SYNERGY BETWEEN SDG1 AND INTELLECTUAL PROPERTY: NEED OF THE TIME TO BALANCE THE RIGHTS OF THE OWNER AND THE NEEDS OF THE ULTIMATE CONSUMER

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ABSTRACT

Sustainable Development Goal 1 aims to eradicate poverty in all its forms, whereas the intellectual property (IP) regime goal is to incentivize innovation by granting exclusive rights to creators and inventors. Though it appears that there is a tension between the two, mainly when the strong IP protections limit the access to essential goods such as medicines, agricultural technologies, and educational resources for economically disadvantaged populations. However, a nuanced legal and policy framework reveals the potential for synergy between SDG 1 and IP systems, provided a careful balance is maintained between proprietary rights and public welfare.

This paper examines the evolving interface between poverty alleviation and intellectual property protection, emphasizing the need to harmonize innovation incentives with equitable access. The paper argues that a balanced IP regime is not only compatible with SDG 1 but is essential to achieving its objectives in a sustainable and equitable manner. Both the rights of owner and need of consumer are very important. We cannot leave either of them. Due to clashes of interest, products are not reaching the people who are in dire need of help. The historical texts like Upanishad and Atharva Veda mention about collective responsibility, interconnectedness, sustainable living and knowledge sharing. A repository of traditional knowledge is a big step in this direction. The present paper will look into the various judicial pronouncements and case studies on intellectual property and sustainable development. It is high time that we should balance the rights and create synergy so that it is beneficial to the entire human kind.

Keywords: Sustainable living, Traditional Knowledge Digital Library, Environment, Poverty alleviation, Research institutes

1.0 Introduction

The 2030 Agenda for Sustainable Development and its 17 SDGs is one the most important task which is taken up for building an empathetic society. It provides a roadmap to end poverty, protect the planet and ensure that all people live in peace and prosperity.[1] On the other hand, Intellectual Property is a crucial incentive for innovation and creativity and also, it is a key to the success of the SDGs. Intellectual property can contribute to alleviating poverty by fostering innovation, encouraging entrepreneurship, and stimulating economic development.[2] Only through the human initiatives, new solutions can be developed to eradicate poverty; boost agricultural sustainability and ensure food security; fight disease; improve education; protect the environment and accelerate the transition to a low-carbon economy; increase productivity and boost business competitiveness.

2.0 How can Intellectual Property help in achieving Sustainable Development Goal 1 (No Poverty)?

As we are provided with the rights in the physical property, it is felt that rights should be provided to protect the owner to exclusive use the rights over intellectual property and prevents others from using without prior permission.[3] It can empower underprivileged communities by granting them authority over their innovations, creations, and traditional knowledge. Also, it can support sustainable agricultural practices by protecting and promoting indigenous crop varieties, farming techniques, and genetic resources. Intellectual property rights safeguards traditional knowledge and cultural heritage, thereby preserving the cultural identity of underrepresented communities and offering them economic advantages.[4] It serves as a catalyst for innovation and business development. It also fosters job creation and stimulates economic growth which is essential for alleviating poverty.[5]

It can strengthen SMEs by safeguarding their innovations and creations, enabling them to compete effectively with larger enterprises. Also, it can attract foreign investment by creating a secure and stable environment for investors.

The focus must be on coexisting harmoniously with nature and acknowledging the significance

[1] https://www.wipo.int/
[2] untoday.org/the-power-of-intellectual-property-2/
[3]https://blog.ipleaders.in/iprdescription/#How_can_one_avoid_infringement_of_any_type_of_intellectual_property
[4] IP And Indigenous Communities: Protecting Traditional Knowledge And Cultural Heritage - Trademark - India
[5] The link between intellectual property rights, innovation, and growth: A meta-analysis - ScienceDirect

of conserving natural resources for future generations. The value of disseminating knowledge and wisdom for the collective benefit is more important rather than retaining it for individual advantage. It can help in improving access to vital goods and services, including pharmaceuticals, agricultural seeds, and renewable energy technologies, which are crucial for poverty alleviation. Also, it can facilitate the transfer and dissemination of technology, allowing developing nations to acquire and adapt innovations that contribute to poverty reduction.

3.0 Historical Perspective

Indian shastras, or ancient texts, provide significant insights into the realms of intellectual property (IP) and sustainable development goals (SDGs). Although these texts do not explicitly discuss contemporary IP legislation or SDGs, they offer foundational principles and philosophies that can enhance our comprehension of these topics. The notion of IP in Indian shastras is intricately linked to the concept of knowledge and innovation as a shared obligation. For instance, the Upanishads highlight the necessity of disseminating knowledge and wisdom for the benefit of society as a whole.

Several fundamental principles derived from Indian shastras can enhance our understanding of IP and SDGs, including:

- Collective responsibility: The belief that knowledge and innovation should be regarded as a shared obligation, rather than the exclusive domain of individuals or corporations.

- Interconnectedness: The acknowledgment that all living beings are interrelated and that our actions impact the environment and future generations.

- Sustainable living: The focus on coexisting with nature and the necessity of conserving natural resources for the benefit of future generations.

- Knowledge sharing: The significance of disseminating knowledge and wisdom for the collective good, rather than retaining it for individual advantage.

Atharva Veda emphasizes the importance of sharing knowledge and wisdom to reduce poverty and promote prosperity. Taittiriya Upanishad highlights the need for education and skill development to overcome poverty. Kautilya's Arthashastra mentions the importance of innovation and entrepreneurship in reducing poverty and promoting economic growth.

These principles can guide our approach to IP and SDGs, urging us to emphasize collective responsibility, interconnectedness, sustainable living, and the sharing of knowledge.

4.0 Legislations

A successful defensive, state-of-the-art tool for stopping the appropriation of Indian traditional knowledge (TK) is the Traditional Knowledge Digital Library (TKDL), which has received recognition both domestically and abroad. Currently, 16 patent offices worldwide including India, use the database to review patent applications before granting them. Third-party observation (TPO) and pre-grant opposition (PGO) are also filed using the applicable legal requirements at several national and regional patent offices to support the work of patent examiners. Before a patent application is granted, these clauses give other parties the opportunity to contest its patentability, including its novelty or inventive step. In order to avoid costly litigation, the CSIR-TKDL Unit presents TKDL evidence, as in the defense documents stated above, to national and regional patent offices challenging the patentability of applications based on Indian TK.

5.0 Judicial Pronouncements

In the case of *M/s. BDR Pharmaceuticals International Pvt. Ltd. v. M/s. Bristol Myers Squibb Co*.[6] before the Controller of Patents, Mumbai the facts were Dasatinib, a cancer medication sold under the Sprycel brand, was patented by the multinational pharmaceutical corporation Bristol-Myers Squibb (BMS). In 2007, the patent was awarded. Dasatinib's patent was withdrawn by the Indian government in 2013, citing issues with the drug's exorbitant costs and restricted availability. Section 3(d) of the Indian Patents Act, which forbids the issuance of patents for discoveries that are not appreciably distinct from preexisting ones, served as the foundation for the government's conclusion.

A number of considerations led the Indian government to decide to cancel the patent on the ground that Dasatinib was too expensive for the majority of cancer patients in India. Despite being patented, the government noted that the medication was not easily accessible in India. Also, there is lack of substantial invention. According to the government, the patent was only a novel form of an already-existing substance and did not constitute a significant innovation.

The ruling highlighted the necessity for pharmaceutical corporations to exhibit a high degree of innovation and accessibility in order to obtain patents, the ruling established a precedence for future cases. The patent's revocation helps in greater availability and at lower costs

[6] CLA No. 1 of 2013

In the case of *Novartis v. Union of India*[7], the Supreme Court strikes a balance between public health issues and intellectual property rights. Due to issues with access to reasonably priced medications, the Indian Supreme Court denied Novartis' patent application for the cancer medication Glivec. In 1997, the global pharmaceutical corporation Novartis submitted an application for a patent on Glivec. The Indian Patent Office, however, denied the application, stating that the medication was an existing substance that had been altered to take on a new form rather than a novel innovation. Deciding that Novartis' patent application did not satisfy the requirements for a patent under Indian law, the Indian Supreme Court upheld the Patent Office's decision. According to the court, the drug's altered form did not show a discernible improvement in efficacy and, as a result, was not considered a new innovation [1]. India and other developing nations' access to reasonably priced medications will be significantly impacted by the Novartis ruling. The Indian government made it clear that public health issues are more important to it than pharmaceutical companies' interests by turning down Novartis' patent application.

The ruling also emphasizes how crucial it is to strike a balance between public health issues and intellectual property rights. The Indian government may encourage innovation and safeguard individuals' rights to reasonably priced medications by making sure that patents are only awarded for true inventions. Global health is significantly impacted by the Novartis ruling.

In *Bayer Corporation v. Union of India*[8], the Supreme Court upheld the grant of a compulsory license for the cancer drug Nexavar (earlier granted by the Controller and affirmed by IPAB and High Court). The Court refused to interfere under Article 136. The case reinforces that patent rights are subject to public interest, especially access to life-saving medicines at affordable prices. This decision strongly aligns with sustainable development principles by ensuring that essential drugs remain accessible to the public, thereby supporting poverty alleviation and public health goal.

6.0 Critiques of Intellectual Property (IP) concerning Sustainable Development Goal 1 (No Poverty):

1. The enforcement of IP rights can restrict access to vital goods and services, including pharmaceuticals, agricultural seeds, and renewable energy technologies, thereby worsening poverty levels.

[7] [2013] 13 SCR 148
[8] (2014) 6 SCC 617

2. The unauthorized appropriation of indigenous knowledge and cultural assets can entrench poverty and violate the rights of disadvantaged communities.

3. Many marginalized groups may not possess the necessary knowledge or resources to safeguard and assert their IP rights, limiting their potential to gain from their innovations and creative works.

4. IP regulations can reinforce social and economic disparities by disproportionately benefiting large corporations and affluent individuals at the expense of marginalized populations and small-scale innovators.

5. The strategy of securing multiple patents for a single invention (patent thickets) and prolonging patent protection through minor alterations (evergreening) can hinder access to crucial goods and services.

6. The lack of transparency and accountability in IP legislation and policies can obscure the effects of IP on efforts to alleviate poverty.

7. Existing IP frameworks may fail to adequately protect traditional knowledge and cultural heritage, leaving vulnerable communities open to exploitation.

8. IP regulations can enable land appropriation by permitting corporations to patent and control land resources, displacing marginalized populations and intensifying poverty.

9. Monopolization: IPR laws can lead to monopolization, allowing a few individuals or companies to control essential resources, which can limit access and perpetuate poverty.

Also, the Indian government has expressed discontent with IP barriers that impede access to medicines, contending that such barriers can limit the availability of essential healthcare resources.[9]

7.0 Case studies

- Honey Bee Network (HBN) - It is a global network that promotes and protects traditional knowledge and innovations of marginalized communities.[10] It is founded in 1989 by Dr. Anil Gupta. The aim is to empower communities to preserve and benefit from their traditional knowledge. The objective is to document traditional knowledge. HBN documents and preserves traditional knowledge and innovations of marginalized communities. It promotes grassroots innovations and provides a platform for innovators

[9] https://journals.sagepub.com › doi › full
[10] www.honeybee.org

to share their ideas. With this, they empower the communities to take control of their traditional knowledge and innovations, reducing poverty and promoting sustainable development.

- Navdanya Foundation stands as a trailblazing entity dedicated to the advancement of sustainable agriculture, the preservation of biodiversity, and the advocacy of farmers' rights.[11] By prioritizing the alleviation of poverty and safeguarding the intellectual property rights of small-scale farmers, the foundation has played a crucial role in empowering these individuals and championing their rights. Its initiatives have made a notable impact on biodiversity conservation and the promotion of sustainable agricultural practices.
- Green Foundation is a distinguished organization committed to fostering sustainable agriculture, biodiversity conservation, and the use of open-source seeds.[12] By concentrating on poverty alleviation and enhancing livelihoods, the Green Foundation has significantly influenced the lives of small-scale farmers. Its efforts in advocating for the intellectual property rights of farmers have further strengthened the protection of their rights and interests.
- The Centre for Sustainable Agriculture (CSA) Foundation is dedicated to the promotion of sustainable agricultural practices, particularly through the use of open-pollinated and open-source seeds.[13] With an emphasis on poverty reduction and livelihood enhancement, the CSA Foundation has effectively empowered small-scale farmers and advocated for their rights. Its commitment to protecting farmers' intellectual property rights has also been vital in safeguarding their interests.
- BAIF Development Research Foundation[14] is a prominent organization focused on advancing sustainable agriculture, rural development, and poverty alleviation. It aim to improve the livelihoods of small-scale farmers, BAIF has made a substantial difference in rural communities. The foundation's advocacy for farmers' intellectual property rights has also played a significant role in defending their rights and interests.

[11] www.navdanya.org
[12] www.greenfoundation.in
[13] www.csa-india.org
[14] Home | BAIF Development Research Foundation

- The Society for Research and Initiatives for Sustainable Technologies and Institutions (SRISTI)[15] is an innovative organization that champions grassroots innovations, particularly in sustainable agriculture and open-source seeds. By emphasizing poverty reduction and livelihood improvement, SRISTI has made meaningful contributions to the empowerment of small-scale farmers.

8.0 Challenges

- Poverty can be made worse by IP protection, which can restrict access to necessary goods and services like clean energy technologies, seeds, and medications.
- Unauthorized use of cultural heritage and traditional knowledge can erode the rights of vulnerable populations and prolong poverty. Like, Indians have shared their knowledge regarding neem across the globe. In the year 1994, U.S. Department of Agriculture and an American company received a European patent.
- Marginalized communities lack the knowledge and ability to defend and uphold their intellectual property rights, which makes it more difficult for them to profit from their inventions.
- By giving preference to affluent individuals and big businesses over underserved populations and small-scale innovators, IP rules have the potential to maintain inequality.
- The phenomenon of acquiring several patents for the same innovation (patent thickets) and extending the access to necessary products and services may be restricted by patent protection through slight alterations (evergreening).
- IP laws and regulations may not be accountable or transparent, which makes it challenging to monitor how IP affects the fight against poverty.
- It is possible that the IP rules in place presently do not adequately safeguard cultural heritage and traditional knowledge, leaving underprivileged groups open to exploitation.
- By giving companies the ability to patent and control land, IP rules can encourage land grabs, uprooting underprivileged people and making poverty worse.

[15] www.sristi.org

- IP laws might not always be successful in combating poverty, especially where structural injustices and limited access to resources are the main causes of poverty.

9.0 Suggestions

- There is a need to bring the IP rules that are adaptive and flexible enough to meet the requirements of underserved groups and developing nations.
- Encourage cooperation and open-source innovation to create new goods and technologies that can aid in the fight against poverty.
- Encourage the preservation of marginalized communities' cultural heritage and traditional knowledge.
- Promote IP education and awareness among small-scale innovators and underprivileged populations.
- Encourage IP-driven entrepreneurship and innovation among underrepresented communities and small-scale innovators.
- Create inclusive IP rules that consider the need of marginalized communities and developing countries.
- Encourage the availability of necessities like sustainable energy technologies, crops, and medications.
- Encourage IP capacity building among marginalized communities and in underdeveloped nations.
- Encourage international cooperation to address global intellectual property issues and advance poverty alleviation, encourage international cooperation and collaboration.
- Track and assess how IP laws and policies affect sustainable development and the fight against poverty.
- Open-source licenses are used to encourage access to necessary products and services.
- Creation of IP-based business models that support sustainable development and the fight against poverty.
- Using IP to advance sustainable agriculture and lessen rural communities' and farmers' poverty.

- Creation of IP policies that safeguard and advance the cultural legacy and traditional knowledge of underrepresented groups.