**[Patents in Pakistan](https://nation.com.pk/11-Mar-2020/patents-in-pakistan%22%20%5Ct%20%22_new)**

Famiya Masood March 11, 2020

Applying Dr. Amartya Sen’s arguments in Development as Freedom, it would not be wrong to say that intellectual property rights act as a useful tool for ensuring development and innovation in a country. Consequently, they serve as a benchmark for measuring freedom the citizens of a country have, which is why providing an effective intellectual property regime – specifically for patents – that create incentives for innovators is imperative.

Devising an effective patent regime requires making policies to promote Research and Development (R&D) and building up innovation capacities. Unfortunately, the present Pakistani regime falls short of setting any such incentives.

Pakistan could take inspiration from countries like the United States, which has laws in place to promote robust innovation by incentivizing innovators in academia. An example of such legislation is the Bayh-Dole Act, which gives patents to inventors or academics even for inventions and research, and development that is a product of government-funded research.

The Act was passed to solve peculiar problems even where the state was funding research and development. Despite the funds being provided by the state for an R&D project, universities did not have the incentive to use it to invent since the end product would eventually belong to the party funding the project i.e. the government. In one sense, the R&D funding created perverse incentives causing a decline in the quality of R&D. Subsequently, inventions based on the R&D also suffered because the universities (or the persons involved) could not claim a property right over the final product. Another fear was that a third person could conveniently free ride over the time and effort spent on the R&D by the first person to invent or produce something.

Under the Act, Congress attempted to set the incentives straight by giving property rights in the form of patents to the universities that would ensure there was sufficient interest in using the R&D for the creation of invention. As a result, the universities had an incentive to exploit the invention in licensing markets with relative ease and to transfer inventions to the private sector for commercialization.

Pakistan faces a similar dilemma for state-funded R&D projects that the US faced prior to the enactment of the Bayh-Dole Act. The Higher Education Commission (HEC) of Pakistan also provides research grants whereby researchers are awarded research grants for R&D. The Commission provides initial research funding for faculty to do applied research in their specific area of work. In fact, for public sector universities, HEC is also running the National Research Program for Universities (NRPU). The objective of this program is to support university-based researchers in conducting cutting-edge research.

The program is promising since it also focuses on funding interdisciplinary researches, but how impactful is this in terms of the substantive development in Pakistan remains a point of contention since it hardly ever translates into inventions that are eventually patented.

This is evident from the data provided by the World Intellectual Property Organization in its Indicator in 2018 where it reported that the total patents filed by Pakistan were 892 whereas India filed 50,055, China filed 1,542,002 and the US filed 597,141. The figures might not be the absolute indicators but they do tell us two things. First, either Pakistan is not inventing enough due to a lack of resources or incentives. Second, even if R&D is being funded, it is not translating into the inventions that can eventually be patented.

Getting a patent provides a negative right whereby it entitles the patent owner to exclude others i.e. it permits them to prevent the use of their inventions by third parties who have not paid for its use. Using the right to exclude the patentee can commercialize their invention in return for monetary benefits. Where the researchers have the incentive to have a patent over the eventual product of their research, only then they would be able to reap the commercial benefits of their invention otherwise the incentive to innovate would continue to lack despite the funding.

Therefore, for these inventions to benefit the public, the government has to do more. A reason for the lack of little commercialization of patentable invention in Pakistan is also because, in a developing country like ours, people do not want to take the risk of not making money out of their inventions. This uncertainty encourages inventors to delay commercialization in the hopes of reducing risk. So now the burden falls on the government to facilitate such inventions along with giving them a breakthrough in the market by permitting the innovators to obtain a patent as the inventor despite government providing the funding.