



## Awareness regarding intellectual property rights a survey amongst the P.G. and Ph.D. students of Babasaheb Bhimrao Ambedkar University, Lucknow

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### Abstract

The term intellectual property has been used for almost one hundred and fifty years to refer to general area of law that encompasses copyright, patent, designs, and trademarks, as well as a host of related rights. Intellectual property law aims at safeguarding creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions. Those rights do not apply to the physical object in which the creation may be embodied but instead to the intellectual creation as such. Intellectual property protection has long been an area of interest for researchers, students, policy makers and practitioners. In the present time Intellectual property rights have become common subject in all the disciplines of study. It is important not only for the lawyers, judges, law students but also engineers, scientists, artists, technicians, farmers, and as well as researchers also.

Intellectual property is regarded as a symbol of national wealth that can boost the development of the economy of the country. High production of intellectual property materials protected by intellectual property law will act as stimulants to the development of the economy of the country. However, the success of the intellectual property system of a country depends very much on the public's level of awareness. To find out the awareness of students about the concept of IPR Law and to suggest possible ways to avoid it, a descriptive study was conducted. The objectives of the study were to examine the level of researcher's knowledge about concept of IPR, laws protecting IPR, knowledge about specific IPRs, and effect of IPR Laws and to suggest possible ways to prevent unauthorized use of IPRs. Study was delimited to the research students of P.G. and PhD in BBAU University. A sample of 60 students was selected through random sampling technique, 60 questionnaires was used to collect the data. Data were analyzed through descriptive statistics. On the basis of findings it was concluded that they were not properly informed or taught about the concept of IPR Laws during their study and it had implications on the quality of research. The final section discusses conclusions as well as recommendations on appropriate measures taken in order to cultivate intellectual property awareness among the students and researchers.

**Keywords:** intellectual property law, intellectual property rights education, awareness, copy right, patent, trade marks

### Introduction

Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions <sup>[1]</sup>. Intellectual property law creates property rights in a wide and diverse range of things from novels, computer programmes, paintings, films, television broadcasts, and performances, through to dress designs, pharmaceuticals, genetically modified animals and plants <sup>[2]</sup>. Intellectual property protects applications of ideas and information that are of commercial value <sup>[3]</sup>. Intellectual

Property Law regulates the creation, use, and exploitation of mental or creative labour <sup>[4]</sup>.

In the present time Intellectual property rights have become common subject in all the disciplines of study. It is most important not only for the lawyers, judges, law students but also engineers, scientists, artists, technicians, farmers, and as well as researchers also. At the International level, WIPO, a specialized Agency of the United Nation play a significant role in promoting the teaching of IP laws in universities. In 1981, the International Bureau of WIPO initiated the establishment of a non-governmental organization called ATRIP (International Association for the Advancement of Teaching and Research in Intellectual Property) <sup>[5]</sup>. Further it established the WIPO World Wide academy (WWA) <sup>[6]</sup>, in order to serving as an educational institution for teaching, training and research in IP.

<sup>1</sup>[http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo\\_pub\\_450.pdf](http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf)

<sup>2</sup> Id at 1.

<sup>3</sup> W. Cornish & D. Llewelyn, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights*, Sweet and Maxwell, London, 2007 at 6.

<sup>4</sup> According to Art. 2, para.7, WIPO Convention (1967) "Intellectual property includes the rights relating to –literary, artistic and scientific works.

<sup>5</sup> Raghunath Marshalkar and Shahid Alikhan, *Intellectual Property and Competitive Strategies in the 21<sup>st</sup> Century*.

<sup>6</sup> [www.wipo.int/academy/en/index.html](http://www.wipo.int/academy/en/index.html)

For the purpose of IP awareness it provides professional training, policy training, as well as distance learning education among others. In developing country like India under the Ministry of Electronics & Information Technology Deity-IPR Cell is making considerable efforts to improve the infrastructure and the vision of it is to creating awareness, facilitating support, promoting IPR in the field of ICTE and technologies <sup>[7]</sup>. May 2016 marked a new era in the history of IPR policy and regulation in India. The Union Cabinet on May-12- 2016 approved the much anticipated "National Intellectual Property Rights (IPR) Policy" to lay the future roadmap for intellectual property in India.

The question arise that why we need to protect and promote the IPR , the reason behind this firstly the progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture. Second, the legal protection of new creations encourages the commitment of additional resources for further innovation. Third, the promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life. An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social and cultural well-being. The intellectual property system helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish, for the benefit of all.

### History of intellectual property right in India

George Alfred Depenning is supposed to have made the first application for a patent in India in the year 1856. On February 28, 1856, the Government of India promulgated legislation to grant what was then termed as "exclusive privileges for the encouragement of inventions of new manufactures" i.e. the Patents Act. Copyright law entered India in 1847 through an enactment during the East India Company's regime. In 1914, the then Indian legislature enacted a new Copyright Act which merely extended most portions of the United Kingdom Copyright Act of 1911 to India. It did, however, make a few minor modifications. The 1914 Act was continued with minor adaptations and modifications till the 1957 Act was brought into force on 24th January, 1958.

The first legislation in India relating to patents was the Act VI of 1856. The Act was subsequently repealed by Act IX of 1857 since it had been enacted without the approval of the sovereign. The Act of 1859 provided protection for invention only and not for designs whereas United Kingdom had been protecting designs from 1842 onwards. To remove this lacuna, the 'Patterns and Designs Protection Act' (Act XIII) was passed in 1872. This Act amended the 1859 Act to include any new and original pattern or design or the application of such pattern to any substance or article of manufacture within the meaning of 'new manufacture'. The Act XV of 1859 was further amended in 1883 by XVI of 1883. In 1911, the Indian Patents and Designs Act, 1911, (Act II of 1911) was brought in replacing all the previous legislations on patents and designs. After Independence, it was felt that the Indian Patents & Designs Act, 1911 was not fulfilling its objective. In 1957, the Government of India appointed Justice N. Rajagopala

Ayyangar Committee In 1967, an amended bill was introduced which was referred to a Joint Parliamentary Committee and on the final recommendation of the Committee, the Patents Act, 1970 was passed.

Prior to 1940 there was no official trademark Law in India. Numerous problems arose on infringement, law of passing off etc. and these were solved by application of section 54 of the Specific Relief Act, 1877 and the registration was obviously adjudicated by obtaining a declaration as to the ownership of a trademark under Indian Registration Act 1908. To overcome the aforesaid difficulties the Indian Trademarks Act was passed in 1940. The replacement to this act was the Trademark and Merchandise Act, 1958. This Act was to provide for registration and better protection of Trademarks and for prevention of the use of fraudulent marks on merchandise. This Law also enables the registration of trademarks so that the proprietor of the trademark gets legal right to the exclusive use of the trademark. The objective of this act was easy registration and better protection of trademarks and to prevent fraud. The repeal of the Trademarks and Merchandise Act gave rise to the Trademark Act 1999 this was done by the Government of India so that the Indian Trademark Law is in compliance with the TRIPS obligation on the recommendation of the World Trade Organization. The object of the 1999 Act is to confer the protection to the user of the trademark on his goods and prescribe conditions on acquisition, and legal remedies for enforcement of trademark rights.

### Law relating to ip in India

- The Rules and Laws governing Intellectual Property Rights in India are as follows:
- The Copyright Act, 1957, The Copyright Rules, 1958
- The Patents Act, 1970 The Patents Rules, 2003, The Intellectual Property Appellate Board (Patents Procedure) Rules, 2010 and The Patents (Appeals and Applications to the Intellectual Property Appellate Board) Rules, 2011
- The Trade Marks Act, 1999, The Trade Marks Rules, 2002, The Trade Marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003 and The Intellectual Property Appellate Board (Procedure) Rules, 2003
- The Geographical Indications of Goods (Registration and Protection) Act, 1999 and
- The Geographical Indications of Goods (Registration and Protection) Rules, 2002
- The Designs Act, 2000 and The Designs Rules, 2001
- The Semiconductors Integrated Circuits Layout-Design Act, 2000 and The
- Semiconductors Integrated Circuits Layout-Design Rules, 2001
- The Protection of Plant varieties and Farmers' Rights Act, 2001 and The Protection of Plant varieties and Farmers Rights' Rules, 2003
- The Biological Diversity Act, 2002 and The Biological Diversity Rules, 2004
- Intellectual Property Rights (Imported Goods) Rules, 2007

### Types of Intellectual Property Rights

Broadly the IPRs are divided into two categories: industrial and non-industrial property.

Industrial Property includes patent, trademarks, Geographical indications, Design, plant variety etc.

<sup>7</sup> [http:// meaty.gov.in/content/deity-ipr-cell](http://meaty.gov.in/content/deity-ipr-cell)

Non industrial property includes copyright.

A Patent aims to protect inventions in the field of industry (the term “industry” is taken in its etymological sense and covers, in particular, agriculture), subject to the criteria of novelty and inventive step. The right to protection conferred is generally 20 years from the date of filing of the application for protection. Designs protects creations of an aesthetic nature in which the aesthetic aspect is arbitrary, i.e. not dictated by the possible function of the object for which protection is sought. Protection for Plant Variety Rights covers the creation of new plants, and its term of protection is also variable, often of 20 or 25 years, and the term may also vary depending on the botanical species involved [8].

A trademark is a word, phrase, symbol, or design that distinguishes the source of products (trademarks) or services (service marks) of one business from its competitors [9]. Trademarks relate to any mark, name, or logo under which trade is conducted for any product or service and by which the manufacturer or the service provider is identified. Trademarks can be bought, sold, and licensed [10].

Copyright relates to expression of ideas in material form and includes literary, musical, dramatic, artistic, cinematography work, sound recording, and computer programme.

**Objectives of the study**

The purpose of this study is

- To explore the level of awareness regarding IPR.
- To examine the behavioral pattern regarding IPR awareness.
- To examine the perception of IPR in their research and curriculum.
- To examine the institutional pattern of IPR knowledge.
- To examine the ethical and academic and non-academic use of IPR.

**Methodology**

The present study being an empirical (non-doctrinal) research and is to be carried out in a very limited time with an intention to collect most authentic data. Conducting empirical research in the area of law is of recent origin. For the Awareness regarding Intellectual Property Rights- “A Survey amongst the P.G. And Ph.D. Students of Babasaheb Bhimrao Ambedkar University, Lucknow”, the data was collected through the surveys based on questionnaire. For this purpose, questionnaire was adopted to take the response of the respondents. Well-designed Questionnaire was filled-up by personal visits to the respondents during January-February 2017. Data analysis done by using excel. The core objective of this survey is to investigate about the level of IPR awareness among the post graduate and Ph.D. students.

The response given by the respondents has been analyzed and produced in a structured format in the form of questionnaire for easy and logical understanding. An analysis of every question has been made along with the question. Finally, in the end, conclusion has been drawn. Suggestions have also been made.

**Universe**

The present survey is conducted in Babasaheb Bhimrao Ambedkar University, Lucknow because this is the one of the premier central university in the country, accredited “A” Grade by NAAC in 2015.

**Sample size**

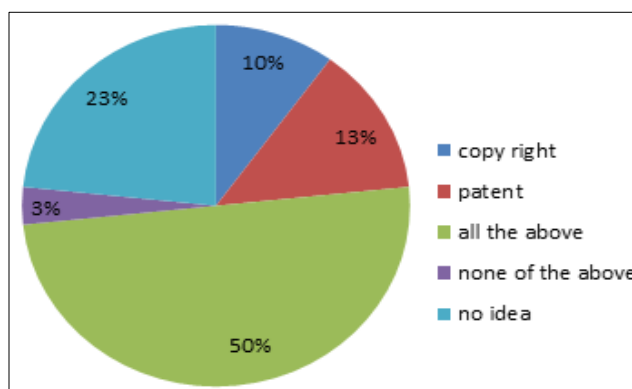
The Gautam Buddha Central library in BBAU Campus was selected for this research. Since this study aims at examining the level of awareness regarding IPRs so only postgraduate students and researchers are selected randomly for response.

**Limitation of research**

The limitations of the research are as follows:

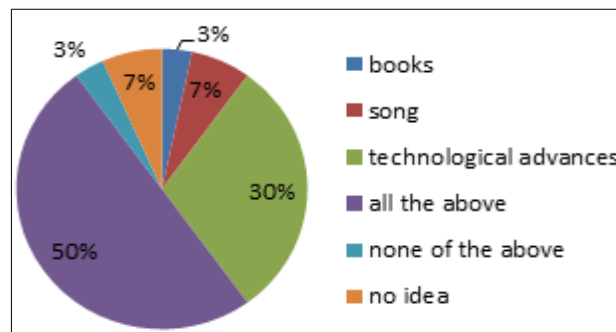
1. The number of respondents for research is 60.
2. The research has been completed in a limited time.

**Data analysis and interpretation**



**Fig 1:** Awareness on Intellectual property rights on the base of kinds

The above figure shows that 50% research scholars are aware about copyright and patent while 23% of research scholars are having no idea about intellectual property right.



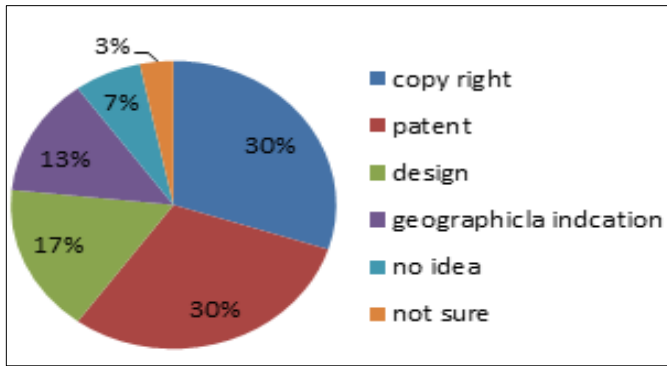
**Fig 2:** Awareness regarding Patent

Fig 2 The above figure shows that 50% research scholars are unaware about patent while 30% of research scholars are aware about technological advances comes under the patent.

<sup>8</sup> Available on <http://www.msc-ip.com/property.htm> last visited 17/04/2017.

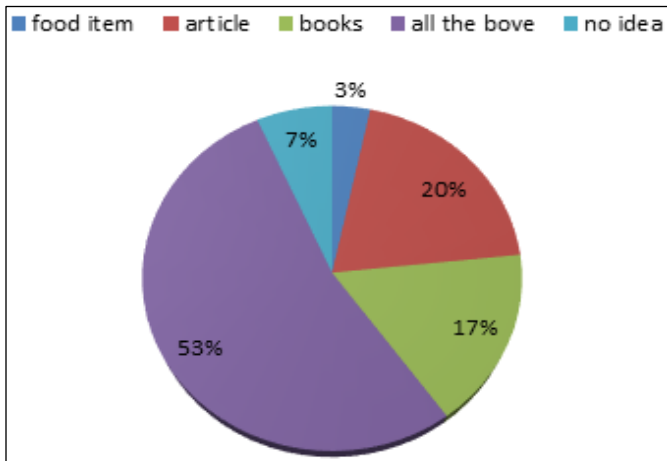
<sup>9</sup> Available on <https://www.upcounsel.com/intellectual-property-protection#sthash.TRoYLZPy.dpuf> last visited 17/04/2017

<sup>10</sup> Chandra Nath Saha and Sanjib Bhattach, “ Intellectual property rights: An overview and implications in pharmaceutical industry” *J Adv Pharm Technol Res.* 2011 Apr-Jun; 2(2): 88–93.



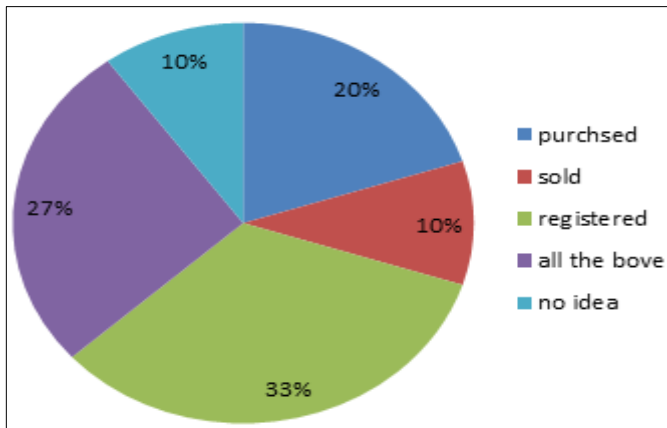
**Fig 3:** Awareness regarding the protection of BBAU logo

Fig 3 The above figure shows that 30% of research scholars says that logo of BBAU is protect under copyright, 30% says under patent ,16% says under design ,14% says under geographical indication, 6% have no idea and 4% are not sure. These shows that the respondents are under the ambiguity.



**Fig 4:** Awareness on copy right

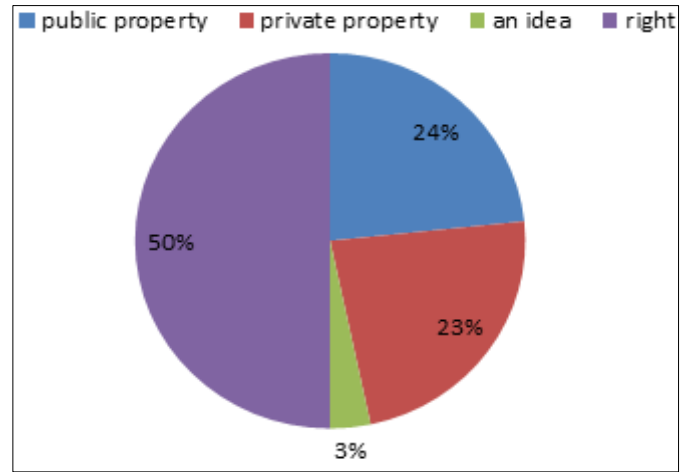
Fig 4 The above figure shows 53% respondents are says that copy right is used for food item, articles and books while 7% respondents having no idea about it.



**Fig 5:** Awaerness on the base of use

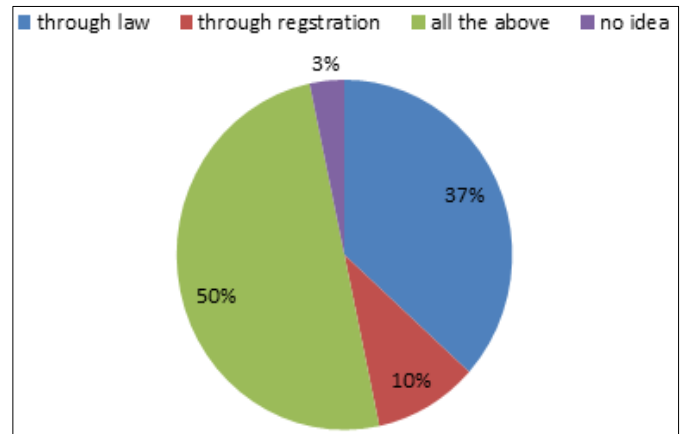
Fig 5 The above figure shows 33% respondents says that intellectual property right can be registered, 20% says is to be purchased, 10% says it can be sold and 27% says it may be

purchased ,sold and registered while 10% respondents have no idea.



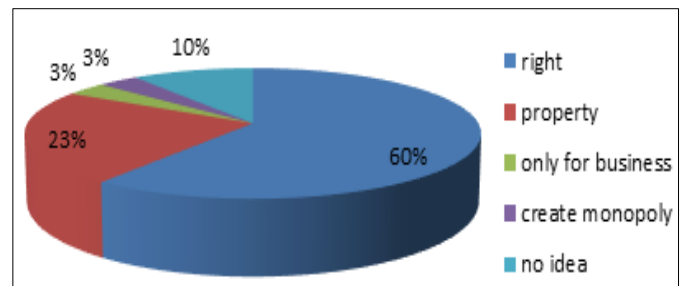
**Fig 6:** Awareness on nature of intellectual property right

Fig 6 The above figure shows 50% respondents says the nature of intellectual property right as it is a right while 23% says it is public and private property and 3% said it is an idea.



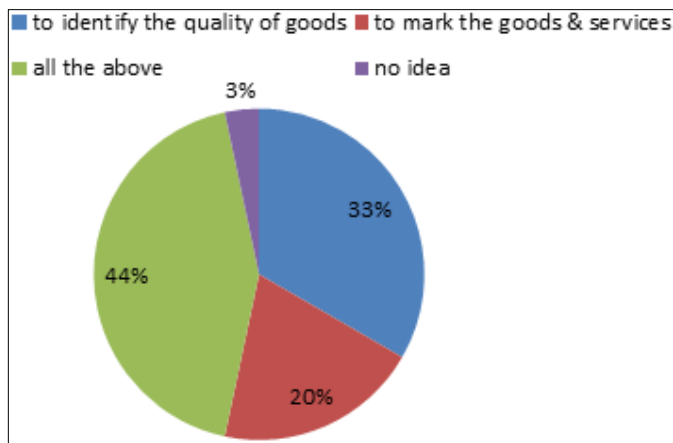
**Fig 7:** Awareness on the protection of intellectual property right

Fig 7 The above figure shows that 50% respondents aware about the protection of intellectual property rights through law and registration.



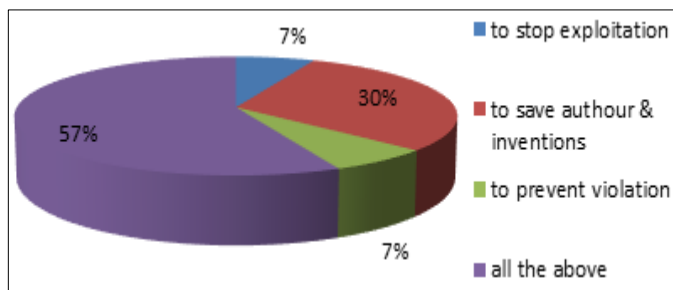
**Fig 8:** Awareness about the description of intellectual property right

Fig. 8 The above figure shows that 60% says intellectual property rights as a right while 23% says it is property and 3% says it is only for business and creates monopoly and10% unaware about it.



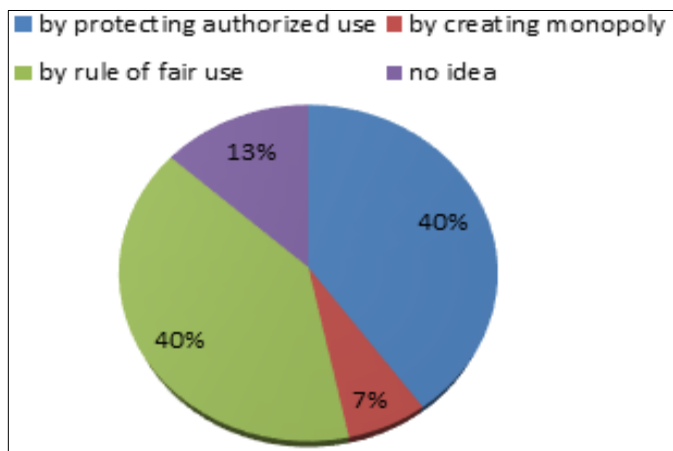
**Fig 9:** Awareness regarding the importance of Trade marks

Fig 9 The above figure shows that 43% respondents are aware about the important of Trade mark while 3% are unaware about it.



**Fig 10:** Awareness regarding the protection of intellectual property right

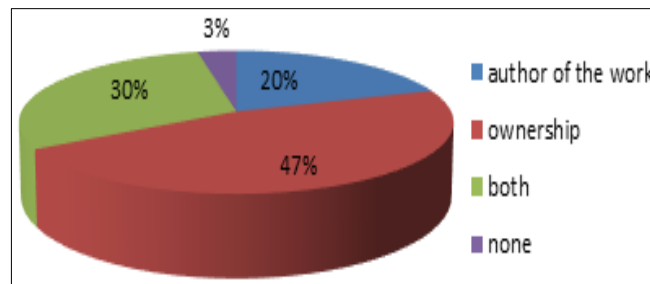
Fig 10 The above figure shows that 57% respondents are aware about need to protect the intellectual property rights.



**Fig 11:** Awareness about the contribution of IPR in research and innovation

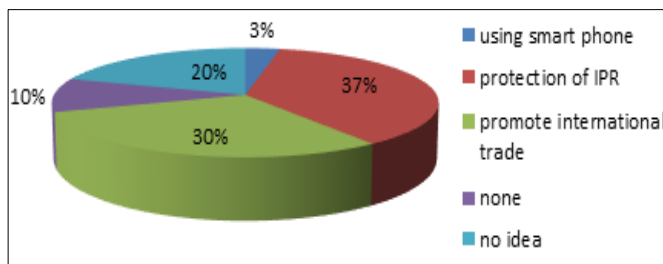
Fig 11 The above figure shows that 40% respondents are aware about the contribution of intellectual property right in research and innovation by protecting authorized use and 40% are aware

about rule of fair use while 7% says it contribute by creating monopoly while 13% respondents are unaware about it.



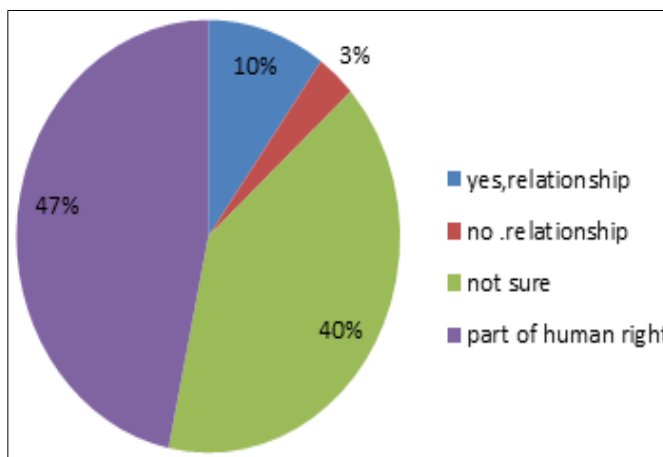
**Fig 12:** Awareness about the issue related to Intellectual property right

Fig 12: The above figure shows that 47% are of the view that ownership is the issue related to intellectual property right while 30% are of the view that both author of the work and ownership is the main issue while 20% says that IPR is related to only the authorship of the work.



**Fig 13:** Awareness regarding Creative India; Innovative India

Fig 13 The above figure shows that 37% respondent aware about the creative India and innovative India while 30% says it promotes international trade and 10% respondent are unaware about it while 20% have no idea.



**Fig 14:** Awareness regarding the link between Human right and IPR

Fig 14 The above figure shows that 47% respondent aware that intellectual property rights are the part of human right while 40% respondents are unaware about it.

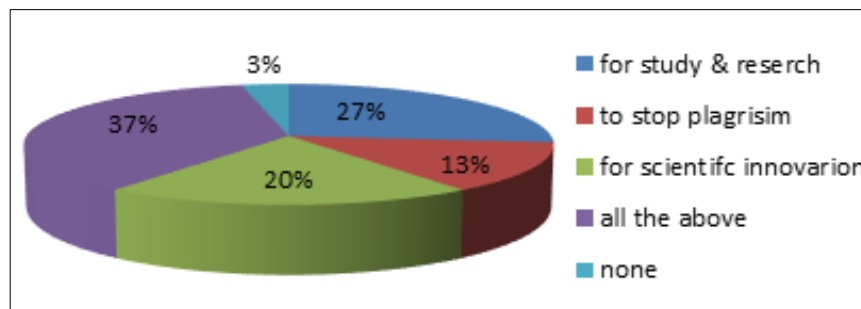


Fig 15: Awareness about the use of IPR in the higher education

Fig 15 The above figure show that 27% respondents are aware about the use of intellectual property right in the higher education for the study and research while 13% says that is necessary to stop plagrisim and 20% respondents says that is can be use for scientific innovation.

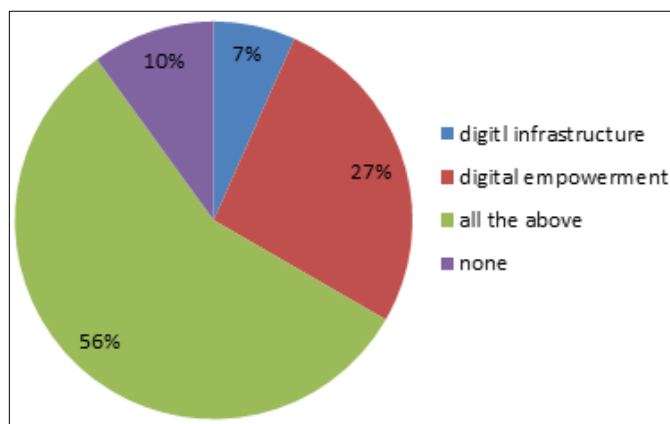


Fig 16: Awareness regarding Digital India

Fig 16 The above figure shows that 27% respondent aware about digital India as the digital empowerment of citizens while 7% only aware as digital infrastructure.

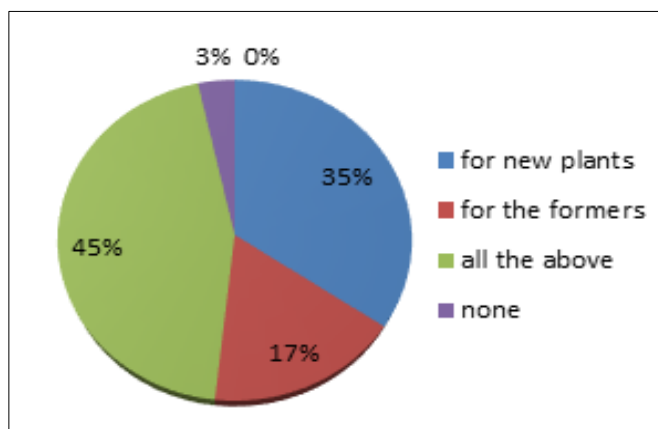


Fig 17: Awareness regarding the protection of plant varieties

Fig 17 The above figure shows that 45% respondents aware about the protection of plant varieties while 3% have no idea.

**Discussion**

The above data on awareness of IPR among P.G. and Ph.d students of BBAU shows that the students and scholars in the university have some idea on IPR. While they are aware about

use of Copyright and to some extent use of Patent but they have misconception about other IPR like Trademark, Design etc. The respondents are not aware about the contents of IPR, nature of IPR while half of the respondents are aware about the legal protection. Regarding the protection their view is that it is necessary to stop exploitation. The respondents are aware about the contribution of IPR in research and innovation. Most of the respondent aware about the unauthorized and unfair use of IPR. Regarding use of IPR in higher education the data indicates respondents are not fully aware about the use. The finding of this survey reveals that “respondents’ need some detailed explanations about Intellectual Property Rights and its use and importance. The level of awareness shows their lack of information regarding intellectual property rights. The respondents are not aware about the protective laws relating to IPRs. They are less informed about the use of IPR in their study and research.

**Conclusion and Recommendations**

This research work was undertaken to study the level of awareness regarding intellectual property rights among research scholars and P.G. students of Babasaheb Bhimrao Ambedkar University, Lucknow. The finding of this study reveals that maximum number of respondent are not aware of intellectual property rights. Although, some of them were only heard about intellectual property rights. It was also observed that the researcher have a very little knowledge about fair use of copyrighted material and use of patent in their research. On the basis of the above study following suggestions can be proposed:

- a) Intellectual property rights education must be promoted among all the institutions of higher learning.
- b) University and institutions should organize seminar/workshop/conference on intellectual property right for the P.G. and Ph.D. students.
- c) There must be a compulsory paper of Intellectual Property Rights in the Ph.D. programme.
- d) The P.G. and Ph.D. students may be provided practical knowledge about plagiarism and fair use of copyrighted material.
- e) A comprehensive Course curriculum may be included in research course work comprising of Trademark, Design, Patent and copyright knowledge.
- f) Students may be provided a manual having information about the consequences of violation IPR Law.

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