
| RESEARCH ARTICLE

A Comparative Analysis on the Protection of Property Rights and the Intellectual Property Rights: a Pak-Chinese Legal Perspective

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| ABSTRACT

Intellectual property rights (IPRs) always drive invention and creativeness. It also creates new employment and makes you more competitive. Intellectual property rights protect and benefit the work of writers, artists, designers, discoverers, and other IPR users while they are being used by others. Intellectual property rights (IPRs) help protect ideas and creative works developed by inventors, designers, developers, and writers. After all, protecting intellectual property is one of the major challenges for both developed and developing nations. There are numerous international laws that protect intellectual property. International law employs several guidelines and recommendations to confirm the protection of intellectual property. In addition, most countries have intellectual property laws. Maximum countries have their own legislative powers to protect their intellectual property rights. But if not done properly, all these international and domestic intellectual property laws will be valueless. The legal system that China and Pakistan follow to protect their intellectual property is very similar to the legal system of developed countries but also has some main variances. This research paper attempts to examine the assessment of IPR protection in China and Pakistan. This research paper also describes IPR protection procedures in China and Pakistan. In addition, this article initiates a comparison of international IPR indexes to demonstrate and describe the variances in IPR protection assessments. This article also lists and describes the various factors that influence the lack of proper protection of property and intellectual property rights in both countries.

| KEYWORDS

Property rights, intellectual property rights protection, international intellectual property rights protection index, China, Pakistan.

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1. Introduction

One of the most pressing challenges in the modern world is the preservation of intellectual property rights. Varied countries have different enforcement techniques for protecting intellectual property rights. The protection of intellectual property rights has a significant impact on the modern national economy. Few countries confirm a greater level of property rights and intellectual property rights protection based on implementation methods and appropriate execution of the present legal system (Bochaczyk-Kupka, 2016). Proper property rights and intellectual property rights protection are viewed as critical components in decreasing economic, legal, and social difficulties, as well as a critical aspect of growth and development. However, in other nations, the implementation of property rights and the preservation of intellectual property rights are undervalued or purposefully neglected (Zhengzhi, 2014). Unluckily, piracy is one of the most serious dangers to emerging countries' economic progress.

The main purpose of the article is to make an analysis of the protection of property rights and intellectual property rights considering a Pak-Chinese legal perspective. Intellectual Property Rights (IPRs) have garnered a lot of attention in recent years and are widely used by enterprises of all types across the economy (Fisher III, and Oberholzer-Gee, 2013). An increasing body of empirical economic literature explores the rise of Property Rights Protection and attempts to estimate the economic relevance and impact of this type of intellectual property. Because they provide visibility and reputation, intellectual property rights become a

strategic advantage for enterprises competing on the basis of product differentiation and consumer loyalty. When Intellectual Property Rights are effective, they become associated with user perceptions of value, resulting in higher profit margins. Both inventive and non-innovative businesses use Property Rights, one of the most frequent types of intellectual property rights (Patricia, 2011).

The first section of this study briefly addresses Pakistani and Chinese intellectual property laws (Faqr, 2011). The second section of this paper includes broad facts on the legal systems of Pakistan and China that ensure intellectual property protection and rights. The methodology of three major worldwide organizations that deal with the protection of property rights index: the Heritage Foundation, the Fraser Institute, and the Property Rights Alliance, is examined in the third section of this study. Furthermore, this article examines the data from the IPR index and compares Pakistan's and China's positions in the international property rights index. Evaluating the different values and ranks of Pakistan and China will highlight the nature of the asset safety presented by the two governments. The end of this article will begin to describe and comment on the reasons for these differences in the assessment of IP protection.

Following are the objectives of this study;

- To assess the major issues regarding protection of property rights in two major countries.
- To analyze the intellectual property rights index of China and Pakistan
- To suggest recommendations for lawmakers in improving the legislation

This paper is organized as follows: the first section deals with the importance of Protection of Property Rights, the Property Rights index of China and Pakistan, and the enforcement legislation system. The second section deals with the review of the literature part, which indicates the basics and theories used by the previous researchers. The third section describes the methodological process regarding the collection of data from secondary sources. The fourth section highlights the major findings and results in the discussion of our study. Finally, the concluding remarks along with implications of the present study are recorded.

2. Review of Literature

The history of intellectual property protection in China dates back to the policy of "four developments" presented by Deng Xiaoping in 1978. Due to the fast progress of China's economy, the Chinese administration has emphasized the importance of intellectual property rights (Karim & Billah, 2021). The Chinese government considers that the intellectual property protection system plays an incredibly important role in promoting science and technology, as well as inspiring culture and emerging the economy. From this point of view, the Chinese Government has established a very massive IPR protection procedure and has become a key signatory to most international conventions and treaties. China has a very broad and comprehensive IP protection law. China has established a competent legislative body responsible for the development and supervision of IPR enforcement (Tahir et al., 2022). China is a signatory to the Paris Convention, the Berne Convention, the Madrid Protocol, and the Patent Cooperation Treaty. But China is still not a signatory to the Hague accord. The Hague Agreement essentially permits designs to be protected in several countries through a single filing. In the past, different researchers have introduced the concept (IPRI), another very popular index used to compare intellectual property adoption around the world (Antony et al., 2012). IPRI is designed to serve as a barometer of the state of assets around the world. It is generally considered to be the most comprehensive and accurate comparative study on the protection of intellectual property rights (Baroncelli, 2007). The authors analyzed the land literature to structure the holistic nature of the issue (Barton, 2006; Tahir et al., 2022; Block et al., 2014).

The main components of IPRI are 1) trademark protection, 2) regulatory environment (LE), 4) policy environment (PE), 5) physical property rights (PPR), and 6) ownership rights Intelligence (IPR). The protection of intellectual property rights provides an overview of the prevention measures and mechanisms in place in any country under their applicable rules and regulations. The Legal Environment (LE) and Political Environment (PE) components provide insight into the impact of political stability and the rule of law in a particular country (Brian, 2004; Cheung, 2011).). Therefore, the measures used for IPR are wide-ranging. The authors of this index believe that this component is important for legislation and for the protection of material and intellectual property rights (David, 1991). The other two components of the index, physical property rights (PPR) and intellectual property rights (IPR) reflect two types of property rights that are important to a country's economic development. The factors included in these two categories take into account both the legal rights and the de facto consequences of the countries analyzed (Christine, 2005; Cita, 2011; Debora, 2000). In developing countries, a reasonable series of empirical studies have been carried out that clearly demonstrate the importance of their activities to the rest of the world. Much research has been done on IPR protection, but little attention has been paid to performing a comparative study between two countries, such as China and Pakistan (Tahir et al., 2022).

3. Research Methodology

The protection of property and intellectual property components is part of the rule of law. This is a qualitative assessment of how the national legal framework allows individuals to freely accumulate private property, backed by clear legislation effectively enforced by the government. (Daniel, 2012; David, 2007). Evaluate and rank every country established on various factors that reveal

the state of the legal and political environment (LP) and physical property rights (PPR) to determine the level of property protection, development, and prosperity. There are numerous worldwide agencies to attach economic sovereignty and intellectual property rights (IPR). For a comprehensive study and comparison of intellectual property protection in Pakistan and China, this article looks at the Heritage Foundation's Property Rights Index, the Fraser Institute's Legal and Property Rights Index, and the Property Rights Alliance's International Property Rights Index. This study collected secondary data from the Heritage Foundation's International Property Rights Index and the Fraser Institute's official website.

4. Results and Discussions

4.1 Index of Property Rights of the Heritage Foundation

The Heritage Foundation is working towards financial freedom in most countries around the world. The Heritage Foundation's Index of Economic Freedom is based primarily on 12 quantitative and qualitative factors from four broad categories. The rule of law, the size of government, the efficiency of regulation, and the openness of the market are the four main aspects of the Heritage Foundation's Property Rights Index. The element of property rights is part of the rule of law and is closely linked to the legal framework of the country (Eugenia et al., 2007). Property rights are a qualitative assessment of how much the national legal framework allows citizens to freely accumulate private property. The Public Property Rights Index shows how effective governments are in implementing legal systems to protect the property rights of citizens. The Property Rights Index indicates the extent to which national law can protect a citizen's private property rights. The Private Property Index analyzes the level of corruption in judicial freedom and the judicial system. The rank and score of a country in the property rights index depend on its financial freedom and the effectiveness of the legal system in protecting property rights.

Table 1: Property Rights Index comparison between China and Pakistan from 2000-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
China	20	20	20	20	20	20	48	47	50	61	62
Pakistan	30	30	30	30	30	30	36	36	42	48	45

Source: The Heritage Foundation

According to the Heritage Foundation's International Property Rights Index, China's property rights were rated very poor from 2011 to 2006 in Table 1. During this period, Pakistan scored 30 points overall. This means that property rights were not effectively protected, and the judicial system was not efficient enough. On the other hand, China's business performance was sluggish between 2011 and 2006. In addition, we got 20 points this term. This means that China also does not adequately protect its property rights and that China's judicial system is not functioning well. But in 2017, China suddenly surpassed Pakistan, scoring 48 points. Meanwhile, Pakistan's score improved from 30 to 36 in 2017. In the second half of 2021, Pakistan was unable to maintain that level, and the score dropped to 45. China scored 62 points and gradually improved. Both countries are much more developed than before. Meanwhile, from 2019 to 2021, China is doing very well in protecting property rights. During this period, the positive changes in China's scores were commendable, with scores of 50, 61, and 62, respectively. This index shows that China has begun to protect the property rights of its citizens. But unfortunately, the Pakistan judicial system is not working well, and there is a delay. The judicial system can be corrupt, and the judiciary can be strongly influenced by the government. Therefore, negative change in Pakistan's score from 2019 to 2021.

4.2 Index of Legal System and Property Rights of the Fraser Institute

The Fraser Institute's World Economic Freedom publishes an index of legal systems and property rights each year. This index focuses on the financial freedom of the citizens of the country. The measure measured by the Fraser Institute is whether national policies and institutions play a supportive role in economic freedom. The Fraser Institute's legal system and property index are based on 42 data points across five broad categories. The five basic categories of the Fraser Institute's legal system and property rights index are; a) state size (expenditure, taxes, businesses), b) legal form and protection of citizens' property rights, c) sound money. Access to, d) Free. e) Credit, labor, and business regulations. The protection of the legally acquired property of an individual is a fundamental element of financial freedom and civil society. These are very important factors in measuring the protection of national ownership. The rule of law, the protection of property rights, independent and impartial justice, and fair and effective enforcement of law are important elements of a legal order that is compatible with economic freedom. There are several aspects to comparing a country's economic freedom index. The International Country Risk Guide, the Global Competitiveness Report, the Security of the World Bank's Property Rights, and the Protection of the Rule of Law create an environment for economic growth and development by achieving commendable economic freedom.

Table 2: Legal System and Property Rights Indexes for China and Pakistan 2008-2018

	2008		2009		2010		2011		2012		2013		2014	
	LSPR1	PPR2												
China	5.5	5.81	5.45	5.70	5.39	5.64	5.28	5.49	5.22	5.29	5.14	5.13	5.13	5.10
Pakistan	3.19	4.80	3.23	4.68	3.50	4.69	3.43	4.48	3.39	4.42	3.38	4.06	3.37	4.17

	2015		2016		2017		2018	
	LSPR1	PPR2	LSPR1	PPR2	LSPR1	PPR2	LSPR1	PPR2
China	5.25	5.19	5.20	5.24	5.17	5.20	5.17	5.07
Pakistan	3.29	4.27	3.35	4.34	3.50	4.40	3.63	4.75

Source: Economic Freedom of the World: 2021 Annual Report

1 Legal System and Property Rights (LSPR)

2 Protection of Property Rights – PPR- element (LSPR)

Analyzing the Fraser Institute's data on economic growth and development, both Pakistan and China have certainly failed in terms of financial freedom and protection of property rights. The data show that Pakistan's legal system and property rights index have consistently performed very poorly from 2012 to 2016, as shown in Table 2. In 2011, Pakistan was ranked 3.50 in the legal system and property rights indicators. In the years that followed, Pakistan's scores were consistently undervalued, with the index worsening in 2016 (3.29). Between 2012 and 2015, China's legal system and property rights index were also not very good, but China performed relatively better than Pakistan. In 2016, China won 5.25 in the legal system and property rights index. This is much better than Pakistan. Over the next few years, China will fail in the areas of legal system and property rights and can worsen each year. From 2016 to 2021, Pakistan has consistently achieved better results and improved its performance. However, Pakistan has consistently fallen below China in the Fraser Institute's legal system and property rights index, and the two countries have never been equal in protecting property rights.

4.3 International Property Rights Index of Property Rights Alliance

The Property Rights Alliance's International Property Rights Index (IPRI) is one of the most commonly used concepts for measuring property rights protection. This is a platform for comparing intellectual property protection around the world. This concept is considered to be the most accurate and comprehensive database for studying property rights protection. IPRI was designed to act as a barometer of the global status of property rights. The Property Rights Alliance has knowledge as a central data source for measuring a) legal and political environment (LP), b) physical property rights (PPR), and c) International Property Rights Index (IPRI). There are three main elements of intellectual property rights (IPR).). The Legal and Political Environment (LP) demonstrates the political stability and practice of the rule of law of a country. LPs play a very important role in protecting physical and intellectual property rights. Physical property rights (PPR) and intellectual property rights (IPR) are very important and important elements of a country's economic development. PPR and IPR take into account both legitimate and de facto rights. Intellectual Property Rights (IPR) guarantees the protection of intellectual property. Intellectual Property Rights (IPR) to protect two important intellectual property rights (patents and copyrights) from a legitimate and de facto perspective.

Table 3: IPRI and its Components for China and Pakistan between 2014 and 2021

	2014				2015				2016				2017			
	IPRI	LP	PPR	IPR												
China	5.500	4.45	6.767	5.4	5.389	4.316	6.539	5.313	5.408	4.389	6.515	5.32	5.712	4.524	6.999	5.614
Pakistan	4.3	3.767	5.9	3.3	3.557	2.721	4.931	3.018	3.684	2.803	5.036	3.215	3.474	2.906	4.235	3.349
	2018				2019				2020				2021			
	IPRI	LP	PPR	IPR												
China	5.904	4.791	7.035	5.888	6.033	4.93	7.148	6.021	6.045	4.965	7.149	6.022	6.088	4.856	7.131	6.275
Pakistan	3.637	2.906	4.535	3.47	3.874	3.174	4.800	3.648	4.142	3.35	5.343	3.732	4.211	3.239	5.549	3.845

Source: The Property Rights Alliance

1 International Property Right Index (IPRI)

2 Legal and Political Environments (LP)

3 Physical Property Right (PPR)

4 Intellectual Property Right (IPR)

According to the International Property Rights Index (IPRI) of the Property Rights Alliance, Pakistan's performance is very poor. From 2014 to 2021, Pakistan's IPRI scores continually fluctuate, as shown in Table 3. Pakistan's IPRI index score for 2017 was 3.47, which is ultimately very poor in the world rankings. Since 2017, this score has improved slightly; Pakistan's performance has improved further over the next few years, and the IPRI index score has gradually improved in 2021. Pakistan reached its worst score of 3.47 in 2017. After this decline, Pakistan's IPRI index value showed a positive recovery again, and this positive trend will continue in 2021. On the other hand, China was much better than Pakistan. However, it was still unsatisfactory in the world rankings. But the most important fact about China is that it continues to show a positive trend toward improving property protection. In 2020, China scored 6.045 points on the IPRI index. Over the next few years, China has shown steady improvement. In 2020, this positive trend will continue, with China achieving a score of 6.045. From the period of 2014 to 2021, Pakistan's Legal and Political Environment (LP) score continually fluctuate. Pakistan's LP index score for 2015 was 2.72, which is ultimately very poor in the world rankings. After 2015, this score has improved slightly; Pakistan's performance has improved further over the next few years, and the LP index score gradually improved in 2021. Pakistan reached its worst score of 2.72 in 2015. After this decline, Pakistan's LP index value showed a positive recovery again, and this positive trend remained steady till 2021. On the other hand, China was much better than Pakistan. However, it was still unsatisfactory in the world rankings. But the most important fact about China is that it continues to show a positive trend toward improving the legal and political environment. In 2015, China scored 4.316 points in the LP index. Over the next few years, China gradually improves its indexing level. Therefore, in 2021, a 4.856 score was recorded. The results values of Physical Property Right (PPR) fluctuate continually from the period of 2014 to 2021, as shown in Table 3. Pakistan's PPR index score for 2017 was 4.23, which is ultimately very poor in the world rankings. After 2017, this score has improved slightly; Pakistan's performance has improved further over the next few years, and the PPR index score gradually improved in 2021. Pakistan reached its worst score of 4.23 in 2017. After this decline, Pakistan's PPR index value showed a positive recovery again, and this positive trend remains to continue till 2021. On the other hand, China was a much better rating level than Pakistan. However, it was still unsatisfactory in the world rankings. But the most important fact about China is that it continues to show a positive trend toward improving the legal and political environment. In 2015, China scored 6.539 points on the PPR index. Over the next few years, China gradually improves its indexing level. Therefore, in 2021, a 7.131 score was recorded. Based on these results, it has been proved that China has done much better than Pakistan when it comes to protecting property rights.

5. Conclusions

The main purpose of this study paper was to make a comparative analysis of the protection index of intellectual property rights between Pakistan and China. This study describes legal action to protect intellectual property rights. In this research, a brief discussion was made on the International IPR Protective Index, Ratings, and Rankings by considering the data source of some popular institutes such as Heritage Foundation, Fraser Institute, and Property Rights Alliance. In addition, this study depicts how the IPR scores and ratings evaluate the measures taken to protect property rights. The results of this study describe that there are some important differences between the IPR index and the final results published by various previous studies. Due to the differences between the IPR index and the final result, this research study describes the comparative analytical note between Chinese and Pakistan legal systems. The findings of this study suggest that the results vary widely from the period 2014 to 2021, but all IPR indexes show that China has significantly outperformed well than Pakistan in recent years. That is quite difficult to compare relationships between China and Pakistan due to the different data sources. Nonetheless, certain datasets were able to evaluate and provide appropriate information on PPR and IPR protection. Both countries have very good legal systems and laws related to intellectual property rights, but Pakistan and China are particularly unsuccessful when it comes to the global protection of intellectual property rights. The main reason for the poor results of the International Intellectual Property Index in both countries is the inadequate implementation of the legal and judicial systems. Both countries have signed all major international treaties and agreements. From a social and historical point of view, even the people or governments of these countries are not fully aware of the protection of intellectual property rights. However, in recent years, it is expected that the government has begun to take appropriate measures to protect IPR. The protection of IPR is essentially related to human rights as well as it also focuses on economic growth and development. Some reports argue that the appropriate protection of intellectual property rights can bring a rapid change in the economic growth and development of any country. However, it is difficult to depict a clear relationship between property protection and economic growth. The comparison between these two countries suggests that China can still achieve a world-wide influential economy despite poor property protection. Similarly, Pakistan has been under consideration of emerging economic countries that are making legislation regarding intellectual property protection. Illegal copying and counterfeiting are very high in developing countries and can easily be offset by appropriate measures of IPR protection.

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