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Perspectives of Developed and Developing Countries on Intellectual Property and Economic Development

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Abstract: Intellectual property (IP) is crucial in influencing economic development and innovation potential in both advanced and emerging nations. Developed nations have created strong intellectual property frameworks, frequently leveraging them for strategic economic benefits, while less affluent countries encounter pressure to implement similar norms, despite varying historical, institutional, and economic situations. The global intellectual property system's function in fostering sustainable development for developing nations, rather than only serving industrialised economies, remains unclear. This study seeks to analyse the historical experiences and policy strategies of various nations—including the U.S., Japan, China, India, Brazil, and EU members—to understand how intellectual property systems have influenced their economic growth trajectories and to assess the implications for developing countries. The findings suggest that most industrialised countries initially resisted intellectual property enforcement, then establishing stronger protections upon reaching industrial maturity. Conversely, emerging nations are presently urged to implement rigorous intellectual property regulations promptly. This disparity has often obstructed innovation and technology transfer in these countries. The study provides a historically informed comparative examination of the evolution of intellectual property systems, illustrating that the adoption of a uniform model for IP governance is both inequitable and harmful to developing nations. The paper advocates for a balanced, context-sensitive international intellectual property framework and encourages increased collaboration with WIPO to align intellectual property systems with the diverse developmental needs of emerging economies. This will provide fair access to innovation and foster inclusive global advancement.

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1. Introduction

Global experience indicates that, considering how developing nations wish to include their interests within WIPO intellectual property frameworks, it is beneficial to juxtapose the perspectives of established and developing countries about their intellectual property systems[1]. The swift advancement of information and communication technology has expanded potential for international trade in knowledge-based goods, while simultaneously facilitating imitation, replication, and unauthorised utilisation of technologies. Consequently, products and brands have started to infiltrate the market under several counterfeit labels. The proliferation of piracy in emerging nations, including our own, poses a significant challenge, particularly for intellectual property holders from wealthy countries[2]. They express concern on the absence of enforcement tools in many

nations, which consequently undermines the intellectual property framework. Developed nations are implementing various steps both domestically and internationally to mitigate piracy in underdeveloped countries. The global transfer of intellectual property has occurred from wealthy nations to underdeveloped nations. Developed and developing nations possess divergent perspectives regarding the merits and downsides of the intellectual property system. The primary contention between the two factions is whether the international intellectual property framework favours the interests of industrialised, rich nations or whether it genuinely assists developing countries in attaining social, economic, and sustainable development[3].

2. Materials and Methods

A multitude of academicians, solicitors, and economists have contemplated this matter. Rami M. Olwan, in his book "Intellectual Property and Development: Theory and Practice," examined the historical and contemporary perspectives of developed and developing nations about intellectual property. Furthermore, the Global Innovation Index summaries correlate some innovation indicators with other economic metrics of nations. Furthermore, as articulated by Abrami R.M., Kirby W.C., and McFarlan F.W. in their publication "Why China Can't Innovate." China's economic development was propelled by several synergistic factors, including market-oriented reforms of the economic system, acknowledgement of private property rights, the transition to and optimisation of a National Innovation System (NIS), and a stable, comprehensive policy of global engagement[4].

3. Results and Discussion

The primary impetus for emerging nations to enhance intellectual property protection and enforcement has originated from the United States, Europe, and Japan[5]. It is essential to analyse how these nations have utilised their intellectual property regimes to further their interests at various phases of development.

Historical dimensions of intellectual property protection in the United States:

During the 19th century, the United States was regarded as a pirate state that appropriated the works of foreign authors from wealthy nations without providing any remuneration[6]. This technique was considered neither unethical nor incorrect, but rather a legitimate and logical strategy for a developing nation to progress and align itself with the wealthy countries of Europe.

By the mid-1980s, high-tech and entertainment products had emerged as a significant component of US exports. U.S. companies voiced concerns about the unregulated use of research and development spending, particularly in developing markets. Consequently, they urged the US government to assist in preventing foreign imitation, replication, and reverse engineering. The US government addressed this request and commenced the implementation of several regulations to safeguard American intellectual property rights globally. The unilateral trade restrictions enacted by the US on emerging nations were among the most efficacious initiatives.

Historical dimensions of intellectual property protection in European nations:

In the late 19th century, certain European nations, including the Netherlands and England, opposed patent protection, opting to endorse it only once their industries attained a specific degree of advancement.

In numerous European countries, including Belgium, copyright was inadequately safeguarded as publishers aimed to exploit the creative works of foreign authors without incurring royalty obligations[7].

Currently, only a select group of wealthy nations is contemplating the elimination of legal safeguards for intellectual property; however, in the latter part of the 19th century, this issue was extensively debated in Europe between proponents of intellectual property

rights and their abolitionist adversaries. Other European nations commenced the recognition and protection of international intellectual property exclusively due to international pressure from dominant European powers, notably England and Germany.

Historical dimensions of intellectual property protection in Japan:

Japan vigorously advocates for heightened intellectual property protection standards and strongly supports attempts by the United States and other developed nations to improve international protection levels. Japan's viewpoint on intellectual property protection has undergone substantial evolution over the years, especially during its period as a developing nation[8].

Japan substantially profited from the intellectual property produced in other industrialised countries, especially the patent systems of the United States and Germany, during the early stages of its development. Subsequent to World War II (1939-1945), the policies of the Japanese government became increasingly aggressive and reliant on foreign investors, who were mandated to supply their discoveries for domestic manufacturing. In the late 1950s, the Deputy Minister of Japan's Ministry of International Trade and Industry (MITI) purportedly cautioned IBM that "if you do not license IBM's patents to Japanese companies and restrict payments to mere royalties, we will undertake all necessary measures to obstruct your business success." IBM was compelled to adhere[9].

Historical aspects of intellectual property protection in India:

India has profoundly impacted the global intellectual property framework. During the amendment of the Paris Convention, India advocated for provisions that would enhance access to innovations for underprivileged nations constrained by the international patent system.

During the 1967 Stockholm Revision Conference of the Berne Convention, India advocated for the preferential treatment of emerging nations in the international copyright framework, considering their economic, social, cultural, and technological contexts.

In the 1960s, Indian chemical and pharmaceutical companies endeavoured to cultivate local technology but encountered challenges from foreign patent proprietors in wealthy nations. This resulted in heightened public pressure for the amendment of the Patents and Designs Act of 1911, inherited from the United Kingdom.[10].

Two Indian expert committees, the Tek Chand Committee and the Ayyangar Committee, were established to evaluate the patent legislation in India to enhance its appropriateness for the nation. Following meticulous examination by the two committees and comprehensive deliberations in Parliament, the Indian patent system did not succeed in "promoting innovation among Indians and fostering the development and implementation of new inventions". India serves as a model for other developing countries aiming to establish an intellectual property system tailored to their specific requirements and local circumstances. The nation can greatly benefit from a thoroughly revised patent system that accelerates the practical development of inventive capabilities. It has also illustrated the insufficiency of the "one-size-fits-all" intellectual property paradigm often promoted by affluent nations for application in developing countries.

Historical dimensions of intellectual property protection in Brazil:

The Brazilian government viewed itself as pivotal in advancing national development. As a result, it enacted several measures, such as import restrictions to safeguard domestic markets, subsidies to channel investment into burgeoning sectors, regulation of foreign investment to strengthen backward linkages and facilitate knowledge transfer, and amendments to intellectual property laws to conform to domestic interests. The government imposed restrictions on foreign patent holders and implemented licensing arrangements favourable to domestic companies[11].

Brazil has been influential in the Paris and Berne Conventions from the early 19th century, championing development and public interest issues while striving to establish an intellectual property framework that protects the interests of developing nations.

The United States has made multiple threats towards Brazil, hindering American businesses in their efforts to globalise intellectual property regulations. In 1987, the US Pharmaceutical Manufacturers Association initiated legal action against Brazil for inadequate protection of pharmaceutical products and processes.

The case ultimately enabled former President Ronald Reagan to levy a \$39 million trade penalty on Brazilian imports entering the United States. On January 8, 2001, twelve days prior to President Clinton's departure from office, the USTR lodged a protest with the WTO about Brazil's compulsory licensing legislation. The matter concerned Article 68 of Brazil's patent law, which permits the issuance of forced licenses if the patent owner fails to produce the protected products domestically. In June 2001, yielding to pressure from NGOs, the Brazilian government, and the media, the Bush administration withdrew the complaint[12].

Brazil exemplifies the actions the United States implements to protect the intellectual property rights of Americans abroad. The United States decided to delay actions against violators of its intellectual property rights in Brazil only because it determined that such a judgement would negatively impact subsidies to American multinational businesses operating in Brazil. Brazil has recognised that the significant costs linked to fines on American-Brazilian aid would require the United States to reconsider such measures[13].

Historical aspects of intellectual property protection China:

The history of intellectual property in China commenced in the early 20th century with the establishment of its initial legislation, notably the Copyright Law of 1910 and the Patent Law of 1912. Efficient intellectual property systems were built in the 1980s and 1990s, prior to its accession to the World Trade Organisation and subsequent adherence to international intellectual property treaties. The primary objective of establishing intellectual property legislation in China was to entice foreign investment, obtain knowledge and technology from Western nations, and safeguard homegrown innovations. China serves as a significant case study for intellectual property scholars focussing on emerging countries, as intellectual property, while not a prerequisite for economic progress, is an essential element of the nation's innovative infrastructure necessary for success.

Although China's intellectual property regulations have promoted innovation among global and domestic firms, their precise impact on the country's economic advancement is ambiguous. China's economic progress has been driven by multiple synergistic elements, such as market-oriented reforms, recognition of private property rights, the evolution and improvement of the National Innovation System (NIS), and a sustained and comprehensive policy of global integration[14].

China's experience illustrates that comprehending the comprehensive effect of intellectual property laws on a nation's economic advancement necessitates an examination of the legal framework in conjunction with the political, economic, and judicial dimensions that influence society and the economy. Understanding the influence of Chinese intellectual property systems on economic development is crucial and will significantly shape future discussions on intellectual property and development.

In 2022, Switzerland attained the foremost rank as the globe's most innovative nation for the twelfth consecutive year, succeeded by the United States, Sweden, the United Kingdom, and the Netherlands. China is nearing the top ten, while Turkey and India have, for the first time, entered the top 40 nations in innovation development, see Table 1.

Table 1. Ranking of world countries according to the Innovation Index 2022.

The place occupied in 2022	Countries	The place occupied in 2021
1.	Switzerland	1
2.	USA	3
3.	Sweden	2
4.	United Kingdom	4
5.	Netherlands	6
6.	Republic of Korea	5
7.	Singapore	8
8.	Germany	10
9.	Finland	7
10.	Denmark	9
11.	China	12
12.	France	11
13.	Japan	13
14.	Hong Kong, China	14
15.	Canada	16
16.	Israel	15
17.	Austria	18
18.	Estonia	21
19.	Luxembourg	23
20.	Iceland	17

More than 30 countries increased their research spending between 2014 and 2022[15].

A significant difficulty within the framework of extensive globalisation is that, despite an increase in research expenditure across most areas from 2014 to 2020, 80% of nations continue to allocate less than 1% of their GDP to research. The G20 nations continue to represent ninety percent of total research expenditure, researchers, publications, and patents. Following the Covid-19 outbreak, numerous nations may experience an artificial rise in research expenditure as a percentage of GDP due to the contraction in GDP. It is still to be determined whether nations will sustain a financial commitment to research investments, see Table 2.

Table 2. The level of spending on research and development in some countries of the world.

Countries	Research and development by year (% of GDP)		
	2013	2016	2020
Austria	2.95	3.13	3.2
Great Britain	1.64	1.68	1.72
Germany	2.82	2.92	3.1
Israel	4.09	4.51	5.4
India	0.71	0.67	0.65
China	2.0	2.12	2.19
Luxembourg	1.30	1.30	1.1
Norway	1.65	2.03	2.3

USA	2.71	2.76	3.5
France	2.24	2.22	2.4
Sweden	3.30	3.37	3.5
South Korea	4.15	4.23	4.81

4. Conclusion

Analysing the history and development of intellectual property is crucial, particularly from the viewpoint of developing nations. This will be essential for the future advancement of an international intellectual property system that caters to the distinct demands and developmental goals of various nations. Developing nations must reflect on their historical shortcomings in modifying the international intellectual property framework set by the Paris and Berne Conventions and formulate innovative negotiation strategies to enhance their success in future multilateral intellectual property agreements.

The WIPO (World Intellectual Property Organisation) is argued to have inadequately performed its fundamental role in creating a balanced international intellectual property system that addresses the issues of developing countries. Despite WIPO's significant aid to developing countries in formulating national legislation, offering technical support, and organising crucial conferences to highlight the significance of intellectual property, it has not succeeded in shaping the discourse on intellectual property and development. Altering the existing global intellectual property framework for poor nations will be challenging, even if WIPO is amenable to reevaluating its stance on intellectual property and development. Historical evidence indicates that industrialised nations, like the United States, Europe, and Japan, overlooked intellectual property protection during periods of vulnerability and expansion. They contend that safeguarding intellectual property is futile, since they are compelled to emulate and replicate the techniques of other nations to bolster their economy. These states implemented intellectual property legislation solely when it aligned with their interests. It is contended that it is inequitable to require developing nations to implement a "Western-style intellectual property system" that is incompatible with their interests and local circumstances. Developed nations required over two centuries to attain their present level of scientific advancement and intellectual property safeguarding.

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