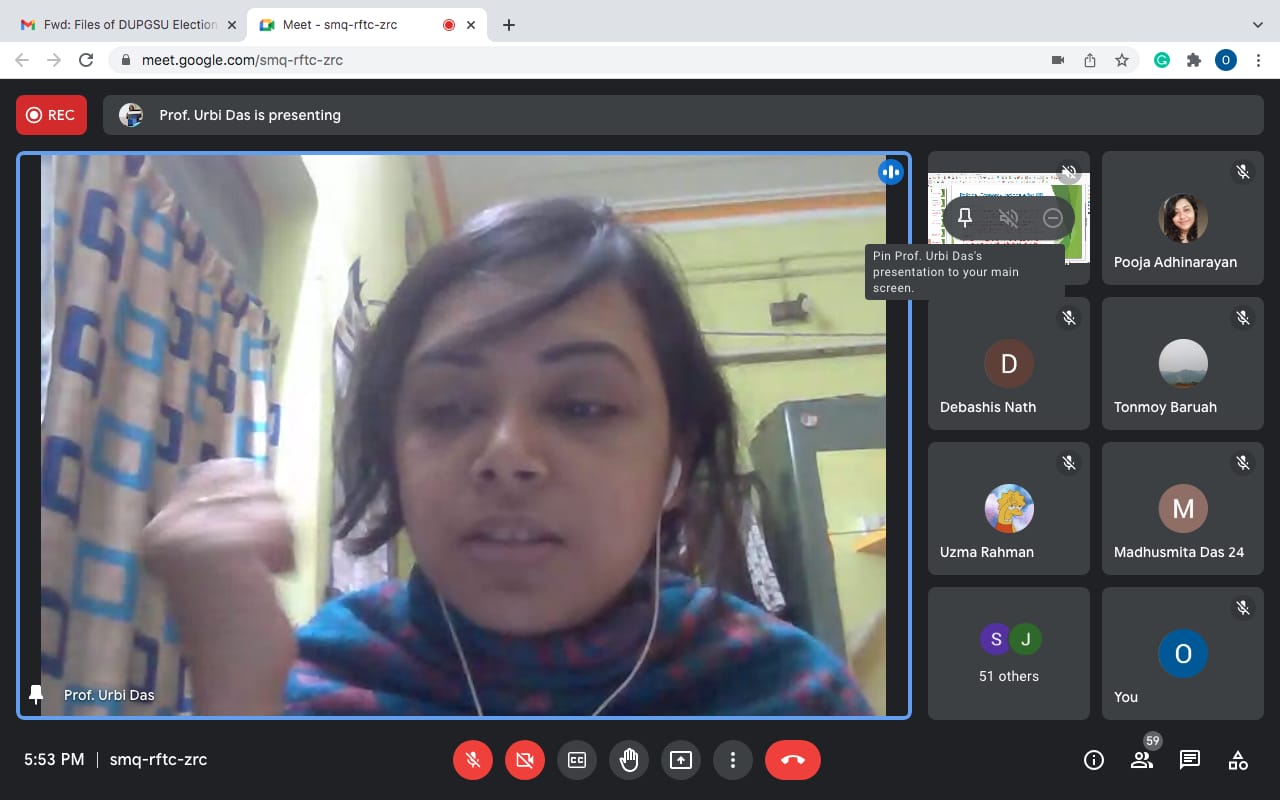
**Political Economy of Intellectual Property Rights**

Talk by- Urbi Das, Assistant Professor, Department of International Relations, Jadavpur University



We try to understand what is political economy? Political economy is the study of society using methods of political science, economics and sociology. It is an interdisciplinary field where we try to understand the interplay of both politics and economics in studying the complex relations that characterise the present century. No realm of IR can be secluded or fully compartmentalised as such. One cannot put issues and relations in watertight compartments. Trying to link this with IR because when we try to understand political economy or bilateral relations as such we try to understand it from a very complex kind of angle. For eg- if you are trying to understand US India trade relations is something which is purely talked in the branch of economics but then again as a political scientist we deal with trade relations. We are trying to study political economy by studying the complex issues using theories and methods from politics, economics and sociology.

In context with globalization, whenever we talk about globalization we focus on theinter-mingling sphere where we talk about market, politics, environment, human migration and human beings. Thus we can see that the study of political science has become so much interdisciplinary in nature that we kind of use various tools and methods to understand a particular phenomenon.Political Economy is used to explain complex phenomena that characterize the present century. Here we try to argue as proponents of political economy that economics is one of the major drivers of politics in the 21st century. Here the study involves the role of state and the non-state actors in understanding political economy. In order to link IPR, political economy and international relations we look into Lockean proviso where John Locke talked about the right to life liberty and estate, therefore by qualifying the right to property or estate intrinsic to one’s life and liberty, he actually has found the importance of political economy in his understanding. It can also be dated back to Kautilya’s theory of saam, dam dandbhedh where Kautilya talked about economic forms of concessions, and thus it was a part of a part of statecraft. Thus it can be said that study of political economy is not something new, it was there in statecraft and warfare. What has changed in the globalized neo-liberal environment of the present century is the priority that has been given to all these sectors. Now we prioritize these political economic instruments in diplomacy, we use these instruments as a forerunner in the diplomatic arrangement that is there in the bilateral relations or multilateral relations.

**Intellectual Property Rights (IPR)**

WIPO defines IPR’s as creations of the mind, such as inventions; literary and artistic works; designs; symbols, names and images used in commerce. Article 2(v iii) of the convention establishing WIPO is significant. The term was first used in print by American librarian Lysander Spooner. He argued that scientists and inventors must have permanent property rights in their ideas. Ideas need to be protected. Knowledge is treated as property since it is the product of inventor’s physical and mental exertion. IPR limits the use of knowledge by making it co-equal with other inputs in the production process. IPR is unique since it can be reused. Nowadays IPR are very much relevant. Understanding political economy and IPR we see that economics talks about the efficient use of scares resources and any good can be transferred into or can be identified as economic good. Knowledge becomes a part of your property since it is a product of the inventor’s physical and mental exhaustion. With IPR knowledge has also been made as an economic good.

**Economic rationale for IPR**

John Locke pioneered the idea of human beings having inalienable rights to life, liberty and property. Property is the extension of individual’s labour- product of toil over resources. So the Lockean proviso of self-ownership and individual liberty in engaged in Locke’s understanding of the property. So property according to Locke is the natural outcome of particular historical construct when all things were held in common. Lockean proviso can be applicable to intellectual property. Labour is the most important factor adding value to raw material which in some way is available to common. Thus the political rationale can be drawn from Lockean proviso. Locke is relevant in the discussion of IPR because he is the oldest philosopher who added a stage to the entire idea of freedom coming under the liberal school of thought. To have an understanding of the economic side, we can say that intellectual property comes under the raw material which will be used in the production process, thus we are adding the value to the resources. By appropriating ones intellectual ability under intellectual property IPR is different from other physical property. Its stock generally remains intact on successive usage. If IPR is considered as free good then producer may lose the incentive to create since the original creation is expensive and time consuming. Intellectual Property is also produced by means of resources having alternative uses and capable of satisfying human. Hence it should be considered as an economic good.

**Types of IPR**

Copyright: Copyrights are elements of artistic skills. It is a legal expression of protecting the rights of creators. Copyrights begins with the creation of product and the duration is not less than 50 years of the death of the creator. Applies to books poems, plays, music, dance and composition

Patent: Patent is an exclusive right granted to the inventor, product or process that represents new ways of doing something or provides a new technical solution to an existing problem. Protection is generally for 20 years. After expiry its made available to the public domain. There is also scope for reapplication.

Trademarks: Trademark is a distinctive mark which enables the identification of a particular good or service of one enterprise. It is a sign of uniqueness. It can be used in case of similar or competing goods. They consist a sign or a symbol or a drawing. Other trademarks like ISO, Agmark can be used to establish product quality and reliability.

Industrial Design: They suggest ornamental or aesthetic aspect of an article. It maybe a three dimensional figure, such as shape or surface or two dimensional figure like patterns, line or colour. It should be novel and non-functional, appeal to the aesthetic sense. Its protection period is generally from 5-15 years. It encourages innovation by enhancing exportability of a product. Applicable to handicrafts, consumer and leisure goods etc.

Geographical indicators: It is a sign on goods demarcating their geographical origin. It signifies certain qualities, reputation or character that are intrinsic to the place of origin. It indicates the geographical location of a product. The indicators themselves denote quality and add to their sale. For eg Assam Tea, Darjeeling Tea, Georgian wine.

**IPR Laws**

IPR laws aim to properties intellectual capability. It enhances innovation, production and sale by making it a legal embodiment. They inspire you to engage in research. So the birth of IPR law can be generally traced back to the renaissance period (Venetian Law of 1474 & The Statute of Monopolies 1623) Thus the drive of knowledge and the intellectual property can be attributed to the post-industrial society. Knowledge as equivalent to other physical property. Modern IPR regime began with Paris Convention for Protection of Industrial property in 1883 enabling individuals of a particular country to obtain IPR globally. Trade Related Aspects of IPR (TRIPs)- the contemporary regime of IPR.

**Limitations of IPR laws**

Difference of perception between developed and developing countries. They fail to justify welfare in developing countries. Appropriation of traditional knowledge of ancient societies. There are cases of bio-piracy eg: neem, turmeric, basmati rice.

**India and US relation in respect with IPR**

There is economic relation between India and US and the contemporary nature of India US relation has been influenced by the nature IPR regime. It can be said that while the bilateral relations are generally good, there are number of economic and trade issues between US and India of which IPR is significant and it has given renewed significance to the development of the economy. In India the legal mechanism of IPR dates back to the pre-independence era. However India’s accession to the TRIP’s agreement brought a number of modifications in the national laws relating to the IPR. While the economic relations between US and India has shown a positive and upward trend over the years, the US has been wary of India’s allegedly week IPR protection mechanism which according to US government hurts American industries and hampers its economic strength. There is a special 301 provision of the US trade act which identifies the offenders of US IPR. There is a priority of watch list countries and if those countries do not maintain the IPR protection rights US puts a lot on trade sanctions on those particular countries. US has classified India as a priority watch list country on the US special 301 list for failing to provide an adequate level of IPR protection. The special 301 is a measure which is taken by the US under the Trade Act 1974 to create pressure on the countries to provide IPR protection to the US companies operating in foreign lands. Since 1994 the Clinton administration designated India as a priority foreign country- a label which is reserved for the worst IPR offenders. Especially in the area of drug patenting, piracy where the IPR laws are most violated in India. However regarding the debate of global north and global south, there IPR rights especially in the rights of live saving drugs is used by USA and other powerful countries to manipulate India and other developing countries. There are examples of instruments of deprivations have changed in light of the global environment. MNC’S now have enormous power and they can arm-twist the technological capabilities and exploit knowledge of developing countries for their own benefits.

Book suggestion; David Balwin’s thesis; Daniel Bell, Coming of Post-industrial society; Thomas C. Schelling, The Strategy of Conflict.