

**Inter University Centre for IPR Studies**  
**Cochin University of Science and Technology**

**Syllabus for One Year LLM (IPR) Degree**

**FACULTY OF LAW**

**PROGRAM OUTCOME**

After completing this program the students will be able to:

PO 1: Compare the jurisprudential aspects between various legal systems.

PO 2: Understand the concepts and practical aspects of all forms of Intellectual Property.

PO 3: Apply Intellectual property in the context of emerging technologies.

PO 4: Evaluate developmental aspects of Intellectual property.

PO 5: Develop Legal research and writing skills.

**1. IUCIPRS/2101 - Research Methodology (Semester 1 - Core 3)**

**Introduction and Course Objective**

*The course objective is to familiarize the research methods used in legal research. Research methodology includes the philosophy and practice of the entire research process and use of the legal source material. The course also includes different types of research methods and different legal research and legal writing techniques in order to equip students for further legal research. In addition, the course covers the processing and presentation techniques of primary and secondary data in socio-legal research and the development of research topics for LL.M. Masters thesis.*

**Learning Outcomes**

On successful completion of this Course, the students will be able to:

*LO1 - Present and understand various legal research methods*

*LO2 - Conduct effective doctrinal as well as empirical legal research by using fundamental tools of legal research.*

*LO3 - Understand and create accurate research methods for a legal IP issue.*

*LO4 - structure a research proposal to write a dissertation and to design research process.*

*LO5 - Write research papers/notes and case comments.*

### **Mapping of Learning Outcomes with program outcomes**

	<b>PO 1</b>	<b>PO 2</b>	<b>PO 3</b>	<b>PO 4</b>	<b>PO 5</b>
<b>LO 1</b>				✓	✓
<b>LO 2</b>				✓	✓
<b>LO 3</b>				✓	✓
<b>LO 4</b>				✓	✓
<b>LO 5</b>					✓

### **Course Content**

#### **Module: I - Research as a social science and scientific research**

Qualities of scientific research, meaning of research – nature and utility of research - pure and applied research - value of research – problems of objectivity in research – the research process – multidisciplinary approach to research - Notion of Research and knowledge -Specific Characteristics of Research - Types of Research -Doctrinal, Non-Doctrinal -Exploratory, Descriptive, Experimental -Qualitative, Quantitative -Longitudinal-Impact -Case Study -Attitude Measurement - Projective

#### **Module: II - Formulation of problem in research**

Research problem identification- validation of research problem - formulation of research question - hypothesis, their nature and role – concepts and their role in investigation - research design- Hypothesis difference between proposition, hypotheses and theory. Types of hypotheses. Testing of hypothesis, and Operationalisation of the Hypotheses-Objectives of Study

#### **Module: III - Doctrinal research - data collection**

Doctrinal sources – primary and secondary sources –case study method – observation and interview - case books – writings – international documents – judgments of international bodies and superior courts of different countries–legislation – statutory instruments and judicial decisions.

## **Module: IV - Non-doctrinal research**

Empirical research – census method of data collection – sMethodology - Sampling, Estimation: Types of sampling; Sampling distribution; Estimation; Confidence intervals for means; Confidence intervals for proportions.– optimum sampling – different methods for collection of data – interview, preparation of questionnaires – classification of data

## **Module: V - Statistical analysis of data and reporting**

Tabulation and graphical presentation of data –Use of Statistics in Social Sciences - Drawing of Inferences -Analysis/Interpretations – Jurimetrics - What is Impact? -Measuring of Impact— standard deviation – elements of probability study and its use in research – presentation of research reports – style of presentation - practical experience in collection of data and analysis of data using computer and internet.

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10. Morris L. Cohen, How to Find the Law, University of Michigan, (1989) Chs.1,13,17 &18
11. Peter Goodrich, Reading the Law, B. Blackwell, (1986) Ch.2
12. John A Yogis, Michalelosipeaea, Philip. W. Whitehead, Legal Writing andResearch Manual, Lexis Nexis Butterworths, (2004)
13. A.K. Phophalia, Modern Research Methodology, Paradise Publishers, 2010.
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44. Price and Bitner, Effective Legal Research, 311-380.
45. Ram Ahuja, Research Methods, pp 52-91 (2001).
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## **2. IUCIPRS/2102 - JUSTICE IN A GLOBALISED WORLD**

### **Introduction and Course Objective**

*A very comprehensive and packed course aimed at imbibing in students the importance of underlying principles of law from an analytic perspective as well as the changes that law can make in society and the impact of societal changes upon law with special emphasis on globalized arena. A superficial idea different schools of law are imparted so as to properly answer the elusive conception of law and justice. Justice in its varied forms are discussed with due reference to its social and individual aspects especially in the globalized arena. How law works in the system is another tenet of the paper and the same to a great extent is attempted from the perspective of judicial process. The working of judicial process and the theoretical premises of the same is covered referring to the scholarship of the said area with special emphasis to Indian*

*Judiciary. Influence of morality in law's functioning and the conflicts between law and science is another area that is covered.*

## **Learning Outcomes**

After the successful completion of the course, the students will be able to:

LO 1 - Understand the relevance of jurisprudence

LO 2 - Identify the elusive nature of law and justice

LO 3 - Examine the need for using analytical skill in reading of law

LO 4 - Analyse the working of law in the society

LO 5 - Evaluate the nature of judicial process and functioning of Indian judiciary

### **Mapping of Learning Outcomes with program outcomes**

	<b>PO 1</b>	<b>PO 2</b>	<b>PO 3</b>	<b>PO 4</b>	<b>PO 5</b>
<b>LO 1</b>	✓				
<b>LO 2</b>	✓				
<b>LO 3</b>	✓				
<b>LO 4</b>				✓	
<b>LO 5</b>				✓	

## **Course Content**

### **Module I**

**Meaning of law** - purpose of law - meaning of law in the globalized context – mechanisms

### **Module II**

**Precedent** - Factors that influences decision making process - methods of decision making - analogical reasoning and growth of law - juristic techniques and possibility of change within the apparently logical process in decision making.

### **Module III**

**Judicial process in India** - peculiar features -prospective overruling - Role of Judiciary in social change - national sovereignty in the globalized context -interrelation between individual rights and social justice

### **Module IV**

**Law,morality and justice** - interrelation - changing concept of property - interface with life process - biotechnology - concept of life and its relation to property - human body and the response of law

### **Module V**

**Social change through law** - Mechanisms that infuses change into the legal system - Law as an instrument of social change - critical evaluation

### **References:**

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2. AmartyaSen, The Idea of Justice, Harvard University Press & London: Allen Lane, (2009).
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### **3. IUCIPRS/2103 - COMPARATIVE PUBLIC LAW**

#### **Course Objective:**

*Public Law was first defined by Romans as res publica which meant Public Good. Public Law regulates the relationship between individual and the State. The three Constitutions identified for the comparative study (Constitution of United States of America, 1787, the Constitution of India, 1950, and the Constitution of South Africa, 1996) have differences as well as similarities in various aspects.*

*The aim of the course is to develop an in-depth understanding of Constitutions of the United States of America, India and South Africa in theory and practice. A comparative study of the fundamental constitutional doctrines of various legal systems will help the student to appreciate the strength and weakness of a particular legal system.*

#### **Learning Outcome:**

After completing this paper the students will be able to:

LO 1 - Understand the evolution of basic doctrines and its transformation into the foundations of the given Constitutions.



LO 2 - Understand about various forms of state and forms of government in theory and in practice.

LO 3 - Understand theoretically the methodology of comparing various legal systems in order to appreciate the strength and weakness of that system from its socio-economic and political background.

LO 4 - Evaluate the role of judiciary in interpreting and upholding constitutional rights.

LO 5 - Analyse the role of public law in the era of globalisation.

### Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2	✓				
LO 3	✓				
LO 4				✓	
LO 5				✓	

### Course Content:

#### Module 1

**Origin and development; Nature and Scope of Public Law-** Distinction between Public Law and Private Law- Relevance, Significance and Types of Constitutions- § Comparative Study of Constitutions: Advantages & Problems in comparison

#### Module II

**Constitutions of the United States, India and South Africa:** An Overview- Constitutionalism – Essential Features-Doctrine of Separation of Powers – Application in US, India and South Africa- Rule of Law – Application in US, India and South Africa

### **Module III**

**Federalism-** Models of Federalism- Application in US, India and South Africa-Constitutional Amendments in US, India and South Africa- Theory of Basic Structure- Origin and Development-Modes of Constitutional Review – Judicial Review – Limitations

### **Module IV**

**Constitutional Rights and Duties-** Remedies for the violation of Constitutional Rights- Role of Judiciary in upholding Constitutional Rights- Growth and Development of Social Action Litigations

### **Module V**

**Implementation of International Obligations-**Application of international law in the municipal-Legal systems of India, USA and South Africa-Role of Constitutions in the transformation of the society- Changing Role of Public Law in the era of Globalisation

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8. Granville Austin, Working A Democratic Constitution: Cornerstone of a Nation, (Oxford University Press, 14<sup>th</sup>Impression, 2019).
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16. Sudhir Krishna Swamy, Democracy and Constitutionalism in India – A Study of the Basic Structure Doctrine (Oxford University Press, 2009).

## 4. IUCIPRS/2501 - Intellectual Property Rights and Development

### Introduction and Course Objectives

*Intellectual Property protection is a means to create wealth, in a larger context it can foster economic growth but does it necessarily foster development? This paper primarily aims to address this issue by focussing on different aspects of development, economic growth being only one among the different aspects, and how the different forms of intellectual property contribute towards them.*

### Learning Outcomes

After the successful completion of the course, the students will be able to:

LO 1 - Understand and analyse the objectives, importance, justifications and limitations of all forms of intellectual properties.

LO 2 - Critically analyse the different aspects and theories of development.

LO 3 - Apply the concepts of development in relation to IP issues and decide whether IP is necessary for development.

LO 4 - Understand that copyright is not just about the right of authors but also about the rights of society.

LO 5 - Understand that the social implications of patent law is just as or more important than its commercial implication.

### Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1		✓			

<b>LO 2</b>				✓	
<b>LO 3</b>				✓	
<b>LO 4</b>				✓	
<b>LO 5</b>				✓	
<b>LO 6</b>				✓	

## **Course Content**

### **Module I – Justifications and limitations of Intellectual Property**

Intellectual property - concept – justification - different forms of property copyright, patent, trademark, Geographical indication, new plant varieties, traditional knowledge and genetic resources.

### **Module II - Intellectual property protection as a quid pro quo for development**

Social benefit of intellectual property - development and its different aspects – relevance of access to information/knowledge and technology for development need for balancing IP protection with dissemination/transfer of information/technology - SMEs in the context of IP and development.

### **Module III – Copyright, development and the rights of authors and society**

Copyright - meaning and scope - requirements for protection - originality, idea/expression dichotomy - inbuilt mechanisms for balancing copyright protection with societal interest - eligibility (minimum standards) for protection, term, limitations and exceptions, doctrine of exhaustion.

### **Module IV – Developmental aspects of Patents and Trademarks**

Patent – standards of Patentability – subject matter of protection - limitations and exceptions, doctrine of exhaustion – Trademark – standards – consumer deception.

### **Module V - Collective property and development**

Concept of collective property - GI and TK - difference from formal IP regime - beneficiaries of protection - as opposed to modern creators/innovators, traditional creators/innovators.

### **References:**

1. R.S Bhalla, The Institution of Property : Legally, Historically and Philosophically Regarded, Eastern Book Co., (1984)
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15. David J Teece, The Transfer and Licensing of Know-how and Intellectual Property, World Scientific (2008)
16. Susan K Sell, Private Power, Public law ; The Globalisation of IPR, Cambridge University press, (2006)

## **5. IUCIPRS/2502 - ACCESS TO INFORMATION AND COPYRIGHT**

### **Introduction and Course Objective**

*It is impossible to imagine a day without watching television or listening to music or reading a book or accessing news. This goes to show how on a day to day basis we are depended on copyrighted work. This makes it necessary to streamline works for which copyright protection can be afforded along with how the right has to be construed to protect public interest. To ensure this, the paper looks into the rationale of copyright protection, what and when works would be protected and whether this goes in sync with the rationale of copyright. The paper further examines how public interest and access is protected through copyright mechanism and how intermediaries who facilitate this are dealt under the law.*

### **Learning Outcomes**

After the successful completion of the course, the students will be able to:

LO 1 - Understand the relevance of copyright as an instrument for protecting human rights.

LO 2 - Examine the existing structure of the Indian copyright regime

LO 3 - Analyse and assess how and when new technology-based works need to be afforded copyright protection.

LO 4 - Understand the role of the different actors in the various copyright-based industries and how their interest needs to be balanced.

LO 5 - Construct balanced copyright policy with the evolution of new technologies

### **Mapping of Learning Outcomes with program outcomes**

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓	✓		✓	
LO 2		✓		✓	
LO 3		✓	✓	✓	
LO 4		✓	✓	✓	
LO 5			✓	✓	

### **Course Content**

#### **Module I – Evolution of Copyright**

Historical origin – rationale of protection – role in fostering human rights like access to information, promotion of education, cultural life – role as a development agent

#### **Module II – Subject matter and standard**

Concept of originality – idea/ expression dichotomy – works covered – challenges to protection of sound recording, computer programs and computer generated works.

#### **Module III – Rights and ownership**

Rights – economic and moral – scope – availability in digital context; Authorship and Ownership – relation with creativity – automatic transfer.

#### **Module IV – Limitations and Exception**

Scope of personal use, educational use, protection of cultural life – other mechanisms to foster/ hamper access – protection of intermediaries who facilitate access.

## **Module V – Related rights**

Relation to copyright – protection to performers – rationale and scope; protection to broadcasting organisation – rationale and scope – role in facilitation of access.

### **References:**

1. Copinger & Skone James on Copyright, Sweet & Maxwell, (latest edition)
2. Gillian Davies, Copyright and the Public Interest (2<sup>nd</sup>edn, Sweet et Maxwell 2002)
3. Kenneth L. Port, Licensing Intellectual Property in the Digital Age, Carolina Academic Press, (1999)
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7. Henning Grosse Ruse-Khan, “Access to knowledge under the international copyright regime, the WIPO development agenda and the European Communities’ new external trade and IP policy”, RESEARCH HANDBOOK ON THE FUTURE OF EU COPYRIGHT, E. Derclaye, ed., pp. 574-612, Edward Elgar Publishing, 2009.
8. Pamela Samuelson *et.al*, “ A Manifesto Concerning the Legal Protection of Computer Programmes”, 1994 Columbia Law Rev. 2308.
9. Scoping study on copyright and related rights and public domain, CDIP/4/3/REV./STUDY/INF/1, CDIP/7/INF/2

## **6. IUCIPRS/2503 – AFFORDABILITY UNDER PATENT REGIME : PATENTS AND RIGHT TO HEALTH**

### **Introduction and Course Objectives**



*Technological developments are the order of today's world. It is undoubtedly the obligation of every State to create an environment which fosters such innovations which includes the patent system. At the same time access to these innovations is a more important interest that the law needs to protect. The objective of this paper is to expose the students to the nuances of the patent law regime. This will be done through the exploration of what gets protected under the patent regime and the scope of such protection. One of the major areas of concern raised because of patents is access to medicines. The paper focuses on this issue on how the law and policy has to be construed to ensure there is adequate access to medicines and medical devices.*

### **Learning Outcomes**

After the successful completion of the course, the students will be able to:

LO 1: Discuss patent as a mechanism to foster human rights.

LO 2: Explain the concept of right to health in the context of access to medicines and related products.

LO 3: Analyse the extent to which health related products can be accommodated into the patent regime.

LO 4: Evaluate the functioning of the systems within the patent regime which foster access to medicines.

LO 5: Develop patent policies which are sensitive to health and related issues.

### **Mapping of Learning Outcomes with program outcomes**

	<b>PO 1</b>	<b>PO 2</b>	<b>PO 3</b>	<b>PO 4</b>	<b>PO 5</b>
<b>LO 1</b>	✓	✓		✓	
<b>LO 2</b>		✓		✓	
<b>LO 3</b>				✓	
<b>LO 4</b>				✓	

LO 5				✓	
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## **Course Content**

### **Module I – Evolution of Patent**

Historical origin – rationale of protection – role in fostering human rights like access to scientific information – invention related to living entities – their ownership and further use - classification of pharmaceutical patents.

### **Module II – Subject matter and Standards**

Notion of invention – what are not inventions – challenges posed by new technological developments – test of novelty – inventive step – capable of industrial application.

### **Module III – Rights and its Limitations**

Scope – educational use – governmental use – compulsory licence – parallel import

### **Module IV – Concept of Access to medicine**

Justifications for pharmaceutical patents – application of patent standards in pharmaceutical inventions.

### **Module V – Other measures to ensure access to medicines**

Specific compulsory licenses – Bolar exceptions – protection of test data – alternative to patents.

### **References:**

1. Phoebe Li, *Health Technologies and International Intellectual Property Law: A Precautionary Approach*, Routledge Research in Intellectual Property, 2014. See Part I, Chapter 1.2 and Chapter 5.
2. Joo-Young Lee, *A Human Rights Framework for Intellectual Property, Innovation and Access to Medicines*, Routledge Publishers, 2015, see Chapters 2 to 4 and 7.
3. JakkritKuanpoth, *Patent Rights in Pharmaceuticals in Developing Countries: Major Challenges for the Future*, Edward Elgar Publishing Ltd, 2011.

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24. Graham Dutfield, “Delivering Drugs to the Poor: Will the TRIPS Amendment Help?” *American Journal of Law and Medicine* 1, (2008)
25. Frederick M. Abbott, “The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health” 99 *American Journal of International Law* 317 (2005)
26. Janice M. Mueller, “The Tiger Awakens: The Tumultuous Transformation of India’s Patent System and the Rise of Indian Pharmaceutical Innovation” 68 *University of Pittsburgh Law Review*, 491 (2007)
27. K M Gopakumar, “Twenty Years of TRIPS Agreement and Access to Medicine : A Development Perspective”, *Indian Journal of International Law* , 55(3), 367-404 (2015)
28. Gopakumar K M. "Product Patents and Access to Medicines in India: A Critical Review of the Implementation of TRIPS Patent Regime," *The Law and Development Review*, De Gruyter, vol. 3(2), pages 326-368 (2010).
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31. James Packard Love, “Alternatives to the patent system that are used to support R&D efforts, including both push and pull mechanisms, with a special focus on innovation-inducement prizes and open source development models”, Committee on Development and Intellectual Property (CDIP), WIPO (2014)

## Useful websites

1. UNDPHIV/AIDS  
[http://www.undp.org/content/undp/en/home/librarypage/hiv-aids.html?rightpar\\_publicati\\_onlisting\\_start=10](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids.html?rightpar_publicati_onlisting_start=10)
2. South Centre <https://www.southcentre.int/>
3. WHO PHI <http://www.who.int/phi/en/>

4. WHO CIPIH Background Papers <http://www.who.int/intellectualproperty/studies/en/>
5. WIPO [http://www.wipo.int/policy/en/global\\_health/](http://www.wipo.int/policy/en/global_health/)
6. WTO <https://www.wto.org/>
7. Program on Information Justice and Intellectual Property <http://www.pijip.org/>
8. ICTSD <http://www.ictsd.org/>
9. IPRS online <https://www.iprsonline.org/>
10. Commission on Intellectual Property Rights <http://www.iprcommission.org/>
11. IMAK <http://www.i-mak.org/>
12. TWN [www.twn.my](http://www.twn.my)
13. MSF <http://www.msfaccess.org/>
14. KEI <http://www.keionline.org/>
15. Health GAP <http://www.healthgap.org/>
16. IFPMA <http://www.ifpma.org/>
17. American Enterprise Institute <https://www.aei.org/>
18. AIPLA <http://www.aipla.org/Pages/default.aspx>

## **7. IUCIPRS/ 2504 - PATENT AND BIOTECHNOLOGY**

### **Introduction and Course Objectives**

*Biotechnology has become one of the most promising but controversial technologies of the 21<sup>st</sup> century. It exerts great influence in the life of a common man from his/her food to his/her medicine. But the technology has also faced great challenges, some of which are ethical while others are legal. Since TRIPS, the technology has become a great talking point in the developing and under-developed world due to its patent scope. This paper aims to shed light on the emerging issues that biotechnology has created in the patent framework. The paper also tries to examine the philosophical justifications of patent law and to analyse the changes brought to it by biotechnology.*

### **Learning Outcomes**

After the successful completion of the course, the students will be able to:

LO 1 - Understand and critically analyse the philosophical and economic justifications of patent law

LO 2 - Analyse the flexibilities offered by TRIPS Agreement and the benefits and limitations it grants to member countries in creating a robust patent regime

LO 3 - Understand the basics of Modern biotechnology.

LO 4 - Apply patentability standards on issues relating to biotechnology inventions.

LO 5 - Critically examine the impact of TRIPS on the Indian Patent Act, 1970.

LO 6 - Comparatively analyse the patentability of biotechnology inventions in India, United States of America and United Kingdom.

LO 7 - Evaluate the role of patent law in balancing the interests of the industry and society in respect of biotechnology inventions.

### Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1				✓	
LO 2				✓	
LO 3			✓		
LO 4			✓		
LO 5	✓				
LO 6	✓				
LO 7			✓		

## Course Content

### Module I– Historical evaluation of biotech patents

Early developments in biotechnology – legal reasons for denial of property on biological products – justifications for patents - Incentive theory, labour theory, personality theory – application of the theories in biotechnology context.

## **Module II –International approach to biotech patents**

Paris Convention - TRIPS – lobbying - flexibilities in determining patent scope - patentable subject matter - patentability standards.

## **Module III - Patents and Biotechnology**

Challenges in patentability standards and patentable subject matter created by biotechnology – novelty, non-obviousness and utility of biotechnology inventions – statutory requirements and judicial interventions in USA and UK.

## **Module IV – Patent Act, 1970 and Biotechnology**

Excluded subject matters – patentability standards – Guidelines for the examination of Biotechnology patents in India.

## **Module V – Modern Biotechnology and challenges for Patent Law**

Biotech patents and their implications on development – recombinant technology - stem cell research - synthetic biology - effect of research tools and upstream patents on development.

## **References:**

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2. Terrel on the Law of Patents, Sweet & Maxwell (18<sup>th</sup>Edn, 2019).
3. Christoph Bellman and Graham Dutfield, Trading in Knowledge; development Perspectives on TRIPS, Trade and Sustainability, Earthscan Publications Ltd. (2003)
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8. Bracha, O, *Owning Ideas: The Intellectual Origins of American Intellectual Property, 1790-1990*, Cambridge Historical Studies in American Law and Society, Cambridge University Press.
9. Graham Dutfield, *Intellectual Property Rights and the Life Science Industries: Past, Present and Future (Latest Edition)*
10. Rochelle C.Dreyfuss, JaneNielsen and Dianne Nicol, *Patenting nature: A Comparative Perspective*, *Journal of Law and the Biosciences*, 2018.
11. Hughes J. "Philosophy of Intellectual Property", 77 *The George Town Law Journal* 285.
12. M.D. Trevan. S Boffey, K.H.Goulding and P.Stanbury , *Biotechnology; The Biological Principles*, Tata Mc G Raw Hill (1987)
13. Terence P. Stewart, *GATT Uruguay Round: Negotiating History*, Kluwer Law International (1999)
14. Reichman, Jerome, *Of Green Tulips and Legal Kudzu: Repackaging Rights in Subpatentable Innovations*, 2003.

## **8. IUCIPRS/2505 - TRIPS FLEXIBILITIES AND DEVELOPMENT**

### **Introduction and Course Objectives**

*The world is surrounded by the subject matter of Intellectual Property. Through global politics, IP came to be included within the global trade regime and we are dependent on the subject matter IP even for basic medical needs. This paper focuses on the global politics which resulted in the TRIPS Agreement and the repercussions it has brought about in the various industries and daily life of people globally. How effectively the flexibilities within the various IPRs can be utilized so as to overcome the monopoly of the IPR regime and make the subject matter of IP accessible to the common public will be further analysed in this paper.*

### **Learning Outcomes**

After the completion of the course, the students will be able to:

LO 1 - Understand the history and global politics behind the conclusion of the TRIPS Agreement

LO 2 - Examine the need and relevance of flexibilities within the IP system.



LO 3 - Analyse how the flexibilities within the IP system can be utilized for enhancing public access.

LO 4 - Compare the flexibilities within the national IP laws of different jurisdictions.

LO 5 - Evaluate the need to have a robust public domain and to revise the working of the existing IP system.

### Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓	✓		✓	
LO 2	✓	✓		✓	
LO 3		✓		✓	
LO 4		✓		✓	
LO 5		✓		✓	

### Course Content

#### Module I-TRIPS Agreement History and Principles

TRIPS - negotiation history – general principles – minimum standards

#### Module II- Scope of Flexibilities within the TRIPS Agreement

TRIPS flexibilities – meaning and scope of different categories of IP- subject matter, standards, scope of protection, enforcement – importance of a robust public domain

#### Module III- Limitations and Exceptions

TRIPS Flexibilities - limitations and exceptions – parallel import-transition period

#### Module IV- TRIPS Flexibilities and development

Importance of the use of TRIPS flexibilities for development – IP and transfer of technology - IP and foreign direct investment-Access to medicine and Doha Declaration

## Module V- Post TRIPS scenario

Back to bilateralism and its logic – setting of IP norms through Free Trade Agreements (FTAs) and Bilateral Investment Treaties (BITs) – their impact – relation with TRIPS.

### References:

1. Bodenhausen, *Guide to the application of the Paris Convention for the Protection of Industrial Property*, WIPO (1985).
  2. Christoph Belman and Graham Dutfield, *Trading in Knowledge: development Perspectives on TRIPS, Trade and Sustainability*, Earthscan Publications Ltd. (2003)
  3. Christopher May, *The World Intellectual Property Organization: Resurgence and the Development Agenda*, Routledge, 2007
  4. Duncan Matthews, *Globalising Intellectual Property Rights-The TRIPS Agreement*, Routledge, 2002.
  5. Jayashree Watal and Antony Taubman (eds.), *The making of the TRIPS Agreement-Personal Insights From the Uruguay Round Negotiations*, World Trade Organization (2015).
  6. Monirul Azam, *Intellectual Property and Public Health in the Developing World*, OpenBook Publishers, 2016.
  7. Neil Netanel (ed.), *The Development Agenda: Global Intellectual Property and Developing Countries*, Oxford University Press, 2009
  8. Peter Drahos, *Information Feudalism-Who Owns the Knowledge Economy?*, Earthscan Publications Ltd., 2002.
  9. Reichman, Jerome, *Of Green Tulips and Legal Kudru: Repackaging Rights in Subpatentable Innovations*, (2003).
  10. Terence P. Stewart, *GATT Uruguay Round: Negotiating History*, Kluwer Law International, (1999).
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1. *Intellectual Property and Access to Medicines: Papers and Perspectives*, World Health Organization, 2010.
  2. Mohammed K El Said, *Public Health Related TRIPS-Plus Provisions in Bilateral Trade Agreements-A Policy Guide for Negotiators and Implementers in the Eastern Mediterranean Region*, World Health Organization and International Centre for Trade and Sustainable Development, 2010.
  3. Rajagopala Ayyangar, *Report on the Revision of the Patent Law*, Govt. of India (1959).

4. Rajeev Dhavan et al, "Paris Convention Re-visited", J.I.L.I (1992).
5. Rajeev Dhavan et al., "Whose Interest? Independent India's Patent Law and Policy", 32 J.I.L.I 429 (1990).
6. Scoping study on copyright and related rights and public domain, CDIP/4/3/REV./STUDY/INF/1, CDIP/7/INF/2.
7. WIPO Reading Material on Intellectual Property, WIPO, Geneva

## **9. IUCIPRS/2506- COLLECTIVE PROPERTY AS INTELLECTUAL PROPERTY**

### **Introduction and Course Objectives**

*The notion of property particularly intellectual property is that it is a private right vested on 'a' person in rem. But much of the knowledge we use on a day today basis has been generated not by any particular individual but the society and so is its application. The purpose of this paper is to expose the students the certain kinds of property, not in the whole traditional sense, which has been created generations before and still in use and contributes much to the present generation. The paper also makes one critically examine the extent to which information per se can be protected within the IP regime and also how products of nature.*

### **Learning Outcomes**

After the successful completion of the course, students will be able to:

LO1 - Understand the concept of collective property

LO2 - Evaluate the distinction between the different forms of collective property and their rationale

LO3 - Understand and appreciate the present protection available to these different forms.

LO4 - Evaluate the relevance of protection of these properties to a developing country like India

LO5 -Construct policies for better protection of collective properties from developing country perspective.

## Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓	✓		✓	
LO 2	✓	✓		✓	
LO 3		✓		✓	
LO 4		✓		✓	
LO 5		✓		✓	

### Course Content

#### Module I – Notion of Collective property

Rationale of protection – justification to include within intellectual property regime-right to common heritage and bio-diversity

#### Module II – Geographical Indications

Concept – scope of protection – standard and subject matter – challenges of ownership

#### Module III - Genetic Resources

Meaning of Genetic Resource – issues of patenting – protection through plant variety – access and benefit sharing – benefit sharing mechanism

#### Module IV – Traditional Knowledge

Concept – available kinds of protection – challenges of protection – issues of identifying subject matter, standards and owner – notions of prior informed consent and benefit sharing

#### Module V – Traditional Cultural Expressions

Concept – challenges of protection – issues of identifying subject matter, standards and owner.

#### References:

1. Charles R. Mcmanis (ed.), *Biodiversity and the Law-Intellectual Property, Biotechnology and Traditional Knowledge*, Earthscan (2007)
2. ChidiOguamanam, *Intellectual Property in Global Governance : A Development Question*, Routledge, (2012)
3. ChristophAntons (ed.) *Traditional Knowledge, Traditional Cultural Expressions and Intellectual Property Law in the Asia Pacific Region*, Kluwer Max Planck Series, (2009)
4. Daniel F. Robinson *Confronting Biopiracy: Challenges, Cases and International Debates*, Earthscan, (2010).
5. Daniel F. Robinson, Ahmed Abdel-Latif, Pedro Roffe (eds.), *Protecting Traditional Knowledge-The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, Routledge (2017).
6. Dutfield and Posey, *Beyond Intellectual Property: Toward Traditional Resource Right for Indigenous Peoples and Local Communities*, IDRC, (1996).
7. Geoff Tansey and TasmineRojotte (Eds.), *The Future Control of Food: A Guide to International Negotiations and Rules on Intellectual Property*, Earth Scan, London (2008).
8. Gerald Moore and WitoldTimousky, *Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture*, IUCN, Gland, Switzerland and Cambridge, (2005).
9. Graham Dutfield, *Intellectual Property Rights, Trade and Biodiversity*, Earthscan Publications Ltd, London (2000).
10. Graham Dutfield, *Intellectual Property Rights, Trade and Biodiversity*, Earthscan.
11. J. E. Penner, *The Idea of Property in Law*, Clarendon Press, Oxford (1997), Kemal Baslar, *The Concept of Common Heritage of Mankind in International Law*, MartinusNijhoff Publishers, (1998).
12. Jonathan Curci, *Protection of Biodiversity and Traditional Knowledge in the International Law of Intellectual Property*, Cambridge University Press, (2010).

13. Michael I. Jeffery *et.al* (Eds.), *Biodiversity Convention, Law and Livelihood, Bridging the North South Divide*, IUCN Academy of Environmental Law Research Studies, IUCN, (2002).
14. Patricia Lucia Marin, *Providing Protection for Plant Genetic Resources: Patents, Sui Generis Systems and Bio-Partnerships*, Kluwer Law International (2001).
15. Silke von Lewinski (ed.) *Indigenous Heritage and Intellectual Property: Genetic Resources, Traditional Knowledge and Folklore*, Kluwer Law International, (2008).
16. Convention on Biological Diversity, 1992 and International Treaty on Plant Genetic Resources for food and Agriculture, 2002
17. Documents of Inter Governmental Committee, WIPO on TK & TCE protection, WIPO. Geneva.
18. FAO, *The State of World's Plant Genetic Resources for Food and Agriculture*.
19. UNESCO/WIPO Model Provisions for Protection of Folklore/ Cultural Expressions

## **10. ACQUISITION OF INTELLECTUAL PROPERTY**

### **(Elective - 1)**

#### **Course Objectives**

*Most forms of intellectual properties come into existence only on registration while certain others operate without a formal registration mechanism. Every student of IP needs to understand this classification and also know the registration process for the various kinds both at the national and the international plane. The objective of this paper is to expose the students to the different filing systems available for the protection of the various forms of IPs.*

#### **Learning Outcomes**

After the successful completion of the course, students will be able to:

LO1- Understand the procedure for registration of different forms of IP protection

LO2 - Understand the difference between mandatory and optional kinds of registration mechanisms

LO3 - Practice at the various offices regarding domestic registration of IPs

LO4 - Practice at the various offices regarding international registration of IPs

LO5 - Advise clients on the strategies of filing for IPR protection

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1		✓			
LO 2		✓			
LO 3		✓			
LO 4		✓			
LO 5		✓			

## Course Content

### Module I – Registration of Patent

Who can apply – procedure for registration – contents of application – special provisions for biological inventions – advertisement – search and examination – opposition proceedings – revocation – grant of patent – office of registration; Registration under PCT system – international phase – national phase; Patent Law Treaty – its relevance and advantage

### Module II – Registration of Trade Marks

Voluntary nature – who can apply – procedure for registration – contents of application – examination – advertisement– opposition proceedings – grant – office of registration; Madrid System – Madrid Agreement – Madrid Protocol

### **Module III - Registration of Designs**

Who can apply – procedure for registration – contents of application – examination – grant – office of registration – advertisement– opposition proceedings; Hauge System

### **Module IV – Registration of GI & Plant Varieties**

Geographical Indications – voluntary nature – who can apply – procedure for registration – office of registration; Registration of Plant Varieties – who can apply – procedure for registration – registration of Extant and Farmers' Variety - office of registration

### **Module V – Registration of Other Forms**

Integrated Circuits – who can apply – procedure for registration – office of registration; Registration of Copyright – voluntary nature – who can apply – procedure for registration – office of registration

### **References:**

1. The Indian Patent Acts 1970 (2020) and the Indian Patent Rules 2003 (2020).
2. *Manual of Patent Office Practice and Procedure* Version 3 (26<sup>th</sup> November, 2019, published by the Office of Controller General of Patents, Design and Trade Marks).
3. *Guide to the international registration of marks under the Madrid Agreement and the Madrid Protocol*, WIPO 2019 available at <https://www.wipo.int/publications/en/details.jsp?id=4440&plang=EN>.
4. *Guidelines for functioning under the Madrid Protocol* issued by Trade Marks Registry, Mumbai 2013 available at [http://www.ipindia.nic.in/writereaddata/Portal/IPOGuidelinesManuals/1\\_40\\_1\\_guidelines\\_Madri dProtocol\\_17December2013.pdf](http://www.ipindia.nic.in/writereaddata/Portal/IPOGuidelinesManuals/1_40_1_guidelines_Madri dProtocol_17December2013.pdf)
5. The Trade Marks Act 1999 (2020) and the Trade Marks Rules 2003 (2020).
6. The Designs Act 2000 (2020) and the Design Rules 2001 (2020).

## **11. TRADEMARK LAW PRINCIPLES AND PROCEDURE (Elective - 2)**



## Introduction and Course Objectives

*Trademarks are one form of IP which can be associated with the daily lives of consumers. Products are bought and services are availed, more if they bear a popular trademark. It is also an IP subject matter which keeps on traversing new horizons and poses complex issues in the digital world. This paper focuses on the fundamentals of trademark protection at the national and international level. It covers all aspects of trademark protection, including registration and enforcement, as well as the new contours of trademark protection.*

## Learning Outcomes

After the course, the student will be able to:

LO1 - Understand the evolution of trademarks as a form of IP

LO2 - Understand the relevance of trademarks protection in a market economy

LO3 - Understand the basic principles of trademark protection both internationally and in India

LO4 - Analyse the new dimensions which may arise in the scope of trademark protection

LO5 - Apply in real life the provisions dealing with registration and enforcement of trademarks

## Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓	✓		✓	
LO 2	✓	✓		✓	
LO 3		✓		✓	
LO 4		✓	✓	✓	
LO 5		✓		✓	

## **Course Content**

### **Module I - Evolution of Trademarks**

Historical origin –Property nature of trademarks-Rationale of protection –Marks-Different Types- Concept of Trademark

### **Module II-Standards for Protection of Trademarks**

Distinctiveness-Grounds for Refusal of Trademark Protection-Well-known trademarks-Paris Convention for Protection of Industrial Property, 1883-TRIPS Agreement, 1994-Trademark Law Treaty, 1994

### **Module III-Registration and Assignment of Trademark**

Registration of trademark-Procedure for filing of trademarks in India-Madrid Agreement concerning the International Registration of Marks, 1891-Madrid Protocol as amended in 2006-Transfer of rights-Assignment and Licensing

### **Module IV-Enforcement of Trademark Rights**

Infringement-Passing off-Dilution-Defences against infringement-Civil and Criminal Remedies

### **Module V-New Dimensions of Trademark Protection**

Non-Conventional Trademarks-Issues in Digital world-Domain Name Disputes-Disparagement and Comparative Advertisement- Trademarks and Competition-Ambush marketing.

### **References:**

1. David I. Bainbridge, *Information Technology and Intellectual Property Law*, 7<sup>th</sup> ed., Bloomsbury Professional, UK (2019).
2. Lionel Bently and Brad Sherman, *Intellectual Property Law*, 4<sup>th</sup> ed., Oxford University Press (2014).
3. Sherri L. Burr, Edmund W. Kitch and Harvey S. Perlman, *Modern Intellectual Property and Unfair Competition Law*, 6<sup>th</sup> ed., (2014).

4. Daniel C.K. Chow and Edward Lee, *International Intellectual Property Law-Problems, Cases, and Materials*, 2<sup>nd</sup> ed., (2012).
5. Lionel Bently Jennifer Davis and Jane C. Ginsburg, *Trade Marks and Brands*, Cambridge University Press (2008).
6. Catherine Colstone and Jonathan Galloway, *Modern Intellectual property Law*, 3<sup>rd</sup> ed., Routledge, (2005).
7. Phillip Johnson, *Ambush Marketing and Brand Protection-Law and Practice*, 2<sup>nd</sup> ed., Oxford University Press, (2011).
8. K C Kailasam and RamuVedaraman, *Law of Trademarks-Including International Registration under Madrid Protocol & Geographical Indications*, 4<sup>th</sup> ed., Lexis Nexis (2017)

## References

1. Barton Beebe and C. Scott Hemphil, *The Scope of Strong Marks: Should Trademark Law Protect the Strong More than the Weak?*, 92 NEW YORK UNIVERSITY LAW REVIEW 1339-1398 (2017).
2. Mark A. Lemley, *Fame, Parody, and Policing in Trademark Law*, Mich. St. L. Rev. 1 (2019).
3. Patricio Saiz, *Trademarks in Branding: Legal issues and Commercial Practices*, 60:8, 1105-1126, DOI: [10.1080/00076791.2018.1497765](https://doi.org/10.1080/00076791.2018.1497765) (2018).

## 12. INTELLECTUAL PROPERTY AND HUMAN RIGHTS (Elective - 3)

### Course Objectives

*It has been of common thought that IP and human rights conflict as one is purely a private right while the other is a social right. The objective of this paper is to verify the existence of any conflict between the two regimes and also to focus on how one impacts the other. With this objective, the paper will focus on certain key areas of utmost significance to find out the relation between IP and Human Rights.*

### Learning Outcomes

After the successful completion of the course, students will be able to:

LO 1 - Understand the conceptual relation between IP and Human rights

LO 2 - Analyse how the human right to social and cultural life is impacted by IP

LO 3 - Examine how knowledge transfer and dissemination is impacted by IP

LO 4 - Evaluate the impact of IP on right to health

LO 5 - Understand the compromise between the rights of indigenous community and IP

### **Mapping of Learning Outcomes with program outcomes**

	<b>PO 1</b>	<b>PO 2</b>	<b>PO 3</b>	<b>PO 4</b>	<b>PO 5</b>
<b>LO 1</b>	✓	✓		✓	
<b>LO 2</b>		✓		✓	
<b>LO 3</b>		✓		✓	
<b>LO 4</b>		✓		✓	
<b>LO 5</b>	✓	✓		✓	

### **Course Content**

#### **Module I – Conceptual analysis of IP and HR**

Philosophy and jurisprudential basis of Human Rights and Intellectual Property – their convergence and divergence – their role in the society – Individual rights and public interest in both – intellectual property in Human Rights Agreements and vice versa

#### **Module II – Right to Social and Cultural Life and IP**

Meaning of culture – role of creative artistic and their protection – free uses for creation of further work – protection of free speech – works created and protected by traditional and indigenous communities – role of State and International bodies.

### **Module III – Ensuring scientific research and access to information and IP**

Stem cell research – experimentation using living organisms including humans – their patentability – freedom of others to use it for further development – protection of the data, information and knowledge generated – freedom of others to use the same – human rights ramification – state responsibility

### **Module IV – Right to Health and IP**

Meaning of health – medicines and medical devices as part of right to health – rationale of patentability of medicines and medical devices – international obligations and flexibilities – human rights ramification – state responsibility – public interest

### **Module V – Right to common heritage and bio-diversity and IP**

Traditional knowledge and its nature – access to such knowledge and biological resources – development and protection of new products based on bio resources like seeds, plant varieties and drugs – impact on right to food – Role of State and NGOs

### **References:**

1. Christopher Heath and Anselm Kamperman Sanders, *New Frontiers of Intellectual Property Law*, Hart Publication, (2005)
2. Christophe Geiger, *Research Handbook on Human Rights and Intellectual Property*, Edward Elger (2016)
3. Willem Grosheide, *Intellectual Property and Human Rights : A Paradox*, Edward Elger (2010)
4. Laurence R. Helfer & Graeme W. Austin, *Human Rights and Intellectual Property Mapping the Global Interface*, Cambridge University Press (2011)
5. MipasiSinjela, *Human Rights and Intellectual Property Rights: Tensions and Convergences*, Brill Publications (2011)
6. Laurence R. Helfer, *Intellectual Property and Human Rights*, Edward Elger (2013)

7. Duncan Matthews, Intellectual Property, Human Rights and Development: The Role of NGO's and Social Movements, Edward Elger (2011)
8. Paul L.C. Torremans, Intellectual Property and Human Rights, Wolters Kluwer (2020)
9. Abbe Elizabeth Lockhart Brown, Intellectual Property, Human Rights and Competition: Access to Essential Innovation and Technology, Edward Elger (2012)
10. MarcelinTonyeMahop, Intellectual Property, Community Rights and Human Rights: The Biological and Genetic Resources of Developing Countries, Routledge (2010)

## **13. INTELLECTUAL PROPERTY RIGHTS AND COMPETITION LAW (Elective - 4)**

### **Course Objectives**

*It is the obligation of every State to ensure that its citizenry is provided with all developments in the field of science, technology and cultural products at the cheapest price. Multiple mechanisms have been devised to attain this. These mechanisms include the competition law regime, which tries to maintain a fair playing market for all entrepreneurs, and the intellectual property regime, which confers monopoly on inventors. Thus prima facie they seem to conflict. The objective of this paper is to verify the existence of this conflict and to analyse how the system co-exist so as to attain the same objective.*

### **Learning Outcomes**

After the successful completion of the course, students will be able to:

- LO 1 - Understand the basic philosophy of competition regime and IP regime
- LO 2 - Critique the basic anti competitive practices in Intellectual Property regime
- LO 3 - Analyse how the anti competitive practices work within the IP regime
- LO 4 -Understand the functioning of the different agencies that ensures this balance
- LO 5 - Develop policies to minimize the friction between the two regimes

## Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2		✓			
LO 3			✓		
LO 4			✓		
LO 5					✓

### Course Content

#### Module I – Basic Concepts of Competition Law

Philosophy and objectives of Competition Law – Models of Competitive Market – Different Types of Economic Efficiencies – Interface between IP – philosophical convergence and divergences – role in society.

#### Module II – Anti-competitive Agreements

Meaning – vertical and horizontal agreements – assessment through Appreciable Adverse Effect on Competition in the Market – Determination of Relevant Market – mechanism within IP regime to prevent anti-competitive agreements.

#### Module III – Abuse of Dominance

Dominance in the Market – identification of Relevant Market – Abusive Conducts under Competition regime – Dominance and relation with IP – mechanism within IP regime to mitigate abuse of dominance.

#### Module IV – Combinations

Merger, Acquisition, Amalgamation and Takeover – Horizontal, Vertical and Conglomerate Mergers – Regulations within Competition regime – mechanisms within IP regime – impact on public interest.

## **Module V – Enforcement Agencies**

Role of CCI in adjudicating disputes – Comparison with other jurisdictions – adequacy of mechanisms within IP laws – Competition adjudication policy and its implications for IPR.

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