

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **CURBING FILM PIRACY AND REVOLUTIONIZING FILM CERTIFICATION: CINEMATOGRAPHY AMENDMENT ACT 2023 –**

AUTHORED BY - TEESHA DEB

## **CHAPTER 1- HISTORICAL OVERVIEW OF LEGISLATIONS ON CINEMATOGRAPHY IN INDIA**

While the legislative framework governing cinematography in India may not be perceived as a statute that significantly impede our fundamental freedoms, it has continually been the centrepiece of debates regarding banning or altering artistic works. Any legislation that permits the enforcement of such modifications on an artist's work will be considered a breach of the fundamental right to freedom of speech and expression. In order to better comprehend the nuances of Cinematography law at present, it is crucial to trace its history back to the original law. The first statute addressing concerns of Cinematography may be dated back to 1920, almost seven years subsequent to the making of our nation's inaugural movie: "Dadasaheb Phalke's Raja Harishchandra". The Cinematograph Act of 1952 has been revised by the Act of 2023, which was presented before the upper house of the Parliament on 20th July, 2023, reflecting a change after a span of 40 years.<sup>1</sup> Over a span of four decades, numerous endeavours were undertaken to modify the legislation with the aim of enhancing the film certification process, restraining piracy, and integrating strategies to tackle contemporary concerns.

A remarkable endeavour was made when the MIB "Ministry of Information and Broadcasting" introduced the Cinematography Bill of 2010 in the Rajya Sabha.<sup>2</sup> The objective was to propose changes to the existing film certification process. The perception of inadequacy and deficiency in the proposed bill prompted the establishment of two recommendation committees - the "Mukul Mudgal Committee in 2013" and the "Shyam Benegal Committee in 2016". The Mukul Mudgal

<sup>1</sup> "Parliament Passes Cinematograph (Amendment) Bill, 2023"  
<<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1944435>>

<sup>2</sup> "A New Pair of Scissors: The Draft Cinematograph Bill 2010" (JSTOR) <https://www.jstor.org/stable/20764305>

Committee <sup>3</sup>made several pertinent recommendations, which are as follows:

- a) Establishing a “screening panel” in place of an “advisory panel”;
- b) Making prohibited reproductions of movies illegal; and
- c) Ensuring that a minimum of one-third of the members on the “screening panel” are women, with the aim of adequately considering the perspectives and sensitivities of females in movies.

In contrast, the “Shyam Bengal Committee” placed greater emphasis on establishing comprehensive rules for certification. <sup>4</sup>The committee provided guidelines for the “Central Board of Film Certification” (CBFC) about the procedures, the selection of CBFC members and advisory panel, and the requirement for a distinct grading for movies containing explicit scenes of sexual intercourse and violence.

The 2019 Cinematography Amendment Bill was formulated by taking into account and including specific suggestions from both committees. Upon its introduction in the Rajya Sabha, the abovementioned bill was rejected based on the following reasons:

- a) One of the clauses of the bill enables the contents of the bill to supersede all other existing laws at the time of its enactment.
- b) The bill required obtaining authorization from the film's author rather than the copyright holder. Due to the characteristics of the industry and the several tasks involved in the production, dissemination, and finalization of a movie, does not translate to the implication the first creator of the film, as specified in the Copyright Act, shall be rightful owner of the movie's copyright.
- c) The legislation does not include any specific information about the minimum penalty and punishment for violating its provisions.

A significant development in the sphere of Cinematography in contemporary times is the abolition of the Film Certificate Appellate Tribunal (FCAT) through the “Intellectual Property and Media & Entertainment Tribunals Reforms (Rationalization and Conditions of Service)

---

<sup>3</sup> “Detailed Analysis and Comments on the Report of Sri Mukul Mudgal ” (RTI Foundation of India)

<https://www.rtifoundationofindia.com/detailed-analysis-and-comments-report-sri-mukul-mu>

<sup>4</sup> “Shyam Benegal Committee Submits Its Report on Cinematograph Act/ Rules to Shri Jaitley” (Press Information Bureau Government of India Ministry of Information & Broadcasting)

<https://pib.gov.in/newsite/PrintRelease.aspx?relid=142288>

Ordinance 2021”<sup>5</sup>. The FCAT, or Film Certification Appellate Tribunal, was established by the MIB in 1983 as a legal entity under “Section 5D of the Cinematograph Act, 1952”. The main purpose of the institution was to consider appeals from parties that felt aggrieved by the judgment of the Central Board of Film Certification, as outlined in Section 5C of the statute, concerning issues pertaining to film certification. The FCAT was overseen by a chairperson and comprised of four more members, one of whom was a secretary chosen by the Government of India. The FCAT's headquarters were located in New Delhi. Now, filmmakers must seek permission from the High Court if they wish to contest such certification in order to eliminate censorship of their work.

---

## CHAPTER 2 - URGENCY OF REVISING THE OUTDATED STATUTE

---

The current enactment, which was presented to the Rajya Sabha on the 20th of July, 2023, and obtained the consent of the President by the month of August, 2023, was amending the Cinematograph Act after forty years. Despite the fact that various initiatives have been made previously to amend the regulatory framework that governs cinematography, the decision that was delivered in the case of “UTV Software Communication Ltd. and Others v. 1337X” which was heard in the Delhi High Court, emerged to be a defining milestone that directed the legislature towards the absolute necessity of the reform.<sup>6</sup> As a result of the arguments that were presented in the judgement, it was estimated that the film industry in India generates around two billion dollars from legitimate avenues. These sources include screenings at theatres, home videos, and television rights. Pirated content, on the other hand, brings in over 35 percent more revenue for the film business, which amounts to 2.7 billion dollars. In doing so, it brought to light the myriad of ways in which piracy impacts authors and artists, including those who are well-known and successful as well as others who are struggling financially. Furthermore, it has a negative impact on employment rate and overall competitiveness.

In addition to the surge in film piracy, which had a negative influence on the fiscal realities of the film industry, the previous legislation was imprudent in a number of different ways. Numerous technological innovations have occurred since the Act of 1945, and these advancements have had a substantial influence on various forms of mass media, including the film industry. There have

---

<sup>5</sup> “Abolition of the Film Certification Appellate Tribunal” (The Hindu)

<https://www.thehindu.com/entertainment/movies/abolition-of-film-certification-appellate-tribunal-leaves-film-industry-puzzled-anxious/article34288969.ece>

<sup>6</sup> TV Software Communication Ltd. And Ors vs 1337X.To And Ors, AIRONLINE 2019 DEL 773

been other pieces of legislation that have been passed, such as the Copyright Act, that have a close relationship to the film industry<sup>7</sup>. To tackle such problems, the bill incorporates a variety of reforms designed to mitigate the problem of movie piracy. These changes encompass a clear definition of piracy, the alignment of the Cinematography Act with other statutes in a logical manner, and the proposal of several other improvements.

---

### CHAPTER 3 - LIMITATIONS OF THE CINEMATOGRAPHY ACT 1952

---

The preliminary objective of introducing the Cinematography Bill 2023 is to rectify the shortcomings of the previous legislation. The 1952 statute was considered an antiquated regulation from the colonial era that needed to be updated to conform to the contemporary cultural ideals and norms of visual entertainment. Furthermore, the film business has experienced several technical breakthroughs over the years, making it crucial to enforce this amendment in order to address the growing problem of piracy.

Moreover, there have been numerous accusations of unrestrained misuse of authority by the CBFC<sup>8</sup>. The claims encompass both the unjust exercise of censorship authority and the unwarranted removal of substantial portions of films. These decisions not only diminish creativity and ignore the efforts of filmmakers, but they also result in a squandering of financial resources. Furthermore, it restricts the essential entitlement of freedom of speech and expression, which is safeguarded by Article 19(1) of the Constitution.

An example of such a claimed breach can be seen in the case of “Bobby Art International v. Om Pal Singh Hoon & Ors”.<sup>9</sup> Bobby Art International produced the film “Bandit Queen”, which depicts the narrative of Phoolan Devi, emphasizing instances of gang rape, brutality, and violence. The movie received an Adult (A) rating from the Film rating Board, with the condition that the following scenes shall be removed or modified – “nudity, rape, violence, or indecency”.

After careful investigation, the appellate tribunal issued a ‘A’ certificate without making any modifications or amendments. Subsequently, a petitioner presented a complaint in the Delhi High Court, arguing that the film portrayed the main character in a disrespectful way and undermined

---

<sup>7</sup> “Copyright Infringement in Cinematographic Film” (Asia Law)

<https://www.asialaw.com/NewsAndAnalysis/copyright-infringement-in-cinematographic-film/Index/334>

<sup>8</sup> “A Case against Judicial Censorship... Hhttps://Www.Scconline.Com/Blog/Post/2021/03/27/Judicial-Censorship/” (SCC Online Blogs) <https://www.scconline.com/blog/post/2021/03/27/judicial-censorship/>

<sup>9</sup> Bobby Art International v. Om Pal Singh Hoon & Ors, (1996) 4 SCC 1

the honour of women, thereby violating the rights protected by the Golden Trio of the Constitution “Articles 14, 19, and 21”. The Honourable Court, acknowledging the scenes as offensive and unsuitable, ordered modifications and deletions to secure an 'A' certification. The petitioner filed an appeal with the Supreme Court. The Supreme Court, in contrast to the Delhi High Court, concluded that the depiction of nudity, indecency, or immorality in the portrayal of Phoolan Devi's life was essential for effectively communicating the genuine narrative of her story as a means of artistic expression. The Court emphasized that it was unjustifiable to restrict the film maker's entitlement guaranteed by “Article 19(1)(a)” only on the basis of speculative moral considerations.

Historically, the CBFC used to imposed stringent sanctions on some notable films, such as “Haider (2014), Udta Punjab (2016), Lipstick Under My Burkha (2017)”. The CBFC considered these films too contentious for public dissemination because to their exploration of subjects like as sexuality, feminism, revolution, and related themes. Consequently, the premieres of such films were made after substantial editing had been completed.

In addition, producers and the entertainment industry as a whole are against the state’s unlimited authority to revise as per “Article 19 (2)” of the Indian Constitution because of its extensive range, especially in light of recent incidents involving shows like Tandav, Mirzapur, Suitable Boy, and Bombay Begums, among others. Netflix has gained notoriety for its consistent practice of limiting its material in order to comply with Indian legislation throughout time<sup>10</sup>. Recently, the streaming platform decided not to release its anime series featuring Shiva. Recent press sources indicate that Amazon Prime has terminated the distribution of Vishal Bhardwaj's drama centred around a hijacking<sup>11</sup>. In addition, Zed 5 and Hotstar have allegedly imposed restrictions on specific content before to its broadcast in India. Several recent legislations, such as the IT Act, Copyright Act, and various verdicts on Cinematography, are not in accordance with the provisions of the Act.

---

<sup>10</sup> “Why Netflix and Others May Have a ‘Problem’ with the Broadcasting Bill” (*Times of India*)  
<https://timesofindia.indiatimes.com/gadgets-news/why-netflix-and-others-may-have-a-problem-with-the-broadcasting-bill/articleshow/105717825.cms>

<sup>11</sup> “OTT’s Tread Cautiously and Cencel Shows” (*Live Mint*) <<https://www.livemint.com/industry/media/otts-tread-on-cautious-ground-axe-shows-11615188592226.html>>

---

## CHAPTER 4 - PROVISIONS STANDARDIZING FILM CERTIFICATION AND CURBING FILM PIRACY

---

In order to fully comprehend the modifications made in the Amendment Act of 2023 and their purpose, it is crucial to have knowledge of the key elements of the previous Act. Part 1 of the previous statute contains important definitions and specifies that “Parts I, II, and IV” of the legislation shall be applicable throughout the country, whereas “Part III” shall be particularly applicable solely to UT’s.

Section 4 of the Act specifically addressed the issuance of authorization for the screening of films. The candidate must submit the nomination to a board, which will then review it. The board has three possible courses of action available.

1. Approve the film for public exhibition without any restrictions; or
2. Approve the film for public exhibition with restrictions limited to adults only; or
3. Approve the film for public exhibition with restrictions limited to specific professions or groups of people, taking into consideration its subject and substance.

The board may also mandate that the candidate implement specific cuts and alterations which it deems essential for the substance to be suitable for “public exhibition”. Before granting approval for any film in any of the stated categories, the board will provide the candidate with the opportunity to express their concerns. The Board also has the authority to reject the movie in its entirety for public display.

Upon reviewing the film, the CBFC has the authority to issue a certificate for public display based on four categories outlined in Section 5:

1. A “U” certification will be issued based on the suitability of the movie for an unrestricted public release.
2. If the movie is deemed suitable for public viewing, with the exception of persons below a specific age, it will be granted a “UA” certification. If the movie is more appropriate for a showing limited to adults rather than being released openly, then it will be granted an A Certificate.
3. The movie shall be given an “S” certificate if it is deemed appropriate for unrestricted exhibition and is not suited solely for any specific profession or occupation.

Section 7 states that an individual who is discovered exhibiting an uncertified film or exhibiting it to people who are prohibited from seeing it, or if they tamper with a part of a certified film

without proper authorization, or if they ignore any orders given by the Central Government or the Board, or if they break the restrictions mentioned in Section 6A. Under such circumstances, the perpetrator would be subjected to a maximum penalty of 3 years of jail or compensation of 1 lakh rupees.

Section 13 of the Act confers particular privileges upon the state and its agencies to supervise the exhibition of movies under specific situations. The public screening of a movie can be stopped by the Lieutenant-Governor, Chief Commissioner, or District Magistrate. They have been granted discretionary authority to evaluate whether the movie has the potential to disrupt public peace or whether the movie has not been certified during its suspension. The Central Government, which possesses the authority to confirm or annul the decree, must be provided with a copy of the decision along with the justifications for its issuing. The suspension has a maximum duration of two months, although the Central Government has the authority to extend it if necessary. The 2023 revision has not impacted certain aspects related to the organization of the CBFC and the advisory panel, rules governing film certification, licensing for movie exhibition, and the authority responsible for awarding such licenses.

---

## **CHAPTER 5 - AMENDMENTS INCORPORATED IN THE 2023 CINEMATOGRAPHY AMENDMENT ACT**

---

One of the most significant modification brought about by the amendment was the alignment of the statute with the requirements of the Copyright Act. Specific actions related to audio visual recording have been forbidden under Sections 6 and 6A. These prohibitions prevent the use of audio-visual recording devices in movie theaters to create or distribute unauthorized copies of films, or to assist in the public exhibition of unauthorized copies of films for profit, whether at unauthorized venues or in a way that violates copyright laws. Furthermore, the act explicitly specified that the meaning of “Infringing Copy” as used in this legislation would be identical to that given by the Copyright Act.<sup>12</sup>

“Infringing copy” refers to unlawful copies of “literary, theatrical, musical, or artistic” works. In the context of cinematographic films, the term “copies” pertains to reproductions created on any medium using any method. In the context of sound recordings, it includes any other recording

---

<sup>12</sup> “Copyright Act 1957” (Copyright Office. Government of India)  
<https://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

that captures the same sound recording, regardless of the method used to create it. Regarding broadcasts, reproductions, or performer's rights, it encompasses unapproved reproductions, duplicates, or sound recordings created or brought into a country in violation of the Copyright Act.

In the past, the Act permitted film certification without any limitations ('U'), with parental advice for minors who are below 12 years ('UA'), exclusively for adults ('A'), or restricted to specified professions or classes ('S') according to section 2. The proposed legislation establishes further certificate classifications depending on age:

1. The rating "UA 7+" means that the film is acceptable for children above the age of 7, but parental advice is advised.
2. The "UA 13+" rating is intended for films that are appropriate for children aged 13 and older, with parental guidance.
3. The designation "UA 16+" indicates that the film is appropriate for children who are 16 years old or older, however parental advice is advised.

This is in accordance with the age-based categorizations for streaming platforms as specified in the IT Rules, 2021, and the suggestions provided by the Shyam Benegal Committee in 2017.<sup>13</sup>

The revision of Section 4 of the Act was intended to establish specific certification requirements for films that have been awarded a 'A' or 'S' certificate, prior to their broadcast on television or other government-approved media. The CBFC may direct the candidate to make necessary modifications or deletions to the film prior to its television broadcast. In 2004, the Bombay HC issued a verdict in "Phantom Films Pvt Ltd versus CBFC<sup>14</sup>", which prohibited the broadcasting of movies with adult ratings on television. Broadcasters often voluntarily modify films and seek re-evaluation from the CBFC in order to obtain a U/A rating. The legislation officially mandates the process of recertifying films for TV and other forms of media. Before the statute was amended, the CBFC's certificate had a validity term of ten years. As per Section 5A of the amended legislation, the certificates are currently valid indefinitely.

Clause 4 of the Amendment Bill highlights the autonomy of the CBFC, specifically addressing the limitations imposed on the state's jurisdiction over the organization. Following the Supreme

---

<sup>13</sup> "Bill Proposes Graded Age Rating for Movies" (The Hindu) <https://www.thehindu.com/entertainment/bill-proposes-graded-age-ratings-for-films-but-censorship-to-stay/article67138403.ece>

<sup>14</sup> Phantom Films Pvt. Ltd. And Anr vs The Central Borad Of Film Certification, AIR 2017 (NOC) 62 (BOM.)

Court's ruling in “K.M. Shankarappa v. Union of India (2000)”, the state will no longer have the power to alter the board's decisions.<sup>15</sup> The bench accurately stated that it is not suitable to imply the existence of a law-and-order issue after an Expert Body has assessed the film's impact on the public and given it clearance.<sup>16</sup> The relevant state government is responsible for ensuring the maintenance of the law. Divergent perspectives are unavoidable in every democratic system.

Finally, the modification has made a significant impact by including specific elements of the Copyright Act and aligning the statute with other recent legislations. If an individual breaches section 6AA, which pertains to the utilization of audiovisual recording equipment to create unauthorized copies of a film or a portion thereof, or section 6AB, which concerns the use of such infringing copies for financial gain, they are subject to imprisonment for not less than a duration of 3 months and not above 3 years. Furthermore, a penalty ranging from INR 300,000 to five percent of the audited gross production cost is payable. Individuals who have been impacted by a breach of section 6AA or section 6AB have the option to take legal action under “section 51 of the Copyright Act, 1957”. When a copyrighted work is violated under the aforementioned section, the copyright owner has the authority to seek civil remedies for the unauthorized use of their work. These remedies include obtaining an injunction, seeking damages, and requesting an account of profits. Various other civil remedies are also outlined in the Act. Individuals who have been impacted by a violation under section 6AA or section 6AB have the option to press charges for computer-related offenses under section “66 of the Information Technology Act, 2000”<sup>17</sup>. The punishment for such offenses can include imprisonment for up to three years, a fine of up to five lakh rupees, or both. The government or its agencies have the authority to take action against intermediaries, as defined in the “Information Technology Act of 2000; if they violate “sub-section (3) of section 79” of the same act or any other existing legislation.

---

## CHAPTER 6 - ANATOMIZATION OF THE AMENDED STATUTE

---

Similar to any other legislation, the revised statute contains specific shortcomings and opportunities for enhancement. The current amendment does not adequately tackle certain critical issues.

---

<sup>15</sup> K.M. Shankarappa vs Union Of India, AIR 2000 SUPREME COURT 3678

<sup>16</sup> “The Cinematograph Act Is Coming Full Circle” (SCC Online)

<https://www.sconline.com/blog/post/2021/10/29/the-cinematograph-act-is-coming-full-circle/>

<sup>17</sup> “A Background to Section 66A of the IT Act, 2000” (PRS Legislative) <https://prsindia.org/theprsblog/a-background-to-section-66a-of-the-it-act-2000?page=2&per-page=1>

The legislation, for example, does not include provisions for OTT platforms, which could result in the unregulated broadcasting of uncensored movies. This stands in opposition to recent age-based limitations imposed on OTT content providers, suggesting a lack of uniformity. The Infocomm Media Development Authority (IMDA), a regulatory organization in Singapore, has issued a code to govern the operations of OTT platforms. The British Board of Film Certification has officially announced a partnership with Netflix. The Ministry of Information and Broadcasting in India has just introduced the Broadcasting Regulation Bill 2023, which includes regulations for Over-The-Top (OTT) platforms in addition to Direct-to-Home (DTH) and Internet Protocol Television (IPTV).

In addition, the legislation relies on self-regulation for determining age-appropriate categories, which places the obligation on parents and guardians. This approach may lack a consistent method and oversight. The crucial suggestions by the Mudgal Committee such as changing the name of the 'advisory panel' to 'screening panel' for film certification, guaranteeing linguistic variety, and incorporating female members, were disregarded. The appointment process was also criticized for its political nature.

The CBFC is frequently criticized for its lack of knowledge and propensity to censor films based on criteria that extend beyond age certification, such as religious and political viewpoints. There is a demand to unambiguously delineate the function and authority of the CBFC in the legislation. The suggested modification, which connects piracy fines to the whole cost of producing films, might lead to excessively high penalties for films with enormous budgets. The distinction between individuals who commit an offense for the first time and those who have previously offended, as outlined in the Copyright Act, is not discussed.

With the abolition of the FCAT in April 2021, filmmakers will now need to seek recourse in the High Court in order to contest CBFC certification. This change may result in a more arduous and time-consuming procedure. The age ratings in the Cable Television Network Rules and Self-Regulatory Content Guidelines for non-news channels are not harmonized. Currently, there is a lack of uniformity in the categorization system for TV shows, as they are not subject to the same legal classification as films and OTT content.

To address the issues expressed by the modified Act, certain measures can be implemented. To

enhance the execution of the Cinematography Amendment Act 2023, it is advisable to integrate the suggestions of the Mudgal Committee. These proposals emphasize the significance of promoting diversity in the film industry. Renaming the advising group as a screening panel would be consistent with this principle and emphasize the importance of diversity in decision-making. It is crucial to stress that the CBFC functions primarily as a certification agency rather than a censoring authority. This distinction is necessary to maintain artistic integrity and avoid unnecessary censorship based on criteria related to age. By extending the Act's jurisdiction to encompass OTT platforms, we would recognize the important role they have in modern media consumption habits. This would help create a more unified and thorough regulatory framework. By reassessing the fine structure for piracy offenses to distinguish between initial and repeat offenders, a more equitable and proportionate penalty system can be established. Additionally, reconsidering the elimination of the FCAT would provide an alternative mechanism to efficiently resolve disputes within the industry. Standardizing age categorizations across various media channels, such as television, improves clarity and uniformity for both content producers and consumers. Furthermore, the Act's dedication to maintaining a delicate equilibrium between artistic freedom and societal responsibility is evident in its approach of safeguarding the right to freedom of speech while also controlling content related to sensitive matters. Implementing measures for regular evaluations will reflect the ever-changing character of the film and media sector, guaranteeing that the legislation stays flexible and is able to address new issues and technical breakthroughs as they arise.

IJLRA