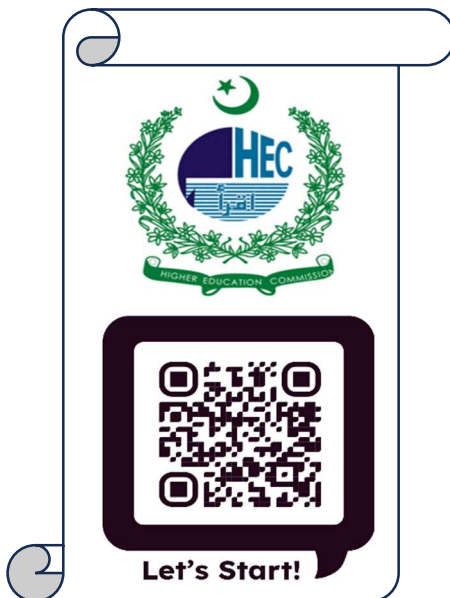


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Protection and Rights of Intellectual Property: A Comparative Analysis of China and Pakistan

Muhammad Fahad Anwar¹

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Ph.D. Candidate at China University of Political Science and Law, Beijing, China.
 Email: fahad@uosahiwai.edu.pk

Abstract

The protection of intellectual property rights (IPRs) is always the driving force behind invention and creativity. In addition, it helps nations become more competitive with one another and creates new prospects for employment. IPR safeguards and enriches the creative endeavors of authors, artists, inventors, architects, and other creative types. After all, countries that have already developed and are still in the process of developing face significant challenges when it comes to protecting intellectual property (IP). Multiple international laws work together to safeguard an individual's right to their intellectual creations. The affirmation of IP protection under international law is based on several fundamental ideas. In addition, most countries have enacted their laws to protect their citizens' IPRs. If, on the other hand, these national and international norms regarding IP are not properly executed, they will be rendered meaningless. This research aims to investigate the levels of protection afforded to IPRs in both the People's Republic of China (PRC) and Pakistan. This study also examines the worldwide IPR indicators of both countries so as to highlight and describe the differences in the IPR protection assessments. The findings of this study reveal large discrepancies between the IPR score and its ultimate outcomes. Although the results vary significantly from 2017 to 2022, all indicators of IPRs show that the PRC has been performing meaningfully better than Pakistan in the past few years. This study finds that decision-makers should investigate potential avenues for multilateral or bilateral cooperation in this area.

Keywords: Intellectual Property Rights; China; Pakistan; Laws; Index

INTRODUCTION

The protections afforded by IPR enable the original producers and developers of goods and services to enjoy the complete financial benefits of their innovations and works of creativity (Khan, Habib, & Mehmood, 2019). On the other hand, other people believe that the importance of IPR is frequently misunderstood since there is not enough awareness of IP rights, particularly in developing and low-income countries. Today, with some new discoveries and

creations hitting the market daily and hourly, IPRs are at the forefront of the decision-making process for every company's day-to-day operations(Ahmad, Bin Mohammad, & Nordin, 2019). The law governing intellectual property protects anything that an inventive individual produces. Intellectual property (IP) needs to be protected, as this is something that is generally agreed upon.

IPR stands for intellectual property rights and refers to the legal protections granted to a creator or inventor to give them a cause to protect their idea or innovation over time. These safeguards ensure that the creator of an invention or creative work, or the person to whom he has assigned his rights, will get one hundred percent of the profits from that work for a predetermined period(Babar, Jamshed, Malik, Löfgren, & Gilani, 2013). Examples of such legal rules include patent laws, trademark laws, utility model laws, industrial laws, geographical indication laws, commercial laws, and internet laws. In other terms, IP rights are a legal framework that recognizes and guarantees financial recompense to people whose work is first to market. This compensation is typically in the form of monetary payment.

The maintenance of IP rights is a necessary component for the growth of the economy and the advancement of technology, and it contributes to the success of the company's expansion efforts in the scientific and information technology fields. The same holds true for invention, which plays a crucial role in the development of both individual nations and the entire human race(Boni, 2019). It has been asserted that innovative ideas are what gives a country its character and are necessary for the development of a flourishing society. It has also been demonstrated beyond a shadow of a doubt that the intellectual effort associated with the innovation should be afforded the necessary attention it deserves for the invention to benefit the general public. The protection of IP rights has a significant impact on the current situation of the global economy due to the fact that IP plays such an essential part in the modern economy(Habib, Abbas, & Noman, 2019). There are just a handful of countries in the world whose legal systems and methods of execution demonstrate a greater solid degree of protection for both physical property and IP. It is generally acknowledged that the effective protection of property rights and IP rights is an essential component not only of the process of lowering economic, legal, and social obstacles but also of the process of making progress and developing new things.

On the other hand, in certain nations, private property safeguarding and preserving IP rights are either given no priority at all or are actively neglected(Sajjad et al., 2022). Because of the significance of IP to the cooperation between countries along the Belt and Road Initiative (BRI), China places a high value on it. However, having protection for IP in one country does not necessitate having it in other countries in the same region. The majority of BRI countries are still in the process of industrialization and have different languages, ethnic groups, and cultural practices. The BRI nations do not have a global collaboration framework for intellectual property, and the degrees of intellectual property development and protection vary significantly from country to country. As a consequence, Chinese companies that expand their operations into nations with less stringent IP laws than China's could find themselves in legal hot water(Ali, Gen, & Saleem, 2020).

The China-Pakistan Economic Corridor (CPEC) is a major component of China's BRI. Through Southeast Asia and the Baltic States in Europe, the BRI intends to connect countries stretching all the way from China to Africa. The CPEC is centered on a variety of energy and infrastructure-related projects. In view of China's BRI, Pakistan has the potential to become one of the most strategically crucial states in the region. In recent years, as a direct result of the significance of the CPEC for both China and Pakistan, IPRs have garnered a large amount of attention and are utilized by enterprises of all sizes across the entirety of both countries' economies (Tahir, Gen, Ali, & Asif, 2022).

The World Intellectual Property Organization (WIPO) was officially recognized by the United Nations in 1967 through the WIPO treaty (WIPO, 1967). It is an organization of the government whose sole objective is to protect the ownership of IP. The primary aim is to enhance the protection of IP all around the world by fostering collaboration between national governments and partnerships with international non-governmental organizations. The first and most important IP convention was the Paris Convention for the Protection of Industrial Property in 1883. All forms of intellectual property, including trademarks, industrial designs, and patents, were accorded the same level of protection and recognition. In addition, an international office was established so that it could assume responsibility for the administration of the Paris Convention. In 1886, the now-famous Berne Convention for the Protection of Literary and Artistic Initiatives was developed to give IPR a worldwide standing and align legislative actions on IPR after the 1884 Paris Convention. This treaty is known for protecting literary and artistic initiatives.

The merging of numerous international bureaus in 1983 resulted in forming a global organization under the name Bureaux Internationaux Réunis pour la Protection de la Propriété Intellectuelle (BIRPI), which stands for "unified worldwide organization." In the years that followed, BIRPI underwent a transformation, becoming the more influential and comprehensive organisation known as WIPO. In light of the growing significance of IPR, the WIPO presently has a total of 184 member states and is in charge of 24 international treaties (Sadiq, Usman, Zamir, Shabbir, & Arif, 2021). The WIPO has set as one of its key objectives the promotion of more tremendous respect for IP rules within its member states. Aside from that, the principal objective of the WIPO is to formulate rules and regulations for the uniform implementation of IP laws around the world. In addition to promoting collaboration among its member countries, the WIPO acts as a sounding board for debates about the direction that IP may take in the future (Ahmed, 2019).

IPR SYSTEM IN PAKISTAN

During the time that the British ruled Pakistan, the notion of IP first became prevalent in the country. Enactments include the Trademark Act of 1940, the Copy Right Act of 1709, later amended by the Acts of 1775, 1814, 1842, 1914, and the 1957 Act, and the Designs Act of 1911 were all created during this time period. These acts protect IP in various ways. In 1856, the Patent Act was originally passed into law, and in 1859, it was re-enacted by another act. In Pakistan, the only body with the authority to make laws pertaining to patents, inventions, designs, copyrights,

and trademarks is the Pakistani Parliament. Pakistan is a signatory to the Paris Convention, the Berne Convention, the Patent Cooperation Treaty, and the Madrid Protocol.

On April 8, 2005, a distinct government agency was founded responsible for preserving IP. The Cabinet oversees this organization, and it was a direct result of the national advancements as well as the urgent requirements of the present. The Cabinet first managed the Intellectual Property Organisation (IPO) in Pakistan, but this responsibility was subsequently transferred to the finance department. In due course, the new Agency will incorporate the pre-existing copyright, patents, and trademark registry components. The Policy Board, which is comprised of representatives from both the public and private sectors, is in charge of the overall management and direction of the organization. There are a total of fourteen members on the Board of Directors. There is one representative from each province, one from the business sector, and five from the governmental sector. Overseeing the many sub-national branches, raising people's consciousness of the need to protect IP, and making lawful suggestions to the federal government are the primary responsibilities of the IPO in Pakistan. Governmental entities (such as the FIA and the police) enforce national IP laws.

IPR SYSTEM IN CHINA

In China, the history of IP protection began with the legacy of Deng Xiaoping's "four modernizations" strategy, which was first implemented in 1978. Following China's economic growth and Western investors' arrival, the Chinese government started working on incorporating IPR provisions into the Chinese legal system. These provisions are related to the fact that China has a legal framework. China has built a complete IPR protection system in less than three decades, becoming a signatory to all major international conventions and building detailed national legislation. In addition, China set up several entities to develop and monitor IPR compliance (Cheung, 2009). Since 2001, China has been a member of the World Trade Organization (WTO) and is also a signatory to the following international IP agreements: the Paris Convention, the Berne Convention, the Madrid Protocol, and the Patent Cooperation Treaty. The Hague Agreement, which enables the protection of designs in numerous nations through the submission of a single application, has not been signed by China.

Four times in the past three decades, the Chinese government has revised the laws governing IP: once in the early 1990s, once in the early 2000s, once after 2008, and once in 2019, respectively. However, the level of IP protection in China remains a hotly debated topic. Despite China's relatively short history of IP law reform, some academics argue that the country has made remarkable progress in IP law enforcement and that the gap between China and other developed economies will continue to shrink. The gap between China's economy and the developed economies is anticipated to continue to narrow despite China having developed IPR rules that, for the most part, meet international standards. A separate group of experts believes that inadequate enforcement of IPR in China remains one of the most significant flaws in China's IPR system. According to some scholars, IPR infringement is still a problem in China, and the legislation regarding IPR in the country is difficult to understand because it comes under so many distinct categories. They claim that China does not appear to have followed the development

pattern of other democratic nations due to the fact that a single party controls it, and they further claim that the government in China may apply the law selectively and arbitrarily.

COMPARATIVE ANALYSIS OF IP RIGHTS AND PROTECTION OF PAKISTAN AND CHINA

Since 2001, China has been a part of WTO, while Pakistan has been a member since 1995. In order to maintain membership in the WTO, member nations are required to enact IP laws whose practical effects are in accordance with prescribed minimums. Consequently, there should be relatively few significant distinctions between the legal systems of China and Pakistan and those of other developed nations. China and Pakistan have signed the copyright Berne Convention. Chinese 1990 Copyright Law, modified in 2001, and 2002 Copyright Implementing Regulations govern copyright. China and Pakistan require no copyright registration. If firms need to prove ownership in a dispute or court case, they should register it. The National Copyright Administration of China registers copyrights and related issues. If infringers are prosecuted in Pakistan, registration may prove ownership. In Pakistan, copyright infringement claims rarely require registration. The Copyright Office registers in-person or by proxy. Internet piracy of films, music, books, and software is a major concern in Pakistan.

The CPEC is beneficial not just to China and Pakistan but to the entirety of the area as well as the commercial sector there. Because of the potential for investment that CPEC presents, small and medium-sized businesses (SMEs) in both China and Pakistan have the opportunity to grow their operations into new markets. SMEs make up a significant fraction of Pakistan's entire business population and have the ability to make substantial contributions to the country's overall economic development. The Chinese government sets a high value on protecting IP to advance the country's scientific and technological progress, cultural vitality, and economic development. This is one of the reasons why the Chinese government places such a high value on IP protection. In this context, the Chinese government has established an all-encompassing system to protect IP and has actively participated in several international agreements. There is a significant amount of legal protection afforded to IP in China. In China, the protection and enforcement of IP rights are supervised by a governmental body that has been established expressly to carry out those responsibilities.

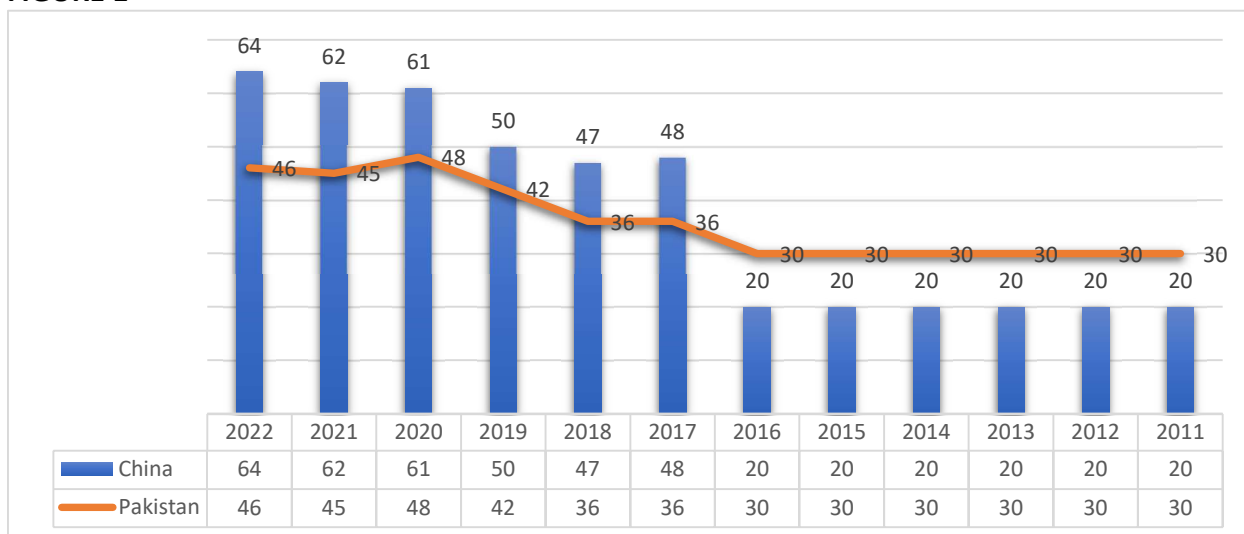
A significant number of organizations worldwide assess countries' levels of IPR. In order to come to some generalizations about the state of IP protection in Pakistan and China, this article analyses the Property Rights Index that is published by the Heritage Foundation, the Legal and Property Rights Index that the Fraser Institute publishes, and the International Property Rights Index that the Property Rights Alliance publishes. For this study, secondary data came from websites such as the International Property Rights Index maintained by the Heritage Foundation and those maintained by the Fraser Institute and the Property Rights Alliance.

The Heritage Foundation is working hard to achieve its goal of becoming financially self-sufficient worldwide. The Index of Economic Freedom that the Heritage Foundation compiles is based on twelve quantitative and numerical indicators broken up into four primary categories. The Heritage Foundation's Property Rights Index ranks 190 nations based on how well they adhere to four basic criteria: the rule of law, the size of their governments, how effective their regulations are, and

how accessible their markets are(Raza, Wasim, & Sarwar, 2020). The notion that property rights are an integral component of the rule of law stems from the fact that they are inextricably linked to the judicial framework of any given nation. When assessing a country, one can use property rights as a qualitative indicator of the degree to which its legal system safeguards the freedom of its citizens to acquire and hold personal property freely. The Public Property Rights Index is a tool that evaluates the extent to which governments protect the property rights of their citizens. There is a link between the number of points a nation receives on the Property Rights Index and the degree to which it can protect its people's private property.

The Private Property Index is a tool that can be used to assess the graft level inside a nation's judicial system. The property rights index assigns rankings and scores to countries according to the degree to which their legal systems adequately protect private property. Using information from the Heritage Foundation's Index of Property Rights, the following table compares the IP protection offered by China and Pakistan.

FIGURE 1



As shown in Figure 1, the Heritage Foundation's International Property Rights Index consistently put China towards the bottom between 2011 and 2016. During this time period, Pakistan racked up a total of 30 points in the scoring column. As a result, there was inadequate protection for property rights, and the judicial system was slow and ineffective. Despite this, China's economic expansion between 2011 and 2016 was relatively modest. In addition, a total of 20 points were allotted to this era. This gives weight to the notion that China's legal system is not up to date and that the country does not adequately protect its property rights during this period. On the other side, China surprised everyone by passing Pakistan in 2017 after scoring 48 points and taking the lead. During this time, Pakistan improved their score from 30 in 2016 to 36 in 2017, a six-point improvement. In the second half of the year 2021, Pakistan could not maintain their previous performance level, and as a result, their score dropped to 45. China made progress in each test, ultimately finishing with 62 points. Both countries have made an extraordinary amount of

headway in achieving their goals. In the meantime, China will do an amazing job of protecting private property over the next few years. The improvements that China made of 50, 61, and 62 points throughout the course of this time span are worthy of praise. This score is evidence that China is taking steps to protect the rights of individuals to their own property. On the other hand, the judicial system in Pakistan is not operating very well. It is possible for there to be corruption in the legal system, and the court may be susceptible to an excessive amount of political pressure.

The International Property Rights Index (IPRI), which the Property Rights Alliance developed, is widely regarded as one of the most reliable resources for determining how well property rights are protected. This database offers a worldwide view on the protection of IP. It is generally agreed upon that the concept underpinning this database is the most dependable and comprehensive for conducting research on the protection of property rights. In order to assess the state of property rights all around the world, the IPRI was formed. Three fundamental aspects make up IPR. A nation's Legal and Political Environment can provide insight into the degree to which its government upholds the rule of law and maintains political stability. Appointing legal representatives is essential to establishing ownership of tangible and intangible assets. PPR and IPR are of paramount importance to the expansion of a nation's economy. Both the PPR and the IPR take into consideration both formal and informal ownership rights. One of the primary goals of IPR is to protect one's ideas and inventions. Two of the most important types of IP are referred to as patents and copyrights, and both fall under the umbrella of IPR.

Using data from the Property Rights Alliance's International Property Rights Index, the following figures compare and contrast the IP protection systems in China and Pakistan. The following terms are also used in the figures:

International Property Right Index (IPRI), Legal and Political Environments (LP), Physical Property Rights (PPR), Intellectual Property Rights (IPR)

FIGURE 2

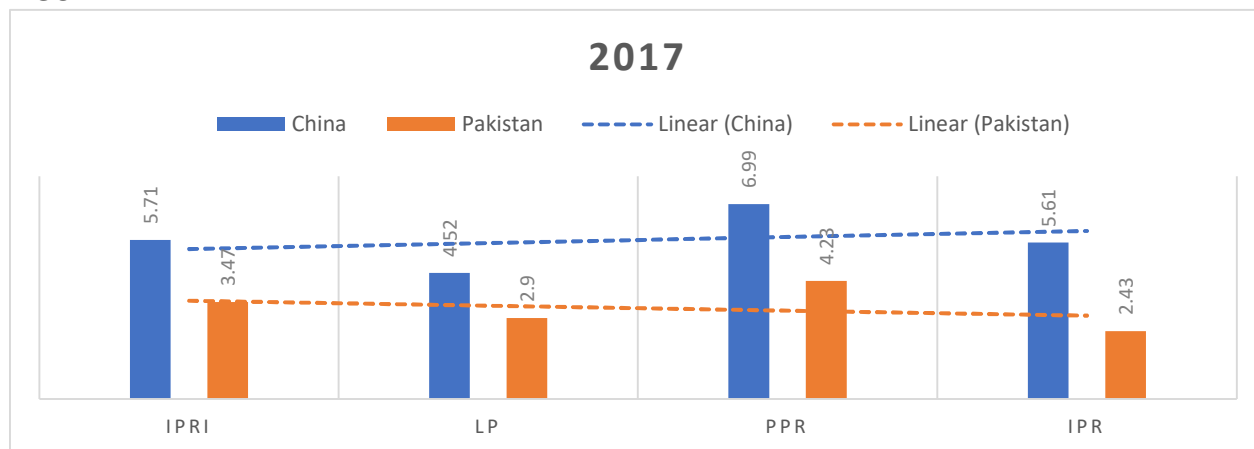


FIGURE 3

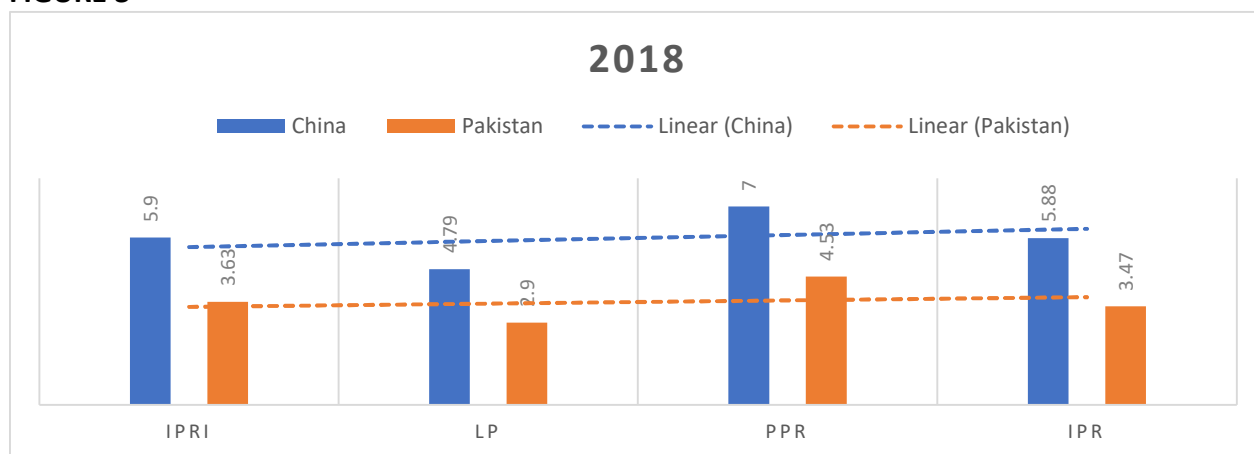


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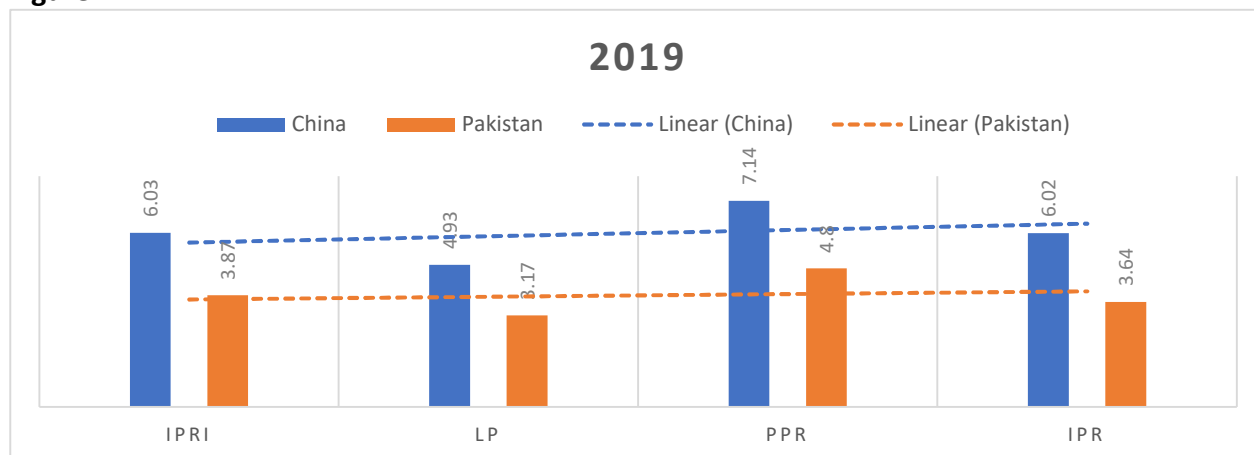


FIGURE 5

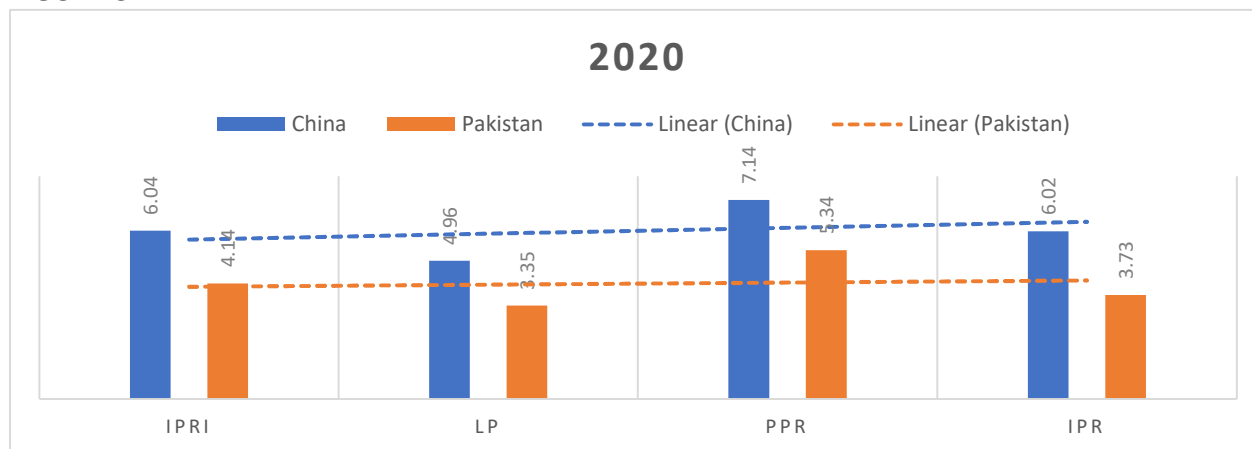


FIGURE 6

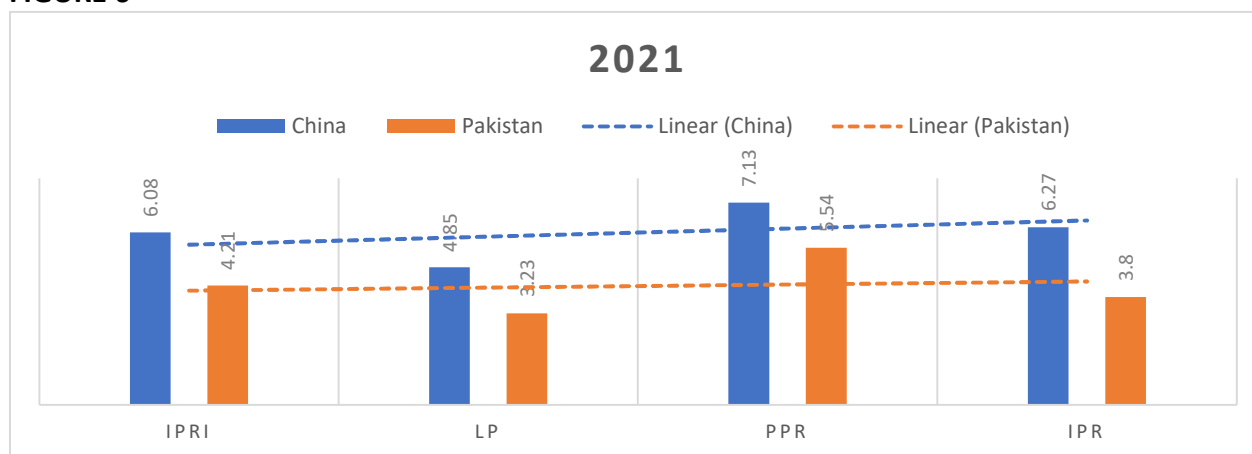
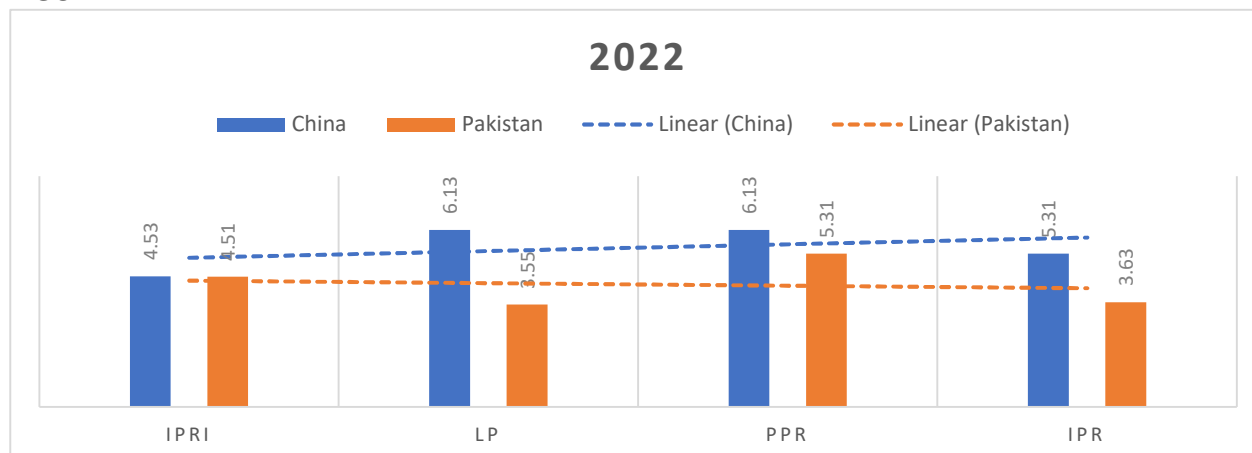


FIGURE 7



According to the IPRI, compiled and maintained by the Property Rights Alliance, Pakistan is performing very poorly in preserving property rights. As seen in Figures 3 to 7, Pakistan's position

in the IPRI rankings undergoes consistent change between 2017 and 2021. As of 2017, Pakistan has a very low score on the IPRI index of 3.47. Over the past year, Pakistan's performance has been gradually improving, and the country's IPRI index score will continue to rise until 2021. In the year 2017, Pakistan's score dropped to 3.47, which is an all-time low. After falling to such a low point, the IPRI index value for Pakistan has shown signs of a strong recovery, and it is anticipated that this upward trend will carry on until 2023. China outperformed Pakistan. This boosted their global status, but not enough. China's property protection improvements are the most significant change. China scored 6.045 on the 2020 IPRI. China has steadily improved. China should sustain its steady growth and score 6.045 in 2023.

Pakistan's performance improved in the following years, and the LP index score rose in 2022. The Pakistani LP index rose again until 2021. China did better than Pakistan but not well internationally. China's political and legal reforms are the most crucial change. Over the course of the next four years, China's indexing level will steadily but gradually increase. Therefore, the overall score for the year 2022 was 6.13.

The Pakistan PPR score hit an all-time low of 4.23 in the year 2017. Pakistan's economy suffered when the PPR index value fell, but the country has shown indications of recovery since then, and this upswing is predicted to continue at least until 2021. On the other hand, China performed significantly better than Pakistan in the test. Despite the fact that this enhanced their standing in the world, it was still not up to standard. However, the most significant change in China is the country's continuous improvement in both its political and legal climate. China received a score of 6.99 on the PPR index for the year 2017 compared to other countries. Over the course of the next four years, China's indexing level will steadily but gradually increase. As a direct result of this, the total score in 2021 was 7.131. In contrast to Pakistan, the findings show that China has successfully protected property rights.

RECOMMENDATIONS AND CONCLUSIONS

Decision-makers in China and Pakistan investigate the possibilities of bilateral or multilateral cooperation in this area to improve IP rights and protection across the board. In addition, officials in both nations ought to investigate whatever international best practices may be adopted by any or both of them in order to enhance the degree to which IPRs are respected. In addition, decision-makers in both countries ought to investigate if the legal systems of their respective nations require any potential changes to ensure better preservation of such rights. In the same way, it is recommended to research the present tendencies in emerging countries respecting IPRs and investigate potential areas of collaboration and development. It is also recommended that both countries analyze their current methods to safeguard IPRs and pinpoint areas where these methods may be refined. In addition, both countries ought to investigate the several strategies that might be utilized to uphold IPRs and formulate suggestions for more efficient enforcement procedures.

Within the framework of the CPEC, IP rights and protection are crucial components that should be given the attention and deliberation they deserve. The two countries ought to work together to improve the protection of IPRs along the path of the CPEC by investigating the

possibility of reforming their own legal systems, embracing the best practices that have been developed internationally, and creating more effective enforcement mechanisms. In addition, both countries should take measures to guarantee that any dispute resolution between them is carried out in a timely manner and in a way that is both effective and satisfactory.

IP rights and protection must be upheld to ensure that both countries can reap the benefits of their collaboration. These two countries' governments must collaborate to further bolster IP rights protection. To this end, they ought to investigate the possibility of making legal system changes inside their own jurisdictions, make use of existing international best practices, and devise more effective enforcement procedures. In addition, to develop amicable collaboration in this area, both nations should take measures to guarantee that any dispute resolution between them is carried out quickly and effectively. Last but not least, it is suggested that China and Pakistan assess their existing dispute resolution processes and investigate various options for increasing legal clarity in this area.

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