



**(RE)CONTEXTUALISING**  
*THE ROLE OF*  
**INTELLECTUAL PROPERTY POLICY**  
**FOR CARIBBEAN DEVELOPMENT**

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# Economics is Property

## Property is Economics

- Property: rights of ownership
- Market exchange is based on disposition and property transfer
- The ideological debate of the 20<sup>th</sup> century: 'Capitalism' vs 'Socialism'

# Property and Economic Development

- Property as a necessary ingredient for efficient markets
- The quest for a development paradigm
  - *From ‘finance’ to ‘the role of institutions’*
- Economic institutions and property rights:
  - *Political stability: safety from expropriation*
  - *Judicial independence: preservation of private contracts*
  - *Legal Certainty: enforcement of private property rights*
- Modern Development Discourse
  - *Knowledge Transfer and Capacity Building*
  - *Technological Innovation*
  - *Potential of Creative Industries*

# Intellectual Property Rights

## A Balancing Act

- Monopoly power is bad for society
- Innovation is good for society
- How to treat with property rights in intangible goods?
  - *Information | Technology | Knowledge | Culture*
- Sacrifice static efficiency for dynamic efficiency
  - *Monopoly deadweight loss (static) vs innovation (dynamic)*
  - *Intellectual Property Rights: access vs incentives*

# Key Premise

- Neoliberal approach to Economic Development
  - *Expansion of IPRs*
  - *Both at multilateral (WTO) and bilateral (FTAs) levels*

**The assumption that private property rights are necessarily good for economic development, has extended to intellectual property (IP) rights, (intangible goods).**

*This discussion attempts to challenge this assumption.*

# Intellectual Property Policy

- Goal: to provide a temporary monopoly right (*sacrifice static inefficiency*) in order to incentivise innovation, invention and creation (*promote dynamic efficiency*).
- Remember: intellectual goods are produced at *zero marginal cost*, meaning that it is always efficient for someone to consume them (consumption creates welfare).
- Understated Issue: more incentives for producers (welfare creating), means less freedom for users (welfare destroying)
- Core Issue: where to draw the line/how to construct this trade-off?
- The specific issues are endless!
  - *Access to medicine*
  - *Importation of technology*
  - *Agriculture and food security*
  - *Bio-piracy and Traditional Knowledge*
  - *Use of brand-names*
  - *Public Health Management*
  - *Free expression and copyright*
  - *Piracy as a cultural redistribution*

# Selected Issue: Access to Medicine

- Issue: Access to Medicines and Public Health
  
- Context: CARICOM States do not have productive capacity for medicines, and are importers of pharmaceutical goods (both patented and generic ), medical technologies, and medical innovations.
  
- Policy Dimensions: Parallel Imports, Compulsory Licencing, and Protectable subject matter
  
- Specific Issues:
  - *Pharmaceutical Prices*
  - *Topical Diseases: (e.g. Malaria)*
  - *Innovative Surgical Techniques*
  - *Genetic Research (e.g. BRCA-1/2)*

# Conclusion

- Policy discussion on the role of IP in Economic Development remains largely rhetorical
- More nuance is needed to debate the interrelationships between different forms of rights, and their impacts on specific sectors
- Always frame the issue as a sacrifice of some allocative efficiency today (static) for more innovation tomorrow (dynamic).
- The principle that ‘strong protection of property rights’ is a key institutional factor for successful development is correct
- This principle should however not be assumed to unquestionably apply to intangible goods.



# Danke schön!

(Thank You!)

*Feel free to contact me if you are interested in this topic, or generally in the field of 'Economic Analysis of Law'.*

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