

Book Review

Zafar Mahfooz Nomani (Ed.) INTELLECTUAL PROPERTY RIGHTS AND PUBLIC POLICY. New India Publishing Agency, New Delhi, 2019, xxx+268 pp., ₹ 1,595/- (hardcover). ISBN: 978-93-86546-49-4

The book *Intellectual Property Rights and Public Policy*¹ edited by Zafar Mahfooz Nomani is an embodiment of the intellectual property (IP) and social implications of public policy discourse and knowledge governance in India. The edited volume is the product of extensive research on intellectual property and subsumes digital divide, social exclusion and community knowledge support. The author provides social dynamics of the intellectual property as well as the legal justifications for preserving to foster social cohesiveness and unity. The author of the book enunciates as to how intellectual property has developed from a method of patenting to include anything that the community's creative mind is capable of imagining and expressing for public good. In order to support a multidisciplinary approach and resolving challenges pertaining to intellectual property, the author places an emphasis on the socio-legal implications of IPR in other fields such as medicine, engineering, biotechnology, cyber law, human rights. The book dedicates four sections on copyright, patent, trademarks, cybercrime etc. and signifies discursive research in the social domain of IP. The book has the seal of approval by Justice K.G. Balakrishnan, Former Chief Justice of India. His Lordship in his forwarded remarks remarked this book as:

The object of the book being creative and innovation being hallmark of knowledge economy [and] leads a keen inquiry into the frontiers of intellectual property laws and their governance in India.

The book is divided into 4 sections followed by 12 chapters that explain intellectual property laws in simple lucid and scholarly foreseen to readers of social sciences, public administration and governance.

¹ZAFAR MAHFOOZ NOMANI, INTELLECTUAL PROPERTY RIGHTS AND PUBLIC POLICY (New India Publishing Agency, New Delhi, 1st Edition 2019).

Avtar Krishen Koulan eminent scholar of international trade law and intellectual property, in his article *Intellectual Property and Public Policy Under TRIPS Agreement and Beyond* phase out IPR in connection with the TRIPS agreement. It explained how the IPR Policy 2016 played a vital role as a competition regulator, economic tool as well as a marketable financial asset. This chapter emphasizes the move from a collectively held knowledge domain to one that defines “individual exclusive rights in knowledge and creativity, giving way to the negative right notion. It also traces the jurisprudential grounds behind major intellectual property notions from ancient to present times.”

S.K.Verma having expertise in international IP law in his article *Legal Challenges to Copyright and Patent in India: Public Policy Perspective* talks about India as a member of the World Trade Organization and party to the TRIPS Agreement, must align its IP laws accordingly. The Indian government must balance the requirements of its citizens with patent holders’ rights while drafting and implementing legislation for domestic and foreign filing of patent applications.² In regard to the Novartis Case, the definition of patent teleologically interpreted and its implication on health and access to medicine Indian patent statute has specific provisions, which are covered beneath Section 3, that “make patentable subject matter such as a) pharmaceutical drug derivatives; b) stem cells; c) diagnostic methods and kits; d) isolated DNA sequences; e) computer-related inventions, etc.” Therefore, these inventions undergo further scrutiny by the Indian Patent Office. The guidelines on patenting software, biotech, and pharmaceutical inventions, however balances patent holders with social developments.

Imtiaz Ghulam Ahmed, an expert in the field of jurisprudence, in his article *Jurisprudential Justification and Practical Implications of Intellectual Property Rights* explore how intellectual property has become vital for the rapid pace of technical, scientific, medical innovation and social good in contemporary socio-legal polemics. It became relevant in changing global economic climate and business models. The intellectual property is important to value and growth and India has passed many new laws to protect intellectual property rights (IPRs) to

²*Id. at 17.*

meet WTO requirements (TRIPS)³but trickle-down effects is yet to reflect in social plane.

Azim B. Pathan has drawn on environment law perspective in energy sector in article on *Techno-Legal Dimensions of Carbon Emissions and Climate Change: An IPRs Perspective*. It focuses attention on how climate change pressures agriculture at a time when more food is needed for a growing world population. It exhibits about climate change and intellectual property rights diametric by highlighting the climate change laws like *United Nations Framework Convention On Climate Change, 1992; Kyoto protocol, 1997; The Bali Road Map, 2007; The Cancun Agreement, 2010; Durban Outcomes, 2011; and Doha Climate Gateway 2012*. It further highlights the need for climate change-related technology and the technology transfer and climate change. Intellectual property and technology transfer have also been discussed.

The article *Law and Practice of Neighbouring Rights under Copyright Law* by Gurusharan Varandani draws IP in Labour Law perspective. It explores how copyright protects all human inventions, regardless of form, substance in IP prospective. This initial protection requires no formal procedure as long as the work is original. Copyright and neighbouring rights cannot be severed from one another and given their own distinct legal framework. The interest in IPR has been growing on a global scale, to the point where the WIPO and the WTO are cooperating on issues of protection and putting pressure on member nations to bring their domestic laws into line with lucrative international commitments. This demonstrates that neighbouring rights are going toward a more stringent legal framework in order to enhance them and are acquiring a legal character as a result.

The article *Poverty Human Rights and Intellectual Property Regime: An Appraisal of Farmer Rights to Food* delineates on intellectual property and its fundamental benchmarking of plant variety law in the context agriculture, farming sector and vital driver of economic progress. The conventional IPR rules fail to preserve farmers' traditional knowledge and contributions due to their restricted criteria-based protection and rigid rights framework. The author analyses the theory supporting IPRs over plant genetic resources and their effects on farmers' customary rights *vis a vis* private property rights and inclusionary rights ideas are

³*Id. at 48.*

also significant.⁴ The libertarian and egalitarian theories of farmers' right in conventional IPR regulations logically are also analysed. State sovereignty, informed consent, and equitable benefit-sharing notions are inextricably synchronised in the paper.⁵ This article argues that farmers' economic incentives compared to multinational breeders are not equitable or justiciable under the realm of rights framework.

Sajid Zaheer Amani in his article *Remedies Relief and Payment under Patent Infringement: A Critical Analysis* highlights the doctrinaire limits, of Anton pillar order and Bolar provision. It examines the nature of remedies given to the patent's inventor in the form of money recompense-permanent relief,⁶ lost profits and a reasonable royalty.⁷ It functionally examines the monetary relief on account of profits and limitations on the grant of reliefs.⁸

The article on *Right to Health & Access to Medicine in the Context of Intellectual Property and Sustainable Development* addresses the global health scenario and the international legal perspective.⁹ It also focuses on the human rights perspective and the relationship between patenting and health. In Novartis' patent claim for the anti-cancer medicine Glivec in India as a case study. It also shows how high pricing for patented drugs violates health rights by making critical drugs inaccessible to most people, especially the poor. The case raises problems of drug patenting, generic drug survival, and access to medications, which are crucial to the right to health, a human right, and a constitutional right in many nations. It also clarifies the stance of the government with regard to the powers delegated to the National Pharmaceuticals Pricing Authority within the framework of *National Pharmaceuticals Pricing Policy, 2012* and *Drug Pricing Control Order, 2013*.

Faizanur Rehman in his article *Patenting Jurisprudence in Biotechnology Law: A Comparative Perspective* talks about competition and trade defining today's world. It also subsumes biotechnology industry rose in the 1970s when biological

⁴ *Id.* at 98.

⁵ *Id.* at 105.

⁶ *Id.* at 120.

⁷ *Id.* at 127.

⁸ *Id.* at 132.

⁹ *Id.* at 142.

techniques like recombinant DNA, cell culture, and genetic engineering were developed in Cohen and Boyer postulates.

S. S. H. Azmi in his essay on *Information Technology and Cybercrime Problem and Prospects* dealt with the meaning, origin, and development of cybercrime in the pragmatic discourse of law enforcement, penalties and punishment. He also talks about how an investigation of cybercrime and its requisite forensic is done. It also deals with the crime in foreign territory followed by transitional context.

Rahman Mittal an expert in cyber law in his article *Copyright Protection of Website Content: Legal Challenges* discusses that the website is soaked in information, much of it with varying degrees of copyright protection. In fact, the reality is that almost everything on the news is protected by copyright law. It mainly deals with the right of an e-business and linking it with other sites that provide the user with the merchandise.¹⁰ It focuses on judicial recognition of linking and in-line linking. Through the use of in-line linking, a web page is able to generate a new web page by calling upon various elements that are located on other web pages or servers. In addition, web browsers make it possible for web publishers to segment pages using frames. A website may have one or more frames, each of which is a customizable window within the site that allows users to see content from another website.

The article on *Regulatory Mechanism and Challenges in Controlling Cyber-crime* authored by Justice Ram Prakash Sethi confronts with the challenges to cyberspace and the foundation of copyright law. The challenges of cybercrime and the enforcement of cybercrime are quite essentials for containing the digital violence free society.

The extensive literature reviews were conducted by the authors of this book in each and every contributors' papers. The reading is made more enjoyable in socio-legal milieu of Indian society. The inclusion of carefully crafted preface at the beginning of the book is quite sobering and appealing. The volume is a one-of-a-kind pilot study indicating specific case laws and field study which pricks readers for meaningful insight. The subject matter; and a subject index at the end of the book is neatly drafted. It serves ready reckon for future researcher to embark on public policy discusses of IP in India. The hardbound edition is reflective of

¹⁰*Id.* at 198.

publishing standards in type setting, formatting and editorial acumen. However, the price of the book is higher and it is requested to publisher to switch for to paper back and e-book model for wider readership and audience. The boredom of reading can be alleviated somewhat with the help of social components. It's probable that the author has previous experience working in the field of protecting biological resources using intellectual property. But this research makes a substantial contribution to the advancement of intellectual property jurisprudence in public policy and social context in India.

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