

EVOLUTION OF PATENT LAW IN PAKISTAN: HISTORICAL AND DOCTRINAL PERSPECTIVES

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Abstract

Patent law forms a backbone of intellectual property rights, as it awards the inventors with exclusive rights over their inventions for a specified period, thus accelerating innovation and economic developments. This paper examines the historical and doctrinal development of the Patent law in Pakistan, which has its roots from colonial statutes to reforms in the modern time, driven by international treaties such as the Trips Related Aspects of Intellectual Property Rights (TRIPs) Agreement. Utilizing the doctrinal legal research and analysis of secondary data, the research explores legislative efforts, judicial interpretation, and the socio-legal issues impacting enforcement of the patent law in Pakistan. The findings show that there has been substantial growth in legal modernization but still an institutional weakness, lack of public awareness, and enforcement problems. The paper ends with providing some recommendations on legal reforms, capacity building and public participation to support Pakistan's patent system and the broader ecosystem of innovation.

INTRODUCTION

Innovation is considered as one of the central contributing factors towards economic growth and competitiveness at the global level (WIPO, 2021). Patent law as one of the bedrocks of intellectual property rights (IPR) encourages inventors by granting exclusive rights to them on their inventions for some time that encourages investment in research and development (R&D) as well as technology transfer (Cornish, Llewelyn, & Aplin, 2019). In such developing nations as Pakistan, the patent law can be effective in stimulating indigenous innovations, in attracting foreign investment and participating in the global value chains. Pakistan's patent law complex has changed greatly throughout the last century. Regulated by colonial-era legislations, the legal regime has been subsequently reformed to meet international standards especially after Pakistan's entry in World Trade Organization WTO and the TRIPS agreement (Khan, 2015). Patents Ordinance 2000 is a radical

reform of legislation to modernize the Pakistani patent system. Nevertheless, the country is faced with many problems regarding the effective implementation and enforcement of patent law. The institutional capacity constraints, procedural inefficiencies, and an insufficient level of public awareness impede the abilities of the patent system to promote innovation and economic growth (Ahmad, 2018). The purpose of this study is to give a thorough yet comprehensive understanding of the historical and doctrinal change that had taken place in the patent laws of Pakistan, and how it had impacted the international legal instruments as well as point to the challenges and opportunities for patent reforms.

2. Aims and Objectives

The study aims to trace the historical evolution of patent laws in Pakistan from colonial times to the present day. It further intends to analyze the doctrinal

foundations of Pakistan's patent law, with a special focus on statutory provisions and judicial interpretations. Side by side, the objective is not only to examine the influence of the related international treaties, especially the TRIPs Agreement, on Pakistan's patent legislation but also to identify key challenges in the implementation and enforcement of patent law in Pakistan.

These objectives are designed to provide a holistic understanding of Pakistan's patent law landscape and also to inform policy and legal reforms respectively.

3. Literature Review

3.1 Global Evolution of Patent Laws

The origin of patent and its recognition dates back to the Renaissance period, with the Venetian Statute of 1474 often cited as the first formal patent law granting exclusive rights to inventors for a limited duration (Comino, Galasso, & Graziano, 2017). This legal document laid the groundwork for modern patent systems by recognizing the importance of protecting inventors' rights to encourage innovation.

The English Statute of Monopolies (1624) further developed patent law by curbing the Crown's arbitrary power to grant monopolies and therewith established the principle that patents should be granted only for novel and useful inventions (Cornish et al., 2019). This statute is considered a foundational legal instrument for patent law in common law jurisdictions.

The international of recognition of patent and the need for its enforcement in countries across the border, began with the Paris Convention for the Protection of Industrial Property (1883), which introduced key principles such as national treatment and priority rights for patent applicants (WIPO, 2005). The establishment of the World Intellectual Property Organization (WIPO) in 1967 further facilitated global cooperation in intellectual property protection (United Nations, 1972).

World Trade Organization (WTO) is one of the principal multilateral trade bodies at international level and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) adopted in 1994 as the eminent part of WTO constitutes a significant milestone. Since under the present WTO framework, minimum standards that countries have to adhere to in terms of IP protection and enforcement are

stipulated (W TRIPS requires its members to grant patent protection to inventions relating to all types of technology for at least 20 years; hence equalizing all patent laws across the globe (World Trade Organization, n.d.).

3.2 Patent Laws in Pakistan

Patent laws of Pakistan trace its origins to the Patents and Designs Act 1911, the legacy of the British India (Khan, 2015). This is the law of the colonial era, the main objective of which was to safeguard industrial inventions in the different economic setting, without stipulation that would address modern technological advances or international commitment. The Patents Ordinance 2000 with its Rules 2003, replaced the outdated colonial statute and brought the patent law of Pakistan in conformity of WTO/TRIPS Agreement (Patents Ordinance, 2000). The Ordinance defines the patentable inventions as those that are new, have an inventive step, and able to be applied industrially (Section 7, Patents Ordinance, 2000). It also offers 20 years of patent term starting from the date of filing, exclusive rights for patent owners as well as procedures for granting of compulsory licensing in certain conditions. Scholars have observed that although the Ordinance is a great move forward, the execution is limited by the barriers posed by institutions and socio-economic forces (Ahmad, 2018; Khan, 2015). Patent administration here in Pakistan, is administered by the Intellectual Property Organization of Pakistan (IPO Pakistan), faced by shortage of resources and delay in procedures (Aijaz, 2024).

3 Challenges in Implementation

Ahmad (2018) defines a number of obstacles to the effective patent law implementation in Pakistan, such as insufficient expertise in the patent office, low awareness among inventors and other stakeholders in the industry, and the poor enforcement of laws. These problems decrease the incentives to innovate and the role of the patent in the economic development (Zakir, Khan, & Ali, 2023). Comparative studies on the subject bring into focus the fact that Pakistan is behind regional peers like India and Bangladesh to use patent law for industrial growth (Khan, 2015). Some of the factors that help in creating this gap includes poor legal infrastructure, low payment for

R&D and the socio cultural attitudes towards intellectual property (Kaveh & McGuckin, 2023).

4. Methodology

The methodology of doctrinal legal research approach has been applied in this study, which entails critical analysis of the primary sources of law such as statutes, regulations, case law and international treaties, and secondary source of law including scholarly articles, government reports and institutional reports (Merriam & Tisdell, 2016). Secondary data analysis is used to support the doctrinal method to place the legal system into the socio-economic context for Pakistan. Such sources of data include reports from the WIPO, intellectual property organization of Pakistan and academic literatures. This approach allows achieving a complete grasp of the legal principles applied to the patent law in Pakistan and the obstacles related to its implementation.

5. Findings

5.1 Historical Development

Before the promulgation of the Patents Ordinance 2000, the Patents and Designs Act 1911 was the main legislative piece at Pakistan, used to regulate patent rights. This colonial statute had a limited scope, hence was insufficient for the needs of a modern economy as it failed to meet those of international IP standards (Khan, 2015). While presenting TRIPs-compliant provisions, the Patents Ordinance 2000 contained clear definitions on patentable inventions, patent terms, and the rights of the patent holders (Patents Ordinance, 2000). This legislative reform has shifted the doctrine to harmonization with global IP norms; it was to support innovation and technology transfer (Butt & Akhter, 2023).

5.2 Influence of International Treaties

The accession to the WTO and the commitments within TRIPs Agreement, influenced the introduction of reforms to the national patent law to a great extent. The Patents Ordinance 2000 is harmonious with TRIPs Agreement because it defines minimum standards regarding protection and enforcement of patents (WIPO, 2005). Pakistan is, however, still enjoying a number of flexibilities within the TRIPs, including those that permit provisions for the compulsory licensing in order to address public health

needs and enhancing access to basic medicines (Ahmad, 2018). Such flexibilities are crucial in striking a balance between protecting patents and public interest in a developing country setting.

5.3 Implementation Challenges

In spite of legislative reforms, Pakistan has faced numerous challenges in the implementation of patent laws:

- **Institutional Capacity:** IPO Pakistan has problems with a lack of technical experience, low number of staff, and lack of infrastructure resulting in patent examination and grant delay, which ultimately affects the proper implementation of relevant laws (Ahmad, 2018).

- **Public Awareness:**

There is a little information about patent rights and procedures that inventors and other stakeholders in the industry have regarding their patents and the benefits attached to it. Even, the registration process to the stakeholders seems cumbersome, which actually is not, hence this lack of awareness, makes it difficult for them to apply for or enforce patents (Khan, 2015).

- **Enforcement:**

Poor implementation of the judiciary and scanty resources to fight patent infringement weaken patent holders' right (Ahmad 2018). This lack of a strong enforcement mechanism, allows infringers to exploit the system, ultimately impacting the innovation ecosystem.

- **Socio-Economic Factors:**

Limited investment in R&D and innovations lowers the demand for patent protection in Pakistan economy (Khan, 2015). Lack of R&D investment means less new inventions and innovations being generated, resultantly, reducing the number of eligible products and technologies that can be patented. This, in turn, reduces the reward as well as incentive for individuals and businesses to seek patent protection for their own creations.

6. Discussion

The progress in the form of patent law in Pakistan is a demonstration of the country's attempts to make its system of law more modern, by meeting all the international responsibilities. Doctrinal alignment with TRIPs Agreement is a major feat and offers a legal ground for protection of inventions and

initiating innovations. However, the issue of difference between law and practice has always remained a critical issue. Weaknesses of institutions, delays in procedures, and lack of public attention cripple the effectiveness of the patent system. Comparative analysis against regional comparable implies that Pakistan needs to improve its patent office, give a shape to administrative processes, and improve outreach to inventors and industry. Furthermore, Pakistan should seek policy reformation issues on emerging technological areas like biotechnology, software, and digital innovations to ensure that Patent's law is in line with changing global economy.

7. Conclusion

This study has shown how the patent laws in Pakistan has developed historically and doctrinally, likewise how international treaties and domestic legal changes, worked to shape the law. Despite the Patent Ordinance 2000 being a significant step to improve the patent regime of Pakistan, issues of its implementation and enforcement remains a concern. Institutional capacity building, legal reforms, and public education are investing that Pakistan should make to realize the full potential of the patent law with regard to the promotion of innovation and economic development. Future research may pay attention to empirical studies on patent utilization and socio economic effect of patent protection in Pakistan.

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