ANALYSIS OF INTELLECTUAL PROPERTY RIGHTS (IPRS) AND THEIR EFFECT ON SMALL & MEDIUM ENTERPRISES (SMES) WITH REFERENCE TO CHINA, PAKISTAN AND INDIA

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Abstract

Innovation and creativity are always fueled by intellectual property rights (IPRs) which is directly related to legal system of any country. It also boosts your competitiveness and generates new jobs. When utilized by others, the creativity of authors, architects, explorers, and many other IPR consumers is protected and benefited by IPR. Inventions, designs, developments, and literary works are all protected by intellectual property rights (IPRs). Besides, both developing and developed countries face significant difficulties when it comes to preserving copyrighted material. Most nations have separate laws in place to safeguard their rights to intellectual property. Although there are some significant differences among China, India and Pakistan's judicial systems for protecting intellectual property but still are relatively comparable to those of advanced economies. The examination of intellectual property rights protection in China, India and Pakistan is indeed the goal of this academic research. The policies governing IPR protection in these are also discussed in this study. In order to illustrate and explain the variations in IPR safety
evaluations, this paper also launches a comparative analysis of international IPR rankings. The numerous elements that affect the inadequate preservation of property and intellectual property rights in these countries are also listed and discussed in this paper.

Keywords: Intellectual Property Rights Protection, Legal System, Pakistan, China, India

1. Introduction

Intellectual property is defined by World Intellectual Property Organization (WIPO) as creation of ideas. It is the foremost ability of mankind to discover & generate fresh works across every sector of life, which is essential to its progress & development. This is just one of many compelling arguments in favor of protection of intellectual property. Furthermore, IP protection and awareness stimulates wealth creation, fosters the development of fresh businesses, generates jobs, and raises people's standard of living. Last but not least, IP constitutional protection fosters a dedication to even more inventions and ideas. (WIPO)

The study's primary goal is to analyze how IP rights are protected from a Pakistan, China and India's legal standpoint. Fisher and Oberholzer-Gee (2013) said that the utilization of intellectual property rights (IPRs) by businesses of all sizes and within all economy's sectors has gained significant interest in recent times.

According to (Sukarmijan & Sapong, 2014) IP is a crucial component for nation's economic progress, and ongoing IP ideas and innovations improve business and investment operations both within and outside of the state. A legally protected intellectual property may potentially develop into a significant business resource. While the emergence of major businesses has placed a high emphasis for IPR as small and medium-sized businesses frequently do not pay much attention on importance of property rights.

(Bochańczyk-Kupka, 2016) Mentioned that various nations use unique regulatory strategies to safeguard rights to intellectual property. The modernized country's economy is significantly impacted by the safeguarding of these rights. Depending upon implementation strategies and effective application of the current legal framework, fewer nations guarantee a stronger degree of protection for IPR.

(Zhengzhi et al., 2014) wrote that intellectual property rights (IPRs) and their protections are seen as essential elements to reduce social, judicial, and financial problems in addition to being an essential part of advancement and progress. The enforcement and protection of IPRs, however, are either underestimated or purposely ignored in plenty of other countries. Additionally, one of the biggest threats to the trade and industry development of emerging nations is piracy.
(Noureldin et al., 2022) are of the view that due to many factors IPRs are respected on a worldwide scale. Trademarks, copyrights, logo registration and regulations for IT are all covered by IP law. IP rights are often understood to ensure a cash compensation for membership in addition to providing incentives to those who develop new inventions. It guarantees the availability of authentic goods. The stability and intellectual property security are crucial for economic progress and technological progress. It contributes positively to the expansion of enterprise.

Intellectual Property, according to (Mohd Noor & Aziz, 2011), is a collection of legally binding basic protections that are acknowledged whenever creative works, innovations, and concepts arise. Author’s study was based upon sustainable agro based products. Moreover, according to a poll conducted in Malaysia in 2013, very few of the general people was familiar with intellectual property. The study also revealed that IP-related firms and organizations were showing a curiosity about the subject. The Official Portal of Intellectual Property Corporation of Malaysia – (MyIPO) (n.d.)

(Marquez, 2010) says that a growing amount of empirical financial theory investigates the expansion for safeguarding property rights and makes an effort to gauge the financial significance and its impact. Efficient IPRs are linked to user perceptions of value, leading to larger profitability. Among the most prevalent categories of IPRs, property rights are utilized by both creative and conventional organizations.

(Zhixiao, 2018) came to the conclusion that creativity is a strong tool which is essential to the ongoing progress of both the nation and the humanity. Additionally, he stated that invention is the foundation of the entire social resources and indeed the essence of any country.

1.1. Research Objective
The objectives of this study are listed below.

• To analyze/compare China, India and Pakistan’s intellectual property rights indexes.
• To evaluate the main concerns for the protection of property rights in three important nations.
• To find out the integrity level of legal systems of China, India and Pakistan.
• To give suggestions to legislators for improving IP laws.

2. Literature Review
Due to the daily introduction of new ideas and developments to the markets, intellectual property rights (IPR) are increasingly important in today’s era of modernization, creativity and technological growth. Small and medium-sized businesses (SMEs) have a chance to expand and thrive thanks to the China-Pakistan Economic Corridor. However, empirical research suggests that SMEs confront a number of obstacles that make it difficult for them to properly implement the IPR framework, and that such obstacles will eventually limit their capacity for innovation and creativity (Ali et al., 2020)
The protection of intellectual property is provided by several legal provisions. A number of principles and suggestions are used by international law to affirm the intellectual property rights. Furthermore, many nations have rules concerning intellectual property as they have their own laws in place to safeguard their intellectual property rights. But it's a fact that all these laws will be worthless if not designed correctly (Tahir et al., 2022).

(Karim & Billah, 2021) stated in their study that "four advancements" program, which Deng Xiaoping announced in 1970s, is where history of China's intellectual property protection begins. The Chinese government has stressed the significance of IPRs due to the rapid advancement of Economic growth.

(Baroncelli et al., 2007) said that IPRI was created to act like a gauge for the condition of properties globally. The most thorough and reliable comparative analysis on the security of intellectual property rights is usually regarded as being this one. To clarify the problem's comprehensive nature, the author examined the literature on property.

(Hua, 2022, p. 213) found in study that the protection of IPRs offers a general summary of safeguards and controls implemented by every nation in accordance with its legal and regulatory requirements. The components for the legal and political shed light on how a nation's political situation and level of legality affect that nation.

Prashant and Sumathi Chandrashekaran (2017) found in their study that the trade-related IPRs emerged at the WTO, India's patents policies began to change in favor of increased IP rights. India was granted a 10-year transitional phase to develop a IPR framework, but due to resistance from multiple political groups throughout this time, there were multiple fruitless sessions of debate in the parliament.

(Bhattacharya et al., 2022) said that for businesses that use cutting-edge technology, better intellectual property (IP) regulation has a more significant influence on the need for managerial competence. Companies that were previously above the industrial average see an increase in the percentage of managerial salary. Firms in the bottom percentile or at the absolute top of the technical pyramid have no impact on this effect.

(Acemoglu et al., 2003) said that better patent protection encourages businesses to spend in a wide range of managerially demanding activities, including research, the conception and creation of innovative products, commercial marketing and branding. As a result, a rise in innovative gains increases administrators' relative worth against non-managers.

2.1. Research Methodology
This paper examines the review of IPRs and their protection in China, Pakistan (under CEPEC), and India using conceptual research methodology. (Horne & Fichter, 2022) discussed in their study that instead of using statistics, which isn't the main requirement, a conceptual paper proposes and includes new connections and interconnections between concepts. Additionally, the responsibility is to strengthen the reasoning supporting such ties in concepts rather than depending exclusively on empirical research. According to (Wiesmann et al., 2011) the different components of a research study can interact more easily when the design is conceptually oriented, and it may keep theories, the study challenges, and the findings closely related.

2.2. Data Collection

Data for this study is extracted from the official websites of Heritage Foundation's Property Rights Index, Property Rights Alliance's International Property Rights Index and the Fraser Institute's Legal and Property Rights Index.

3. Result Oriented Discussion

3.1. Legal System & Property Rights Index: Data of Fraser Institute

Table 1: Data for the year 2014

<table>
<thead>
<tr>
<th></th>
<th>Property Rights &amp; Legal System</th>
<th>Property Rights Protection</th>
<th>Legal system’s Integrity</th>
<th>Contracts’ Enforcements</th>
<th>Economic Freedom Summary Index</th>
<th>Judicial independence</th>
</tr>
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<td>6.35</td>
</tr>
</tbody>
</table>

Source: Extracted by Authors from official website of Fraser Institute Economic Freedom

According to the data, India had the highest score for the legal system's integrity (6.25), while China had the highest score for the protection of property rights (5.75). Pakistan scored worse than the other two countries, with a Legal System & Property Rights score of 3.37, a Protection of Property Rights score of 3.9, and an Integrity of the Legal System score of 4.31. China, Pakistan, and India each have scores of 2.91, 5.36, and 6.35 in terms of judicial independence.

Table 2: Data for the year 2015

<table>
<thead>
<tr>
<th></th>
<th>Property Rights &amp; Legal System</th>
<th>Property Rights Protection</th>
<th>Legal System’s Integrity</th>
<th>Contracts’ Enforcements</th>
<th>Economic Freedom Summary Index</th>
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<td>India</td>
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<td>3.67</td>
<td>6.51</td>
<td>6.51</td>
</tr>
</tbody>
</table>

Source: Extracted by Authors from official website of Fraser Institute Economic Freedom

Figure 2:

China ranked first in preserving property rights (5.87), but India had the best score (6.37) for the quality of its legal system. China, Pakistan, and India all had judicial independence scores of 2.93, 5.36, and 6.51, respectively. Pakistan also scored worse than the other two countries in the following categories: Legal System & Property Rights; Protection of Property Rights; and Integrity of the Legal System (4.07).
Table 3: Data for the year 2016

<table>
<thead>
<tr>
<th></th>
<th>Property Rights &amp; Legal System</th>
<th>Property Rights Protection</th>
<th>Legal system’s Integrity</th>
<th>Contracts’ Enforcements</th>
<th>Economic Freedom Summary Index</th>
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Source: Extracted by Authors from official website of Fraser Institute Economic Freedom

Figure 3:

China ranked first in preserving property rights (5.96), while India has the most robust legal system (6.48). With 3.35 in Legal System & Property Rights, 4.01 in Protection of Property Rights, and 4.06 in Integrity of the Legal System, Pakistan once again ranked worse than the other two nations. In terms of contract enforcement, China, Pakistan, and India scored 4.87, 3.5, and 4.18 accordingly.

Table 4: Data for the year 2017

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<th>Property Rights &amp; Legal System</th>
<th>Property Rights Protection</th>
<th>Legal system’s Integrity</th>
<th>Contracts’ Enforcements</th>
<th>Economic Freedom Summary Index</th>
<th>Judicial independence</th>
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<td>6.75</td>
<td>6.45</td>
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</table>

Source: Extracted by Authors from official website of Fraser Institute Economic Freedom

Figure 4:
With scores of 3.5 for Legal System & Property Rights, 4.12 for Protection of Property Rights, and 4 for Integrity of the Legal System, Pakistan scored worse than the other two countries. India had the highest score for judicial system integrity (6.38), while China had the highest score for property rights protection (5.96). China, Pakistan, and India each have judicial independence scores of 3.01, 5.50, and 6.45, respectively.

Table 5: Data for the year 2018

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<th>Property Rights Protection</th>
<th>Legal system’s Integrity</th>
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<td>6.37</td>
<td>4.43</td>
<td>6.72</td>
<td>6.45</td>
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Source: Extracted by Authors from official website of Fraser Institute Economic Freedom Figure 5:
China ranked first in preserving property rights (5.96), while India has the most robust legal system (6.38). With scores of 3.63 in Legal System & Property Rights, 4.39 in Protection of Property Rights, and 4.06 in Integrity of the Legal System, Pakistan continued to rank worse than the other two nations. In terms of contract enforcement, China, Pakistan, and India scored 4.75, 3.5, and 4.43 respectively.

Table 6: Data for the year 2019

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<th>Legal system’s Integrity</th>
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<td>India</td>
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<td>4.43</td>
<td>6.76</td>
<td>6.23</td>
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Source: Extracted by Authors form official website of Fraser Institute Economic Freedom

Figure 6:
Pakistan scored worse than the other two nations, with 3.62 for Legal System & Property Rights, 4.71 for Protection of Property Rights, and 4.22 for Legal System Integrity. China, Pakistan, and India scored 4.75, 3.5, and 4.43 accordingly in the category of contract enforcement. The greatest score for the protection of property rights was 5.96 in China, and the best score for the judicial system's integrity was 6.33 in India.

Table 7: Data for the year 2020

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<td>6.86</td>
<td>4.43</td>
<td>6.72</td>
<td>6.23</td>
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Source: Extracted by Authors from official website of Fraser Institute Economic Freedom Figure 7:

According to data on contract enforcement, China, Pakistan, and India scored 4, 7, and 4, respectively. China ranked first in preserving property rights (5.96), while India has the most robust legal system (6.86). Pakistan scored lower than average in all three categories—Legal System & Property Rights (3.8), Protection of Property Rights (4.71), and Legal System Integrity (4.88).

3.2. Intellectual Property Rights Index: Data of Property Rights Alliance
Figure 8:

Source: Official website of Property Rights Alliance

Table 3.2.1. Intellectual Property Rights Index

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Source: Extracted by Authors form official website of Property Rights Alliance

Figure 8:

https://www.internationalpropertyrightsindex.org/compare/country?id=124,107,109
Graphical representation of data showing that Intellectual property rights of China and India are much better as compared to Pakistan. Pakistan always remained 3 to 4.1 from 2007 to 2022 which shows poor IP rights in Pakistan even in the presence of CPEC opportunities. Whereas China and India both touched 6 in these years.

### 3.2.2. Property rights protection

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</table>

Source: Extracted by Authors from official website of Property Rights Alliance

Figure 9:

Graph showing that property rights protection (PRP) of Pakistan always remained 4 to 5 from 2007 to 2022 which mean that Pakistan is at lower place to protect property rights of businesses as compared to India and China because India has been good performer by touching 8 in 2022. China’s max number was around 7 in these years.

**Perception of IP protection**

Figure 10:

Source: Extracted by Authors from official website of Property Rights Alliance
China and India have best Perception regarding the IP protection as compared to Pakistan. Both countries placed themselves, maximum, at around 6 whereas Pakistan’s perception touched 5 in consecutive 3 years which are 2020, 2021 and 2022.

3.2.3. Judicial Independence

Figure 10:

Source: Extracted by Authors form official website of Property Rights Alliance

Graphical representation showing that Judicial Independence of India was at 8, top in 2007. India loose its top position in 2022 as its number was 5.5 which was little high as compared to Pakistan. Judicial decisions of any country always play better role for providing business friendly environment for small and medium enterprises (SMEs).

3.2.4. Rule of Law

Figure 11:

Source: Extracted by Authors form official website of Property Rights Alliance
Rule of law is base line for businesses in any country. Graph showing that Pakistan remained at lower place with reference to China and India throughout the selected time period i.e 2009 to 2022. China is improving and India is almost constant in this period.

4. Conclusion
This research article's major goal was to conduct a comparative analysis of Pakistan, India and China's levels of IP right's protection. The Global IPR Index, Scores, and Standings were briefly discussed in this study by taking into account the datasets of certain well-known organizations like Property Rights Alliance and Fraser Institute. Study found that it is required by law to promote and uphold the rights for creativity and innovations, and intellectual property merely serves as a tool for doing just that. Hence, it is necessary to step up efforts to improve Intellectual property Rights. This will aid in economic progress, attract foreign direct investment (FDI) in China, Pakistan and India. This research also demonstrates how the IPR evaluations and rankings assess the steps being taken to safeguard property rights. However, all IPR indices reveal that China and India has dramatically outpaced Pakistan in past decades. Data indicate that results differ considerably starting from 2007 till 2022. Due to the various sources of data, comparing the interactions among China, India and Pakistan is rather challenging. Although all three considered nations have excellent judicial systems and legislation pertaining to patent rights, Pakistan and China are especially inefficient in ensuring that these rights are protected internationally. The ineffective application of the legal and juridical structures is the primary cause of the Global Intellectual Property Index's dismal performance in both nations. The majority of important international contracts and accords have already been signed by China, Pakistan, and India. Even the citizens or administrations of these nations may not completely understand how IPRs are protected from a cultural and historical perspective. The states are likely to have started to take the necessary steps to preserve IPR in past years, nonetheless. In addition to emphasizing growth and economic development, IPR enforcement is fundamentally linked to human rights. In spite of its limited property protection, China may nevertheless develop a significant economy on a global scale, according to this comparison among the three nations. In a similar vein, Pakistan and India has been taken into account by developing nations that are drafting laws to safeguard IP rights. In underdeveloped nations, there is a significant amount of illicit duplicating and counterfeiting, however this problem is readily solved by implementing effective IPR protection mechanisms. Small and medium enterprise (SMEs) have direct link with IP rights, legal system and rule of law of any country in which they are operating. It is also necessary to educate the community and IP-related agencies or organizations in Pakistan about the relevance of IP rights for Entrepreneurs and to organize seminars and conferences to do so in order to improve IP in Pakistan as part of the China Pakistan Economic Corridor. Moreover, it is crucial to address IP concerns in order to increase public and institutional knowledge of IP rights in India and Pakistan especially. As India and Pakistan can take benefit from each other more than any other country by having free trade agreements under the umbrella of strong legal system and IP rights.
5. **Recommendations**

Due to the fact that both Pakistan and India are growing nations and there is still a lack of general understanding of intellectual property, digital and social media and the governments could contribute to the promotion of the IP rights enforcement and protection initiatives. By launching IP awareness initiatives and campaigns, the government, media, and local and global law organizations can help protect the lawful business rights of medium and small companies. In order to increase IP protection through court systems, SMEs in China, India and Pakistan should establish IP awareness programs, conventions, and seminars for academics, faculty, attorneys, investigators, and other players. The advancement of science and technology in the modern day, such as machine intelligence and the web, is bringing new obstacles and necessitating additional precautions for the preservation of IPRs. Small and medium-sized businesses should work closely with government, industry, and other key stakeholders to determine their IP needs and obstacles. They should also encourage SMEs to use IP systems effectively. The simplicity of the IP enrollment and application process, the minimum IP processing fee for Microenterprises, the independent budget for IP protection, strategies & managerial styles, and other factors may all be beneficial in creating a positive atmosphere for the protection of IP rights for SMEs in addition to preventing IP breach and infraction.

6. **Conflict of Interest:**

No conflict of interest declared by scholars/authors of this research.
Reference


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