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The Patent Rights of Pharmaceutical Products and Death: Between Economic Balance and Human Rights

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Abstract

This study further highlights the relevancy between patent rights and human rights. The impact of the availability and accessibility of essential medicines necessary for Public Health is significant. This study primarily aims to analyse and examine the relationship of patent rights on medicines and pharmaceutical products with human rights and to criticise and evaluate whether the Indonesian government has a policy configuration in the field of essential drugs and the pharmaceutical industry following the principles that support human rights. This research employed qualitative and normative-juridical methods supported by conceptual, statutory, and legal political approaches. Using the theories of legal objectives, utility, and justice, this research focuses on understanding economic law and human rights. Through in-depth analysis, this study highlights how the patent system for drugs and pharmaceutical products encourages innovation and faces criticism due to limited access for economically vulnerable groups. Hence, the right to health is hampered while the state is responsible for universal access to affordable health care. The findings of the study indicate that the Patent Rights on drugs and pharmaceutical products are exclusive rights that intersect with human rights in the drug patent system. Several parameters can be used to examine the relationship between human rights and intellectual property. It is necessary to reform the drug patent system to protect the balance and human rights. The findings contribute to a complex understanding of the relevance of patents to human rights while providing a basis for inclusive and sustainable policy development in the global health domain.

INTRODUCTION

The human intellect is deeply intertwined with the intervention of God Almighty and the progress of civilisation. Reason and intellect collaborate to address human needs, evolving alongside the challenges of their time. The products of this reasoning are known as intellectual works, which in turn give rise to the concept of property and rights—what we commonly refer to as intellectual property rights (Gorda et al., 2022). At its core, every invention or creation aims to enhance the function of something or to simplify and solve problems. Such creations come with the responsibility of being shared with others or made public. In this context, patents, especially those concerning medicines and pharmaceutical products, serve as protections for these valuable inventions.

The concept of intellectual property rights in civil law pertains to intangible, non-movable objects, as classified under Article 503 of the Civil Code. In this context, objects are defined as any goods and rights that can be controlled as property. The goods mentioned in Article 499 of the Civil Code include both material and immaterial objects (Ekayani et al., 2016). As intangible property, intellectual property is broadly divided into two main categories: copyright and industrial property rights. Among industrial intellectual property rights are patent rights, which protect technological inventions. These rights allow individuals to benefit from various creative works and inventions, including research outcomes such as essential medicines or other pharmaceutical products developed through technology.

Access to pharmaceutical products, particularly medicines, is often prohibitively expensive in developing countries. In addition, state-owned health services struggle to obtain the best available treatment. The COVID-19 pandemic has underscored the need for an Intellectual Property Rights system that not only protects cutting-edge inventions in certain technologies but also ensures their fair utilisation, such as the COVID-19 drug and Vaccine Invention Patent technology. This means that the state must be present in every condition for the sake of the continuity and interests of the community, not only during a pandemic (Margono, 2022).

At the international level, a primary concern of governments and non-governmental organisations, (NGOs) lies in the accessibility of Public Health. Lisa argues that there is a significant impact due to drug patents in the international trade silo, which causes the inability to access pharmaceutical products and medicines. Hence, the difference between developed or high-income countries and low-income countries is noticeable (Forman & MacNaughton, 2016)

The pharmaceutical industry, both academically and industrially, is developing rapidly. Humans need essential medicines for medical activities. However, not all people in general can access essential high-tech drugs. This difficulty requires the government to be responsible for public health supplies' availability, equity, and affordability. The present study focuses on medicines or pharmaceutical products discovered based on industrial research. Health research and propaganda development are increasingly massive in terms of all their objectives. Therefore, technological progress is coherent with technological progress, and the victims are humans. Patents grant exclusive rights to the inventor to enforce them. Manufacturers of modern medicines, such as Novartis and Roche, mostly come from wealthy countries.

Meanwhile, most patients come from poverty-stricken countries in Asia, Latin America, and Africa. With all its restrictions, the complex patent system is an injustice to impoverished countries. Patients in such countries are burdened to pay for patented drugs that they often cannot afford (Khachigian, 2020). The capacity to access productive economic resources depends on market economy policies, and the people tend to be the victims. This is where the problem lies: how does the State guarantee human rights in access to personal needs from intellectual property, specifically patents on medicines and essential pharmaceutical products? Yuan X Li argues in his writing that the ability to access a patent can be overcome by licensing. However, licensing must also involve the state taking legislative steps to prevent abuse of exclusive rights (Yuan & Li, 2022). It can be understood that even though the license is private, where there is a distribution of rights and obligations between the patent owner and/or patent holder and the user or implementer of the patent, the contents of the license must receive legitimacy from the government, and they must be regulated in relation to the use of patents for essential medicines and pharmaceutical products.

The human rights concept (henceforth referred to as human rights) was first established and developed along with the development of human civilisation. How is access to essential pharmaceutical products and drug patents included in the human rights discourse at the conceptual and implementation levels? The reasons at national and international levels to fight for human rights are attractive because of the right to life and social and political rights. For instance, how does the state guarantee people's right to live and get the best medicines and pharmaceutical products? In a study by NI Ketut, it is not that simple to test that intellectual property is a human right because the criteria are not met. On the other hand, a camp claims that intellectual property is a human right, as contended by pharmaceutical manufacturers (Ketut & Dharmawan, 2014).

Recognising that basic human rights are absolute and inherent, it is essential for the state to provide protection, including safeguarding intellectual property rights. The Constitution of the Republic of Indonesia, in Article 28 C paragraph (1), guarantees citizens the right to develop themselves and fulfill their basic needs, including benefitting from science and technology that enhance the quality of life. A higher quality of life, in turn, contributes to greater human welfare. This brings to the forefront important issues concerning the fulfilment of basic rights, including the right to health and equitable access to it.

Taufik Simatupang gave an argument for the formulation of the constitution, arguing that intellectual property rights are also part of human rights. His study indicates that a state of law must provide space to respect and protect human rights. Protection of human rights includes providing a sense of security for intellectual property rights because intellectual property is a meta-theory of human rights, and human rights are a meta-theory of a state of law (Simatupang, 2021).

The concept that Intellectual Property is in line with Human Rights has long been developed. Starting with the recognition of personal rights, as reflected in the theory of natural law by Thomas Aquinas. He stated that natural law is part of the nature of life and that humans play a role as rational beings (Aulia, Nugraha, & Parlindungan, 2023). Through reason, humans think and create, create, and discover something new for the needs of their civilisation. Indonesian national law makes the study of human rights an important focus. Proven by the birth of Law Number 39 of 1999 concerning Human Rights (HAM Law). The background of the Human Rights Law is based on a sense of moral and legal responsibility to uphold and implement the Universal Declaration of Human Rights (UDHR). Satjipto Rahardjo, quoting from Anisa Justisia, stated that legal protection is protecting human rights (HAM). Protection is given to enjoy all rights granted by law through the state. No one should be harmed because the law guarantees it (Justisia Tirtakoesoem & Muhammad Rusli Arafat, 2020).

The rights in question include the right to economically and morally benefit from human intellectual creativity. The objects regulated are works arising from human intellectual abilities. Thus, there is a monopoly criticism of intellectual property rights. Meanwhile, from the perspective of human rights or political rights, Article 27 of the UDHR means that there is a right to freely participate and enjoy scientific progress and enjoy its benefits at the same time, including the right to protect moral and material interests resulting from the work that has been produced by its creator or inventor.

Legal protection provides comfort and stability in enjoying rights. In line with this, the law must be adaptive, flexible, and able to predict and anticipate matters that require protection. For instance, the right to enjoy patent medicines is essential for human health. Stakeholders still need to understand that patent holders are obligated and aware to register their rights and implement their patents alone or with a license. This is because patents inherently contain exclusive rights. Not only in other countries, Indonesia has also experienced increased healthcare costs and pharmaceutical costs for drugs still within the period of patent right protection. Therefore, a pharmacoeconomic evaluation still considers the benefits and results against the costs incurred in the industry. Some of the considerations are political pressure and regulatory pressure (Short, 2021).

Sudirman's research asserts that the government should focus on developing technology in its own country and enforcing existing patent laws. It should also create and implement special supporting regulations when necessary. This provides certainty and comfort for inventors in innovating (Lu Sudirman & Hari Sutra Disemadi, 2021). In other words, Indonesia needs to support research in the development of pharmaceuticals and essential medicines, which are needed nationally, and even implement the patents themselves.

Patent law in Indonesia regulates the rights and obligations of patent holders, implicating that they have the exclusive right to exercise their patents and that other parties are prohibited from using their patents without their consent. The relationship between the patent owner and the patent utiliser eventually gave birth to the concept, indicating that patents on pharmaceutical products and essential medicines are part of human rights. The problems between patent law and human rights reflect the tension in the complexity of the right to health. On the one hand, patents provide protection for innovation and exclusive rights for rights holders to obtain economic incentives, especially for developing drugs and pharmaceutical products that save human lives. However, the monopoly on drug price affordability provides limited access, especially for developing countries. This issue highlights the need to balance protecting intellectual property rights and ensuring fair and affordable access to medicines and pharmaceutical products essential for humanity. Countries' experiences in surmounting the COVID-19 pandemic give clear evidence that there is a gap in access to health services among countries. For this reason, this research will look at the relationship between patent rights as intellectual property rights and human rights in the context of justice and benefit, as well as analyse how the combination of economic policy, pharmaceutical regulations and global diplomacy efforts can achieve a fair balance between all parties.

METHOD

This study employed normative juridical legal research methods with a prescriptive purpose supported by conceptual, statutory, and legal political approaches (Al-Fatih, 2023). Natural law theory, justice theory, and incentive theory were used to explain the course of this research. Legal materials consist of primary, secondary, and tertiary legal materials that are reviewed through inventorying, systematising, interpreting, and evaluating stages (Bahder Johan Nasution, 2008). Non-legal materials were also utilised to make it easier to connect the variables studied.

RESULTS AND DISCUSSION

The Inherent Relationship between Patent Rights and Human Rights

Intellectual property rights have an extensive scope, ranging from copyright, trademark rights, patent rights, trade secret rights, industrial design rights, and plant variety rights to integrated circuit layout design rights, all of which originate from private legal rights. Patent rights are very dynamic in the intellectual property industry. Patent rights are granted by the state to inventors for their findings in the field of technology, and they are given protection within a certain period. This right is exclusive and can be utilised economically through legal actions determined by law.

Intellectual property rights emerged from the Western world and were developed in Rome. The Roman legal system provided space for the development of the idea of intellectual property rights., Then, a philosopher, John Locke, rationalised the idea. In the Roman Empire, the Codex Justinianus greatly influenced European law, which initiated the development of intellectual property. Intellectual property rights (now Intellectual Property) are part of human rights. As a result of the Industrial Revolution and political revolution, the issue of intellectual property developed in line with the development of the concept of human rights, starting from patents, copyrights and other rights that are growing today (Triyanta, 2002)

Entering the 21st century, the legal system is growing, and the global tendency to utilise technology is powerful, dramatically affecting the development of technology and innovation. In these two cases, patent rights become a tool for industry. The tool is used and utilised in such a way as to fulfil human needs and desires. Here, the law has a role in regulating traffic and the use and utilisation of its rights. This view can be explained from several relevant theories: incentive, interest, and utility. These theories are closely related to the theory of legal objectives. Legal scholars often juxtapose legal objectives closely associated with justice, certainty and usefulness. Therefore, legal products formed by lawbearers must fulfil these three elements (Pratiwi et al., 2022). The answer to the following question can only be assessed by testing legal products with theories: are patents on pharmaceutical products and essential medicines related to human rights?

When discussing intellectual property rights, there is a sense of freedom of thought and idea generation that symbolises the power of intellect. There is an innate

drive to develop ideas, whether through instinct or industry, and this drive embodies a fundamental freedom. This freedom arises from choices and will, making it a basic right. For an inventor, the freedom to think, to innovate using scientific knowledge, and to express opinions on their scientific development are all crucial. This freedom is not only enshrined in the Constitution of the Republic of Indonesia but is reinforced by Law Number 30 of 1999 concerning Human Rights.

Article 19 of the UDHR emphasises the critical importance of the right to freedom of opinion and expression, allowing individuals to seek, receive and impart information through any media, regardless of territorial boundaries". The importance of freedom of speech in maintaining the continuity of human rights is clear (Kusuma et al., 2023). The importance of freedom of speech in maintaining the continuity of human rights is evident (Kusuma et al., 2023). The concept of rights can be considered from several aspects, namely original, derivative, political, private, and constitutional rights, which, if reduced, will result in a decrease in the degree of human power.

The results of the invention give birth to a patent that gives rise to rights provided by the law and the state. However, the beneficial invention gives mankind the right to enjoy it legally. The state is responsible for providing welfare and health care for its citizens, as aligned with the citizens' right to health enshrined in the health law in Indonesia and Article 25 of the UDHR, which guarantees the health of every person.

The implications of globally developing intellectual property make it an obligation for countries to ratify and harmonise regulations on Intellectual Property in their respective countries. It is a logical consequence of Indonesia's membership in TRIPs. The WTO and TRIPs Agreement are the forerunners of the development of the world's intellectual property field. Indonesia has ratified the WTO and TRIPS Agreement based on Law Number 7 of 1994. This harmonisation aims to protect international trade, including pharmaceutical products and medicines. Thus, drugs produced by the pharmaceutical industry have become the object of global trade. This protection includes intellectual property rights. In Indonesia, for medicinal and food products, apart from being regulated by TRIPS provisions, there is also institutional jurisdiction that regulates their use by consumers. According to Hari Sutra, a comprehensive combination is needed for communal interests, namely halal certification, to adapt legal regulations to market demand (Hari Sutra Disemadi et al., 2024). Even though medicines and pharmaceutical products are objects of international trade, national regulations must limit them using the principles of benefit and civilised justice. This is where business ethics need to be enforced.

Intellectual property rights claimed as part of the second generation of human rights are closely related to economic, social and cultural rights that refer to the International Convention on Economic, Social and Cultural Rights (ICESCR), then strengthened in the Vienna Convention (the World Human Rights Conference). This

is where the claim of intellectual property as human rights began to improve. The UDHR Article 27.2 of the UDHR and ICESCR. 4 do not explicitly mention intellectual property rights, but Article 27.2 of the UDHR 1948 means that the moral and material interests derived from a scientific, literary, or artistic work of every person are protected by law and the state. This is the embryo of the recognition that intellectual property rights are legitimised as human rights, especially copyrights. Patent rights may also be part of human rights because the concept of copyrights puts forward intellectual property rights in general. The UDHR also accommodates the concept of property rights. According to the idea of property rights in private law, everything that can be owned can be given the right. Intellectual property rights (IPRs) are property rights over intangible movable objects that have the same ownership power as other property rights. Article 17.2 UDHR 1948 highlights, "No one shall be arbitrarily deprived of his property". Thus, the UDHR certainly regulates property that can be owned privately or collectively. This clause also allows other IPR scopes to strengthen themselves as human rights. In addition to the UDHR, ICESCR Article 15.1 (c) stipulates that states must provide support and facilitation in any form related to the dissemination of science and technology that is the result of intellectual property, including patents.

The basic concept of human rights does not quickly favour private rights. Furthermore, the subject of intellectual property rights itself is the owner of the right and/or the right holder. Moreover, they must exercise and protect their rights. It is closely related to access, especially access to essential pharmaceutical products and medicines. Therefore, the theory of utility can be a measuring tool in examining IPRs in the context of human rights.

As regulated in Article 3 paragraph (1) in conjunction with Article 2 letter a of the Patent Law, to be able to protect a patent for a drug or pharmaceutical product, the inventor is required to register his invention with the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights of the Republic of Indonesia. The patent document explains in detail the invention claimed to be protected. The patent document includes claims of novelty of the invention, in this case, patents for drugs and pharmaceuticals. The protection is limited to a period of between 10 and 20 years. During the protection period, the monopoly rights are vested in the inventor or license holder.

It means that publicity is essential to utilise the findings. The utilisation of patent results aligns with Jeremy Bentahm's view of usefulness. The benefits are arranged in such a way as to maximise justice and gain happiness in the rule of law. According to this view, the happier the people are, the more justice is possible to appear (Sri Wahyuni, 2012). The legal benefits can be felt simultaneously with the intellectual benefits in the form of pharmaceutical products and essential medicines protected by Patents. Cowart, in his research, argued that there is no industry that is more dependent

on patents than the pharmaceutical industry. With a patent, manufacturers can sell products within a certain period of time to cover their research development costs (Cowart et al., 2023). This is realistic because in incentive theory, as an intellectual property right, inventors are given the right to enjoy the results of their invention as much as possible, so this is where the ethical battle lies: saving human lives or maximising profits.

Essential Medicines and Pharmaceutical Products Patented in The Industry and The Country's Role

Medicines and pharmaceutical supplies are part of human needs. Therefore, it is important to understand the classification of drugs and pharmaceutical supplies. Indonesia has regulations on Health, namely Law Number 36 of 2009. The law regulates the classification of drugs and pharmaceutical needs from the process of improving human health. Drugs are classified into generic drugs and patent drugs. Generic drugs are medications whose patent protection has expired, thereby entering the public domain and allowing them to be marketed and distributed without requiring a license.

In Contrast, patented drugs are marketed by companies that have exclusive rights for a patent protection period of 20 years. Drugs and/or pharmaceutical products have a high market price when they are still under patent protection. This is because the patent holder has exclusive rights. So, they have the right to grant licenses to other parties or prohibit the use of the patent without permission. However, there are exceptions regulated by the State for certain interests. (Atmaja et al., 2021).

Nabila has compiled a study involving the observation of private pharmacies in Yogyakarta, revealing that many residents do not understand how generic drugs, branded drugs, and patented drugs are differentiated due to a lack of explanation and information from the health service (Rissa & Puspita, 2023). Access to essential medicines is a complex issue not only in Indonesia but also in several other countries. Research indicates that, even in the absence of the COVID-19 pandemic, Nigeria faces significant challenges in its drug distribution chain. These difficulties have been exacerbated by the pandemic. Nigeria also created a large-scale and sustainable drug manufacturing policy (Awucha et al., 2020).

Experience in the United States, patent holders do not always have the exclusive right to prohibit the Federal government from using technology from protected patents. Instead, the Federal Government can use the patent in exchange for royalties. This is referred to as the logic of sovereign immunity. (Kapczynski, 2021).

Patent protection is a global issue that has received significant attention at the national level. All policies regarding patents are inseparable from the WTO and Trips agreements. Therefore, all products produced and with patent rights intersect with the rules in international trade as a trade industry. The presence of The Basic Paten

Number 13 of 2016 (UU Paten) provides an opportunity for the independence of national inventions and technology, as emphasised in Article 20 of the Patent Law, implying that patent holders both from within the country and abroad who have applied for and have received patent protection (granted) from Indonesia are obliged to make products or processes in Indonesia.

The provisions in the article have sparked controversy, highlighting the need for clearer regulations regarding the initiation of patent implementation, the specific types of patents that must be implemented, the guidelines for postponement, the application time limit, and the duration of patent protection. Additionally, there should be provisions to address situations where a postponement request is denied by the Minister and considerations for imposing administrative sanctions on patent holders who fail to implement their patents (Ali Masnun dan Dina Roszana, 2019). Ensuring access to life-saving treatments and avoiding unnecessary deaths due to the high cost of medicines is paramount. Patent holders are granted protection under national and international law as a priority right to execute their (joint) invention or authorise others to do so (Luluk Indarinul Mufidah & Mukhamat Saini, 2023).

Article 20 of the Patent Law has been the subject of intense debate, with many practitioners arguing that it should be removed or that it poses significant challenges for implementation. While the article's focus on technology transfer is beneficial if all implementing instruments are in place, the situation became more complex with the enactment of the Omnibus Law. Article 20 was superseded by Article 110 of the Job Creation Law Number 6 of 2023 (UU CK), reigniting controversy. Some see this new provision as creating a monopoly for the pharmaceutical industry in Indonesia, potentially leading to long-lasting consequences.

Patent protection includes simple patents. On the other hand, patents are granted to inventions with novelty value and inventive steps that can be applied in the industrial world, which represents the speciality of patents. Works and products in the form of inventions must be applicable in the industrial world. Medicines, vaccines, and pharmaceutical products are among the inventions that can be applied in the industry. The product can be granted a patent because it meets the parameters of an invention containing novelty and inventive steps. Like the condition of the pandemic and its example, the COVID-19 vaccine is excellent in all aspects of research oriented towards industrial and non-industrial research. Unfortunately, international trade welcomes various arguments and makes the COVID-19 vaccine part of the industry. Although several countries have been ignoring trips, Ericko, in his research, states that the creator countries (inventors) share their knowledge for many countries to start producing their vaccines, especially countries with low income (Calvin Giovanni et al., 2022)

A new discussion arises regarding the resistance between private and public rights, which should take precedence. In this case, the position of human rights counts

for a lot. The right to life and the right to health are human rights. In this context, John Locke's views come to the fore. Two Treaties on Civil Government is a book by John Locke that states that he believes humans are in a state of freedom or existing nature before the existence of the country. Humans have natural rights, are entitled to the protection of the state, and have the right to bypass the state forcibly (utami et al., 2022). In an emergency or epidemic disease situation, the government should be able to ignore international pressure if the invention emphasises the state's responsibility to its citizens for the safety of its citizens in situations where pharmaceutical products and medicines become basic needs.

Medicines and pharmaceutical products are a comprehensive range of health services. The recognition of health as one of the human rights legitimises that this right must be protected by the state, law, and government, as well as every person, for the sake of honour and the protection of dignity (Ardinata, 2020). Health policy in the context of rescue, prevention, and healing must be the priority (Levy Rohmatilahi et al., 2021).

Countries must follow global regulations on intellectual property despite international pressure. WHO, in its Essential Medicines Action Program document, stipulates that each country needs to limit the application of exclusive rights in each regulation in their respective countries, especially in determining compulsory licensing and parallel imports.

Within Trips, there are rules related to several patent-related flexibility models that can be used in medicine: parallel importation, compulsory licensing and government implementation of patents. A license is an agreement between a licensor and a licensee, both of whom enter into a contract relating to the production, development, manufacture, marketing, and other benefits of goods or services for an intellectual work (Suryahartati & Windarto, 2021). By licensing, which requires registration, the government has an essential role in regulating the licensing of pharmaceutical products and medicines.

The Policy Configuration of the Drugs and Pharmaceutical Products Industry in Indonesia

The government's policy is highly dependent on the evolution of global regulations. Numerous studies have explored the relevance of government involvement in patent implementation. Patent protection, which grants exclusive rights, must strike a balance between patent holders and the broader public to ensure justice. Research has shown that high costs and stringent technical rules can lead manufacturers to cease drug production (Ernawati & Munira, 2021;). In the pharmaceutical industry, medicines have become the focus of an industry that relies on patents, where drug research plays a critical role. The capital invested in research must be recuperated through profits generated by the economic rights of the patent.

A study highlighted that drug patents can recoup their R&D costs within the patent protection period, which lasts for at least 20 years. The Indonesian government has its regulations and policies governing the industrial distribution of medicines, reflecting its commitment to providing healthcare access for its citizens. However, the process, from production to public access, involves multiple, often lengthy stages.

The distribution of essential drugs and pharmaceutical products involves a complex network of stakeholders, including patent holders, manufacturers, licensing (BPOM, Halal certificates, distribution permits), the pharmaceutical industry, pharmacies, hospital installations, health centres, clinics, practising doctors, and drug stores, all the way to patients and communities. Not all drugs can be circulated in the market; every step of the distribution process is regulated by government policy, which is a common practice worldwide. Even in countries facing shortages of medicines and medical personnel, health services are governed by specific policies. In India, for instance, social institutions play a significant role in shaping the public health system. Health policy is heavily influenced by many factors, including legislative reforms, economic factors, politics, markets, media, social inequalities and non-governmental organizations. (Patel et al., 2023).

These factors are intertwined and may produce an instrument that further complicates the issue and obscures the idea that intellectual property rights cannot be legitimised as human rights. This research highlights that the field of patent law is divided into two categories, namely human benefit-oriented patents and private sector-oriented patents. The WHO Policy Perspective on Medicines document in Suyud Margono writes that Indonesia has a policy in regulating the availability of essential medicines, namely by using compulsory licenses or the use of patents by the government applied in national emergencies. The national drug policy guidelines by WHO are intended to assist the circulation of drugs in both private and government sectors (Sayud Margono, 2022). Even if the patent holder maximises profits from utilising his portfolio, based on efficiency theory, this is rational. However, companies need to balance the tension between business ethics and patent protection in patent use and decision-making (Yuan & Li, 2022). In the efficiency theory, patent holders have exclusive rights to exploit their innovations for a certain period of time. This provides an incentive for innovation because it allows firms to earn sufficient returns on their investments in research and development (R&D).

Patents on drugs and other essential pharmaceutical products can be categorised as part of human rights with the abovementioned arguments. However, patents on other technological products still have options that cannot be classified as human rights, especially if the orientation is the industry. To explain the line of difference, clear parameters are needed in the form of regulations with a national spirit and attention to national needs.

The concept of human rights in intellectual property rights may not be the same in every nation and country. However, certain key principles should guide the enforcement of these rights: 1) Justice of Argument/ Principle of justice. 2) Economic Arguments/Economic principles. 3) Cultural arguments/Cultural Principles, and 4) Social Arguments/Social Principles. These four principles must be integrated in implementing intellectual property rights because they support the existence of intellectual works. The principle of justice, in this case, is that the law provides a place and property for creators or inventors to be creative to enjoy the benefits of their creations and receive appropriate protection. It also ensures a balance between the rights and obligations of creators, recognising these rights not just as individual entitlements but as shared rights within the broader human community (Dwi Suryahartati, 2019).

Philosophically, human rights are moral principles that form the backbone of a nation, guiding how individuals should treat each other and how the state should treat its citizens. These principles must be reflected in national laws and regulations to ensure they are effectively implemented. Understanding the philosophy behind human rights is essential for grasping the structure of intellectual property rights. The right to life is paramount, and it is unacceptable for the state to jeopardise citizens' safety simply to comply with international regulations. Policy configuration must take into account the interests of various parties. Licensing is a key mechanism for balancing the rights and obligations of patent holders, especially for essential medicines and pharmaceutical products. Licensing involves not only private agreements but also government oversight, ensuring that the government plays a role in registering and monitoring licenses. This approach fosters an economic balance that respects both human rights and the contributions of investors.

CONCLUSION

This study explores the intricate relationship between patent rights and human rights from multiple perspectives. In Indonesia, patent law grants patent holders' exclusive rights, preventing others from using their patents without their consent. The relationship between patent owners and patent users underscores the idea that patents on pharmaceutical products and essential medicines are intrinsically linked to human rights. Human Rights, including the right to life, liberty, education, and health, are universal and inalienable. Supporting patent rights as human rights is rooted in the principles of ownership and participation in innovation and science. However, conflicts arise when considering access to healthcare and the monopolistic nature of patent rights. Patents, as intellectual property, often favour the interests of patent holders, while human rights emphasise the well-being of all individuals. The monopolistic nature of patents in the pharmaceutical industry can limit access to critical medicines for low-income populations. Thus, it is crucial to consider whether

patent rights for medicines and pharmaceutical products can truly be classified as human rights.

The purpose of inventions should align with the protection of human rights, but there is ambiguity in understanding when patent rights are granted. Exclusive rights are not merely entitlements; they must balance the need for invention with the broader public interest. The scope of patent rights that can be categorised as human rights must be clearly defined in legal instruments to avoid conflicts between private rights and human rights. In addition, the responsibilities of both private entities and the state must be explicitly outlined in these instruments. Legal theories on the objectives and benefits of law can help validate these parameters. Policies governing patent rights for medicines and their implementation in pharmaceutical products need refinement to ensure alignment and harmony. The government must ensure that if patent rights are exercised as a matter of rights, access to medicines and pharmaceutical products should be unimpeded and not restricted by international trade-oriented regulations. The current patent regime policy in Indonesia lacks independence and requires a balanced approach to optimally support the argument that intellectual property rights are, indeed, human rights.

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