

India PROPERTY RIGHTS Conference 2015

Report

India Property Rights Conference 2015
on
Property Rights for Ease of Doing Business

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of
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Monday, 13 July 2015, New Delhi

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Executive Summary

Property rights, duly protected by the rule of law, guarantee individuals the fruits of their labor and spur economic development through enterprise and innovation. International experience demonstrates that a well-defined and well-protected property rights regime is the bedrock of a just, prosperous and peaceful society. Unfortunately, India's record on this front has been bleak. It ranked a dismal 46 out of 97 countries globally and 8 out of 16 regional countries in the 2014 edition of the International Property Rights Index, way behind developing nations like Jordan, Turkey and South Africa. The vision of the constitution makers notwithstanding, since Independence, the individual's right to property in India has been systematically eroded due to successive assaults by the government under the well-intentioned guise of 'greater common good'.

Now, for the first time, the government has acknowledged the problem and announced its commitment to improve the “ease of doing business” in India. This is, therefore, an opportune time for think tanks, research organisations, political activists, intellectuals and policy makers, committed to the rule of law and protection of property rights in India, to come together and share with the government their ideas on policy and implementation. To facilitate this and to create an annual forum for the exchange of information and ideas on property rights and rule of law in India, India Institute, a New Delhi based not-for-profit think tank, initiated the India Property Rights Conference (IPRC).

The first edition of the Conference, *India Property Rights 2015: Property Rights and Ease of Doing Business*, was held at the India Habitat Centre in New Delhi on July 13, 2015 and saw the participation of 11 Speakers and 60 delegates from across organisations. The conference, for the first time, brought to India the International Property Rights Index, released by Lorenzo Montanari, Executive Director of the Washington, DC based Property Rights Alliance. It paved the way for the creation of an India Property Rights Index that would capture the state of property rights and rule of law across states, and encapsulate the differential condition of all stakeholder groups, including farmers and micro, medium and small enterprises. This will be released at the second edition of the IPRC to be held in New Delhi in July 2016.

During the half day conference, the keynote speaker, Rajiv Kumar, senior fellow at Centre for Policy Research (CPR), set the stage for the discussions by identifying the major hurdles faced by India when it comes to the ease of doing business ranking. He explained that unless there is clarity on how any index is created for India and what is covered under it, the government will never be able to address the fundamental challenges faced by the citizens of the country. Kumar's compelling inputs were followed by three panel discussions:

1. Rule of Law: How to create institutions that work for all?
2. Property Rights: For securing justice, peace and prosperity
3. Intellectual Property Rights: The balancing act

Each session deliberated on how to make India more conducive to enterprise, that is, how to improve the ease of doing business in the country, especially by strengthening private property rights and rule of law.

Participants noted that countries that value property rights, prosper; countries that do not—don't. What ultimately explains the difference in the levels of prosperity between nations is the institutional framework a country adopts—the most fundamental of these institutions being private property and the rule of law. Currently, Indians are not allowed to capitalise their assets, whatever their size may be. Rules that have been drafted to protect the interest of the poor and the marginalised, prevent them from enjoying the fruits of their labour and keep them mired in poverty. The government needs to trust market forces and minimize the obstacles to property transactions. At the same time, it has to assure the productive agents that it is working in their interest. The huge trust deficit that currently exists between the regulator and the benefactor has an adverse impact on innovation and enterprise.

Rule of law is important to guarantee and secure the property rights and hence the economic freedom of citizens. Yet in order to move from the existing “rule by law” to a “rule of law”, it is imperative that the public institutions be re-examined and incentivised to function. To bring about real change, the government

has to move from incremental to transformative laws. It also needs to strike a balance between ownership of innovation and access to innovation, between the rights of individuals to profit from their intellectual property and the right of the public to benefit from and build on ideas.

Thought provoking talks and intense discussions at the IPRC 2015 led to an increase in awareness about India's position with respect to property rights

and its standing in the international arena. It underscored the need for an India Property Rights Alliance that would see the coming together of like-minded institutions and individuals to advocate for the strengthening of property rights and rule of law - the two pre-requisites to economic freedom - in India.

The videos of the conference can be watched at www.indiapropertyrights.org



Chapter 1 - Introduction

Property rights, duly protected by the rule of law, guarantee individuals the fruits of their labor and spur economic development through enterprise and innovation. International experience suggests a strong co-relation between the prosperity of a country and the respect accorded to the property rights of its citizens. It demonstrates that a well-defined and well-protected property rights regime is the bedrock of a just, prosperous and peaceful society.

Unfortunately, India's record on this front has been bleak. It ranked a dismal 46 out of 97 countries globally and 8 out of 16 regional countries in the 2014 edition of the International Property Rights Index, way behind developing nations like Jordan, Turkey and South Africa. The vision of the constitution makers notwithstanding, since Independence, the individual's right to property has been systematically eroded due to successive assaults by the government under the well-intentioned guise of 'greater common good'. Corruption, populist policies and misgovernance have rendered laws toothless, stifling innovation and enterprise, not promoting it.

The ease of doing business index of the World Bank group ranks economies on a scale from 1 to 189 - 1 being the highest rank indicating better regulations for businesses and strong protection of property rights. India's ranking in the 2014 report was 142, below Uzbekistan which ranked at 141, Pakistan at 128 and Sri Lanka at 99. In the absence of a well functioning legal and regulatory framework, a weak rule of law, exacerbated by corruption in many

areas of economic activity, has undermined the emergence of a more vibrant private sector, which is a primary agent of growth in the country. The new government's commitment to improving the ease of doing business is, therefore, a welcome step. The union budget 2015 proposed a regulatory reform law to reduce the discretion of inspectors and bring accountability in regulation. The government has also promised to repeal several obsolete laws that hinder growth. These measures, if executed properly, have the potential to boost India's ease of doing business ranking. They will however, have to be matched by i) strengthening rule of law and ii) securing property rights for the citizens, the two critical parameters gauged by all indices of economic freedom. There is a need to evolve a legal framework that respects innovation and rewards innovators for the risks they undertake. At the same time, ideas have to be made available to all so that more and more people can innovate. It is a tough balancing act that India needs to address urgently.

It is against this background that India Institute, an award winning not-for-profit think tank that promotes dignity, choice and enterprise through innovative research, evidence-based policy advocacy and litigation for free market policies, organised the India Property Rights Conference at the India Habitat Centre in New Delhi on July 13, 2015. The half day conference brought together organisations, think tanks, political activists, intellectuals and policy makers committed to the rule of law and the protection of property rights in India.

Objectives of the Conference

In his opening remarks, Baladevan Rangaraju, Director, India Institute, explained the objectives of the Conference. "The government is focusing on improving the ease of doing business, and given the history of license raj and assault on private property rights in India, rightly so. However improving economic freedom would require courageous reforms. Therefore, there is an urgent need for experts and intellectuals to discuss and share with the government their ideas on policy and implementation."

Towards this end, the conference saw the release of the International Property Rights Index (IPRI) in India. "It is the first time that this Index is being released in India. This will not only enable us to understand India's standing in the international arena, it will also pave the way for an India Property Rights Index, next year," said Rangaraju. He expressed hope that the Conference would turn into an annual exchange of information and ideas, creating a forum that would promote constructive and open dialogue between experts and policy makers, thereby strengthening property rights and economic freedom in the country.

Chapter 2 - International Property Rights Index



LORENZO MONTANARI

The International Property Rights Index (IPRI) is an annual comparative study that aims to quantify the strength of property rights- both physical and intellectual- and to rank countries accordingly. The IPRI scores and ranks each country based on 10 factors reflecting the state of its Legal and Political Environment (LP), Physical Property Rights (PPR) and Intellectual Property Rights (IPR). It is the flagship publication of the Property Rights Alliance (PRA), an advocacy group based in Washington, D.C., committed to promoting property rights around the globe.

The purpose of the IPR Index is to provide a policy tool with a consistent measure of property rights among all nations. The Index measures, scores and ranks countries worldwide based on the position of their legal and political environment, physical property rights and intellectual property rights,” explained Lorenzo Montanari, Executive Director, Property Rights Alliance, as he launched the IPRI in India for the first time.

The first edition of the index was published in 2007 and since then eight editions have been released. Every year, PRA hires an economist to collect data for the Index. Case studies produced by each of their 81 think tank partners, spread across 62 countries, make the Index more robust. In India, the PRA has four alliance partners: India Institute, Centre for Civil Society, Centre for Policy Research and Liberty Institute. Hernando de Soto, the author of the book, *Mystery of Capitalism*, promotes the Index and emphasizes the correlation between economic freedom and property rights.

Montanari explained that the Index is scored on a scale of 0 to 10, where 0 denotes the worst property protection record and 10 the best. “Three components are used to determine the overall ranking. In addition to this, PRA also tries to examine gender equality in property rights. For the 2014 Index, we have only included nations for which complete data was available. Hence, some countries like Afghanistan, Maldives and Bhutan are missing,” he added.

Legal and Political Environment (LP), comprising judicial independence, rule of law, political stability and anti-corruption forms the first and the most important component of the Index. Physical Property Rights (PPR) is the second component and includes protection of physical property rights and registration of property. Protection of IP, patent protection and copyright piracy that come under the domain of Intellectual Property Rights (IPR) make up the third component of the Index.

Scores across these three components for 2014 show that Finland has the best record for economic freedom while Venezuela has the worst. India stands in the middle, ranking 46 out of 97. India's legal and political environment and intellectual property rights score has strengthened by 0.1% over the last year. This is a reflection of an improvement in judicial independence (5%) and political stability (4%). In Asia, Singapore is the best performing country, while Bangladesh as well as Pakistan are the worst. Nepal has shown improvement, whereas, Pakistan has registered a decline due to political instability.

IPRI: Best and Worst Performers

Table 1 - The top 10 countries

IPRI	LP	PPR	IPR
FINLAND 1	FINLAND 1	FINLAND 1	FINLAND 1
SWEDEN 2	NEW ZEALAND 1	NORWAY 1	JAPAN 2
NEW ZEALAND 2	NORWAY 3	SINGAPORE 1	UNITED STATES (USA) 3
NORWAY 2	SWEDEN 4	NEW ZEALAND 4	UNITED KINGDOM (UK) 4
SWITZERLAND 5	SWITZERLAND 4	HONG KONG (SAR OF CHINA) 5	NETHERLANDS 4
SINGAPORE 5	DENMARK 6	SWEDEN 5	LUXEMBURG 4
LUXEMBURG 7	NETHERLANDS 6	SWITZERLAND 7	SWEDEN 7
NETHERLANDS 7	SINGAPORE 8	LUXEMBURG 8	GERMANY 7
CANADA 9	LUXEMBURG 8	MALAYSIA 9	CANADA 9
DENMARK 10	CANADA 10	NETHERLANDS 10	BELGIUM 9

***LP**- Legal and Political Environment; **PPR**- Physical Property Rights;
IPR- Intellectual Property Rights

Table 2 - The bottom 10 countries

IPRI	LP	PPR	IPR
CAMEROON 86	CAMEROON 88	GREECE 87	NIGERIA 88
PARAGUAY 89	PARAGUAY 89	MOZAMBIQUE 87	ZAMBIA 88
ALGERIA 89	BANGLADESH 89	MAURITANIA 87	CÔTE D'IVOIRE 88
CÔTE D'IVOIRE 89	CÔTE D'IVOIRE 91	BURUNDI 91	BURUNDI 91
CHAD 92	MALI 91	UKRAINE 92	PARAGUAY 92
ZIMBABWE 93	ZIMBABWE 93	CHAD 93	ZIMBABWE 93
NIGERIA 94	NIGERIA 94	NIGERIA 94	ALGERIA 93
BURUNDI 95	CHAD 95	ARGENTINA 94	PAKISTAN 95
BANGLADESH 96	VENEZUELA, (BOLIVARIAN REPUBLIC OF) 96	VENEZUELA, (BOLIVARIAN REPUBLIC OF) 96	VENEZUELA, (BOLIVARIAN REPUBLIC OF) 96
VENEZUELA, (BOLIVARIAN REPUBLIC OF) 97	BURUNDI 96	BANGLADESH 97	BANGLADESH 97

An analysis of the IPRI scores throws up some interesting observations. For the less developed countries, the physical property rights scores tend to be higher than the other two components. This result suggests that less developed economies grouped by region (A, AO, CEECA, LAC and MENA) are more focused on two aspects of the development of property protection systems: first, the “hard” production factors, such as land; second, access to credit in order to generate economic activity and development.

Graph 1 - Performance on legal and political environment, private property rights and intellectual property rights: The regional story



Further, the picture changes dramatically when the gender lens is applied. For instance, though Venezuela reported the lowest score overall, it was ranked among the best countries in the gender equality ratings, alongside Argentina, Russia and Hong Kong. To evaluate the gender dimension of Property Rights, the IPRI looked at three economic factors: Women's Access to Land, Women's Access to Credit, and Women's Access to Property other than land. In addition to this, women's social rights reflected through parental authority, female genital mutilation, freedom of movement, and the ratio of female-to- male adult literacy were also factored in.

“In 2015, the IPRI serves as an indicator for the status of the development of physical and intellectual property rights. It shows an important relationship between property rights, economic freedom and a country's level of development,” concluded Montanari. Three economic indicators - Household Income, Gross Domestic Product and Foreign Direct Investment - show the strong correlation between professional property rights and economic development in each country. The focus now, is therefore, on improving the robustness and applicability of the Index as an instrument for policy advocacy and improvement globally, regionally and locally. Towards this end, the PRA plans to apply regression analysis to the data; regionalize the Index, especially in South America, Eastern Europe and South-east Asia; prepare a case study on trans-Atlantic and trans-Pacific partnerships; set up a scientific committee of advisors, and develop an IPR award for the best think tank and policy thinker.

Chapter 3 - Towards an India Property Rights Index

International Property Rights Index: The India Story

- IPRI Score: 5.5 (Ranked 46th out of 97 and 8th in the region out of 16)
- Remained unchanged in 2014
- Legal & Political Environment: 4.5(53rd)
- Physical Property rights: 6.5 (36th)
- Intellectual Property Rights: 5.5 (45th)
- Gender Equality IPRI Score: 6.7 (33rd)



RAJIV KUMAR

At present, India ranks a dismal 46 of the 97 countries that feature in the International Property Rights Index. On a scale of 0 to 10, India has stagnated around 5.5 in the last 8 years, with minor changes in the IPR score. Thus, if India wants to fast track on the road to economic development and prosperity, it needs to take well-thought out and decisive action to protect the property rights of all its citizens. Complex procedures and legalities demotivate individuals and stymie innovations.

In his keynote address, Dr Rajiv Kumar, Senior Fellow at the Centre for Policy Research and Chancellor of the Gokhale Institute of Economics and Politics, accentuated the need to understand the motivating factors behind any set of rules in a society or an economy. At the same time, given the size and complexity of India, he highlighted the need to capture, study and understand the differential conditions of various segments of society – across sectors and across regions- in the property rights discourse.

The results of a survey of the top 500 industries on how easy it is to do business in India will vary significantly from the results of a survey done on MSMEs, even though both are conducted in the same country. This is because smaller enterprises enjoy less economic freedom than larger companies. The World Bank's Ease of Doing Business Index has found that it takes 8 years on an average to enforce a contract in India. Yet enforcing contracts is a much bigger challenge for MSMEs. Due to implementation issues, they benefit less from policy reforms and suffer more from lack of transparency in the government.

"Agriculture is generally seen as an unregulated sector in India. Yet, on closer examination one finds that in actuality everything – be it input and output prices or land rules - is controlled by the government. The whole business of acquiring land and changing land use policies is so arbitrary, opaque and mired in corruption that the farmer is unable to plan for the future," Kumar explained. This demotivates reinvestment in the land and affects productivity. Kumar suggested that the government create an exhaustive listing of all public land in a district and assure the farmers that these tracts will be used before any move is made to acquire their property. "Currently none of the productive agents in the country trust the government to act on their behalf. It is important for the government to demonstrate that it supports them and their interests," he advised.

Further, it is not just people and entities across different sectors that enjoy different levels of economic freedom in India. There is substantial regional variation as well. A country wide ranking with regard to economic freedom and property rights can be misleading to some extent as we are averaging the conditions prevalent in 28 states and 6 union territories. It is, therefore, important to have more representative data sources when we are looking at issues of economic freedom. Rangaraju announced that in view of these facts, India Institute has undertaken to create an India Property Rights Index that will rank the different states on the basis of their performance with respect to rule of law and property rights. The first edition of the India Property Rights Index will be launched at the second India Property Rights Conference in New Delhi in July 2016.

"The time is opportune. In the past, our governments were unwilling to even acknowledge the problem. Now they have accepted that all is not well and have committed to improve the ease of business. They have begun to consider what the indices say," Kumar noted.



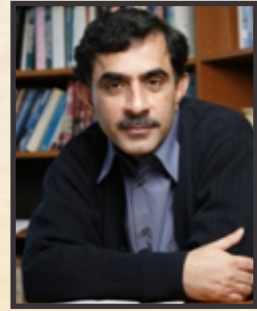
Chapter 4 - Rule of Law: How to create institutions that work for everyone?



**ANIRUDH
BURMAN**



**MUKESH
GULATI**



**DEVESH
KAPUR**

Moderator :

- Prof Devesh Kapur, Director, CASI, University of Pennsylvania

Panelists :

- Mr Mukesh Gulati, Executive Director, Foundation for MSME Clusters
- Mr Anirudh Burman, Legal Consultant, National Institute of Public Finance and Policy

Key Questions

- What is Rule of Law?
- What are the key causes behind the weak rule of law?
- How do we move from Rule by Law to Rule of Law?
- Who guards the guardians?
- What specific policy measures and reforms should the government undertake to create an ecosystem that rewards enterprise and encourages growth for all?

Salient Points

- Look beyond content to administration of law
- Invest in detail and spell out the processes so that discretion is minimized
- Move from incremental to transformative law
- Examine the staffing of public institutions and introduce incentives to motivate lawyers, law enforcers and administrators to act quickly
- Build trust between the regulator and the benefactor, i.e., between state and citizen

Session 1 - Rule of Law: How to create institutions that work for everyone?

It is a fact well-acknowledged that a weak rule of law has undermined, both, individual and institutional efforts of the people of India to fight poverty and to improve their standard of living.

Rule of law means that the law is supreme and equal for all, be they administrators, officials, individuals or private entities. Implicit in it is an assumption that the law is stable, just and protects the fundamental rights of all people. It is enacted, administered and enforced, fairly and efficiently. As such it forms the bedrock of a republic. In practice, however, the definition of rule of law has become restricted to obeying the existing laws, whatever they may be. This has accorded an inherent sanctity to any legislation - good or bad, and discretionary coercive powers to all public institutions, well intentioned or otherwise, with or without accountability to outcomes. It has exacerbated inequality, cronyism and corruption.

Eight characteristics that signify the rule of law, according to Lord Bingham :

- a) The law must be accessible, and as far as possible, clear, intelligible and predictable.
- b) Questions of legal right and liability should be addressed by application of the law, not discretion.
- c) Laws should apply equally to all, save where objective differences justify differentiation.
- d) Law must protect fundamental human rights.
- e) Means must be provided to resolve, without inordinate delay or prohibitive cost, bona-fide disputes that parties themselves are unable to solve.
- f) Public officers, at all levels, must exercise the powers conferred on them reasonably, in good faith, for the purpose for which powers were conferred, and without any excesses.
- g) Adjudicative procedures provided by the state should be fair.
- h) The state should comply with its obligations under international law.

Devesh Kapur, Director, CASI, University of Pennsylvania initiated the discussion by raising two fundamental questions:

How do we move from rule by law to rule of law?
Who guards the guardians?

He used the supply chain framework to demonstrate the rule of law process. The rule of law begins with the framing of laws. It moves on to investigation and enforcement by agencies like the police, followed by prosecution and judicial justice. The supply chain culminates with the penal part of the pronouncement.

Kapur noted that laws in India have been proscriptive and prescriptive without much regard to the broader institutional context of incentives and enforcement capabilities. "Some laws are outdated; others are new but poorly drafted. Unless we examine the incentive structure in the broader social base, passing laws will be futile. You can ban people from walking across the street. You may even stop 5, but 50,000 cannot be stopped," he explained. Similarly, passing a law that bans child marriage makes little difference when there are only 100 prosecutions and 10 convictions for the over 10 million child marriages that take place.

Currently, enforcement agencies and lawyers do not have adequate incentives to settle disputes quickly. Kapur underscored the need to address this. "How do we motivate the lawyer to ensure a speedy trial? How do we move from a purely legalistic approach to an incentive based one? And most importantly, how do we rebuild the trust between the state and the citizens?" he asked.

Anirudh Burman, Legal Consultant with the National Institute for Public Finance and Policy, seconded Kapur's call for an institutional change in the governance mechanism. "We will not see any significant improvement in regulation or enforcement without incentivising and equipping state agencies to perform their regulatory functions," he noted.

Burman pointed out that accessibility, legal certainty and fair trial were the three fundamental principles identified by Lord Bingham in his treatise, *The Rule of Law*. Laws and rules cannot be changed overnight. There has to be a deliberative process where people are made to understand what things are going to mean, what the consequences will be, and how they will apply to different kinds of individuals.

"Laws should minimise discretion. There are errors of omission and commission in the working of state agencies. When the government wields coercive powers, these errors are costly. For example, the constitution may say that the government will act in public interest, but what does public interest mean when you are writing a law to prevent Foreign Direct Investment (FDI) in a particular field? Is public interest defined more clearly when we are talking about FDI and tax? Is it different from public interest in a murder trial?" he asked. In the Companies Act 2013, there are more than 200 sections under which the central government can make rules. This means that how the law applies to an individual can change far more dynamically than it would if a parliamentary law gave the government less powers to write rules.

Burman noted that the Indian legal framework has some trappings of the socialist state. The rules are made by the government and understood by the government. They are made arbitrarily, without consultation, and the public has little understanding of the regulatory instruments or the rationale behind the change in rules. Often rules lack specificity. This basically leads to different outcomes in the interpretation of the same rules.

Burman gave the example of a two paragraph order issued by the Reserve Bank of India to a bank on July 10, 2015, forbidding it from opening new branches. "The order does not state a lot of things that one would expect in a good rule of law framework. It does not enumerate the relevant facts, the alleged misconduct of the bank, the investigation that was conducted and its findings. It does not provide any evidence or details of the defense provided by the bank. The order does not even mention the name of the issuing authority. This leaves the other banks with very little understanding of what they are supposed to do and what they are not supposed to do," he explained. The rule of law in India currently suffers from the following setbacks:

- Regulatory elaboration is missing in most of the regulatory guidelines, i.e., which instrument is binding and which is to be followed is unclear.
- There is lack of transparency in the process.
- There is no commitment to service delivery timings.
- Approval rejection process is opaque and suffers from lack of specificity.
- Rights and obligations of applicants and respondents are not communicated.
- There is a lack of independence in the quasi-judicial processes.
- The procedural parts of the law and their details are often missing. For example, the Prevention of Corruption Act provides for institutional mechanisms such as, the Central Vigilance Commission and the Comptroller and Auditor General. Yet, there is little clarity on the precise legal objectives of each institution.

The only way to address this is to ensure the independence of the legislative, executive and judicial functions of the state. The rule of law has to pervade all three. Regulation making has to be empirical, consultative, prospective and precise. Burman underscored the importance of creating details of the process of "natural justice" in a specific situation. How is natural justice in the context of getting a driving license issued different from natural justice in a murder trial?

It is possible to curb discretion and assist processes by writing more rules. The US Securities Exchange Commission's enforcement manual is about 144,000 words long, whereas, the Debt Recovery Tribunal's manual in India is just 10 pages long.

Burman posited that political change doesn't ensure sustainable systemic change. The need of the hour is to enact laws that have an administrative framework. He gave the example of the Financial Sector Legislative Reforms Commission 2013 and its work. The objective of the Commission was to take a look at the entire financial sector landscape and propose a holistic change. After two years, it proposed a single law to repeal 60 financial sector laws and replace it with one Indian financial code. "The key learning is that rule of law has to pervade the internal processes and systems of government agencies for it to translate into greater ease of doing

business. It is crucial to re-organise institutions with the rule of law principles. The way to do it is to create a new body of administrative law that is more consumer centric," he concluded.

Mukesh Gulati, Executive Director, Foundation for MSME clusters, reiterated Burman's point regarding transformative laws. Referring to the condition of the micro, small and medium enterprise (MSME) sector, Gulati pointed out that only 5% of the 47 million MSMEs in the country have access to bank loans. This, despite recommendations by successive committees, over the past 30-40 years. "The problem is that each of these committees had an incrementalist approach. They sought to bring change, one small step at a time and it was never enough. At the end of the day, they always discovered that while the numbers had swelled, the percentage of organisations with access remained stuck at 5," he noted. He maintained that for change to occur and rule of law to be strengthened, the government has to move from incremental laws to transformative laws.

Expounding on what the weak rule of law has meant for the MSME sector that employs a 100 million people in India, Gulati explained that there was no threshold limit on the investment required for an enterprise to be called micro. MSMEs are not defined by the startup investment but are segregated by the various definitions set by the government.

He claimed that 95% of enterprises are not registered with any authority. The government defines a formal sector and an informal sector or a registered or non-registered sector, purely from its own internal perspective. What this means is that if a law has been created and one has registered under it, one falls under the formal sector; the rest who have not registered comprise the informal one. This is a big aberration.

Further, most of the laws which are applicable to the large, medium and small enterprises are also applicable to the micro enterprises. Thus, a micro entrepreneur like a kite maker has to first know which laws are applicable to him and then understand its rules and regulations. "That isn't always feasible. Normally, these enterprises function on norms of trust. Disputes are weighed against the cost of going to the court," he explained.

Beginning 1954, the government created over a 1000 institutions to provide a range of assistance to these MSMEs. This, however, stopped as liberalisation was ushered in. Thereafter, the government began to ask enterprises to get together and work out together their own system for assisting themselves. It also promoted market-based systems for assistance, wherein, service providers helped these enterprises grow. But, no scheme was introduced to enable these groups of enterprises to strengthen their capacities so that they could eventually become service providers themselves.

Currently, the government runs 205 schemes to help micro enterprises. These schemes, spread across eight ministries, tackle a plethora of issues. Some provide loans to individuals, others to group of industries; some promote finance, others promote only technology or skill development. Given the multitude of schemes, a mobile app or website was suggested to enable individuals to gain information and to access these schemes. Gulati articulated the need to create a knowledge backbone for the government – a centralized database where different ministries can document their experiences and share learnings. "On one hand, the government needs to ensure greater co-ordination between the different ministries that run these schemes. On the other, it has to remedy the disconnect between the regulator and the benefactor. The paternalistic approach has to be discarded and the rationale for different schemes and laws explained, so that people's trust in the state is re-established," he suggested.

Citing the heterogeneity of the MSME sector with 10,000 clusters across the country, Gulati highlighted the need for a two pronged approach: a minimum set of homogenous laws that can be applied uniformly across sectors, and heterogeneous rules and service delivery codes that cater to the specific requirements of different sectors. "Most importantly, information regarding these homogenous and heterogeneous measures needs to be constantly updated and conveyed to the MSMEs," he said. Gulati concluded by noting that the focus needs to shift from audit friendly schemes to MSME friendly schemes of assistance.

In the intense discussion that followed, panelists answered questions raised by the audience and the moderator. In response to Kapur's query about the laws that need to be repealed to help the MSME sector, Gulati stated that laws are not the problem. The issue is of enforcement and of clarity on the intent of the law. Regarding

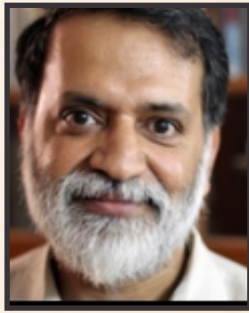
enforcement of laws at the state level, Gulati feared that it may not work in the MSME sector. Instead, he suggested a public private partnership approach and the linking of incentives with enforcement. While Burman agreed that the capacity to enforce is much weaker at the state level, he pointed out that in certain cases like the Food Security Authority, the bulk of the responsibility for enforcement lies with the states. Yet, unlike the central government, the states are yet to create mechanisms to enhance capacities, monitoring and accountability.

An audience member enquired if a principal based or an incentive based approach would serve as an alternate model to the current inspection based approach to enforcement, that is mired in corruption and bribery. Burman responded that post-liberalization private enterprises were put to risk by more and more compliance based inspections. Under the newly elected NDA government, the new inspection system for the Factories Act and the Labour Law compliance is completely risk based, signifying a move away from the license raj. A regular filing is required. Some random inspection is conducted and, based on the degree of compliance or non compliance, enterprises are subjected to heightened supervision. Thus, one is moving slowly towards a system where inspections become more scientific. Moreover, Indians are not attuned to a regulatory system where the government is in the business of monitoring and supervision, Burman opined.

Concluding the session, Kapur summarised that in order to strengthen the rule of law, one needs to look beyond the mere content of laws to its application and enforcement. The staffing of public institutions also needs examination. "How does one recruit? How does one motivate? How does one weed out the non-performers? The internal organisations and processes of everything from a District Court to a Supreme Court needs to be studied. These questions about public institutions are much more difficult but need to be addressed to ensure the Rule of Law," he said.



Chapter 5 - Property Rights: For securing justice, peace and prosperity for all



**BARUN
MITRA**



**PRASHANT
NARANG**



**BALADEVAN
RANGARAJU**

Moderator :

- Baladevan Rangaraju, Director, India Institute

Panelists :

- Barun Mitra, Director, Liberty Institute
- Prashant Narang, Manager at iJustice at Centre for Civil Society

Key Questions

- Should private property rights be a fundamental right? Why?
- How can the interests of poor and marginalised be protected through greater property rights?
- What policy measures should the government adopt with reference to property rights?

Salient Points

- Indians are not allowed to capitalize their assets, irrespective of the size
- Rules that have been drafted to protect the interest of the poor and the marginalised, prevent them from enjoying the fruits of their labour and keep them mired in poverty
- Technology can be an enabler in claiming rights but it cannot compensate for bad laws
- Government needs to trust market forces of demand and supply and allow property transactions with minimal obstacles

Session 2 - Property Rights: For securing peace, prosperity and justice for all

Mohammad Zia is a migrant labourer from Bihar who, like thousands of others, came to Delhi in search of livelihood. After much effort, he found work as a rickshaw puller. For a long time, he would ferry people around in his rented rickshaw, every day and every night, to feed his family. Finally he managed to save Rs 2000 and bought a second hand rickshaw. Now, there was no rent to pay. He was able to save more and buy a new rickshaw. By 2010, he owned a fleet of 110 rickshaws. An inspiring story of a self-made entrepreneur, some would say. Yet, according to the bylaws of the Municipal Corporation of Delhi, it was illegal to own more than one rickshaw. Zia was not honored as an entrepreneur or a hero but treated as a “rickshaw mafia,” indulging in illegal activity.

Zia's story narrated by Prashant Narang, an advocate leveraging judicial activism to secure property rights for micro-entrepreneurs like street vendors, encapsulates the obstacles faced by ordinary citizens in their pursuit of livelihood, economic prosperity and happiness, when physical property rights are denied to them.

Development is a complex play of a number of variables. But, when one cuts through the complexity—a definite pattern emerges. Countries that value property rights, prosper; countries that do not—don't. What ultimately does explain the difference in the levels of prosperity between nations is the institutional framework a country adopts—the most fundamental of these institutions being private property and the rule of law. Institutions can be thought to be the laws and formal rules that govern our interactions with each other. Institutions determine (to borrow an expression from Douglass C North), the 'rules of the game.' If the rules are well-defined, definite and conducive to enterprise—people prosper. If the rules are uncertain, and do not protect people's property, then, people are prevented from prospering.

Opening the panel discussion on *Property Rights: for securing justice, peace and prosperity for all*, Rangaraju noted, “The rules or institutions that govern India are uncertain and restrictive. Further, they can be perverted by some—the rich and politically connected—for their benefit. Today, the rules work against millions of India's poor.” While the rich have relatively secure titles to their property, the poor do not. Regulatory restrictions instituted in the name of “social justice” prevent the poor from freely employing their property and enjoying the fruits of their enterprise. “To secure justice and prosperity for all Indians, it is imperative to ensure that the rules work for them. In the words of Hernando De Soto, “The poor aren't breaking the laws, the laws are breaking them.” This is evident all around us. Yet, when institutions fail, people try to find ways to overcome the hurdles employing creative means,” he remarked.

Barun Mitra, Director of the Liberty Institute is one such individual. When the tribal communities in Gujarat and Chhattisgarh were denied property rights due to absence of documented proof and land records, Mitra deployed GPS technology to prove their claims. Through a short video documentary, Mitra shared the plight of the tribal communities who are seen as encroachers in their own land and the fight for their rights.

“Despite looking after the land and forests for generations, they were denied land rights as they did not have documented evidence. After widespread protests, the government introduced the Forest Rights Act 2006. Yet, this only recognized the rights of the people who were farmers and farming prior to 2005. Even for them, only 10 per cent of the applications were approved by the government, and most people were denied land titles,” explained Mitra. Thus, Mitra and his team started looking for ways to prove land ownership. They found that by using satellite imaging and GPS tracking they could identify the various land tracks that were being cultivated prior to 2006. They used tools like Google Earth and the GPS in cell phones to plot the land that was cultivated by various tribal villagers and addressed the land record problem.

“No other tool could have yielded such dramatic results. But, what was even more stunning was the willingness and determination of the people to stand up for their rights. It was almost as if the magna carta had been signed and the results were unfolding before our eyes. Today these tribal communities are confident and empowered. They are owners and citizens of the land that they have been living and working on for generations,” he said.

For others, however, the struggle is still far from over. Narang, an advocate with the iJustice initiative of the Centre for Civil Society, explained how the one owner-one driver and one seller-one spot rules are creating problems for rickshaw pullers and street vendors. "These rules were ostensibly drafted to prevent the exploitation of the poor from rich contractors who would own fleets of say 5000 rickshaws. But in actuality it adversely affects the very people whose interests it claims to safeguard. They can never rise above their circumstances, never prosper," he said. In fact, initially the policy allowed the government to confiscate illegal rickshaws, break them and sell them as scrap. It was through the sustained efforts of Narang and his team that this provision was removed.

Citing Mitra's example, Rangaraju wondered if technology could be used to create a compelling case against the weak laws that adversely affect the rights of the poor. However, Narang was of the opinion that technology cannot compensate for bad laws. Citing the example of the auto-rickshaws in Delhi, he pointed out that there is a cap on the number of vehicles as well as the fare. The public and the media normally side with the government on this. While analysing the causes behind the rude behavior of auto-drivers, a host of factors from Yamuna waters to genetics are suggested. "Yet, no one talks of the economics. You cannot bypass the laws of demand and supply. When you have restrictions that hinder growth and development that limit the earning capacity of individuals, then technology alone cannot solve the problem," Narang opined. He suggested that the Street Vendors Act 2014 should be modified such that instead of the government auctioning one vendor-one spot, the entire zone should be auctioned to a private party to take care of spot allocation. "The market forces have to be trusted and allowed to operate," he stated.

Mitra felt that laws provide a platform and a framework that can be used, eg., the RTI Act. India is poor because the people cannot capitalize their assets, irrespective of the size of said assets. "Land and property disputes are a distinct category under the National Crime Bureau. 80 per cent of the cases in the lower judiciary are about land and property related violence. The challenge is not technology, but rather who is on the ground to implement the work and who has an interest in it. The GPS tracking worked because not only were the communities determined but they knew their holdings like the back of their hand. If you need to bootstrap India into development, all that needs to be done is to clear the land records and allow property transactions with minimal problems," Mitra concluded.



Chapter 6 - Intellectual Property Rights: The balancing act



**ANANTH
PADMANABHAN**



**RAGHAV
SAHA**



**NIRVIKAR
SINGH**



**PRATHIBA
SINGH**

Moderator :

- Mr Raghav Saha, Senior Advisor, Confederation of Indian Industry

Panelists :

- Dr Nirvikar Singh, Professor, University of California, Santa Cruz
- Mr Ananth Padmanabhan, Author, Intellectual Property Rights: Infringement and Remedies
- Ms Prathiba Singh, Senior Advocate

Key Questions

- How strong is India's intellectual property regime? Does it serve the country's interests?
- What should India do to ensure that its laws protect innovators and consumers?

Salient Points

- Need to balance ownership of innovation with access to innovation
- Enforcement of laws with respect to copyright and trademarks is poor. There is no consensus on the content of these laws and whether they adequately balance the interests of different stakeholders
- There is a need to relook at IP when it comes to sectors like pharmaceuticals and software licensing
- Need for much greater awareness with respect to licensing agreements and patents

Session 3 - Intellectual Property Rights: The balancing act

There is an ongoing debate within the liberal space about the sanctity of intellectual property rights (IPR). Some insist that IPRs are no different from any other property rights and need to be protected by law to enable people to enjoy the fruits of their intellectual endeavours. This will not only incentivize innovation but also ensure the efficient distribution of ideas through the saleability of IPR. Others counter that no one can own an idea. Unlike physical property that is tangible, an idea once spoken enters the public domain and is available to all to build upon. Further, no idea develops in isolation; it is always triggered by another idea, event or piece of information. This is the foundation of innovation and invention in any society, they argue.

Is the answer, then, in striking a balance between the rights of producer and public; in developing a well-defined IPR regime that encourages innovation, yet ensures knowledge diffusion?

In his keynote address, Dr Rajiv Kumar had proposed a system of differential pricing across industries to balance the protection of intellectual property rights of a producer with the needs of the consumer. Setting the tone for the panel discussion, Raghav Saha, a senior advisor with the Confederation of Indian Industry (CII), asked if IPR should be treated as any moveable and immoveable property, effectively ruling out monopoly and compulsory licensing? He also wondered whether policy frameworks that incentivise innovators not to overcharge were the answer or if a regulatory framework with strict licensing and penal clauses was needed to obtain the balance.

Often, IPR laws are enacted to protect domestic businesses. Yet with globalization, the number of domestic companies is shrinking. According to Saha, today, everybody is selling everything to everybody around the world. The situation is rendered complex as we are dealing with economies that boast of multiple number of companies, multi social systems, ecosystems and cultural systems. "The world found an answer to this by voting for multi-lateralism which maintained a good balance between the interests of all concerned. The WTO agreements are an example of multilateralism providing some uniformity. Yet today, there is a trend towards plurilateralism and bilateralism. In this context, international developments like IP5, Anti Counterfeiting Trade Agreement and Trans Pacific Partnership are of great interest and concern," he explained.

This is because these regional agreements i) seek harmonisation of patent practices and patent laws, which was not the intent of TRIPS ii) impose severe penalties on copyrights and trademark iii) dispense with some strict patentability criteria, thereby granting patents to some undeserving candidates; and v) attempt to develop a parallel dispute settlement system, thereby adding to the delay and difficulty in dispute resolution.

Saha highlighted the lack of awareness with respect to IP laws and its implementation. This was acknowledged by all speakers. He suggested that information should be provided in public domain creating confidence. He urged the creation of a new broad based IP/Copyright system for the efficient and effective enforcement of IP laws, a motion seconded by speakers like Ananth Padmanabhan. At the same time, Saha admitted that the pace at which the Indian courts were moving and taking decisions in cases related to IPR was encouraging.

"The CII, with the help of KPMG, has prepared two reports focusing on the importance of having a good system of handling contracts. If this happens, then IPR becomes a natural choice. Economy is a dynamic ecosystem. Relying on outdated laws will help neither growth nor development. Law makers have to be aware of this fact and keep pace with the changing dynamics of the market in order for laws to remain relevant," he said.

Dr Nirvikar Singh, Professor at the University of California, Santa Cruz, felt that IPR reflects the fundamental debate between equity and efficiency and the tradeoffs therein. It is at the heart of how we organise society. "The primary difference between physical and intellectual property is the intangibility of the latter and the mode of production- how the idea flows out of our mind and develops. But, that is not the key economic characteristic. The fact is that if one person is farming a piece of land, the other cannot use the same. But, this is not the case when it comes to ideas," he explained. Citing the case of software piracy, he argued that protection of intellectual property encourages innovation. The commercial incentives guaranteed by this protection led to the growth of Silicon Valley.

Singh acknowledged that there is no clear way of determining the right length of time for copyrights and it is an area that will always be open for negotiation. “The important issue is to see if the political process has managed to strike a balance between public good and the incentives to innovate and the right of creators,” he explained. For instance, in the case of pharmaceuticals, technological change may help reduce the cost of developing new drugs by using bioinformatics. Singh used the example of open source licenses in the software industry to maintain that while it is important to reward the innovator, by giving a monopoly to software companies we are compromising public interest.

Ananth Padmanabhan, author of *Intellectual Property Rights: Infringement and Remedies*, sought to look at the IPR debate from the Indian point of view. He examined India's standing in the broad landscape of utilitarianism versus natural rights versus Hegelian ideas of property and intellectual property. Padmanabhan started by enumerating three theoretical models of property relations:

- Property as a right to exclude ;
- Property as a bundle of rights or as user rights. What the user does with these rights is essential to the definition of property rights; and
- Progressive Property Movement: property as an instrumental mechanism

“Property is, therefore, an instrumental construct meant to achieve certain goals,” he explained. Taking the example of copyright and patent laws in India, he said that the approach was utilitarian and clearly accepted the need to balance ownership of property with access to property.

The normative values guiding the trademark law are, however, oriented towards the natural rights philosophy. “If you are a brand owner or if you have created a brand, it is your exclusive property and you have the right to exclude. The problem is of enforcement. The biggest problem with trademark is counterfeiting,” he argued. Counterfeiting, he explained, is the weapon deployed by terrorist organisations in sectors like pharmaceuticals, automobiles, food and beverages to finance illegal activities. It operates through two markets: a primary one where users genuinely believe they are buying original products, and a secondary one, where the user is aware that (s)he is buying a fake at a cheaper price. According to Padmanabhan, counterfeiting occurs because the users are either unaware of the issue or do not comprehend its implications on national security. Thus, despite the civil, criminal and border security remedies available to tackle the problem, it goes unchecked. The behavioural norms of the general public do not align with the intent of the law. Moreover, the laws are not enforced properly. The prosecutor's incentive to go against the counterfeiter is not as strong as that of the brand. There are no statistics available on raids, prosecution or conviction rates under section 103 and 104 of the Trademark Act.

“While big brand owners like Nike and Rayban can move courts, this remedy is out of question for the smaller and medium enterprises due to the prohibitive costs of litigation. Criminal remedies do not work because the prosecutors don't care. The only way to address this is to set up a strong, federal administrative body to tackle IP related issues,” he explained citing the example of the IP Enforcement Czar of the US.

Senior Advocate, Prathiba Singh raised a number of questions with respect to drug and software licensing patents. “How many people are aware and approve of the change in software licensing models from one time purchase to a subscription based model? How many have heard about the standard essential patents and plant related IP discussions? How many know of the fate of the four molecules- Sitagliptin, Vildagliptin, Dacitinib and Indacaterol-in India, post the Novartis judgment?” she asked.

Singh explained that all Indian pharma companies have in effect been enjoined from these four molecules. They are barred from selling these drugs in India. She informed the delegates that no Indian company manufactures these drugs. All these drugs have enforced their patents in India, though barring one, none of the others satisfy the quality of imports or satisfy even 0.1% of the population.

Singh lamented that despite this being an ongoing case, it does not attract any media coverage. “What is balance in this scenario? What are we balancing – security, economy or the interests of Indian and foreign businesses? What happens if the patents to these drugs are recognised and granted? What if a patient needs it? How will the

government or innovators make these drugs available to the public at affordable prices?” she asked.

The answer is not that the government buys them at abnormally high prices. Drugs should reach the maximum number of people but IPRs are restricting them. Singh asked why patented drugs are not being made in India. She advocated the need for collaborations and licensing models to produce drugs and make them more accessible.

Unlike the other panelists, Singh felt that the Indian jurisprudence on trademark and copyrights is path-breaking and note-worthy. Trans-border trademarks are not recognised in any country except India. Even the US only accords a well known status to some foreign brands, and that too under exceptional circumstances. Yet, India has consistently protected foreign brands for over 30 years, without use and registration.

Similarly, while every Copyright Act in the world had to change its statute with the advent of internet and with new technological innovations, every type of electronic communication was covered in the Indian Copyright Act. Thus, there was no need for continuous amendments. Singh acknowledged that there is an issue with enforcement, especially in the digital arena, but claimed that India is a victim of piracy. Indian television channels are beamed around the world via the Internet and no consumer pays for it.

Singh noted that 80% of Indian patents are owned by foreign companies, while 80% of trademarks are owned by Indian companies. Under patents, one compulsory patent has been granted since Independence and 2 were rejected.

The Indian Patents Act protects both incremental and improvement innovation. “Who says that improvements are non-patentable in India? Of course, they are patentable, but what is not allowed is extending the term of the patent beyond its original duration. Elsewhere improvement patents are used for ensuring an evergreen monopoly,” she opined. Section 3d of the Indian Patent Act actually strikes a fine balance and has been replicated by many countries like Argentina, Phillipines and Brazil. In fact, India has been the champion of striking a balance and it should continue to do so. Innovation needs to be encouraged and protected, but it has to happen within its own limits. Singh concluded by saying that the law should allow the use of IP, not the abuse of IP.



Chapter 7 - The Way Forward

IPRC 2015 was organised to increase awareness with regard to India's position on property rights and to find measures to secure these for all citizens. The lively interactions that took place between the 11 speakers and 60 delegates during the three panel discussions enabled the Institute to identify the way forward. The next edition of the India Property Rights Conference will be held at New Delhi in July 2016. As a follow up to the conference the following steps will be taken:

- India Institute (II) will initiate the formation of the India Property Rights Alliance, with like minded think tanks, research institutes, thinkers, academics, activists, law firms and eminent personalities. This Alliance will act as a pressure group to ensure greater private property rights and the rule of law.
- II will launch the India Property Rights Index to rank states according to the rule of law and the status of property rights.
- A primer on Property Rights in India will be prepared for the India Property Rights Conference 2016 (IPRC 2016).
- IPRC 2016 will be a one day affair as half a day is inadequate to do justice to such a complex topic. Future editions of the conference will also witness a call for papers.
- In order to improve the quality of reporting on the matter and to promote the free market perspective, II will conduct a training/ seminar for journalists writing on property issues. This will include various factual aspects such as laws, the methodology of key economic freedom indices etc.



Participants Speak



"Fantastic and valuable equation"

- Abhijeet Sinha

"The theme of the conference was unique"

- Ajitesh Kir

"Excellent time management, nice combination of academics and field experience. Overall, a good conference"

- Dr Awakta Verma

"Good event! More such events required"

- Kapil Chawla

"Overall nice experience....still nascent but long way to go..Good and steady start"

- Kunal Krishna

Annexure 1 - Programme Schedule

10:00 am	Welcome - Mr Baladevan Rangaraju, Director, India Institute
10:10 - 10:30 am	Opening address by Dr Rajiv Kumar, Senior Fellow, Centre for Policy Research and Chancellor, Gokhale Institute of Economics and Politics
10:31 - 10:45 am	Launch of International Property Rights Index (IPRI) in India by Mr Lorenzo Montanari, Executive Director, Property Rights Alliance
10:46 - 11:40 am	<u>Rule of Law: How to create institutions that work for everyone?</u> Panelists: <ul style="list-style-type: none"> • Mr Anirudh Burman, Legal Consultant, National Institute of Public Finance and Policy • Mr Mukesh Gulati, Executive Director, Foundation for MSME Clusters • Dr Devesh Kapur, Director, CASI, U-Penn (<i>Chair</i>)
11:41 -11:50 am	Tea Break
11:51 - 12:35 pm	<u>Property Rights: For securing justice, peace and prosperity</u> Panelists: <ul style="list-style-type: none"> • Mr Barun Mitra, Director, Liberty Institute • Mr Baladevan Rangaraju, Director, India Institute (<i>Chair</i>) • Mr Prashant Narang, Advocate, iJustice, Centre for Civil Society
12:36 - 1:45 pm	<u>Intellectual Property Rights: The balancing act</u> Panelists: <ul style="list-style-type: none"> • Mr Ananth Padmanabhan, Author, <i>Intellectual property rights: Infringement and remedies</i> • Mr R Saha, Senior Advisor, Confederation of Indian Industry (CII), (<i>Chair</i>) • Dr Nirvikar Singh, Professor, University of California, Santa Cruz • Ms Prathiba Singh, Senior Advocate
1:46 pm	Vote of Thanks & Lunch

Annexure 2 - Speakers



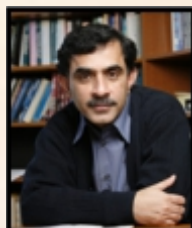
**ANIRUDH
BURMAN**

Anirudh Burman is presently a legal consultant at the National Institute of Public Finance and Policy, New Delhi. A post graduate in Law from the Harvard Law School (L.L.M), he has completed his bachelor's from NUJS, Kolkata. In the past he has worked with PRS Legislative Research, Delhi, and Amarchand Mangaldas, Mumbai. His interests pertain to issues of regulatory governance, financial regulation, public institutions, administrative law and the functioning of government agencies in India.



**MUKESH
GULATI**

Mukesh Gulati is the Executive Director of the Foundation for MSME Clusters. A post graduate in Management from the Indian Institute of Management, Lucknow and graduate in engineering from the National Institute of Technology, he has coordinated a number of projects on cluster based SME development for the United Nations Industrial Development Organisation (UNIDO). He has represented UNIDO at several international forums and conducted a range of training programmes for policy makers from more than a dozen developing countries. During his career of 24 years, he has authored several books and publications in the area of SME development.



**DEVESH
KAPUR**

Devesh Kapur is the Director of the Center for the Advanced Study of India at the University of Pennsylvania. An Associate Professor of Political Science at Penn, he holds the Madan Lal Sobti Chair for the Study of Contemporary India. His research focuses on human capital, national and international public institutions, and the ways in which local-global linkages, especially international migration and international institutions, affect political and economic change in developing countries, especially India. His book, *Diaspora, Democracy and Development: The Impact of International Migration from India on India*, published by Princeton University Press in August 2010, earned him the 2012 ENMISA (Ethnicity, Nationalism, and Migration Section of International Studies Association) Distinguished Book Award. His latest book, *Defying the Odds: The Rise of Dalit Entrepreneurs* (co-authored with D. Shyam Babu and Chandra Bhan Prasad), was published in July 2014 by Random House India. Professor Kapur was awarded the Joseph R. Levenson Teaching Prize for best junior faculty at Harvard College in 2005. He is a monthly contributor to the *Business Standard*.



**RAJIV
KUMAR**

Rajiv Kumar, senior fellow at the Centre for Policy Research, is an economist and the author of several books on Indian economy and national security. He is Chancellor of the Gokhale Institute of Economics and Politics in Pune and Founding Director of the Pahle India Foundation, a non-profit organisation that specialises in policy-oriented research and analysis. Dr Kumar presently sits on the boards of several international and national institutions, including the King Abdullah Petroleum Studies and Research Center in Riyadh, the Economic Research Institute for ASEAN and Asia in Jakarta, the State Bank of India, and the Indian Institute of Foreign Trade. In the past, he has served as Secretary General of the Federation of Indian Chambers of Commerce and Industry (FICCI), Director and Chief Executive of the Indian Council for Research on International Economic Relations (ICRIER) and Chief Economist of the Confederation of Indian Industries (CII). He has also held positions with the Asian Development Bank, the Indian Ministry of Industries, and the Ministry of Finance. He was a member of the Government of India's National Security Advisory Board between 2006 and 2008. Kumar holds a DPhil in Economics from Oxford and a PhD from Lucknow University.



**BARUN
MITRA**

Barun Mitra is a Current Affairs commentator on a range of issues from economic development to conservation of wildlife. His articles have appeared in publications across the world from The Wall Street Journal, The New York Times to The India Express, The China Daily and The Sydney Morning Herald. He regularly appears on national television and is Director at the Liberty Institute, an independent think tank dedicated to empowering the people by harnessing the power of the market. His initiative, Empowering India that seeks to make democracy meaningful by empowering citizens with information won the Manthan Award for South Asia in 2009. For the past several years, he has been involved in an initiative to use GPS technology to secure land titles for tribal and marginal farmers in Gujarat and Chhatisgarh.



**LORENZO
MONTANARI**

Lorenzo Montanari is the Executive Director of the Property Rights Alliance (PRA), an advocacy group/think tank based in Washington, DC, committed to the protection of physical, legal and intellectual property rights around the world. On the international stage, PRA works closely with Hernando de Soto, famed property rights champion and President of the Institute for Liberty and Democracy (ILD) in Lima, Peru and 81 other think tanks. At Property Rights Alliance, Montanari is in charge of publishing the **International Property Rights Index**, an international comparative study focusing on intellectual and physical property rights. Previously, he worked for a public affairs firm in Washington, DC and as a political analyst and electoral observer in Latin America. Lorenzo holds a BA in Political Science and International Relations from the University of Bologna and, a MA in Political Management from the George Washington University. He collaborates with The Daily Caller and Forbes.



**PRASHANT
NARANG**

During his law school days, Prashant founded and managed a youth group called 'Prabodh'. He conceptualized and successfully executed Third Wheel, an awareness campaign that advocated for liberalization of the Delhi auto-rickshaw sector. Before joining iJustice, an initiative of the Centre for Civil Society, he assisted in cases involving cycle rickshaw pullers. Recently he secured a judgment in favour of street vendors from the Rajasthan High Court. A 'Nani Palkhivala'-gold medalist in the LL.M. program at Jindal Global Law School, Prashant has a keen interest in regulatory frameworks. Some of his publications include — 'Regulatory barriers to litigation in India' in Asian Journal of Law and Economics, 'Time for Manushi-II' in the Student Law Journal of NLU- Delhi and 'RTE-another license raaj' in Auro Law Journal (best paper – professional category). He also contributes to well-known law blogs such as lawandotherthings.blogspot.com and mylaw.net.



**ANANTH
PADMANABHAN**

The author of the leading treatise, Intellectual Property Rights: Infringement and Remedies, Ananth Padmanabhan is currently affiliated to the Centre for Advanced Study of India, University of Pennsylvania. His general research interests are in the field of Indian constitutional law, administrative law, and intellectual property rights. A practitioner in the Madras High Court for more than five years, he has taught at different business and law schools in India. It was his teaching and writing interests that motivated him to pursue doctoral studies. Presently, he is a doctoral student at Penn Law and is also the winner of the Karin Lest Award for excellence in L.L.M program 2013, at Penn Law.



**BALADEVAN
RANGARAJU**

Baladevan Rangaraju is a social entrepreneur with extensive experience in research, advocacy, community engagement, campaigns, organisation building and education leadership. He is Founder and Director of the India Institute (www.indial.org) and, author of *The Private School Revolution in Bihar: Findings from a survey in Patna Urban* (with James Tooley and Pauline Dixon), India's first landscape study of the school market in a city. His pioneering use of GPS technology to measure private school popularity provided new information on school distribution and enrollment patterns - data that helped the state review its regulatory policies. The study won the global Templeton Freedom Award in 2012. A staunch proponent of choice and enterprise, Bala is widely quoted and has appeared in national and international media, most often commenting on education policies and social infrastructure issues. He is an articulate and passionate advocate of market-based policy solutions to education challenges: vouchers, grading institutions, competition among institutions, and performance-linked pay for teachers.



**RAGHAV
SAHA**

Raghav Saha has served the Government of India for 35 years, handling diverse responsibilities including technology evaluation and assessment, research and development, public policy matters and regulatory functions. In the last 15 years he has spearheaded the capacity building and awareness efforts about IPR in India by conducting workshops, publishing a monthly magazine, writing articles and papers, setting up operational systems at state levels, starting over 60 university IPR cells, conducting year long specialized training programmes for women scientists and helping academic institutions in designing their IPR policies. Saha developed an innovative system for protecting university inventions and other original intellectual property by ensuring the active participation of inventors and attorneys. He has represented India in discussions at WIPO and other international forums and was involved in negotiating international agreements in the context of scientific research and development. He has been a member of the standing IPR committee of the Confederation of Indian Industries for many years and was felicitated for his immense contribution to the field of IPR in the country. Saha holds a Master in Aeronautical Engineering from Cranfield University, England and a bachelor's degree in the same subject from IIT Kanpur.



**NIRVIKAR
SINGH**

Nirvikar Singh is the Professor of Economics and Co-Director of the Centre for Global, International and Regional Studies at the University of California, Santa Cruz. He has served as an advisor for several startups and knowledge services firms in Silicon Valley and in India. He was Co-founder and Director of the Santa Cruz Centre for International Economics. Singh is recipient of the University of Pennsylvania Award, "Entrepreneurship in the Indian Diaspora". His current research topics include information technology and development, federalism and political economy, and economic reform. He has authored over 100 research papers and, his book, *The Political Economy of Federalism in India*, co-authored with M. Govinda Rao, has been published by the Oxford University Press.



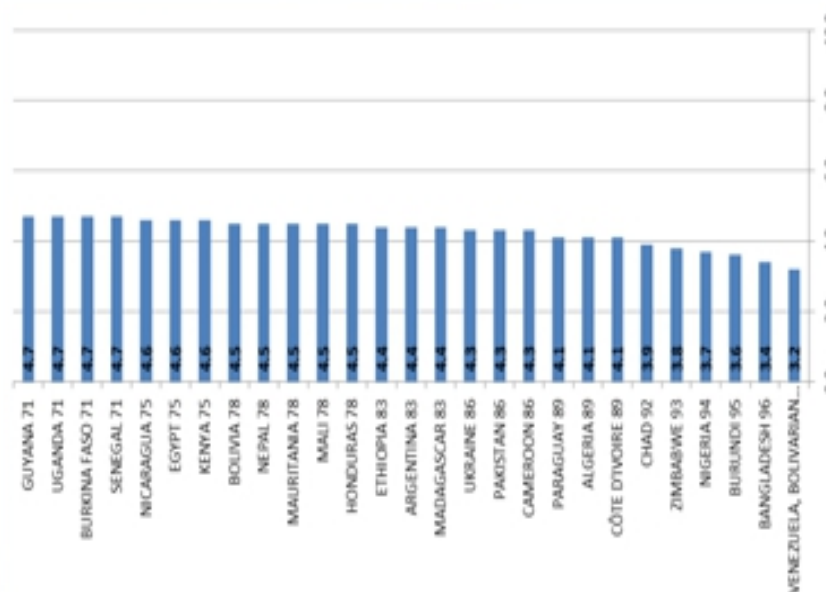
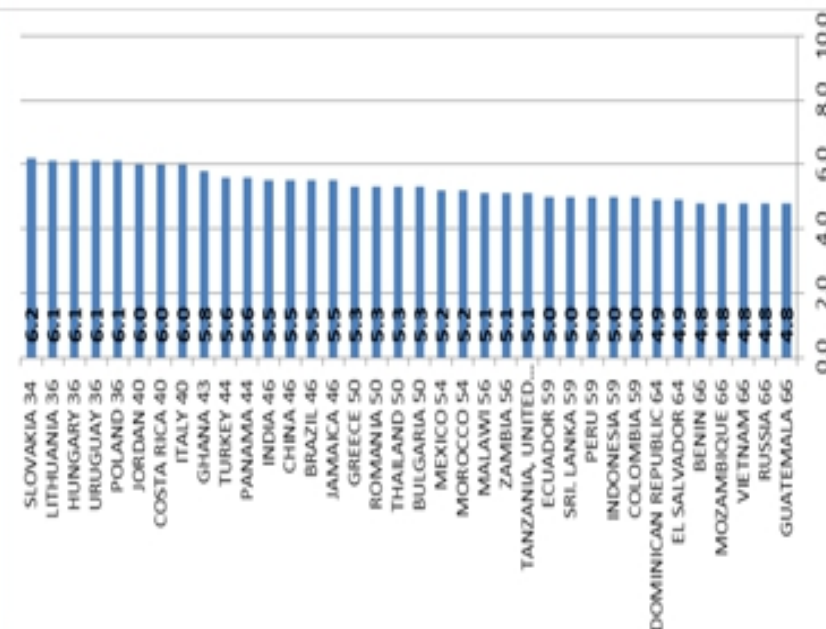
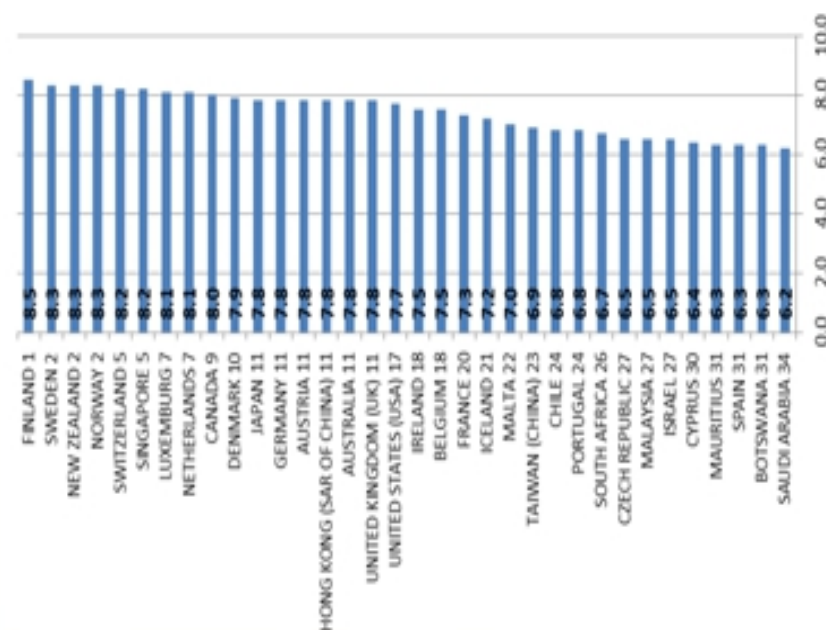
**PRATHIBA
SINGH**

Senior Advocate, Prathiba Singh is one of India's leading intellectual property (IP) litigators. She is also a member of professional bodies like INTA, APAA, IPAA, IPLPA, SCBA, DHCBA and Indian Arbitration Bar. She is presently Founder Partner, Singh & Singh, Advocates and has completed 14 years within the firm. Singh is a counsel in intellectual property cases in India and is currently handling a large volume of trade-mark prosecutions, oppositions and infringement, passing off and, unfair competition cases. She has appeared for both innovator and generic companies and has been part of landmark Indian patent decisions.

Annexure 3 - 2014 IPRI Rankings



2014 IPRI Rankings



Annexure 4 - 2014 IPRI Gender Equality Rankings

Gender Equality Ranking (GE) Ranking

Rank	Country	IPRI (GE)	GE
1	Hong Kong (Sar of China)	9.8	10
1	Mauritius	8.3	10
1	Panama	7.6	10
1	Russia	6.8	10
1	Argentina	6.4	10
1	Ukraine	6.3	10
1	Venezuela, Bolivarian Republic	5.2	10
8	Singapore	10	9
8	Uruguay	7.9	9
8	Costa Rica	7.8	9
8	Peru	6.8	9
8	Paraguay	5.9	9
13	Malaysia	8.2	8.5
14	El Salvador	6.5	8
14	Algeria	5.7	8
16	Jamaica	7	7.7
16	Thailand	6.8	7.7
16	Vietnam	6.3	7.7
16	Nepal	6	7.7
20	Indonesia	6.5	7.3
20	Guatemala	6.3	7.3
20	Nicaragua	6.1	7.3
23	S. Africa	8.1	7
23	Ecuador	6.4	7
23	Dominican Republic	6.3	7
23	Bolivia	5.9	7
23	Honduras	5.9	7
28	Senegal	6.1	6.8
28	Madagascar	5.8	6.8

Rank	Country	IPRI (GE)	GE
30	Colombia	6.3	6.7
31	Malawi	6.4	6.6
32	Brazil	6.8	6.5
33	China	6.7	6
33	India	6.7	6
33	Morocco	6.4	6
33	Zimbabwe	5	6
37	Pakistan	5.5	5.8
38	Zambia	6.2	5.7
39	Mauritania	5.6	5.4
40	Botswana	7.4	5.3
41	Sri Lanka	6	5.2
41	Ethiopia	5.4	5.2
43	Mali	5.5	5.1
43	Côte d'Ivoire	5.1	5.1
45	Bangladesh	4.4	5
46	Mozambique	5.7	4.7
47	Ghana	6.7	4.6
48	Kenya	5.5	4.5
49	Egypt	5.5	4.4
50	Tanzania, United Republic	5.9	4.2
51	Saudi Arabia	7	4
51	Jordan	6.8	4
51	Burkina Faso	5.5	4
54	Chad	4.6	3.7
55	Cameroon	5	3.5
56	Nigeria	4.4	3.3
56	Burundi	4.4	3.3
58	Benin	5.1	1.7
59	Uganda	5	1.3

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