

Contents

1	Introduction	1
1.1	IPR and Economic Development	1
1.1.1	Copyright and Economic Development	2
1.1.2	Industrial Property and Economic Development	7
1.2	Utilitarian v. Natural Rights Approaches to IPRs	13
1.3	Calls for a More Equitable and Modernized Regime of International Intellectual Property Law	15
1.4	IPRs and Humanity Security	23
1.5	Outline of the Book	25

Part I IP and Human Security

2	Intellectual Property and Human Security	29
2.1	The Nature of “Security”: Individual, National and International	29
2.2	Major Intellectual Property Treaties and Security	36
2.3	Balancing Public and Private Rights: Intellectual Property and Human Security	38
2.4	IP Linkages with National and Global Security	41
2.5	Conclusion	43
3	The International Intellectual Property Regime	45
3.1	The International IPR Regime	45
3.2	Copyright	46
3.3	Related Rights	51
3.4	Patents	52
3.5	Utility Models	53
3.6	Trade Secrets (Confidential Information)	53
3.7	Trademarks	56
3.8	Industrial Design	57
3.9	Geographical Indications	57

3.10	<i>Sui Generis</i> Systems.	58
3.10.1	Integrated Computer Circuits.	58
3.10.2	Plant Variety Protection (PVP).	59
3.10.3	Database Protection	61
3.10.4	Traditional Knowledge (TK) and Traditional Cultural Expressions (TCE).	61
3.11	Conclusion	62
4	Human Security Aspects of the Intellectual Property Regime	63
4.1	IP, Human Security and Development	63
4.2	Copyright and Development.	64
4.3	Copyright and Education	65
4.4	Patents and Technology Transfer	71
4.5	Patents and the Environment	73
4.6	Patents and Health	74
4.7	Patents, Plant Varieties and Food Security	81
4.8	The IP Regime and the Survival of Indigenous Communities.	94
4.9	Conclusion	95
 Part II IP, Development and Human Rights		
5	Imperatives of the Right to Development	99
5.1	Calls for a Development-Oriented IP Regime	99
5.2	The Right to Development	102
5.3	The Committee on Economic Social and Cultural Rights and the Right to Development	107
5.4	The Millennium Declaration and Development Goals.	109
5.5	High-Level Task Force on the RTD	111
5.6	Conclusion	115
6	IP, Human Rights, and Human Security.	117
6.1	IP, Human Rights, and Human Security.	117
6.2	Linkage Between Human Rights and Intellectual Property.	121
6.3	Separate Evolution of IP and HR Regimes	121
6.4	IP as “Property” Right	123
6.5	Reconciliation and the Myth of ‘Conflict’ Between IPR and Human Rights	129
6.6	Human Rights Primacy Over Intellectual Property Rights?.	141
6.7	Lacuna in General Comment 17 of the ESCR	146
6.8	Conclusion	150
7	A Human Security Perspective for International Business Organizations.	151
7.1	International Business Organizations (IBO) and the IP Regime	151

7.2	IBO's, IP and Human Security	155
7.3	The International Chamber of Commerce and Intellectual Property Issues	157
7.4	The 'Ruggie Principles' on Business and Human Rights.	162
7.5	The OECD Guidelines	163
7.6	IBOs and Human Rights	165
7.7	Elements for a Set of Principles on Business, Intellectual Property and Human Rights	172
7.8	Conclusion	173
8	The Protection of Traditional Knowledge in Africa, Asia, and Latin America.	177
8.1	Indigenous Peoples and Knowledge in International Affairs.	177
8.2	Recognition of the Rights of Indigenous People Under International Law	178
8.3	Developing Country and Indigenous Perspectives on IP and Traditional Knowledge	183
8.4	Traditional Medicine: Enhancing the Health and Wealth of Indigenous Communities.	195
8.5	Non-Applicability, Adapation, or <i>Sui Generis</i> System?	199
8.6	TK and TM at the International Level	201
8.7	Key Legal Issues for the Protection of TK/TM	203
	8.7.1 Core Principles	203
	8.7.2 Legal Doctrines and Policy Tools.	205
	8.7.3 Strategies and Interim Measures	206
8.8	Conclusion	214

Part III WIPO and Human Security

9	The Development Agenda of WIPO.	217
9.1	WIPO, Development, and Human Security	217
9.2	WIPO and Global IP Governance	218
	9.2.1 Origins and Evolution of WIPO.	219
	9.2.2 Socialization Role	221
	9.2.3 Political Role	222
9.3	The Development Agenda	225
9.4	WIPO's Strategic Development Vision	233
	9.4.1 Balanced Evolution of the International Normative Framework for IP	234
	9.4.2 Provision of Premier Global IP Services	237
	9.4.3 Facilitating the Use of IP for Development	238
	9.4.4 Addressing IP in Relation to Global Policy Issues.	239
	9.4.5 International Cooperation on Building Respect for IP.	242
9.5	Conclusion	242

10 Proposal for an International Equity Panel in WIPO	245
10.1 The Right to Benefit from Scientific and Technological Progress. . .	245
10.2 Human Rights Imperatives: Life, Food, Health, Education.	249
10.3 Treaty Rights	250
10.4 The Case for an International Equity Panel	251
10.5 The Possible Need for a WIPO Committee of Experts on the Application of Norms	257
10.6 Conclusion	257
11 Conclusion.	259
Annex A: Declaration on the Right to Development.	263
Annex B: Millennium Development Goals	269
Annex C: United Nations Declaration on the Rights of Indigenous Peoples	271
Annex D: The Protection of Traditional Knowledge: Draft Articles of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore	283
Annex E: Development Agenda of WIPO.	299
References	305
Table of Cases	319
Index.	321