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Enterprise Meets Education: Business Law Aspects in the Intellectual Property Policies of World-ranked Philippine Universities

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Abstract
Philippine universities are required by law to adopt their own intellectual property (IP) policies. This endeavor involves multiple legal considerations and a balancing of interests among various stakeholders. However, studies focus mostly on the IP policies of reputable universities in developed countries, with few probing into the IP policies of academic institutions in the Global South. Moreover, the literature concentrates on the issues of ownership and economic rights, with little attention given to other crucial concerns covered by IP policies. This work provides a more holistic view of institutional IP frameworks by analyzing and comparing the broader business law aspects in the IP policies of Philippine universities previously included in the world university rankings. Through content analysis blended with doctrinal legal research, this paper examines their declared objectives, types of works covered, kinds of IP creators governed, guidelines for determination of ownership and consequent rights, systems for enforcement and dispute resolution, and alignment with legal principles on academic freedom, freedom of contract, and management prerogative. Findings reveal some similarities in their stated objectives and enforcement mechanisms but also highlight considerable differences in their ownership models and rules for commercialization. While this study does not purport to establish any trend in IP policy-making by administrators of world-ranked Philippine universities, it may nonetheless provide significant insights into what educational leaders prioritize in matters of IP management.

Keywords: Business Law, Educational Management, Global South Universities, Institutional Policies, Intellectual Property Law, Philippine Higher Education, UN SDG 9

1. Introduction

"Intellectual Property (IP) rights are fundamental to how economies organize innovation and steer the diffusion of knowledge" (Peukert & Windisch, 2025, p. 878). In this regard, much has been said about the necessity for a holistic approach in defining and enforcing IP rights (Angeles, 2007; Hasanov, 2022; Jayaraman, 2020; Khan & Bharadwaj, 2011). It has been emphasized that finding the correct balance in protecting IP rights will promote innovation while ensuring that new knowledge is properly disseminated to address societal needs (Sattiraju et al., 2023).

For one, Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides that everyone has the right to "benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author." Nonetheless, it must be equally underscored that IP law exists "not only to reward innovation but to disseminate knowledge for the public good" (Blanchard, 2010, p. 66). Article 7 of the 1995 World Trade Organization (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) states that protection and enforcement of IP rights should be "in a manner conducive to social and economic welfare, and to a balance of rights and obligations." This is reiterated in the 1996 Copyright Treaty of the World Intellectual Property Organization (WIPO), which declares "the need to maintain a balance between the rights holders and public interests, specifically education, research, and access to information" (Hasanov, 2022, p. 48).

In economic terms, incentivizing innovation while ensuring public benefit requires a comparison of associated costs: "The tension between incentives and access that preoccupies the conventional economic analysis of intellectual property arises from the high ratio of fixed to variable costs of such property" (Posner, 2005, p. 58). The costs of creating IP incurred by its originator would outweigh the costs of disseminating or distributing IP shouldered by a mere copier. If no significant incentive would be given to IP creators allowing them to recoup their costs, then it would be impractical for them to create and innovate. The benefits to be reaped by society from their intellectual pursuits would not be realized.

On the other hand, giving IP creators total and perpetual control over their works would be detrimental to the rest of society as it would give rise to monopolistic behavior by IP owners and rights holders. Describing the necessary balance as a trade-off, Ilie (2014) explains that "an overprotected system will limit social gains by limiting the dissemination and use of results; a weak protection system will reduce innovation due to the lack of an adequate return on investment" (p. 549). This bolsters the previous assertion of Stiglitz (2008) that a poorly designed IP regime can be a hindrance rather than a boost to innovation. Meanwhile, for Astroulakis (2011), policy flexibility is important because much depends on value systems. "Innovation and novel behavior patterns can be good only if they can be adjusted with the value change and the meaning of the 'good life' that every society espouses" (p. 224).

Unsurprisingly, IP creators are motivated by both "moral and material benefits" (Intellectual Property Office of the Philippines, 2019, p. 7). In line with the Social Contract Theory, however, exclusivity of benefits "is a privilege enjoyed by the creator or the rights holder in exchange for the primary commitment to diffuse and deploy these rights for intellectual enrichment of society, scientific progress and development" (Jayaraman, 2020, p. 686). "Research and scientific pursuits play a crucial role in creating intellectual properties" (Patil & Sagar, 2024, p. 8628) and IP rights provide a way to disseminate knowledge for the betterment of society. This is reflected in the United Nations Sustainable Development Goals (UN SDGs), particularly Outcome Target 9.5 of Goal 9 that aims to enhance scientific research and encourage innovation in developing countries.

1.1 The legal framework

Consistent with the Theory of Governmentality (Kapitzke, 2006), it is often the State that provides the policy frameworks designed to "shape the behaviour of others with certain objectives in mind such as, for example, the management of cultural activity and access through intellectual property rights" (pp. 433-434). In the case of Philippine law, the 1987 Constitution provides the basic rules that both protect the rights of IP creators (Article XIV, Section 13) and uphold the social function of property use (Article XII, Section 6). More specific rules are provided in the Intellectual Property Code of 1997 (Republic Act No. 8293), as amended by Republic Act Nos. 9150, 9502, and 10372, and related laws like the Technology Transfer Act of 2009 (Republic Act No. 10055) and the Competition Act of 2015 (Republic Act No. 10667).

As a member of the WTO and the WIPO, the Philippines also adheres to the following international agreements: Paris Convention for the Protection of Industrial Property; Berne Convention for the Protection of Literary and Artistic Works; International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; Patent Cooperation Treaty; WIPO Copyright Treaty; WIPO Performances and

Phonograms Treaty; Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled; Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks; and the WTO TRIPS Agreement (Intellectual Property Office of the Philippines, 2019).

The need for proper balancing of interests is particularly evident in higher education institutions (HEIs), given that "the most important ideas are those that are generated in universities" (Stiglitz, 2008, p. 1697). Research activities often give rise to various forms of IP, "which in turn stimulate industrial and economic development for countries" (Patil & Sagar, 2024, p. 8628). To be sure, HEIs that fund research and innovative teaching practices would be interested in reaping the financial rewards of IP generated in the academe. On the other hand, IP creators in colleges and universities may claim that they deserve more than just proper attribution and other moral rights. Academic staff may not be motivated to create new works if the concrete benefits of doing so are not clear to them (Dio et al., 2015).

The various economic rights typically center on the question of ownership—i.e., the IP owner gets to decide who will benefit from publication or commercialization and how much benefit they will obtain. Ownership models range from sole HEI ownership or sole IP creator ownership to joint ownership enjoyed by both, with further variations on licensing and assignment of rights (Authors Alliance, 2021). For this reason, institutional policies governing patents, copyright and trademark management, ownership, usage, and other pertinent matters must be carefully developed by each HEI (Garon, 2018). Institutional policy goals and objectives associated with IP must be not just clear but also consistent with national IP policy frameworks (Sattiraju et al., 2023). Furthermore, legal concerns related to academic freedom and employment issues must be factored in as such guidelines are crafted (Carlson, 2015).

In the Philippines, the huge potential of HEIs for innovation has been recognized, though it also has been observed that the weak connection between academia and industry has not helped convert IP creation into successful commercialization (Intellectual Property Office of the Philippines, 2019). Moreover, knowledge production has remained low due to the perceived "lack of management support and incentives to do research, to patent, and to commercialize, and the publish-or-perish mindset prevalent among many faculty and researchers" (Intellectual Property Office of the Philippines, 2019, p. 16). This lack of incentive is most apparent in school policies adopting the sole HEI ownership model with few or no economic benefits given to faculty, students, and other IP creators.

Under Section 230 of the IP Code (as amended by Republic Act No. 10372), IP ownership and related rights in academia are governed primarily by institutional IP policies, subject to contractual stipulation. This means it is the school that has the upper hand in deciding what IP rights, if any, are given to whom (Montemayor, 2025). Applying the Stakeholder Theory, which posits that an organization should consider the interests of all parties affected by its decisions, HEI management must ensure that policies are inclusive and balanced. For this, it must be prepared to engage in "a more detailed contextual analysis of stakeholder economic interests" (Jayaraman, 2020, p. 685). It is expected to uphold traditional ethical norms, such as fairness and respect—although it could just as well choose to "treat stakeholders selfishly at best" (Jones et al., 2018, p. 371). In the context of this study, the stakeholders of the HEI refer mainly to IP creators who may be faculty, support staff, students, or visiting researchers. In a broader sense, however, it may be said that alumni, industry partners, the government, and the society at large are also stakeholders.

1.2 Related literature

A review of the literature reveals that several studies in the last two decades have examined and compared the internal IP policies of HEIs in developing countries alongside those in developed countries. Most of these articles integrated doctrinal legal research (Van Gestel, 2023) with content analysis of textual data (Ballesteros-Lintao et al., 2016) while also infusing critical policy analysis (Apple, 2019). Of particular interest is the recent work of Sattiraju et al. (2023), which compared IP policies of specific Indian HEIs with those of selected HEIs in the

United States, United Kingdom, Canada, Australia, China, Japan, and Singapore. Preceding this was the 2014 study of Ramli and Zainol that similarly compared IP policies of specific Malaysian HEIs with those of selected HEIs in the US, UK, and Australia. A limitation of both studies was their concentration on ownership guidelines and rules related to commercialization of IP created in the school setting.

On the other hand, some authors preferred to focus on IP policies of various HEIs found in the same country, such as the US (Campbell, 2019; Loggie, 2006), the UK (Gadd & Weedon, 2017; Rahmatian, 2015), or India (Patil & Sagar, 2024). Certain researchers concentrated on specific IP types, such as patent (Campbell, 2019; Pettersson, 2018) or copyright (Carlson, 2015; Gadd & Weedon, 2017; Loggie, 2006; Peukert & Windisch, 2025; Rahmatian, 2015). Still others provided a more generalized discussion on IP (Crews, 2006; Garon, 2018; Pila, 2010).

A common observation among most authors was the propensity of HEIs to claim sole ownership of IP produced in the academe whenever the legal system of their country authorized them to designate the IP owner. There were fewer instances of shared ownership or sole ownership by the IP creator. This generally has been criticized as inequitable and inconsistent with the academic freedom of the faculty (Campbell, 2019; Pila, 2010; Rahmatian, 2015).

In the Philippines, technology and its accompanying IP rights have been explored in the context of business education (Cruz, 2020). The Intellectual Property Office of the Philippines has been lauded for vigorously supporting utilization and commercialization of inventions through their Inventors Assistance Program. However, the agency has also been urged to actively assist private schools in drafting their IP policies by providing "guidelines as to the fairness and reasonableness" (Hofileña, 2020, p. 97) of such institutional rules. While there is no dearth of research on Philippine IP law and jurisprudence, no local studies were found probing into the IP policies of world-ranked Philippine HEIs for the purpose of analyzing and comparing the broader business law aspects of their policy content. This indicates a research gap that this work now seeks to address.

The local literature suggests the need to promote IP rights awareness and a healthy respect for IP ownership in the Philippines while ensuring that the benefits of IP creation trickle down to the communities that need them most. Educational institutions are part of the solution (Intellectual Property Office of the Philippines, 2019). However, these institutions must begin with their own internal regulations designed to govern IP created in the academe. Admittedly, much is made to depend on contracts of adhesion and institutional IP policies (Hofileña, 2020). The latter, in turn, are often exclusively crafted by school administrators in the exercise of institutional academic freedom (Aquino, 2022) and management prerogative (Tabingan & Gonzales Dhum, 2022), which empower HEIs to adopt reasonable measures of control over their students and employees.

Some authors have identified self-organization as an effective means to ensure that IP policies of schools are equitable and balanced. Birnhack (2009) underscored the advantages of having a union to represent employees as IP creators. Strom (2002) explained that higher education unions could help protect the IP rights of faculty "either through collective bargaining contracts or through extra-contractual negotiation over institutional policies" (p. 4). Blanchard (2010) called upon faculty unions to avoid litigation "by negotiating policies that are fair to both sides" (p. 67). Though it is difficult to ascertain whether IP policies implemented by a university are subject to collective bargaining or if they are within the exclusive domain of management prerogative (Klein & Blanchard, 2012), the combined effort of faculty could be particularly rewarding when union representatives are able to convince university administrators to reconsider rules that restrict teachers' rights (Authors Alliance, 2021).

Regardless of how HEI IP policies are crafted and revised, Sattiraju et al. (2023) stressed that the efficiency of HEIs significantly depends on the alignment of institutional IP policies with national IP policies, as well as on their revenue sharing mechanisms. To this must be added the previous assertion of Carlson (2015) that issues related to academic freedom and employment—particularly contractual exceptions and aspects of management prerogative—need to be considered in the policy-making process. Lastly, institutional IP policies must be both comprehensive in their coverage and tailored for each type of IP creator to match the work created (Garon, 2018). "By taking these steps for patent policies, copyright and trademark management, ownership guidelines, usage policies, and even URL publication, the university will enable its business and community to flourish" (p. 673).

Based on the foregoing, this study examines the business law aspects evident in the institutional IP policies of world-ranked Philippine universities. Particularly, it investigates the similarities and differences in their declared objectives, types of works covered, kinds of IP creators governed, guidelines for determination of ownership and consequent rights, and systems for enforcement and dispute resolution. Moreover, it analyzes how these policies reflect established legal principles on academic freedom, freedom of contract, and management prerogative.

2. Methods

This study utilized content analysis of textual data (Ballesteros-Lintao et al., 2016) blended with the doctrinal method of legal research (Van Gestel, 2023). Similar to the approach used by Patil and Sagar (2024) in their analysis of IP policies of Indian HEIs, this paper examined the IP policies of four world-ranked Philippine universities to highlight their substantial similarities and differences. Based on standards espoused by Sattiraju et al. (2023), Garon (2018), and Carlson (2015), a list of 10 interrelated business law aspects was generated to facilitate the qualitative comparative analysis. These specifically pertained to the HEI policies' declared objectives, types of works covered, kinds of IP creators governed, guidelines for determination of ownership and consequent rights, mechanisms for enforcement and dispute resolution, and alignment with legal principles on academic freedom, freedom of contract, and management prerogative. Criteria for inclusion of specific words, phrases, or provisions in the IP policies under each of the 10 legal aspects were formulated before each articulation was categorized.

In selecting the four HEIs, the researchers were guided by the Quacquarelli Symonds (QS) ranking of Philippine universities for 2023, which was the most recent record available at the start of the study. For this ranking, QS evaluated the various schools based on academic reputation, employer reputation, faculty/student ratio, citations per faculty, international faculty ratio, and international student ratio. Given that research productivity and impact (academic reputation + citations per faculty) comprised 60% of the criteria for the 2023 ranking, it could be inferred that all the Philippine universities included in the world rankings had substantial research outputs. And considering that academic activities such as teaching and research often generate copyrightable materials and patentable inventions, it was expected that the QS-ranked Philippine universities had already complied with Section 230 of the IP Code mandating the adoption of internal IP policies to govern works produced in the school setting.

In view of the unobtrusive nature of the study, data gathering was limited to publicly available information (e.g., from university websites). QS-ranked Philippine universities with no IP policies published online were excluded. Among the qualified schools, only four were purposively selected for systematic analysis of the business law aspects in their IP policies. The four HEIs were de-identified and assigned code names (e.g., Uni A, Uni B, etc.) since the focus of the research was on their IP policies and not their identities (Tenedero, 2024). Each textual articulation related to any of the 10 business law aspects was categorized and counted to provide a simple numeric comparison among the various IP policies of the four universities (see Table 1). Qualitative comparative analysis and validation were then done by the research team. For legal context, the study also incorporated relevant domestic laws, jurisprudence, and scholarly commentaries related to the policy aspects examined.

3. Findings

This study found that most of the IP policies of the four world-ranked Philippine universities were comprehensive in addressing the different IP concerns of the HEIs and their stakeholders. However, some institutional IP policies were more detailed and exhaustive than others in their treatment of certain subjects.

Table 1 presents the number of textual articulations corresponding to the 10 interrelated business law aspects (Carlson, 2015; Garon, 2018; Sattiraju et al., 2023) examined in the IP policies of the subject Philippine HEIs. Notably, Uni A has the fewest articulations overall.

Table 1: Comparison of business law aspects in the IP policies of four world-ranked Philippine universities based on number of articulations.

Business law aspect	Uni A	Uni B	Uni C	Uni D
Declared objectives	2	2	8	11
Identified IP types	2	11	15	14
Identified IP creators	2	6	11	11
IP ownership models	2	3	6	3
Modes of transfer or sharing of rights	4	6	6	6
Enforcement mechanisms	2	4	4	4
Modes of dispute resolution	0	2	4	4
Scope of academic freedom	2	3	3	2
Policy exceptions based on contract	1	6	4	3
Scope of management prerogative	1	4	5	4
TOTAL	18	47	66	62

3.1 Declared objectives

All four universities declared that their policies were adopted in support of their research function. Uni A's manual of policies covered both its research and extension (R&E) programs, with the guidelines providing for the incentives for promoting R&E as well as the means of storing and sharing R&E results. On the other hand, Uni B recognized the need for policies to promote and encourage excellence, creativity, and innovation not only in research outputs but also in other scholarly works created by its internal stakeholders. Uni C had similar goals stated but likewise emphasized facilitating technology transfer, maintaining an innovation fund, establishing standards to determine the rights and obligations of the HEI and its IP creators, and enabling the HEI to secure sponsored research funding. Notably, Uni D had the most comprehensive statement of objectives, emphasizing innovation and creativity like Uni B while also mirroring the policy goals of Uni C geared towards systematizing technology transfer, securing funds, and clarifying the respective rights and obligations of researchers and IP creators. Moreover, Uni D's policy objectives highlighted the importance of ensuring that research conducted in the HEI was monitored, ethical precepts and professionalism in research were followed, and procedures for IP-related concerns were properly defined.

The declared objectives of the four HEIs are consistent with the State Policies declared in the IP Code, which echo those in the 1987 Philippine Constitution. Section 2 of the IP Code emphasizes that an effective IP system facilitates transfer of technology and ensures market access even as it protects the exclusive rights of creators. To highlight the social function of IP use, this provision further obliges the State to "promote the diffusion of knowledge and information for the promotion of national development and progress and the common good." Through IP law, the need to reward innovation is balanced with the need to disseminate knowledge for the public welfare (Blanchard, 2010).

3.2 IP types and creators

Aligning with Section 4.1 of the IP Code, which enumerates the basic types of IP, all four Philippine HEIs adopted internal policies covering copyrights and patents. However, Uni B, Uni C, and Uni D also had policies on industrial designs, utility models, layout designs, trade secrets, and new plant varieties. Additionally, Uni B policies covered computer software, while Uni C policies covered micro-organisms as well as non-biological and micro-biological processes. Both Uni C and Uni D policies applied to geographic indications, trademarks, and service marks. While Uni A specified only copyright and patent, Uni B covered 11 IP types while Uni C and Uni D covered a total of 15 and 14 types, respectively.

Moreover, all four universities adopted internal policies governing their faculty and non-teaching employees as IP creators, as mandated by Section 230 of the IP Code. Notably, however, Uni B, Uni C, and Uni D implemented their policies not only on their own employees but even on their students, visiting researchers, and scholars who contracted with the HEI. While Uni A specified only faculty and non-teaching staff, Uni B applied its policies to six classes of IP creators while Uni C and Uni D each applied their policies to at least 11 classes of IP creators, which included non-affiliates.

3.3 Ownership and consequent rights

Uni A policies allowed for sole ownership of a patent or copyright by the creator of a work, with the research product itself belonging to the HEI. Meanwhile, Uni B vested patent rights in either the inventor or the university, depending on whether or not the invention was commissioned or was developed as part of the inventor's regularly-assigned duties, or using funds provided by the university, or with substantial use of university resources. Similar rules applied to copyright, but Uni B also recognized equal shares in the IP ownership in cases where multiple authors had not stipulated on their respective ownership rights. Uni C policies reflected most of these rules governing patents and copyrights, with the university owning IP commissioned by the school, created by employees as part of their work duties, or supported by HEI resources. Uni C policies likewise provided for various instances of joint ownership between co-inventors and co-researchers, as well as between the university and a private company. On the other hand, Uni D policies permitted joint ownership of both collaborating inventors of patentable inventions and contributing authors of copyrightable works, in addition to rules identical with those used by Uni B and Uni C to determine whether the creator or the HEI exclusively owned the patent or copyright. However, Uni D did not claim ownership of copyrightable audio or video recordings, as well as trademarks and service marks created by its employees and students.

Findings further showed that all four universities provided for IP commercialization and profit-sharing schemes via royalties. Additionally, Uni B, Uni C, and Uni D enumerated several modes of assignment and licensing of rights. Uni A and Uni D both provided for technology transfer while Uni B and Uni C both provided for joint ventures in their respective IP policies. For its part, Uni A asserted its first option to publish while Uni C stated that it had the first right to invest up to 20% of the total equity of any start-up company founded by an affiliated inventor. Some other modes of transfer or sharing of rights mentioned in the respective policies included sale (Uni A), spin-offs (Uni B), inventors' shares (Uni C), and exploitation (Uni D).

With regard to assignment of rights, Uni A policies did not specify any mode of assignment for IP created in the school setting. Meanwhile, Uni C provided only for assignment in general, for the purpose of facilitating technology transfer. In contrast, IP policies of Uni B and Uni D pertaining to assignment were more detailed, with

the former covering transfers of both IP and royalty shares and the latter applying to incoming visiting researchers as well as to transfers made through the university IP office.

It was also evident that Uni A policies did not specify any type of license for IP created in the academe. Uni B policies upheld the school's free access to and use of inventions and authored works, including those created and owned by students, for academic purposes. Similarly, Uni D declared its non-exclusive license to utilize copyrighted or patented works for research, educational, and humanitarian purposes while also granting inventors a license to commercialize their inventions patented under Uni D's name. Meanwhile, Uni C granted non-commercial collaborating parties the license to internally use IP developed and owned by Uni C and gave industry collaborators the first right to obtain an exclusive or non-exclusive license for commercial use of IP developed and owned by Uni C. Notably, the policies of both Uni C and Uni D granted them the license to reproduce, publish, and distribute copies of theses or dissertations copyrighted to any researcher, employee, or student.

These findings support the earlier contention of Crews (2006) that "the policy must proceed in considerable detail to designate specifically which rights belong to which parties" (p. 25) to avoid lack of clarity that may cause conflicts between the HEI and its stakeholders.

3.4 Enforcement and dispute resolution

All four HEIs provided general rules penalizing breach of IP policies. Uni B, in particular, enumerated six different classes of offenses, including violation of confidentiality, use of pirated IP, and plagiarism. On the other hand, Uni D listed three different penalties for policy violators, which included removal of research load and ineligibility to receive research grants. Furthermore, Uni B, Uni C, and Uni D laid down policies requiring prior disclosure of works to the HEI by their IP creators. The same universities also established an internal IP office or unit to take charge of IP management, enforcement of IP rights, and matters related to technology licensing.

Uni A policies did not specify any option for resolving IP-related disputes. In contrast, the three other HEIs all provided for administrative adjudication either by a university official or a committee and reserved legal action as the last resort. Additionally, Uni C and Uni D also promoted mediation and arbitration as alternative modes, in conformity with the State's preference for voluntary modes in settling disputes (Article XIII, Section 3 of the 1987 Philippine Constitution). This is echoed in Section 2 of the Alternative Dispute Resolution Act of 2004 (Republic Act No. 9285), which affirms the State's thrust towards "party autonomy in the resolution of disputes or the freedom of the parties to make their own arrangements to resolve their disputes." Section 3 (q) of this law defines mediation as "a voluntary process in which a mediator, selected by the disputing parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute." Meanwhile, Section 3 (d) defines arbitration as "a voluntary dispute resolution process in which one or more arbitrators, appointed in accordance with the agreement of the parties, or rules promulgated pursuant to this Act, resolve a dispute by rendering an award." While an arbitrator or arbitral tribunal directly resolves the dispute like a judge, a mediator does not decide the dispute but facilitates communication between the parties to help them settle their own dispute (Alogoc, 2021).

3.5 Scope of academic freedom

Article XIV, Section 5 of the 1987 Philippine Constitution states that academic freedom "shall be enjoyed in all institutions of higher learning." While such freedom mainly pertains to the HEI's right to decide who will teach, who will be taught, what will be taught, and how it will be taught, it is also identified with the faculty member's freedom to study, investigate, and publish findings without fear of retribution from the powers that be (Aquino, 2022), as well as the student's freedom to select a course of study, subject to reasonable admission and academic requirements (Terrado & Aquino, 2020). The same provision further emphasizes that non-teaching and non-academic personnel of schools "shall enjoy the protection of the State" although they do not necessarily enjoy academic freedom.

Findings revealed that the IP policies of all four universities either explicitly or impliedly upheld the academic freedom of their teaching staff, particularly in the latter's research pursuits. Uni A, Uni B, and Uni C policies likewise affirmed a similar right for their non-academic staff, while only Uni B and Uni C policies specifically recognized this right in their students. Meanwhile, Uni D policies reasserted the school's institutional academic freedom to impose academic standards.

3.6 Policy exceptions based on contract

The Supreme Court of the Philippines has stressed that the freedom of contract is "both a constitutional and statutory right" (*Rodolfo Morla v. Corazon Nisperos Belmonte*, 2011). It is enshrined in the Bill of Rights (Article III, Section 10 of the 1987 Philippine Constitution) and is further guaranteed by the Civil Code of 1949 (Republic Act No. 386). Article 1306 of this Code states that "the contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy." These agreements have the force of law between the parties, obliging mutual compliance in good faith (Article 1159, Civil Code). Moreover, the IP Code recognizes policy exceptions anchored on contractual stipulations. Thus, specific agreements between the HEI and other parties (e.g., visiting faculty and exchange students) generally prevail over institutional IP policies. Likewise, IP rights conceded by HEI management in a duly approved collective bargaining agreement with school employees would be enforceable.

Based on the research findings, all four HEIs maintained the superiority of stipulations contained in a contract or memorandum of agreement (MOA) between the university and an external party, such as a funding agency, sponsor, or third-party institution. Uni B also recognized exceptions to its IP policies based on agreements involving commissioned work, faculty-student mentoring, and consultancy. Similarly, Uni C exempted from the coverage of its IP policies contracts between the university and its students, inventors, and collaborating companies. Meanwhile, Uni D gave precedence to contracts with IP creators designating ownership of copyright or patent and providing the rights of joint authors or joint inventors.

3.7 Scope of management prerogative

Management prerogative has been characterized by the Supreme Court of the Philippines as the employer's authority "to regulate, according to their discretion and best judgment, all aspects of employment, including work assignment, working methods, processes to be followed, working regulations..." (*St. Luke's Medical Center, Inc. v. Maria Theresa V. Sanchez*, 2015). The main limitation to the exercise of this right by the employer is the requirement that "policies, rules, and regulations on work-related activities of the employees must always be fair and reasonable" (Tabingan & Gonzales Dhum, 2022, p. 360).

Findings showed that Uni A policies upheld the HEI's discretion mainly in the setting of the R&E agenda and the identification of priority areas for R&E activities. Uni B, Uni C, and Uni D, however, also asserted the school administration's power to require clearance prior to disclosure of IP, as well as their power to amend IP policies. Uni B and Uni C stressed the HEI's sole discretion to waive IP rights. Uni C likewise claimed the power to determine the mode and schedule of distribution of commercial benefits to inventors.

4. Discussion

This study revealed extreme opposites in the total number of relevant articulations contained in the different IP policies of world-ranked Philippine universities, from 18 for Uni A to 66 for Uni C. The contrast was most apparent in the first three business law aspects: declared objectives, identified IP types, and identified IP creators. For the fourth aspect, Uni C stood out from the group with its six IP ownership models. Meanwhile, the indicators were quite uniform for three HEIs in the remaining six legal aspects, with Uni B, Uni C, and Uni D having nearly the same figures for modes of transfer or sharing of rights, enforcement mechanisms, modes of dispute resolution, scope of academic freedom, policy exceptions based on contract, and scope of management prerogative. Uni A seemed to be the outlier, with no mode of dispute resolution provided in its IP policies, coupled with only one policy exception based on contract and one assertion of management prerogative.

The findings here also reinforced those of Sattiraju et al. (2023) and Ramli and Zainol (2014) that when HEIs were given the legal freedom to determine the policies governing IP created in the academe, such HEIs were more likely to adopt rules favoring their own interests over those of their stakeholders. This statement has held true for HEIs in both developed and developing countries. Similar observations were made by other authors in analogous studies analyzing and comparing the IP policies of HEIs in India (Patil & Sagar, 2024), the US (Campbell, 2019; Loggie, 2006), and the UK (Gadd & Weedon, 2017; Rahmatian, 2015). Although there were exceptions, such as some universities in Canada and the US (Sattiraju et al., 2023), it was apparent that the majority of HEIs previously studied tended to ensure that IP produced in the school—or produced by creators associated with the school—would serve mainly the economic interests of the school.

In this paper, it was discovered that some world-ranked Philippine universities were inclined to claim sole IP ownership of works generated in the academic context, or to require an assignment of rights or a compulsory license in their favor covering IP produced by their employee or student. Though sharing or even transferring of rights might happen under certain circumstances, the HEIs would still ensure that initial adjudication of any legal issues pertaining to these rights would be done by an internal officer or committee designated in their institutional policies. While the HEIs also affirmed the academic freedom of their stakeholders and maintained the superiority of contractual stipulations over their own institutional policies, they nonetheless balanced this with an assertion of management prerogative in matters of enforcement, implementation, waiver, and policy amendments.

Given the highly regarded status of the Philippine universities whose IP policies were scrutinized in this study, it was foreseeable that such policies have been found to be fundamentally compliant with the IP Code and aligned with the legal framework grounded on the 1987 Constitution. Three of the four world-ranked HEIs (the exception being Uni A) also had enough policy content to satisfy the combined standards of Sattiraju et al. (2023), Garon (2018), and Carlson (2015). However, due to the limited sampling and unobtrusive approaches used in this study, no generalization could be made for Philippine HEIs included in the 2023 QS rankings. Indeed, although the findings here indicate many similarities in the business law aspects reflected in the IP policies of the subject schools, it cannot be asserted that the evidence proves any trend in IP policy-making by school administrators of reputable Philippine universities.

5. Conclusion

This study highlights the relevance of the Theory of Governmentality (Kapitzke, 2006), Social Contract Theory (Jayaraman, 2020), and Stakeholder Theory (Jones et al., 2018) in the development of internal IP policies by colleges and universities in the Philippines. Furthermore, it emphasizes the flexibility afforded by Section 230 of the IP Code to administrators of Philippine HEIs in the crafting and revision of their institutional IP policies. As much as it shows some similarities in the declared objectives and enforcement mechanisms in the IP policies of four world-ranked universities, this qualitative comparative analysis also reveals considerable differences in their ownership models and rules for commercialization. Persons, companies, and other institutions that will deal with such HEIs in any engagement where IP may be created should carefully assess if such internal policies are acceptable to them.

However, the greater concern should be the fact that many other reputable Philippine universities—including some that were similarly identified in the 2023 QS rankings—did not even have their IP policies posted on their official websites. This could complicate matters not only for potential faculty, non-teaching personnel, and students, but even for visiting researchers who might not have an early opportunity to consider the possible implications of such policies on their property rights. Notably, not all engagements with HEIs come with their own contract or MOA. Moreover, keeping institutional IP policies unpublished creates an unnecessary barrier to policy researchers who might wish to conduct unobtrusive studies delving into the content of these policies, as well as their ramifications.

If institutional policies are so important, as Owen (2014) emphasizes they are, then there is even more reason to make them not only apprehensible but also accessible. University IP policies especially “need to be brought to the forefront where they can be easily accessed by stakeholders and other interested parties” and “should be written

in language that makes sense to non-lawyers" (Campbell, 2019, p. 113). Rules that have a profound effect on ownership and related rights of IP creators—to the extent of possibly depriving them of such rights from the start—should be readily available to all interested parties. Beyond their bare compliance with the law requiring them to adopt internal IP policies, world-ranked Philippine universities should be transparent enough to make their policies public.

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