

Globalization of Patents and its Impact on Human Rights

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ABSTRACT:-Globalization of patents has become a major issue of concern in the background its impact on the human rights. The allotment of rights over patents has yielded considerable consequences that can affect the enjoyment of human rights. Globalization of patents may be good in one way but it will definitely affect the individuals' human rights who have invented a new thing with lots of pain. It is time to look at the globalization in an analytical perspective so as to protect the human rights. The patent rules should be subjected to strict verification and analyzed through human rights discourse.

KEYWORDS:-Globalization, Patent, Harmonization, Human Rights, WTO, TRIPs.

INTRODUCTION:-We are in the era of so called LPG (Liberalization, Privatization, and Globalization). Globalization has made this world a global village. Globalization is a process of international integration arising from the exchange of world views, products, ideas, and other aspects of culture. The supporters of 'globalization' described it as the panacea for all economic problems, and the only path to prosperity is to stick on to free-market principles. Some countries in the world are urging to deregulate and open up their economies to free trade and foreign investment, to ensure the development of their economies. But globalization has brought great inequity, mass impoverishment and despair, with it. The allotment of rights over patents has yielded considerable economic, social and cultural consequences that can affect the enjoyment of human rights. The current importance of patents for human rights reflects two developments. The first one is the expansion of the regions covered by patent regimes to incorporate, e.g. patenting of biological entities, copyright print protections in the digital domain, and private intellectual property claims with respect to cultural heritage and traditional knowledge. The second one is the emergence of universal regulations on intellectual property protection in the global trading system. Though globalization has increased the ability of civil society to function across borders and promote human rights; but some other factors have gained the power to abuse human rights in unforeseen ways. International human rights law intends primarily to protect individuals and groups from abusive action by states and state agents.

OBJECTIVE:-The objective of the paper is to identify the concept of globalization of patents and to analyze its

impact on human rights. This paper's another objective is to look at the significant aspects of the globalization of patent rights and its consequences; and to trace out some ways to curb the abuse of human rights by the globalization of patents.

GLOBALIZATION OF PATENTS:-A patent means a set of exclusive rights granted by a sovereign state to an inventor or assignee for a limited period of time in exchange for detailed public disclosure of an invention. An invention is a solution to a particular technological problem and is a product or a process. Patents are included in intellectual property.

Recently there is a trend towards global harmonization (co-ordination) of patent laws; particularly the World Trade Organization (WTO) has been active in this area. The TRIPs (Trade Related Aspects of Intellectual Property) Agreement has been mainly successful in providing a forum for nations to agree on an aligned set of patent laws. Conformity with the TRIPs Agreement is required for admission to the WTO; so compliance is seen by many nations as essential. This aspect has also directed many developing nations, which may historically have developed different laws to assist their development, implementing patent laws along the lines of global practice.

Along with this, there are international treaty procedures, such as the procedures under the European Patent Convention (EPC) [comprising the European Patent Organisation (EPO)], that consolidate some portion of the filing and examination procedure. Same kind of arrangements exist among the member states of ARIPO and OAPI, the equivalent treaties among African countries, and the nine CIS member states that have built the Eurasian Patent Organization. Paris Convention for the Protection of Industrial Property is a crucial international convention relating to patents. It was initially signed in 1883. The Paris Convention gives a range of basic rules relating to patents, and even though the convention does not have direct legal effect in all national jurisdictions, the principles of the convention are included into all notable current patent systems. The most important aspect of the convention is the provision of the right to claim priority: filing an application in any one member state of the Paris Convention preserves the right for one year to file in any other member

state, and receive the benefit of the date of original filing. Patent Cooperation Treaty (PCT) is another crucial treaty, administered by WIPO which covers more than 140 countries.

GLOBALIZATION OF PATENTS AND ITS IMPACT ON HUMAN RIGHTS:-Economic rights, labor rights, cultural rights, civil and political rights etc. come under the human rights. The globalization is considered to have an impact on the human rights. The entrance to the WTO by the nations that violate human rights extinguishes the opportunities for valuable sanctions to discourage such violations. The open trade intensifies inequality in the distribution of income. In the same way the negative impact of globalization - particularly on vulnerable sections of the community results in the violation of various rights guaranteed by different Covenants in particular on the enjoyment of fundamental aspects of the right to life by the nations which have debunked human rights mechanisms. The conventional view that civil and political rights entail only negative obligations, while economic, social and cultural rights give rise to a more complex issue of positive State obligations which need resources to be expended. The United Nations Human Rights Committee has inferred certain rights guaranteed by the ICCPR as entailing positive obligations.

The negative effects of the globalization of patents on human rights can be divided into two categories. First, the globalization of patents may directly violate human rights by itself or in conjunction with another factor. This characteristically involves civil and political rights, such as the right to have property. The second category is concerned with indirect effects. It involves the globalization's influence on host governments. Globalization can undermine the state's ability to fulfill human rights law. Globalization uses its influence to encourage governments to adopt policies of liberalization, deregulation and privatization that ignore the consequences of human rights. This second effect is concerned generally with economic, social and cultural rights, which are vital in developing countries. Globalization is the engine of economic growth upon which the countries depend for the provision of the right to development. Globalization of patents has become a major issue of concern in the background its impact on the human rights. Globalization of patents may be good in one way but it will definitely affect the individuals' human rights who have invented a new thing with lots of pain.

CONCLUSION :-The struggle for human rights has become more complex and challenging in an age of globalization. It is not an exaggeration to say that Globalization is a double-edged sword for innovation. The

globalization may give innovative companies the opportunity to go beyond national boundaries, but at the same time it may endanger their innovation without proper protection. It can even demolish the righteous cycle of patents and innovation and in due course cause "the patent crisis". The risk and cost of legal action is rising rapidly. It is creating a drag on innovation and imposing disincentives to invest in creative production. In this age of globalization, international harmonization of patent law is a natural and reasonable step which will benefit all participating countries. It is equally necessary and important to move forward consistently towards the direction of global patent protection. Realizing the human rights especially the economic and social rights has become more and more complex. The human rights can balance the forces of globalization within a just and ethical international legal framework. Priority should be given to maintain balance between globalization and protection of human rights. Every nation should formulate patent rules which are subjected to strict verification and those rules should be analyzed through the discourse of human rights. It is time to look at the globalization in an analytical perspective so as to protect the human rights.

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