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SOCIO-ECONOMIC ASPECTS THAT **INFLUENCE COPYRIGHT INFRINGEMENT** **IN RELATION TO CINEMATOGRAPHIC** **FILM & SOUND RECORDINGS**

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ABSTRACT

The Berne Convention was established in 1883 as a result of the social friction created by the unrestricted copying of works to meet societal demands.¹ History shows us that in order to facilitate access to works, including allowing their translation into native tongues, many nations refused to recognize copyright in foreign works. Despite the fact that the Berne Convention was effective in establishing the minimal standards for worldwide author copyright protection, nations that disagreed with these standards refused to join and instead used a variety of tactics to encourage unauthorized access to foreign works.² The United States is an example of a jurisdiction that denies protection to foreign works while also promoting access to works to spark the growth of both domestic innovation and the printing industry through formalities like work registration.³ China is regarded as another example of a jurisdiction in the post-second world war era that permits access and growth of related industries without raising many concerns about copyright infringement. In order to support various social, political, economic, cultural, and technological requirements, the majority of nations also established sufficient restrictions and exceptions in their domestic laws. Some of these solutions include explicit exclusions of particular categories of works from the purview of copyright protection, exceptions like fair use or fair dealing, mandatory licencing terms, and allowing parallel imports in hopes of guaranteeing improved availability to work.

¹ Sam Ricketson and Jane Ginsburg, "The Berne Convention: Historical and Institutional aspects".

² Cohen, Julie E., et al., Copyright in a global information economy (2006).

³ Edward G. Hudon, "Literary Piracy, Charles Dickens and the American Copyright Law" (1964).

The development of sound recording technology and cinematograph film throughout the middle of the 19th century also led to the social tension of illegal copying of works in order to meet societal needs. The same applies to broadcasting technology. Even though the copyright law was designed to prevent unauthorized access to works, in all of these cases⁴, copyright violations persisted unchecked because of societal and cultural factors. While the desire for financial gain was occasionally the driving force behind the same, other times it was the absolute necessity of having access to works in order to support cultural and creative demands. Tolerating the social tension of unauthorized access to works continued to be primarily motivated by the public's interest in access to works.

New social conflicts for copyright law have been produced by information technology innovations and expanding internet access. It is widely acknowledged that the cost of creating and disseminating works has significantly decreased in the context of digital technology, and that this has created new avenues and markets for copyright holders to expand their profit margins.⁵ It is equally crucial to highlight that the users were able to appreciate the work not just for fresh creation but also for meeting their cultural demands thanks to the previously unheard-of speed at which copies of the work could be distributed without degrading the original's quality. As a result, social behaviours including sharing, user-generated content (UGC), text mining, and downloading and uploading files grew more quickly. In reaction to these social practices, technological platforms like Napster, Grokster, Gozilla, Torrent, Kazaa, Streamcast, Megaupload, Sci-Hub, etc. emerged.

The copyright owners also used technological solutions (technological protection measures)⁶ to prevent unauthorized access to works and lobbied for laws to prevent breaking of technological protection measures. The reality is that despite these attempts, the new habits of unauthorized access to works still exist. This is a stark illustration of social behaviour and the inadequacies of legal and commercial methods to prohibit it in the setting of the digital world. While some nations and courts have taken decisive action to stop these behaviours, others have been silent or slow to acknowledge the societal realities in their nations. Hence, it is possible to draw the conclusion that copyright infringement, or “**piracy,**” is a persistent social issue. It increases as technology

⁴ Gillian Davies, “Copyright and the Public Interest” (2002).

⁵ William M. Landes and Richard A. Posner, “The Economic Structure of Intellectual Property Law” (Harvard University Press 2003).

⁶ Bill D. Herman, “A Political History of DRM and Related Copyright Debates” (2012).

advances for a variety of reasons, including the emergence of new access behaviours, investments in tools that make unauthorized access easier, owners of copyright who overreact by zealously enforcing copyright under both old and new laws, and the emergence of new business models. Notwithstanding the motivations, the primary goal of piracy is still to meet the unmet needs of society for access to copyright works in the market economy, not always with the purpose to profit financially. Thus, it is crucial to consider the social impact of copyright infringement while making decisions in legal matters.

INTRODUCTION

Copyright infringement is illegal because it is theft. Copyright piracy, however, is frequently not seen of as a crime at all, or at least not as serious as thefts are typically thought to be, due to its white-colored character. This is arguably one of the biggest issues in effectively controlling the pirate epidemic, especially in a developing nation like India. A bank robbery or even a little residential theft is frowned upon in our culture. So, when a movie on which significant sums of money were spent, is illegally duplicated by millions, no meaningful action is being taken. This is due to the fact that copyright piracy, unlike the majority of other types of theft, frequently involves “intangible” rather than tangible goods. In certain cases, the “intellectual property,” which frequently goes unrecognized or neglected, rather than the actual physical object itself, is what is stolen. Because of this, even while copyright infringement has significant social and economic repercussions, it is sometimes not recognized as a severe crime from a societal perspective.

Copyright violations can significantly affect both the socio-economic status of the individual and society at large. When someone makes unauthorized uses, copies, or distributions of another person’s work that is protected by a copyright, this is known as **copyright infringement**.

KEYWORDS

Copyright Infringement, Piracy, Films, Sound Recording, Technological Innovations.

SOCIO-ECONOMIC CONDITIONS THAT

INFLUENCE PIRACY

A country's socioeconomic characteristics can be characterized by things like its population size, gross domestic product, literacy rate, per capita income, occupational composition of the work force, standard of living of the populace, etc. It is challenging to prove a direct causal connection between these socioeconomic factors and piracy. However, some of them are anticipated to have an impact—directly or indirectly—on the phenomena of piracy. The connection between some of them and piracy is attempted to be examined in the paragraphs that follow.

ILLITERACY

The majority of the world's illiterate population lives in India. With a score of 28%, the degree of illiteracy is disturbingly high. It is predicted that such a high rate of illiteracy will have some effect on copyright issues, more notably with regard to their efficient protection. Higher levels of illiteracy initially translate into a lower demand for books and other printed copyrighted items. According to this reasoning, the percentage of piracy is expected to be low in a society with a lower level of literacy, especially when it comes to books, journals, and other literary works. Software piracy can also be justified using this reasoning. Software piracy is predicted to be less common in nations with lower computer (hardware) penetration. Because only those areas of the copyright sector where the market is appealing in terms of big volume or high prices will be targeted by pirates. The decreased market for software and publications could discourage pirate activity. On the other hand, illiteracy may increase the likelihood of piracy in a variety of ways. Because they are illiterate, people cannot evaluate the originality of things in the same manner that educated people may, for example, by observing copyright notices, etc. Additionally, because illiterate people mainly rely on audio-visual media to satisfy their informational and recreational demands, a variety of audio-visual copyright items are vulnerable to widespread piracy.

POVERTY

The only goal of the pirates is to profit financially on the inventiveness of others. They are able to accomplish this because a small portion of the population readily accepts pirated goods, filling a need that the traditional sources of supply were unable to meet. The reason the pirates may sell their goods for less than genuine producers is because they are exempt from paying taxes, such as excise duty and sales tax, and they are also not required to invest in marketing infrastructure such as advertising. The majority of regular consumers still base their purchasing decisions primarily

on a product's pricing. No of how literate or aware they are of copyright, they opt to purchase less expensive goods. The majority of copyright products are also considered here as high-end goods. Naturally, "affordability" serves as the primary limiting factor in the decision to purchase. Since counterfeit goods are less expensive than genuine ones, the bulk of customers naturally choose them. The consumers attitude towards quality may also play a role in this situation.

HIGH PRICE LEVEL

Indian customers poor affordability is not just a result of their high levels of poverty. The cost of copyrighted goods is high, making them expensive for the bulk of potential clients as well as the poorer sectors of society. Many students continue to be unable to afford the text volumes required for professional courses in management, engineering, and other technical fields. In these conditions, piracy offers all those who cannot afford to purchase the originals a natural means of escape.

UNEMPLOYMENT

Even though it is very difficult to draw a clear connection between piracy and unemployment, unemployment may be another economic evil that influences the prevalence of piracy in India in addition to illiteracy and poverty. Industries based on copyright require a lot of labour. However, the legitimate sector of the economy can only take on a small portion of the labour force due to the high level of unemployment in the nation. As a result, the unemployed engage in a variety of activities, including the manufacturing and sale of copyright products without authorization.

POOR ENFORCEMENT

The country's inadequate copyright enforcement apparatus is another significant aspect that could tempt unemployed individuals into the world of piracy. The Copyright Act defines copyright piracy as a cognizable offence. However, as is the case with many other laws of a similar nature, the implementation of anti-piracy laws has mostly failed. When found to be engaging in piracy, there is no real risk of being detected and penalized in India. There is no doubt that the police department does not prioritise finding the pirates. The State Departments of Police have noted that one likely explanation for this is the force's increased involvement in harder-to-control situations like policing homicides, riots, and terrorist activities, among other things. The force's size and facilities for enforcing laws are also insufficient to deal with India's size and complexity of challenges. As a natural result, low order offences like copyright piracy don't get the police's full attention. Another issue acknowledged by the agency is the police staff's ignorance of the nation's

copyright laws and their inability to differentiate a pirated product from the authentic. For their “not so serious” response to the pirate epidemic, the right holders are equally to blame. The right holders, whose interests are at stake in any instance of piracy, should participate more actively than others in preventing it. However, the Indian rights holders regrettably lack this passion. Even when complaints are made to the police, most of the time no action is taken against the offenders. Sometimes going to the highest level of the police does not provide the expected outcomes. Even when pirates are apprehended by the police, the cumbersome and slow legal system assures that they get away with it for a very long time, if not forever. This discourages the right holders from actively participating in the fight against piracy.

ROLE OF POLICE & PUBLIC AWARENESS IN ENFORCEMENT OF COPYRIGHT

Role of Police

The Indian Copyright Act’s section 64 gives the police the authority to seize copies of works that have been copied without permission. If a police officer believes that a violation of section 63 regarding the infringement of copyright in any work has been, is being, or is likely to be committed, the section allows him to seize all copies of the work, wherever they may be found, without a warrant.⁷ All copies and plates so seized must then be presented before a magistrate as soon as is reasonably possible. According to subsection (1) of section 64, subinspectors and higher have the authority to seize copies that are infringing.⁸

Public Awareness on Copyright

Although the police play a crucial role in the enforcement of copyright laws, it is important to remember that the end users—the actual customers who use or purchase these products—are responsible for product piracy. Customers complacency and need for more affordable goods are what lead to copyright infringement by unauthorized people or organizations. The opposite is also true, namely that customers would not be able to purchase stolen goods if they were unavailable. The circumstance is comparable to the well-known “chicken and egg” tale. Therefore, effective measures are needed to educate both the general public and the final consumers of these items.

⁷ The Copyright Act 1957, s. 63

⁸ The Copyright Act 1957, s. 64.

ENFORCEMENT OF COPYRIGHT BY ENTERTAINMENT INDUSTRY

The primary actors in the enforcement of copyright rules include numerous other independent organizations from the entertainment sector in addition to the police. These enforcement authorities collaborate with the police and IP law firms to take actions against the offenders through raids and legal proceedings. They also assist in the investigation of cases of infringement and piracy linked to the entertainment industry.

International Intellectual Property Alliance

The US media industries international lobbying organization, the International Intellectual Property Alliance (IIPA), has strong ties to the US Trade Representative. It has regularly voiced unhappiness with Indian attempts to combat piracy in its reports. "IIPA collaborates closely with other US lobby organizations like the Business Software Alliance (BSA) and the Motion Picture Association of America (MPAA). The IIPA studies, which classify India as being in a "danger zone," have a big impact on regional and global discussions of piracy."

Motion Pictures Association

For the past 15 years, the Motion Picture Association of America (MPAA) has been conducting unofficial business in India through its foreign affiliate, the Motion Pictures Association (MPA). Walt Disney, Paramount, Sony Entertainment, Twentieth Century Fox, Universal Studios, and Warner Bros. are among its member businesses.

Since 1995, they have all worked together to create law enforcement teams for coordinated raids in Delhi and Mumbai. The Motion Picture Distributor's Association India (Pvt.) Limited (MPDA), led by Rajiv Dalal, would be the first India office of the MPA, which was announced earlier this year.

The MPA's Asia-Pacific operation, according to the organization's own claims, aided law enforcement in roughly 12,400 raids in 2009 and looked into more than 30,000 cases of piracy. More than 35 million illegal optical discs, 50 industrial optical disc production lines, 4,482 optical disc burners, and more than 11,000 legal actions were started as a result of these operations.

Indian Music Industry

Indian Music Industry (IMI), the second-oldest association of music labels in the world, was initially founded as Indian Phonographic Industry in 1936. It was revived in its current form in 1994 and is officially recognized as a society in West Bengal. It is a non-profit organization that is not for profit and is affiliated with the International Federation of Phonographic Industry (IFPI). *“Major record labels like Saregama, HMV, Universal Music (India), Tips, Venus, Sony BMG (India), Crescendo, Virgin Records, Magnasound, Milestone, Times Music, and a number of other well-known national and regional labels that account for more than 75% of the output in corporate recordings are among the IMI members.”*

It was among the first companies in the nation to adopt the practice of appointing former police officials to oversee anti-piracy operations.

Industry Enforcers

To tackle piracy in particular markets, Bollywood film and music studios like T-Series and Yashraj Films have set up anti-piracy arms. T-Series, a brand of Gulshan Kumar's Super Cassettes Industries Limited, has been in the business for more than 15 years. It frequently leads the way in executing raids with police officers to stop the piracy of its copyrighted content. T-Series announced earlier this year that it was starting an anti-piracy campaign to stop people from stealing digital content. The declaration came after they reported Classic Video Shop to the police in Mangalore for violating the copyrights of several of its works, including Billu, Ghajini, Aap Ka Suroor, Apne, Fashion, and Karz, which had been illegally downloaded and copied onto numerous discs, card readers, and pen drives.

Leading film company Yashraj Films has always participated in enforcement efforts against piracy, both domestically and abroad. The United Producers and Distributors Forum, which was recently formed, also featured Shah Rukh Khan, Aamir Khan, Ramesh Sippy, Ronnie Screwalla of UTV, and Eros International as well as its chairman, Mahesh Bhatt. A.A. Khan, another ex-cop from Mumbai, is helping this organization execute anti-piracy legislation by leading searches around the nation.

CONCLUSION & SUGGESTIONS

From a financial standpoint, infringement of copyright can cost copyright owners money, especially in the creative industries like music, movies, and software. The loss of potential sales, royalties, and licencing fees that result from unlawfully downloading or sharing copyrighted material can have a severe effect on the livelihood of the copyright owner and their capacity to produce new works. Contrarily, copyright infringement can benefit users and consumers, particularly when copyrighted content is expensive or challenging to access legally. For instance, some people might download music or movies illegally if they can't afford to buy them legally or if they're not available where they live.

Copyright violations can benefit customers, but this must be balanced against any potential social repercussions. In nations where the creative sector significantly contributes to the gross domestic product, copyright infringement can have a negative economic impact (GDP). Moreover, copyright violations can stifle creativity and innovation since those who possess the rights to works may be less inclined to produce new ones if they believe their rights are not being sufficiently upheld.

In general, violations of copyright have a complex and multifaceted effect on people's socioeconomic status in society. In order to create fair and efficient policies for copyright protection and enforcement, policymakers and stakeholders must take into account the interests of all parties.

SUGGESTIONS

- A huge public relations effort highlighting the negative effects of copyright violations, including the fact that they are illegal and their repercussions, etc., might be started. Yet, this is a really difficult task. Everyone involved in this, including the government, local governments, owners of rights, organizations, copyright societies, agencies in charge of enforcing the law, etc., must work together. The campaign could initially be introduced by mass media like newspapers, journals, electronic media like TV, movie theatres, etc. The campaign ought to emphasize how to distinguish between authentic products and counterfeit goods.

- Since students are the main consumers of the products made by the copyright sector, education campaigns can also be started at the high school and college levels. Yet, there are no quick fixes that can be used to address piracy in the near future. A sustained effort should be made to teach high school and college pupils. Piracy-related topics may be included in school or college curricula, particularly for electronics students who may be exposed to the effects and tactics of software piracy.
- Parallel lectures and demonstrations may be scheduled across the nation with college and school deans, who may then instruct their students. Everyone involved in copyright-related works must work collaboratively if this is to be successful.
- The Indian copyright regulations must also be made clear to right holders, dealers, and distributors in addition to end users. Although many right holders are aware of copyright, they may not be entirely familiar with all of the requirements of the Indian Copyright Act. Even when they learn that their works are being violated, right holders frequently show reluctance to take action. This is especially true of musical compositions, filmmaking, and to some extent book publishing. Thus, the owners of the rights must also receive training in all facets of copyright and be persuaded that any violations directly harm their interests.
- All police officers, even constables, must receive sufficient training. Phased programmes must be created with the assistance of associations, well-known lawyers, and well-known business people/rights holders. For the chiefs of the crime branches/copyright cells, one or two day workshops on all aspects of copyright may be organized. The copyright office may take the initiative. At the workshops, a training module might be created and distributed to these individuals. The leaders of the crime branches and copyright cells in each state and UT may then instruct their subordinates. If necessary, speakers from NASSCOM, IMI, IPRS, and other organizations could be invited to speak at these sessions. The NASSCOM anti-piracy hotline can be implemented at the appropriate associations, copyright societies, and crime branches in the appropriate states.