

“Online Copyright Infringement in India”

INTRODUCTION

Internet is one of man's profound inventions of the millennium. It can be defined as a global network of interconnected computers and computer networks. The most impeccable quality of internet is that it is accessible with negligible cost and to almost all corners of the earth.

Reasons for Copyright users in four elements:

Firstly, Internet is accessible without considerable impediments by any person at any time. Secondly, internet provides a platform for wide distribution and dispersion of Information in a very quick time and with affordable cost. Thirdly, the distribution cost is almost costless. Finally, the original and the copy are not easily differentiable.

Infringement

The amelioration of Internet has given rise to several legal disputes with regard to Copyright infringement. Since the infringement takes place in digital networks, the courts find the analysis of such issues with hardship. The infringement does not extent to just information but also includes photos, videos, movies, music, multi-media and audio-visuals.

Copyright Infringement on Internet

Infringement of Copyright on the internet has become more prevalent in the contemporary time. The peculiar feature with infringement on the internet is that it is not easy to determine if a work is a copy of a protected work an infringement of the original.

The infringement in Cyberspace shall take place in different avatars namely:

• Framing • Linking • Caching • Public Display of the Right by uploading on the Internet • Archiving

1. Framing

Framing is the process whereby one website is allowed to incorporate the contents from another independent website into a frame of its own, in which the framing site appears as the original website.

2. Linking

Linking, for research purpose provides ease to the user. Unfortunately, it gives rise to several legal issues. Linking may be of distinctive types such as Surface linking, deep linking and in-line linking.

3. Caching

Caching make be executed by three ways;



- Firstly, copying of document itself which is displayed on the computer screen whilst accessing the web.
 - Secondly, the document that is being displayed are copied and retained along with the documents reviewed by the user in the past.
 - Thirdly, the documents are not stored in a personal computer but on an ISP (Internet Service Provider) or on a website.
4. Public Display of the Right by uploading on the Internet

When any work is published in the Internet, there is almost unrestricted viewing. Thus, when a Copyright material is published in the internet without authorization, it becomes a case of infringement.

5. Archiving

In case of framing and linking, the materials were hyperlinked or framed from another website

creating a conduit between the two in the internet. The materials are not stored or downloaded in the cases mentioned earlier.

Indian Copyright act 1957 and 2012

Indian Copyright Act, 1957 deals with the protection of computer software. Unfortunately, it does not have any provision to check the piracy of software on Internet. The amendment Act of 2012 also fails to give a definition of digital work or internet. The void in the enactments has led to the legal issues.

Conclusion

In case of infringement of Cyberspace, may countries may have jurisdiction. Hardship is thus faced in to decide if the jurisdiction shall be determined on the basis of the origin of material or place of storage of material or placed where the material is displayed.



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“Aadhaar Debate: Utilitarian's Vs Libertarians”

Still, the privacy remains a central challenge in India!! Although the government is making every effort towards the safety and security of biometric data, i.e. the measurement and analysis of unique physical or behavioral characteristics (fingerprint or voice patterns) especially as a means of verifying personal identity. It was 1st used in 1902. Recently the Supreme Court of India in a historic judgment has supported the right to privacy as and belonging of someone as a fundamental right. A judgment by the Supreme Court of India in Justice K.S. Puttaswamy (Retired) vs. Union of India there is a very definite judgment in favor of victory for privacy.

In Kharak Singh, the decision invalidated a Police Regulation that provided for nightly domiciliary visits, calling them an “unauthorized intrusion into a person's home and a violation of ordered liberty.” However, it also upheld other clauses of the Regulation on the ground that the right of privacy was not guaranteed under the Constitution, and hence Article 21 of the Indian Constitution (the right to life and personal liberty) had no application.

WHAT IS UTILITARIAN'S?

The doctrine that an action is right so far as it promotes happiness, and that the greatest happiness of the greatest number should be the guiding principle of conduct. For example, The utilitarian describes something that is useful or functional. If you are attracted to a car for its storage space and gas mileage — as opposed to its sparkly tire rims — then chances are you value a car's utilitarian features.



In terms of Aadhaar 'Utilitarian' means The word utilitarian was coined by the philosopher and Judge Jeremy Bentham, who argued that his principle of utility would create the "greatest happiness for the greatest number of people."

WHAT IS LIBERTARIAN'S?

Libertarianism is a collection of political philosophies and movements that uphold liberty as a core principle. Libertarians seek to maximize political freedom and autonomy, emphasizing freedom of choice, voluntary association, and individual judgment. Libertarians share the skepticism of authority and state.

In my context Utilitarian's has a strong case as it maintains the peace in the country; it tends to remove terrorism as more of privacy can be maintained. It will sophistically ground people on safety as it measures more of what means. hypothetical situations in which it seems clear to me that the rule gives the wrong answer. And hence I think “Utilitarian's” has a strong case.

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SHOULD MARIJUANA BE LEGALIZED IN INDIA

In my opinion marijuana should be legalized in India. In 2017 as Menaka Gandhi suggested to legalize the marijuana for medical purposes. Marijuana is a mixture of dried leaves and flowers of cannabis plant. It can be used by many people in several ways. Many people can be used marijuana for medical purposes and others were using the marijuana for painkiller and stress relief. In India marijuana should be legalized so that those people who can't afford medicine can take marijuana as an alternative. The marijuana is an anti-inflammatory property which helps the patient. If a person has a migraine then he/she can get a relief by taking marijuana. If a person use the marijuana then there are many benefits are there like decreasing of inner eye pressure, pain reduction, Nausea and vomiting suppression, Appetite stimulation, Eczema, Epilepsy, Huntington's diseases, Insomnia etc. By taking of a marijuana a person can feel happiness and there mind will be good and they can start a new projects and they can create there new ideas. If a person can take marijuana then their mental condition will be good. While taking alcohol and drugs, marijuana is an alternative for that. Marijuana can help for preventing the person from seizure. It can also help the people in



their bones heal faster. Marijuana is a treatment in which the children are suffering from ADD or ADHD. While taking a marijuana it can help the person from the nervousness. By taking marijuana it can help the person from a Alzheimer's Disease. If we take marijuana then it can help people who have back pain problem. If we have a headache, we can take marijuana as an alternative. Marijuana can help the person from the sexually transmitted diseases. If a person does not able to speak then they can take marijuana for that. If a person has skin problems and they do not have enough money to go to the hospital and take the medicine they can take marijuana as an alternative. Marijuana can help the person who has a cancer disease. If a person has an asthma disease then they can take marijuana as an alternative. If a man is taking Viagrato increase his potency he can take marijuana as an alternative.

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Corporate social responsibility (CSR) can refer to a wide range of actions that businesses can make - from donating to charity to ethical trading.
One primary focus of CSR is the environment.

What is environmental CSR?

Environmental CSR aims to reduce any damaging effects on the environment from your business' processes. Activities may focus on:

• **energy use • water use • waste management • recycling • emissions • eco-friendly office and business travel policies**

Some of these are significant from both environmental and financial point of view.

Advantages of environmental CSR

Green CSR can reduce business risk, improve reputation and provide opportunities for cost savings. Even the simplest energy efficiency measures can generate savings and make a difference to your business. For example:

• switching off lights and equipment when not in use • reducing the use of water • reducing the amount of paper you waste • Caring about the environment can increase revenue too. Many customers prefer to buy from responsible companies.

How to reduce your environmental impact?

You can reduce your business' environmental impact in many ways. For example, you can:

• create products that can be recycled • optimise your product life cycle • source responsibly (eg using recycled materials and sustainable timber) • reduce packaging • buy locally to save fuel costs • create an efficient (and fuel-efficient) distribution network • work with environmentally-conscious suppliers and distributors.

Case History - CORPORATE SOCIAL RESPONSIBILITY (CSR) IN NIGERIA NIGER DELTA REGION

Among all multinational corporations, the ones that have adversely affected the environment are those related to the oil industry. Apart from the quality of the environment that has been adversely affected, it has also imposed considerable social and economic cost on livelihood and therefore has become serious threat to sustainable development. This is very much the case in Nigeria especially in the Niger Delta region where the bulk of her oil is explored and exploited.

Nigeria is basically a mono cultural economy (Orubu,2002) relying solely on petrol-dollars for her budgetary and developmental projections. This is not disregarding the fact that the country is one of the most blessed nations in the world with natural resources, solid minerals and arable lands for agriculture abundantly positioned in all her 36 States but largely untapped. However, the neglect by the government of these other sectors has led her towards oil rents as it portends the easiest means for the primitive accumulation of wealth. According to Jike (2004), this might not be unconnected with the long gestation period associated with agricultural production and one which the country leaders finds incompatible with their attitude towards governance which again is primordial in nature.

Companies such as Shell, Chevron, Agip, Elf and Total have spent millions of dollars in their bid to give back to society but still violence, conflicts and in security still continue to feature prominently in public policy and decision making. Clearly then, there must be something that they are not getting right or put more succinctly they are deliberately ignoring. For example, Shell the most visible and the biggest oil company in Nigeria in terms of production(Shell is actually responsible for almost 50% of Nigeria production) has been severely criticize for its activities in the Niger Delta region which falls short of the principle of sustainable development, a principle to which they are a party of, and in spite of the fact that they are supposedly committed to corporate financial responsibility, corporate environmental responsibility and corporate social responsibility, being a member of WBCSD, an organization committed to upholding good corporate social behaviour.

Conclusion & Recommendation

Carry out an environmental review of your business....

Environmental performance is an increasingly important issue for many businesses. By managing environmental issues effectively you can make sure you comply with legislation, cut costs and improve your reputation with stakeholders such as customers, staff, investors and the local community.

The most thorough way to manage your environmental impacts is to set up an environmental management system (EMS) and get it certified to a standard, such as ISO 14001. However, this can prove daunting to many businesses.

Carrying out an environmental review of your business can enable you to gain many of the benefits of adopting a formal, systematic approach without the resources needed for an EMS. This guide explains what an environmental review involves and the techniques you can use to assess your environmental impact. It also describes how you can use the three stages of establishing a baseline, setting targets and producing and monitoring an action plan to reduce your environmental impact.



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JUDICIAL ACTIVISM A PANACEA



Judiciary enjoys an independent position in our constitutional realm. It one of the organs of the democratic form of government which tries to maintain a balance in political system. Besides fulfilling the job assigned to it by constitution, the judiciary has been playing a constructive and vital role in making a number of socio- economic legislation.

In recent decades many politicians, bureaucrats, and some other people occupying high offices have been tainted with a number of scams and scandals which puts a question tag upon credentials of the executive. In this scenario the legislature is not lagging far behind. The menace of apathy, corruption and callousness on the part of representatives of the people have lowered the image of the legislature in public. The deliberate efforts by people's representatives to reduce parliament to a meaningless protocol and deprive of its legitimacy have helped to bring judiciary to the center stage in recent years.

The concept "Judicial Activism" is not a misnomer rather it is the exercise of legitimate power assigned to it and enshrined in the constitution. The sinking credibility of executive and its frequent efforts in recent days to scuttle the judicial process have forced the judiciary to take the stick to remind it about its duties and responsibilities.

Judicial activism fills the vacuum that non activism of other public institution create. Ideally, parliament and the executive are the custodians of honest public life. In fact, efforts should be made by them to remove the mask were by corrupt and initiate action against the ones who steal, cheat and deceive general public. In contrast, the custodians in many instances have either compromised or shielded the tainted ones. In such a scenario, the judiciary has stepped in to protect the faith of people on the constitutional body.

Judicial activism is not adventurism on the part of judiciary. Rather, it is an attempt on its part to enhance the credibility of the political system and to curb corruption at higher positions. It is a warning to the tainted politicians, bureaucrats, and self-styled sadhus not to play with the public money and faith. It simply reminds the various organs and investigative agencies about their duty and responsibility.

The judiciary has injected confidence among the people on their perception about the political system. It is the duty of the judiciary to enforce the principle that no one above the law and must take a lenient view while dealing with the high and mighty. The efforts made by some to transgress the authority and jurisdiction of judiciary should be thwarted for the longer interest of the country. Judicial activism is in the interest of the nation where corruption and apathetic attitudes to the people's problem are the order of the day. It will continue so long as passivism and perverse activism on the part of responsible agencies continue. It is a positive and widely hailed trend in the Indian democracy.



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Mr. KAMAL NATH CASE

M.C Mehta V/S Kamal Nath is one of the landmark lawsuit in the history of Indian Environmental Law. This lawsuit has basically dealt with the problem of pollution which is one of the wide spread problem of Indian society. This case is also known as or is mentioned as "Kamal Nath case" In this case the Supreme Court of India, for the very first time announced the application of the "Public Trust Doctrine" in India. This doctrine was considered as the part of law of land of India. This doctrine declares that public trust land, water and natural resources, such as beaches, navigable rivers and wildlife, in a state are held by the state for public benefit. The existing lawsuit is basically about a large river basin which was a part of a preserved/ protected forest land. This protected land was basically leased to the Motel Company for some commercial cause by the Government of Himachal Pradesh. Later, it was found that the Government of Himachal Pradesh has committed a patent breach or violation of public faith/ trust, for which they were held legally liable. This was all because the Government of Himachal Pradesh had leased the ecological fragile land for the purpose of motel management.

Issues raised in this case

Whether the Article 21 of the Constitution of India, has lead to infringement of Fundamental Right or not? Whether Mr. Kamal Nath has been fallaciously inducted as the respondent in the writ petition or not? Whether the construction work that was conducted by Span Motel Private Limited company was reasonable or not? The Supreme Court in this landmark lawsuit, made Doctrine of Public Trust as the common law of land. This doctrine states that, natural resources like water, sea etc forest are of great importance amongst the

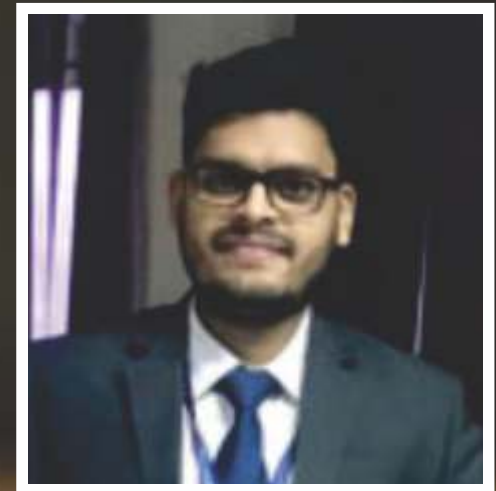
people and it will be completely unforgivable or unjust to get private ownership upon them. This doctrine was further applied in case of Maharaja Singh V/S Indian Oil Corporation and many more. This doctrine has provided various measures and ways to increase the effectiveness of Environment Assessment laws.



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INTERVIEW



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Q.1) Sir, you have been into corporate and litigation sector, so what challenges did you encounter while engaging with the two respectively?

See, both of these sectors demand intense hard work at any point of time and require their own skill set for a person to be successful. When we talk about Corporate Legal Sector, there is a heap of monotonous work so one must have that stability of mind. Further, in corporate sector one must have grasp over certain things, for example: drafting, processes involved in the dealings be it legal or otherwise. As of now, I am in banking sector, so as per the internal guidelines, I must have a hold not only on the related laws, but also on banking system and culture prevalent therein. However, in litigation, challenges are more prominent as compared to corporate sector. To elaborate, practice in law needs drafting skills, oratory skills, time management etc. When I was in litigation, what I felt was, it's just not about the law but eventually the people involved in it which includes the judge, your client, your counterparts and many others who are not even in your circle of the case. You need to have that foresight to look inside every tit-bit of the facts of the case, then whether the facts told to you are full facts or not and lot many things. So basically, both sectors have their own pros and cons, but what I feel is that litigation is more challenging and it depends from people to people how they take it.

Q.2) Sir, with the coming economic farsightedness in the lifestyle of the people and in a developing country like India, loans have become a major parameter of development, meanwhile resulting in the increase in the rate of Non-Performing Assets. What is legal banking sector doing about it?

As far as the banking legal department is concerned, we need to understand one thing that NPAs are not a single entity; there are different types of NPAs. So, for that purpose we first need to know which NPA majorly puts implication on the performance of the bank and the economy of the country. For example, there are certain types of loans called Sponsored Scheme Loans (Mudra Loans) and

corporate loans that are given on the basis of securities. Therefore, the best option to opt for is Lok Adalats since civil suits are time consuming and recently in 2018 the government ordered to recover NPA amounting to 1 Lakh Million Rupees for which we have a institution in Mumbai that is trying to resolve the issue with NCLT.

Q.3) Sir, in your opinion how beneficial moot courts are in the life of a law student? Do they also help in the corporate sector?

Moot Court are the most important exercise in the law school that helps you gain confidence and sharpen your skills that are required in law career. During my law school, I did many moots which have been helpful to me in many ways and not only in upgrading the CV. Research and drafting are the basics of law profession and they get polished in moot courts and you also learn the practical aspects to a certain limit and how to tackle the question thrown at you by the judge and opponent. So, Moot Court are the basic and attractive part of law schools that are very beneficial to the law students in building their future.

Q.4) Being an illustrious professional what expectation do you have from the young aspiring law professionals and what message would you give to them?

It's a very interesting career with lots of opportunities. Go ahead, polish yourselves, learn not only the theoretical aspect of law, but practical too as that counts more valuable while you stand outside your law schools. Success comes when you work hard, so do your best and try to observe and learn from your seniors.

Q.5) Sir, how was your experience at Indore Institute of Law?

It was indeed a great experience to be in such intellectual environment, and I appreciate the efforts of not only the teams participating, but the organizers who have done fabulous job. At the end of day, what matters is not what you do, but where you are, so do your best in future also and all the best.

Interviewed by **Devika Gupta**
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CURRENT EVENTS

- 1) The Union Minister of Finance Piyush Goyal presented the interim budget. The changes proposed related to the income tax regime. The Finance Minister has increased the tax slab for zero tax to Five Lakh rupees and the standard deduction introduced in the 2018 budget has been increased to Fifty thousand rupees from current forty thousand.
- 2) The Chief Justice of India Ranjan Gogoi and Andhra Pradesh Chief Minister N. Chandrababu Naidu inaugurated the judicial complex in Amaravati. The judicial complex will house the interim High Court for Andhra Pradesh.
- 3) The Madras High Court has ruled against negative marking in competitive examinations saying they are bad in law.
- 4) The UK home secretary has ordered the extradition of Vijay Mallya over allegations of £1bn fraud. The UK home secretary noted that Vijay Mallya, the first to be declared Fugitive Economic Offender is accused in India of conspiracy to defraud, making false representations and money laundering offences.
- 5) The Union Cabinet headed by Prime Minister Narendra Modi has approved the Cinematograph Amendment Bill 2019. The amendment bill aims to amend the Cinematograph Amendment act 1952. The features of the amendment bill are: The

amendment bill makes film piracy offences punishable with imprisonment up to three years and fines that may extend to 10 lakh or both.

- 6) A plea filed lawyer Ashwini Upadhyay in Supreme Court has sought the declaration of the 'two-child norm' as a mandatory criterion for government jobs aids and subsidies and urged that the law dealing with the condition for recognition of a state or national party be suitably amended in this direction.
- 7) The Jammu and Kashmir government ordered the creation of a separate administrative division for Ladakh region. It is hailed as a landmark decision by the governor ruled state under President Rule.
- 8) The Jallianwala Bagh National Memorial (Amendment) Bill, 2018 was passed in Lok Sabha. The features of the bill are: Jallianwala Bagh National Memorial Act, 1951 provided for the erection of a National Memorial in memory of those killed or wounded on April 13, 1919, in Jallianwala Bagh, Amritsar. A resolution demanding an apology from the British government was passed unanimously from the Punjab Assembly.
- 9) The defending champions Vidarbha won the 85th Ranji Trophy title. The defending champions defeated Saurashtra by 78 runs in the final.
- 10) India's One-day International (ODI) captain Mithali Raj has become the first woman to play 200 ODI matches with her appearance in the match against Newzealand.



INDUCTION "EXORDIUM" 2K19 Oath ceremony & Inauguration

"Induction- "Exordium 2K19" is a three day freshers gala organized by Indore Institute of Law. The gala began with the Oath Ceremony, which had Mr. Ajay Singh (Former Leader of Opposition, M.P.) as the Chief Guest, Mr. Surendra Singh Baghel (Cabinet Minister, Govt. of M.P.) and Mr. Mujeeb Qureshi (President, M.P. Congress Minority Division) as the Guests of Honor along with Mr. Akshay Kanti Bam, (Chairman, Indore Institute of Law), followed by the Talent Hunt Competition. Second day of the fest was observed as sports day and the three day fest ended with the much anticipated Fashion Fiesta on the last day.

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