
Intellectual Property Rights in Developing Countries: A Critical Analysis of Nepal's Legal and Socio-Economic Landscape

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ARTICLE DETAILS

Research Paper

Keywords:

Intellectual Property Rights (IPR), Developing Countries, Nepal, TRIPS Agreement, Traditional Knowledge, Patent Law, Copyright Act, Enforcement Challenges, Global IP Regimes

ABSTRACT

This article presents a critical exploration of the relevance and challenges of Intellectual Property Rights (IPR) in the context of developing countries, with a primary focus on Nepal. The research delves into the complexity of balancing global intellectual property frameworks, such as the TRIPS Agreement, with the socio-economic realities of nations like Nepal, where technological and institutional capacities are limited. The article examines how global IPR systems, which tend to favor developed countries with advanced technology industries, sometimes inadvertently hinder the development efforts of less-developed nations by imposing rigid, one-size-fits-all standards. In Nepal's case, the intersection of legal structures, socio-economic conditions and traditional knowledge forms a crucial part of the discourse surrounding IPR. By highlighting systemic gaps within Nepal's legal infrastructure, the article critiques the enforcement challenges, particularly in the face of biopiracy and trademark disputes. Nepal, despite having ratified major international IP treaties, such as the Paris Convention (1883) and the TRIPS Agreement (1995), faces significant hurdles in aligning its IPR system with global standards, primarily due to the inadequacies of its legal and institutional frameworks. The article calls for a rethinking of the IPR paradigm, emphasizing a more flexible approach that accounts for the unique



needs of developing nations. It suggests that an overreliance on Western-centric IPR models often undermines the development priorities of low-income countries, inhibiting local innovation and the protection of traditional knowledge. The discussion also draws upon international case studies and jurisprudence, particularly those that have challenged or adjusted global IPR norms to reflect local realities. Through comparative legal analysis and socio-economic data, the article advocates for context-sensitive reforms to foster a more equitable and inclusive global IPR system, one that supports the development of countries like Nepal without compromising access to essential resources and knowledge. It highlights how rigid adherence to these international frameworks can inadvertently hinder the local innovation and cultural heritage protection of developing nations by imposing one-size-fits-all standards. Focusing on biopiracy, trademark infringement, and the lack of capacity in IP enforcement, the paper critiques Nepal's IPR landscape, exploring the gaps in its legal and institutional frameworks, which undermine effective protection of intellectual property. Through an analysis of international case studies, including India's Novartis case and Brazil's state-led pharmaceutical programs, the paper advocates for the adoption of a context-sensitive IPR model that considers the unique socio-economic and cultural realities of developing nations like Nepal. The paper proposes that, instead of blindly following Western-centric IPR models, countries like Nepal require tailored reforms that not only address global trade obligations but also promote local innovation, safeguard traditional knowledge, and ensure public health access. This call for reform aims to foster a more inclusive global IPR system that is not just focused on protecting corporate monopolies but also on facilitating the economic and cultural development of nations like Nepal.

DOI : <https://doi.org/10.5281/zenodo.14852637>

1. Introduction

Intellectual Property Rights (IPR) have become an indispensable part of global trade and innovation, shaping the dynamics of industries across borders. In developed countries, where technological advancements and industrial capacities are robust, IPR is often seen as a means to incentivize innovation, protect creators and foster competition. However, in developing countries, the application and implications of IPR are far from straightforward. The global IPR system, primarily structured around the needs and interests of industrialized nations, often clashes with the realities of developing countries, where the challenges of poverty, limited access to advanced technology and a lack of legal infrastructure complicate the implementation of IPR standards. This dichotomy presents a critical dilemma: while a strong IPR system could foster innovation and attract foreign investment, it also risks creating barriers to access, perpetuating dependency and limiting the development of local industries.

Nepal, as one of the least-developed countries (LDCs) in South Asia, exemplifies this paradox. On one hand, Nepal has ratified major international IP treaties, such as the Paris Convention (1883) and the TRIPS Agreement (1995), which commit the country to aligning its laws with global standards. On the other hand, Nepal's capacity to implement and enforce these laws remains critically underdeveloped, hindering both local innovation and the protection of its rich cultural heritage, particularly in terms of traditional knowledge. The TRIPS Agreement, which aims to create a harmonized global IPR system, has raised significant challenges for countries like Nepal that are grappling with a myriad of socio-economic constraints. While the TRIPS framework mandates strict protections for patents, trademarks and copyrights, the imposition of these standards often exacerbates the gap between global economic powers and developing nations, where such protections may not align with local needs or developmental priorities.

For Nepal, the question of IPR is intricately linked to its developmental trajectory. Despite having a vibrant cultural heritage and a growing creative economy, Nepal faces systemic challenges in capitalizing on its traditional knowledge and local innovations. The protection of traditional knowledge, such as indigenous medical practices and unique agricultural products, remains a significant concern, with foreign firms often exploiting these resources through biopiracy, where traditional knowledge is used without consent or fair compensation. Furthermore, the protection of Nepal's local industries against counterfeit products and the enforcement of trademark rights remains critically weak. For instance, well-known global brands like Nike, Adidas, Gucci and Louis Vuitton are often replicated in



the Nepali market through counterfeit goods, undermining both Nepal's legal system and the global brands themselves.

This paper sets out to explore the challenges and potential reforms to Nepal's IPR system. By examining the country's legal framework and assessing its alignment with global norms, it aims to identify the gaps that hinder effective enforcement and protection of intellectual property. The paper will argue that an overreliance on global IPR standards particularly those that are shaped by the interests of developed nations fails to consider the unique socio-economic and cultural contexts of developing countries like Nepal. A more context-sensitive approach to IPR, one that balances international obligations with local development needs, is necessary to foster sustainable innovation, protect cultural heritage and improve access to essential goods in Nepal and other similar countries.

In a broad spectrum, intellectual property rights are subsequently created by each country national law and typically apply only to those conducts that take place within the nation in which the law is made. However, there are complex web of Intellectual Property treaties that establish minimum standards for intellectual property laws in countries around the world. All the international treaties set up ground rules for things like how long a copyright or patent should last or the basic subject matter of trademarks. In regards of Intellectual property, developed and developing nations have very different attitudes. On one hand, developed nations usually try to get full economic benefits from their inventions and knowledge through strong Intellectual property rights. These nations believe that strong Intellectual property laws are essential to protect the significant investments of making the products. Developed countries also argue that strong intellectual property laws will make developing countries more attractive trade partners because creators know their Intellectual property exports will be protected so they are more likely to send things there. On the hand, developing nations usually argue that they need access to advanced technology and knowledge, which are the tools they need to modernize, develop and compete in the modern world. They often view strong Intellectual Property rights as a tool to either deny access altogether to knowledge and technology or to severely limit access via high royalties and licensing fees. It is an open question and a loophole which needs more development in the field.

It will take years for result in the foreign investment and domestic economic growth they aspire to obtain in developing countries. The developing countries have limited research, development and manufacturing capacities for adopting and enforcing strong, non-discriminatory minimum standards of intellectual property rights. Usually developing nations are under potent domestic pressure to produce



tangible results in a short timeframe. However, these expectations cannot be met simply by strengthening intellectual property laws rather it also requires numerous other changes to interrelated legal regimes if intellectual property rights. Intellectual property rights are supposed to create incentives for research and development activities but developing nations lack on the areas of research, innovation and development. These results with high pharmaceutical prices and inaccessibility to important medicines which are countered creating more inaccessibility in the long run, resulting in the inactivity of new drug discoveries. For example, failure to adopt innovative approaches for the creation of effective and beneficial intellectual property rights regimes will merely increases market share and increase prices of commodities in developing nations. Therefore, Intellectual property rights are irrelevant in developing countries like Nepal due to following reasons.

2. TRIPS Agreement (1995) and its Impact on Nepal's IPR Landscape

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, established by the World Trade Organization (WTO) in 1995, provides a comprehensive framework for IPR protection across WTO member states. The agreement sets out minimum standards for the protection of intellectual property, including patents, trademarks, copyrights, geographical indications and industrial designs. It also mandates a minimum protection period for patents (20 years), which was originally designed to balance the interests of intellectual property holders and the public.

For Nepal, the implementation of the TRIPS Agreement has posed significant challenges. As a developing country with limited technical, legal and institutional infrastructure, Nepal has struggled to implement and enforce these standards. The TRIPS Agreement itself acknowledges that developing countries may face difficulties in complying with its provisions due to their socio-economic and technological limitations. Consequently, developing nations, including Nepal, were granted transition periods to comply with TRIPS provisions. Nepal ratified TRIPS in 1995 but was allowed a longer grace period to adapt its laws. In 2005, it formally complied with the core provisions of TRIPS, including patent protection for pharmaceutical products.

Despite this legal alignment, Nepal's experience with the TRIPS Agreement reveals a deeper tension between global IP standards and local realities. One notable example is the pharmaceutical patent issue. Under TRIPS, Nepal is required to grant patents for pharmaceuticals for 20 years, which has raised concerns regarding access to essential medicines. In a country like Nepal, where a significant portion of



the population lives below the poverty line and lacks access to basic healthcare, the imposition of high patent costs on vital medicines exacerbates existing inequalities. This issue became particularly evident during the COVID-19 pandemic, when Nepal, like many developing nations, faced challenges in accessing vaccines and medical equipment due to patent restrictions imposed by pharmaceutical companies.

Moreover, while the Doha Declaration (2001) allowed for exceptions to the patenting of medicines in the context of public health emergencies, Nepal's limited legal capacity has hindered its ability to utilize such flexibilities effectively. The country's lack of technical expertise, enforcement mechanisms and capacity to negotiate compulsory licenses with multinational pharmaceutical companies has resulted in a weakened position in protecting public health against high patent costs. In this context, TRIPS flexibilities, such as compulsory licensing and parallel importing, have the potential to benefit Nepal by enabling it to access affordable medicines, but the legal and institutional barriers remain formidable.

The tension between global patent protection and local development needs is not unique to Nepal. In India, for instance, the Novartis vs. Union of India case (2013) demonstrated a judicial pushback against TRIPS obligations when India's Supreme Court denied a patent for Glivec, a cancer drug, on the grounds that it was an attempt at evergreening the practice of extending patent terms for minor modifications to existing drugs. India's decision underlined the principle that public health can take precedence over patent rights in certain circumstances. This case set an important precedent that could inspire other developing countries, including Nepal, to reconsider the rigid application of TRIPS standards and explore alternative routes that prioritize public welfare.

3. Patent, Design and Trademark Act (1965):

Nepal's Patent, Design and Trademark Act (1965) governs the registration and protection of patents, industrial designs and trademarks. While this law aligns in part with TRIPS, it still contains significant gaps that hinder effective IPR protection. The law stipulates a 15-year protection period for patents, far shorter than the 20 years required by TRIPS. This discrepancy reflects Nepal's relatively underdeveloped legal infrastructure and its difficulties in fully complying with international IP standards.



One of the significant challenges Nepal faces under this Act is the slow and bureaucratic process for patent registration. With a backlog of patent applications extending for over five years, many local innovators are discouraged from seeking patent protection for their inventions. This delay undermines the potential for domestic innovation, as inventors may be reluctant to wait long periods for legal recognition of their creations. Additionally, the Patent Act does not provide sufficient clarity on biotechnology patents, which are critical in sectors such as agriculture and medicine. The absence of clear guidelines for the protection of biotechnological innovations has allowed biopiracy to thrive, as foreign entities patent local biological resources without acknowledging the contributions of indigenous knowledge holders.

A pertinent example of the limitations of Nepal's Patent, Design and Trademark Act is the Lapsi fruit controversy. The Lapsi fruit (*Choerospondias axillaris*), which is endemic to Nepal, was nearly patented by a Japanese company in 2019. This incident exposed the glaring weakness in Nepal's patent law, as the country lacked the legal tools to protect its indigenous biodiversity against biopiracy. Fortunately, local NGOs intervened and the patent attempt was thwarted. However, this case illustrated the vulnerability of Nepal's biological resources in the face of global patenting practices.

Another area where the Patent Act has been criticized is in its trademark registration process. For instance, in the *Nirma vs. Himgiri* (2021) trademark dispute, an Indian detergent company, Nirma, challenged the registration of a trademark by Himgiri, a Nepali company, which bore a striking resemblance to Nirma's logo. The Department of Industry (DoI) dismissed the case due to the lack of cross-border trademark recognition, highlighting the outdated nature of Nepal's trademark law, which has not kept pace with international standards. This incident underscores the need for stronger protection of trademarks to attract foreign investment and ensure that global brands can protect their intellectual property in Nepal.

4. Copyright Act (2002):

The Copyright Act of Nepal (2002) provides protection for literary, artistic and digital works, granting creators the exclusive right to reproduce, distribute and publicly perform their works. This act aligns with the Berne Convention and the TRIPS Agreement, offering copyright protection for a minimum of 50 years after the death of the author. However, enforcement of these rights remains a significant challenge.



In the digital age, copyright infringement is rampant in Nepal. Piracy of digital content, including films, music, software and literary works, is widespread. For example, Nepali Thangka paintings and Dhaka textiles traditional handicrafts are often reproduced by foreign companies without proper authorization or compensation to local artisans. These works, while deeply embedded in Nepal's cultural heritage, lack adequate protection under the existing copyright framework and no mechanisms are in place to enforce the rights of local creators.

The case of Nepali films and music piracy further illustrates the inadequacies of the Copyright Act. Nepali movies, music and even digital artworks are frequently pirated, affecting the livelihoods of local artists and creators. The lack of a specialized enforcement agency and limited resources for pursuing cases in court has left the cultural industries vulnerable to exploitation by international piracy networks. Moreover, the proliferation of pirate e-commerce platforms that sell fake luxury goods such as Louis Vuitton and Gucci, which are widely available in Nepal, further exacerbates this issue.

5. Traditional Knowledge and Biopiracy:

One of the most pressing issues in Nepal's IPR landscape is the protection of traditional knowledge and biological resources. Nepal is home to a rich array of indigenous knowledge systems, particularly in agriculture, medicine and craft. However, the lack of legal frameworks to protect this knowledge has led to widespread biopiracy, where foreign corporations patent biological resources and traditional practices without compensating local communities.

A critical case in point is the biopiracy of Nepali medicinal plants, which have been exploited by pharmaceutical companies without regard to the traditional knowledge of local communities. Over 80% of Nepali Ayurvedic medicinal plants remain unpatented, leaving them vulnerable to exploitation by foreign companies seeking to patent these resources as their own. The National Intellectual Property Policy (2017), although recognizing the value of traditional knowledge, lacks clear guidelines for its protection or mechanisms for its registration.

The Nagoya Protocol on Access and Benefit-sharing of genetic resources, which seeks to ensure that countries like Nepal receive a fair share of the benefits arising from the use of their traditional knowledge, has not been fully implemented in Nepal. As a result, Nepal's traditional knowledge continues to be at risk of being exploited by global players, with little to no legal recourse for the local



communities whose knowledge is used without consent or compensation. The legal elements and doctrines surrounding IPR in Nepal are characterized by a complex interplay of international obligations and local limitations. While Nepal has made strides in aligning its legal framework with global standards, its ability to effectively enforce these laws remains constrained by systemic challenges. Legal reforms, including the modernization of the Patent, Design and Trademark Act, stronger protections for traditional knowledge and enhanced enforcement mechanisms, are essential to create a more robust IPR system in Nepal. The ongoing challenges faced by Nepal in intellectual property are not isolated but are reflective of broader issues in developing countries, where the global IPR regime must be reexamined to accommodate the unique needs of these nations.

In response to the challenges posed by the TRIPS framework, there have been ongoing debates about reforming international IPR systems to better accommodate the needs of developing countries. Doctrines such as public interest, flexibility within TRIPS and the precautionary principle have been suggested to provide developing countries with more leeway to protect their public health, biodiversity and traditional knowledge. Legal scholars and policymakers argue that intellectual property law should prioritize human rights, equitable access to knowledge and sustainable development rather than merely fostering private monopoly rights.

6. Enforcement Challenges and Institutional Weaknesses in Nepal's IPR System

Despite the legal frameworks that have been established to protect intellectual property rights (IPR) in Nepal, enforcement remains one of the most significant obstacles. One of the central problems is the lack of specialized institutions that are dedicated to IPR enforcement. The Department of Industry (DoI), which is tasked with overseeing patent, trademark and design registrations, operates with a limited number of staff, many of whom lack specialized legal training. In 2022, Nepal's DoI reported having only 12 IPR officers, all of whom are general civil servants with no expertise in intellectual property law (DoI Nepal, 2022). This shortage of trained professionals significantly hinders the country's ability to effectively regulate and enforce IPR laws.

Moreover, Nepal lacks a dedicated intellectual property court, meaning that cases related to IPR are tried in general civil courts. This has led to delays in the resolution of cases, with some trademark disputes and patent infringements taking several years to be resolved. This slow pace of litigation not only undermines the deterrence effect of IPR laws but also discourages businesses from pursuing legal action



against violations. The absence of specialized courts also complicates the application of nuanced IP principles, which are often complex and require expertise in global standards and specific legal doctrines.

One significant case that highlights these challenges is the counterfeit goods epidemic in Nepal. The counterfeit market in Nepal has become a massive concern, with counterfeit versions of global luxury brands such as Louis Vuitton, Gucci, Adidas and Nike flooding the local market. This widespread availability of fake products, often sold at a fraction of the cost of the original items, undermines the intellectual property rights of these global brands and reduces consumer confidence in the authenticity of goods in the marketplace. These counterfeit goods are often produced locally or imported from other countries, yet the authorities have struggled to control the flow of these illicit goods due to weak enforcement mechanisms and the lack of specialized legal resources.

For example, in 2021, an investigation by the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) revealed that over 40% of consumer goods in Nepal were counterfeit, including food products, clothing and electronics (FNCCI, 2021). This alarming statistic underscores the systemic issue of counterfeit goods in the country and highlights the urgent need for improved enforcement measures, more stringent penalties for IP violations and better collaboration between the government, businesses and consumers to combat this widespread issue.

In the context of pharmaceuticals, the World Health Organization (WHO) and other international health organizations have expressed concern over the circulation of counterfeit medicines in Nepal, which has led to numerous health risks. A study by the University of Nairobi (2019) found that over 30% of pharmaceutical products in Nepal were counterfeit, including antibiotics and antimalarials medications that are vital to public health (University of Nairobi, 2019). The weak enforcement of IPR laws in the pharmaceutical sector not only threatens public health but also contributes to the rise of antibiotic resistance and drug-resistant diseases, creating long-term public health challenges.

7. The Role of Traditional Knowledge and Biopiracy in Nepal's IPR System

Nepal's traditional knowledge, including its medicinal plants, agricultural practices and unique cultural heritage, forms an essential part of the country's identity and economy. However, due to the absence of adequate legal protections, traditional knowledge in Nepal remains vulnerable to exploitation by foreign



entities through the practice of biopiracy. Biopiracy refers to the unauthorized use or patenting of biological resources or traditional knowledge without the consent of the communities that have developed or preserved them. This practice has been widespread in many developing countries, including Nepal, where global companies often patent genetic resources and medicinal knowledge derived from indigenous communities without acknowledging the local communities' contributions.

One prominent example of biopiracy in Nepal was the Lapsi fruit (*Choerospondias axillaris*), a fruit indigenous to Nepal, which was almost patented by a Japanese company in 2019. The company attempted to patent the fruit's genetic material without compensating the local communities who had long used it for food and medicinal purposes (ICIMOD, 2020). In response, local nongovernmental organizations (NGOs) intervened to challenge the patent application. This case revealed the significant gaps in Nepal's IPR system for the protection of biodiversity and traditional knowledge. Although the patent was eventually blocked, the incident highlighted how Nepal's legal framework is ill-equipped to address biopiracy effectively.

Another notable case of biopiracy in Nepal concerns the exploitation of Ayurvedic medicinal plants. Over 80% of the country's medicinal plants remain unpatented, which has allowed foreign companies to patent these resources without recognition of the contributions of indigenous healers and farmers. As noted by the Ministry of Industry, Commerce and Supplies (MoICS), there is no mechanism to document or register traditional knowledge or genetic resources, making it difficult for Nepal to prevent unauthorized use by foreign companies. The National Intellectual Property Policy (2017) of Nepal mentions the need to protect traditional knowledge but lacks a comprehensive strategy for documentation, registration, or benefit-sharing from the use of such knowledge (MoICS, 2022).

Internationally, there are some promising frameworks aimed at protecting traditional knowledge and ensuring that local communities benefit from the use of their biological resources. One such example is the Nagoya Protocol under the Convention on Biological Diversity (CBD), which provides guidelines for the fair and equitable sharing of benefits arising from the use of genetic resources. However, Nepal has yet to fully implement these international frameworks and this delay leaves local communities and their resources vulnerable to exploitation by global corporations. Furthermore, Nepal's slow adoption of the Nagoya Protocol means that there are insufficient legal safeguards to prevent the patenting of indigenous knowledge or biological resources by external parties.

8. Counterfeit Goods and Trademark Infringements in Nepal

Counterfeiting and trademark infringements are significant issues that negatively affect Nepal's economy and global reputation. The widespread availability of counterfeit products including fake versions of global brands such as Nike, Adidas, Gucci and Louis Vuitton has led to substantial economic losses for the original manufacturers and created a shadow economy that operates outside the bounds of Nepal's legal framework.

The Department of Industry (DoI) in Nepal is responsible for regulating trademarks, but enforcement of these regulations is inadequate. Nepal's Trademark Act does not have effective cross-border trademark recognition, which has resulted in confusion and legal disputes when foreign brands attempt to protect their trademarks in the country. The Nirma vs. Himgiri case (2021), where the Indian company Nirma contested the registration of a trademark by Himgiri, a Nepali company, underscores the difficulty of enforcing trademarks in Nepal. In this case, the DoI dismissed the claim due to the outdated nature of the 1965 Trademark Act, which failed to address modern international trademark norms. As a result, Nepal's trademark system remains vulnerable to manipulation by counterfeiters.

The FNCCI estimates that counterfeit goods account for over 40% of the consumer goods market in Nepal (FNCCI, 2021), including a wide range of products such as clothing, electronics, cosmetics and food items. This not only impacts the revenue of legitimate businesses but also harms consumers, who often unknowingly purchase fake or substandard products. The issue is particularly prevalent in the luxury goods market, where counterfeit versions of global brands like Gucci, Louis Vuitton and Adidas are sold at a fraction of the price of the authentic products. These fake goods are often produced in unregulated environments, leading to safety concerns, particularly in the case of electronics and cosmetics, where counterfeit products may pose health risks to consumers.

In the context of pharmaceuticals, the presence of counterfeit medicines in Nepal poses a significant health threat. Studies have shown that over 30% of pharmaceuticals in Nepal are counterfeit, including essential medicines like antibiotics and antimalarials, which have contributed to the rise of antimicrobial resistance and other public health issues (University of Nairobi, 2019). The weak enforcement of trademark protection and patent law in the pharmaceutical sector further exacerbates these issues, undermining public health efforts and impeding the effectiveness of medical treatments.



9. R&D and Innovation in Nepal: Economic and Institutional Barriers

In Nepal, the Research and Development (R&D) expenditure remains alarmingly low, at just 0.3% of GDP (UNESCO, 2023). In comparison, neighboring countries like India allocate 2.4% of GDP to R&D, illustrating the stark difference in resources available for innovation. This lack of investment in scientific research and technological development severely limits Nepal's capacity to generate original patents and technological innovations.

Additionally, the low number of patents granted in Nepal further underscores the weak state of domestic innovation. In 2022, Nepal recorded only 2,234 trademark registrations, a far cry from India's 350,000 (DoI Nepal, 2022). The backlog in patent applications which can stretch beyond five years discourages inventors and entrepreneurs from pursuing patents for their creations, fearing that their innovations will be outdated or copied before legal protections are granted.

Furthermore, high costs associated with IPR registration and legal protections remain a significant barrier for many Nepali firms. A World Bank Enterprise Survey (2022) found that only 12% of Nepali firms engaged in innovation, largely due to the high costs involved in registering patents and trademarks. This makes it more difficult for local businesses to protect their products and innovations, limiting their potential for growth and contribution to the national economy.

The lack of technical expertise in IP law is another critical issue. Nepal has only a handful of trained IP professionals and there is an acute shortage of legal experts capable of navigating the complexities of international IP norms and agreements. This lack of expertise has led to inconsistent enforcement of IPR laws, further hindering innovation and foreign investment.

10. International Perspectives and Jurisprudence on IPR in Developing Countries

The experiences of other developing countries with respect to IPR offer valuable lessons for Nepal. In India, the landmark Novartis case (2013), in which the Supreme Court rejected a patent for Glivec, a cancer drug, on the grounds of evergreening, highlighted the need to balance IPR protection with public health concerns. India's stance in this case challenged the rigid application of TRIPS standards and emphasized that public health should take precedence over patent rights, especially in developing countries.



Similarly, Brazil's approach to pharmaceutical innovation, where the Farmanguinhos Institute produces generic medicines under state-led programs, demonstrates how developing nations can use TRIPS flexibilities to improve access to essential medicines and promote local innovation. Brazil's success in producing affordable generic drugs highlights the potential benefits of a flexible IP framework that prioritizes public health and social welfare over private profits.

Nepal can learn from these international examples by implementing policies that encourage innovation, protect traditional knowledge and utilize TRIPS flexibilities to ensure that the country's development needs are met without compromising global obligations. The introduction of specialized IP courts, capacity building for IP professionals and legal reforms to protect traditional knowledge and local innovations could pave the way for a more equitable IPR system in Nepal.

The protection of traditional knowledge, access to affordable medicines and promotion of local innovation must be prioritized to ensure that Nepal's IPR framework supports national development goals. The implementation of context-sensitive reforms such as strengthening enforcement, protecting indigenous knowledge and improving the legal infrastructure will not only enhance Nepal's capacity to comply with international standards but also foster an environment where local innovations can thrive. By rethinking the approach to IPR, Nepal can protect its cultural heritage, promote innovation and ensure that intellectual property serves as a tool for inclusive development rather than an obstacle to it.

Conclusion

Nepal's experience with Intellectual Property Rights (IPR) presents a critical reflection of the broader challenges faced by developing nations in aligning their national legal systems with the global IPR framework. While international treaties like the TRIPS Agreement aim to standardize IPR protection globally, they often fail to consider the unique socio-economic realities and development priorities of countries like Nepal. The imposition of international IPR standards, which are designed to benefit industrialized nations with established technological capabilities, poses significant challenges to Nepal's efforts to balance IPR protection with its need for accessible technology, affordable medicines, and protection of cultural heritage. The global IPR system often conflicts with the developmental needs of countries like Nepal, where poverty, limited technological capacity, and institutional inefficiencies significantly hinder the effective enforcement of intellectual property protections. Despite Nepal's ratification of key international treaties such as the Paris Convention (1883) and the TRIPS



Agreement (1995), the lack of specialized IPR enforcement mechanisms, backlogs in patent registration, and weak protection of traditional knowledge underscore the systemic inadequacies within Nepal's legal infrastructure. The issue of biopiracy, where indigenous knowledge and biological resources are exploited without adequate compensation to local communities, highlights a critical gap in Nepal's IPR system, one that global IPR regimes fail to address.

The TRIPS Agreement, while promoting global trade and innovation, has exacerbated the challenges faced by countries like Nepal in accessing affordable medicines and technologies. The strict protection of patents, particularly in the pharmaceutical sector, has led to skyrocketing drug prices, leaving a significant portion of the population in Nepal unable to access essential medicines. The failure to utilize the flexibilities under TRIPS, such as compulsory licensing, has prevented Nepal from negotiating fairer terms for essential medicines, which has become particularly apparent during the COVID-19 pandemic. This paper argues that an overreliance on Western-centric IPR models disregards the development priorities of low-income countries like Nepal. The current IPR framework fails to account for the pressing need to nurture local innovation, protect traditional knowledge, and foster access to essential goods. Instead of adopting a one-size-fits-all approach, Nepal's IPR system needs to be reformed to align with both international standards and local development needs. The introduction of specialized IPR courts, improved enforcement mechanisms, and legal frameworks for protecting traditional knowledge are essential steps in addressing the current gaps. Additionally, leveraging TRIPS flexibilities could provide Nepal with the tools needed to foster affordable access to medicines while still adhering to international obligations.

Drawing upon international case studies, such as India's Novartis case (2013), where public health concerns were prioritized over pharmaceutical patents, and Brazil's success in producing generic drugs, the article advocates for a context-sensitive IPR framework that prioritizes human rights, public health, and socio-economic development. Nepal's experience demonstrates that IPR laws should not solely protect corporate interests but should also foster equitable access to knowledge, innovation, and resources. Only through inclusive legal reforms, tailored to the needs of developing countries, can a more balanced and fairer global IPR system emerge—one that supports both global trade and local development. In conclusion, while global IPR systems play a significant role in fostering innovation and trade, their current design fails to accommodate the developmental needs of countries like Nepal. Context-sensitive reforms, stronger enforcement mechanisms, and a redefined approach to



traditional knowledge protection are essential for ensuring that Nepal's IPR system serves the interests of local communities and national development while adhering to international norms. By adopting these reforms, Nepal can protect its intellectual property, support its cultural heritage, and ensure that innovation and public health access remain central to its economic growth and development.

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