INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed



www.ijlra.com

ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

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"BALANCING COPYRIGHT PROTECTION WITH FREEDOM OF EXPRESSION"

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Abstract

Copyright protection and freedom of expression are two key ideas that help build a democratic and creative society. Copyright helps protect the unique ways that writers, artists, musicians, filmmakers, researchers, and other creators express their ideas and work. Freedom of expression lets people share their ideas, opinions, knowledge, criticisms, and experiences without facing unfair obstacles. Sometimes, problems can happen when people use already copyrighted material to share their opinions, do research, report facts, make educational content, or take part in conversations about important issues. Putting too many limits on copyrighted material might stop people from expressing themselves properly, but not protecting copyrights enough can hurt creators and make them less likely to make new, original work. So, it's important to find a good balance between these different interests. In India, this balance is shown in Article 19(1)(a) of the Constitution and the Copyright Act, 1957, especially the exceptions outlined in Section 52. This article looks into what copyright protection means and how it connects to freedom of expression.It covers the laws related to both, key court rulings, problems caused by digital technology, and ways to safeguard both rights without breaking copyright rules.

Keywords: Copyright, freedom of expression, intellectual property rights, fair dealing, Article 19(1)(a), Copyright Act, 1957, digital media, criticism, creativity

1.Introduction

In today's world, sharing information and new ideas is really important for people to grow and for society to move forward. People share their ideas and feelings using books, newspapers, movies, art, pictures, songs, websites, social media, and other ways of communicating. These activities help with learning, having fun, informing people, and getting involved in democracy.

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At the same time, making something completely new usually takes a lot of work, talent, time, and money. Authors take a lot of time to write their books, musicians work hard to make their songs, filmmakers put in a lot of effort to make movies, and artists spend time creating paintings and drawings. Copyright law values the importance of creative work and offers legal protection against unauthorized uses of it.

We need to balance the protection of creative work with the right of people to talk about, criticize, explain, and learn from what already exists. For example, a film critic might mention a specific scene to explain how a movie shows a social problem in the wrong way. A law student might have to talk about the explanation given in a published legal article. A reporter might want to share a story that includes a picture or a video.

These activities help share information with the public, but they might also use materials that are protected by copyright.

The main issue is figuring out how society can support creators while not limiting the freedom of others to express themselves.

Copyright protection and free speech should not be seen as entirely conflicting ideas. Copyright helps create new and original works, while freedom of expression allows people to share, look at, and talk about ideas. Both can help develop culture and knowledge when used in the right way.

In India, copyright protection is mainly handled by the Copyright Act from 1957, and the right to freedom of speech and expression is guaranteed by Article 19(1)(a) of the Constitution. Section 52 of the Copyright Act allows for some uses of copyrighted works without needing permission. These rules help keep a fair balance between the rights of creators and the public's reasonable needs. This article looks at how that balance can be achieved through laws, court decisions, people knowing their rights, creators being responsible, and using copyrighted material in a proper way.

2.Meaning and Nature of Copyright Protection

Copyright is a legal protection that helps safeguard original creations in certain types of creative works. In India, the Copyright Act of 1957 offers protection to original works like books, plays, songs, and art, as well as movies and music recordings, but only if they meet the rules set by the Act.

Literary works can be things like books, articles, computer programs, and other pieces of

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writing. Artistic works can be things like paintings, drawings, photographs, and other similar visual creations. Musical works, movies, and sound recordings are also covered by the appropriate rules.

Copyright usually stops people from copying how an idea is expressed, but it doesn't stop them from using the idea itself.

For example, the basic concept of writing a story about honesty can't usually be owned by one person through copyright. However, the specific language, original drawings, and other elements of a story that can be protected may be given protection.

This difference matters because everyone should be able to talk about shared ideas, facts, topics, and themes freely. If one person had the right to claim full ownership of every general idea in a creative work, it would put unnecessary limits on how people write, learn, study, and talk about things.

2.1 Objectives of copyright protection

2.2 The main goals of copyright protection are as follows:

First, protecting creators: Copyright gives creators the right to control how their work is used legally.

Second, supporting creativity: Legal protection can motivate people and groups to spend time, effort, and money on creating new and original content.

Third, economic benefit: Copyright allows creators to make money by publishing, licensing, distributing, performing, and using their work in other ways that are allowed by law.

Fourth, it gives credit to the work of creators like writers, artists, musicians, and others by recognizing their effort and contribution.

Fifth, cultural development: A system that helps create art can support things like writing, music, movies, art, teaching, and sharing culture with others.

2.3 Copyright is not an unlimited right

Copyright does not give the owner total control over every mention or talk about the protected work. The range of what is covered is set by laws, and the Copyright Act has special rules for some kinds of activities.

For example, Section 52 says that certain uses don't count as infringement if the required legal

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conditions are met.

So, copyright protection is a legal system that includes both the rights that creators have and certain restrictions on those rights. Having copyright does not automatically mean that every time someone quotes, refers to, criticizes, or talks about a work, it is against the law.

3.Meaning and Importance of Freedom of Expression

Freedom of expression means being able to share your thoughts, ideas, opinions, information, and feedback through various ways of communicating.

In India, the Constitution's Article 19(1)(a) ensures that citizens have the right to freely speak and express their views. This right helps with writing, sharing news, creating art, having open discussions, learning in schools, and passing on knowledge.

Freedom of expression is very important in a democratic society because people need to be able to look at government policies, ask questions about decisions, talk about social issues, and take part in discussions about things that affect their lives.

It also contributes to personal development. People gain knowledge by reading various viewpoints, looking at different arguments, doubting what they already believe, and sharing their own thoughts.

3.1 Importance of freedom of expression

3.2 Freedom of expression performs several important functions.

Democratic participation lets people talk about government policies and matters that affect the public.

Education and research help students and scholars share information and look into already existing ideas and discussions.

Social reform helps people challenge harmful traditions and encourage good changes. Journalism helps share information and reports that are important for the public.

Artistic creativity allows artists and writers to build upon existing works and come up with fresh ways to express themselves.

Accountability allows people to criticize institutions, organizations, and individuals, as long as they follow the laws that apply.

Cultural exchange lets people talk about and look at different ideas and art styles, and then they

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can change or adjust them in new ways.

However, freedom of expression is not absolute. Article 19(2) allows for reasonable limits on certain rights based on specific constitutional reasons. In addition, just because you have the right to express yourself freely doesn't mean you can copy material that is protected by copyright.

The key goal is to stop unfair limits on real expression while making sure creators' legal rights are respected.

4. Relationship Between Copyright Protection and Freedom of Expression

Copyright protection and freedom of expression are related because they both deal with how ideas and information are made and shared.

Copyright helps protect original creations like books, music, and art, so people can benefit from them without others taking credit or using them without permission.Freedom of expression allows people to share their thoughts, views, and information openly, even if it's different from what others believe. The two principles can help each other, but problems happen when someone wants to use another person's protected expression.

Imagine a writer who writes a book about a social issue. Another writer is talking about the same issue but suggests a different way to solve it. Copyright should not stop the second writer from talking about the same topic. Copying a lot of the first writer's original text without a proper reason might break the copyright rules.

The difference between talking about a work and copying its protected expression is very important for keeping things fair.

4.1 Areas of possible conflict

The connection between copyright and freedom of expression can get tricky in many different cases.

Someone might need to look at a copyrighted work to talk about its good parts, bad parts, or the message it sends to people.

Education: Teachers and students might need information from books, articles, movies, and other materials to better explain a topic.

News reporting: Journalists sometimes have to use pictures, audio, or other kinds of material to tell what happened in a story.

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Researchers might look at and study previous work to create new understanding.

People who use social media might share pictures, videos, or songs that are already made, while sharing their own thoughts and feelings.

In every case, you need to look at why something is being used and which laws apply. Neither having copyright nor valuing free speech alone can solve all problems or disagreements.

4.2 Why balance is necessary

If copyright is not strong enough, creators might not have enough control over how their work is used for money. This might lower their earnings and stop people from spending money on creative projects.

If copyright is used in a way that covers too much, people might feel scared to talk about, criticize, or study existing works. This can restrict education and public debate.

A good approach then tries to keep original expression safe while still allowing people to share their ideas and opinions legally.

5. Legal Framework in India

India has two key legal documents that help explain this topic: the Indian Constitution and the Copyright Act from 1957.

5.1 Article 19(1)(a) of the Constitution

Article 19(1)(a) ensures that people have the freedom to speak and express their thoughts.

This constitutional protection helps people do things like writing articles, publishing research, reviewing movies, talking about government policies, and sharing their views.

However, the rule does not mean that all uses of copyrighted material are free from copyright laws. The legality of making a copy of a work also needs to be checked based on the Copyright Act and other relevant laws.

5.2 Article 19(2) of the Constitution

Article 19(2) allows the state to put reasonable limits on free speech and expression, but only for specific reasons like maintaining public order, preventing defamation, ensuring decency, or upholding moral standards, and other grounds that are recognized by the constitution.

This shows that the right to free speech is protected within the country's constitution.

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Copyright disputes require separate legal analysis. Copyright should not be considered as a broad constitutional reason for limiting speech.

This shows that freedom of speech works within the structure of the constitution.

Copyright disputes require separate legal analysis. Copyright should not be taken as a broad reason to limit free speech under Article 19(2). Instead, the specific laws, exceptions, and constitutional ideas related to speech should be looked at based on the situation.

5.3 Copyright Act, 1957

The Copyright Act of 1957 sets up the main rules for protecting copyrights in India. The following sections are especially relevant:

Section 13 — Works with copyright: It lists the types of works that can have copyright, as long as they meet the legal rules.

Section 14 — What copyright means: It describes the special rights that belong to different types of works that are protected.

Section 17 — First owner of copyright: This section sets out the usual rule about who is the first owner of copyright, but there are some legal exceptions and possible agreements that can change this rule.

Section 51 — When copyright is infringed: This section outlines the situations where copyright is violated, but it is important to consider the rules set by the Act and any allowed exceptions.

Section 52 — Some actions are not considered copyright infringement: This section allows for certain uses of copyrighted material without being considered infringement, such as using it for research, criticism, review, reporting recent events, education, and court cases, but only if specific conditions are met.

Section 55 — Civil remedies for infringement: This section covers the civil options available when someone breaks copyright laws, but these options depend on the specific law and the situation of the case.

These rules show that copyright law is meant to help creators by also allowing some uses of their work for good reasons.

6. Fair Dealing as a Means of Maintaining Balance

Fair dealing is a key idea when talking about copyright rules and how people can freely express themselves in India.

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Section 52 of the Copyright Act, 1957, lists specific activities that are not considered copyright infringement. Among these, Section 52(1)(a) talks about using a work, except for a computer program, in a fair way for certain purposes.

These purposes include:

Private or personal use, including research.

Criticism or review, whether about that work or some other work.

Reporting on current events and current affairs, following the required legal conditions.

The exception does not mean you can copy copyrighted works without any limits. The reason and situation for using something need to match the rules set by the law.

6.1 Fair dealing and criticism

Criticism plays an important role in helping literature, movies, art, and public discussions grow and improve. People should be able to clearly say why they like or don't like the message of a book, movie, song, or another type of work.

For example, a reviewer might mention a specific scene from a movie to show how the movie shows gender inequality. Whether you can use a scene depends on the specific situation and any legal exceptions that apply.

The reviewer should concentrate on the criticism, not include extra information, and only use material that is relevant to the purpose of the review.

6.2 Fair dealing and education

Education involves looking at and talking about what is already known. Students and teachers might have to look at published books, research articles, and other materials.

However, not all uses of education are allowed by law. You need to take into account the relevant legal exception, the type of material, the reason for using it, and any other applicable factors.

A student who explains what a legal principle means in their own words and gives the source is following good academic habits. Copying an entire chapter without a legal reason is a different situation.

6.3 Fair dealing and news reporting

News reporting is about sharing true information and what happened to people so that the public

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can know about it. Section 52 includes an exception for reporting on current events and current affairs, but this is only allowed if the statutory conditions are met.

A reporter might look at important information when writing about a happening. However, just because something is newsworthy doesn't mean that copying a copyrighted photo, recording, or article is allowed.

The specific use needs to be checked according to the relevant laws.

6.4 Is there a specific percentage that determines what is considered fair dealing?

Indian copyright law does not set a specific percentage that determines when copying becomes legal.

Just copying five per cent, ten per cent, or any other set percentage of a work alone does not mean that using it is allowed.

Giving credit to the author doesn't automatically stop someone from breaking the rules. Giving credit is important, but you might still need permission or a legal exception.

The best way to stay safe is to figure out the legal reason for using something, copy only as much as you really need, and get permission whenever it's needed.

7. Important Judicial Decisions

Judicial rulings show how copyright and free speech can be handled fairly in specific situations.

7.1 R.G. Anand v. Delux Films (1978)

Citation: R.G. Anand v. Delux Films, (1978) 4 SCC 118.

In this case, the Supreme Court of India looked into a copyright issue where a play and a movie were involved. The disagreement brought up the issue of whether the movie had used parts of the plaintiff's work.

The court explained the difference between an idea and how that idea is expressed. General ideas, themes, and subjects aren't protected the same as how the specific way those ideas are expressed is protected.

Copyright law covers the original expression of ideas, not the ideas themselves.

The decision supports the ability of writers, artists, and researchers to study and create about similar topics without being accused of copying someone else's work by accident. At the same time, it doesn't allow copying of protected expression just because the topic is common.

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7.2 Civic Chandran v. Ammini Amma (1996)

Citation: Civic Chandran v. Ammini Amma, 1996 PTC (16) 329 (Ker).

The Kerala High Court looked into a disagreement about using content from a play in another show that talked badly about the first play.

This case is a key example in India about what is considered fair dealing, especially when it comes to criticizing something. The court looked at why the new work was created and how it connects to the original material.

A legal rule says that using someone else's copyrighted work to make a critique might be allowed under a special law, but this depends on the situation.

This choice shows why copyright rules shouldn't stop people from looking at and talking about already created works.

It also shows that just calling something criticism isn't enough on its own. The way and how much something is used needs to be looked at.

7.3 Super Cassettes Industries Ltd. V. Hamar Television Network Pvt. Ltd.(2010)

Citation: Super Cassettes Industries Ltd. V. Hamar Television Network Pvt. Ltd., 2010 (42) PTC 772 (Del).

This Delhi High Court ruling dealt with copyright problems that arose when protected material was used in TV shows.

This case is connected to talks about using copyrighted materials in TV shows and programs. It shows why it's important to look at what is being used and why it's being used, along with the laws that apply.

The legal rule is that whether an exception to copyright applies depends on the specific situation and the relevant laws in place.

Media organizations shouldn't think that just because something is shown in a show or news broadcast, it means it's okay to use copyrighted material.

8. Conclusion

Copyright protection and freedom of expression are both essential for the growth of knowledge, creativity, and democracy. Copyright provides legal protection to creators for their original works and the helps them receive recognition and economic benefits for their efforts. Freedom

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of expression enables individuals to share opinions, question existing ideas, criticise creative works, and participate in educational and public discussions. Neither principle should be applied in a manner that unnecessarily defeats the purpose of the other.

In India, the relationship between these two principles can be understood through Article 19(1)(a) of the constitution and the Copyright Act,1957. Section 52 of the Act is particularly significant because it identifies certain uses of copyrighted material that are not treated as infringement when the relevant legal requirements are satisfied. These exceptions help preserve opportunities for research, criticism, review, education, and reporting while maintaining legal protection for creators.

The development of digital technology has made this balance more challenging. People can now share photographs, videos, music, article, and other creative works within seconds.

Although this creates new opportunities for learning and communication, it also increases the possibility of unauthorised copying and distribution.

Therefore, internet users, educational institutions, journalists, content creators, and media organisations should understand the limits of copyright protection and the conditions under which existing works may lawfully be used.

A practical approach requires respect for the original creator, careful consideration of statutory exceptions, proper acknowledgment of sources, and permission wherever necessary. At the same time, copyright should not be misunderstood as ownership over general ideas, facts, or every discussion concerning a protected work. The purpose and extent of the use must be examined in accordance with the applicable law.

Judicial decisions, including R.G. Anand V. Delux Films and Civic Chandran V. Ammini Amma, demonstrate the importance of distinguishing protected expression from ideas and examining the circumstances in which copyrighted material is used. These principles are valuable in maintaining space for criticism and creative development without disregarding the rights of authors and other copyright owners.

In conclusion, a fair balance between copyright protection and freedom of expressions requires both respect for creative ownership and protection of legitimate communication. A legal system that protects creators while allowing lawful criticism, research, education, and public discussion can encourage responsible creativity and strengthen democratic values. The objective should not be to give unlimited priority to either side, but to ensure that copyright protection and freedom of expression can operate together for the benefit of creators and

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society.

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