Plectrum of Constitution: Strumming Intellectual Property in Article 14 And Article 19(1)(a)

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Abstract
The connection between fundamental rights (hereinafter FR) and intellectual property rights (hereinafter IPR) in India's knowledge economy presents significant constitutional issues. The limitations and enforcement of IPR are increasingly linked to fundamental constitutional protections, especially those included in Article 14 and Article 19(1)(a), even though it is typically thought of as a legal innovation. This article examines whether intellectual property should be reinterpreted as a constitutional right rather than a corporate monopoly. It takes equality, social justice, and free expression into account. It investigates whether uneven access to IPR, such as patents on digital information, educational materials, or life-saving medications, may be considered unfair under Article 14 through a careful comparison and analysis. Article 19(1)(a) also addresses the issue between free expression and copyright. Intellectual property (hereinafter IP) may promote innovation, but it can also keep the general public from engaging in discussions about culture and science. Notable cases like Novartis v. Union of India (hereinafter Novartis case) and Tata Press v. MTNL (hereinafter Tata case) are closely explored to show how legal notions are evolving. The research makes the case that, when viewed through the prism of transformative constitutionalism, IP should be reinterpreted to emphasize how it may promote social justice when it is in line with FR. Instead of monopolistic control, the fundamental tenets of IP systems ought to be community authorship, justice, and accessibility. According to the study, the conditional FR model for intellectual property and state actions is assessed using both innovation incentives and the larger constitutional commitment to equitable distribution. This paper presents a novel viewpoint by integrating IP into the constitutional framework. It makes the case that, to advance social justice within India's democratic system, we may and need to reconsider IP regulation and protection.

Keywords: Intellectual Property Rights, Fundamental Rights, Article 14, Article 19(1)(a), Social Justice

Introduction
A comprehensive constitutional reexamination of the concept of IPR is necessary in a time when the information economy is king. Although the right to create, own, and profit from one's own intellectual work is typically limited to the domain of statutory and commercial law, this article boldly asserts that it is a conditional fundamental right that is inherent to human dignity and creativity rather than just a privilege granted by the government. Recasting is necessary to address the increasing tension between the fundamental tenets of the Indian Constitution and the monopolistic character of IPR. In order to acknowledge the constitutional significance of IPR and ensure that their use is subject to the strict checks

and balances of other constitutional principles, especially those found in Articles 14[1] and 19(1)(a)[2], the paper makes the case that these rights should be made fundamental.

This paper will show how the existing system, which frequently sets private interest against the public benefit, is more logical and equitable when IPR is viewed as a conditional basic right. It will argue that as intellectual creation is an essential component of individual freedom and self-expression, it should be protected by the constitution, just like the rights to life and liberty. However, this right is not unqualified. The article will next examine the use of this conditional basic right in a way that complies with the equality and social justice requirements of Article 14 of the Constitution. The fundamental link between the freedom of speech and expression protected by Article 19(1)(a) and the right to intellectual output will also be examined, with the contention that the former should promote rather than impede the free exchange of ideas. Through a careful examination of seminal court rulings in Novartis v. Union of India[3] and Tata Press v. MTNL[4], this paper will demonstrate how the judiciary has already been quietly negotiating this fundamental connection. The key contention is that in order to institutionalize this reframing of IPR and guarantee that its primary goal is to promote a fair and just society where information is a shared public benefit rather than to establish corporate monopolies, a transformative constitutionalism approach is required.

A "social justice" paradigm for intellectual property is developed in this article by claiming that systemic inequities cannot be addressed by traditional economic arguments for IP. According to the declaration, governments and courts must deliberately strike a balance between creative incentives and the inclusion, empowerment, and accessibility of underrepresented groups.[5] Strong support for the idea that IPR should be interpreted as conditional fundamental rights subject to equality and expressive limitations comes from the theoretical underpinnings this study offers for analyzing IPR as both a private right and a public responsibility.

The Nexus

IPR should be reclassified as FR based on a well-established constitutional framework that acknowledges everyone's right to reach their full potential. Despite the fact that the Indian Constitution makes no explicit reference of a "right to intellectual property," its tenets offer a strong foundation for its recognition. Article 19(1)(g)[6] gives the freedom to engage in any trade, business, or profession a legal basis, but its actual constitutional origins are located elsewhere. The right to intellectual creation is more than simply a financial one; it is a manifestation of one's ideas, a continuation of one's character, and the result of one's own work. According to the Supreme Court's expansive interpretation of Article 21[7], which encompasses the right to live with dignity, it might be considered an essential component of the right to life and personal liberty. Someone loses a piece of their identity and dignity when they aren't given the opportunity to benefit from their intellectual efforts.

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[1] *Constitution of India*, art 14
[2] *Constitution of India*, art 19(1)(a)
[3] *Novartis AG v Union of India* (2013) 6 SCC 1 (SC)
[4] *Tata Press Ltd v MTNL* (1995) 5 SCC 139 (SC)
[5] Lateef Mtima, "IP Social Justice Theory: Access, Inclusion, and Empowerment" *Gonzaga Law Review* 403–30.
[6] *Constitution of India*, art 19(1)(g)
[7] *Constitution of India*, art 21

The freedom of speech and expression is strongly related to the right to intellectual creation, as stated in Article 19(1)(a). The copyright of a book, for instance, safeguards the author's speech. To refuse this protection would be to diminish the value of the act of innovation and expression itself. Even when a work becomes public information after it is published, acknowledging the creator's right in the Constitution is crucial to promoting the production of new works of this kind. IPRs, as opposed to unfettered rights, are argued to be fundamental rights that fulfill a constitutional function of protecting and fostering the growth of knowledge, creativity, and innovation, all of which are necessary for a thriving, democratic society. Consequently, the state's job is to safeguard and enable a constitutional right in addition to enforcing a statutory one.

This argument challenges the conventional wisdom that recognizes IPR as a completely distinct legal notion from FR. It contends that the importance of IPR under the constitution stems from both its economic role and its intimate relationship to human dignity and creativity. This analysis reorients the legal discourse toward constitutional principles and away from economic policy by recognizing IPR as FR. It states that an author's IPR may be contested as having been violated if the state does not provide sufficient protection. Additionally, because it needs to be implemented in conjunction with other FRs, this approach offers a strong constitutional foundation for IPR regulation, guaranteeing that its goals stay aligned with the more general constitutional social justice ideal.

This work places intellectual property law firmly within the burgeoning concepts of social justice and constitutional expansion by arguing that IP must evolve to reflect shifting social conditions and technological advancements rather than remaining stagnant. 50% It illustrates how judges and scholars are increasingly applying access, justice, and fairness as deeply rooted normative standards in IP adjudication. This strengthens the notion that constitutional frameworks for equality and free speech must not only recognize intellectual property but also alter it in line with core constitutional values.[8]

The Equality Aspect

Despite being categorized as a basic right, intellectual property rights are not absolute. All of its objectives and activities must be dependent upon and in accordance with Article 14 of the Constitution, which mandates equality. This is the central idea of the "conditional FR model" that this paper proposes. The modern understanding of the principle of equality before the law and equal protection under the law in Article 14 includes making sure that governmental acts do not result in arbitrary or unreasonable consequences. When the state uses its intellectual property rights laws to award an exclusive monopoly, it creates the prospect of inequality, which must be supported by constitutional considerations.

Think about life-saving medication patents. A pharmaceutical company's patent ownership right in this instance is a fundamental right to the results of its innovative endeavors rather than only a legal entitlement. However, because the right to health is an essential aspect of the right to life protected by Article 21, this basic right must be enjoyed without infringing on the rights of others. When a drug's patent forbids the poor from utilizing it, they forfeit their right to life, and an arbitrary use of the IPR violates Article 14. This is an internal check inside the basic rights framework, not just a straightforward balancing act.

This viewpoint is unique because it argues that it is both a constitutional and a policy failing for the state to be unable to control IPR in order to prevent severe inequality. Enacting IPR as a conditional FR gives

[8] Lateef (n 5)

us a strong legal weapon against patents that restrict the selling of necessities. By reorienting the focus from policy discussions to constitutional demands, this reframing offers arguments in the public interest greater substance. Thus, any IPR regulation or its implementation that imposes an unreasonable obstacle on FR in order to get necessities like medication or education is an illogical limitation and, as such, is in violation of Article 14. This strategy changes the social justice objective of the intellectual property system from a passive consideration to an active constitutional obligation.

Zemer challenges the idea that intellectual property can be readily constitutionalized by warning that making it a fundamental right might distort substantive policy and favor special interests. She claims that the "constitutional fallacy" is the confusion between legal recognition and normative sanctification. The caution in this paper's methodology is heightened by this critical point of view: IPR must remain rigorously regulated by equality analysis in order to gain constitutional support and uphold social justice goals.[9]

The Expression Aspect

Article 19(1)(a) guarantees freedom of speech and expression, which is strongly related to intellectual property rights, especially copyright. Any kind of creation, whether it be a work of literature, art, or science, is an act of expression. Consequently, it is possible to contend that the right to copyright protection for such speech is a basic right in and of itself. But here's where the conditionality of the privilege comes into play. While copyright grants exclusive ownership of one's creative work, which is a core constitutional value, it must not impede the free flow of ideas, even while the right to express oneself by one's work is a FR. For there to be a lively public debate, the exercise of copyright must be balanced with the public's basic freedom to access and utilize information.

Since it might be used to suppress scholarly inquiry, parody, or criticism, the fundamental right of a copyright holder to regulate their speech cannot be unconditional. For example, even while a copyright protects the creator's basic right, it may infringe on students' fundamental right to information and academic involvement. A disagreement between a basic right and a legislative right is less complex and subtle than this. The state is constitutionally required to make sure that the basic right to copyright is used in a way that advances rather than impedes the more general objective of free expression, since the state is tasked with protecting both rights.

Because it rejects the straightforward "balancing test" and instead adopts a paradigm where the public interest is integrally related to the goal of the basic right to intellectual property rights, this argument is new. Copyright limitations are said to contravene Article 19(1)(a) of the Constitution if they unfairly prevent the public from accessing information, particularly for non-commercial or transformative reasons. It promotes a more rigorous application of fair use and fair dealing principles as constitutional requirements rather than as exceptions to statute rules in order to guarantee that the public interest is served by the basic right to copyright. A strong legal foundation for opposing unduly restrictive copyright laws and advocating for an intellectual property system that encourages rather than impedes free expression is provided by this viewpoint.

Cohen Sasson demonstrates how some limitations benefit democratic and expressive goals by challenging myths that portray IP rights as unqualified development. In order to support the argument that IP claims must be limited, the article examines situations in which unrestricted IPR may stifle criticism, parody, or

[9] L Zemer, "The Constitutional Fallacy of Intellectual Property" Berkeley Technology Law Journal 35(2) 2020 https://www.jstor.org/stable/27121755 accessed 25 September 2025.

reasonable commentary. His position aligns with the premise of this study, which holds that IPR under Article 19(1)(a) must be subservient to the free exchange of ideas rather than absolute.[10]

The Judicial Stance

Although the Indian judiciary has not officially acknowledged IPR as a fundamental right, it has tacitly acknowledged its constitutional relevance and, more significantly, its conditional character. A close examination of seminal decisions such as the Novartis case and Tata case indicates that court doctrine is already shifting in the direction of the conditional fundamental rights paradigm discussed in this essay. The Supreme Court's willingness to examine IPR claims from the perspectives of constitutional principles and public benefit is demonstrated by these instances, which set the stage for a radical reconsideration.

The Supreme Court affirmed Novartis' decision to reject a patent for a modified cancer medication, citing Section 3(d) of the Patents Act of 1970[11]. A definite indicator of the public interest was the Court's ruling, which put an end to "evergreening" and guaranteed the continued affordability of a life-saving medication. Although a legislative statute served as the basis for the decision, its fundamental ideas are solidly rooted in constitutional law. The Court acknowledged tacitly that the exercise of the patent right cannot violate a significant section of the population's right to health and life, whether such right is considered a statutory or basic right. The Court is trying to make sure that the conditional basic right to intellectual property is implemented in a way that conforms with the equality and social justice criteria of Article 14 of the Constitution, according to one interpretation of the ruling. When intellectual property rights conflict with other, more urgent basic rights, this precedent limits the fundamental right to intellectual property rights.

IPR is even closer to being constitutionalized in the Tata case. In this case, the Supreme Court ruled that commercial speech is protected by Article 19(1)(a) as a form of expression. The public utility MTNL's copyright action was dismissed by the court, and Tata Press was permitted to print its commercial directory. The basic right to free expression was unquestionably given precedence above all other types of IPR, in this case, copyright over a directory, making this verdict groundbreaking. The Court's logic suggests that even in cases where the material is commercial in nature, the state cannot monopolize the free flow of information by using a statutory right like copyright.

This analysis stands out because it views these decisions as subtly endorsing the conditional fundamental rights paradigm for intellectual property rights. It makes the point that the Novartis case embodies the Article 14 responsibility on intellectual property rights by putting public health first, while the Tata Press judgment shows the Article 19(1)(a) commitment by protecting commercial expression. These considerations extend beyond legislative interpretation; the judiciary is dedicated to making sure that intellectual property rights, irrespective of their legal categorization, support the larger constitutional objectives of an equitable and democratic society. These are the first steps toward IPR's complete constitutional inclusion.

Way Forward

The strongest foundation for a comprehensive constitutional rethinking of intellectual property is provided by the interpretative theory of transformative constitutionalism. According to transformative

[10] O Cohen Sasson, "Against Progress: Intellectual Property and Fundamental Rights" (2022) https://repository.law.miami.edu/cgi/viewcontent.cgi?article=2293&context=fac_article Univeristy of Miami School of Law Institutional Repository accessed 25 September 2025.

[11] *Patents Act 1970,* s 3(d)

constitutionalism, a society plagued by systemic and historical injustices may be transformed by using the Constitution as a dynamic tool rather than a static legal text. It demands that we consider all laws and rights from the perspective of this revolutionary objective. We might reconsider the role that IPRs play in attaining social, economic, and political justice by applying this philosophy to IPRs and moving beyond the conventional legal and economic explanations.

For a comprehensive constitutional reconsideration of intellectual property, the interpretative theory of transformative constitutionalism provides the ideal foundation. A society plagued by systemic and historical inequalities may be transformed, according to transformative constitutionalism, by using the Constitution as a dynamic tool rather than a static legal text. It demands that we see all laws and rights through the lens of this revolutionary objective. Applying this theory to intellectual property would allow us to reconsider the role that IPR plays in attaining social, economic, and political justice, moving beyond the conventional legal and economic explanations.

It is a powerful argument because it transforms the nebulous concept of "social justice" into a precise, legally obligatory need within the confines of intellectual property law. The argument is unique because it asserts that, in terms of constitutionalizing intellectual property rights, putting the Constitution's transformational goal into practice is equally as crucial as striking a balance between rights. This rephrasing of the debate can help us get closer to an IPR regime that is not just an instrument for economic growth but also a force for social justice. This would also provide the state with a constitutional basis to step in, for example, by requiring licensing when IPR holders abuse their basic rights to the harm of public health and welfare.

Conclusion

As a legislative innovation, the conventional legal framework of intellectual property far outstrips the constitutional demands of a knowledge-based society. The study's audacious and original argument is that the right to intellectual property must be rethought as a conditional basic right that is deeply ingrained in the principles of social fairness, human dignity, and self-expression as guaranteed by the Constitution. This reinterpretation is an important legal development as well as an academic undertaking, serving to guarantee that the instruments of innovation serve the public interest rather than corporate monopolies.

We have demonstrated that a more rational and cohesive framework for the governance of IPR is provided by its constitutionalization. We acknowledge the importance of IPR and place it under the stringent constitutional protections afforded by Articles 14 and 19(1)(a) by recognizing it as a fundamental right. The case studies of Novartis and Tata Press serve as judicial road signs along this path, showing how the Supreme Court has already been navigating this challenging constitutional terrain by prioritizing free speech and public benefit over unfettered intellectual property rights claims.

Intellectual property is integrated into the fundamental foundation of transformative constitutionalism, which is the research's ultimate innovation and contribution. We are compelled by this method to consider IPR as a dynamic tool that must actively advance the constitutional goal of social justice rather than as a static legal category. It makes the case for a paradigm change in which the preservation of intellectual property serves as a tool to achieve a larger constitutional goal, such as the sharing of information fairly, the development of a thriving public sphere, and the establishment of a society that is genuinely just and equal.