Agreement. This grace period intended to facilitate the developing country to comply with international principles without prejudice to their national interest. In order to incorporate the TRIPS Agreement , Indian patent Act 1970 underwent several amendments such as Indian Patents(Amendments) Act in 1999, 2002, and 2005.

The question of compliance with the TRIPS Agreement was first raised in the case USA v. India (DS50)<sup>13</sup> before the World Trade Organization's Dispute Settlement Body and the forum held India for non compliance of its Domestic law with the TRIPS and also the WTO's Appellate

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<sup>11</sup> *ibid*

<sup>12</sup> *ibid*

<sup>13</sup> (World Trade Organization – INDIA – PATENTS (US) (DS50), [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/1pagesum\\_e/ds50sum\\_e.pdf](https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds50sum_e.pdf). Retrieved March 29<sup>th</sup>, 2021.

body upheld the Settlement Body decision. Later several amendments were taken by India to harmonize the domestic law with the TRIPS Agreement.

Some of the significant changes are;

- In Act 1999 , the term of the patent for inventions related to the method or process of manufacturing a substance being used or capable of being used as a food, medicine or drug was five (5) years from the date of sealing the patent or seven (7) years from the date of the patent, whichever is shorter. This period was extended to 20 years for new patents by the 2002 Amendment Act.
- Secondly a comprehensive list of non patentable subjects was added by the Amendment Act 2002.<sup>14</sup>

Some examples of the exclusions in the 2002 Act are outlined as follows:

1. plants and animals other than micro-organisms;
2. mathematical methods, business methods, computer programs, algorithms;
3. scheme, rule, or method for performing a mental act or in respect of a game;
4. presentation of information;
5. topography of integrated circuits;
6. traditional knowledge or traditional known components.

However, the above case is an example of how developing national interest plays a significant role in compliance with the international agreements. But it's imperative to note how this reservation of certain provisions by member states may impact the SDGs in near future.

### **III. RELATION BETWEEN IPR AND SDGs**

Intellectual property rights (IPRs) play a complex role in the context of the United Nations Sustainable Development Goals (SDGs) and the Agenda 2030. Here are some ways in which IPRs intersect with the SDGs:

1. Innovation and Technology Transfer (SDG 9): IPRs can incentivize innovation by providing legal protection for intellectual creations. This can lead to the development and dissemination of new technologies, which are crucial for achieving SDG 9's goal of fostering industry, innovation, and infrastructure. However, the balance between protection and access to these innovations is essential.

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<sup>14</sup> India Patent (Amendment) Act, 2002

2. Access to Medicines and Health (SDG 3) : Intellectual property rights, particularly patents on pharmaceuticals, can affect access to essential medicines. Striking the right balance between protecting innovation and ensuring affordable access to medicines is a significant challenge within the context of SDG.
3. Access to Knowledge and Education (SDG 4): Copyright and related rights impact access to educational materials. Ensuring that IPRs don't hinder the dissemination of knowledge and educational resources is crucial for achieving universal access to quality education.
4. Biodiversity and Genetic Resources (SDG 15): Access and benefit-sharing (ABS) agreements and IPRs are essential in the context of genetic resources and traditional knowledge. This is crucial for achieving SDG 15's goal of conserving and sustainably using terrestrial and marine resources.
5. Climate Change and Clean Energy (SDG 7 and 13): IPRs can either encourage or hinder the dissemination of clean energy technologies. Striking a balance that promotes innovation in renewable energy while allowing affordable access to these technologies is crucial for addressing climate change.
6. Global Partnerships (SDG 17): Intellectual property can be an area of negotiation and cooperation in international partnerships aimed at achieving the SDGs. Collaborative efforts to facilitate technology transfer and knowledge sharing are essential.

#### **(A) Role of IPR in SDGs**

Intellectual property rights (IPRs) can play a crucial role in catalyzing the achievement of SDGs by providing incentives for innovation and protecting the investments made in developing environmentally friendly solutions. Here are some key types of IPRs that help in this context:

1. Patents: Patents grant inventors exclusive rights to their inventions for a specified period, typically 20 years. In the realm of green and clean technology, patents incentivize companies and individuals to invest in research and development of environmentally friendly innovations. This can include patents for renewable energy technologies, energy-efficient appliances, and pollution control devices.
2. Trade Secrets: Companies often rely on trade secrets to protect proprietary information related to their green and clean technology. These secrets can include manufacturing processes, formulas for eco-friendly materials, and energy-efficient designs. Trade secret protection encourages companies to invest in sustainable innovation.



3. **Copyrights:** Copyrights can apply to various forms of creative work, including software used in clean technology applications. Copyright protection ensures that the creators of software and digital solutions for clean energy, environmental monitoring, and other green technologies can control and profit from their work.
4. **Trademarks:** Trademarks can play a role in branding and marketing green and clean technology products and services. Recognizable trademarks can help consumers identify environmentally friendly options, promoting their adoption.
5. **Plant Breeder's Rights:** In the field of agriculture and sustainable farming practices, plant breeder's rights protect the rights of those who develop new plant varieties with improved environmental traits such as drought resistance or higher yields with fewer resources.
6. **Geographical Indications:** In some cases, geographical indications can be used to protect traditional and sustainable methods of production, such as organic farming practices or eco-friendly manufacturing processes.
7. **Open Source Licensing:** While not a traditional form of IPR, open source licenses like the General Public License (GPL) can promote the development of clean technology by allowing collaborative, open-access innovation and sharing of software and hardware designs.

#### **IV. CONCLUSION**

Intellectual property rights can both facilitate and challenge the achievement of the Sustainable Development Goals. Striking a balance that encourages innovation while ensuring equitable access to the benefits of innovation is a complex and ongoing challenge within the Agenda 2030 framework. It requires international cooperation, legal frameworks, and policies that consider the broader goals of sustainable development.

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