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Analytical Study of Legal Implications of Plagiarism

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Abstract:

Common malpractice in research is unethical copying. In simple words it is theft of someone's intellectual creation i.e. plagiarism. India is leading in publishing research papers quantitatively but qualitatively it is question to be answered at world level. Plagiarism has engulfed the research work to considerable extent making the people to think over curbing the menace. The Copyright Act, 1957 speaks about rights of copyright owner as well as protection against infringement. Similarly, recent UGC Regulation on academic integrity deals meticulously with the burning issue of plagiarism and means to control it. Referencing or recognition of authorship is one such means to deprecate practice of plagiarism. Defining and confining limits of referenced material is other mode to control plagiarism.

Key words: Plagiarism, copyright, academic integrity, referencing, infringement

Introduction:

Plagiarism is presenting someone else's work or ideas as your own, with or without their consent, by incorporating it into your work without full acknowledgement. All published and unpublished material, whether in manuscript, printed or electronic form, is covered under this definition. Plagiarism may be intentional or reckless, or unintentional. Under the regulations for examinations, intentional or reckless plagiarism is a disciplinary offence.[1] Plagiarism is practice of taking someone else's work or idea and passing them as one's own.[2]Common malpractice in research is unethical copying. In simple words it is theft of someone's intellectual creation i.e. plagiarism. India is leading in publishing research papers quantitatively but qualitatively it is question to be answered at world level. Plagiarism has engulfed the research work to considerable extent making the concerned to think over curbing the menace.

Significance of Research:

Plagiarism has become a burning socio-legal issue now a day and has impact on quality of research. Plagiarism may be intentional or unintentional that is it may be committed with intention to commit copying and it may be committed due to unawareness of plagiarism. It is true that mistake of law is no excuse but it is equally true that people of India are unaware about laws.

Aims and Objective

Hence through this research paper, researcher aims

- to create awareness about plagiarism,
- to acquaint people about plagiarism

[1]https://www.ox.ac.uk/students/academic/guidance/skills/plagiarism#:~:text=Plagiarism%20is%20presenting%20someone%20else's,your%20work%20without%20full%20acknowledgement.&text=Plagiarism%20may%20be%20intentional%20or%20reckless%2C%20or%20unintentional. Accessed on 17/2/2022

[2] S.2(l) of the UGC (Protection of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulation, 2018

- to warn about consequences of plagiarism
- to study the dichotomy between the Copyright Act, 1957 and the UGC Regulation, 2018

Research Methodology:

The researcher has adopted doctrinal methodology for present research and relies on secondary data collected from various books, reference books, research papers, news paper articles, etc. The researcher has also taken help of provisions of statutes for research.

Plagiarism?

The word plagiarism has come from Latin word '*plagiare*' which means to kidnap.[3] Intellectual creativity is not everyone's cup of tea and hence creator of such work presupposes that he or she alone can claim ownership over the creation. This preoccupation of mind about intellectual creativity is also supported by the Copyright Act, 1957.[4] S. 57 guarantees special rights of copyright owner and states that even after the assignment the author of the work shall have the right to claim authorship of the work and restrain any distortion, mutilation, modification or other act if such distortion, mutilations, etc. is prejudicial to his honour or reputation. Authorship is ownership of copyrighted work. Thus, plagiarism in simple words is refusing to recognize authorship of original author at appropriate places. In legal sense, plagiarism is taking someone's work or idea and passing it as one's own.

Types of Plagiarism :

Plagiarism in simple words is copying and accordingly one can classify copying as,

a. Direct copying
b. Indirect copying
c. Subconscious copying

a. Direct copying- It is copying verbatim and it is case of plagiarism. In legal language, it is infringement of copyright of the author and infringement according to the Copyright Act, 1957 is offence.[5] However, every direct copying is not infringement and certain free uses of copyrighted material are protected by the Copyright Act, 1957.[6] Acts or omissions which do not fall under any exceptions of section 52, it is case of plagiarism.

b. Indirect copying-It may occur in two ways, firstly, by changing form of original work and secondly, by way of paraphrasing. In first type, literary work may be transformed in non-literary work such as drama, cinematographic films, etc. while in case of paraphrasing, there is transformation of literary work into same category by syntactic process. Here, plagiarism may not be there as the copyright law does not recognize copyright in idea but subsists in its form.[7] Paraphrasing means a restatement of a text, passage, or work giving the meaning in another form.[8] In other words, paraphrasing is expressing someone's idea or creation into different words. According to copyright law, every

[3] https://www.legalserviceindia.com/article/l222-Plagiarism.html accessed on 20/2/2022
[4] S. 57 of the Copyright Act, 1957
[5] Chapter XI, section 51
[6] Section 52
[7] https://www.mondaq.com/india/copyright/536650/idea-expression-dichotomy-under-copyright-law#:~:text=There%20exists%20no%20copyright%20in,what%20that%20makes%20a%20difference. Accessed on 18/2/2022
[8] https://www.merriam-webster.com/dictionary/paraphrase

paraphrasing does not lead to plagiarism and there must be intention to commit plagiarism in order to deceive not only the author but others too. If intention lacks, it may not result into plagiarism and it may be case of subconscious copying.

c. Subconscious Copying: Person reads or sees or hears something and after some time forgets about the same. After some time, the person presents such thing that was read or seen or heard in as own creation. Here, it becomes matter of investigation whether later creation is direct copying or subconscious copying. In previous case, its plagiarism while in later case it is innocent infringement.

Legal Framework of Plagiarism:

As such the word plagiarism does not find place in the Copyright Act, 1957 but is specifically defined in the UGC Regulation, 2018.[9] However, there is wide dichotomy in these two laws regarding plagiarism as the Copyright Act, 1957 does not recognize copyright in idea, plot, concept, historical facts, instances of common knowledge while the UGC Regulation, 2018 categorically defines that plagiarism is taking someone's work or idea and passing it as one's own. Thus, on major issue of existence of copyright both these laws are at variance.

A. Provisions of Infringement under the Copyright Act, 1957

Plagiarism is one of the facets of infringement while infringement is the action of breaking the law or any contract. Under the Copyright Act, 1957 infringement is explained under section 51 and it enumerates circumstances when it is assumed that there is infringement of copyright. It mainly speaks about two forms, firstly infringement by use of rights of copyright owner by any person without consent of author and secondly, by use of premises for committing infringement. The term plagiarism is associated with the first form of infringement and to understand in detail, it is necessary to understand rights of author. Section 14 of the Copyright Act deal with meaning and economic rights of copyright owner.[10] Copyright owner can transfer his rights by way of assignment or licence but his right of authorship remains with author only. Section 51 of the Copyright Act deals with infringement of copyright.[11] Section 57[12] recognizes right of authorship that is it expects that the name of author must appear at appropriate places. This is also known as right of paternity as for every author, his/her creation is as good as his own child. In perspective of this, the Copyright law expects legitimately that recognition of

[9] S. 2(l)

[10] S. 14. Meaning of copyright-For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely
(a) in the case of a literary, dramatic or musical work, not being a computer programme-
(i) to reproduce the work in any material form including the storing of it in any medium by electronic means…..

[11] 51. When copyright infringed-Copyright in a work shall be deemed to be infringed—
(a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act—
(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright……

[12] S. 57-Author's special rights…..
(a) to claim authorship of the work…..

copyrighted material is essential in order to escape liability for infringement, especially plagiarism. However, the extent of use of copyrighted material in research is dealt in by the UGC (Protection of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulation, 2018. If such boundaries are not defined, people may extensively copy original work and by using reference system, may escape liability of infringement and plagiarism.

B. The UGC (Protection of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulation, 2018-

Keeping in mind the increasing instances of plagiarism and its effect on culture of research, it became matter of concern to have check on plagiarism. Hence, the UGC Regulation, 2018 came into existence. The Regulation aims to,

a. Protect academic integrity,
b. Prevent plagiarism in HEIs,
c. Punish acts of plagiarism

While protecting academic integrity, the Regulation makes provisions for extent of copying permissible under the Regulation by allowing similarity check and while calculating similarity check, the Regulation excludes certain contents and these are dealt by s. 7 of the Regulation.

Section 7 similarity checks for exclusion from plagiarism

The similarity check for plagiarism shall exclude the following,

a. All quoted work reproduced with all necessary permission and/or attribution
b. All references and bibliography, table of content, preface and acknowledgement
c. All generic terms, laws, standard symbols and standard equations.

However, the section mandates that idea of research work must be original. The meaning of word 'original' can be one which is not copied. Section 7 further lays down broad structure of research which shall include abstract, summary or hypothesis, observations, results, conclusions and recommendations only and shall not have any similarities. It shall exclude a common knowledge or coincidental terms up to 14 consecutive words.

When copying amounts to plagiarism and when not?

Section 8 of the Regulation defines and confines levels of plagiarism and can be quantified in following ways in ascending order-

A. Level 0: Similarities up to 10% minor similarities no penalty,
B. Level 1: Similarities above 10% to 40%,
C. Level 2: Similarities above 40% to 60%,
D. Level 3: Similarities above 60%

The Regulation makes provisions for prevention of plagiarism by containing punishments for plagiarism beyond permissible limits and tries to maintain deterrence effect so as to prevent plagiarism and maintain academic integrity.

Level 0: Similarities up to 10% are considered as minor similarities no penalty

Level 1: For similarities above 10% to 40%, student shall be asked to submit a revised script within a stipulated time period not exceeding six months

Level 2: For similarities above 40% to 60% such student shall be debarred from submitting a revised script for a period of one year

Level 3: For similarities above 60% such student's registration for that program shall be cancelled.

Conclusion:

Plagiarism is practice of using another's work as one's own and is menace for research and harmful for academic integrity. The Copyright Act, 1957 explains right of authorship and assumes that others shall recognize this right appropriately. The Copyright Act, 1957 is wide and encompasses all professions, avocations under its umbrella while the UGC Regulation, 2018 has restricted application. The Regulation applies and regulates Higher Educational Institutions. The Regulation not only defines plagiarism but explains extents of similarities that shall lead to plagiarism also. The Regulation also suggests appropriate punishments for plagiarism.