

COPYRIGHT ACTS IN INDIA AND BANGLADESH: A COMPARATIVE ANALYSIS

MD. SHARIF HOSSAIN

Chairman
Dept. of Library & Information Science
Cox's Bazar International University
Kolatali Circle, Cox's Bazar-47000
Bangladesh
Email: sharif.du.ac.in@gmail.com

Dr. JOSEPH I. THOMAS

Post-Doctoral Fellow
Dept. of Library & Information Science
University of Kerala
TRIVANDRUM-695034
India
Email: josephthomas09@gmail.com

ABSTRACT

This paper deals with a comparative analysis of the Indian Copyright Act and Bangladesh Copyright Act. The analysis is done with the criteria such as year, term, coverage, authors, infringement of copyright, punishment and appeal. It is found that Bangladesh Copyright Act is comparatively newer than Indian. Further it is seen that the provisions included is almost same with the exception of punishment and year of enactment.

Keywords : Copyright, Indian Copyright Act, Bangladesh Copyright Act, Intellectual Property Right, Intellectual Property Law, India, Bangladesh.

1. Introduction

Copyright protection encourages creativity and innovation thereby enabling producers to benefit financially. The Copyright Law originated in 1710, as laid down in the "Statute of Anne" in Great Britain (Copyright Act 1709 8 Anne c. 19). It was enacted in 1709, but didn't come into force until April 10, 1710. Through this act the author's rights became protected. (Copyright House Limited, 2021).

By covering the works either published or unpublished, copyright protection offers the inevitable incentives for the creation of new valuable works and for the investment into production and distribution of cultural and information goods. This is done by granting appropriate economic and moral rights to authors, performers, producers and publishers, through establishing adequate framework for the exercise of these rights, and through providing efficient mechanisms,

procedures, remedies and sanctions that are necessary for their enforcement in practice (World Intellectual Property Organization, 2005).

An original idea or a piece of work is a potential asset and should be treated so and infringement of copyright could be sued legally which is not an option for an unprotected work.

In this article, a comparative analysis of the provisions in Bangladeshi copyright act and Indian Copyright Act is conducted. This qualitative analysis will be beneficial to all who wish to protect their rights, and will give an awareness regarding the amount of protection that law gives to an artiste.

2. Review of Literature

An overview of Bangladeshi Copyright Act is given by Alam et al. (2020). The salient features of the Bangladesh Copyright Act 2000 is described by Hosen (2017). The

paper points out the fact that creating awareness through seminar, symposium and workshops is essential. In the views of Zaman (2005), the Bangladesh Copyright Ordinance of 1962 has been replaced by the Copyright Act of 2000.

As per James (2002), when Britain enacted the Indian Copyright Act, 1911, "the first British legislation bring the various copyrights within a single text", it was considered appropriate to have a new legislation for India too. Thus was promulgated the Indian Copyright Act of 1915 which was a slightly modified version of the British Copyright Act, 1911, adapting it to the requirements of India. This law remained in force till 1958 when the present Indian Copyright Act of 1957 had come into force.

Comparative analysis of copyright laws other than Bangladesh are found in literature. A comparative analysis of the copyright law of the Kingdom of Thailand and those of the United States of America has been done by Iamcharoenying (2006). Mustafa (1996) in his doctoral dissertation studied comparative study of copyright laws of U.K., U.S.A. and India. A comparative analysis of copyright law and enforcement in the United States of America and China is studied by Fleming (2016). Another study by Negi (2016) compares the copyright laws in India, U.S.A. and U.K.

3. Indian Copyright Act, 1957

The protection given to a copyrighted work under Indian copyright act is as under:

- 1) In cases of literary, artistic, musical, dramatic works - lifetime of the author until sixty years from the beginning of the calendar year next following the year in which the author dies.

- 2) In cases of photograph, - Act does not cover (Omitted by the Copyright (Amendment) Act, 2012).
- 3) In case of cinematographic film, the term is 60 years from beginning of the calendar year next following the year in which the film is published.
- 4) In cases of Govt. works, the term is 60 years from beginning of the calendar year next following the year in which the work is first published.
- 5) In cases of public undertakings, the term is sixty years from the beginning of the calendar year next following the year in which the work is first published.
- 6) In case of sound recordings, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the sound recording is published.
- 7) In case of works of international organizations, the term is sixty years from the beginning of the calendar year next following the year in which the work is first published.
- 8) In case of broadcasting, right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast is made.
- 9) In case of performance, the performer's right shall subsist until fifty years from the beginning of the calendar year next following the year in which the performance is made.

- 10) In case of published edition (typographical arrangement),
- 11) In case of joint authorship of a work, right shall subsist until 60 years from the death of the author who dies last.
(Government of India, 1957).

4. Bangladesh Copyright Act, 2000

The protection given to a copyrighted work under Bangladeshi copyright act is as under

- 1) In cases of literary, artistic, musical, dramatic works, the terms is 60 years from the beginning of the calendar years next following the year in which the author dies (Life + 60 years);
- 2) In cases of photograph, the term is 60 years from the beginning of calendar year next following the year in which the photograph is published (60 years from publication);
- 3) In case of cinematographic film, the term is 60 years following the year in which the film is published (60 years from publication);
- 4) In cases of Govt. works, it is 60 years from publication (60 years from publication);
- 5) In cases of local authority, the term is 60 years from first publication.
- 6) In case of sound recordings, it is 60 years from publication (60 years from publications);

- 7) In case of works of international organizations, the term is 60 years from 1st publication (60 years from first publication);
- 8) In case of broadcasting, the term is 25 years from the beginning of the calendar year next following the year in which the broadcasting is made (25 years from broadcasting);
- 9) In case of performance, it is 50 years from the beginning of the year next following the year in which the performance is made (50 years from the first performance is made);
- 10) In case of published edition (typographical arrangement), the term is 25 years from the beginning of the calendar year next following the year in which the edition is first published (25 years from the first publication);
- 11) In case of joint authorship of a work, the term will be 60 years from the death of last surviving author (60 years from death of the last surviving author). (Government of Bangladesh, 2000).

5. Comparative Analysis of Indian Copyright Act and Bangladesh Copyright Act

A comparative analysis of the various provisions in Bangladesh and Indian Copyright Acts is presented in Table 1.

From the Table below we can have an analysis into to the similarities and differences.

Table 1**Comparative Analysis of Indian Copyright Act and Bangladesh Copyright Act**

| SL No | Criteria | Indian Copyright Act | Bangladesh Copyright Act |
|-------|---------------------------|---|---|
| 1 | Year of Enactment | 1957 | 2000 |
| 2 | Term | 60yrs+life of author | 60yrs+life of author |
| 3 | Coverage | a literary, dramatic, musical or artistic work; a cinematograph film; sound recording; | a literary, dramatic musical or artistic work; a cinematograph film, a sound recording; a broadcast |
| 4 | Authors | (i) in relation to a literary or dramatic work, the author of the work; (ii) in relation to a musical work, the composer; (iii) in relation to an artistic work other than a photograph, the artist; (iv) in relation to a photograph, the person taking the photograph; (v) in relation to a cinematograph film or sound recording, the producer; and (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created | (a) regarding a literary or dramatic work, the author of the work;(b) regarding a musical work, the composer; (c) regarding an artistic work, except photograph, the artist; (d) regarding a photograph, the person taking the photograph; (e) regarding a cinematograph film or a sound recording, the producer, (f) regarding any literary, dramatic, musical or artistic work which is computer-generated, the person or institution who causes the work to be created |
| 5 | Infringement of copyright | (i) does anything, the exclusive right to do ... (ii) permits, for profit, any place to be used for the performance of a work in public where such performance constitutes an infringement of the copyright in the work. (iii) when any person makes for sale or hire, or sells or hire, or by way of trade displays or offers for sale or hire, or distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or by way of trade exhibits in public; or imports into India, any infringing copies of the work | (a) does anything, the exclusive right to do which is the right of the owner of the copyright.(b) permits, for profit, any place to be used for the performance of a work in public where such performance constitutes an infringement of the copyright in the work. (c) when any person makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or by way of trade exhibits in public; or imports into Bangladesh, any infringing copies of the work |
| 6 | Punishment | 6m to 3yr jail; 50,000 rupees to 2 lakh rupees –1 st time second and for every subsequent offence, 1-3 yr jail Fine–one lakh to two lakh rupees | 6m to 4yr jail, 50,000 taka to 2 lakh taka – 1 st time second and for every subsequent offence, - 1 to 3 years jail Fine - taka one lakh to three lakh taka |
| 7 | Appeal | (a) within thirty days (b) three months from the date of the decision of Registrar (c) 3 months against board to High Court | (a) within thirty days (b) three months from the date of the decision of Registrar (c) 3 months against board to High Court |

From the table it could be noted that the provisions are almost the same except for the punishments and years of enactment. Regarding the punishment in Indian Copyright Act, its 6 months to 3yrs of jail term in case of infringement along with one lakh to 2 lakh rupee fine. In the case with Bangladeshi copy right act, its one to 3 lakh taka. The punishment to infringement of copyright is much more severe than Indian counterpart.

Bangladesh copyright Act is comparatively newer than Indian copyright act as we can see that Indian copyright act was passed in the year 1957 and that of the Bangladesh's is in the year 2000.

6. Conclusion

From the article, it could be noted that, copyright protects the rights of its owner for a limited time. This principle is same for all the copyright laws enacted irrespective of the country. Various types of information are protected and it is not only about information that's contained in books and journals which form part of print media.

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