

Intellectual Property Rights (IPR) in the Relations among Nations: Towards a Renewed Hegemony or Not

Authors : Raju K. Thadikkaran

Abstract : Introduction: The IPR have come to the centre stage of development discourse today for a variety of reasons: It ranges from the arbitrariness in the enforcement, overlapping and mismatch with various international agreements and conventions, divergence in the definition, nature and content and the duration as well as severe adverse consequences to technologically weak developing countries. In turn, the IPR have acquired prominence in the foreign policy making as well as in the relations among nations. Quite naturally, there is ample scope for an examination of the correlation between Technology, IPR and International Relations in the contemporary world. Nature and Scope: A cursory examination of the realm of IPR and its protection shall reveals the acute divergence that exists in the perspectives, on all matters related to the very definition, nature, content, scope and duration. The proponents of stronger protection, mostly technologically advanced countries, insist on a stringent IP Regime whereas technologically weak developing countries seem to advocate for flexibilities. From the perspective of developing countries like India, one of the most crucial concerns is related to the patenting of life forms and the protection of TK and BD. There have been several instances of Bio-piracy and Bio-prospecting of the resources related to BD and TK from the Bio-rich Global South. It is widely argued that many provisions in the TRIPS are capable of offsetting the welcome provisions in the CBD such as the Access and Benefit Sharing and Prior Informed Consent. The point that is being argued out is as to how the mismatch between the provisions in the TRIPS Agreement and the CBD could be addressed in a healthy manner so that the essential minimum legitimate interests of all stakeholders could be secured thereby introducing a new direction to the international relations. The findings of this study reveal that the challenges roused by the TRIPS Regime over-weigh the opportunities. The mismatch in the provisions in this regard has generated various crucial issues such as Bio-piracy and Bio-prospecting. However, there is ample scope for managing and protecting IP through institutional innovation, legislative, executive and administrative initiative at the global, national and regional levels. The Indian experience is quite reflective of the same and efforts are being made through the new national IPR policy. This paper, employing Historical Analytical Method, has Three Sections. The First Section shall trace the correlation between the Technology, IPR and international relations. The Second Section shall review the issues and potential concerns in the protection and management of IP related to the BD and TK in the developing countries in the wake of the TRIPS and the CBD. The Final Section shall analyze the Indian Experience in this regard and the experience of the bio-rich Kerala in particular.

Keywords : IPR, technology and international relations, bio-diversity, traditional knowledge

Conference Title : ICMIP 2015 : International Conference on Managing Intellectual Property

Conference Location : Paris, France

Conference Dates : June 25-26, 2015