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### RESEARCH ARTICLE

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#### A STUDY ON STRONG INTELLECTUAL PROPERTY RIGHTS : FUTURE OF INNOVATION IN INDIA

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#### Abstract

Since the 1980s, there has been a global trend towards harmonising Intellectual Property (IP) laws around the world. In order to comply with this global mandate, developing countries, such as India and China, have had to reform their IP laws and bring them up to global standards. Most developing countries including India have traditionally preferred a “weak” IP Rights (IPR) regime given that the vast majority of the population has limited access to essential products and services. In 1970, fearing increases of prices of essential commodities such as pharmaceutical drugs and agricultural chemicals, India outlawed a relatively innovator-friendly IP regime that provided up to sixteen years of patent protection. In 1994, bowing to pressure exerted by the members of the World Trade Organisation (WTO) and developed countries that sought access to Indian markets, the Indian government signed the Trade-related Aspects of Intellectual Property Rights (TRIPS) treaty and committed to making its IPR more innovator-friendly. In order to comply with TRIPS, India allowed for the filing of product patents for pharmaceutical, agricultural and chemical products which went into effect from January 1, 2005.

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#### Introduction:-

The shift in patent law and of IPR, in general, has been deeply controversial. Many Indian policymakers have argued that the move towards a stronger IPR will likely work against India's interests, which lie with ensuring that the vast majority of its population has access to essential products. Given that foreign multinational corporations (MNCs) in most industries are at the technological frontier, they have also argued that a strong IPR might result in a transfer of rents to MNCs, many of which are headquartered in the world's most advanced countries.

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**Arguments On Ipr:**

Advocates of strong IPR, however, counter these views and argue that strong IPR will induce MNCs to introduce more advanced products in India or transfer technology, some of which might also spill over to domestic firms. As a consequence, they argue that a strong IPR in developing countries such as India would likely spur innovation globally and foster more rapid economic growth.

Academic research attempts to bring to bear large-scale empirical evidence to address the various aspects of this debate and attempts to tease out the aggregate economy-wide effects of strong IPRs. Whereas a significant amount of progress has been made in understanding the effects of a strong IPR in developing countries, aggregate effects may often mask diversity, especially across different types of entities. The articles in this issue attempt to highlight the heterogeneity in scientific and technological capability as well as the commercial needs of different Indian stakeholders. In addition, they also explore how the strength of the IPR in India might affect the capabilities and needs of these different groups.

**Objectives of the study:-**

Keeping in view of above facts the following are the objectives of the study:

1. To highlight the concept of intellectual property rights.
2. To examine the IPR affects in India's different interests.
3. To analyse the R&D in Indian markets.

**Methodology of the study:-**

The study based on secondary data. Secondary data is data which developed through already exists. This study collected through text books, magazines, news papers and websites.

**IPR Affects In India's Different Interests**

On one end of the spectrum, India possesses a robust, although modest scientific infrastructure which includes the Center of Scientific and Industrial Research (CSIR) and its associated labs. Although CSIR's mandate is to pursue science which creates global impact, it also aspires to contribute to the economic development of India through the commercialisation of its research. CSIR labs have contributed significantly to India's scientific output. In his article "Indian Innovations: A Perspective from CSIR", Girish Sahni provides an overview of CSIR's scientific prowess since its inception. To put the numbers in perspective, whereas CSIR employs only about 3-4% of India's scientific manpower, it contributes 10% of India's scientific output. However, its success in commercialising some of its scientific output to products and services that benefit the larger civilian population is limited. Although CSIR actively aided the indigenisation of foreign technology when India's IPR became pro-access in 1970, a strong IPR might have fast-tracked its ability to commercialise its nascent technology into civilian products that benefit the wider Indian public. A stronger IPR might, therefore, result in greater welfare by accelerating the commercialisation of indigenous science.

Professor Rishikesh Krishnan's article is titled "The Changing Contours of Innovation in India". He suggests that whereas scientific labs continue to be at the forefront of innovation in India, multinational corporations (MNCs) over the past few decades have relocated a substantial amount of R&D to countries such as India that have witnessed substantial increases in R&D workforce. Academic research suggests that strong IPRs critically influence the nature of R&D that MNCs might pursue in India. Stronger IPRs not only increase the volume of R&D activity in India but will also likely increase R&D that might result in products and services aimed at the Indian consumers. After all, innovators need incentives. All else being equal, a strong IPR in India might induce MNCs to undertake R&D that is aimed at the Indian markets.

**A strong ipr in india might induce mncs to undertake r&d that is aimed at the indian markets.**

In her article "Can IP-Led Innovation Help India Hurdle the Middle-Income Trap?" Hemal Shah, a United States (US)-based policy advocate forcefully points out those economies with robust IPRs are more likely to maintain environments capable of producing innovative outputs and also more likely to be able to transform their economies using technology. Using this logic, she argues that the fact that India has moved up on US Chamber International IP index from being among the bottom 10% of countries to 36th rank would likely stimulate risk-taking and long term R&D investments.

In “Regional Disparities in the Indian Innovation Ecosystem”, Amit Kapoor and Chirag Yadav highlight the disparity in innovation between different states in India. Drawing on cross-country correlations of the Global Innovation Index with another index, the Global Competitiveness Index, they argue that increasing the quantity of innovation as well as reducing state-level variation in innovation will likely accelerate India’s economic development. They recommend a number of policy corrections, one of which is to strengthen IPR, which in their opinion will accelerate industry-academia collaboration. In essence, there is some basis to the belief that formal R&D activity pursued by multinational firms and national labs will likely thrive when IPR is strong. Strong IPRs also plausibly result in substantial benefits for the Indian population at large. This is in line with the view of the advocates of a stronger IPR who repeatedly point out that India will have a lot to gain from a strong IPR regime and that it will enable India to catch up with global innovation powerhouses in the long run.

True to the title of his article “Enhancing Trade Secrecy Protection”, Mark Schultz, a Professor of Law argues that trade secrecy protection in India continues to lag behind other developed nations. Since patented innovations are initially held as trade secrets, Schultz uses cross-country correlations of the number of patents filed with the strength of trade secrecy protection to contend that strengthening trade secrecy laws will also likely stimulate innovation, especially of the sort that is patentable.

### **Gross Route Innovations**

Even historically, the role of the weakened patent law of 1970 in seeding the Indian pharmaceutical industry that thrives on generics might be another case in point against a strong IPR. Academic literature too, notably the paper by Qian (2012), suggests that the benefit of a strong IPR alone does not stimulate domestic innovation. Domestic innovation accelerates only in countries with already higher levels of economic development, educational attainment and economic freedom.

### **Patent Law Of 1970**

Given these alternative perspectives, the goal of this issue is to spur a debate on the type of IPR that would address both the long-term and short-term development needs of India or other developing countries. Such an “ideal” IPR should take into account the needs of different industries as well as the needs of both the formal and informal innovation ecosystems. Although a seemingly daunting task, a nuanced understanding of the role of IPR in stimulating or stalling innovation across different entity types as well as industries will at the least be an important first step in this direction.

### **Conclusion:-**

Several parallel considerations suggest that a uniformly strong IPR in India that covers all industries might at the least require more thought. Policy prescriptions based on correlation and aggregate cross-country comparisons especially in the absence of causal links, often mask the underlying idiosyncrasies of different participants in the Indian innovation ecosystem. How would the strength of IPR influence their innovation productivity and consequently social welfare?

For one, the articles in this issue only paint a partial picture of India’s innovation ecosystem. What is missing in these set of articles is a commentary on the informal innovation ecosystem that is idiosyncratic to India. Grassroots innovations, which represent the use of traditional knowledge to generate innovations by and for the poor, marginalised people and rural areas, for instance, build on prior innovations through the idea of open innovation. This type of innovation is hypothesised to be critical for poverty alleviation (Gupta 2013). It survives on an open and an accessible body of knowledge. Solving a burning need is at its heart and it may not require formal incentives such as those a strong IPR might provide.