

TRIPS, Human Rights, and Environmental Protection: A Legal Analysis

Jamshid Kazimi
Chandigarh University, Punjab, India

Abstract

The TRIPS in the World Trade Organization (WTO) has a great impact on the balance of IPR, human rights, and environmental protection. This article examines the transitional provisions and substantive obligations of the TRIPS Agreement in order to consider their potential impact on the continuing promotion of human rights and environmental sustainability. The article discusses why these provisions, such as the “non-backsliding” (Article 65(5)) and “mail-box” (Article 70(8)) clauses, matter for international policy-making through comparative and qualitative analysis. The India, US, and Japan cases illustrate how a practical balance between the protection of IP, access to essential commodities, and environmental objectives is struck. The results highlight the urgency to reinforce TRIPS flexibilities, facilitate fair technology transfer, and foster collaboration. The study concludes that aligning TRIPS with sustainable development imperatives is essential for achieving a fair and inclusive international IP regime.

Keywords: TRIPS Agreement, Human Rights, Environmental Protection, Transitional Periods, Substantive Obligations, Sustainable Development

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I. Introduction

In 1995, with the WTO, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was adopted and marked a significant turning point in the process of harmonization of Intellectual Property (IP) law across the world. It defines the lowest possible standards of protection and enforcement of IPR in member states in a bid to encourage technological innovation, sharing of knowledge, and economic development (Ottensmeyer and Wager 1996; Tenni et al., 2022). Nonetheless, the scope of the implications of the TRIPS Agreement goes way beyond the field of trade, permeating the most basic areas of human rights, public health, and environmental conservation.

It has become more obvious that human rights and the environment are interconnected in the legal discussion all over the world. The direct impact of environmental degradation is on the derailment of the fundamental human rights, such as the right to life, the right to health, and a clean and sustainable environment (Knox, 2013). It is in view of this interdependence that international entities have raised the issue of environmental damage, claiming that this harm is a grave source of the problem in the actualization of human rights. It is in this wider context that the TRIPS Agreement has received some damaging media coverage insofar as progressing and stifling these global agendas.

Although TRIPS promotes innovation, its strict safeguarding of IPR, especially the rights of patents have attracted criticisms on the access to vital medicines, transfer of technology, as well as environmental sustainability (Helfer, 2003; McManis, 1998). In the third world countries, these issues are especially sharp. Copyright exclusives tend to restrict the manufacturing of generic medications that are cheap, endangering the right to health as stipulated under the international human rights law (Kohler et al., 2022). Equally, environmental protection of patents on environmentally friendly technologies is likely to hinder the proliferation of green innovations that are needed to address climate change and should be used to obtain sustainable development.

The transitional periods created under TRIPS have also attracted the attention of scholars, and which were designed to provide the developing and Least Developed Countries (LDCs) with an extra time to meet its requirements (Frederick, 2013). In spite of such transitional measures, a lot of nations still find it difficult to strike a balance between the need to ensure the safeguarding of IP, the access to first-necessity goods, and social and environmental justice. The so-called non-backsliding clause (Article 65(5)) and the so-called mail-box (Article 70(8)) are especially important in that context because they determine how much the states have flexibility in setting TRIPS implementation to the priorities of the public policy.

Besides, Articles 7 and 8 in the TRIPS explicitly define the goals and regulations of the agreement and the necessity to balance the rights and responsibilities, technological innovations, and the transfer and spread of technology for mutual benefit. Such inclusions make a possible compromise between the

protection and promotion of IP and other objectives of human welfare (Slade, 2016). Nevertheless, critics argue that the application of TRIPS in reality has been unfair towards holders of rights, hampering the sovereignty of nations and reducing the capacity of developing nations to achieve socio-economic and environmental-specific goals (Okediji, 2015; Yu, 2019).

More recent literature demands a human right, based redefinition of the TRIPS paradigm, one that would place IP in the context of the overall agenda of sustainable development and global equity (Haugen, 2009; Beiter, 2016). This reorientation would demand more intensive implementation of TRIPS flexibilities, increased responsibility on the transnational corporations, and international cooperation. It discusses ways in which these legal mechanisms can be re-conceptualized and be used to enhance sustainability, rational access, and actualization of fundamental human rights to the global IP regime.

II. Methodology

This study is a qualitative and doctrinal approach to law, which has been complemented with the use of comparative and analytical approaches, to investigate the interrelationship of the TRIPS Agreement, human rights, and the protection of the environment. The research paper tends to critically examine how transitional and substantive requirements of the TRIPS framework impact the achievement of social and ecological goals in various jurisdictions.

A. Research Design

The research design is qualitative doctrinal research, as it aims at the interpretative aspect of international treaties, legal instruments, as well as the pertinent case law in the textual interpretation. In this manner, it is possible to comprehend the legal provisions of the TRIPS Agreement and especially Articles 7, 8, 65(5), and 70(8) and their wider implications on the human rights and environmental governance. A comparative analytical framework was used to complement doctrinal legal research to achieve the review of the interpretation and implementation of TRIPS obligations by different states in the context of national priorities and development challenges. It has a comparative aspect that concentrates on three representative jurisdictions: India, the United States, and Japan, which provide three different directions in balancing the IP protection with the goals of public interests.

B. Data Sources

The research utilizes a broad body of legitimate legal, as well as policy resources, in order to have a balanced and comprehensive study. It analyses major international legal documents like the TRIPS Agreement (1994), the Doha Declaration (2001), and the Paris Agreement (2015), and contributes to WTO dispute documents. Secondly, the study will also implement the use of secondary sources such as academic articles, legal commentaries, and reports by the various bodies such as the

WTO, WHO, UNEP, and OHCHR to give the study academic breadth and focus.

The study also examines the national legislations, judicial rulings, and policy reports in India, the United States, and Japan in order to elucidate the domestic application of TRIPS to improve its comparative aspect. To guarantee analytical rigor and integrity in the course of the research, all the materials were selected with care; thus, their relevance, reliability, and scholarly authority were taken into account. The research will be based mostly on secondary legal and policy literature access through highly regarded scholarly and institutional archives.

C. Analytical Framework

The work includes three layers of analytical approach that is interpretative doctrinal analysis, comparative law analysis, and policy analysis. It entails a textual review of provisions of major features of TRIPS, a doctrine review of how well they involve human rights and environmental norms, and a comparative way of examining their application in India, the US, and Japan. Lastly, a normative assessment is done to find out whether TRIPS is serving global objectives of sustainable development and protection of human rights. It is a combined method that gives both rigour of law and policy appropriateness in the research.

D. Ethical Considerations

The study relies solely on the legal and scholarly sources that are publicly available. It follows the academic norms of honesty, proper citation, intellectual disclosure, and objective interpretation. No individual data, confidential or sensitive human subject materials were involved.

E. Research Objective

This paper is mainly aimed at assessing the compatibility of the TRIPS Agreement with global human rights and environmental standards, with particular attention to the manner in which the transitional and substantive provisions can be re-interpreted or re-organized to ensure sustainable and fair global governance. To accomplish this goal, the research aims at:

- Compare the legal aspects of TRIPS transitional provisions to solutions of the state health and environmental sustainability.
- Test the experience of countries in terms of the balancing between IPR enforcement and human rights protection.
- Deliver normative suggestions of having human rights and environmental principles incorporated into TRIPS.

III. Results

The research findings reveal multiple dimensions of the TRIPS-human rights-environment relationship:

A. The TRIPS Transitional Period and Human Rights

WTO members, especially the LDCs, have been given time transitions to prepare for the TRIPS as they have economic, financial, and administrative barriers to executing the TRIPS. These transition periods allow flexibility and more time to bring LDCs legislation into conformity with the TRIPS Agreement (Frederick 2013). In 2002, the first extension was provided, namely, the pharmaceutical patents and regulatory information needed for the health of the populace (Beiter 2016a).

In 2005, an extensive extension of the LDC transition, which included a no-rollback condition to stay consistent with the TRIPS Agreement, was adopted (Toohey & Crowne 2014). This was most recently extended in 2013, whereby LDCs were given eight more years to enforce TRIPS. Nevertheless, the lack of proper coordination remains to be significant in the present state of affairs, and more efforts have to be made to ensure incentives and support to LDCs. There are also alternative ways of incorporating the LDCs into the international IP system (Seuba 2010).

The fact that climate change has been seen as a major danger to man and the environment has resulted in the general recognition of its massive effect on globally accepted human rights. With this growing concern on human rights issues, there is growing agreement that companies must become more aggressive in performing human rights due diligence in order to identify and mitigate against any negative impacts that the company may be causing. Nevertheless, even with this acknowledgment, the precise consequences and implications of the implementation of the concept of due diligence to tackle the issue of climate change are to be studied in detail and interpreted (Bright and Buhmann 2021). The significant input of corporations as the primary agents of global climate change is commonly recognized. A study by the climatologist Richard Heede, who compiled a list of historical emissions generated by carbon-emitting organizations, revealed that 66 percent of all the emissions in the world since 1850 up to 2010 can be attributed to merely 90 companies in the oil, coal, and gas industry (Heede 2013).

Paradoxically, climate change not only poses a threat but also offers business opportunities. Switching towards low-carbon energy opportunities opens new opportunities in innovative, construction, developmental, and renewable energy applications, which include wind, solar, hydropower, and battery-stored energy. But, some unwanted effects of such efforts on human rights may also be incurred, particularly to workers and the surrounding communities. This potential hazard is already noticed in the preamble of the Paris Agreement, and the necessity of addressing it stipulates the importance of having a duty to respect human rights as a part of mitigation in the climate perspective (Toohey and Crowe 2014a).

Certain Case studies of countries refer to transitional periods of human rights and environmental policies. The main concentration of the TRIPS Agreement is on IPR and does not directly touch on human rights and environmental policies. Nevertheless, nations have undertaken different measures to incorporate IP, human rights, and environmental aspects into their laws at the transitional stages. In agreeable

terms, an example is India, which submitted an application to join the WTO in 1995, thus one that was subject to the TRIPS Agreement. Enforcement of TRIPS has also seen India trying to make trade-offs between IPR and issues of public health.

The patent system of India contains clauses about compulsory licensing and protection to supply cheap drugs (Indian Patent Act 2005). In order to enforce the meaning of paragraph 6 of the Doha Declaration, which recognizes that the WTO members who do not possess sufficient manufacturing capacities in the pharmaceutical industry may face difficulties in using compulsory licenses under the TRIPS Agreement, India amended the Patent Act. Section 92-A was also added, which permits a compulsory licensing of producing and exportation of patented pharmaceutical products by countries with public health problems and without the necessary manufacturing capacity (Shah 2021).

B. Substantive Obligations and Environmental Dimensions

Substantive obligations of the TRIPS Agreement, which include patents, copyrights, trademarks, and trade secrets, are aimed at the promotion of innovation and the spread of technologies (Geiger and Desautettes, 2020). However, such commitments can usually have undesired environmental consequences. TRIPS transfers may limit the transfer of environmentally friendly technology by giving exclusive rights to inventors, being an obstructable move towards dealing with climate change internationally (McManis, 1998). The developing countries very often have no financial and institutional means to license green technologies or make fair transfer agreements.

The limitation compromises the principle of common though differentiated responsibilities, which forms the basis of international environmental law. As a result, though TRIPS encourages technological progress, it can be counterproductive in supporting the sustainability of the environment because it favors an exclusive right to individual property at the expense of communal ecological interests (Hernandez & Benitez, 2019). The TRIPS agreements that concern traditional knowledge and biodiversity have been criticized too. The existing system is weak because it fails to safeguard indigenous knowledge systems, exposing the local communities to bio piracy and stealing the genetic resources (Oldham et al., 2013). Lack of a block to safeguard the fair distribution of the benefits means that the substantive duties of TRIPS will continue to promote environmental and cultural exploitation.

C. The “Non-Backsliding” Clause (Article 65(5))

The so-called Non-Backsliding Clause or the so-called no-rollback provision formulated in Article 65(5) has proven a key element in the strike of the purposes of IPR in accordance with human rights and development. The relevance, consequences, and difficulties are linked to the incorporation of this provision in the international IP contracts. This study deals with issues of the possible prioritization of the interests of the IP owners over the welfare of the population and the access to knowledge (TRIPS

Agreement 1994a). The TRIPS Agreement provides a non-backsliding provision, and by this provision, the LDCs must make sure that the changes that are made in the transition period do not lead to the reduction of the consistency of the provisions of the agreement (Frederic 2013a).

This has been challenged and objected by LDCs; these LDCs have called out to be further extended the transition arrangement without the no-rollback provision (Ragavan 2006). The TRIPS Agreement is intended to reconcile the duty to engage in international trade and national duties, especially when it concerns a public health crisis such as the AIDS crisis and the COVID-19 pandemic (Manska 1976). The TRIPS Agreement can be assessed on the basis of its capacity to resolve national obligations that can hinder adherence to international obligations by the members, like the freedom of speech and healthy competition, among others. The TRIPS Agreement can also be evaluated in terms of its capacity to grant exemptions to IPR, including copyrights and patents, and to promote such socio-economic goals as the freedom of speech and healthy competition (Rippl et al. 2003).

The non-backsliding clause is to discourage the lowering of the current stocks of IP protection by the WTO members. The provision is supposed to safeguard the fact that nations do not undermine their IPRs and norms in a manner that can adversely affect human rights, and environmental safeguards (Haugen 2021). Nevertheless, there are a number of factors and challenges, which could influence the effectiveness of its protection of human rights and environmental standards:

- The non-backsliding provision is mostly IPR based and may not specifically relate to other contents of the standards of human rights and environmental. Because of this, it might not be a complete safeguard against any negative influence on the precincts on the issue of human rights and environment as a result of policies as well as practices that are outside IP (Otten and Wager 1992).
- Although the clause is intended to stop the dilution of some of the existing IP standards, it does not apply to the situation when new IP regulatory measures tip the scales toward access to needed items, like life-saving medicines or green technologies. The clause may not be sufficient in such cases to safeguard against any possible ill effects on human rights and environmental objectives.
- There should be enforcement and monitoring of the non-backsliding clause. The problem is in making the countries adhere to the clause, and the measures to be taken in case of non-adherence might be limited or hard to be used efficiently (Tenni et al. 2022).
- States can also experience difficulties in trying to balance their TRIPS and other international agreement commitments with human rights and the environment (Amsalu 2020). A compromise between appropriately safeguarding IPR and the need to pursue larger social and environmental goals may be challenging, as well as controversial.
- Developing nations with poor technology may attract difficulties to meet the

needs of the non-backsliding clause in addition to the need to develop in terms of technology and the availability of the necessities like technologies and medicines.

Non-backsliding clause is a positive move towards protecting IPR and its efficacy in protecting human rights and environmental standards may be affected by many factors. It is necessary to maintain a balance through the use of a comprehensive solution that takes into account the country-specific situation and needs of everyone and dedicate a significant engagement into multilateral collaboration and consistency of the policies between the many international agreements.

D. The “Mail-Box” Provision (Article 70(8))

The mail-box provision is a provision intended to refer to a regulatory scheme that permits any kind of submission of data on the pharmaceutical and agricultural chemical products, but not necessarily requires such a type of submission to be disclosed publicly. This stipulation is pertinent in seeking the coverage of the confidential business information and IPRs in addition to the possibility of evaluating and regulating these products. The application of chemical imaging methods like infrared and near-infrared and Raman imaging has gained significance in the pharmaceutical industry in improving the quality of drugs and analysis of the manufacturing procedures (Gendrin et al. 2008). Also, there is research into the behavior of the so called “Pharmaceuticals and Personal Care Products” (PPCPs) in farm land, which draws attention to the harmful impact of having them around and their transmission to edible goods (Xu et al. 2009).

There is a major obstacle in the pharmaceutical industry of developing cost-efficient and eco-friendly catalytic methods to produce chiral amines (Ghislieri et al. 2013). There are potential conflicts between the setting up of being Mail-Boxes and human rights or environmental objectives. On the one hand, maintaining the environment is considered one of the basic requirements in the establishment of key human rights. Alternatively, there is another point of view on the preservation of the environment as the part of the experience of human rights (Shelton 2017).

The contradiction between the TRIPS Agreement and human rights can be made in relation to the access to medicines and further to the transfer of the traditional knowledge and technology. The traditional communities are very knowledgeable with great knowledge such as medicinal practices that are abused by some pharmaceutical companies without due compensation or recognition. The developing countries are highly displeased with fears of their traditional knowledge being commercialized without their consent (Tamvada 2010). In addition to that, the goal of the TRIPS Agreement is to ease the technology transfer, to support development in less developed and developing countries. However, there is also a tendency of multinational companies being unwilling to collaborate. As a result, the developing countries have expressed their concerns on the consequences of IP system on various issues such as healthcare, traditional knowledge as well as technology sharing

(Tamvada 2010a).

It is imperative to point out that the TRIPS Agreement has clauses that allow it to adapt flexibly in upholding IP regulations to balance the issues of health to the people and other public interests. As an example, the Doha Declaration on TRIPS and Public Health emphasizes the right of the members of the WTO to implement the steps aimed at protecting human health and ensuring free access to medicines to everyone. Many countries have used the compulsory licensing provisions under the TRIPS Agreement as authorization conferred to the production of generic versions of patented drugs under special conditions and, therefore, making sure that the availability of important medications is provided in a more affordable manner.

E. Comparative Case Studies

1. India

The TRIPS Agreement has really influenced the application of the human rights and protecting environment requirement in India. Application of TRIPS in the Indian Patent law has posed a challenge in regard to the international responsibility of safeguarding IPR and the national responsibility of safeguarding public health (Xiong 2012). Without doubt, the new patent regime following TRIPS has become a challenge to the Indian pharmaceutical sector with regards to the development of generic drugs (Mandal 2017). Nevertheless, other forms of mechanism like compulsory licensing have come up as a means through which India can offer cheaper alternatives of patented drugs to LDC and meet its human rights duty (Pawar 2015). In terms of environmental protection, the national and international factors that have affected the development of the environmental law in India include the formulation of the international environmental law (Babovic and Wasan 2011). The TRIPS Agreement has both benefited and disadvantaged the application of the duties of protection of human rights and environmental in India. On the positive side, TRIPS has added flexibility to access to medicines, like compulsory licensing and lack of ability to provide new applications of known substances a patent (Arora & Chat 2017). Nevertheless, the pharmaceutical industry in India has also been facing the challenge of implementation of TRIPS which sparked concerns about its possible effects on aspects of societal responsibility such as human rights, alleviation of poverty, and sustainability (Loitongbam and Singh 2016). Moreover, the technological development and industrialization have posed a challenge in Mexico which has raised concerns regarding the effect of this agreement on such dimensions of social responsibility as human rights, eradication of poverty, and sustainability (Gomez and Santillan 2019). The tension between the international IPR protection and the protection of the health of people has been a constant topic of discussion, especially concerning the developing countries and LDC (Xiong 2017 a). Generally, although there have been positive aspects of TRIPS, it has also come with issues of balancing IPR and access of affordable medicines and meeting social responsibility commitments (Pawar 2015a).

2. United States (US)

The obligations of TRIPS have been enacted concerning the human rights and environmental protection in USA in different ways. The connection between TRIPS and international human rights law is examined within the framework of the wider correlation between the IP law and the human rights law (Beiter 2016b). Even though TRIPS do not necessarily assume a human rights approach, a growing community is now pushing human rights to play a counterbalance to IPR provided under the rubric of TRIPS (Sachs et al. 2020a). The human rights system of the region (inter-American) also paid attention to the environmental norm addressing the rights of the indigenous people, in particular (Grant 2019). The Inter-American Court of Human Rights recognizes the right to a healthy environment as one of the fundamental rights and emphasizes the fact that the environment protection is essential to maintain the right to life and personal integrity (Ruse-Khan 2005). TRIPS obligations have also been integrated into Free Trade Agreements (FTAs) in the USA, and the focus on protecting TRIPS flexibilities is becoming increasingly more dominant, notably in the area of human rights and health.

3. Japan

Japan adheres to the provisions of TRIPS regarding human rights and environmental protection through executing policies and laws that are created by urban pressures which result into pollution (Bianchi & Cruz 2005). The Japanese government officially recognized the Ainu as an indigenous group in 2008, which is consistent with the decision of the UNDRIP in 2007 (Nagia 2019). The adoption of the TRIPS obligations by Japan on the provisions of human rights and environmental protection may affect other nations. As the Japanese case studies have demonstrated, it is sometimes the case that consensus and commitment at the local government and community levels are important to a response to environmental compliance and enforcement (Sachs et al. 2020a). This implies that other nations might be required to recruit local stakeholders and communities in fulfilling the TRIPS requirements of environmental protection. The connection between TRIPS and international human rights law is one that should be taken into account. The exact relationship between TRIPS and international human rights law is still an issue of debate. Nonetheless, it is clear that WTO dispute resolution should be affected by the human rights factors, and that national human rights treaties obligations may be important as well (Pawar 2015b).

As it has been stated earlier, the independent expert is sure the interdependence of human rights and the environment is strongly established. The reasoning behind this association is that the diminishing of the environment is capable of significantly affecting the enjoyment of different human rights. Professor Ivan Shearer is of the view that the most decisive factor on human rights protection is the capacity of a country to integrate international laws relating to human rights into its domestic law. Instead of having these standards, it is the adaptation process that is necessary (Lacey 2010).

F. Synthesis and Policy Implications

The comparative analysis depicts that implementation of the TRIPS Agreement has dissimilar effects in jurisdictions. Developed countries have the financial and organizational power to gain advantages of improvement of IPR protection and developing countries tend to be affected by the negative social and environmental outcomes. In order to address these differences, some policy directions can be outlined:

- Increasing flexibilities of TRIPS: WTO members ought to empower the application of compulsory licensing and public interest exceptions to make medicine and sustainable technologies accessible.
- Fostering Equitable Technology Transfer: Structures need to be established that promote these technologies with equity and affordability, particularly to LDCs.
- WTO Processes: Incorporating Human Rights: There should be an enhanced cooperation between the WTO and the UN Human Rights Council and UNEP in order to deploy the trade policies in compliance with the human rights and environment.
- The Recognition of Traditional Knowledge: The formulation of accord mechanisms based on formal protection and benefit sharing should be developed to indigenous and local communities whose resources and knowledge were the foundation of biotechnological breakthrough.

IV. Discussion

The results show that there is a long-standing conflict between IP protection and the pursuit of social and environmental justice. Although TRIPS is a way of participating in global economic governance, application of the rigid rules by the system will divert good accessibility of public goods.

A. Reevaluating TRIPS using human rights prism

The findings indicate that TRIPS implementation often benefits economic efficiency at the expense of social justice that results in inequality in the delivery of basic commodities. Health is also a right that is established in international human rights tools and is usually impaired when the attempt to enforce a patent becomes an obstacle to the availability of medicines (Beiter, 2016). By incorporating human rights approach in interpreting TRIPS, it would be possible to make sure that the protection of IP rights does not negatively affect the most basic forms of human welfare (Yu, 2019). Article 7 and 8 of TRIPS give an interpretative leeway as they focus on the objectives of technology transfer and public welfare. It is the increased dependency on these provisions that would bring IPR enforcement into a compromise with the social and humanitarian needs.

B. Sustainable Innovation and Protection of the Environment

Ecological aspect of TRIPS has not been well developed. The limitations to

global sustainability are exclusive patent rights on green technologies and insufficient protection of traditional knowledge (Hernandez & Benitez, 2019). To facilitate fair technology transfer, it is important to align the TRIPS with the international environmental agreements as the Paris Agreement and Convention on Biological Diversity (CBD). Moreover, inclusion of environmental provision within TRIPS would give states the ability to enable them to access environmentally friendly technologies without compromising the principles of IP.

C. Policy Loopholes and Governmental Problems

Another policy gap is that there is no institutional coordination of trade, human rights and environmental institutions. The dispute settlement of the WTO is centered on issues of trade consistency and not social and ecological effects. Consequently, the developing countries have restricted options in case of conflicting obligations of TRIPS with the purposes of the public policy (Haugen, 2021). In addition, the disequilibrium in the world power balance enables the developed nations to control the IP norms, whereas developing countries cannot overcome either those costs of compliance or technological incompetence. The solution to this gap is to enhance South-Southern cooperation and establish financial tools that would help to access sustainable innovations.

G. Reform and Integration Pathways

In order to obtain the consistency of IP, human rights, environmental protection, the following reforms may be offered:

- Expand the practical application of compulsory licensing and parallel importation to protect the access to the medicines and green technologies.
- Promote institution-wide interaction of WTO, UNEP and OHCHR so that the policies governing trade are able to have environmental and human rights considerations.
- Find fair mechanisms of passing on environment friendly technologies to LDCs.
- An International Legal Process to ensure fairness in benefits sharing and preservation of traditional intellectual contributions.
- Incorporate the requirement of human rights and environmental impact assessment in the sphere of future TRIPS reviews and negotiations.

This analysis shows that although TRIPS has managed to coordinate the international IP standards, it is not balanced in terms of its approach to human and environmental aspect of development. A transition to a sustainability-oriented IP regime, a regime in which the primary objectives of innovation are to serve the people and the earth, is both desirable and possible via interpretive flexibility, institutional co-operation, and broad-based policy change.

Conclusion

As shown in the current discussion, TRIPS Agreement, despite it being a pillar

of the global IP regime, still yields disproportionate results within the framework of human rights and environmental conservation. It is seen that the transitional provisions of the Agreement as well as the substantive obligations entail the tense nature of the trade liberalization and achievement of fundamental social as well as eco-social goals.

The result indicates that developing countries and the LDCs have faced challenges in making use of the flexibilities forecasted in the TRIPS especially in regards to access to necessary drugs and other technological benefits that protect the environment. Other stipulations like the clause regarding non-backsliding (Article 65(5)) and mail-box mechanism (Article 70(8)) have not only maintained stability to the holders of the rights but have also restricted the regulatory space needed to promote the welfare of the people and environmental sustainability. India, the United States, and Japanese case studies affirm that the degree to which the national legal capacity, policy coherence and institutional will coordinate the TRIPS obligations with the human rights and the environmental goals hinges on how countries combine their legal capability and achieve goals and objectives of both national and international policies.

The only solution available to balance the competing interests of innovation, equity and sustainability is to re-conceptualize TRIPS in light of human rights focused and sustainability-focused perspective. Such an approach is already normatively grounded in created Articles 7 and 8 through the focus on technological spreading and welfare of society. Reforms that are likely to be adopted in the future ought to reaffirm the TRIPS flexibilities, strengthen technology-transfer systems and foster institutional co-operation between the WTO, UNEP and OHCHR.

To make TRIPS a device to reinforce inclusive and sustainable development, it is necessary to leave the limited narrow view of the proprietary protection to a vision of IP as a public good. The international community can also make sure that innovation could benefit not only the economic development, but the common good of humanity and the world through the introduction of human rights and environmental principles in the global trade governance.

Conflict of interest statement

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