

**THE SIGNIFICANCE AND CONCEPTION OF INTELLECTUAL  
PROPERTY LAW IN PAKISTAN:  
A CRITICAL ANALYSIS OF INTELLECTUAL PROPERTY  
ORGANIZATION OF PAKISTAN ACT 2012**



*(Thesis for the Award of LL.M. (International Trade Law))*

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شروع اللہ کے پاک نام سے جو بڑا مہر بان نہایت رحم والا ہے ۔

In the name of ALLAH, The most Gracious, The most Merciful.

## **Approval Sheet**

It is certified that **Ms. Bukhtawar Iqbal** has conducted practically everything connected with this thesis is under my watch at the department of Law, Staff of Shariah and Law, International Islamic University, Islamabad, and the work satisfies the necessity for the honour of a LLM degree in International Trade Law.

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## **Dedication**

I dedicate this research work to my father (late), my mother and my husband who gave me the courage all along and supported me in achieving this important milestone of my educational career.

## **Acknowledgments**

It would not be possible for me to complete this research work without the blessings and help of Allah Almighty. I would like to acknowledge and give my warmest thanks to my supervisor **Ms. Beenish Aslam Sheikh** for her continuous guidance and her honest efforts helped me to finish my research work efficiently.

Finally, I want to express my appreciation to my mother and an unparalleled encouragement of my husband, who have shown me great support during my most difficult times. Moreover, I am grateful to everyone who offered me support and prayed for me as I completed this thesis.

**Bukhtawar Iqbal**

**LLM ITL**

## **Abstract**

The research paper is about the intellectual property which is known as the property of the intellect or brain, stated differently, Intellectual Property is referred to as IP. The examples of IP are names, symbol, innovations, pictures, literary and all kinds of creative works. The literary and creative/artistic works are covered under the concept of copyright. The examples of artistic/creative work include sculptures, paintings, sketches, pictures, and architectural designs. The literary works includes poetry, plays, novels, movies, and music. The protection of IP rights is very significant for national development in both the developed and developing nations. The strong protection and implementation of IP practices encourage creativity and innovation as the innovation and creativity significantly contribute to the transformation of the fortune of the country. This process is followed by most of the countries around the world as the IP process plays a vital part in attracting the foreign investment (FI) which encourages transfer of technology and contributes in the prosperity of trade. The IP laws play a vital role in making an effective financial trade and industrial strategies. Their contribution in technological and scientific growth of any country cannot be disregarded.

## **List of Abbreviations**

ACE	Anti-Counterfeiting and Enforcement
BEIS	Business, Energy and Industrial Strategy
CNIPA	China National Intellectual Property Administration
EU	European Union
FDI	Foreign Direct Investment
FI	Foreign Investment
GI	Geographical Indications
IPO	Intellectual Property Organization
IPEC	Intellectual Property Enterprise Court
IPR	Intellectual Property Rights
IP	Intellectual Property
IPT	Intellectual Property Tribunal
MOUs	Memorandum of Understandings
PCT	Patent Cooperation Treaty
R&D	Research and Development

## **Declaration**

I **Ms. Bukhtawar Iqbal** hereby patently and unequivocally affirm that; I have completed the work introduced in the thesis during the planned time of study. I further declare that during the scheduled study period, I did not use any materials from outside sources and that I created the work that is given in my thesis. I also declare that I have not used any material from any source, and it has no concern with other institutions whatever. It is also declared that any secondary source used in this work has been fully acknowledged.

## Table of Contents

Dedication .....	i
Acknowledgments.....	ii
Abstract.....	iii
List of Abbreviations.....	iv
Declaration.....	v
Introduction to Research .....	5
Thesis Statement .....	5
Statement of the Problem.....	5
Background and Historical Context.....	5
Literature Review.....	10
Gaps Identified.....	17
Significance of the Study .....	18
Research Objectives.....	18
Research Questions.....	19
Research Methodology .....	19
Chapter No. 1 .....	20
Background and Development of Intellectual Property Laws in Pakistan .....	20
1.1    Introduction.....	20
1.2    The Copyright Act 1911 .....	20
1.3    Patents and Designs Act of 1911 .....	21
1.4    International Treaties and Agreements .....	22
1.5    Intellectual Property Laws in Pakistan .....	23
1.5.1    The Copyright Ordinance of 1962 (Amended in 2000) .....	24
1.5.2    The Patents Ordinance of 2000 .....	24
1.5.3    The Trademark Ordinance of 2001 .....	25
1.5.4    The Geographical Indications (Registration and Protection Act) 2020 .....	25
1.5.5    The Intellectual Property Organization of Pakistan Act 2012.....	26
1.6    Amendments and Updates.....	28
1.7    Enforcement and Awareness.....	29
1.8    Conclusion .....	31
Chapter No 2 .....	33

Intellectual Property Laws of Pakistan in Accordance with WIPO.....	33
2.1 Introduction.....	33
2.2 Background and Development of WIPO .....	33
2.3 The Functions of WIPO .....	35
2.4 The Copyright Law in Pakistan and WIPO .....	36
2.5 The Patents Law in Pakistan and WIPO .....	37
2.6 The Trademark Law in Pakistan and WIPO .....	38
2.7 The Industrial Designs Law in Pakistan and WIPO .....	38
2.8 The Geographical Indication Law in Pakistan and WIPO.....	39
2.9 The Intellectual Property Organization of Pakistan Act and WIPO .....	39
2.9.1 Limited Autonomy of the IPO.....	41
2.9.2 Lack of Adequate Resources .....	41
2.9.3 Lack of Adequate Expertise .....	41
2.9.4 Inadequate Public Awareness .....	42
2.9.5 Limited International Cooperation .....	42
2.10 International Conventions and Treaties .....	43
2.10.1 Paris Convention for the Protection of Industrial Property (1883) .....	43
2.10.2 Berne Convention for the Protection of Literary and Artistic Works (1886).....	43
2.10.3 World Intellectual Property Organization Copyright Treaty (WCT) and Performances and Phonograms Treaty (WPPT) .....	44
2.11 TRIPS Agreement and WIPO: A Global Influence.....	44
2.12 The Impact of WIPO on the Intellectual Property Laws of Pakistan .....	46
2.13 Conclusion .....	49
Chapter No. 3 .....	51
Critical Analysis of the IPO-Pakistan Act 2012 and Its Comparison .....	51
3.1 Introduction.....	51
3.2 Background and Development.....	52
3.2.1 Critical Insights on Key Sections of the IPO Act 2012.....	53
3.3 Objectives of the Intellectual Property Organization of Pakistan Act 2012 .....	54
3.4 Strengths of the Intellectual Property Organization of Pakistan Act 2012 .....	55
3.5 The Weakness and Gaps in the IPO-Pakistan Act 2012 .....	57
3.6 Issues in IPO Pakistan Act 2012 Enforcement Mechanism.....	60
3.7 The Challenges Faced by the IPO-Pakistan Act 2012 .....	62

3.8	The Impact of Weak Enforcement on the Economy.....	64
3.9	Comparison of IPO Pakistan with IPO China.....	66
3.9.1	Background and Development .....	67
3.9.2	The Legislative Framework of Both Countries .....	67
3.9.3	The Organizational Structure of Both Countries.....	68
3.9.4	The Registration Mechanism of Both Countries .....	69
3.9.5	The Enforcement Mechanism of Both Countries .....	70
3.9.6	Member of International Treaties and Conventions .....	71
3.9.7	Challenges faced by Both Countries .....	72
3.9.8	Harmonization of Both Countries Organizations with WIPO .....	72
3.10	Comparison of IPO Pakistan with IPO United Kingdom .....	74
3.10.1	Legal and Enforcement Framework .....	74
3.10.2	The Organizational Structure of Both Countries.....	75
3.10.3	The IP Services and Operations.....	76
3.10.4	Education and Awareness of IP .....	76
3.10.5	The International Collaboration by Both Countries .....	77
3.10.6	Challenges Faced by Both Countries.....	77
3.10.7	Harmonization of Both Countries Organizations with WIPO .....	78
3.11	Conclusion .....	79
Chapter No. 4	.....	80
4.	Recommendations and Conclusion .....	80
4.1	Conclusion .....	80
4.2	Recommendations.....	81
4.2.1	To Strengthen Institutional Capacity of IPO Pakistan: .....	81
4.2.2	To Promote Research and Development (R&D): .....	82
4.2.3	To Improve IP Enforcement Mechanism: .....	82
4.2.4	To Align the Law with International Standards: .....	83
4.2.5	Education and Public Awareness: .....	84
4.2.6	Strategic Planning and Improve IP Policy:.....	84
4.2.7	To Ensure Coordination between the Authorities:.....	85
4.2.8	To Improve Financial Resources.....	85
4.2.9	To Establish Specialized IP Courts at the District Level,.....	85

Bibliography .....	86
Articles:.....	86
Books: .....	101

# **Introduction to Research**

## **Thesis Statement**

Though Intellectual Property Organization of Pakistan Act 2012 has consolidated Intellectual Property Laws in Pakistan yet it lacks implementation in Pakistan, therefore, there is a need to critically analyse it with WIPO standards to ensure public interests in the globalization context.

## **Statement of the Problem**

The thesis will cover associated and fundamental research concerns while describing the aims of the study. The study serves as the starting point of the investigation and is meant to provide the readers a detailed understanding of the subject which is related to the IPO Pakistan Act 2012 which lacks implementation and an effective enforcement mechanism as it is required to be analysed in the light of WIPO and the international standards of IP.

## **Background and Historical Context**

The IP laws assist in progressing the stock of knowledge of a country. They guarantee the development in various factions as along with the strong IP laws, there should be an effective mechanism of its execution because without execution there is no benefit of the rights of IP<sup>1</sup>. The execution of powerful, effective and unprejudiced IP laws attracts the creativity and new investments while the inadequate execution of the IP laws promotes counterfeiting and piracy

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<sup>1</sup> Muhammad Hamza Zakir, Tehseenullah Khan, and Salman Ali, "The Challenges and Opportunities for Intellectual Property Rights Protection in Pakistan", *International Review of Basic and Applied Sciences* 11, no. 2 (2023), 48-57.

which therefore acts as a major hindrance to the investment in Research and Development (hereinafter referred as R&D), employment, trade and overall progress of an economy of a country<sup>2</sup>. It is regrettably the case with the execution of the laws of IP in Pakistan. The execution of the IP laws and process is a neglected issue and weak area of Pakistan for quite some time now. The Trade-Related Aspects of the IP Rights, (hereinafter referred as TRIPS), is an agreement among all the member states of the World Trade Organization (hereinafter referred as WTO) which established minimum requirements for national governments for the regulation of different types of the rights of IP which are applicable to all the members of the WTO. Although Pakistan ratified the TRIPS Agreement in 1995, the government of Pakistan did not raise much awareness of the advantages and disadvantages of the IP laws and procedures on our economy among the business community and public at large<sup>3</sup>. Now that Pakistan understands the importance of the IP rights, its protection and execution process and also acknowledges the importance of the laws related to it and considers the violation of those laws a significant danger to the modern world. Pakistan, for the purpose of executing and protecting the laws of IP and its process, is a signatory of various multilateral agreements like TRIPS Agreement, Berne Convention and the Paris Convention<sup>4</sup>.

It is now widely acknowledged that the significance of the IP which plays a vital role in the economy of a country, cannot be ignored. In accordance with the rules set out by the World Intellectual Property Organization, or WIPO, the nations all over the world have established organizations for the protection and advancement of IP. There is also an organization in Pakistan which deals with the matters related to IP, which is called the

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<sup>2</sup> Ghalib Khan and Sobia Bashir, "The Dilemma of Book Piracy in Pakistan", *JL & Soc'y* 50 (2019), 31.

<sup>3</sup> Ghulam Murtiza and Ghous Muhammad, "The Implementation of Intellectual Property Laws in Pakistan- Impediments and Suggestions for Solutions", *Pakistan Vision* 20 no. 1 (2019), 1-8.

<sup>4</sup> Ricky James, "Correlated Intellectual Property Rights: A Foundational Solution to the Problems of Patent Holdup and Patent Holdout", (2018).

Intellectual Property Organization of Pakistan, commonly referred as IPO-Pakistan<sup>5</sup>. For an effective and comprehensive management of IP in Pakistan, the Intellectual Property Organization of Pakistan (IPO-Pakistan) was founded on April 8, 2005, as an independent organization initially under the administrative control of the cabinet division. The administrative control of IPO-Pakistan was transferred to commerce division from the cabinet division later, on July 25, 2016. The organization's functions includes are the administration and coordination between all the functionaries of the government for the protection and strengthening of IP, creation of the awareness about the IP rights, management of all the offices of IP in the country, giving the federal government advice on IP policy and making sure that the IP rights are effectively enforced by the designated enforcement agencies of IP Rights (henceforth referred to as IPR), including the Pakistan Customs, the FIA, and the police.

The IPO-Pakistan is accountable for the protection and implementation of the policies related to IP in Pakistan<sup>6</sup>. By following the international law, all countries are establishing the intellectual property organizations for the purpose of protection of the IP and implementation of the policies related to it. The primary objective of Pakistan's own intellectual property organization, which it established in line with other countries, is to safeguard and uphold IP laws and procedures. According to section 4 of IPO Pakistan Act 2012, there will be a policy board of the institution. There will be a chairman and fifteen (15) members on this policy board out of which five of the members will come from the public sector which include the cabinet secretaries, the interior, the commerce, the information and broadcasting division. In the policy board, one member will be the chairman of Federal Board of Revenue (FBR). Four members will be chosen by the federal government based on suggestions from the provincial governments. The policy board would be presided over by the chairman of FBR. The private

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<sup>6</sup> Ha-Joon, Chang "Intellectual Property Rights and Economic Development: Historical Lessons and Emerging Issues", *Journal of human development* 2 no. 2 (2001), 287-309.

sector members will serve for three years with the possibility of reappointment for an additional three years. In the policy board, a person cannot be a member on the following grounds which includes that if he is convicted of any moral corruption, involved in any criminal offence, insolvent and is incapable of discharging duties due to any other reason. According to Section 6 of the IPO Pakistan Act 2012, the policy board is responsible for reviewing and approving the organization's plans and policies which pertains to all the issues related to IP<sup>7</sup>. The policy decisions of the organization will be carried out by the policy board, which will also develop a structure and procedures for allocating funds and suggest fines and penalties on behalf of the organization. According to Section 9 of the IPO Pakistan Act 2012, the chairman would be appointed for a term of three years. The chairman may quit his office through a written notice to the federal government. The federal government must take all necessary actions to fill the vacancy of the chairman within ninety days of the chairman's resignation. The chairman is authorized by Section 11 of the IPO Pakistan Act 2012 to chair the policy board meetings<sup>8</sup>. The DG (Director General) of the policy board shall seek direction and guidance from the chairman of the policy board in discharge of his duties as well as responsibilities. Section 13 of the IPO Pakistan Act 2012, gives the organization the authority to oversee and work with all the government employees to safeguard IP laws, rules and regulations. The organization will oversee and manage all the IP-related standards which includes charging fees, monitoring the agreements with foreign agencies on IP-related projects, participating in the product delivery agreements, managing and supervising the operations of all IP offices and report all activities to the federal government. Regarding the IP Rights (IPR) policy which includes developing an efficient plan for the growth of infrastructure of IP, advancing IP-related research and education and keeping the federal

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<sup>7</sup> Salman Saleem, "Intellectual Property and Their Economic Importance for Developing Countries like Pakistan", Master's thesis, (2011).

<sup>8</sup> Qamar Abad, Muhammad Amir Shahzad and Murtiza Ghulam, "Intellectual Property Organization of Pakistan (IPO-Pakistan): An Analysis of its Performance from 2014-2017", *Pakistan Languages and Humanities Review* 2 no. 2 (2018), 36-46.

government informed about it. Regarding the international IP negotiations, training employees and officers, educating the public and private sector about the IP issues through print and electronic media, collaborating with the international IP organizations to enhance capacity building, exchanging the information about IP, proposing and introducing IP laws to protect IP rights, keeping an eye on the enforcement of IPR through law enforcement agencies, and referring cases and complaints pertaining to the offenses related to IP, to advise any person on matters related to IPR<sup>9</sup>, to ratify the documents which are best for the country, to carry out the foreign aid/assistance projects, and to participate in conferences and training sessions which are supported by the foreign sources. In accordance with section 14 of the IPO Pakistan Act 2012, the organization is responsible for promoting IP through advocacy which includes educating the people and providing training on IP-related topics, reviewing the policy frameworks for IP rights and working with the trade associations to raise awareness of IP and ensure that the IP laws of Pakistan are being implemented<sup>10</sup>. According to section 37 of the IPO Pakistan Act 2012, all the authorities and the enforcement agencies are required to support the organization. With 193 member nations, WIPO is a self-funding organization of the United Nations which serves as the global forum for the IP services, information, policy and cooperation. The goal of WIPO is to facilitate the creation of a fair and efficient global IP system which promotes innovation and creativity for the benefit of all participating nations. The 1967 WIPO Convention sets out the mission of the organization, governance bodies and protocols<sup>11</sup>.

WIPO is actively cooperating with IPO-Pakistan in a number of areas such as technical assistance project which is largely financed by the European Union (EU) and has

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<sup>9</sup> Rehana Anjum and Ajmal Hussain Shiraz, "Offenders of Pakistani Intellectual Property Rights (IPR) and Federal Shariah Court", *Harf-o-Sukhan* 8 no. 1 (2024), 710-716.

<sup>11</sup> Alison Duxbury, "The Role of WIPO as an International Organization", In *Research Handbook on the World Intellectual Property Organization*, Edward Elgar Publishing (2020), 26-47

undertaken to strengthen the operations of IPO-Pakistan<sup>12</sup>. The project includes the following activities such as the preparation of an advisory report on “Integrated Management of IP in Pakistan”, with a focus on the organizational aspects of managing IP in Pakistan. In the recent years, Pakistan has made great progress in modernizing its IP system. A roundtable conference which was held in August 2005 which was regarding the challenges and best practices pertaining to the management of “unified” IP Offices. The participants to the roundtable conference includes the senior officials of the selected “unified” IP offices as well as a broad range of users of the IP system from within the country. A working paper on the national IP strategy will also be prepared as part of the project and it will be used as an instrument to help the IPO-Pakistan to establish one. The formulation of a comprehensive automation plan for the IPO-Pakistan and its constituent/related IP Offices. Therefore, the objective and purpose of WIPO<sup>13</sup> and it's all project partners is to make sure the strengthening of IP system in Pakistan which meets the criteria of continuous success which benefits the people of the country.

## **Literature Review**

For the purpose of this research the researcher has explored qualitative data, as it is subjective, analytical and critical in nature. The researcher, has searched includes books, scholarly articles, reports of international organization, more specifically WIPO, and online resources. A few of the literature relied upon for the preparation of this research proposal are as under:

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<sup>12</sup> Carolyn Deere Birkbeck, *The World Intellectual Property Organization (WIPO): A Reference Guide*, Edward Elgar Publishing, (2016).

<sup>13</sup> Frits Eduard Bontekoe and Max Wallot, "World Intellectual Property Organization (WIPO)", In *Research Handbook on the European Union and International Organizations*, Edward Elgar Publishing (2019), 275-292

A thorough and detailed review of the research paper "*Intellectual Property Organization of Pakistan (IPO-Pakistan): An Analysis of its Performance*" Ghulam Murtaza, Dr Qamar Abad and Muhammad Amir Shahzad published in December 2018 in which they have discussed that it is generally accepted that IP is important which plays a significant role in the economy of a country, cannot be ignored. In accordance with the WIPO principles, the nations worldwide have established organizations for the protection and advancement of the IP. The Intellectual Property Organization of Pakistan (IPO-Pakistan) is a body which exists in Pakistan for the purpose of protecting and enforcing the IP laws in Pakistan as it is the responsibility of the country's organization. The objective of this study is to evaluate the performance of this organization<sup>14</sup>.

A detailed review of an article "**Intellectual Property Rights and Economic Growth: A Case of Exporting Partners of Pakistan**" Shoaib Aijaz, Uzma Zia and Manzoor Ahmad, in which the writers have explained the connection between the enforcement of IP rights and the economic growth of the country. The limited autonomy of the organization, the lack of adequate resources and expertise, inadequate public awareness, and the limited international cooperation have all negatively impacted the enforcement of the intellectual property laws in Pakistan<sup>15</sup>. For the purpose of addressing these impediments, it will require reforms to the legal framework, adequate allocation of resources, and recruitment of qualified personnel, effective public awareness campaigns and the greater international cooperation.

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<sup>14</sup> Ghulam Murtaza, Qamar Abad and Muhammad Amir Shahzad, "Intellectual Property Organization of Pakistan (IPO-Pakistan): An Analysis of its Performance from 2014-2017", *Pakistan Languages and Humanities Review* 2 no. 2 (2018), 36-46.

<sup>15</sup> Shoaib Aijaz, Uzma Zia and Manzoor Ahmad, "Intellectual Property Rights and Economic Growth: A Case of Exporting Partners of Pakistan", (2024)

A thorough review of the Official Website of “*Intellectual Property Organization Pakistan issued by the Government of Pakistan*” in which it is stated that the Intellectual Property Organization of Pakistan (IPO-Pakistan) was founded on April 8, 2005, as an independent organization initially under the administrative control of the cabinet division. The administrative control of IPO-Pakistan was transferred to commerce division from the cabinet division later, on July 25, 2016<sup>16</sup>. The copyright office, the trademarks registry and the patent & design office became the part of the new organization under the integrated and unified management system. The major functions of the organization are the administration and coordination between all the functionaries of the government for the protection and strengthening of IP, creation of the awareness about the IP rights, management of all the offices of IP in the country, giving the federal government advice on IP policy and making sure that the IP rights are effectively enforced by the designated enforcement agencies of IP Rights which includes the Pakistan Customs, the FIA, and the police.

A thorough review of the research paper “*Understanding the Jurisdiction of Pakistan's Specialized Courts for Intellectual Property Rights Enforcement*” Faisal Daudpota, in which the author discusses that the IP is the humanistic brain's recognition of the creation of the valuable items such as the commercial secrets, industrial designs, names, inventions, computer programs, music and literature. The IP is a powerful weapon for wealth creation and the economic development but it does not have a particularly strong impact in many nations especially the developing nations. The author claims that because people do not respect the rights of others, the IP rights enforcement is urgently needed. The primary causes

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<sup>16</sup> Intellectual Property Organization of Pakistan Act 2012, <http://www.ipo.gov.pk/>. (Last accessed August 05, 2024)

of the disrespect are the criminal intent of the people, assumed necessity, greed, and ignorance<sup>17</sup>.

A thorough review of the research paper "***Review of Trademark and Its Enforcement Procedures of Pakistan under TRIPS and Paris Convention***" Sohaib Mukhtar, Zinatul Ashiqin Zainol, Sufian Jusoh, in which the author discusses about the information, creativity, inventiveness and knowledge as driving forces of the economic growth and social wellbeing of the people which can be replaced by tangible assets such as capital, land and labour<sup>18</sup>. The authors have also talked about how the IP protection contributes to the economic growth of the nation. Since the study is essentially an attempt to ascertain the relationship between the economic progress and the IP rights protection in the developing nations, it provides a brief summary of the IP rights.

Data collected from official website of ***Intellectual Property Organization of Pakistan in 2017*** explains how the IP rights strategies impact the lives of millions of people in the agricultural sector as well. For this reason, it is necessary to help the public authorities in emerging and least developed nations implement the IP rights effectively as well as to change the IP strategy in these nations. The report discusses execution which includes the judicial and administrative execution and offers guidance as to how to safeguard these rights. A few helpful resources for the positive enforcement of the IP rights are introduced in the research. It recognizes that the enforcement is crucial to the formulation of policies in the developing nations and to determining the connection between IP and the national development. The researcher explores for ways that the IP processes may assist the

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<sup>17</sup> Faisal Daudpota, "Understanding the Jurisdiction of Pakistan's Specialized Courts for Intellectual Property Rights Enforcement", *Available at SSRN 2720912* (2016).

<sup>18</sup> Sohaib Mukhtar and Sufian Jusoh, "Review of Trademark and Its Enforcement Procedures of Pakistan under TRIPS and Paris Convention", *Economics, Law and Policy* 1 no. 122 (2018), 10-22158.

development of the developing nations particularly in the context of the internet. The study considers both the theoretical and practical aspects of the IP development, proposes a new IP framework which the developing nations can use to succeed economically and investigates whether an efficient IP rights process helps or hinders the economic development. The study examines the information which is currently available on these topics which shows that the IP process has a generally favourable impact on the growth and that IP rights must be protected<sup>19</sup>. There is relatively stronger IP protection is required for the strong economic growth and revenue increase of the nation. The countries which employ TRIPS flexibilities for their growth have a lot to gain. This study examines the literature on the advantages of strict IP rights protection for knowledge transfer and development especially in the developing nations. The findings indicate a strong relation between the protection of the IP rights, economic growth and the spread of the technology.

A thorough review of the research article "**Intellectual Property Protection in China: Enforcing Trademark Rights.**" Anne M. Wall in which the writer has discussed the enforcement of the IP rights in China particularly the enforcement of trademark rights. The CNIPA has the authority to issue administrative rulings and penalties for IP violations without the interreference of the judiciary as it is also significant for the trademark and copyright enforcements where the administrative agencies have more powers to impose fines and seize the counterfeit goods when required<sup>20</sup>. In China, the General Administration of Customs (GAC) works very closely with CNIPA in order to stop the export and import of the goods which are counterfeited.

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<sup>19</sup> Intellectual Property Organization of Pakistan (2017). IPO Initiatives for IPRs Enforcement. Retrieved on 29-09-2017.

<sup>20</sup> Anne Marie Wall, "Intellectual Property Protection in China: Enforcing Trademark Rights", *Marq. Sports L. Rev.* 17 (2006), 341.

A report published **Ministry of Law and Justice on Intellectual Property Tribunal published in 2017**, illustrated that the process of the rights of IP protection has been globalized due to World Trade Organization (WTO) & TRIPS Agreement. The enforcement and implementation of the modern IP rights (IPR) legislation, however, present certain challenges for the developing nations. The conclusion of the study states that in order to address the issues surrounding the implementation of the IP rights, industrialized and the developing countries should work together<sup>21</sup>. To address these issues the developed nations, need to offer the developing countries expertise and a practical solution in this regard.

A detailed review of a journal article "**Intellectual Property Rights and Protection: A Comparative Analysis of Pakistan and China**" Sayed Zubair Shah, in which the author has compared the protection of IP rights in Pakistan and China. The IPO Pakistan and the IP Office (IPO) of China are the regulatory and managing authorities regarding the protection of IP rights in their respective countries<sup>22</sup>. Both the organizations of the countries are responsible for the administration of patents, trademarks, copyrights, geographical indications and industrial designs with each of the country having its own mechanism of enforcement, challenges, and the level of alignment with the international frameworks such as the WIPO.

A thorough review of the research paper "**Understanding and developing Pakistan's Intellectual Property Law Framework.**" Sheikh, M., and M. U. Khan in which it is deduced that the IP rights apply same effects as the "Rule of Law" and therefore provide strong evidence that physical as well as IP rights are critical development determinants. They believe that the unenforced IP rights have no useful role in the progress. Instead, the

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<sup>21</sup> Ministry of Law and Justice (2017), Intellectual Property Tribunal. Retrieved on 9-12-2017.

<sup>22</sup> Sayed Zubair Shah, "Intellectual Property Rights and Protection: A Comparative Analysis of Pakistan and China", *Journal of Social Sciences Review* 3, no. 1 (2023), 118-128.

development is the result of the enforced IPRs. One significant factor influencing the economic development is the impact of the IP rights. By using the panel data from 46 nations between 2000 and 2007, the study concludes that there is a negative relation between the IP rights and the national economic development. The study found that high-tech exports and population growth contribute to the economic development. The economic freedom and internet use creates the IP rights protection<sup>23</sup>. The various phases of the contemporary IP policy of China are examined in the context of the global IP development and it is concluded that these policies will help the People's Republic of China to become a powerful force in reshaping the global IP mechanism and making those nations stand out in the global marketplace thanks to their enforceable IP protection procedures. The multinational corporations view those nations as the potential locations for conducting business and they open their wallets and support their growth.

A thorough review of a report "**Trademark Protection Index: A Comparative Evaluation of Pakistan and the United Kingdom**" Khurram Baig, Ali Raza Laghari, Muhammad Ahsan Iqbal Hashmi and Ali Naeem, in which the authors have discussed the IP protection in comparison between Pakistan and the United Kingdom. The IPO Pakistan works under the Ministry of Commerce and is the central body for the enforcement of rights related to IP in the country. The role of IPO Pakistan is to ensure the compliance of the IP laws such as the IPO Pakistan Act 2012 with the international treaties and conventions which are governed under WIPO in order to improve the IP awareness and enforcement in Pakistan. While, the United Kingdom Intellectual Property Office (UKIPO) is the national IP office of the United Kingdom established on 2nd April 2007, which is responsible for the administration of patents, trademarks, designs, and copyrights within the United Kingdom.

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<sup>23</sup> Maria Sheikh and Moghees Uddin Khan, "Understanding and Developing Pakistan's Intellectual Property Law Framework", *Found on* (2017), 30-03.

The UKIPO is operated under the department for “Business, Energy & Industrial Strategy” (BEIS) and works closely with other departments of government such as the law enforcement agencies and the courts for the effective IP protection in the UK. The UK also follows the WIPO agreements and treaties which ensure that its IP system is aligned with the global standards.<sup>24</sup>

## **Gaps Identified**

The IPO Pakistan Act of 2012 which consolidated all the existing IP laws in the country lacks implementation and enforcement mechanism which is required to be addressed properly. According to section 18 read with section 2(h) and schedule of the IPO Pakistan Act 2012, the offences under the IP laws will exclusively be tried by the tribunals of the IP. The IP tribunals are currently operating in Islamabad, Lahore, and Karachi however, other regions of the country do not yet have these specialized tribunals. This strategy makes it clearly evident that the implementation of the IP laws is not a top priority for the government of Pakistan. The IP-related legislation in Pakistan do not impose severe penalties which is why the people do not take these offenses seriously because of the minor penalties imposed by these laws which are also non-deterrant. These provisions grant the judiciary a wide range of discretion. The judges exercise their discretion by imposing small fines and in case of criminal violations of the IP rights, the deterrent impact is at lower level in the country. Similarly, the IPO Pakistan needs to be in accordance with WIPO and the global standards of the IP Laws worldwide<sup>25</sup>. Pakistan needs to work on the implementation and execution mechanism of the existing IP laws and their betterment as well as on their up-

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<sup>24</sup> Khurram Baig, Ali Raza Laghari, Muhammad Ahsan Iqbal Hashmi and Ali Naeem, "Trademark Protection Index: A Comparative Evaluation of Pakistan and the United Kingdom (UK)", *Bulletin of Business and Economics (BBE)* 12 no. 4 (2023), 641-646.

<sup>25</sup> Junaid Jan, "The Development of Intellectual Property Laws in Pakistan: Challenges and Suggestions", *Pakistan Journal of Criminal Justice* 2 no. 1 (2022), 36-44.

graduation in order to align them in accordance with WIPO and the international standards as well.

## **Significance of the Study**

The emergence of Intellectual Property (IP) as a subject holds an immense importance in every field of life but certain evils exist regarding the Intellectual Property such as the piracy and counterfeiting have badly damaged the significance of IP and as a result damaged the economy of Pakistan. The IP laws should be strictly enforced in accordance with the global standards and recommendations in order to eradicate these evils. The prosperity will become the fortune of Pakistan as a result of that eradication as this study will go over some potential ways to enforce the IP laws throughout Pakistan.

## **Research Objectives**

1. To find institutional framework for the management of IP in Pakistan: A critical analysis of IP act 2012. This is main objective of this study.
2. To ascertain whether Pakistan has evolved its intellectual property laws according to WIPO and the international standards or not.
3. In Pakistan, the intellectual property laws are available and large number of people knows about them. Now the Question is whether having laws or having knowledge of law is sufficient? The answer is no. The implementation of laws is inevitable. Through this research, an attempt would be made to find out such ways through which the implementation of the intellectual property laws can be formed forceful.

## **Research Questions**

1. What is the significance of intellectual property rights and to what extent Pakistan is serious in implementing the intellectual property laws within its statutory system?
2. What laws are prevailing in Pakistan regarding IP rights? Whether these laws are adequate to protect IP rights in Pakistan?
3. Whether Pakistan has evolved its IP Laws according to the requirements of WIPO and the International Standards or not?

## **Research Methodology**

The research methodology used for the research purpose would be a combination of descriptive, qualitative, comparative and analytical research techniques. The research is descriptive because it is aimed to provide an accurate, detailed and systematic description of a legal issue or situation, for that matter, primary resources would be consulted including legal instruments, research articles and online available resources. The research is qualitative due to the reason that it is a legal issue and a subject matter of social sciences. The research adopted is comparative because it contains comparison with two jurisdictions and the research is analytical due to the reason that it is a detailed analysis of the IPO Pakistan Act 2012. The style used for citation is Chicago style. The exploration would be for the most part dependent upon the investigation of significant writings under the title as mentioned above.

## **Chapter No. 1**

### **Background and Development of Intellectual Property Laws in Pakistan**

#### **1.1 Introduction**

The IP laws in Pakistan have undergone significant and important developments over the years to align with international standards and to protect the rights of IP. The background and development of IP laws in Pakistan includes the Pakistan's legal framework for IP protection which has its roots in British colonial era<sup>26</sup>. The Copyright Act of 1911 and the Patents and Designs Act of 1911 were initially introduced to safeguard and protect the IP rights in the region. The Copyright Act of 1911 and the Patents and Designs Act of 1911 were introduced during the British colonial era which was then known as the British India. These acts aimed to establish a legal framework to protect and safeguard the IP rights in the region. Both the acts were based on British intellectual property laws which were prevalent at that time. They provided initial legal protection for intellectual property rights in British India, including what is now present-day Pakistan. However, it is important to note that these acts have undergone subsequent amendments and updates to keep pace with the evolving national and international intellectual property standards. Here is a brief explanation of each act:

#### **1.2 The Copyright Act 1911**

The Copyright Act of 1911 proved to be the initial legislation of Pakistan regarding copyright, which was inspired by the Copyright Act of 1911<sup>27</sup> of the United Kingdom. The earlier Copyright Act of 1911 was subsequently replaced by the Copyright Ordinance of

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<sup>26</sup> Monika and Parmod Malik, "Historical Development of Copyright Law", *Issue 1 Int'l JL Mgmt. & Human* 5 (2022), 561.

<sup>27</sup> George Herbert Thring, "Advantages and Defects of the Copyright Act, 1911", *Fortnightly* 91 no. 546 (1912), 1132-1142.

1962 which was enacted on 2<sup>nd</sup> June, 1962. In order to widen/increase the range of the protected material and enhance the copyright enforcement, the Copyright Ordinance of 1962 undergone amendments through the Copyright (Amendment) Act of 1992<sup>28</sup>. The amendments made to the Copyright Act of 1911 includes the Copyright (Amendment) Act of 1992 as through this amendment significant changes were introduced to the Copyright Act of 1911 and the Copyright Ordinance of 1962, including the extension of copyright duration, recognition of moral rights of authors and provisions related to the computer programs and databases. Further amendment includes the Copyright (Amendment) Ordinance, 2000 as the amendment addressed several deficiencies and gaps in the existing copyright law, particularly in relation to the digital works, technological advancements, and the protection of copyrights in the digital age<sup>29</sup>. Lastly, the amendment was made in 2012 which is known as the Copyright (Amendment) Act of 2012 which aimed to strengthen the copyright protection by introducing strict penalties for the copyright infringements, enhancing the powers of the copyright board and providing provisions for the protection of the rights of performers.

### **1.3 Patents and Designs Act of 1911**

The Patents and Designs Act of 1911 was introduced to regulate the patents and industrial designs in the British India. A patent is known as a government-issued authorization which grants exclusive rights to an inventor for a limited period of time<sup>30</sup>. In exchange for disclosing the innovation to the public, the grant of rights enables the inventor to stop others from producing, importing, selling, utilizing, or offering for sale their creation. The name "patent" has existed since approximately 1700, while patents have been in use since the 15th

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<sup>28</sup> Owen H Dean, "Copyright Amendment Act, 1992", *De Rebus* no. 298 (1992), 755-760.

<sup>29</sup> Muhammad Waqas Gujjar, Sayyad Arslan Hussain, Attiya Anees, and Tahir Mahmood Gondal, "Intellectual Property Laws in Pakistan", *Bulletin of Business and Economics (BBE)* 13 no. 3 (2024), 282-289.

<sup>30</sup> Parmeshwar Kumar Mahto, "Designs and Patent: A Comparative Study", *Int'l JL Mgmt. & Human* 2 (2019), 203.

century. The Patents Ordinance of 2000 undergone significant amendments through the Patents (Amendment) Ordinance of 2002<sup>31</sup>. However, further amendments were made in the year 2007 and again in the year 2010. The Patents (Amendment) Act of 2010 and the Patent Rules of 2003 currently govern the patent law in Pakistan. A patent obtained in Pakistan cannot be enforced in another country. Similarly, the foreign patents including those from the United Stated of America (USA) are not enforceable in Pakistan. Pakistan has not yet endorsed the PCT (Patent Cooperation Treaty) of 1970, which is a treaty on the international law of patent, which means that filing patents under the PCT will not provide the applicants with the protection of patents in Pakistan as Pakistan is not yet the signatory of the treaty. The 1911 Patent and Designs Act has undergone some amendments which includes the Patents and Designs (Amendment) Act of 2002 which introduced various changes regarding the alignment of the act with the international standards, including the provisions related to patentability criteria, exclusive marketing rights and compulsory licensing.

## 1.4 International Treaties and Agreements

Pakistan has actively participated in a number of international treaties and agreements related to the internationally recognized IP rights. Pakistan became a member of the WIPO in 1975<sup>32</sup> and signed several international agreements, including the Berne Convention (1886) which is for the protection of literary and artistic works, the Paris Convention (1883) which is for the protection of industrial property, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the year 1994<sup>33</sup>. Pakistan has actively participated in these above-mentioned international treaties and agreements that focus on the protection of the IP rights.

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<sup>31</sup> Asim Gulzar, "Challenges and Opportunities in the Post TRIPS Era for Pakistan: An overview of Amended Patents ordinance 2002", *Volume II* (2014), 19.

<sup>32</sup> Naresh Prasad, "The World Intellectual Property Organization." In *The Politics of International Organizations*, Routledge (2015), 156-184

<sup>33</sup> Lake Tee Khaw, "Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)" (1994), 59-67.

Being a member state of these agreements and treaties, Pakistan ensures its commitment towards aligning its IP laws and practices with the global standards.

## **1.5 Intellectual Property Laws in Pakistan**

In the legal system of Pakistan, the concept of IP laws is not new as the law was first introduced in the year 1962 through an ordinance which was a very comprehensive draft in which each and every aspect was discussed related to the issues pertaining to copyrights and it covered the civil remedies, offenses, penalties and other litigation process related to IP. In terms of application, Section 45A of the copyright ordinance of 1962, focuses on the creation of the copyright board by the federal government which has criminal court jurisdiction under the Code of Criminal Procedure (CRPC), and the proceedings before the board are considered judicial proceedings in accordance with the implementable penal provisions of the country. The copyright ordinance of 1962 was further amended in the year 2000 and then in 2012 as well. The ordinance provides well build mechanism and steps in order to encounter piracy and the intellectual theft. It also considers the copyright crime as a cognizable offense and it authorized the police officers (FIA) to make the arrest without warrant. According to the ordinance, police can initiate the investigation without any prior permission from the court, but it is very unfortunate to say that the authority is not exercised as still there is need to modernize the ordinance to make it more compatible with international IP standards<sup>34</sup>. The intellectual property laws in Pakistan were subject to upgradation through amendments from time to time as per the growing need. But for the first time in the history of the legal system of Pakistan, a landmark step was taken by the government of Pakistan at the national level by establishing intellectual property rights organization as a major development in the field of

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<sup>34</sup> Waqas Ahamad, Khurram Baig, "Copyright Governance and Legislative Reforms on User's Rights in Copyright Right Laws of Pakistan", *Webology* 19 no. 2 (2022).

IP. Three separate federal ministries regulate and supervise the legislation pertaining to the IP rights in Pakistan. First of them is ministry of education, second one is ministry of industries and production and the third one is the ministry of commerce. The ministry of education is responsible to carry out the necessary amendments in the copyright legislations<sup>35</sup>. The ministry of industries and production is responsible for the major concerns related to the patent laws. It is the duty of the ministry of commerce to handle the matters related to trademarks. The ministry of industries and production is in charge of administering the patent legislation.

The modern IP legal framework in Pakistan comprises of several key legislations which governs the different aspects of IP rights in Pakistan. The main laws pertaining to intellectual property and its rights in Pakistan are as follows:

### **1.5.1 The Copyright Ordinance of 1962 (Amended in 2000)**

The copyright ordinance of 1962 along with its amendment provides the protection for literary, artistic, and musical works which includes books, films, music, and computer software. The authors, composers and other producers of the creative works are granted the exclusive rights by the law which gives them the authority over the public performance, distribution and reproduction of their artistic works. The copyright ordinance of 1962 along with its amendment establishes the copyright office which is responsible for the registration of copyright and its administration<sup>36</sup>.

### **1.5.2 The Patents Ordinance of 2000**

The patents in Pakistan are the only ones protected by the 2002 Patents Ordinance. It sets out the requirements for the patentability which includes industrial application, inventive steps

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<sup>35</sup> Syed Raza Shah Ahamed, "Enforcement of Trademarks and Copyrights Under IP Law: A Critical Analysis", *Pakistan Islamicus (An International Journal of Islamic & Social Sciences)* 3 no. 2 (2023), 34-50.

<sup>36</sup> Anum Naz, Shema Bukhari, Nasir Mahmood, Muhammad Saifullah Khan, and Erum Fazal, "Analysis of State of Copyright in Pakistan", *Remittances Review* 9 no. 2 (2024), 4886-4898.

and novelty. The patents ordinance of 2002 states the procedure for the registration of patents, including filing applications, its examination, and grant of patents. It also includes the provisions related to compulsory licensing, infringement actions and rights of the owners of patents<sup>37</sup>.

### **1.5.3 The Trademark Ordinance of 2001**

A trademark serves as a distinguished sign for services and goods related to a particular business. The origin of trademark can be traced to the old times when the craftsmen used their signatures or marks on their products. The Trade Marks Act of 1940 was the first trademark law in Pakistan and it was subsequently replaced by the Trade Marks Ordinance of 2001 in order to bring the legislation into compliance with the international standards. Presently, the trademark law in Pakistan is governed under the Trade Marks Ordinance of 2001 and subsequently governed under the Trade Marks Rules of 2004. The trademarks registry, under the administration of the IPO Pakistan, handles the registrations related to trademarks<sup>38</sup>. Even the unregistered trademarks are protected by the common law system, however in Pakistan, the registered trademarks give the owner the exclusive proprietary rights, allowing the rights holders to take legal action based on the "law of passing off" against the infringers.

### **1.5.4 The Geographical Indications (Registration and Protection Act) 2020**

The GIs are the indications which identify a good as originating in a region or the locality where a given quality, reputation or other characteristic of the good is essentially attributed to its geographical origin<sup>39</sup>. The name of the place of origin of the product is the most

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<sup>37</sup> Asim Gulzar, "Challenges and Opportunities in the Post TRIPS Era for Pakistan: An overview of Amended Patents ordinance (2002)", *Volume II* (2014), 19.

<sup>38</sup> Muhammad Ahmed Khayyam, "Inadequate Protection of Trademarks in Pakistan: A Case for Reform", *Management Review* 55 no. 4 (2017), 157-183.

<sup>39</sup> Mohsin Shafi, Muhammad Ashraf Fauzi, Zoya, Mohd Hanafiah Ahmad, and Xiaoting Song, "Geographical Indications (GIs) Protection in Pakistan: Assessing the Role of New Legislation in Sustainable Development", *Asian Journal of Technology Innovation* (2024), 1-32.

typical GI. The characteristics of the agricultural goods frequently originate from the location of the production and are impacted by certain local elements such as the soil and the climate. The GI (Registration and Protection Act) of 2000 provides protection to the GIs in Pakistan. The act enables the communities and the producers to protect and promote products associated with specific geographical locations.

#### **1.5.5 The Intellectual Property Organization of Pakistan Act 2012**

The major development in the area of IP and its rights is the IPO Pakistan Act of 2012 which deals with every aspect of the IP rights developments in Pakistan. The IPO Pakistan Act of 2012 is a key legislation in Pakistan for the development of IP and the act established the IPO Pakistan, which is formed for the purpose of managing and regulating the IP rights in the country. The IPO Pakistan Act of 2012 is designed to streamline the administration of the rights related to IP and to align the Pakistan IP laws with the international standards. According to section 4 of IPO Pakistan Act of 2012, there will be a policy board of the institution. There will be a chairman and fifteen (15) members on this policy board out of which five of the members will come from the public sector which include the cabinet secretaries, the interior, the commerce, the information and broadcasting division. In the policy board, one member will be the chairman of Federal Board of Revenue (FBR). The other five members will be from the private sector which will be appointed by the federal government. Four members will be chosen by the federal government based on suggestions from the provincial governments. There will be a director-general of the policy board to act as the secretary of the board<sup>40</sup>. All members from the private sector have their term for three years with the condition that they may be reappointed for another term of three years. It is very important to mention that, none of the member, if he is convicted or involved in any illegal, criminal activity or considered insolvent by any financial institution or incapable of

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<sup>40</sup> Junaid Jan, "The Development of Intellectual Property Laws in Pakistan: Challenges and Suggestions", *Pakistan Journal of Criminal Justice* 2 no. 1 (2022), 36-44.

discharging his duties due to failure physically, mentally, psychologically, will be ceased to be a member of the policy board. The IPO Pakistan Act of 2012, section 6 states that the policy board has the authority to approve the plans and policies for the organization, implement policy decisions, and create a framework for using the funds and describing fees and penalties on behalf of IPO Pakistan. According to Section 9 of the act of 2012, the procedure is granted for the appointment of the chairman, its duration, and resignation process of his office as well<sup>41</sup>. However, section 11 of the IPO Pakistan Act of 2012 gave the chairman the authority to chair board meetings and give instructions to the director general of the policy board as to how to carry out his obligations. Section 12 of the Act states the appointment of director-general, its qualifications and other terms, and empowered him to take the responsibilities to manage not only the human resources but also other physical resources of the organization being functional head of the organization. According to Section 13 of the Act of 2012, the organization is empowered to administer and coordinate with all the government systems to protect the IP laws in the country. According to Section 14 of the Act of 2012, the necessity of the advocacy of IP is addressed, that the organization shall promote IP through building knowledge and organizing trainings, workshops pertaining to issues related to IP and review the policy and framework when and where necessary<sup>42</sup>. Section 15 of the act empowers the IP tribunals to try and prosecute the offenses related to IP within ninety days and section 16 addresses the appointment of judges for these tribunals. A former high court judge, a former or current district and sessions judge or in certain situations, an advocate may also be appointed as a judge of the IP tribunal.

Section 17 of the IPO Pakistan Act of 2012, discuss that the tribunal shall have powers under the Code of Criminal Procedure (CrPC) 1898 and the Code of Civil Procedure

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<sup>41</sup> Ibid

<sup>42</sup> Khushbakht Hina, "Intellectual Property Rights in Education of Pakistan: Review of Constitution, Current Status and Expectations", *Dialogue (Pakistan)* 12 no. 2 (2017).

(CPC) 1908, which makes its proceedings of the judicial nature. According to Section 18 of the Intellectual Property Organization of Pakistan Act 2012, no other court shall have powers to exercise this authority with regard to the legislation related to IP, which confines all suits and trials to be carried out under the tribunal which is formed by virtue of the act. Further, section 19 of the act addresses the high court appeals process for the decision of the tribunal. Section 24 of the IPO Pakistan Act of 2012, which addresses staff transfers, vacancies, and postings, states. The most significant section 37 of the act, which actually permits the use of law enforcement to enforce the IP laws explains that all authorities and enforcement agencies would be held accountable for helping the organization as a result of this act.

## 1.6 Amendments and Updates

In the recent years, Pakistan has made significant efforts to update and amend its IP laws in order to align them with the international standards and address the emerging challenges faced by the IP rights. The efforts which are significant in nature are aimed in bringing the legal framework related to IP of the country in accordance with the global standards and ensuring effective enforcement and protection of the IP rights. Pakistan as member of the international organizations such as the WIPO and a signatory to agreements such as the TRIPS<sup>43</sup>, Pakistan is committed in aligning its IP laws with global standards in order to provide protection to the rights related to IP. It also involves the amendments of the existing laws or introducing new legislation to meet the requirements of the international agreements and standards. Additionally, Pakistan has taken effective steps to strengthen the enforcement mechanism of the IP rights. It includes setting up the specialized IP courts to handle IP disputes between the parties, enhancing cooperation and coordination among the law enforcement

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<sup>43</sup> Alina Baba, "The Agreement on Trade-Related Aspects of Intellectual Property Rights (Trips)", *Annals of the University of Oradea, Economic Science Series* 33 no. 1 (2024).

agencies, and increasing the awareness and training for the judges and the law enforcement personals on the matters related to the IP. Furthermore, Pakistan has also conducted the awareness campaigns, seminars, and workshops to enhance the public awareness regarding the subject of the IP rights. The initiatives are aimed to educate the public, businesses, and relevant stakeholders regarding the significance of the protection of the rights related to IP and the consequences of its infringement as well as the benefits of respecting and safeguarding the intellectual property rights<sup>44</sup>. Pakistan has also sought technical assistance and cooperation from the international organizations such as WIPO and regional IP offices to further strengthen its intellectual property mechanism. It includes the capacity building programs, training sessions, and collaboration with the international experts in order to improve the understanding and implementation of the IP laws in Pakistan.

## 1.7 Enforcement and Awareness

The protection of IP rights depends on their efficient enforcement. Pakistan has taken steps to improve the enforcement mechanisms, including establishing the specialized IP courts/tribunals and increasing cooperation between the law enforcement agencies and the relevant stakeholders. The IPO Pakistan Act of 2012 provides for the establishment of specialized 'Intellectual Property Tribunals' for resolving the disputes related to IP and its rights. The courts handle the cases involving the infringement of IP rights, its registration disputes, and other matters related to IP. The IPO Pakistan Act of 2012, establishes a centralized registration system for different types of intellectual property matters which includes the patent and trademark offices that have been merged into the IPO Pakistan

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<sup>44</sup> Tereza Trencheva, Mariyana Lazarova, Stoyan Denchev, and Carla Basili, "Innovative Strategy of Intellectual Property Education in the Digital Age", *ICERI2020 Proceedings* (2020), 2799-2804.

structure for the purpose of facilitating easier access for the applicants to register patents, trademarks, and other IP rights in accordance with the act. It also provides for the establishment of databases and systems to record the registrations of IP that can be publicly accessed for transparency and legal protection. The purpose of the establishment of IPO Pakistan under the IPO Pakistan Act of 2012, is to raise awareness about the rights related to IP. The awareness includes educating the businesses, researchers, students, and the general public about the importance of protecting IP rights and how they can register their own IP in the light of the said act. The IPO Pakistan is established with the purpose of promoting the value of IP in fostering innovation and development of the economy in the country.

Additionally, the awareness campaigns and capacity-building programs have been conducted to educate the public at large, businesses, and the legal professionals about the importance of IP rights. Pakistan has also conducted the awareness campaigns, seminars, and workshops to enhance the public awareness regarding the subject of the IP rights<sup>45</sup>. The initiatives are aimed to educate the public, businesses, and relevant stakeholders regarding the significance of the protection of the rights related to IP and the consequences of its infringement as well as the benefits of respecting and safeguarding the IP rights. In Pakistan, the IP laws are designed for the protection of the rights of the creators, innovators, and businesses to their inventions, trademarks, designs and artistic works. The IPO Pakistan Act of 2012, empowers the IPO Pakistan to take strict legal action against the violations of IP rights and establish effective mechanisms for enforcement. It includes working with the law enforcement agencies which are required to provide the support for investigating the IP crimes, and facilitating the prosecution of offenders. The 'Intellectual Property Tribunals' (IPT) have the authority to hear and resolve the cases of infringements related to IP, providing an effective legal platform for the resolution of the disputes related to IP. The

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<sup>45</sup> Ghous Muhammad and Murtiza Ghulam, "The Implementation of Intellectual Property Laws in Pakistan- Impediments and Suggestions for Solutions", *Pakistan Vision* 20 no. 1 (2019), 1-8.

awareness and enforcement regarding the IP laws are critical to ensuring that these rights are respected, and the system operates effectively in this regard<sup>46</sup>. Therefore, the enforcement of the IP laws and protection of the rights of the creators is acquiring awareness in Pakistan. There has been significant progress in terms of legal frameworks, enforcement measures, specialized institutions, and challenges such as piracy, counterfeiting of goods, and low levels of awareness persist. However, the continued efforts by the government agencies, the international organizations, and the private sector stakeholders aim to improve the IP mechanism and the infrastructure which will ultimately help fostering the innovation of the innovators, the protection of the creators work and enhance the economic growth of the country.

## 1.8 Conclusion

The development of the IP laws in Pakistan has evolved with time having made significant changes in the laws to align them with the international standards and address the needs of a modern-day economy for the purpose of the development of Pakistan. The background and development of the IP laws started from the British Colonial Legal System which was implemented prior to the independence of Pakistan in 1947, at that time, the subcontinent was under the British rule, and the intellectual property laws were largely derived from the British colonial legal frameworks. The British legal system introduced the basic forms of IP protection in the subcontinent which is now Pakistan. The Copyright Act of 1911 was the most important legislation that governed the literary and artistic works in Pakistan. It was the legislation which was firstly introduced by the British and named it as the British Copyright

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<sup>46</sup> Latinyte Agne, "A Research on Awareness of Intellectual Property Rights in Creative Industry", PhD dissertation (2019).

Act of 1911. Later on, the Copyright Ordinance of 1962 was introduced and adopted by Pakistan which was later amended in 1992.

These amendments were influenced by the international treaties such as the ‘Berne Convention for the Protection of Literary and Artistic Works’ which was joined by Pakistan in 1976 and the WIPO standards. The 1911 Patents and Designs Act is the regulation of patents and industrial designs which was initially based on the British system. The Patents and Designs Act of 1911 covered the protection of industrial designs and new inventions in Pakistan. The Trade Marks Act of 1940, was established to protect the trademarks, logos, and other distinctive signs used by any business to distinguish their services and goods in the marketplace. Therefore, the IP laws of Pakistan have significantly evolved over the last few decades which started from the British colonial-era laws to a modern legal framework which are aligned with the international standards. The IP system of the country has gone through major reforms and changes, particularly in response to the obligations which arise from being a member state of the international treaties and the Word Trade Organization (WTO)<sup>47</sup>. However, the challenges remain there in terms of the implementation, the public awareness programs and the development of the legal infrastructure. In the future, Pakistan needs to further strengthen its enforcement mechanisms and raise awareness regarding the value of IP and the rights related to it.

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<sup>47</sup> Bhagirath Lal Das, *The World Trade Organization: A Guide to the New Framework for International Trade*. Zed Books (1999).

## **Chapter No 2**

### **Intellectual Property Laws of Pakistan in Accordance with WIPO**

#### **2.1 Introduction**

The IP laws in Pakistan are designed for the purpose of protecting the rights of the creators and innovators and in accordance with the global standards especially the agreements established by the WIPO. Pakistan has ratified several international treaties and conventions which comes under WIPO such as the “Berne Convention for the Protection of Literary and Artistic Works” (1886), the “Paris Convention for the Protection of Industrial Property” (1883), and the “Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement”. These laws are designed to safeguard patents, copyrights, trademarks, industrial designs, and geographical indications which provides legal protections to both the local and foreign IP holders. The IP laws of Pakistan are structured for the purpose of promoting innovation, economic growth and the international trade with the aim that the enforcement mechanisms contribute in the reduction of piracy and counterfeiting in the country. By way of the compliance of IP laws of Pakistan with the framework of WIPO, the country aligns itself with the international best practices while adapting its national policies related to IP in order to cater to the domestic needs and the challenges faced by them.<sup>48</sup>

#### **2.2 Background and Development of WIPO**

WIPO is a specialized organization of the UN responsible for the promotion and protection of the IP rights worldwide. WIPO track down its origins to the years 1883 and 1886 when the

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<sup>48</sup> Nirmalya Syam, "Mainstreaming or Dilution? Intellectual Property and Development in WIPO", *Intellectual Property and Development in WIPO* (July 10, 2019), *South Centre Research Paper 95* (2019).

two essential conventions such as the Paris Convention (1883) and the Berne Convention (1886) were concluded. In 1883, the Paris Convention was signed by the several member states. The international treaty was aimed to establish a framework for the protection of the industrial property rights, including the patents, industrial designs and trademarks<sup>49</sup>. The Paris Convention which led to the establishment of the International Bureau for the Protection of Industrial Property in the year 1883. The Bureau which was located in Bern, Switzerland served as the central office for the administration of the Convention in order to handle the international filings, and to facilitate cooperation among the member states. In the year 1886, the Berne Convention was signed for the purpose of focusing on the copyright protection. The convention was aimed for the growth of the IP protection with the need to establish a broader organization to address the several aspects of the IP rights<sup>50</sup>. These conventions included the provisions for the creation of an "International Bureau" for each of the respective fields. In the year 1893, these two conventions were incorporated into a single entity which was evolved into the WIPO in the year 1970 through the WIPO Convention<sup>51</sup>.

The WIPO Convention which was adopted in 1967 established WIPO as an international organization which is dedicated to the matters related to the IP and its rights. The convention came into force in 1970 as the establishment of WIPO represented a consolidation of several international intellectual property initiatives under a single organization WIPO with a wider authorization. The International Bureau was succeeded by WIPO and expanded its range and scope to cover the copyright, patents, industrial designs, trademarks and related aspects of intellectual property and its rights. This recognition of WIPO by the United Nations (UN) further strengthened its position as the international authority on the matters

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<sup>49</sup> William E Schuyler, "Paris Convention for the Protection of Industrial Property-A View of the Proposed Revisions", *NCJ Int'l L. & Com. Reg.* 8 (1982), 155.

<sup>50</sup> Ndéné Ndiaye, "The Berne Convention and Developing Countries", *Colum. -VLA JL & Arts* 11 (1986), 47.

<sup>51</sup> Robin Gross, "World Intellectual Property Organization (WIPO)", *GISWatch: Global Information Society Watch* (2007), 65-73.

related to IP<sup>52</sup>. WIPO as a specialized organization/agency operates independently while collaborating closely with the UN and its member states. Article 1 of the significant agreement which establishes affiliations of WIPO with the United Nations and also reaffirms its primary objective which is the promotion of the endeavours of the creative intellectuals and the facilitation of the technology transfer concerning the industrial property to the developing nations. The aim of the convention is to expedite economic, social, and cultural progress. WIPO which holds the distinction of being the oldest organization dedicated to the protection of the rights related to intellectual property, was originated from a diplomatic conference held in the year 1893.<sup>53</sup>

## 2.3 The Functions of WIPO

The core functions of WIPO include the assistance in the development of the international campaigns aiming at enhancing the preservation of IP and harmonizing the local legislation in this regard. It also includes the negotiations and concluding of the international agreements which are concerned with the IP protection. The core functions of WIPO also include the administration of the administrative functions of the Paris and Berne Unions. Other functions of WIPO involve providing technical assistance as well as legal assistance in the field of IP, the collecting, communicating and conducting of the research on the matters and information related to the IP and also publishing its research findings<sup>54</sup>. The facilitation of the international IP protection services is also one of the core functions of WIPO along with the undertaking of any other reasonable actions in order to fulfill the objectives related to the rights of IP. One of the most important functions performed by WIPO is the administration of the multilateral

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<sup>52</sup> Ondina Fachel Leal, "Global Ruling. Intellectual Property and Development in the United Nations Knowledge Economy", *Vibrant: Virtual Brazilian Anthropology* 11 (2014), 113-145.

<sup>53</sup> Assafa Endeshaw, "Intellectual Property and the WIPO Development Agenda", *Journal of Information Law and Technology*, (2007).

<sup>54</sup> Alison Duxbury, "The Role of WIPO as an International Organization", In *Research Handbook on the World Intellectual Property Organization*, Edward Elgar Publishing (2020), 26-47

international conventions. It includes the removal of the treaties, facilitating the conflict resolution through the examination of the instruments of states and conducting the treaty reviews. Since 1998, the worldwide academy of WIPO has been dedicated for the training of professionals in the field of the protection of the rights related to IP through which the individuals can acquire skills and knowledge using the internet-based resources. Furthermore, the 'Arbitration and Mediation Centre' of WIPO which was established in 1994 also plays a crucial role in resolving the conflicts related to IP.

Throughout the years, the role and activities of WIPO have evolved to address the changing landscape and emerging challenges related to IP. WIPO has been involved in the administration and development of the various international treaties and agreements which includes the 'Agreement on Trade-Related Aspects of Intellectual Property Rights' (TRIPS)<sup>55</sup>. It has played a significant role in promoting the international cooperation, facilitating the exchange of the information related to IP, providing the technical assistance, and supporting the development of the policies and legal frameworks worldwide related to IP. The focus of WIPO has also expanded to include the emerging issues such as the digital copyright, traditional knowledge, genetic resources, and access to medicines. Nowadays, WIPO serves as a global forum/stage for the cooperation related to IP by bringing the member states, stakeholders and experts from around the world together. WIPO is inclined towards the promotion, preservation and utilization of the IP rights for the purpose of fostering innovation, creativity and facilitate the international cooperation.

## **2.4 The Copyright Law in Pakistan and WIPO**

The Ordinance of 1962 along with its amendments governs the copyright law in Pakistan. It provides the protection for the literary, artistic and musical works and also all other creative

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<sup>55</sup> Lake Tee Khaw, "Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)" (1994), 59-67.

works such as software, films, and architectural designs. Pakistan who is a signatory to the Berne Convention (1886) which is administered by WIPO<sup>56</sup>. The Berne Convention (1886) provides for the automatic copyright protection for the works originating from any of its member states without the need for the registration. Pakistan is also a participant in the WCT (WIPO Copyright Treaty) and also the WPPT (WIPO Performances and Phonograms Treaty) which are the special treaties under the Berne Convention as they provide the additional protection for the digital and online works by the individuals/creators. The general duration of the copyright protection in Pakistan is the life of the author and additionally 50 years, with certain exceptions for the specific types of works like the anonymous works where the term is 50 years from publication.

## 2.5 The Patents Law in Pakistan and WIPO

The patent system in Pakistan is governed under the Patents Ordinance of 2000. The law provides protection for the inventions that are novel, involve an inventive step, and are capable of industrial application. Pakistan has ratified the WIPO-administered PCT (Patent Cooperation Treaty), which permits the applicants to submit a single worldwide patent application to obtain protection in other nations. The PCT system is recognized by Pakistan and the applicants can seek patent protection in Pakistan by designating the country during their international application process<sup>57</sup>. Under the Patents Ordinance of 2002, the inventions which are novel, incorporate an innovative step and have the potential for industrial application are eligible for the protection. The law also includes the provisions for the exclusions such as scientific theories, natural discoveries and business methods.

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<sup>56</sup> Muhammad Waqas Gujjar, Sayyad Arslan Hussain, Attiya Anees, and Tahir Mahmood Gondal, "Intellectual Property Laws in Pakistan", *Bulletin of Business and Economics (BBE)* 13 no. 3 (2024), 282-289.

<sup>57</sup> Juan Lapenue, "Patent Cooperation Treaty (PCT)", *J. Pat. & Trademark Off. Soc'y* 92 (2010), 192.

## **2.6 The Trademark Law in Pakistan and WIPO**

The Trade Marks Ordinance 2001 which is the Pakistan's primary statute which governs trademarks. The 2001 Trade Marks Ordinance 2001 defines a trademark as a sign which is capable of distinguishing the goods or services of one enterprise to the other. Pakistan is a signatory to the Madrid Protocol (1989) which is an international agreement that streamlines the trademark registration procedure across the several nations with a single application. In the light of the Madrid Protocol, the businesses running in Pakistan can extend their trademark protection to other member countries as well<sup>58</sup>. The IPO Pakistan is responsible for registering the trademarks in the country. The registration process includes the filing of an application, examination, opposition, and finally, the granting of a trademark. The trademark owner can exercise exclusive rights over the mark within Pakistan once its trademark is granted.

## **2.7 The Industrial Designs Law in Pakistan and WIPO**

The legal framework of industrial design in Pakistan includes The Designs Act 2000 which provides the preservation for the visual designs of the products which are new. It includes the designs that are applied to the articles related to manufacturing. Pakistan in the compliance of WIPO standards, is a member of the 'Hague Agreement Concerning the International Registration of Industrial Designs' (1925), which allows the applicants to submit a single application for the protection of their industrial or graphic designs in several different countries. The protection for the visual designs of the products is granted to the new and original designs that are visibly different and have the commercial value. The design which

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<sup>58</sup> Carlisle E Walters, "The Madrid Protocol." *Fordham Intell. Prop. Media & Ent. LJ* 4 (1993), 407.

gets registered is protected for up to 10 years in Pakistan which is further renewable after fulfilling certain conditions<sup>59</sup>.

## **2.8 The Geographical Indication Law in Pakistan and WIPO**

The legal framework of the GIs in Pakistan is protected under the Geographical Indications (GI) Registration Act 2020. The GIs are used for the purpose of identifying products that originate from a specific place and possess some qualities, reputation, or characteristics which are inherent to that location. Pakistan in the compliance of WIPO standards, is a member of the 'Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration' (1958), which provides protection for the GIs internationally. The products which qualify for the GI protection in Pakistan can be registered with the IPO Pakistan. Only those producers within the specified geographical area can use the GI once they are registered under the Geographical Indications (GI) Registration Act 2020<sup>60</sup>.

## **2.9 The Intellectual Property Organization of Pakistan Act and WIPO**

The IPO Pakistan Act of 2012 is a key legislation in Pakistan for the development of IP and the act established the IPO Pakistan, which is formed for the purpose of managing and regulating the IP rights in the country. The IPO Pakistan initiated the "IP Rights (IPR) Enforcement Initiative" in 2017 to improve the protection and enforcement of the IP rights, including the secrets of trade, copyrights, patents and geographical indications in Pakistan. The initiative is aimed to create a more efficient and effective system for the intellectual property rights enforcement by improving the coordination and the collaboration between

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<sup>59</sup> William T. Fryer III, "International Industrial Design Protection Improvement: The Hague Agreement Revision", *U. Balt. Intell. Prop. LJ* 2 (1993), 37.

<sup>60</sup> Lisbon Notification No, Jardines del Norte, and D. N. Santo Domingo, "Lisbon Agreement for the Protection of Appellations of Origin and their International Registration", (2013).

various stakeholders, including the government agencies, private sector and the civil society organizations<sup>61</sup>. As a result of the initiative, IPO Pakistan has strengthened its enforcement of IP rights through a number of measures which includes the creation of a special "IPR Enforcement Directorate" within the IPO to oversee and coordinate the enforcement activities, the expansion of the capabilities of the law enforcement agencies and training, and the promotion of public awareness and education regarding IP rights.

Additionally, the IPO Pakistan created a system for the private reporting of the trade secret violations which enables the people and the businesses to report trade secret theft or misuse without worrying about facing any form of punishment<sup>62</sup>. Therefore, the IPO Pakistan Act of 2012 is a very significant legislation which consolidates the IP administration in Pakistan under a single body, improving the efficiency and aligning the IP law of the country with the global IP standards. The IPO Pakistan Act of 2012 aims to foster a culture of innovation, protect the rights of the creators and businesses, and contribute towards the growth of the economy of the country by enhancing the IP protection in the light of the international standards. The IPO Pakistan Act of 2012 was introduced to establish an autonomous body for the administration and protection of the IP rights in Pakistan. The act was intended to strengthen the legal framework of the country by consolidating all the existing IP laws for the purpose of protection of IP rights but its implementation has been obstructed by some impediments.

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<sup>61</sup> Louise Van Greunen, and Iva Gobac, "Building Respect for Intellectual Property: The Journey Toward Balanced Intellectual Property Enforcement", *The Journal of World Intellectual Property* 24 no. 1-2 (2021), 167-185.

<sup>62</sup> Yohanes Suhardin, "Violation of Property as a Form of Trade Secret Violation: Orientation and Construction", *Jurnal Dinamika Hukum* 23 no. 2 (2023), 416-428.

### **2.9.1 Limited Autonomy of the IPO**

The IPO Pakistan Act 2012 which established the IPO Pakistan as an autonomous body but its independence is limited. The IPO Pakistan Act of 2012 provides the procedure for the appointment of the chairman and the members of the organization by the federal government. This clause restricts the organization's autonomy, limiting its capacity to make the choices and carry out the programs which are free from political influence.

### **2.9.2 Lack of Adequate Resources**

The IPO Pakistan under the IPO Pakistan Act of 2012 requires to be self-sufficient in terms of the financial resources. However, the organization lacks the necessary resources to manage and safeguard the IP rights in Pakistan<sup>63</sup>. Due to a lack of technology, infrastructure and the human resources, the organization finds it challenging to efficiently enforce the IP regulations.

### **2.9.3 Lack of Adequate Expertise**

The IPO Pakistan Act 2012 requires the IPO Pakistan to have an experienced and qualified personnels for the administration of IP rights. However, the organization has faced shortage of the qualified personnels, particularly in the areas of the trademark examination and patent examination. As a result, there is now a backlog of the trademark and patent applications, which has hurt the companies and entrepreneurs of the country.

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<sup>63</sup> Pervez Zamurrad Janjua, "Intellectual Property Rights (IPRs) and Economic Growth in Pakistan", *The Pakistan Development Review* 58 no. 3 (2019), 225-237.

#### **2.9.4 Inadequate Public Awareness**

The IPO Pakistan Act 2012 requires the IPO Pakistan to undertake the public awareness programs to promote the importance of the IP rights<sup>64</sup>. However, the understanding of general population of the IP rights and the negative impacts of piracy and counterfeiting is low due to a lack of the successful public awareness efforts.

#### **2.9.5 Limited International Cooperation**

The IPO Pakistan Act 2012 requires the IPO Pakistan to cooperate with the international organizations for the protection and promotion of the IP rights. However, a lack of funding, experience and the political will has made it difficult for the organization to create a successful worldwide cooperation. Therefore, the outlines of the IPO Pakistan Act of 2012 have become impediments to the implementation of the IP rights in the country. The limited autonomy of the organization, the lack of adequate resources and expertise, inadequate public awareness, and the limited international cooperation have all negatively impacted the enforcement of the IP laws in Pakistan. For the purpose of addressing these impediments, it will require reforms to the legal framework, adequate allocation of resources, and recruitment of qualified personnel, effective public awareness campaigns, and the greater international cooperation<sup>65</sup>. Pakistan can successfully protect the IP rights and promote innovation and the economic expansion in the nation by implementing these policies.

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<sup>64</sup> Khushbakht Hina, "Intellectual Property Rights in Education of Pakistan: Review of Constitution, Current Status and Expectations", *Dialogue (Pakistan)* 12 no. 2 (2017).

<sup>65</sup> Lisa Jorgenson, "WIPO's Contributions to International Cooperation on Intellectual Property", *Journal of International Economic Law* 26 no. 1 (2023), 30-34.

## 2.10 International Conventions and Treaties

Pakistan has ratified a number of important international IP conventions and treaties which are administered by WIPO. The conventions and treaties help in ensuring a common legal framework for the protection of IP across various countries which provides a foundation for the domestic laws of any country<sup>66</sup>. The following are a few significant treaties and conventions which are administered by WIPO:

### 2.10.1 Paris Convention for the Protection of Industrial Property (1883)

The convention which is ratified by Pakistan, guarantees that the applicants of the member/signatory countries enjoy the same rights as the nationals of the country where they seek protection which includes the priority rights for the applications of patent and trademark. The applicants from Pakistan can file patents and trademarks in any other member country with the benefit of the priority dates from their home application. Similarly, the foreign nationals can also apply for IP protection in Pakistan under the same rules and conditions.<sup>67</sup>

### 2.10.2 Berne Convention for the Protection of Literary and Artistic Works (1886)

The Berne Convention which safeguards the rights of innovators and creators for their literary and artistic works which includes books, music, software and movies, is another convention which Pakistan has signed and ratified. The treaty guarantees that the creators from the member countries receive automatic copyright protection in all other signatory states without the need of registering their works. The authors, musicians and artists from Pakistan

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<sup>66</sup> Ruth L Gana, "Has Creativity Died in the Third World? Some implications of the Internationalization of Intellectual Property", In *Globalization and Intellectual Property*. Routledge, (2017), 433-468

<sup>67</sup> Atwesigye Damson Ba Lis, "Paris Convention for the Protection of Industrial Property, (1883)."

automatically obtain the copyright protection in all Berne Convention countries likewise the works of foreign creators are protected in Pakistan.<sup>68</sup>

### **2.10.3 World Intellectual Property Organization Copyright Treaty (WCT) and Performances and Phonograms Treaty (WPPT)**

Pakistan is a member and signatory to both the WCT and WPPT which provides update to the protections provided by the Berne Convention for the digital environment. The treaties deal with the protection of digital content which includes the software, online music and the work related to audiovisual. The copyright laws of Pakistan especially related to the digital content, are aligned with these treaties which guarantees better protection for the software developers and the digital content creators.<sup>69</sup>

## **2.11 TRIPS Agreement and WIPO: A Global Influence**

The Agreement on TRIPS is an international treaty administered by the WTO (World Trade Organization) in the year 1994. The agreement includes the participation of the member states of WTO. WIPO which is a special organization for the IP and its rights played a vital role in providing the technical assistance and shaping the agreement of TRIPS. The agreement of TRIPS which was negotiated during the Uruguay Round of Multilateral Trade Negotiations (1986-1994) and led to the establishment of the WTO. Before the establishment of the agreement of TRIPS, the IP was not exclusively addressed within the legal framework of the international trade rules and laws<sup>70</sup>. WIPO very actively participated in the negotiations made for the agreement of TRIPS, because of the reason of having expertise and experience

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<sup>68</sup> Sam Ricketson, "The Berne Convention for the Protection of Literary and Artistic Works: 1886-1986." (*No Title*) (1987).

<sup>69</sup> J Russel, and R. Cohn, "World Intellectual Property Organization Copyright Treaty", (2012).

<sup>70</sup> Frederick M Abbott, "The WTO TRIPS Agreement and Global Economic Development", *Public Policy and Global Technological Integration* (1997), 39-65.

in intellectual property matters. WIPO provided research, technical assistance and analysis to the member states which helped them understanding the implications of the IP in the context of the international trade. WIPO played a critical role in shaping the agreement of TRIPS by contributing to the discussions and negotiations on various aspects of the IP enforcement and protection.

The expertise of WIPO helped in forming the provisions of the agreement of TRIPS and ensured the inclusion of the key principles and standards for the intellectual property protection and enforcement<sup>71</sup>. The agreement of TRIPS established a minimum standard for the IP enforcement and protection which the member states have to follow. The agreement of TRIPS sets out the provisions for the enforcement of the IP rights which includes the civil and criminal remedies and takes broader measures for the cooperation of the authorities to combat the infringements related to IP. The WIPO provides the technical assistance to the developing and less-developed countries for the purpose of implementing the obligations under the agreement of TRIPS<sup>72</sup>. The technical assistance includes the capacity-building programs, training, and the support in developing the IP laws, regulations, and the enforcement mechanisms. In the late 20th century, WIPO has recognized the need to adapt to the technological advancements in this digital era. WIPO played a critical role in addressing the issues related to IP which arise from the digital technology, the internet, and the electronic commerce.

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<sup>71</sup> Jerome H Reichman, "Enforcing the Enforcement Procedures of the TRIPS Agreement", *Va. J. Int'l L.* 37 (1996), 335.

<sup>72</sup> Alison Slade, "The Objectives and Principles of the WTO TRIPS Agreement: A Detailed Anatomy", *Osgoode Hall LJ* 53 (2015), 948.

## 2.12 The Impact of WIPO on the Intellectual Property Laws of Pakistan

WIPO plays a critical role in the international governance of IP. Pakistan who is the member of WIPO since 1961, has been subject to the influence of the organization for the purpose of shaping its intellectual property laws and the policies. The guidance of WIPO has positive outcome and effects on the IP legal framework of Pakistan and has been faced with both the strengths and the challenges. The impact of WIPO in the IP landscape of Pakistan assessing both the positive contributions and the hurdles faced in aligning the national IP laws of Pakistan with the international standards. One of the integral functions of WIPO is to help the member states to develop the IP laws which are aligned with the international standards, particularly those which are laid down by the agreement of TRIPS. The IP legal framework of Pakistan has been extensively reformed under the guidance of WIPO which has helped in modernizing the IP laws to meet the international standards. The reforms are in line with the commitment of Pakistan to the international IP regime for the purpose of boosting its standing in the international community<sup>73</sup>. In the early 2000s, Pakistan passed the Patents Ordinance 2000 and the Trademarks Ordinance 2001 as both the laws were heavily influenced by the model laws of WIPO. The reforms helped Pakistan in streamlining its patent and trademark registration processes and to reduce the bureaucratic hurdles which encouraged both the domestic and foreign investments. The Copyright Ordinance of 1962 was also amended in the light of the input of WIPO which aligned the protection of the creative works with the international standards. The participation of Pakistan in the various WIPO-administered treaties through ratification which includes the PCT, the “Berne Convention for the Protection of Literary and Artistic Works”, and the Madrid Protocol for the international trademark registration has contributed in integrating Pakistan into the

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<sup>73</sup> Laurence R Helper, "Regime Shifting in the International Intellectual Property System", *Perspectives on politics* 7: 1 (2009), 39-44.

international IP system. It has allowed the creators from Pakistan to register their trademarks, patents, and copyrights internationally with better security and facilities.

WIPO has played a crucial role in building the capacity in Pakistan to implement the IP laws and develop an effective IP administration mechanism. WIPO provides the technical assistance, training, and resources to the authorities in Pakistan, the IP professionals, and the business community. WIPO has facilitated a better understanding of the IP rights among the stakeholders in Pakistan through holding seminars, workshops, and conferences. The technical assistance programs of WIPO have significantly helped Pakistan in setting up the efficient IP offices and improving the operational capacity of the IPO Pakistan. As a result, there have been improvements in the processing time for the applications of IP and the quality of IP-related services have also improved. WIPO with the cooperation of the international bodies has helped Pakistan in combatting the growing issues of counterfeit goods and piracy<sup>74</sup>. The counterfeit trade in Pakistan affects the several sectors such as the pharmaceuticals, software, and the consumer products. The initiatives of WIPO have contributed in improving the enforcement practices, enhancing the border control measures, and training the law enforcement agencies to identify and act against the counterfeit goods. WIPO has also supported Pakistan in setting up the specialized courts related to IP which are significant for the speedy and effective settlement of the issues related to IP. The introduction of these courts has improved the legal environment for IP holders in Pakistan, making it easier to seek redressal for the IP infringements. The participation of Pakistan in the Anti-Counterfeiting and Enforcement (ACE) program of WIPO has led to certain improvements in the customs enforcement. The program assists the countries in building capacity to monitor and stop the import and export of the goods which are counterfeited. The customs authorities

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<sup>74</sup> Peggy Chaudhry, Alan Zimmerman and Peggy Chaudhry, "The Global Growth of Counterfeit Trade", *Protecting Your Intellectual Property Rights: Understanding the Role of Management, Governments, Consumers and Pirates* (2013), 7-31.

of Pakistan have benefited from the training of WIPO in identifying the counterfeit goods and using the international databases to track the movement of the infringing products and goods.

Despite the significant and positive impacts of WIPO, some challenges still exist in the IP system of Pakistan. One of the primary challenges is the lack of the enforcement of the IP rights, especially due to the uncontrolled piracy, counterfeiting, and weak legal infrastructure of the country. The programs of WIPO have improved the IP awareness among the stakeholders and the public at large but its enforcement is still inconsistent, essentially in the underdeveloped areas of Pakistan<sup>75</sup>. Therefore, the IP laws of Pakistan and enforcement mechanisms require continuous upgradation and modernization to stay aligned with the global trends and international standards in the fast-growing digital era. The country is faced with the challenge of dealing with the new areas of IP which includes the digital copyright, software piracy, and patenting of biotechnology and the genetic resources which are new concepts for Pakistan. WIPO has a significant impact on the IP laws of Pakistan which are guiding the country towards a stronger and more internationally recognized IP protection mechanism. By the ratification of the convention and treaties monitored by WIPO, the establishment of the IP governance bodies, the capacity-building efforts and the enforcement initiatives<sup>76</sup>. Pakistan has made vital and significant progress in aligning, its IP laws and enforcement mechanism, with the international standards. However, the challenges remain in terms of the effective enforcement and adapting to the emerging technological changes in the World as Pakistan continues to benefit from the support of WIPO and it must continue to upgrade and modernize its IP laws and improve the enforcement mechanisms to fully realize the potential of IP which can heavily contribute in the economic development of the country.

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<sup>75</sup> Yo Takagi, and Mpazi Sinjela, "Harnessing the Power of Intellectual Property, Strategy and Programs of the WIPO Worldwide Academy", *World Patent Information* 29 no. 2 (2007), 161-167.

<sup>76</sup> Brigitte Lindner, "The WIPO Treaties." In *Copyright in the Information Society*, Edward Elgar Publishing, (2019), 2-38,

## 2.13 Conclusion

To conclude it can be said that WIPO a special organization of the UN which was founded in 1967, with the aim of promoting the protection of IP and its rights across the globe. The IP laws are very critical in promoting innovation, ensuring fair competition, and promoting the cultural and economic development of the countries globally. In Pakistan, the evolution of the IP laws has been supported by the international frameworks especially the initiatives and activities of WIPO. The role of WIPO in shaping the IP laws of Pakistan is significant as the organization have supported the country in aligning its IP legislation with the global standards by strengthening the protection of trademarks, copyrights, patents, and industrial designs. Pakistan who became the member of WIPO in 1961, since then, the organization has played a critical and important role in shaping the IP legal framework of the country. The involvement of WIPO includes the providing of direct technical assistance, capacity-building, awareness programs, and facilitating the access to international treaties and conventions<sup>77</sup>. WIPO has provided Pakistan with the expert advice on upgrading and modernizing its IP system. It includes the introduction of the specialized IP departments, enhancement of the IP offices, and the legal reforms that align with the international standards and best practices. The assistance of WIPO has been significant in drafting and revising the IP laws of Pakistan and to comply them with the global standards. The involvement of Pakistan with WIPO has paved the way to the variety of training programs, workshops, and seminars which were designed to enhance the capacity and understanding of the IP laws within the government officials, lawyers, judges, and other stakeholders of the country. The educational programs of WIPO have helped strengthening the institutional capacity to handle the complex IP cases and improve the enforcement system in the country. One of the most important roles of

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<sup>77</sup> Faith O Majekolagbe, "The International Copyright System and Development: The Role of the World Intellectual Property Organization", *Vand. J. Transnat'l L.* 57 (2024), 1123.

WIPO in Pakistan is its support in aligning the IP laws of the country with the international standards, especially the treaties to which Pakistan is a party. It includes the TRIPS Agreement that was essentially established under the WTO<sup>78</sup>.

Pakistan who is a member of WTO was obligated to align its IP laws with the standards of TRIPS by 2005. WIPO played a vital role in advising and assisting Pakistan in meeting these obligations. The IPO Pakistan which is the primary body of the country responsible for dealing IP matters was developed with the support of the technical input of WIPO. The IPO-Pakistan is responsible for the registration of the patents, trademarks, copyrights, and industrial designs while WIPO has assisted in enhancing its operational efficiency and performance<sup>79</sup>. Therefore, I can say that WIPO has played a vital and progressive role in shaping the IP laws of Pakistan by way of providing the technical assistance, capacity-building services and the advisory services as well as WIPO has helped Pakistan in developing the IP frameworks which are aligned with the international standards. Pakistan must continue its efforts to strengthen the IP infrastructure in the country and ensure that its legal system remains effective in this regard. Moreover, the continuous support of WIPO is crucial in helping Pakistan realizing its true potential as an innovation-driven economy in the international market.

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<sup>78</sup> Ruth L Okediji, "WIPO-WTO Relations and the Future of Global Intellectual Property Norms", *Netherlands Yearbook of International Law* 39, (2008), 69-125.

<sup>79</sup> Graeme B Dinwoodie, "Designing a Global Intellectual Property System Responsive to Change: The WTO, WIPO, and Beyond", *Hous. L. Rev.* 46 (2009), 1187.

## **Chapter No. 3**

### **Critical Analysis of the IPO-Pakistan Act 2012 and Its Comparison**

#### **3.1 Introduction**

The IPO-Pakistan Act of 2012 consolidated all the existing IP laws and it is a significant step towards strengthening the preservation of the IP rights in Pakistan. The act established the IPO Pakistan as an autonomous organization/body which is responsible for the administration, enforcement and the regulation of the IP laws in the country. The critical analysis explains the several provisions of the act and highlights its effectiveness in addressing the challenges related to protection, enforcement and compliance of IP with the international treaties and conventions which includes the TRIPS Agreement<sup>80</sup>. The IPO Pakistan Act of 2012 is aimed to streamline the IP procedures and provide a strong framework for creativity and innovation but the implementation and impact of the IPO-Pakistan Act of 2012 remains a challenge. There are issues such as the adequacy of the enforcement mechanisms, the role of judiciary in cases related to IP and the institutional capacity of the IPO Pakistan in order to handle the growing challenges of IP law in the digital era, are examined. The analysis also includes the challenges faced by the stakeholders which includes the businesses, creators and the consumers in navigating the landscape of IP in the light of the framework. There are areas in the act which require reforms in order to enhance the effectiveness of IPO Pakistan with an emphasis on strengthening the enforcement, capacity-building and aligning the act with the international standards of IP.

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<sup>80</sup> William Cornish, and Kathleen Liddell, "The Origins and Structure of the TRIPS Agreement", In *TRIPS plus 20: From Trade Rules to Market Principles*, Berlin, Heidelberg: Springer Berlin Heidelberg (2016), 3-51.

### 3.2 Background and Development

The IPO Pakistan Act of 2012 which is referred as the IPO Pakistan Act 2012 was introduced to establish a consolidated and efficient legal framework for managing and protecting the IP rights in Pakistan. The act shows the commitment of Pakistan to align its IP laws with the global IP standards especially with the WTO and the agreement of TRIPS to which Pakistan became a signatory in the year 2000<sup>81</sup>. The IPO Pakistan was established after the enactment of the IPO Pakistan Act 2012 which serves as the central body for the purpose of monitoring the IP issues in the country. The creation of a regulatory body for the management of IP is a significant step towards the speeding of procedures, reducing the delays, and ensuring a reasonable policy framework for the protection of IP rights. The IPO Pakistan Act 2012 defines the powers of IPO Pakistan such as the formation of the policies related to the protection and enforcement of IP, the administrative control over the registries of IP, the promotion of awareness of IP and the cooperation with the international IP bodies such as the WIPO<sup>82</sup>. The powers granted to the IPO Pakistan under the IPO Pakistan Act 2012 ensures that the organization can promote the agenda of IP, align the policies with the international standards and take the administrative actions like granting and revoking the IP rights. Despite the extensive powers granted to the IP organization there has been criticism that the IPO Pakistan has struggled to enforce its policies effectively in the areas such as countering infringement and providing the registration services timely to the consumers.

The implementation of the IP rights is undermined by the resistance of the local industries towards the IP laws and the judiciary sometimes lacks clarity in applying the laws effectively. The IPO Pakistan under the IPO Pakistan Act 2012 manages several systems of

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<sup>81</sup> Rajan Dhanjee, "Trade-Related Aspects of Intellectual Property Rights (TRIPs): Objectives, Approaches and Basic Principles of the GATT and of Intellectual Property Conventions", *Journal of World Trade* 24 no. 5 (1990).

<sup>82</sup> Neil W Netanel, "The Next Round: The Impact of the WIPO Copyright Treaty on TRIPS Dispute Settlement", *Va. J. Int'l L.* 37 (1996), 441.

registration which includes the registration for patents, trademarks and copyrights. The registration systems are designed to provide the legal protection to IP holders and ensure the exclusive rights for their inventions and artistic works. The registration of IP rights is critical in establishing the legal protection for the creators and the businesses. The role of IPO Pakistan in monitoring the process contributes towards formalizing the ownership of the IP and helps in various legal disputes. On the other hand, the registration process is also criticized for being slow and complex which leads to the delays which undermine the benefits of IP protection. There are also concerns about the inadequate training of the personnels of IPO which results in the errors and poor service quality by the organization. The IPO Pakistan Act 2012 also established an Intellectual Property Tribunal (IPT) for the purpose of handling the disputes related to the IP rights<sup>83</sup>. This tribunal is empowered to decide the cases which are related to the infringement, revocation, and other matters relating to the IP. The establishment of special tribunal helps in providing a specialized forum for the cases which are only related to IP in order to ensure that the disputes are handled by the law experts who understand the complexities of the IP law.

### **3.2.1 Critical Insights on Key Sections of the IPO Act 2012**

#### **Section 3 Establishment of IPO**

This section gives IPO-Pakistan legal authority as an independent body. While this is a strong step, in practice IPO has not been able to function with complete independence due to heavy reliance on government funding and administrative controls. Its “autonomy” is more theoretical than practical.

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<sup>83</sup> Ghulam Mujtaba, "Improving Indicators in Intellectual Property Rights Enforcement in Pakistan: A Study of Impact of Integrated IP Management Model", *Trends in Intellectual Property Research* 1 no. 1 (2023).

### **Sections 16–19 Intellectual Property Tribunals**

These sections are very progressive because they create specialized tribunals with exclusive jurisdiction over IP cases. However, in reality, the tribunals are underfunded, judges often lack IP expertise, and case backlogs remain high. This means the promise of “speedy justice” has not been fully achieved.

### **Section 26 – IPO Fund**

The idea of an IPO Fund is very useful to ensure financial stability of the organization. But in practice, IPO has struggled to generate enough resources. Dependence on limited government grants and low fee collection has kept IPO financially weak, affecting its ability to modernize systems or run enforcement campaigns.

### **Sections 34–35 – Power to Make Rules and Regulations**

These sections show a good balance: the Federal Government makes broad rules, while IPO can make internal regulations. But in practice, rule-making has been slow and often delayed. This lack of timely rules weakens implementation of the Act.

### **Section 36 – Integration of IP Offices**

This section is one of the biggest strengths of the Act because it merges the old, fragmented system. However, the integration has faced many challenges especially in terms of staff training, digitalization, and coordination. Instead of becoming a fully modern “one-window system,” the merged offices still carry bureaucratic delays.

## **3.3 Objectives of the Intellectual Property Organization of Pakistan Act 2012**

The primary objectives of the act of 2012 are aimed to centralize the administration of the IP rights under a single organization which is the IPO Pakistan. Before the IPO Pakistan, different bodies/agencies handled the patents, trademarks and copyrights which leads to

inefficiencies in the responsibilities. After the creation of an institutional framework for the enforcement of IP, the IPO Pakistan Act 2012 aims to provide better protection for the IP holders in the country. The establishment of the IP tribunals and more effective enforcement mechanisms is meant to protect the infringement and violations of IP and offer a quicker resolution for the disputes related to IP. One of the key objectives of the IPO Pakistan Act 2012 is to promote an environment which is supportive to the innovation and creativity. By improving the IP protection, the IPO Pakistan Act 2012 aims to encourage the inventors, creators and the businesses to invest in the R&D after knowing that their ideas will be protected<sup>84</sup>. The IPO Pakistan Act 2012 which consolidated all the existing IP laws is aimed to bring the IP regime of Pakistan in line with the international treaties and norms. It includes the strengthening of the IP laws in order to comply with the requirements of the World Trade Organization's agreement of TRIPS and other international convention and treaties. The effective IP protection is always considered as a significant tool for the economic growth of a country. After ensuring that the inventors and creators have control over their IP, the act of 2012 is aimed to enhance and increase the investment in creative and technological industries of Pakistan.

### **3.4 Strengths of the Intellectual Property Organization of Pakistan Act 2012**

The IPO Act 2012 was an important step to improve intellectual property rights in Pakistan. Before this law, patents, trademarks, and copyrights were handled by different departments, which caused confusion and delays. The Act created the Intellectual Property Organization (IPO) as one main body to manage all these matters. This centralization made the system

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<sup>84</sup> P. C Lai, "Research, Innovation and Development Strategic Planning for Intellectual Property Management", *Economic Alternatives* 3 (2018), 303-310.

more organized and easier for people to use. The Act also gave IPO the power to make rules, spread awareness, and take action against violations. Another strength is that it helped Pakistan follow international agreements like TRIPS, which improved the country's image in global trade. The law also introduced the idea of special IP tribunals, so cases could be decided faster instead of being stuck in ordinary courts. Overall, the Act modernized the system and provided a better foundation for protecting the rights of innovators and businesses. The IPO Pakistan Act 2012 is a significant legislation which governs the management, protection, and the enforcement of the IP rights in Pakistan. The Intellectual Property Organization of Pakistan (IPO Pakistan) which is established under the IPO Pakistan Act 2012 is formed for the purpose of managing the matters related to patents, trademarks, copyrights, and industrial designs. Prior to the introduction of the IPO Pakistan Act 2012, the IP was governed through separate laws. The IPO Pakistan Act 2012, consolidated all of these laws under a single organization and provided an effective framework for the protection of IP<sup>85</sup>. There are certain strengths of the IPO-Pakistan Act 2012 which includes the establishment of the IPO-Pakistan consolidated all the functions related to IP and made it easier for the individuals and businesses to operate the system for registration of the IP rights in Pakistan. The IPO Pakistan Act 2012 provides more stronger enforcement mechanisms for the individuals and businesses which have the IP rights. The IPO Pakistan Act 2012 empowers the IPO-Pakistan to take legal action against the infringements of the IP rights and the counterfeit goods. The IPO Pakistan Act 2012 allowed the establishment of the specialized tribunals of IP in order to resolve the disputes related to IP and ensured that the IP rights are more effectively enforced in the country. The IP tribunals formed under the act of 2012 serve the purpose to expedite the resolution of the cases related to IP and to reduce unnecessary delays and enhancing the protection of the rights of IP holders.

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<sup>85</sup> Taha Waqar, "Practical Implication of Intellectual Property Law in Developing States such as Pakistan and role of International Arbitration Law in Disputed Cases", Master's thesis, (2016).

The IPO Pakistan Act 2012 is established with the aim to bring the IP laws of Pakistan in line with the international treaties and agreements. It also includes the compliance with the WIPO, WTO, the agreement of TRIPS and some other conventions such as the Paris Convention (1883) and the Berne Convention (1886). The alignment of the IP laws of Pakistan with the international standards effectively improved the global standing of Pakistan in the protection of IP, promoting the foreign investments and trade by assuring the international parties that their IP rights will be secured and respected. The enactment of the IPO-Pakistan under the IPO Pakistan Act 2012 has significantly increased the awareness about the IP rights in Pakistan<sup>86</sup>. The IPO Pakistan Act 2012 has significantly encouraged the promotion of the IP education, its training, and the public approach which has helped the businesses and the individuals understanding the importance of creations and inventions. The IPO-Pakistan aims to easier the access to the registration process by forming an online platform for the filing of applications related to the trademarks and copyrights and by improving the efficiency of the IP administration in the country. The IPO Pakistan Act 2012 has incorporated the modern advancements in the protection of IP such which includes the inclusion of the provisions for the protection of the geographical indications and the traditional knowledge which is becoming increasingly important in the global economy. It also ensures that new forms of IP which are related to the biotechnology, digital technology and the genetic resources should also be protected under the law<sup>87</sup>.

### **3.5 The Weakness and Gaps in the IPO-Pakistan Act 2012**

Even though the IPO Act 2012 was a positive step, there are many weaknesses that limit its success. The biggest problem is poor implementation. Many provisions of the law are still not

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<sup>86</sup> Ghulam Murtiza, "Intellectual Property: Public Understanding and Awareness", (2017).

<sup>87</sup> Reid G Adler, "Biotechnology as an Intellectual Property", *Science* 224: 4647 (1984), 357-363.

fully applied in practice. The IPO also struggles with a lack of funds, old systems, and not enough skilled staff, especially in the patent office, where technical experts are needed. There have also been times when IPO had no permanent leadership for months, which delayed important work like registering Geographical Indications (GIs). The special IP tribunals created by the Act are not working properly either, as they have limited resources and expertise to deal with complex cases. Another issue is weak enforcement piracy, counterfeiting, and trademark violations remain common in Pakistan. Finally, public awareness about intellectual property rights is still very low, which reduces the effectiveness of the law. These gaps show that the Act is strong on paper but weak in practice. The IPO Pakistan Act 2012 which established the IPO-Pakistan for the purpose of regulating and monitoring the matters related to IP. The IPO Pakistan Act 2012 which is a significant step towards the strengthening the IP legal framework in Pakistan but there are certain weaknesses and gaps in the IPO Pakistan Act 2012 which have impacted its effectiveness in promoting the IP rights<sup>88</sup>. One of the main weaknesses of the IPO Pakistan Act 2012 is that the organization which is formed under the act itself does not have any direct enforcement powers to combat the violations of IP. The role of IPO Pakistan is administrative and regulatory in nature which leaves the enforcement to other government bodies. The violations and infringements of IP are not always taken seriously by the law enforcement bodies which results in delay in the process of investigations and inquiry which makes the process inefficient as well. The penalties for the infringements related to IP are also not strict enough to stop the offenders from the offense as the IPO Pakistan does not have the authority to impose heavy fines or take direct action against the violators/offenders. Another weakness of the IPO Pakistan Act 2012 is that it does not provide any strong mechanism for the purpose of educating the general public about the IP rights.

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<sup>88</sup> Abdul Basit, "Intellectual Property Rights and Economic Growth: An Empirical Assessment for Pakistan", (2022).

Although, the IPO Pakistan is entrusted with promoting the awareness but there is still a lack of understanding of the importance of IP among the businesses, innovators, and the consumers as well. It affects the growth of the innovation and may discourage the individuals from registering their IP with the organization of the country. Another weakness of the act is that there is a limited capacity for the training of the law enforcement agencies, customs officers, and even the judges in the enforcement of the IP law as proper training is important for the effective implementation of the IPO Pakistan Act 2012 which ensures that those who are responsible for the enforcement are well equipped in order to handle the cases which are related to IP. One of the weaknesses of the IPO Pakistan Act 2012 is that, it does not offer any framework to promote the culture of innovation in the country. The absence of incentives for the researchers and creators which includes tax credits or grants for innovation is a significant gap in the legislation. The government departments such as the ministry of science and technology, the ministry of commerce, and the IPO work with a very less coordination between each other on the matters related to IP<sup>89</sup>. This lack of coordination leads to the various inefficiencies in implementing the IP laws and policies which results in effecting the process of innovation in the country. The IPO Pakistan faces limited resources which includes the insufficient financial support and lack of trained personnel for the purpose of administration of the matters related to IP. It directly affects the capacity of the organization to effectively manage and enforce the IP rights. The lack of sufficient funding of the IPO Pakistan significantly affects its ability to improve the infrastructure, to conduct external programs and to invest in the technology for the purpose of better management of IP.

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<sup>89</sup> Muhammad Danyal Khan, "Intellectual Property Rights and Creative Economy; Way Forward for Pakistan", *Review of Economics and Development Studies* 5 no. 3 (2019), 469-478.

### 3.6 Issues in IPO Pakistan Act 2012 Enforcement Mechanism

The IPO Pakistan Act 2012 which was founded with the primary goal of safeguarding and promoting the IP rights in the country but there are several issues in the enforcement mechanism of the IPO Pakistan Act 2012 which have affected its effectiveness and implementation. One of the core issues with the enforcement of the IP rights under the act of 2012 is the weak enforcement framework. The IPO Pakistan which is the administrative and monitoring authority regarding the IP rights but the actual enforcement of these rights is relied upon the courts and other law enforcement agencies which are not sufficiently equipped to handle the cases related to IP. There are only few IP courts, and they have too many cases. This makes court process slow and delay justice. Since IP courts are only in some cities, due to this people do not have easy access. We need more special IP courts to manage the growing number of cases and to make sure justice is given on time.<sup>90</sup>. Apart from this, the judicial system itself in Pakistan is slow which results in unnecessary delays in the resolution or decisions of the cases related to IP. The unnecessary delays make it very difficult to protect the violations/infringements of the IP rights holders. The fines and penalties for the IP violations/ infringements are also not strict enough to stop the violations/infringements which is why there is a need for more strict penalties to make IP rights enforceable and protective. Another issue regarding the enforcement mechanism is that the IPO Pakistan Act 2012 does not provide sufficient awareness framework for the public and the businesses about the IP laws. The individuals and companies such as the SME do not understand the significance of the preservation of their IP and also the procedures which are involved in the enforcement of their rights<sup>91</sup>. As a result, many individuals and businesses do not take necessary steps for the purpose of protecting their IP rights because they are not

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<sup>90</sup> Naheeda Ali, "Legal Framework for Compulsory Licensing: A Solution to the Conflict of Intellectual Property Rights and Intellectual Monopoly", *International Journal of Public Law and Policy* 7 no. 2 (2021), 122-133.

<sup>91</sup> R Singh, "Role of Intellectual Property Rights for SMEs: Need to Manage Knowledge", (2014), 25-40.

aware of the available protections which the law provide to them<sup>92</sup>. The individuals or businesses do not know about the remedies against the violations of their IP rights and without sufficient awareness of the relevant laws the parties who are affected are unable to take legal action against the violations/ infringements.

Another notable issue is corruption within the IPO Pakistan and the related enforcement bodies as the lack of transparency in the process of decision-making which includes the approval of IP applications lead to bribery and favouritism. In some cases. in the country the IP rights may be granted or the violations are ignored due to the corrupt practices which undermines the integrity of the system and discourage transparency within the organization and other related enforcement bodies of the country. The IP issues which are related to the enforcement mechanism requires cooperation with other countries to overcome them but Pakistan is also facing challenges in this area as well as the country has limited engagements with the international cooperation networks of IP. The lack of frequent collaboration with the international bodies such as the WIPO and TRIPS means that Pakistan is facing difficulties in addressing the cross-border IP infringements/violations as well. One of the issues regarding the enforcement mechanism is the lack the technology infrastructure for the purpose of monitoring and protecting the digital IP assets and rights of the IP holders. The enforcement agencies/bodies of the country which includes the IPO lack the technology infrastructure in order to monitor and protect the digital IP rights as the increase in online infringements and counterfeiting activities in the areas such as the software piracy and e-commerce goes unchecked due to the lack and unavailability of monitoring tools within the IPO.

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<sup>92</sup> Taha Waqar, "Practical Implication of Intellectual Property Law in Developing States such as Pakistan and Role of International Arbitration Law in Disputed Cases", Master's thesis, (2016).

### **3.7 The Challenges Faced by the IPO-Pakistan Act 2012**

The IPO Pakistan Act of 2012 which consolidated all the existing IP laws of the country faced some challenges after its establishment. After its establishment, the IPO-Pakistan Act 2012 has faced challenges in terms of resources, infrastructure and capacity. It also includes a shortage of skilled professionals for the purpose of handling complex issues of IP. The physical infrastructure and the technological systems to track, manage and process the IP applications effectively have been insufficient which leads to delays in the registration process of IP. The IPO Pakistan has faced challenges in promoting an effective international collaboration. The limited capacity to engage in the international IP matters disrupts the ability of the businesses of Pakistan for the purpose of protecting their IP outside Pakistan and it restricts the foreign countries from recognizing IP protections of Pakistan. Some businesses in Pakistan such as the small and medium-sized enterprises (SMEs) do not prioritize IP protection<sup>93</sup>. The lack of an IP culture in the business community means that less businesses are interested in protecting their innovations which results in the loss of valuable intellectual property of the country. The IPO Pakistan which is established under the IPO Pakistan Act of 2012 also faced financial challenges which limits its ability to implement large scale awareness campaigns, build infrastructure and hire additional staff for the purpose of addressing the growing need of IP services in the country. The financial independence of IPO Pakistan is crucial for its growth and effectiveness but the dependency on the government funding has hindered its organizational operations and performance.

The trademark and patent laws of Pakistan have been outdated in some areas which has led to inefficiencies and challenges in safeguarding the IP rights in the country<sup>94</sup>. The IPO Pakistan Act 2012 introduced some improvements and changes but the challenges remain in

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<sup>93</sup> Stefan Cristian Gherghina, "Small and Medium-Sized Enterprises (SMEs): The Engine of Economic Growth through Investments and Innovation", *Sustainability* 12: 1 (2020), 347.

<sup>94</sup> Kamran Adil, "State of Enforcement of Trade Marks and Patents in Pakistan."

adapting the legal framework to modernize the IP practices especially in the context of online and digital IP protection in this era. One of the challenges is the complexity of the IP procedures and the high costs which is a barrier to many individuals and small businesses which are seeking protection. The registration process for the patents and trademarks can be lengthy and difficult to adopt particularly for those who lack legal expertise in this area<sup>95</sup>. The IPO Pakistan has also faced credibility challenges as many stakeholders feel that the organization is not transparent enough and responsive as there is a general perception that the violations of IP are not taken seriously which hampers trust in the organization. As the digital technologies evolve there emerge new challenges related to the digital IP such as the copyright issues in the context of online platforms. The IPO Pakistan has struggled to keep up with these rapid changes which leaves the creators vulnerable to online infringement and violations. One of the challenges which is reported to have been faced by IPO Pakistan is corruption and mismanagement which can significantly hampers the effective implementation of the IP laws. For instance, there have been allegations of favouritism and bribery during the registration process which affects the transparency of the system and the organization. Another challenge is that the judicial system in Pakistan is not well equipped in the field of IP law which leads to inadequate and inconsistent rulings. The judges lack the expertise to handle the complex cases of IP which results in ineffective judicial findings and outcomes as it also affects the overall IP enforcement structure and as a result the companies/individuals may not trust the legal system to protect their IP rights.

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<sup>95</sup> Miriam Marcowitz-Bitton, "The Distributive Effects of IP Registration", *Stan. Tech. L. Rev.* 23 (2020), 306.

### 3.8 The Impact of Weak Enforcement on the Economy

The weak enforcement of the IPO Pakistan Act 2012 has several impacts on the economy of Pakistan such as affecting the various sectors which includes the business innovation, the foreign investment, the local entrepreneurship and the overall economic development of the country. The weak enforcement of the IPO Pakistan Act 2012 means that the patents, copyrights, trademarks, and industrial designs are not protected adequately. It creates an environment where the local innovators, inventors, and the creators are reluctant to invest money and time in the R&D without the assurance that their creations/innovations will be protected from theft as a result the individuals and businesses may avoid creating new products, ideas and technologies<sup>96</sup>. The IP laws are designed to provide the exclusive rights to the creators and convince them to invest in the creative activities. The weak enforcement of the law lowers the returns on such investments which results in fewer breakthroughs in the various fields which includes the technology, pharmaceuticals, and entertainment. The foreign investors are always careful about entering into the markets where the IP laws are not properly enforced. When their innovations/creations or products are not properly protected from counterfeit or piracy, the investors do not choose to invest in those markets. It also reduces the inflow of the FDI (Foreign Direct Investment) in the country which is critical for the economic growth, technological advancement and job creation in the country<sup>97</sup>

The weak enforcement of IP hinders the transfer of technology from the foreign companies to the local businesses and the multinational corporations are reluctant to share their advanced technologies with the firms of Pakistan as they fear the intellectual property

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<sup>96</sup> Edwin Mansfield, and Banco Mundial, *Intellectual Property Protection, Foreign Direct Investment, and Technology Transfer*, Vol. 19 Washington, DC: World Bank, (1994).

<sup>97</sup> Tehseen Ahmed, and Saif Ullah, "Determinants of Inflow of Foreign Direct Investment (FDI) into Pakistan", *NICE Research Journal 5*, (2012).

theft or unauthorized version the creations/inventions<sup>98</sup>. The local businesses which depend on branding, trademarks and unique products face the significant financial loss owing to the counterfeiting or IP theft. The counterfeit products flood the market, undermine the legitimate businesses and destroy profits. This is particularly damaging to the sectors like pharmaceuticals, electronics, fashion and especially the software. The startups and the small businesses which are based on the protection of IP for the purpose of differentiating their products become particularly vulnerable when they are without strong protection for their ideas and innovations as they are at risk of having their products copied which undermines their ability to compete in the market and grow themselves. The weak enforcement mechanism impacts with the increase in piracy and counterfeiting that undermines the value of the local brands. It destroys the trust and loyalty of the consumer as the counterfeit goods are of inferior quality which harms both the reputation of the local businesses and the economy of the country as well.

The local brands which cannot protect their IP domestically also face the disadvantage in the international markets as when they try to expand globally, their products may be copied in other countries which limits their ability to compete with the market internationally. The industries which are based on creativity and innovation such as the software, entertainment, media and pharmaceuticals are particularly exposed to the weak IP protection<sup>99</sup>. The businesses in these areas suffer from the IP theft and they are not likely to expand which they expect as it also leads to less job opportunities and the slower economic growth in the high skilled industries. The IP based industries/companies face many difficulties in growing and competing with the market as the demand for the skilled labour decreases in the areas such as

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<sup>98</sup> Timothy P Trainer, "Intellectual Property Enforcement: A Reality Gap (Insufficient Assistance, Ineffective Implementation)," *J. Marshall Rev. Intell. Prop. L.* 8 (2008), i.

<sup>99</sup> Anja Schmiele, "Intellectual Property Infringements due to R&D Abroad? A Comparative Analysis Between Firms with International and Domestic Innovation Activities", *Research Policy* 42 no. 8 (2013), 1482-1495.

research, development, and marketing. This also leads to brain drain where the talented professionals start trying to seek opportunities in the countries with stronger IP protections which ultimately affects the economy of the country. Therefore, the weak enforcement of the act of 2012 significantly affects the economy of Pakistan in many ways as discussed above. It slows down the process of innovation, discourages the foreign investments, destroys the local businesses and the entrepreneurs, reduces the international trade and also results in the significant losses of job in the industries/companies of the country<sup>100</sup>. In order to encourage a competitive, innovative, and growing economy, Pakistan needs to strengthen its enforcement of the IP laws in order to protect its industries, to attract the foreign investments and to improve the economic wellbeing of its people.

### **3.9 Comparison of IPO Pakistan with IPO China**

The IPO Pakistan and the IP Office (IPO) of China are the regulatory and managing authorities regarding the preservation of the IP rights in their respective countries. Both the organizations of the countries are responsible for the administration of patents, trademarks, copyrights, geographical indications and industrial designs with each of the country having its own mechanism of enforcement, challenges, and the level of alignment with the international frameworks such as the WIPO. The comparison between both the countries is as follows:

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<sup>100</sup> Naveed Ahmed, "Intellectual Property Rights and Economic Development: A Case Study of Pakistan" *vol. VII, no. I* (2021), 157-174.

### **3.9.1 Background and Development**

Pakistan is a member of WIPO since 1975 and a signatory to the international IP conventions and treaties such as the PCT, the Berne Convention and the Madrid Protocol for the international registration of their trademarks while China is a member of WIPO since 1980 and is also a signatory to multiple international IP conventions and treaties same like Pakistan<sup>101</sup>. The China National Intellectual Property Administration, referred to as CNIPA, was established in 1980 is one of the strongest IP organizations in the world which plays vital role in the IP management, enforcement, and the policy development in China regarding the trademarks, patents, integrated circuits, industrial designs and geographical indications<sup>102</sup>.

### **3.9.2 The Legislative Framework of Both Countries**

The protection of the IP rights in both Pakistan and China is governed by the specific laws and regulations which are aligned with the international IP agreements which includes the WTO's agreement of TRIPS. The IP laws of Pakistan include the Patents Ordinance (2000) which governs the grant of patents for the inventions, protection and duration of the patents. The Copyright Ordinance 1962 is aimed to safeguard the rights of performers, authors and producers for their creative works. The Designs Act (2000) is aimed to provide the protection for industrial designs. The IPO Pakistan Act 2012 which consolidated all the above-mentioned laws is a significant step in the field of IP by Pakistan. The laws are influenced by the international commitments of Pakistan which includes its membership in the WTO and compliance to the agreement of TRIPS. The IP laws of China are comprehensive in nature and have undergone significant reforms over the period of time for the purpose of aligning them with the international standards. The legislative framework of IP includes the Patent

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<sup>101</sup> Sayed Zubair Shah, "Intellectual Property Rights and Protection: A Comparative Analysis of Pakistan and China", *Journal of Social Sciences Review* 3 no. 1 (2023), 118-128.

<sup>102</sup> Jie Hong, Jakob Edler, and Silvia Massini, "Evolution of the Chinese Intellectual Property Rights System: IPR Law Revisions and Enforcement", *Management and Organization Review* 18 no. 4 (2022), 755-787.

Law of the People’s Republic of China (amended in 2020) which governs the protection of patents which includes the inventions, designs and utility models<sup>103</sup>. The Trademark Law of the People’s Republic of China (amended in 2019) introduced major changes in the process of trademark registration which includes addressing the bad faith registrations and providing enhanced protection for the well-known trademarks of the country. The Copyright Law of the People’s Republic of China (amended in 2020) is aimed to protect the rights of creators and innovators by ensuring the protection of literary, scientific and artistic works<sup>104</sup>. Lastly, the Anti-Unfair Competition Law of China addresses the protection against the unfair trade practices which can undermine the IP rights.

### **3.9.3 The Organizational Structure of Both Countries**

The IPO Pakistan is operated under the Ministry of Commerce and its responsibilities include the registration of the IP rights, maintaining the records related to IP and facilitating the IP enforcement. The main departments of IPO Pakistan include the patent office, the trademark registry, copyright office and the geographical indications office. The patents office handles the registration of patents and the industrial designs. The trademark registry manages the registration of trademarks. The copyrights office monitors the protection of copyrights in the country. The geographical indications office administers the registration and protection of the GIs. The IPO Pakistan works in collaboration with the other government bodies which includes judiciary for the purpose of ensuring the IP enforcement. The CNIPA<sup>105</sup> which operates under the State Council of China has a much larger and more complex organizational structure. The main departments of CNIPA includes the patents office,

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<sup>103</sup> Deli Yang, and Peter Clarke, "Review of the Current Intellectual Property System in China", *International Journal of Technology Transfer and Commercialisation* 3, no. 1 (2004), 12-37.

<sup>104</sup> Tianxiang He, "The Copyright Limitations of the 2020 Copyright Law of China: A Satisfactory Compromise", *J Copyr Soc USA* 69 (2022), 107-124.

<sup>105</sup> Kenneth Guang-Lih Huang, Xuesong Geng, and Heli Wang, "Institutional Regime Shift in Intellectual Property Rights and Innovation Strategies of Firms in China", *Organization Science* 28, no. 2 (2017), 355-377.

trademark office, geographical indications division and the IP public services. The patents office manages the patent filings, grants and monitors the inventions, utility models and the designs. The trademark office handles the trademarks protection and its registrations. The geographical indications divisions are aimed to regulate and protect the geographical indications in China. The IP public services offer a wider variety of services which include the dispute resolution and the public awareness programs in China<sup>106</sup>.

### **3.9.4 The Registration Mechanism of Both Countries**

The IPO Pakistan provides various IP registration services through its various departments. The processes for patents, copyrights, trademarks and the industrial designs are similar which involves filing an application, its examination, its publication and granting of rights. For the registration of patents, the patent office examines the applications for the inventive steps novelty and the industrial applicability. For the registration of trademarks, it requires a search for the existing marks and submission of relevant details with the application. For copyrights registrations, the IPO Pakistan Act 2012 provides a legal framework for proving ownership in case of infringement and violation. The registration process of CNIPA is more sophisticated, owing to the larger scale and more developed IP infrastructure in China<sup>107</sup>. For the patents, the process is very detailed with the multiple stages of examination and other proceedings. The granting of patents for inventions often takes several years in China. For trademarks, the CNIPA has implemented an effective and efficient trademark registration process which includes rapid examination of trademarks although the trademark disputes often arise due to ill-intentioned registrations by the inventors. For geographical indications, the CNIPA administers a clear system for the registration and protection of the GIs which contributes

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<sup>106</sup> Qingmin Hao, Helmut Kasper, and Juergen Muehlbacher, "How does Organizational Structure Influence Performance through Learning and Innovation in Austria and China", *Chinese Management Studies* 6, no. 1 (2012), 36-52.

<sup>107</sup> K. Yu Peter, "The Rise of China in the International Intellectual Property Regime", In *Handbook on the International Political Economy of China*, Edward Elgar Publishing (2019), 424-444.

towards the protection and preservation of the regional brands across the globe<sup>108</sup>. China's implementation of the IP rights is strong as compared to Pakistan with the specialized IP courts and a well-developed legal framework for the purpose of handling the IP disputes in the country.

### **3.9.5 The Enforcement Mechanism of Both Countries**

The enforcement mechanism of the IP rights in Pakistan is unorganized and also face challenges which includes the limited resources and finances, lack of awareness and weak legal framework/infrastructure. The IP rights in Pakistan are enforced through the judiciary which is empowered to issue injunctions, awards for the damages and other legal remedies under the administration of IPO Pakistan. The specialized IP tribunals were also established under the IPO Pakistan Act, 2012 for the purpose of handling the disputes related to IP as the IPO Pakistan works with the Pakistan Customs to stop the importation and exportation of the counterfeit goods. In Pakistan, the enforcement of copyrights, patents, and trademarks is also supported by the police but the enforcement is weak due to lack of coordination of police with other law enforcement agencies/bodies of the country. On the other hand, China has more strong enforcement mechanisms for the IP protection which makes it one of the leading countries internationally in the IP management and protection. The key factors of the enforcement mechanism of China include the establishment of special IP courts in the major cities for the purpose of handling the disputes related to IP<sup>109</sup>. The special IP courts are efficient in dealing with the patent, trademark, and copyright infringement cases. The CNIPA has the authority to issue administrative rulings and punishments for IP infringements without the interreference of the judiciary as it is also significant for the trademark and copyright

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<sup>108</sup> Bradley M Bashaw, "Geographical Indications in China: Why Protect GIs with Both Trademark Law and AOC-type Legislation?", *Pac. Rim L. & Pol'y J.* 17 (2008), 73.

<sup>109</sup> Haiyan Liu, "The Criminal Enforcement of Intellectual Property Rights in China: Recent Developments and Implications", *Asian Journal of Criminology* 5 (2010), 137-156.

enforcements where the administrative agencies have more powers to impose fines and seize the counterfeit goods when required. In China, the General Administration of Customs (GAC) works very closely with CNIPA in order to stop the export and import of the goods which are counterfeited<sup>110</sup>. The local law enforcement agencies/bodies are also supportive in the enforcement of IP in China which cooperates with the businesses and IP rights holders in the country.

### **3.9.6 Member of International Treaties and Conventions**

Pakistan is a member and signatory to several international treaties and conventions which shape its IP legislation such as the agreement of TRIPS (WTO) which ensures the compliance with the global standards of IP. The Paris Convention (1883) which provides a strong framework for the protection of patent and trademark. The Berne Convention (1886) which governs the protection of copyright. The Hague Agreement (1925) which governs the protection of the international industrial designs. Although being part of these international treaties and conventions, Pakistan still faces challenges in the implementation and enforcement of the standards provided by them. On the other hand, China is a member and signatory to same international IP treaties and conventions and has ratified some additional agreements which includes the Madrid Protocol (1891) which allows for the international registration of trademarks. The PCT (1970) which facilitates the international filing of applications of patents. The Hague Agreement (1925) which ensures the international registration of the industrial designs<sup>111</sup>. Additionally, China has become more active in the global IP diplomacy while leveraging its position as a major power of the global economy.

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<sup>110</sup> Anne M Wall, "Intellectual Property Protection in China: Enforcing Trademark Rights", *Marq. Sports L. Rev.* 17 (2006), 341.

<sup>111</sup> William T Fryer III, "International Industrial Design Protection Improvement: The Hague Agreement Revision", *U. Balt. Intell. Prop. LJ* 2 (1993), 37.

### **3.9.7 Challenges faced by Both Countries**

Both the countries face different challenges related to the enforcement of the IP rights in their respective countries. The challenges faced by Pakistan includes the insufficient coordination between the IPO Pakistan and the law enforcement agencies such as the customs, police and judiciary regarding the enforcement of the IP rights. The low IP awareness among the individuals and the businesses is also one of the challenges faced by Pakistan. The IPO Pakistan Act 2012 which established the IPO Pakistan does not provide strict penalties for the IP violations and infringements which leads to frequent violations of the IP rights is also one of the main challenges faced by the country. On the other hand, some challenges are also faced by China such as the high levels of IP infringement and violations. One of the other challenges faced by China regarding IP is the large numbers of the applications regarding the registrations of patents and trademark which leads to unnecessary delays which affects the rights of the IP holders<sup>112</sup>.

### **3.9.8 Harmonization of Both Countries Organizations with WIPO**

Both Pakistan and China have ratified the international convention and treaties which are monitored by WIPO for the purpose of facilitating the harmonization of their national IP laws and their respective organizations with the international standards but there are certain differences to the extent of this harmonization. Pakistan is a signatory to some key instruments of WIPO which are as follows:

- The Paris Convention (1883)
- The Berne Convention (1886)
- The Patent Cooperation Treaty (PCT) (1970)

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<sup>112</sup> Ruay Lian Ho, "Compliance and Challenges faced by the Chinese Patent System under TRIPS", *J. Pat. & Trademark Off. Soc'y* 85 (2003), 504.

- The Madrid Agreement and Protocol (1989)

There have been significant improvements and changes in the legal framework related to IP in Pakistan but the challenges regarding its enforcement is still faced by the country. Although being part of these treaties and conventions its implementation and enforcement practices are still not in line with the international standards. The IPO Pakistan has taken significant steps in order to align its practices and procedures with the recommendations and standards of WIPO which includes the establishment of IP tribunals, the modernization of the registration system for the patents and trademarks., the efforts to raise public awareness of the issues related to IP. Apart from all the steps taken, Pakistan is still facing the challenges in order to fully implement its practices and procedures in accordance with WIPO especially in the areas related to enforcement and awareness to the public regarding the IP rights. On the other hand, the alignment of China with WIPO is more comprehensive and has resulted in significant improvements in the IP enforcement and its protection. China has adopted the framework of WIPO and ratified almost all of the major treaties related to IP treaties which includes the PCT (1970), the Madrid Protocol (1989), and the Berne Convention (1886)<sup>113</sup>. The IP laws of China such as the patent and trademark areas are very much in line with the standards of WIPO as China is very active in adapting its laws to the international IP developments. The investment of the country in IP infrastructure is significant which includes the IP courts and administrative mechanisms which is a direct response to the challenges faced by the rapid economic growth and the increasing importance of innovation in China.

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<sup>113</sup> Manjusha Gadkari, and Mangala Ahirwade, "WIPO Treaties on IPR", *Library Herald* 47, no. 2 (2009), 125-134.

Therefore, China has made great effort in improving its IP enforcement which has been very critical for its status as a leading global IP protection country<sup>114</sup>.

### **3.10 Comparison of IPO Pakistan with IPO United Kingdom**

The IPO Pakistan is the key organization which is responsible for the administration of IP rights in Pakistan. The organization monitors the patents, trademarks, geographical indications, industrial designs, and copyrights in the country. The IPO Pakistan works under the Ministry of Commerce and is the central body for the enforcement of rights related to IP in the country. The role of IPO Pakistan is to ensure the compliance of the IP laws such as the IPO Pakistan Act 2012 with the international treaties and conventions which are governed under WIPO in order to improve the IP awareness and enforcement in Pakistan. While, the United Kingdom Intellectual Property Office (UKIPO) is the national IP office of the United Kingdom established on 2nd April 2007, which is responsible for the administration of patents, trademarks, designs, and copyrights within the United Kingdom<sup>115</sup>. The UKIPO is operated under the department for Business, Energy & Industrial Strategy (BEIS) and works closely with other departments of government such as the law enforcement agencies and the courts for the effective IP protection in the UK. The UK also follows the WIPO agreements and treaties which ensure that its IP system is aligned with the global standards.

#### **3.10.1 Legal and Enforcement Framework**

Pakistan has made significant efforts to align its IP laws with the international treaties and enacted the Patents Ordinance 2000, the Trade Marks Ordinance 2001, and the Copyright

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<sup>114</sup> Assafa Endeshaw, "Harmonization of Intellectual Property Laws in ASEAN", *J. World Intell. Prop.* 2 (1999), 3.

<sup>115</sup> Khurram Baig, "Trademark Protection Index: A Comparative Evaluation of Pakistan and the United Kingdom (UK)", *Bulletin of Business and Economics (BBE)* 12 no. 4 (2023), 641-646.

Ordinance 1962. The country is a signatory to the agreement on TRIPS, the Paris Convention and the Berne Convention under WIPO. On the other hand, the United Kingdom has a strong legal framework for the IP protection such as the Patents Act 1977, the Trade Marks Act 1994, and the Copyright, Designs and Patents Act 1988<sup>116</sup>. The enforcement of the rights related to IP in the United Kingdom is stronger than the enforcement in Pakistan as the United Kingdom has a well-established judicial system having special IP courts such as the IP Enterprise Court (IPEC) and an effective coordination between other law enforcement agencies which includes the customs, police, and the private entities in order to deal with the IP infringement. The UKIPO provides an effective platform for the registration and protection of IP rights in the country<sup>117</sup>. The UK has also taken active measures in order to combat the online piracy, counterfeiting, and other forms of IP infringements committed in the country. The country has a more proactive and structured approach to the IP enforcement which includes the extensive use of legal remedies such as the injunctions, damages and criminal sanctions/penalties for the crimes related to IP.

### **3.10.2 The Organizational Structure of Both Countries**

The IPO Pakistan which was established in 2005 operates under the Ministry of Commerce. It is the central body which is responsible for the registration and protection of the intellectual property rights in Pakistan. The organization has various departments which are tasked with specific roles which include the Patents Department, the Trademark Department, and the Copyrights Department. On the other hand, the UKIPO is operated under the BEIS and it is one of the most prominent IP offices international<sup>118</sup>. The UKIPO which was established in 1852, is a leading authority in the IP matters and handles the patent applications, trademarks,

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<sup>116</sup> Marc Mimler, "International Property and Competition Law in the United Kingdom", (2016), 125-144.

<sup>117</sup> Ben Buchanan, "Unlocking the Value of Patent Data: Patent Informatics Services at the UK Intellectual Property Office (UK-IPO)", *World Patent Information* 30 no. 4 (2008), 335-337.

<sup>118</sup> Puay Tang, and Nick Von Tunzelmann, "Management, Governance and Intellectual Property: Electronic Publishing in the UK", *Journal of Management and Governance* 4 (2000), 299-318.

industrial designs and the related areas. It is a government organization with some degree of autonomy with a strong legal foundation which is supported by a highly experienced staff based on the legal and technical experts.

### **3.10.3 The IP Services and Operations**

The IPO Pakistan offers several services such as the patent and trademark registration, the dispute resolution and the public awareness campaigns. It has been making significant efforts in order to improve its digital infrastructure, although challenges are faced in terms of the processing times and the capacity. The UKIPO ensures a wide range of services for the businesses and the individuals such as the registration of patents, trademarks, and industrial designs. The UKIPO is known for its efficiency and it has adopted digital technologies in order to streamline the application process of IP. Additionally, the UKIPO is actively involved in promoting the IP awareness and education<sup>119</sup>.

### **3.10.4 Education and Awareness of IP**

The awareness of IP rights in Pakistan is relatively low among the general public, the business community and even between the government officials of the country. The IPO Pakistan has made efforts in increasing the awareness through different campaigns, workshops, and educational programs in order to educate the stakeholders on the importance of IP enforcement and protection. On the other hand, the IP awareness in the UK is relatively high as compared to Pakistan<sup>120</sup>. The government of the United Kingdom and UKIPO are involved in the education and outreach programs/activities which are aimed for the promotion of the value of IP and for creation, business, and the economic growth through IP in the

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<sup>119</sup> Allan Gordon, "Patent Remedies: Online Management of IP Services", *SCRIPTed* 3 (2006), 109.

<sup>120</sup> Janice Denoncourt, "Integrating Sustainable Development Awareness in Intellectual Property Law Education", In *Teaching Intellectual Property Law*, Edward Elgar Publishing (2023), 154-175.

country<sup>121</sup>. The various organizations in the United Kingdom which includes the British Library's Business & IP Centre provide resources and support for the businesses in order to understand and take advantage from IP.

### **3.10.5 The International Collaboration by Both Countries**

Pakistan is an active member and signatory to international IP treaties and conventions which are governed by WIPO and the WTO. However, the country faces challenges with regard to the enforcement of IP and its capacity building which hinders its international collaboration. The UKIPO has a strong influence on the international IP policy. As a member of WIPO, the UKIPO plays a vital role in shaping the international IP norms and is often consulted on the issues which includes the patent harmonization and IP enforcement in the country<sup>122</sup>.

### **3.10.6 Challenges Faced by Both Countries**

The challenges faced by Pakistan regarding the enforcement of IP and its rights includes the insufficient coordination between the IPO Pakistan and the law enforcement agencies/bodies such as the customs, police and judiciary. The low IP awareness among the individuals and the businesses is also one of the challenges faced by Pakistan. The IPO Pakistan Act 2012 which established the IPO Pakistan does not provide strict penalties/fines for the IP violations and infringements which leads to frequent violations of the IP rights. While, the UK has comparatively a well-established system of enforcement but still face challenges which includes the online infringement and the evolving nature of IP in the digital world such as AI and biotechnology is also a challenge for the United Kingdom. The country also faces the challenge from Brexit (the withdrawal of United Kingdom from European Union) in terms of

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<sup>121</sup> Robert Roderick, "The UK Intellectual Property Office: An Exploration of Change." PhD diss., Cardiff Metropolitan University, (2010).

<sup>122</sup> Christiane Hipp, and Ricarda B. Bouncken, "Intellectual Property Protection in Collaborative Innovation Activities within Services", *International Journal of Services Technology and Management* 12, no. 3 (2009), 273-296.

the international cooperation on the matters related to IP although it has been addressed through new agreements with the European Union and other countries<sup>123</sup>.

### **3.10.7 Harmonization of Both Countries Organizations with WIPO**

Both the United Kingdom and Pakistan are signatories to the several important WIPO treaties and both have made significant efforts in order to align their IP systems/laws in accordance with the international standards. WIPO promotes the harmonization of the IP laws through several agreements/treaties which includes the PCT for international patent applications (1970), the Madrid Protocol for international trademark registration (1989) and the Hague Agreement for international design registration (1925). The alignment of the IP laws of Pakistan with WIPO standards is more recent as compared to the United Kingdom while, the progress which has been made in terms of the IP legislation and reforms, its implementation/enforcement is still a challenge for Pakistan. The country has made efforts in adopting the international filing systems of WIPO which includes the PCT and the Madrid Protocol for the purpose of facilitation of global protection of patents and trademarks for the IP holders. The United Kingdom is more aligned with the international systems of WIPO as compared to Pakistan. Until recently, as a member of the EU the UK participated in EU-wide IP mechanisms before Brexit, the United Kingdom now operates independently in the matters related to IP while still act in accordance with the WIPO treaties. The UKIPO is a significant body in the international IP system of WIPO and cooperates on the progress of the global IP policies of the country<sup>124</sup>.

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<sup>123</sup> Marc Mimler, *The Effect of Brexit on Trademarks, Designs and Other "Europeanized" Areas of Intellectual Property Law in the United Kingdom*, Vol. 7 CIGI Press (2017).

<sup>124</sup> Alexander James Stack, *International Patent Law: Cooperation, Harmonization, and an Institutional Analysis of WIPO and the WTO*, Edward Elgar Publishing (2011).

### 3.11 Conclusion

The IPO-Pakistan Act 2012 has faced several challenges in ensuring its effective enforcement/implementation and its alignment in accordance with the international IP standards. In order to assess its effectiveness, it is essential to compare it with the IP frameworks of China and the United Kingdom (UK), as these countries have well-established IP systems for the purpose of addressing both the strengths and weaknesses in the approach of Pakistan towards IP. While, the IPO-Pakistan Act 2012 was a step in the right direction for the protection of IP in Pakistan but the country still faces various challenges in order to create a strong and efficient enforcement mechanism of IP. In comparison to China, Pakistan lacks in the IP enforcement and the judicial infrastructure as it also falls short when compared to the highly developed system of IP in the United Kingdom. For the purpose of capitalizing on the economic potential of IP in the country, Pakistan is required to invest in strengthening its legal and institutional frameworks and also to improve the public awareness mechanism in order to promote a more diverse culture of innovation. Pakistan can adopt the best practices in order to accelerate its efforts to build a system of IP which is both effective and aligned with the global standards and learn from the experiences of China and the United Kingdom<sup>125</sup>. A significant barrier to the growth of Pakistan in the IP industry is the limited public understanding of IP as big investments in educational initiatives and campaigns is required in order to promote a diverse culture of IP and innovation which can contribute in the economic development of the country as well.

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<sup>125</sup> Muhammad Ali Haider, Amna Imdad, and Ghulam Murtiza, "Global Intellectual Property Best Practices for Green Innovation: A Case Study of Pakistan", *Journal of Development and Social Sciences* 5, no. 1 (2024), 682-695.

## **Chapter No. 4**

### **4. Recommendations and Conclusion**

#### **4.1 Conclusion**

In Pakistan, the IPO Pakistan Act of 2012 was established in order to consolidate and streamline the IP laws and its enforcement and protection mechanisms. The IP laws serve as a significant foundation for promoting innovation, creativity, and economic development across various industries in the country. The enactment of the IPO Pakistan Act 2012 was a significant step forward in improving the IP governance, aligning the laws of the country with the international standards and addressing the growing need for an efficient mechanism for the protection of IP in the country. However, the IPO Pakistan Act 2012 faces several challenges in terms of enforcement, implementation and public awareness. In order to assess its effectiveness, it is essential to compare it with the IP frameworks of China and the United Kingdom (UK), as these countries have well-established IP systems in order to address both the strengths and gaps in the approach of Pakistan towards IP. While, the IPO-Pakistan Act 2012 was a step in the right direction for the protection of IP in Pakistan but the country still faces various challenges in order to create a strong and efficient enforcement mechanism of IP. In comparison to China, Pakistan lacks in the IP enforcement and the judicial infrastructure as it also falls short when compared to the highly developed system of IP in the United Kingdom. For the purpose of capitalizing on the economic potential of IP in the country, Pakistan is required to invest in strengthening its legal and institutional frameworks and also to improve the public awareness mechanism in order to promote a more diverse culture of innovation in the country. Pakistan can adopt the best practices in order to accelerate its efforts to build a system of IP which is both effective and aligned with the global standards and learn from the experiences of China and the United Kingdom. For

creating a strong IP system in the country there is need of strengthening the institutional capacity of IPO Pakistan, enhancing the IP enforcement mechanisms, raising the public awareness campaigns about the significance of IP and promoting the research and development. Additionally, there is need of aligning the IP laws of Pakistan with the international standards and to adopt specific strategies for the purpose of becoming a competitive nation in the global IP economy. Therefore, Pakistan is required to recognize that IP is not only about protecting the rights of individuals and business but also about promoting innovation, creativity, and economic development. The strong development and implementation of a comprehensive and effective IP system will significantly contribute to a more prosperous future for the entrepreneurs, businesses and researchers of the country which will create a more sustainable and dynamic economy of the country. The successful implementation of the recommendations mentioned above will not only enhance the IP system of Pakistan but also will improve its international standing and will be recognized as an innovation driven economy of the world.

## **4.2 Recommendations**

### **4.2.1 To Strengthen Institutional Capacity of IPO Pakistan:**

The IPO Pakistan Act of 2012 which established the IPO Pakistan for the purpose of managing the protection of the IP rights in Pakistan. The IPO Pakistan since its establishment is facing challenges which are related to institutional capacity which includes limited resources, inadequate human capital and the insufficient infrastructure required to run the organization. The staff of IPO Pakistan is required to obtain training through regular training programs in order to stay equipped and updated with the requirements of the international standards of the IP law. It will enable them to effectively and efficiently handle the issues

related to IP which includes the disputes of patents, copyright infringements and the violations of trademark. There is need of adoption of the modern technology such as the implementation of an online filing system and the digitization of the records which will help in streamlining the registration processes of IP, to reduce processing times and to make the services more accessible to the public related to IP.

#### **4.2.2 To Promote Research and Development (R&D):**

The purpose of introducing the IP laws is to promote creativity and innovation in Pakistan in order to develop a strong system of IP which actively promote the R&D across the various sectors of the country in the fields of agriculture, technology and pharmaceuticals as well. There is need that the government should offer tax incentives, subsidies and grants for the businesses which are engaged in R&D activities and as a result it will encourage the private sector to invest more in innovation and also it will reduce the reliance on foreign technologies as well. The universities and research institutions of the country should collaborate more closely with the industries in order to transfer the knowledge and technology which can lead to commercialization of R&D of the existing and new IP setups in the country. The government of Pakistan should take effective steps for the purpose of protecting the IP knowledge especially in the sectors like agriculture by way of facilitating the registration of GIs and traditional knowledge as the IP.

#### **4.2.3 To Improve IP Enforcement Mechanism:**

The enforcement of IP laws is a critical issue in Pakistan and there is need to improve the existing enforcement mechanism in the country. The IPO Pakistan Act 2012 provides a regulatory framework and an enforcement mechanism which remains a significant challenge. In order to improve, there is need to establish specialized enforcement units or bodies within the police and customs departments in order to focus solely on the violations of IP. These

units can work in coordination with the IPO Pakistan in order to monitor and prevent the infringement of IP in markets and businesses. In order to improve, there is need of strong collaboration between the IPO Pakistan, the FIA, the customs, the police and the judiciary in order to ensure a coordinated and timely response to the crimes related to IP. The Memorandums of Understanding (MOUs) between these institutions/bodies can effectively assist information sharing and joint operations against the violations and infringements of IP. The judiciary should also be provided with specialized training on the cases related to IP in order to improve and expedite the legal proceedings. The IP courts or tribunals are required to be set up in order to resolve the matters/issues related to IP expeditiously.

#### **4.2.4 To Align the Law with International Standards:**

The IP laws in Pakistan have made significant improvement since the enactment of the IPO Pakistan Act 2012 but the need of the time is that Pakistan should continue to align its IP laws with the international standards such as the conventions and agreements in order to ensure the global recognition of its IP laws and mechanism. It will also allow the innovators/creators of Pakistan to have access to international markets while protecting their IP rights globally. In order to improve, Pakistan should also consider ratifying the additional international IP treaties which includes the Hague Agreement which is concerned with the International Registration of Industrial Designs and the PCT which will enable them to offer more comprehensive protection to its IP holders and to facilitate them in smoother international IP transactions. There is a need for the IPO Pakistan Act 2012 to be periodically reviewed and updated in the light of the international developments in the field of IP law. The IPO Pakistan should communicate with the international experts, industry stakeholders and other legal professionals for the purpose of ensuring that the IP laws of Pakistan are in line with the international standards.

#### **4.2.5 Education and Public Awareness:**

The IP is often misunderstood and its recognition and value in public remains low which is required to be addressed properly. The IPO Pakistan needs to launch the public awareness campaigns with the aim of educating businesses, entrepreneurs and the general public about the importance and significance of the IP rights and its protection. The purpose of the awareness campaigns is to highlight the social and economic value of IP and also to encourage the businesses/individuals to protect their innovations from violations and infringements. By introducing the education related to IP as part of the curriculum in schools and universities can help developing an understanding of the intellectual property rights at an early age among the individuals. The academic institutions can also collaborate with the IPO Pakistan in order to organize workshops, seminars, and training programs which will be focused on educating regarding the significance of the IP laws. Additionally, the IPO Pakistan is required to work closely with the trade associations and chambers of commerce for the purpose of raising awareness regarding the IP protection among SMEs as many SMEs are unaware of the IP tools which can help in protecting their brand identities.

#### **4.2.6 Strategic Planning and Improve IP Policy:**

The framework of IP in Pakistan is required to be proactive which not only focuses on the legal protections but also on the strategic planning for the purpose of promoting the sustainable growth of the IP rights in the country. The IPO Pakistan is required to develop a clear long-term strategy and plans for the development of IP in the country which addresses the needs of all aspects of the economy. In Pakistan different industries which includes agriculture, technology, and fashion have different IP needs and the government is required to develop specific IP strategies which offer specific solutions for protecting and exploiting the IP in these industries. The IPO Pakistan should also establish strong evaluation and

monitoring mechanism for the purpose of assessing the effectiveness of the policies related to IP, its regulations and the enforcement efforts.

#### **4.2.7 To Ensure Coordination between the Authorities:**

To ensure the smooth functioning and credibility of the Intellectual Property Organization of Pakistan, it is essential that the Director General and the Chairman work in close coordination, sharing a common vision and strategy. Any administrative or policy differences should be resolved through constructive dialogue rather than confrontation, as internal clashes can paralyse decision-making and weaken the enforcement of IP laws. A unified leadership will strengthen IPO's role in promoting innovation, safeguarding intellectual property rights, and meeting national as well as international obligations.

#### **4.2.8 To Improve Financial Resources:**

IPO-Pakistan struggles with very limited funding from the government, which leaves it without the financial resources it needs to modernize, hire enough staff, or speed up its work. This is partly because the country's budget is stretched thin so much money goes to paying off debt and meeting IMF requirements that institutions like IPO often do not get enough.

#### **4.2.9 To Establish Specialized IP Courts at the District Level**

To strengthen the enforcement of intellectual property rights, IPO-Pakistan should work with the federal and provincial governments to establish specialized IP courts at the district level, not just at the divisional level. This will make legal remedies more accessible to individuals and businesses, reduce case backlogs, and ensure faster resolution of disputes. District-level courts will also help in building local expertise in IP matters and promote greater public trust in the system.

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