

THE EVOLUTION OF INTELLECTUAL PROPERTY RIGHTS: GLOBAL AND INDIAN PERSPECTIVES

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BEST CITATION – MAYANK KUMAR, THE EVOLUTION OF INTELLECTUAL PROPERTY RIGHTS: GLOBAL AND INDIAN PERSPECTIVES, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (12) OF 2025, PG. 747-754, APIS – 3920 – 0001 & ISSN – 2583-2344

The evolution of intellectual property rights represents one of the most significant transformations in global economic and legal frameworks, reflecting the changing nature of innovation, creativity, and international trade. This comprehensive analysis examines the historical development of IPR from ancient times to the digital age, with particular focus on the interplay between global developments and India's unique trajectory.

Historical Foundations: Ancient Origins to Modern Framework

Intellectual property protection traces its origins to ancient civilizations, where rulers granted exclusive privileges to inventors and creators. The **Arthashastra**, an ancient Indian text, emphasized safeguarding knowledge and inventions, demonstrating early recognition of intellectual assets. However, the modern patent system emerged in Renaissance Europe, with the **Venetian Patent Statute of 1474** marking the world's first comprehensive patent law.

The Venetian statute established fundamental principles that remain central to patent law today: requirements for **novelty and usefulness**, a ten-year protection period, and formal registration procedures. This groundbreaking legislation provided that patents might be granted for "any new and ingenious device, not previously made," establishing the foundation for contemporary patent systems.

International Harmonization: The Paris and Berne Conventions

The late 19th century witnessed the birth the term intellectual property began to be used and in the 20th century it became the commonplace in the majority of the world.

The British Statute Of Anne 1710 and the Statute Of Monopolies 1623 are now seen as the birth/origin of the Copyright and Patent.

The international intellectual property cooperation through two seminal treaties that fundamentally shaped the global IPR landscape.

The Paris Convention (1883)

The **Paris Convention for the Protection of Industrial Property** introduced three revolutionary principles:

- **National Treatment:** Member states must provide the same protection to foreign nationals as to their own citizens
- **Right of Priority:** Applicants can file subsequent applications in other member countries within specified time periods based on first filing
- **Common Rules:** Establishment of minimum standards that all contracting countries must implement

This treaty primarily addressed patents, trademarks, and industrial designs, responding to the growing need for cross-border protection during the Industrial Revolution.

The Berne Convention (1886)

The **Berne Convention for the Protection of Literary and Artistic Works** established the international copyright framework. Its core innovations included:

- **Automatic Protection:** Copyright granted without formal registration requirements
- **Independent Protection:** Protection in the country of origin independent of protection elsewhere
- **Minimum Rights:** Basic rights and protection terms that authors should enjoy globally

The Berne Convention has undergone multiple revisions (Berlin 1908, Rome 1928, Brussels 1948, Stockholm 1967, Paris 1971) to adapt to technological developments and the needs of developing countries.

Institutional Development: WIPO and Centralized Administration

The establishment of the **World Intellectual Property Organization (WIPO)** in 1967 marked a pivotal transformation in global IP governance. WIPO consolidated the scattered administration of various IP treaties under a single specialized UN agency, providing:

- **Unified Administration:** Overseeing 28 international IP treaties
 - **Harmonization:** Working toward uniform IP laws and practices globally
 - **Technical Assistance:** Supporting developing nations in implementing IP systems
 - **Dispute Resolution:** Offering arbitration and mediation for IP disputes
- WIPO represented the first comprehensive institutional framework for global IP governance, though its powers remained largely administrative rather than enforcement-oriented.

The TRIPS Revolution: Integrating IP into Global Trade

The **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, adopted in 1995, fundamentally altered the international IP landscape by integrating intellectual property protection into the global trading system.

Key Innovations of TRIPS

TRIPS introduced several transformative elements:

- **Comprehensive Coverage:** Addressing copyright, trademarks, patents, geographical indications, industrial designs, and trade secrets
- **Minimum Standards:** Establishing baseline protection requirements across all WTO member countries
- **Enforcement Mechanisms:** Requiring countries to establish effective enforcement procedures and remedies
- **Dispute Settlement:** Subjecting IP disputes to the WTO's powerful dispute resolution system with potential trade sanctions

Impact on Developing Countries

The TRIPS Agreement had profound implications for developing nations. While developed countries celebrated it as strengthening global IP protection, developing countries feared that rising prices for knowledge-intensive products would impede their technological development. The agreement required significant adjustments in national laws, particularly affecting access to essential medicines and generic pharmaceuticals.

India's Intellectual Property Journey

India's intellectual property evolution reflects a unique blend of ancient wisdom, colonial influences, and post-independence policy choices that prioritized public welfare alongside innovation incentives.

Pre-Colonial and Colonial Foundations

Ancient India demonstrated sophisticated understanding of intellectual property concepts. The **Arthashastra** emphasized protecting knowledge and inventions, showing early recognition of intellectual assets. However, formal IPR legislation arrived during British colonial rule, fundamentally reshaping India's approach to intellectual property.

Colonial IPLegislation:

- **Patents Act of 1856:** India's first formal patent statute, granting 14- year exclusivity
- **Indian Patents and Designs Act of 1911:** Unified various laws and established the patent office
- **Indian Copyright Act of 1847:** Direct extension of British copyright lawThe colonial period introduced Western concepts of individual ownership that often conflicted with Indian traditions of communal knowledge creation. British firms systematically appropriated Indian traditional knowledge, registering patents and trademarks for patterns and processes that had been part of Indian artisanal traditions for generations.

Post-Independence Transformation: The Patents Act 1970

After independence, India embarked on a radical restructuring of its patent system through the **Patents Act of 1970**. This legislation introduced several revolutionary features:

- **Process Patents Only:** Allowed patents for manufacturing processes but not for pharmaceutical products themselves
- **Reduced Patent Terms:** Seven years instead of the standard 16-20 years in developed countries
- **Compulsory Licensing:** Broad provisions for government override of patent rights in public interest
- **Working Requirements:** Patents could be revoked if not worked in India within prescribed timeframes

This approach enabled India to develop a robust generic pharmaceutical industry while ensuring affordable access to medicines for its population.

TRIPS Compliance and Modernization (1999-2005)

India's accession to the WTO required comprehensive amendments to align with TRIPS obligations:

First Amendment (1999): Introduced Exclusive Marketing Rights (EMRs) for pharmaceutical products under patent examination.

Second Amendment (2002): Addressed substantive TRIPS provisions except pharmaceutical product patents, including:

- Redefined patentable subject matter
- Extended patent terms to 20 years
- Amended compulsory licensing provisions

Third Amendment (2005): The most significant change, introducing **product patents for pharmaceuticals** for the first time since 1970. This amendment fundamentally altered India's patent landscape while retaining certain flexibilities for public health.

Contemporary Challenges and Digital Age Transformations WIPO Internet Treaties and Digital Copyright

The digital revolution necessitated new international frameworks. The **WIPO Copyright Treaty (WCT)** and **WIPO Performances and Phonograms Treaty (WPPT)**, adopted in 1996, addressed copyright challenges in the digital environment:

- **Digital Rights:** Established exclusive rights for digital distribution and communication
- **Anti-Circumvention:** Required legal protection against circumventing technological protection measures
- **Rights Management:** Prohibited alteration of electronic rights management information

These treaties updated copyright law for the internet age, establishing frameworks for digital commerce and online distribution.

The Doha Declaration and Public Health Flexibilities

Growing concerns about TRIPS' impact on access to essential medicines led to the

Doha Declaration on TRIPS and Public Health (2001). This pivotal declaration:

- Reaffirmed members' right to use TRIPS flexibilities for public health protection
- Clarified that public health crises constitute national emergencies justifying compulsory licensing
- Confirmed members' freedom to determine grounds for compulsory licensing
- Addressed the challenge of countries with insufficient manufacturing capacity through the Article 31bis amendment

TRIPS-Plus Developments and Bilateral Agreements

Developed countries increasingly pursue **TRIPS-Plus provisions** through bilateral and regional trade agreements. These agreements often:

- Extend patent terms beyond 20 years
 - Limit compulsory licensing flexibility
 - Restrict parallel importation rights
 - Impose higher standards of IP protection than required by TRIPS
- Such agreements have raised concerns about their impact on developing countries' ability to protect public health and promote technological development.

India's Modern IPR Framework and Policy Initiatives National IPR Policy 2016

India adopted the **National Intellectual Property Rights Policy** in 2016 with the vision "Creative India; Innovative India". The policy encompasses seven major objectives:

1. **IPR Awareness and Outreach:** Creating public awareness about economic benefits of IPRs
2. **Generation of IPRs:** Stimulating creation of intellectual property through innovation

3. **Legal Framework:** Strengthening IPR laws while balancing rights holder and public interests
4. **Administration:** Modernizing IPR offices and streamlining processes
5. **Commercialization:** Facilitating value realization through IP commercialization
6. **Enforcement:** Strengthening mechanisms to combat infringement
7. **Human Capital:** Expanding expertise in IP law, policy, and management

Traditional Knowledge Protection: The TKDL Initiative

India pioneered the protection of traditional knowledge through the **Traditional Knowledge Digital Library (TKDL)**, established in 2001. This groundbreaking initiative:

- Documents over **34 million pages** of traditional medicinal knowledge from Ayurveda, Unani, Siddha, and Yoga systems
- Translates information into five international languages for patent examiner access
- Has successfully challenged **324 patent applications** based on Indian traditional knowledge
- Serves as a prior art database preventing biopiracy of India's heritage

The TKDL represents a proactive approach to protecting traditional knowledge and has become a global model for other countries facing similar challenges.

India's Innovation Performance: Global Rankings

India's innovation ecosystem has shown remarkable improvement in global rankings. In the **Global Innovation Index 2025**, India reached **38th position** among 139 economies, rising from 81st in 2015. Key achievements include:

- **1st globally:** ICT services exports
- **3rd globally:** Domestic market scale
- **4th globally:** Late-stage venture capital deals and WIPO Science & Technology cluster ranking
- **8th globally:** Intangible asset intensity
- **13th globally:** Cultural and creative services exports

Digital Age Challenges and Emerging Technologies Artificial Intelligence and Copyright

The rise of **artificial intelligence** and generative AI tools has created unprecedented challenges for intellectual property law. Key issues include:

- **Authorship Questions:** Who owns copyright in AI-generated works?
- **Training Data:** Whether using copyrighted works to train AI models constitutes fair use or infringement
- **Human Creativity:** The role of human authorship in an age of AI-generated content

Recent legal cases, such as **Andersen et al. v. Stability AI Ltd.**, highlight the copyright complexities arising

from AI training on copyrighted materials.

Blockchain and IP Protection

Blockchain technology offers revolutionary possibilities for intellectual property management:

- **Immutable Records:** Creating tamper-proof documentation of IP creation and ownership
- **Smart Contracts:** Automating licensing agreements and royalty payments
- **Prior Art Documentation:** Establishing incontrovertible proof of invention dates
- **Global Access:** Facilitating international IP registration and enforcement

However, blockchain also raises challenges regarding legal recognition, scalability, and integration with existing IP frameworks.

Digital Transformation Challenges

The digital age has fundamentally altered the IP landscape:

- **Easy Reproduction:** Digital content can be infinitely copied and distributed
- **Global Reach:** Internet transcends traditional jurisdictional boundaries
- **New Content Types:** Software, databases, and digital art require updated protection frameworks
- **Enforcement Difficulties:** Traditional enforcement mechanisms struggle with digital infringement

Future Prospects and Policy Implications Emerging Technology Integration

The future of intellectual property will likely involve deeper integration with emerging technologies:

- **AI-Powered Monitoring:** Automated detection of IP infringement across digital platforms
- **Blockchain-Based Registration:** Decentralized, globally accessible IP registration systems
- **Smart Contract Licensing:** Automated, transparent licensing and royalty distribution
- **Quantum Computing:** New challenges for encryption and digital rights management

International Harmonization Needs

The global nature of digital technologies demands enhanced international cooperation:

- **Unified Standards:** Harmonized approaches to AI-generated content and digital rights
- **Cross-Border Enforcement:** Improved mechanisms for international IP enforcement
- **Developing Country Support:** Technical assistance for implementing digital IP frameworks
- **Flexible Frameworks:** Adaptable laws that can evolve with technological advancement

Balancing Innovation and Access

Future IP policy must carefully balance multiple competing interests:

- **Creator Rights:** Ensuring fair compensation and attribution for innovators and artists
- **Public Access:** Maintaining access to knowledge and cultural works for societal benefit
- **Innovation Incentives:** Providing sufficient protection to encourage continued innovation
- **Global Development:** Supporting technological advancement in developing countries

Comparative Analysis: Global vs. Indian Approaches

India's intellectual property evolution demonstrates both convergence with and divergence from global trends:

Convergence Areas:

- **TRIPS Compliance:** India has largely aligned its IP laws with international standards
- **Digital Adaptation:** Adoption of modern frameworks for digital copyright and patent filing
- **Innovation Focus:** Emphasis on R&D and technology development matching global priorities
- **Enforcement Strengthening:** Improved mechanisms for protecting IP rights

Distinctive Features:

- **Traditional Knowledge:** Pioneering efforts to protect indigenous knowledge systems
- **Public Health Priority:** Continued emphasis on compulsory licensing for essential medicines
- **Balanced Approach:** Explicit policy focus on balancing IP protection with public interest
- **Cultural Sensitivity:** Recognition of communal knowledge creation alongside individual IP rights

Conclusion

The evolution of intellectual property rights reflects humanity's ongoing struggle to balance innovation incentives with knowledge accessibility. From the Venetian Patent Statute of 1474 to today's AI and blockchain challenges, IP law has continuously adapted to technological and social changes. India's journey from colonial imposition to sovereign IP policy demonstrates how countries can shape international frameworks to serve their developmental needs while contributing to global innovation.

Looking forward, the successful evolution of IP rights will depend on maintaining this delicate balance between protecting creators' rights and ensuring broad access to the benefits of innovation. As digital technologies continue to transform how we create, share, and protect intellectual assets, both global and national IP systems must evolve with unprecedented flexibility and vision. The future of intellectual property lies not in rigid protection or unrestricted access, but in dynamic frameworks that can adapt to technological change while serving humanity's broader interests in innovation, creativity, and shared prosperity.

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INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 12 OF 2025

APIS – 3920 – 0001 (*and*) ISSN – 2583-2344

Published by
Institute of Legal Education

<https://iledu.in>

