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AN ANALYSIS OF THE COPYRIGHT LAW IN INDIA WITH SPECIAL REFERENCE TO THE OTHER SAARC COUNTRIES

AUTHORED BY - SOHOM SAHA¹

1. Introduction

A sovereign state brings copyright laws into force to protect various types of intellectual properties of citizens as well as non-citizens. It protects original literary, musical, artistic works, photographs, audio-visuals like cinematograph films and every such invention which is commercially profitable for the person by whose intellect it has been created. South Asian Association for Regional Cooperation (SAARC) is a regional organization of eight sovereign states. Its member nations are Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. This regional organization has been formed for the purpose of socio-economic improvement and cultural growth in the South Asian region. Geographically, all of these states share international borders. If a deep observation can be made, it can be understood that people of these states having facial, linguistic, cultural and behavioural similarities. People of this region understand languages of other SAARC member countries. Languages like Hindi, Urdu, Bengali and Tamil are some of them. People of this countries unhesitatingly likes to read, listen, watch and follow contents made by people of other member countries. It has been observed that generally people like to imitate in positive manner, but at some stage it becomes violation of international copyright laws.

Therefore, it is to be measured, whether all these eight member countries having similar or different copyright laws. In this study, all important aspects will be analysed to find out legal deficiencies of all those existing legislations.

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2. Copyright Laws of India

India has rich and diversified sources of intellectual properties. It was one of the largest British colonies and for that reason it became one of the whistle-blowers of copyright law in Asia. India experienced its first copyright laws in 1847 and it replaced in 1914.² After independence of the country, new laws to protect copyright has been enforced in 1957.³ The Copyright Act 1957 contains 79 sections in 15 chapters. Section 3(1) of the Act clarifies that original literary works, dramatic works, musical works, artistic works, cinematograph films and sound recordings are to be protected under this act except such other works mentioned in sub section (2) and (3) of the same provision. Chapter V of the Act containing states about the duration of copyright. According to Section 22, author of published literary, dramatic, musical and artistic works shall hold copyright within his lifetime until sixty years from the beginning of the calendar year next following year in which he dies. In case of cinematograph film and sound recording, copyright will exist until sixty years from the following year next following the year in which the work is published.⁴ Any work done by any government or public undertakings or international organizations shall be protected under the act until sixty years from the following year next following the year in which the work is first published.⁵ Copyright for any such posthumous works will subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published and where such work has been published in any earlier year, then it will be counted from the beginning of the next following year. In case of anonymous or pseudonymous works, the copyright will remain until sixty years from the beginning of the calendar year next following the year in which the work is first published. If any author published in anonymously or pseudonymously and later on discloses his identity before the date of expiration, then copyright will exist until sixty years from the beginning of the calendar year next following the year in which the author dies and in case of disclosure of more than one authorship, copyright will subsist until sixty years from the beginning of the calendar year next following the year in which the last author dies. Chapter II of the Act prescribes establishment of copyright office, composition, powers and procedures appellate board. As per Section 10 of the Act, a registrar of copyrights to be appointed by the Central Government of India. Such registrar will be the immediate controller of the Copyright Office established by the Central Government of India.

² Suvrashis Sarkar, "History and Evolution of Copyright in India", *Indian Journal of Research*, Volume 5, Issue 11, November 2016.

³ Charu Dhureja, "Historical Development of Copyright Law in India", *International Journal of Advanced Research in Management and Social Sciences*, January 2015

⁴ Section 26 and 27 of the Indian Copyright Act 1957.

⁵ Section 28, 28A and 29 of the Indian Copyright Act 1957.

The Act also having provision to appoint deputy registrar, who will serve as subordinate of the registrar. This law provides adequate guidelines to protect copyright registered under this act but registration of works to claim copyright is not mandatory.⁶ An appellate board has been established to deal with disputes relating to copyrights and it would be considered to be a civil court functioning court proceeding.

Chapter XII and XIII of the Act provided remedies and punishments of copyright infringements. As per section 55 of the Act, civil remedies may be provided as injunction, damages, settlement of account and such other modes as conferred by this Act. In case of copyright infringement, the original author can claim authorship of the work and restrain or claim for compensation for doing any change in the said work which harmed his reputation or honour of the. According to section 60 of the act, if anyone does baseless threat to harass with legal proceedings, the author will have right to obtain injunction against further threat and recover damages which would be equivalent of the loss suffered because of the threat. On the other hand, penal provision against copyright infringement provided three types of punishments which includes punishment of imprisonment and/or punishment of fine. As per the provisions laid in the Act, maximum imprisonment of three years has been prescribed and different number of heavy fines.

India became a member of International Union for the Protection of Literary and Artistic Works since 28th April 1928.⁷ India was very cautious while ratifying international agreements. It agreed to enforce Article 22 to 38 of the Berne Convention⁸ in 1974 and Article 1 to 21 in 1984. India also took part in Universal Copyright Convention. India was one of the 117 Countries of the TRIPS agreement.⁹ It also assigned WIPO Copyright Treaty on 25th September 2018.¹⁰

3. Copyright Laws of Bangladesh

From 18th July 2000, Copyright Act has been enforced in Bangladesh. The law having 105 Sections in seventeen chapters. Section 15 of the Act clarifies in which classes of work, the

⁶ Hana Onderkova, "Copyright Protection in India- Overview and Recent Developments", *available at:* http://intellectual-property-helpdesk.ec.europa.eu/news-events/news/copyright-protection-india-overview-and-recent-developments-2022-03-02_en (Visited on July 5, 2023)

⁷ Declaration by the Government of Republic of India relating to Article II and III of the Appendix to the Paris Act (1971), *available at:* <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1534892> (Visited on July 5, 2023).

⁸ Ibid.

⁹ Jayashree Watal, "Implementing the TRIPS Agreement: Policy Options Open to India", *Economic and Political Weekly*, September 27 - October 3, 1997.

¹⁰ WIPO Copyright Treaty Contracting Parties, *available at:*

https://www.wipo.int/wipolex/en/treaties/ShowResults?search_what=C&treaty_id=16 (Visited on July 5, 2023).

copyright will subsist. The term of copyright has been stated from Section 24 to 32 of Chapter V. According to the provisions, copyright protection will be provided to any literary, dramatic, musical or artistic work except photograph published within the lifetime of the author until sixty years from the beginning of the calendar year next following the year in which the author dies and in case of joint authorship, death of the last author will be counted in the place of the single author.¹¹ In other classes of work like cinematograph film, recorded sound, photograph and computer programme, term of copyright would be sixty years from the beginning of the calendar year next following the year in which the work is published. If publication of literary, dramatic, or musical work or an engraving work done after the death of the author, the term of copyright would be sixty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year. Term of copyright for unknown or pseudonymous work would be sixty years from the beginning of the calendar year next following the year in which the work is first published. Any original work done by government organization, local authorities, international organization would be protected till sixty years from the beginning of the calendar year next following the year in which the work is published and the authorship will be in the name of that concerned organization. According to Section 69 of the Act, the Government of Bangladesh may extend the term of copyright in case of foreign work. Chapter 2 of the Act talks about copyright board, power and procedure of the copyright board, copyright office, appointment of registrar and deputy registrar of copyright. As per section 11 of the Act, the Government of Bangladesh will constitute a copyright board which shall consist a Chairman and not more than six members or less than two members. The Chairman must be or has been a judicial officer not below the rank of a District Judge in the selection grade or an officer not below the rank of an Additional Secretary to the Bangladesh government or who is an advocate qualified to be a Judge of the Supreme Court of Bangladesh. The registrar will be the Secretary of the board. According to Section 12 of the Act, the board have powers to regulate its own procedure and it will be considered as a Civil Court. All proceedings in the board will be considered as judicial proceedings according to the penal code of Bangladesh. In case of any matter in question before the copyright board, opinion of majority will prevail and where majority cannot be achieved, opinion of chairperson shall prevail. Further, appointment and duties of registrar and deputy registrar has been stated in the section 10 of the act. In the Copyright Act, there are civil remedies

¹¹ Muhammad Farhad Hosen, "an Overview of the Copyright Protection Laws in Bangladesh- A Critical Analysis of the Copyright Act, 2000 with Its Loopholes and Recommendations", *Beijing Law Review*, Volume 8, 2017

as well as punishments for the copyright infringements.¹² Section 76 of Act provides civil remedies for copyright infringement. It declares that, the author shall be entitled to all such remedies in the form of injunction, damages, accounts and otherwise as may be conferred by the law in case of copyright infringement. Chapter 15 of the Act gives provisions for offences and penalties. This chapter having penal provisions for copyright infringement and infringement of other rights, enhanced punishments for repeated offenders and guidance for disposal of infringing copies or plates for making such copies. Punishment for copyright laws of Bangladesh would be imprisonment which may extend to two years or heavy amount of fine which may extend to five lakh Bangladeshi Taka¹³ or both.

Bangladesh has shown very interest in accepting international agreements relating to copyright laws. On 11th February 1985 Bangladesh signed in to the Convention Establishing World Intellectual Property Organization.¹⁴ On 3rd March 1991, it became member nation of Paris Union.¹⁵ The nation also accepted the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement as one of the members of World Trade Organization (WTO) in 1995. On 4th May 1999, the state became one of the members of the International Union for the Protection of Literary and Artistic Works.¹⁶ Recently on 26th September 2022, Bangladesh signed Marrakesh Treaty.¹⁷

4. Copyright Laws of Pakistan

Pakistan was one of the early states enforcing copyright laws just fifteen years after independence. In 1962, Pakistan enforced The Copyright Ordinance to deal with copyright related matters.¹⁸ According to Section 10 of the Ordinance, any original works, literary works, dramatic works, artistic works, cinematographic works, records and design of architectural works shall be protected. Copyright of these works have been protected for mentioned period of time. As stated

¹² Md. Mahabubur Rahaman, "Copyrights and Related Rights in Bangladesh: The Laws and the Reality", *International Journal of Multidisciplinary Sciences And Advanced Technology*, Volume 1 No 12, 2020

¹³ Currency of Bangladesh.

¹⁴ WIPO Notification No. 133, available at: https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_133.html (Visited on July 6, 2023)

¹⁵ Paris Notification No. 122, available at: https://www.wipo.int/treaties/en/notifications/paris/treaty_paris_122.html (Visited on July 6, 2023)

¹⁶ Berne Notification No. 200, available at: https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_200.html (Visited on July 6, 2023)

¹⁷ Marrakesh Notification No. 92, available at: https://www.wipo.int/treaties/en/notifications/marrakesh/treaty_marrakesh_92.html (Visited on July 6, 2023)

¹⁸ Khalid Mahmood and Muhammad Ilyas, "Copyright and Book Piracy in Pakistan", *International Federation of Library Associations & Institutions*, 2005.

in the Section 18, copyright for literary, dramatic musical or artistic works except photographs shall exist within the lifetime of the author and till next 50th year from the beginning of the following year of his death. On the other part, copyright of cinematograph works, photographs and records shall exist from the beginning of the following year of publication till next fifty years. Any work published after death of the author would be protected for fifty years from the beginning of the following year of its first publication or public disclosure. If any work published anonymously or pseudonymously, copyright shall subsist for fifty years from the beginning of the following year of its first publication but in case of disclosure of the original name, the provisions of section 18 would be followed. If author of a work is not found, its copyright will remain restricted for fifty years from the beginning of the following year of its publication. Even works done by governments of Pakistan and international organizations gets copyright protection for fifty years from the beginning of the following year of its first publication.¹⁹ All those works, may be registered if the author thinks to make it. Chapter IX of the ordinance having provisions for establishment copyright office and copyright board, powers and procedure of the copyright board appointment of Registrar and Deputy Registrars. According to Section 43, a copyright office shall be established under the supervision of the Registrar appointed by the Federal Government of Pakistan. Branches of the copyright office shall also be made and those shall function as per the direction of the Registrar. The registrar shall also perform as the Secretary of the Copyright board. The board will also be containing one chairman, who is or has been or qualified for appointment as a judge of High Court in Pakistan, appointed by the Federal Government of Pakistan and the board shall have at least three which can be upto five other members.²⁰ In case of any copyright infringement, the ordinance having civil remedies, penalties and some prohibitive measures. Section 60 of the Ordinance states about civil remedies like injunction, damages for such infringement and settlement of amount earned from such infringements. Even interim orders for limited period of time to prevent copyright infringements can be passed as per the provisions of the ordinance. As prohibitive measure the ordinance declares that no infringing copies of any work shall be permitted for importation or exportation. This ordinance provided two types of punishments which are imprisonment and fine. In case of infringement, violation, unauthorized reproduction, distribution of counterfeit copies of works, exploitation and appropriation of recording or audio-visual work made for private use, excess reproduction of copies, unauthorized rental of cinematographic works and computer programmes, breach of section 57A of the

¹⁹ Rabia Javed and Zahish Farid Khan, "Parallel Import of Copyrighted Work in Pakistan", *Pakistan Journal of Social Research*, Volume 4 No. 2 April-June 2022

²⁰ Ghalib Khan and Sobia Bashir, "The Dilemma of Book Piracy in Pakistan", *Journal of Law and Society*, January 2019

ordinance ; a person shall be punished with imprisonment which can be upto three years or with fine which be upto one lakh Pakistani Rupees or with both as stated in the ordinance. In any other offences like having possession of Plates for the purpose of making infringing copies, making false entries in register or making false evidence, making false statement or false attribution etc. A person shall be punished with imprisonment which can be upto two years or with fine which can be upto one lakh Pakistani Rupees or with both.

Pakistan took its first step towards copyright protection when it became one of the accepters of the Berne Convention for ten years in 1969.²¹ It also became member of The Convention Establishing the World Intellectual Property Organization in 1976.²² In 2004, Pakistan became member of Paris Union.²³ In 2010, this country signed in amended TRIPS Agreement as a WTO member.²⁴

5. Copyright Laws of Sri Lanka

The state was having copyright laws enforced by British Rulers till 1979. After that, it enforced the Code of Intellectual Property Act 1979. But it was replaced by the Intellectual Property Act 2003.²⁵ Provisions for copyright has been given in Part II of the Act. As mentioned in Section 6 and 7 of the Act, copyright of different types of original literary, artistic or scientific works and derivative works has been protected.²⁶ According to Section 13, these works have been protected for different period of times. In case of single authorship, a work shall be protected when the author is alive and till the end of seventieth year from the date of his death. For joint authorship, a work would exist during the lifetime of last surviving author and till the end of seventieth years from his date of death. Duration of copyright in collective works like applied arts shall exist till the end of twenty fifth year from the date of making of the work. For other collective works and audio-visual works, copyright will subsist till the end of seventieth year from the date of its first publication or public disclosure. Works done anonymously or pseudonymously shall be protected till the end of seventieth year from the date of its first publication but in case of disclosure of

²¹ Berne Notification No. 13, *available at*:

https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_13.html (Visited on July 7, 2023)

²² WIPO Notification No 97, *available at*:

https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_97.html (Visited on July 7, 2023)

²³ Paris Notification No. 211, *available at*:

https://www.wipo.int/treaties/en/notifications/paris/treaty_paris_211.html (Visited on July 7, 2023)

²⁴ Ibid.

²⁵ Dr. Charmila S. Talagala, "Copyright and its Enforcement in Sri Lanka: A Square Peg in a round Hole?", *Bar Association Law Journal*, 2017

²⁶ Dinal Philips, "An Introduction to The Law of Copyright", *Journal of the University Librarians Association of Sri Lanka*, Volume 13, 2009

original author's name, Section 13(1) and 13(2) of the acts will be applicable. The state having intellectual property office to register all intellectual properties including copyright in works under the control and superintendence of the Director General. The Act also directed to appoint a director, deputy directors and such other officers and servants as required.²⁷ As per Section 22 of the Act, Court shall be there to direct injunctions, prohibitions and order to impound copies. The Court have scope to give order for damages including loss suffered due to copyright infringement, amount earned from the infringement and cost of litigation. The court can also destruct or dispose of copies or plates to make such copies. Offences relating to copyright infringements has been provided in the Act. As per Section 178, for any type of copyright infringement of any work a person may be punished with imprisonment for a term which can be upto six months or fine which can be upto Five Lakh Sri Lankan Rupees or with both. In case repetition of any offence term of imprisonment and/or amount of fine can be doubled.

Sri Lanka ratified a part of Berne Convention²⁸ in 1978 and later on ratified rest of it in 2005.²⁹ It also ratified provisions of WIPO Convention in 1978.³⁰

6. Copyright Laws of Nepal

In 2002, King Gyanendra Bir Bikram Shah Dev enforced copyright laws in Nepal to protect copyright of authors. As per the Section 3 of the Act, protection of copyright shall be provided to any 'work'³¹ and all other intellectual properties mentioned in sub section (2). All these works and other intellectual properties having duration of copyrights as stated in the Act. According to Section 14 of the Act, copyright of an author shall be protected in his lifetime and till fifty years after the year of death. But in case of joint authorship copyright shall exist till fifty years after the year of death of last surviving author. If any person or organization directed for a work or remunerated for the work, in such case that copyright shall be with that person or organization or remunerator till fifty years from the date of first publication of the work or public disclosure which has been done earlier. Copyright in applied art and photographic art shall exist till twenty-five

²⁷ B. A. R. R. Ariyaratna and W. A. Sanath Sameera Wijesinghe, "Protecting Copyrights and Related Rights in the Digital Dilemma: Some Challenges", *Journal of Business Management and economic Research*, Volume 2, 2018

²⁸ Berne Notification No 92, available at: https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_92.html (Visited on July 8, 2023)

²⁹ Berne Notification No. 248, available at: https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_248.html (Visited on July 8, 2023)

³⁰ WIPO Notification No. 100, available at: https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_100.html (Visited on July 8, 2023)

³¹ Here 'Work' means all such intellectual properties which has been defined as 'work' in Section 2 of the Copyright Act of Nepal.

years from the year of preparation of such work. If a work has been published anonymously or pseudonymously, duration of copyright will subsist till fifty years from the date of first publication or public disclosure of such work. In case of work published posthumously, term of copyright would be fifty years from the year of publication of the work. Where any work done by more than one author and the work published after death of any of them, the work shall be protected for fifty years from the date of its first publication.³² All these works will automatically get copyright protection and author or any other person voluntarily may register such work if he intends as mentioned in section 5 of the Act and it is not at all mandatory. Section 27 to 29 in Chapter 6 has provision relating to punishments in case of copyright infringements. As per those provisions mentioned in case of copyright infringements or violation of other rights, punishments of imprisonment, heavy fines and compensation can be awarded. In case of copyright infringement, a person can be punished with a fine of a sum from ten thousand rupees³³ to one lakh rupees or with imprisonment for a term not exceeding six months or both. For repetition of such infringement, punishment may be with a fine of a sum from twenty thousand rupees to two lakh rupees or with imprisonment for a term not exceeding one year or with both. In every case the original owner of the work is entitled to get adequate compensation for losses caused because of Copyright infringement as mentioned in Section 27(2) of the Act. If a person imports unauthorized copies in Nepal, he shall be punished with fine of a sum from ten thousand rupees to one lakh rupees and compensation shall be given to the original owner of the copyright and all such unauthorized copies shall be seized. In respect of any such other infringements, a person may be punished with fine of at least five thousand rupees which can go up to fifty thousand rupees.

Nepal signed Convention Establishing the World Intellectual Property Organization on 4th November 1996.³⁴ It became member of International Union for the Protection of the Industrial Property in 2001.³⁵ It also became member of the International Union for the Protection of Literary and Artistic Works in 2006.³⁶ Nepal as a member of World Trade Organization, accepted amended TRIPS Agreement in 2016.³⁷

³² Ayush Adhikari and Kiran Poundel, "Analysis of Copyright Act 2002 of Nepal", *International Journal of Science and Research*, Volume 7 Issue 6, June 2018

³³ 'Rupees' means Currency of Nepal.

³⁴ WIPO Notification No 187, available at:

https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_187.html (Visited on July 9, 2023)

³⁵ Paris Notification No. 203, available at:

https://www.wipo.int/treaties/en/notifications/paris/treaty_paris_203.html (Visited on July 9, 2023)

³⁶ Berne Notification No. 249, available at:

https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_249.html (Visited on July 10, 2023)

³⁷ Amendments of TRIPS Agreement, available at: https://www.wto.org/english/tratop_e/trips_e/amendment_e.htm (Visited on July 10, 2023)

7. Copyright Laws of Bhutan

From 17th July 2001, the Copyright Act of Bhutan has been enforced. The act containing 34 Sections in five parts. According to Section 7 of the Act, only literary, artistic and derivative works are to be protected. These copyrights have been safeguarded for different period of time as mentioned in Section 18 of the Act. An author will hold copyright till the end of 50th calendar year after his death. In case of joint authorship, the copyright will exist till the end of 50th calendar year after the last author's death. For applied art, copyright will exist from making of the work to the end of 25th calendar year and for other collective works, it will exist till the end of 50th calendar year from the date of first publication or making of the work. Any work published anonymously or in pseudonym, will be protected till the end of 50th calendar year from the date of first publication. The statute provided two types of remedies. As civil remedies a copyright infringer has to pay damages including cost of litigation or mentioned heavy fine may be imposed or a destruction or reasonable disposition of can be done as per section 29 of the Act. Copyright infringement as criminal act can be punishable by imprisonment up to one year or by fine up to ten lakh ngultrums³⁸ or by both and profits from the infringement can also be added if the Court thinks fit.

Bhutan has become party in some of the international agreements in last two decades. It was one of the signatories of Convention Establishing the World Intellectual Property Organization³⁹. Bhutan became member of Paris Union⁴⁰ in 2000 and International Union for the Protection of Literary and Artistic Works⁴¹ in 2004.

8. Copyright Laws of Afghanistan

Afghanistan enforced municipal laws with respect to Copyright laws in 21st July 2008. It has been enforced as per Article 79 of the Constitution of Afghanistan as the “Law on the support the right of authors, composers, artists and researchers (Copy Right Law)”. The law having 49 articles in seven chapters. According to Article 6(1) of the law, it has been clarified that which works to be protected and Clause (2) of the Article states that the provision of the law will protect such other works mentioned in international treaties, agreements and conventions in which the state is a

³⁸ Currency of Bhutan.

³⁹ WIPO Notification 170, *available at*:

https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_170.html (Visited on July 11, 2023)

⁴⁰ Paris Notification No. 201, *available at*:

https://www.wipo.int/treaties/en/notifications/paris/treaty_paris_201.html (Visited on July 11, 2023)

⁴¹ Berne Notification No. 243, *available at*:

https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_243.html (Visited on July 11, 2023)

signatory/member.⁴² Article 16 of the law deals with period of copyright protection. Clause (1) of the article clarifies that copyright protection will be given in the lifetime and till fifty years after the death of the author. In case of joint work, copyright will be removed after fifty years of the death of the last author. In case of any publication, audio visual works, broadcasting, photography, painting or where name of the author has been metaphorically mentioned or the publication has been done after the death of the author, the period of copyright is fifty years. Chapter Six of the law containing seven articles to take corrective measures. Article 30(2) states that the Court can take seven measures when a complaint take place. These are injunctions to prohibit copyright infringements, seizure of the infringing copies or any part of it, seizure of the implements used in the reproduction, order of appropriate compensation, seizure of profit attributable to the infringement, destruction of pirated and illegal copies, total ban and shut down of the establishment involved in the infringement. Article 30(3), 31, 32, 34(3) and 35 of the law provided various types of penalties like imprisonment, heavy fine, confiscation etc. in case of different form of copyright infringements.

On 13th September 2005, Afghanistan became signatory to the World Intellectual Property Organization (WIPO) Convention.⁴³ On 14th February 2017, it became signatory of Paris Convention for the Protection of Industrial Property.⁴⁴ On 2nd June 2018, Afghanistan became a member of the International Union for the Protection of Literary and Artistic Works.⁴⁵

9. Copyright Laws of Maldives

It has no laws to protect copyright until The Copyrights and Related Rights Act 2010 has been published. Paragraph 3 of the Act declares that various types of intellectual properties and different types derivative works would be protected under this act. All such mentioned copyrights having durations which has been mentioned in Paragraph 20 of the Act. An author can have copyright during his lifetime and till the end of fiftieth calendar year after his death. In case of joint authorships, copyright will subsist till the end of fiftieth calendar year after the death of last surviving author. For collective works and audio-visual work except applied arts, duration of

⁴² Zamira Saidi, "What We Don't Know About Intellectual Property: A Comparative review Of Intellectual Property In The United States And Afghanistan", *The University of Cincinnati Intellectual Property and Computer Law Journal*, Volume 5 Issue 1, March 2021

⁴³ WIPO Notification No. 212, available at:

http://www.wipo.int/treaties/en/notifications/convention/treaty_convention_212.html (Visited on July 12, 2023).

⁴⁴ Paris Notification No. 221, available at:

http://www.wipo.int/treaties/en/notifications/paris/treaty_paris_221.html (Visited on July 12, 2023)

⁴⁵ Berne Notification No. 279, available at:

https://www.wipo.int/treaties/en/notifications/berne/treaty_berne_279.html (Visited on July 13, 2023)

copyright will subsist till the end of fiftieth year from the date of first publication. For applied art, copyright will subsist till the end of twenty fifth years of first publication. works which has been published anonymously or pseudonymously, duration of copyright would exist till the end of fiftieth year from the date of first publication. All those mentioned works may be registered as per Paragraph 7 of the Act. However, registration to claim copyright is not mandatory but it is a process for acknowledgement and information for the concerned authority. Section 4 of the Act provided different types of remedies to tackle with copyright infringements. Provisions of impounding and injunction has been given in Paragraph 30. Even civil remedies like damages including litigation cost, destruction of infringing copies and materials, transfer of such works to the original owner of the copyright and heavy fine in case of repetition. This act also having penal provisions, which states that a person who infringes copyright can be ordered to give fine upto Three lakhs' Rufiyaa. In case of subsequent infringement within five years, amount of fine may be increased upto two times of the highest amounts of fine. Even paragraph 33 provides provision of fine for abuses in respect of technical means of protection and rights management information. Maldives is one of the least interested countries with respect of international copyright agreement. This country has taken membership of Convention Establishing the World Intellectual Property Organization in 2004.⁴⁶ As World Trade Organization member, the country was present in TRIPS agreement.

10. Critical Analysis

All of the member countries of SAARC were involved in international agreements for copyright protection sooner or later. India has some of the oldest copyright law related background. It was made by British rulers which has been replaced in 1957. Copyright related laws in India are very crystal clear and illustrative. After independence, Bangladesh has accepted almost all measures to protect copyright in its land. Because of that, its significant growth in intellectual works and great standard of copyright protection can be observed. It also matches with the legal standard of developed countries. State like Afghanistan struggling with internal tensions but not forgot to take initiatives to protect copyright. But the present governing instruments are internationally questionable and its doctrine may not approve the previous international agreements and municipal laws. Nepal also became member of some international bodies from 1996. The nation enforced its laws to protect copyright in 2002. Bhutan is one of those countries which have been accepted international agreements relating to copyright in twenty first Century. Its municipal laws

⁴⁶ WIPO Notification No. 209, available at:

https://www.wipo.int/treaties/en/notifications/convention/treaty_convention_209.html (Visited on July 13, 2022)

to protect copyright is simple but adequate. The law is the main source of making a framework to protect copyright of creators. Pakistan is one of these countries having very enthusiasm to protect copyright of authors or creators. It enforced municipal laws in 1962 which was before signing in international agreements to protect copyright. But Sri Lanka entered in international agreements in 1978 and enforced municipal laws in 2003. Maldives has accepted some of the international agreements and some of those are still yet to be signed. The country enforced copyright related municipal laws in 2010.

11. Conclusion and Suggestions

Copyright is one of the major portions of intellectual property rights which ensure systematic economic profitability, fame and encouragement to make various types of works. Above mentioned eight states are strong shareholders of such types of works. Probably it is happening because of social, cultural diversity and huge population of this region. In these eight states various differences in copyright laws can be observed which may promote discouragement in the mind of creators. As duration of copyright is different for same work in other member countries. For example, an author gets copyright protection in his lifetime and till the end of next fifty years after his death in Afghanistan, Nepal, Bhutan, Maldives and Pakistan but in Bangladesh and India author gets copyright protection in his lifetime and till the end of next sixty years after his death. In Sri Lanka, author gets copyright protection in his lifetime and till the end of next seven years after his death.

Beside this, in some countries option of registration to get copyright protection is not available and for that reason disputes relating to copyright infringement may increase because availability of evidences decreases.

Even policy making becomes a tough task for the governing establishments for lack of information about the annual growth in this type of intellectual works. States which have governing bodies like copyright board, none of the states have mentioned to make at least one member who have adequate knowledge of these types of intellectual works.

As far as remedial provisions of all the existing copyright laws of these member countries are concerned, most of those are not adequate to set deterrence in the society. Copyright infringements not only destroys an author economically, it breaks down his spirit to innovate new works, his dedication towards the mode of works, huge amount time etc.

❖ **Suggestions**

After analysing all those aspects, some steps can be taken which will ensure betterment of the copyright laws of the SAARC countries. Steps are in the following,

- (i) SAARC must have a separate body consisting representatives of the member countries, who are specialized in copyright laws. Members must be Person having adequate knowledge about international copyright agreements and regular improvements in municipal copyright laws of different countries. The body shall research about suitability of laws enforced in other countries and it will recommend periodically to all the member countries to improve copyright laws.
- (ii) All the member countries should provide same duration of copyright in same form of works.
- (iii) Every member state must have a centralized copyright board, which shall keep annual data of numbers of works which are entitled to get copyright. The board must have at least one member had adequate knowledge of works which will be protected under copyright laws. The board must have one legal expert having adequate knowledge of international and municipal copyright laws.
- (iv) Every country must have copyright registration office which can ensure originality of works and count numbers of works registered. The registration should be mandatory to claim copyright protection and it must be done without any registration fee.
- (v) All the country must provide at least one judicial officer for each districts having professional experiences which shall not be less than seven years.
- (vi) Degree of punishment against copyright infringement as criminal acts should be increased. Each country must enforce provisions to increase the degree of punishments.