

Copyright Governance And Legislative Reformatations On User's Rights In Copyright Right Laws Of Pakistan

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Abstract

Copyright laws protect the expression of ideas by implementation of statues. In Pakistan, copyright guards the original work of authors under the copyright Ordinance, 1962. This copyright law fail to defend different creative work of author/publisher. However, other countries made different laws to shelter the creative work of authors as copyright laws of United Kingdom provide the mechanism to use the work of authors by paying fees to owner. This study explores that copyright Ordinance, 1962 nosedive the issues on the right of users without the infringements of author's creative work. This research also concludes that copyright laws of Pakistan flop to describe the use of creative work of owner for their users under the umbrella of copyright laws. For this reason, it is dire need to legislate the copyright laws with respect to right of user without violation of any right of owner.

Key Words: Copyright Governance, Legislation, Copyright Laws, Right of Users, Right of Authors

Introduction:

In primitive times there was no proper shelter was provided to secure copyright laws. The previous history shows that there were thousands of books published in every New Year regarding protection for the books of authors/journals. It was need of an hour to come up with a strong comprehensive legal codification was needed to protect the original work of author for academic or illegal theft. All European countries adopted a strong legislation to protect copyright

in English laws, so that all foreign state must execute laws regarding copyright to punish the person alleged of stealing the author's original writings.

In year 1709, a copyright law of England called "Statue of Anne". Copyright law in England was for sheltering the created work of author safely. It safeguarded the whole work under the implemented laws. This protection law implemented was for a controlled period of time and could not safe the original publication .England's bill of protection fringe round the limited time but after that it was open for public to use it without any permission .copyright law was not limited to book, book sections but applied on movies, dialogues, jingles, script, characters, songs, lyrics, costumes, plot even a single replicated object.

Initially England's copyright's bill uncovers the sweeping path for all other countries. A many conventional path for all other countries produced their bill of copyright to secure their original work and abide by these laws under strict observance. All of above mentioned rules were crafted to secure the books, voices, publications for fair use contrasting of illegal theft.

"Berne convention " was held in 1886 and main goal of this convention was to make rules and regulations related to copyright law for state, to protect the creative work of author/owner. Prime purpose of this convention was to safeguard the previous rights and to include the new parts with reference to changing world criteria's. Minutes of convention shows that original work of author must protect in all aspect regarding different field and expression of new work. This convention also sanctioned exclusive rights to authors/publishers/producers and performers to implement it as an initial code before stating their works.

A universal copy right Convention held in 6th September 1952 at Geneva after "Berne convention ". In this convention, Number of European countries lend a land like Australia, Argentina, Austria, Brazil, Andorra etc.¹ All countries signed this "Universal Copy right Bill" on behalf of their own country's rules regarding illegal theft of publishing works of original author. Main purpose of this revolutionary convention is to pass International Copyright Bill to secure author's work from pirated persons and this international legislation must be adopted by all states in their copyright laws. The keynote of this treaty was to offer new modern trends in protecting the original work by keeping it with the record slip. Another important feature of this resolution is to protect the innovative work of author in all important fields and also describe punishment for those persons who violates copyright laws or use the work of author in unlawful manner.²

In current times, European countries have produced loads of laws to protect the author's integrity by securing their work. Postmodern writing principle known as "Doctrine of Fair use" which previously worked to shelter the draft, always work for fundamental right of author and right of users which explain the relationship of copyright governance between them. All developed European countries absorb this principle and improve their copyright laws to appreciate the work of author.

All assigned authorities of international convention were unanimously agreed over legal protection for the author's creative work without any limitations of time period.

Trade Related Intellectual Property Rights Agreement also known as "TRIPS Agreement" was executed in 1994. This international copyright trade agreement consist if seven parts and seventy three articles. Second part of this agreement highlights the limitations on intellectual property right laws specially article 9 to 14 deals with related right of authors and article 41 to 61 deals with implementation of author's right within the territory of any state. Basically "TRIPS Agreement" fail to discuss idea of right of users to use the copyright work of author in a legal way.

Pakistan signed the TRIPS agreement in 1995 and after untiring struggle, Pakistan succeed in listing its name with other European countries to legislate copyright laws in their local statutes. Hence, legislature of Pakistan finally introduced a comprehensive statue namely Copyright Ordinance 1999 to protect the copyright work of author. Legislature made this statue with different sections and chapters like, it consist of eighty four sections and seventeen chapters. Afterwards legislature made lots of amendment to improve the copyright ordinance in 2000 and 2011. This ordinance only highlights the rights of owner/author to protect their copyright work, but fail to mention any single section of right of users to use copyright work in legal manner.

Copyright statutes in Pakistan protect copyright work of author in various dimensions like original literature work, original films and drama stories, writer of different OST songs, original composition of songs, musical tunes, scientific formulas, research work and other innovative work. According to new legislation all original work of author must be kept on the name of original author. Many countries now has made it compulsory to include the copyright author's name on its work before publishing or broad casting proof programmed to secure the originality of draft and programmer subsequently.

Commencement of Copyright Governance:

England's first new and important copyright law "Statute of Anne" was enforce in January 1710. It provide all basic fundamental principles to protect the copyright work of author. Statute of Anne also consider as first international statute on copyright law which helps author to create new work and ideas without any fear. This statute also facilitate author not only for protection of copyright but also gives royalty to its original work. Main theme of this statute with original word in statute is given as under:

"The Author of any Book or Books already Printed, who hath not Transferred to any other the Copy or Copies of such Book or Books, Share or Shares thereof, or the Bookseller or Booksellers, Printer or Printers, or other Person or Persons, who hath or have Purchased or Acquired the Copy or Copies of any Book or Books, in order to Print or Reprint the same, shall have the sole Right and Liberty of Printing such Book and Books for the Term of One and twenty

Years,... and no longer; and that the Author of any Book or Books already Composed and not Printed and Published, or that shall hereafter be Composed, and his Assignee or Assigns, shall have the sole Liberty of Printing and Reprinting such Book and Books for the Term of Fourteen Years, to Commence from the Day of the First Publishing the same, and no longer.”³

Above mentioned quotation describe the philosophy of copyright law, which shows guard to original work of author in any field. This modern legislation on copyright helps author to work freely at national and international level. This law helps other countries or state to protect copyright work of author by making legislative work in their laws. This legislation also laid down the foundation of copyright governance at international level. Apparently with passage of time, in Pakistan modern writers become more conscious about replication, duplication, stealing or imitation of their draft without prior approval, so legislature finally amend old copyright Ordinance, 1999 and first time introduces Copyright Act 1914 in local laws of Pakistan. This statutory act provide latest mechanism to protect the expression of ideas of author in all aspects. It creates confidence and enthusiasm in author, not to fear about violation of original work. According to this copyright act the expiration period of copyright is fourteen years.

Importance of Copyright Governance:

Statute of Anne describe the importance of copyright governance and afterwards many conventions and international countries highlights this importance in their statutory laws. Many international states work in field of original literature work, original films and drama stories, OST songs, original composition of songs, musical tunes, scientific formulas, research work and other original work of author to execute the copyright laws. “Universal Copyright Convention”, Berne Convention and TRIPS agreement consider the importance of copyright governance made many conventional and latest copyright laws regarding original work of author. Through this research there is also an important factor in copyright governance to discuss that right of users is as important as right of authors. Every state must legislate the copyright laws regarding right of users in copyright governance.

International Copyright Work and Protection Criteria under US Laws:

International copyright laws gives guard to author with different names for protection of subject matters of copyright work in the field of artist, literature, drama, OST songs, scripts if films and movies etc. Past many years, United States of America have done many treaties for protection of copyright work in their state with other nations. These treaties not only assured other countries not to violate the copyright laws but also not to use the copyright work of author but on some certain conditions. International treaties bound United State to follow the obligations of the agreement and not to infringe the copyright laws of other signing countries.⁴ For protection of copyright work with perspective of right of author and right of owner many international conventions organized by US government to protect expression of idea of author. One of these

international conventions was held in which many countries of the world joined called Berne Convention. Berne convention protects not only the subject matters of copyright but also protect the rights of authors and users in all subject matters of copyright.⁵ History of Berne Conventions showed that lots of development in all subject matters of copyright especially work done in the field of graphic, sculptural works motion pictures, audiovisual works and architectural works⁶ due to fair dealings of rights between author and user.

United States another important origin of copyright law at international level known as TRIPS Agreement and WIPO Copyright treaty. These two international legal frame work discuss about the implementation copyright laws and its protection in the state. The main idea of these two international legal forum is to protect the copyright work of author in different fields. World Intellectual Property Organization was sign many international treaties with other European countries and all of them have same motive to protect the copyright subject matters in their own states and enforce copyright laws in their states.⁷ TRIPS Agreement is only responsible for those countries who have signed the agreement and also not responsible for those countries which were not obey the rules and regulations of TRIPS Agreement. When any new subject will arise in front of a world and if that country sign the TRIPS Agreement it will also automatically protected by this agreement. TRIPS Agreement and WIPO Copyright treaty also give some important remedies for those countries which violate their rules and regulations of copyright laws and punish them with huge fine or other punishments.⁸

Practical Application of Copyright Governance in Pakistan:

Intellectual Property Organization (IPO) is responsible to work practically in Pakistan. This organization helps author to register his work under the shelter the copyright laws. For this reason any author must submit his original work with relevant document to this organization and after verification Intellectual Property Organization register the original work with official name if author. Intellectual Property Organization not only register the practical work of author but also punish the accused who violates or use author's work for his own or illegal purpose. Intellectual Property Organization grants registration certificate to author after successful verification or author's original work. This certificate is proof of author's original work to the world, so that no one dare to infringe the author's right, but IPO fails to discuss or legislate on the use of author's work as right of users in copyright laws in Pakistan.⁹ Some important practical work of IPO is given as under:

- Copyright governance defends original literature work of author, software development, original tract or OST songs, original stories of films and dramas etc.
- Newly launched talk shows and comedy stage performances
- Industrialization revolution, creative methodology of agriculture progress

- Maps, paintings, drawings etc.
- Architectures
- Advertisements and Promotional campaigns of different created works

Pakistan copyright protection bill under laws of copyright governance was established to safe the expression of idea or new creative work of author, but this bill could not protect the new ideas developing from the author's creative work. Hence, users can use the original of author with respect to implementing their own ideas that will not create any disturbance in original practical work of author.¹⁰

Protecting Authorities of Copyright Governance in Pakistan:

a. IPO:

Government of Pakistan laid down the foundation of Intellectual Property Organization (IPO) on 8th of April 2005 for the purpose to overcome the issues regarding original work of author. Main idea to establish a unanimous organization that work for the protection of copyright work, registration of original work if author, comprehensive proof of author's original work, registration certificate of authors work, describe the legislative punishments for culprits who violate copyright laws of Pakistan. Sub offices and branches also work in different cities of Pakistan like Lahore and Karachi.

“Intellectual Property Organization” and copyright Governance:

“Copyright Governance in Pakistan” have reference about the security of Copyright, It also device rules of copyright and how to impose it in country. Following are the significant tenets include in copyright governance of Pakistan:

1. Dramas, short stories, journals, magazines and computer software's etc.
2. Paintings, maps, photographs, charts, drawing, logo, monograms, label designs and sculptures etc.
3. Cinematography, background score, sound recordings and films etc.
4. Story writings in the field of dramas.
5. Dialogues, scripts, designs, colors, jingles of products
6. Movie posters, costumes and song lyrics

b. Variance in Governing laws on copyright in Pakistan:

1. To acknowledge a “British Copyright Act” after independence in 1947
2. To establish copyright Ordinance in 1962 which amended by copyright “Act 1911”
3. Establishment of copyright office at Karachi in “1963”
4. Registrations of copyright started in 1967

5. Making of International copyright Order 1968
6. Create a copyright Board (Procedure) Regulations “1981
7. By Establishing branch office in “1984” at Lahore
8. Pakistan was a part of “IPO-Pakistan “since “2005”
9. Establishment of Punishments and International relations for the persons who infringed the copyright

Registration Criteria of Copyright Work in Pakistan:

In Pakistan, Intellectual Property Organization maintains copyright offices in different cities, IPO helps author to register his copyright work and lodge any kind of complaint regarding copyright.

Major steps for registration of copyright provided by Intellectual Property Organization is given as under:

- File an application of registration of copyright at IPO office on prescribe application form.¹¹
- Deeply examine the innovative expression of idea of copyright owner/author¹²
- Publicize the copyright work of owner in newspaper and magazines, to know about copyright work belong to author or any other person claim his copyright¹³
- In case of objection author bound to reply the claimant¹⁴
- After resolve all issues provide registration certificate to owner¹⁵

Tenure of Copyright Work in Pakistan:

In legal system of Pakistan copyright work in different field like dramas, music, OST songs, software programming and many other fields can protected for the term of fifty years. The fifty-year period is counted from the year following the death of the author. In the case of films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organizations, the term is fifty years beginning on the calendar year next following the year in which the work is first published.¹⁶

Role of “Intellectual Property Organization “in Copyright Governance of Pakistan:

Intellectual Property Organization always plays a vital role in protection of copyright work of author in Pakistan. For this purpose, this organization ensure availability of applications of

copyright in websites of IPO and develop relevant software of copyright to evaluate the previous data of copyright. Intellectual property organization also provide computerized certificate to author that will be officially proof of his original work. This organization after complete all the procedure of registration preserve copyright work of author for some specific time period.¹⁷

Pakistan Penal Code as Legislative Statute of Copyright Governance:

Pakistan Penal Code 1860 as criminal statute provide sections 463 to 489 relating to documents, trademarks and property marks which falls within ambit of Intellectual property right laws deals with different kind of offences regarding violation of copyright work. Many scholars who consciously involve in academic stealing of other people work for personal interests and benefits will be punished. Pakistan penal code provides various criminal proceedings against the crime of copyright infringement. This statute of Pakistan takes action against those persons who steals copyright work of other persons for their own interest and benefits. Pakistan Penal Code 1860 provide substantive punishments for the culprits and impose fine according to law who infringe copyright work of others. Pakistan Penal Code 1860 consider as substantive protective authority copyright laws in Pakistan.¹⁸ `

Upcoming possibility of Copyright Governance in Pakistan:

Below mentioned are pivotal points which show the future latitude for securing of copyright in Pakistan.

- To ensure the authors creativity in written or production
- Author must have proper criminal procedures to deal with academic thief
- One can perform his artistic form among public.
- To ensure the implementation of the copyright laws in society of Pakistan
- Imposition of copyright laws in Pakistan
- Author/owner must have right to issue a license of copyright
- Publisher /State can also purchase the work of author/owner for lifetime and can use it for national interests.
- Government must provide legal cover to protect the rights of authors as well as rights of users

Restrictions on Copyright Protection:

The following three clampdown apply to copyright protection:

- Scholars must follow copyright rules in fair way like in writing of research papers to get help in completing or referencing in dissertation.
- Nouns & Natural objects in public documents are not copyrightable to anyone.
- If a person authorize to use already published work must have a letter of recommendation but he would unable to use its own name..

Copyright Governance with Important relevant National and International Case Laws:

The legal work on the copyright governance in Pakistan's constitution is acting very fast with the awareness programmer in different sector. Many cases filed in court premises regarding copyright issues in the state of Pakistan. These cases are to exemplify the significance of copyrights. There are some valuable cases about copyright with the concern of the author's right to secure its work

1. In case of "Mrs.Saraj" vs. "Eye Television Network" (2009 CLD 1133), Main fact of case was that appellatant was a TV writer and sold her work to the said magazine "Air-e-Lahoti" to Eye Television network in five thousands rupees per episode .When episode broadcasted ,her name was not mentioned as writer of content even they presented under their production umbrella. After the hearing, dispute between two parties were settle on an agreement that Tv network would acknowledge her Writings and would telecast her name as content writer in the drama a as it is of her literary creativity., This kind of agreement does not impose any kind of hindrances on appellatant right to claim her copyright for content been given to the said Tv Channel For the foregoing by accepting this appeal order passed in favor of appellatant. Later it was declared to show her name on the tickers as content writer after every episode termination.
2. With reference to case of "Muhammad Kashan" vs. "Coca Cola Corporation" (2014 CLD 1696), The main facts of tjis case were that one party produced original audio and video content for Coke studio season 6 and it was broadcasted by the defendant. Plea was forwarded by plaintiff that defendant infringed copy rights of his original work .On other hand, defendant was of opinion that not a single part was recreated or stolen from original work. Court found that both videos are different and projected different contexts.so this case was dismissed
3. "Google" vs "Oracle" case presents another landmark judgement on issue of copyright or "Doctrine of fair use" in year of 2021. According to the case "Supreme Court" finds that "Google" use the parts of "Oracle's API" software code known, as declaring code, qualifies as fair use. Oracle (a search engine) file the case against Google on use of software codes without there prior permission. On other hand, Justice Breyer discovers that Google use these codes as

fair use that will not against the copyright law. In addition decision of court finds that use of author's work in a lawful manner favor the user to use the work of author in all means.¹⁹

The above mentioned case decided on April 5th 2021, Judgment declared by Supreme court Judge, "Justice Breyer" in favor of "Google" on the principle of fair use. If a user of any copyright use the work of author in fair means then it is not the violation of copyright law, so the court surprisingly found that all factors favored Google as matter of law.

4. In 2022, another case of copyright (after the release of movie "Jug Jug Jeeo") highlights on social media. Jug Jug Jeeo an indian film copy the song "Nach Punjaban" from Pakistani album of Abrar ul Haq. The original singer of song wants to claim damages on the producer of film Karan Johar. Abrar ul Haq claims that indian film cinema copy many of my songs in their movies without acquire my permission and violates the copyright work of singer. On the contrary, producer of film said that, he has acquired all legal rights to adopt the song in his film. The album "Naach Punjaban" release on iTunes on 1st January 2002 and it is also available on Lollywood Classic. Dharma production has its own youtube channel namely "Movie box Record Label" owned and operated by film producer, when song release all credits include to obtain legal rights of song.

Some Important Right of Users in Copyright Governance of Pakistan:

According to chapter 2 of Copyright Ordinance 1962 provide all important rights of copyright owner and

Here are few entitlement in the copyright governance mentioned below

- One must have Right to assure a license to use authors original work
- One must use author work as a reference in bibliography with prior
- One must use author work to quote in some speech, essay or in book section
- One must have right to use author work in qualitative research
- One must have right to publish and advertise author work
- One must have legal rights to reproduce some song lyrics or background or movie section
- Right to use the "Fair Dealings" with authors work

Right of Users as an Important Legislation to Improve Copyright Laws of Pakistan:

Today's legal system of Pakistan has changed so much that it has become so effective on people's thoughts that their approaches to others differ greatly from past ways. Similarly, in copyright laws, their approaches are diverted to the other side of the curtain. The approach taken by different countries to the question of allowed uses of copyright works has been quite varied. However, prior to the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (WTO/TRIPS), much of the debate over the best approach was largely academic because there was no international consensus on the subject and no effective

¹⁹ Copyright alliance, "Google vs Oracle" 2021. <<https://copyrightalliance.org/copyright-cases-2021/>>

means of compelling individual nations to adopt a given approach. Hence, by adopting this approach legislature of Pakistan must amend copyright laws according to new international thinking of copyright laws with perspective to right of users.

Conclusion:

With a focus to deal with challenges in the copyright laws by applying various modern trends the current copyright laws is inadequate to secure the author's work in Pakistan. In current times, breaching of copyright is unrestrained in the cities. Many authors, investors and performer have become frustrated in their business particularly because of imitation issue. Furthermore, this issue of stealing author work and to punish the guilty one, government must implement some hard and fast rule instead of boiling an ocean to deal them strictly. Thus, the present copyright Act needed a bit change to provide solutions for entitlement of user's right in judicial laws of copyright and its imposition in Pakistan. To sum up whole discussion, the issue of imitation, a task force to control the copyright breaching must be established which is possible only by introducing a particular cell in police stations to deal such culprits with iron hands.

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