

Preface

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We all share the desire to live healthy and meaningful lives, in communities that keep us safe, provide us and our children with educational and employment opportunities and leave us the freedom to choose our own paths. Economist Amartya Sen challenged societies to pursue these ends – referred to as human development – rather than only narrower objectives like increasing gross domestic product. That is, we should measure individual endeavour and national wealth in terms of how well each of us can live rich rewarding lives, not just how much financial output we produce per capita. Moreover, we should organize our social institutions to help us in this broader effort.

This book brings a human development perspective to the complex institutions, laws and practices referred to collectively as intellectual property, or ‘IP’. What is the role of IP in human development? The answers to be found in the following chapters provide a fresh look at IP and how it affects the ability of people in developing countries to benefit from advances in medicine, agriculture, education, the arts and cultural traditions. The authors go further by looking at how trends and future changes in IP laws might impact people in developing countries, for better or worse.

Innovation has played a central role in human development through history, leading to advances in culture, knowledge, agriculture, health and technology, but also to imbalances in access to and control over these fruits of creativity. The roots of IP may be found in ancient practices for controlling access to innovation, such as guild secrecy and the use of trade names. Intellectual property laws in the modern sense first emerged 500 years ago and have expanded to become a principal force channelling and shaping innovation and commerce around the world. Yet the extensive research, debate, reform and training about IP in recent years show no signs of leading to a global consensus on the impact of current IP systems on human welfare, much less how potential reforms would help, or hurt, larger society.

The increasing social importance of IP is easily gauged by the rising intensity of arguments for stronger or weaker rights. Many of these arguments are laid out among the diverse views summarized in the chapters. For example, some stakeholders argue that patents on AIDS medicines are too strong to permit fair access to existing drugs, while others counter that weaker patents are destroying the incentive to discover new drugs. Some groups argue that copyright law blocks public access to educational and artistic works and hampers collaboration. Others point out that weak copyright protection undercuts the creative work of artists and authors. There is debate over where IP rights support – or thwart – traditional practices. Ultimately, there is no simple answer except the need to strike a productive balance between the many interests involved – a balance that serves the public interest in human development.

Several years ago, in writing *Driving Innovation*, I realized that IP, often viewed as a tool of human capital, can be seen instead as an instrument by which innovators express individual and collective choices regarding their creations. In this light, IP can contribute not just to

economic development, but also to the development of freedom – of personal choice, individual responsibility and free expression. IP can be a tool for human development.

Of course ‘development’ has different meanings in different countries, and the dynamics differ among the sectors considered here (medicine, agriculture, education, cultural heritage, contemporary arts and communication technology). In each sector, different predictions about the future of IP have been made. The future scenario planning exercises explored in this book are a fascinating tool for guiding action away from destructive paths towards balanced outcomes.

This book began with the effort by Public Interest Intellectual Property Advisors (PIIPA) to find practical ways for IP to help serve the public interest in developing countries. Since 2002, PIIPA has assembled teams of experienced IP practitioners and made matches with developing country clients seeking help in accessing technology via licensing, protecting their cultural expressions, preventing expropriation of traditional knowledge and in reforming national IP legislation to meet international requirements and local needs.

In 2007, the Ford Foundation commissioned PIIPA to assemble an expert team, drawn from PIIPA and partner institutions, to survey the literature on IP trends and future scenarios and how different outcomes might impact neglected groups. An aim of the Ford initiative was to contribute to the development of more balanced IP regimes which highlight the importance of the public interest, strengthen the public domain, respect the right to development and support the voices of frequently neglected stakeholders. With continued support from Ford until mid-2010, the research team compiled a unique body of literature on issues, trends and future scenarios relating to IP and human development. That shared resource was invaluable to the authors of these individual chapters, and the resulting bibliography will facilitate further research. The research team, under Tzen Wong's direction, expanded and revised the initial study to address further dimensions of IP and human development, and this book is the result of that effort. The contributing authors span the globe and include a diverse group of legal practitioners, professors and development activists. They bring a breadth of perspective and experience with the practical implications of IP policy debates. The editors worked deftly with the authors to weave the various chapters and perspectives into a comprehensive work that addresses the crucial questions of how IP impacts human welfare and how changes in IP laws, and new approaches, might make it easier or harder for disadvantaged individuals and communities to improve their lives. These questions, and the answers that follow, should be of great interest to policymakers and activists, businesses and consumers, researchers and students, artists and engineers, IP professionals and lay people alike. On behalf of PIIPA and the many volunteers who contributed to the completion of this work, we welcome your interest and participation in promoting the goals of human development.