

A STUDY ON CHILDREN'S EXPOSURE TO HARMFUL ONLINE CONTENT WITH SPECIAL REFERENCE TO ONLINE GAMBLING

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ABSTRACT

Online gambling is a game where the user or gambler who is online gambling in using the electronic media with accessing the internet as a medium for gambling. Online gambling also known as a cyber-gambling.. According to the Cambridge Dictionary Online, the gambling can be briefly defined as “ the activity of betting money, for example in a game or on a horse race”. Online gambling (or Internet gambling) is any kind of gambling conducted on the internet. The research method followed is descriptive research. The data is collected through a questionnaire and the sample size is 253. Random sampling method is adopted in the study to collect the data. The samples were collected from the general public with reference to chennai. The independent variables are gender , age, educational qualification ,marital status.The dependent variables are advertisements, compulsion from friends, earning money, educating the children from school. Parental monitoring, most of the parents are not ready to talk about the gambling and other harmful online contents but parents should start interacting with the children and educate them with pros and cons of the gambling and other harmful contents so that children can come to know about it. Government has made many initiatives to bring awareness among the public to give exposure to the public and children about online gambling but the government can make more initiative by bringing any new legislation and can conduct awareness camps about online gambling in various places.

KEY WORDS: Online gambling, money, betting, sport, children's exposure.

INTRODUCTION

Online gambling is a game where the user or gambler who is online gambling in using the electronic media with accessing the internet as a medium for gambling. Online gambling also known as a cyber-gambling. Before going further, gambling can be defined as an action that gives a bad impact to many sides from nation, community, and also religion. According to the Cambridge Dictionary Online, the gambling can be briefly defined as “ the activity of betting money, for example in a game or on a horse race”. Online gambling (or Internet gambling) is any kind of gambling conducted on the internet. This includes virtual poker, casinos and sports

betting. The first online gambling venue opened to the general public was ticketing for the Liechtenstein International Lottery in October 1994. Today the market is worth around \$40 billion globally each year, according to various estimates.

Many countries restrict or ban online gambling. However it is legal in some states of the United States, some provinces in Canada, most countries of the European Union and several nations in the Caribbean.In gambling, it is a game where the gambler only chooses one option from a few options. If these options are selected they are the winner after putting lots of money as they bet. While on this case was an online gambling, that rapidly raised up

now day. Those who responded that they played online games during their preschool years were defined as having “early exposure” and those who started playing online games after entering elementary school were defined as having “later exposure” to online games, respectively. Pennsylvania–Pennsylvania is the only other US state apart from New Jersey and Delaware where all three forms of online gambling (online casinos, online poker and sports betting) have been legalized. The legalization across online casinos, online poker and online sports betting happened just in 2019.

OBJECTIVES

- To find out how aware are people about online gambling.
- To determine the major causes for practising online gambling by children.
- To explain the ways to give more exposure to the children about online gambling and other harmful contents.
- To give probable suggestions to reduce gambling.

REVIEW OF LITERATURE

Moira Smith, Tim Chambers, Max Abbott & Louise Signal, Children’s Exposure to Gambling and Gambling Marketing Using Wearable Cameras, Concerns continue to be raised about the ‘normalising’ influence of gambling and its marketing on children. This study sought to determine the nature and extent of children’s everyday exposure to gambling and its marketing. New Zealand children (11–13 years; n = 167) wore wearable cameras, capturing images of their day every seven seconds for four days, June 2014–July 2015. Images (n = 380,000) were assessed for their exposure to gambling and its marketing.

Mariano Chóliz, The Challenge of Online

Gambling: The Effect of Legalization on the Increase in Online Gambling Addiction, This is a very relevant issue because, as in the case of Spain, many countries are currently in process of legalization of many types of online games. Scientific research can be useful to adapt the adequate gambling policies in order to prevent the gambling addiction.

Hyouun S. Kim, Michael J. A. Wohl, Rina Gupta & Jeffrey L. Derevensky, Why do young adults gamble online? A qualitative study of motivations to transition from social casino games to online gambling, The present research examined the mechanisms of initiating online gambling among young adults. Of particular interest was whether social casino gaming was noted as part of young adults’ experience with online gambling. This is because there is growing concern that social casino gaming may be a ‘gateway’ to online gambling.

Abby McCormack, Gillian W. Shorter & Mark D. Griffiths, An Empirical Study of Gender Differences in Online Gambling, Gambling has typically been considered a predominately male activity. However, recent prevalence surveys have shown greater numbers of females are now gambling. Much of the gambling literature suggests online gamblers are more likely to be male, and that problem gamblers are more likely to be male.

Hibai Lopez-Gonzalez, Susana Jimenez-Murcia, Alicia Rius-Buitrago & Mark D. Griffiths, Do Online Gambling Products Require Traditional Therapy for Gambling Disorder to Change? Evidence from Focus Group Interviews with Mental Health Professionals Treating Online Gamblers, Online gambling has significantly altered the situational and structural characteristics of gambling products, to the extent that online gamblers might be substantially different from traditional offline gamblers. A growing body of literature has identified the

evolving features of online gambling and the individuals who engage in it.

Kevin S. Montes & Jeffrey N. Weatherly, Differences in the Gambling Behavior of Online and Non-online Student Gamblers in a Controlled Laboratory Environment, Montes, K.S., Weatherly,

J.N. Differences in the Gambling Behavior of Online and Non-online Student Gamblers in a Controlled Laboratory Environment. J Gambl Stud 33, 85–97 (2017).

Hannah Pitt, Samantha L. Thomas, Amy Bestman, Mike Daube & Jeffrey Derevensky, Factors that influence children's gambling attitudes and consumption intentions: lessons for gambling harm prevention research, policies and advocacy strategies, Harmful gambling is a public health issue that affects not only adults but also children. With the development of a range of new gambling products, and the marketing for these products, children are potentially exposed to gambling more than ever before.

Steve Sharman, Catia Alexandra Ferreira & Philip W. S. Newall, Exposure to Gambling and Alcohol Marketing in Soccer Matchday Programmes, The current study sought to quantify exposure to gambling and alcohol marketing, and responsible gambling messages within matchday programmes.

Charlotte Hood & Adrian Parke, Differences in Parental Attitudes and Tolerance of Child Exposure to and Participation in Gambling, Alcohol and Nicotine Use, This study investigated parental attitudes toward child exposure to alcohol, nicotine (smoking tobacco) and gambling, via a questionnaire that examined parental tolerance with regard to hypothetical scenarios of exposure and participation, alongside perceptions of the importance of associated health promotion for each activity.

Amy Bestman, Samantha L. Thomas, Melanie Randle, Hannah Pitt & Mike Daube, Attitudes towards community gambling venues and

support for regulatory reform: an online panel study of residents in New South Wales, Australia, Harmful gambling has been identified as an important public health issue that affects individuals, families and the broader community. One gambling product, electronic gambling machines (EGMs), has been associated with significant gambling harm in Australia.

Megan Freund, Natasha Noble, David Hill, Victoria White, Tiffany Evans, Christopher Oldmeadow, Nicola Guerin & Robert Sanson-Fisher, The Prevalence and Correlates of Gambling in Australian Secondary School Students, Youth gambling is associated with a range of harms. This study aimed to examine, among Australian adolescents, the prevalence of gambling (ever, in the last month, at-risk and problem), the most frequent gambling types and modalities, and to explore the student characteristics associated with gambling.

Janet L. Patford, Adult Children's Experiences of Late Onset Parental Gambling Problems, The primary aim of this qualitative study was to explore adult children's experiences and perspectives in regard to late onset parental gambling. Greater knowledge is needed to inform the development of counselling and advisory services and public policy more generally.

Alejandro Díaz & Levi Pérez, Online Gambling-Related Harm: Findings from the Study on the Prevalence, Behavior and Characteristics of Gamblers in Spain, Online gambling has grown into a global social and economic phenomenon. It is, however, regarded as a risky practice, as it may be connected to the development of gambling-related disorders.

Mohammadreza Davoudi, Sheida Shirvani, Aliakbar Ferooghi & Fereshteh Rajaeiramsheh, Online Gambling in Iranian Social Media Users, The aim of this study was to investigate the prevalence of online gambling (without disorder and

pathological), and its relationship with demographic variables and psychiatric symptoms. 3252 people participated in this study online.

Moonkyoung Jang, Seongmin Jeon, Byungjoon Yoo, Jongil Kim & Changhee Han, Does Too Much Regulation Kill the Online Gambling Industry?: An Empirical Analysis of Regulation Effects Using VAR Model, We also suggest the policy makers should make suitable regulations for each user group to effectively avoid generating gambling addicts without interrupting the economic growth of the online gambling industry.

Patricia Gómez, Sandra Feijóo, Teresa Braña, Jesús Varela & Antonio Rial, Minors and Online Gambling: Prevalence and Related Variables, The increase of online gambling or betting is one of those. Although in most cases online gambling by minors does not result in a disorder, it does imply a higher probability of developing a gambling disorder in adulthood, and it can cause economic, family, school and social problems.

Julie Caillon, Marie Grall-Bronnec, Jean-Benoit Hardouin, Jean-Luc Venisse & Gaelle Challet-Bouju, Online gambling's moderators: how effective? Study protocol for a randomized controlled trial, Online gambling has been legalized in France in 2010. Licenses are issued to gambling operators who demonstrate their ability to respect the legal framework (security, taxation, consumer protection, etc.).

Michael Auer & Mark D. Griffiths, Self-Reported Losses Versus Actual Losses in Online Gambling: An Empirical Study, Given that the primary aim of the present study was to evaluate the differences between objective and subjective gambling expenditure, correlations between self-report and objective information were calculated.

Dragan Peraković, Leon Cetinić, Ivan Cvitić &

Marko Periša, Cybersecurity Validation in the Online Gambling Industry, Significant progress in online gambling has been monitored during the COVID-19 pandemic and numerous lockdowns worldwide. In such conditions, this form of service is growing in popularity, accompanied by a sharp increase in users. This also increases the risk of numerous cyber-attacks, the successful implementation of which can cause several negative consequences for end-users and the service provider.

Tobias Effertz, Anja Bischof, Hans-Jürgen Rumpf, Christian Meyer & Ulrich John, The effect of online gambling on gambling problems and resulting economic health costs in Germany, Our findings underpin the necessity to keep online gambling restricted to prevent further developments of problematic and pathological gambling in Germany.

Sally M. Gainsbury, Online Gambling Addiction: the Relationship Between Internet Gambling and Disordered Gambling, This paper presents research to inform a greater understanding of adult participation in Internet gambling, features of this interface that may impact problem severity, the relationship between Internet gambling and related problems, as well as considering the role of the wider spectrum of gambling behaviour and relevant individual factors that moderate this relationship.

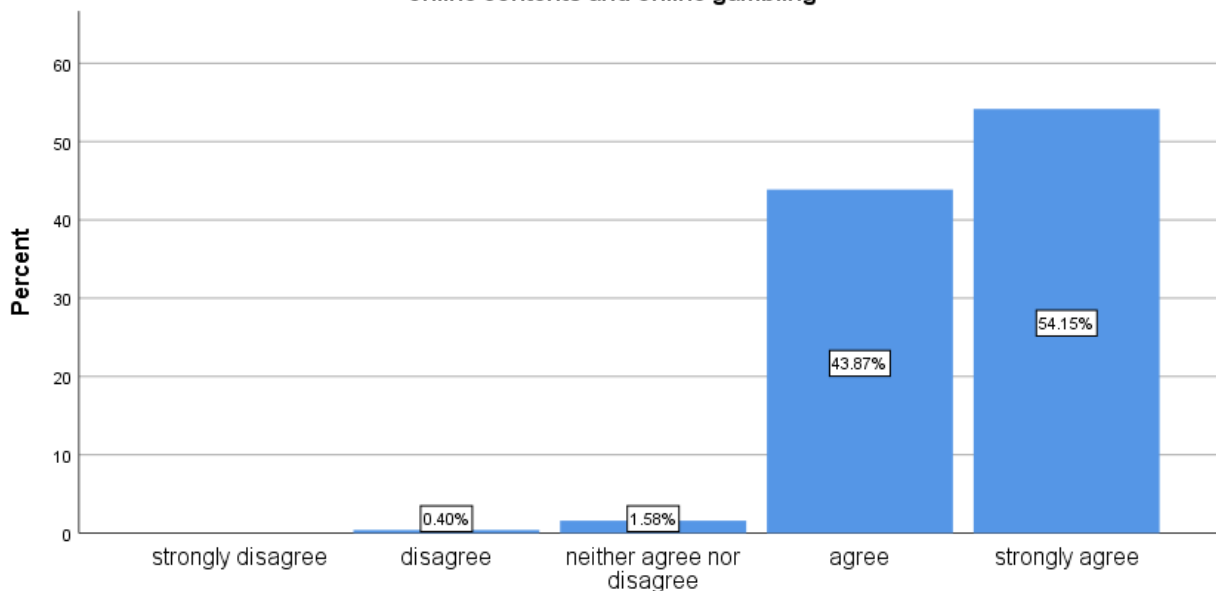
MATERIALS AND METHODS

The research method followed is descriptive research. The data is collected through a questionnaire and the sample size is 253. Random sampling method is adopted in the study to collect the data. The samples were collected from the general public with reference to Chennai. The independent variables are gender, age, educational qualification, marital status. The dependent variables are advertisements, compulsion from friends, earning money, educating the children from school.

ANALYSIS

Figure 1

Simple Bar Percent of Rate your agreeability towards the statement that children has exposure on harmful online contents and online gambling

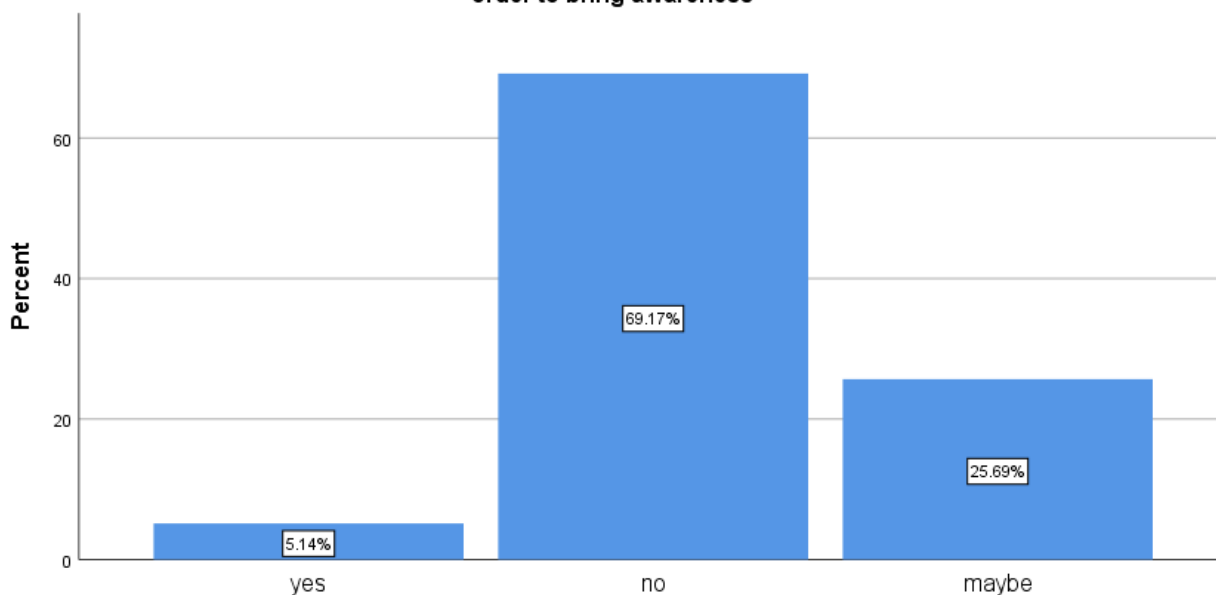


Rate your agreeability towards the statement that children has exposure on harmful online contents and online gambling

Legend: Figure 1 shows the agreeability of the respondents for the statement given.

Figure 2

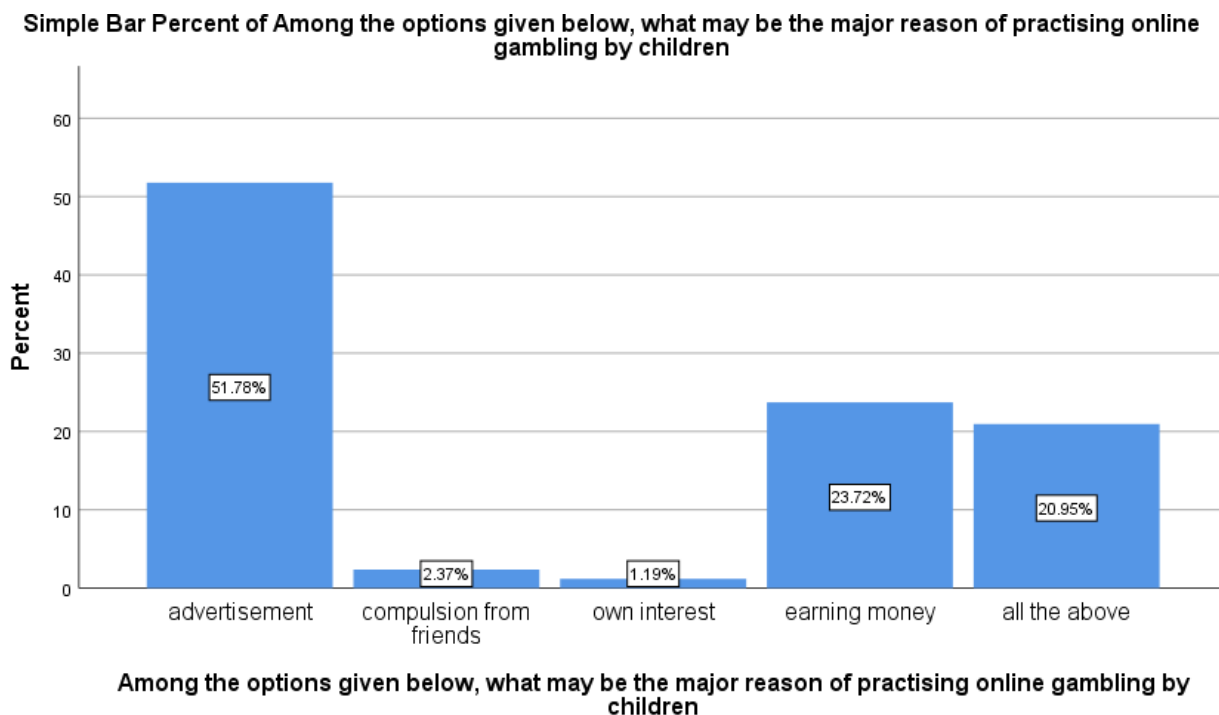
Simple Bar Percent of Have you been taught anyone about online gambling and other harmful contents in order to bring awareness



Have you been taught anyone about online gambling and other harmful contents in order to bring awareness

Legend: Figure 2 shows the results that respondents have been taught anyone about online gambling and other harmful contents in order to bring awareness.

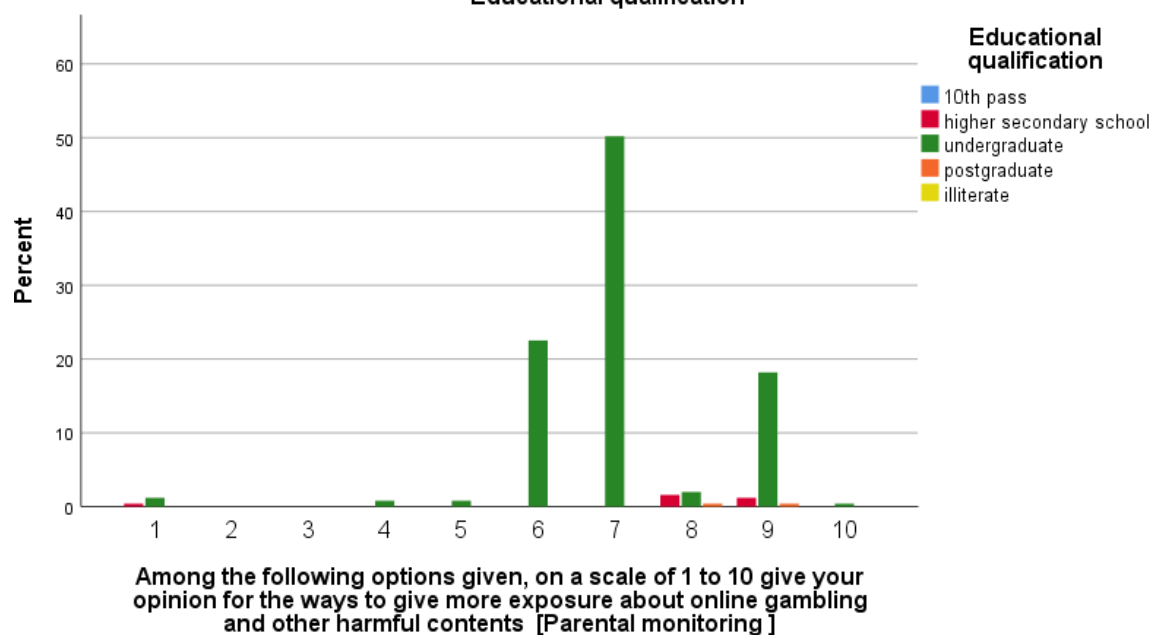
Figure 3



Legend: Figure 3 shows which is the major reason of practising online gambling by children

Figure 4

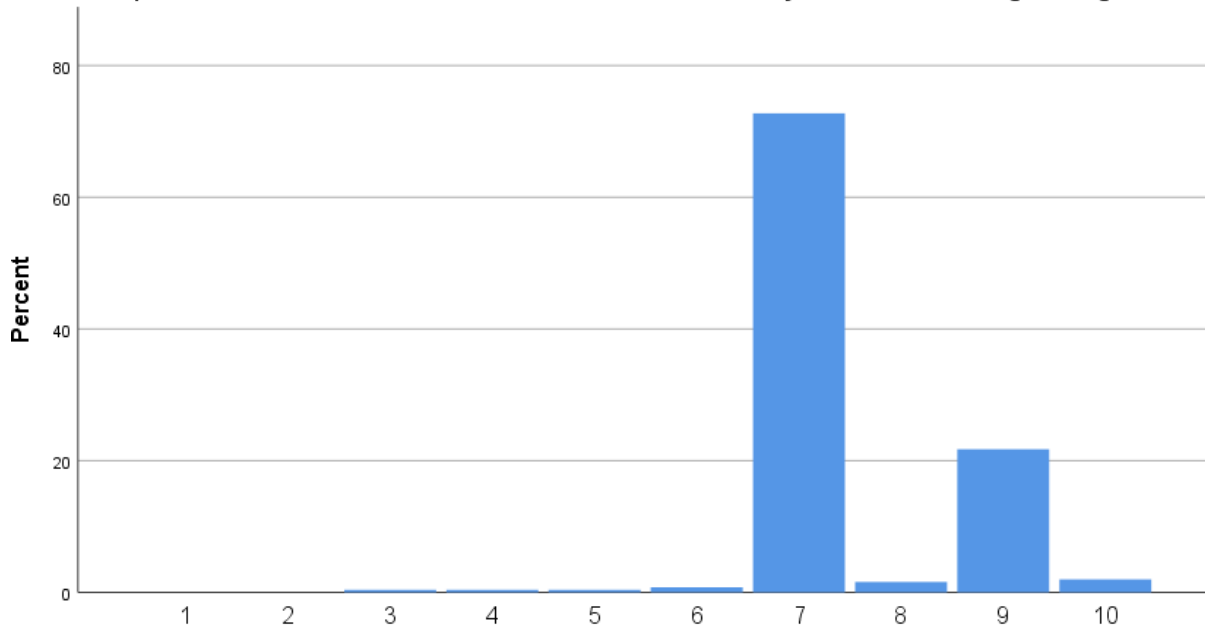
Clustered Bar Percent of Among the following options given, on a scale of 1 to 10 give your opinion for the ways to give more exposure about online gambling and other harmful contents [Parental monitoring] by Educational qualification



Legend: Figure 4 shows the influence of educational qualification on the parental monitoring as a way to more exposure about online gambling.

Figure 5

Simple Bar Percent of On a scale of 1 to 10 rate how much are you aware of online gambling.

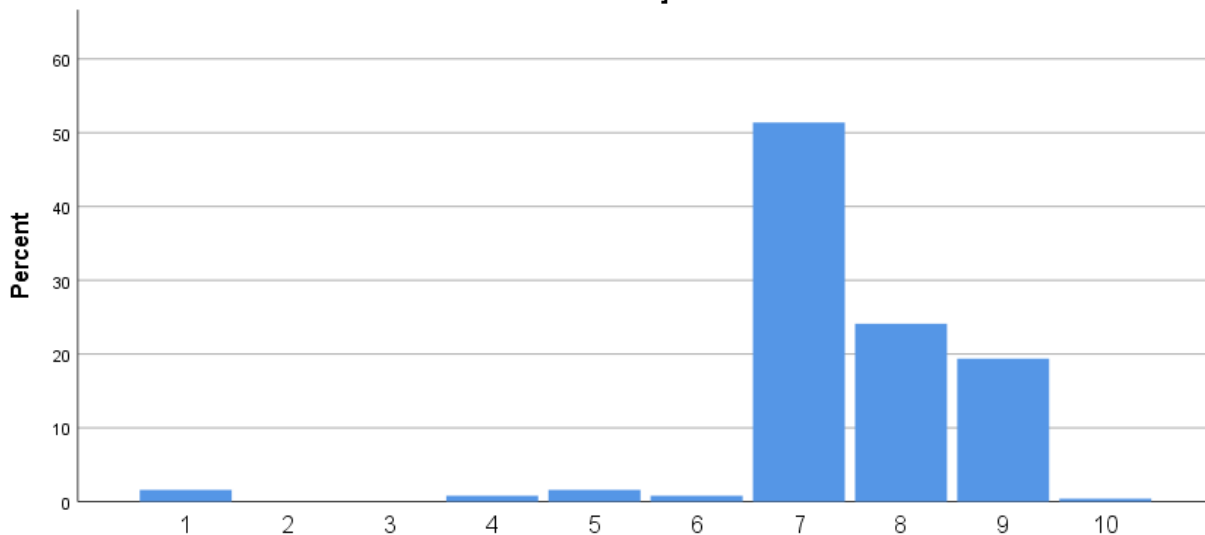


On a scale of 1 to 10 rate how much are you aware of online gambling.

Legend: Figure 5 shows the ratings of the respondents that how aware are people about online gambling.

Figure 6

Simple Bar Percent of Among the following options given, on a scale of 1 to 10 give your opinion for the ways to give more exposure about online gambling and other harmful contents [Government initiatives to bring awareness]

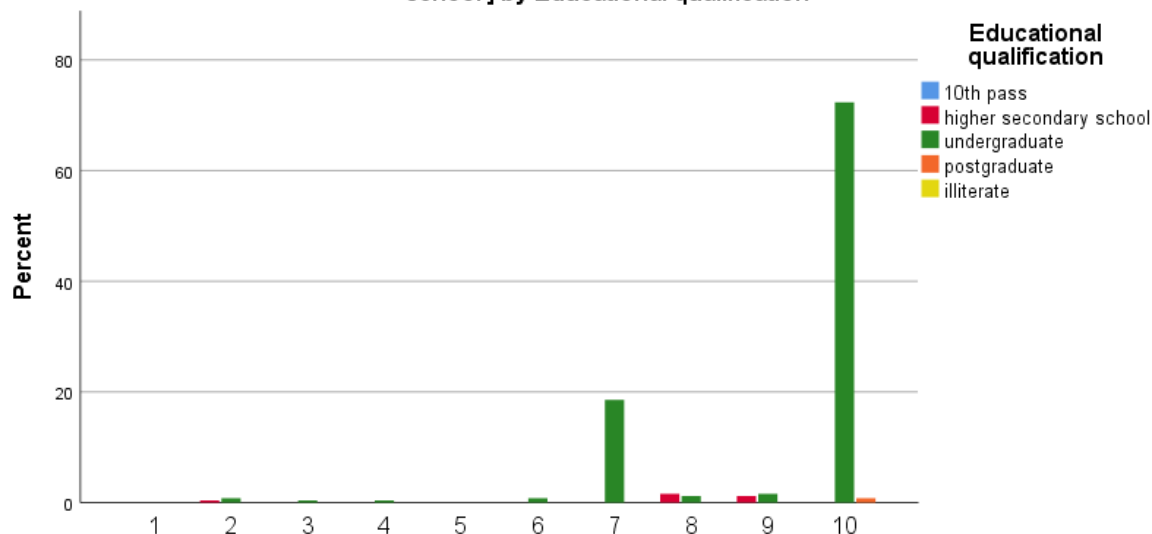


Among the following options given, on a scale of 1 to 10 give your opinion for the ways to give more exposure about online gambling and other harmful contents [Government initiatives to bring awareness]

Legend: Figure 6 shows the ratings of the respondents that government initiatives to bring awareness among people is the way to bring more exposure about online gambling.

Figure 7

Clustered Bar Percent of Among the following options given, on a scale of 1 to 10 give your opinion for the ways to give more exposure about online gambling and other harmful contents [Educating the students from school] by Educational qualification

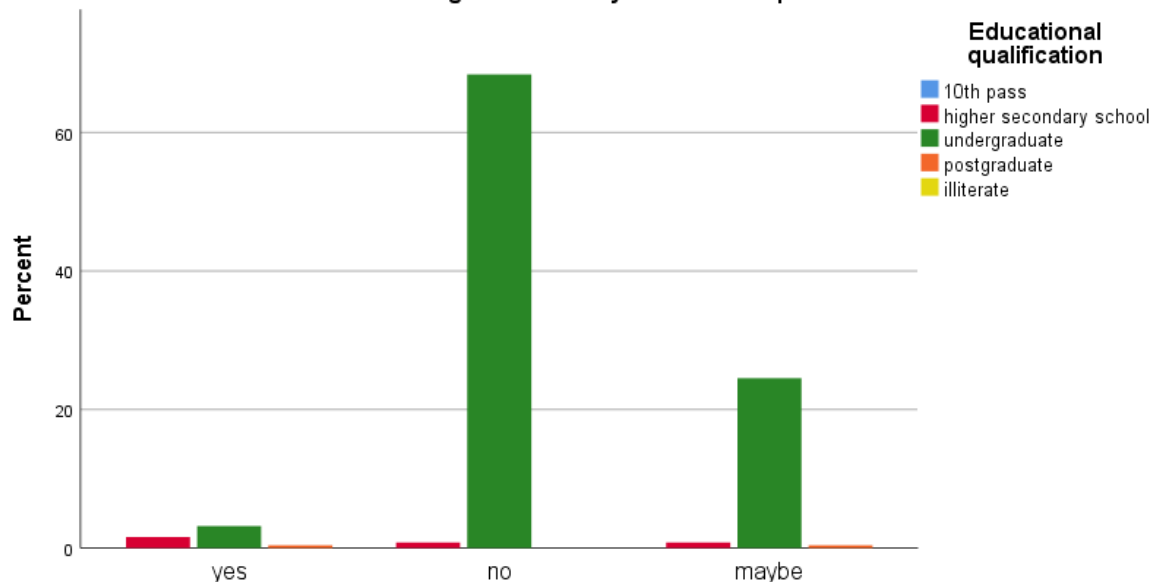


Among the following options given, on a scale of 1 to 10 give your opinion for the ways to give more exposure about online gambling and other harmful contents [Educating the students from school]

Legend: Figure 7 shows the influence of educational qualification on educating the students from school as a way to bring more exposure about online gambling.

Figure 8

Clustered Bar Percent of Have you been taught anyone about online gambling and other harmful contents in order to bring awareness by Educational qualification

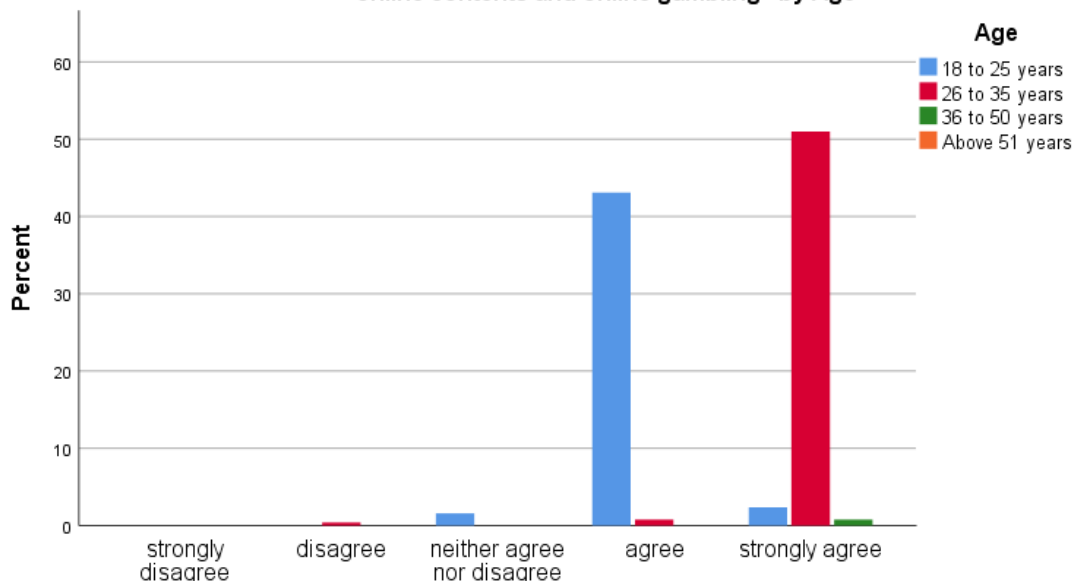


Have you been taught anyone about online gambling and other harmful contents in order to bring awareness

Legend: Figure 8 shows the influence of educational qualification of the respondents on the statement given.

Figure 9

Clustered Bar Percent of Rate your agreeability towards the statement that children has exposure on harmful online contents and online gambling by Age

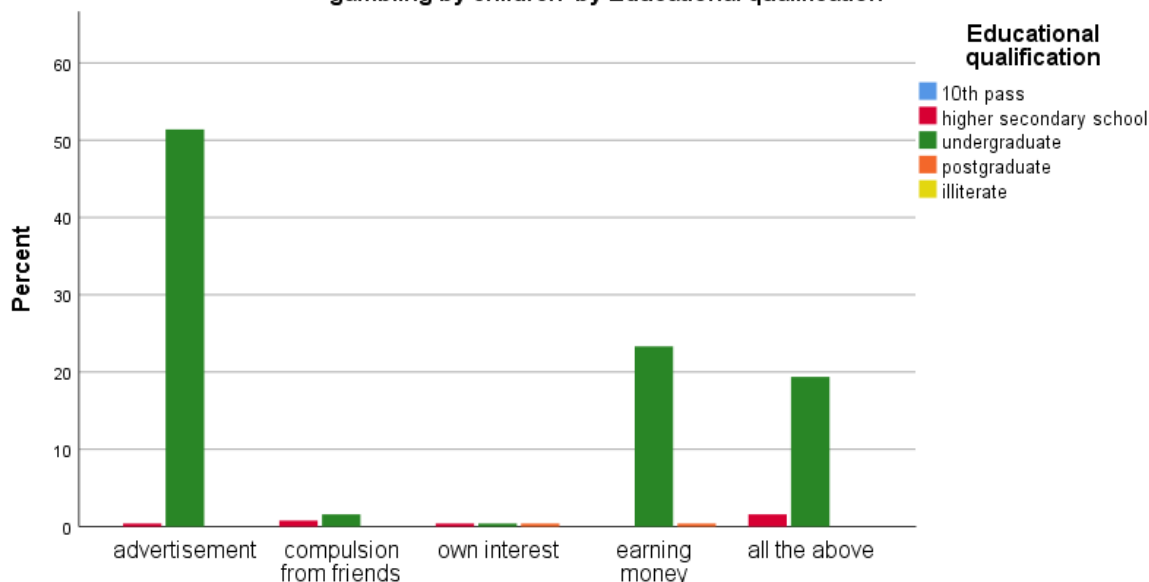


Rate your agreeability towards the statement that children has exposure on harmful online contents and online gambling

Legend: Figure 9 shows the influence of age of the respondents on the statement given.

Figure 10

Clustered Bar Percent of Among the options given below, what may be the major reason of practising online gambling by children by Educational qualification



Among the options given below, what may be the major reason of practising online gambling by children

Legend: Figure 10 shows the influence of educational qualification of the respondents for the major reason of practising online gambling by children.

RESULTS

- Figure 1 shows that 54.15% of the respondents strongly agree and 43.67% of the respondents agree and

1.58% of the respondents say neither agree nor disagree with the statement.

- Figure 2 shows that 69.17% of the

respondents remain 'no' for the statement, 25.69% of the respondents remain 'maybe' for the statement and 5% of the respondents says 'yes' towards the statement.

- Figure 3 shows that advertisement is the major reason for practicing online gambling by children as 51.78% of the respondents have voted for advertisement.
- Figure 4 shows that parental monitoring is one of the way to give more exposure about online gambling and other harmful contents where major responses are from the undergraduate.
- Figure 5 shows that most of the respondents are highly aware of online gambling as the respondents have rated '7' out of '10' for the statement.
- Figure 6 shows that most of the respondents have rated '7' out of '10' which implies government initiative is also a way to give more exposure to online gambling.
- Figure 7 shows that undergraduates have rated 10 out of 10 which implies educating the students from school is the way to give exposure to online gambling.
- Figure 8 shows that undergraduates have rated 'no' for the statement.
- Figure 9 shows that respondents in the age group of 26 to 35 years strongly agree with the statement and the respondents in the age group of 18 to 25 years agree with the given statement.
- Figure 10 shows that undergraduates have rated that advertisement is the major reason for practicing online gambling by children.

DISCUSSION

Most of the respondents strongly agree because nowadays there are more platforms for children to learn about things like the internet, browsers etc. So respondents strongly agree that children have exposure to online gambling and other harmful contents. (Fig 1) Most of the respondents say 'no' because people are not sharing their thoughts with others. No people are concerned about others, everyone thinks for themselves. So people have to start sharing their thoughts and educate others also. (Fig 2) Advertisement is the major reason for practicing online gambling by children because of the advertisements given by the respective authorities which attracts the children to enter into the gambling easily by giving advertisements frequently. (fig 3) Parental monitoring, most of the parents are not ready to talk about the gambling and other harmful online contents but parents should start interacting with the children and educate them with pros and cons of the gambling and other harmful contents so that children can come to know about it. (Fig 4) Since gambling is now common and gambling is legalized in some states and countries most of the respondents are aware of online gambling. (Fig 5) Government has made many initiatives to bring awareness among the public to give exposure to the public and children about online gambling but the government can make more initiative by bringing any new legislation and can conduct awareness camps about online gambling in various places. (Fig 6) Schools should start educating the children about everything because nowadays schools are focusing only on academics so that children are not having the knowledge of many other things, if schools started educating them children will have more exposure towards such things. (Fig 7) People who have studied have the chances of getting things known than the illiterates so educated people

should start sharing their thoughts with others. (Fig 8) 18 to 25 and 26 to 35 years are the age group who use more mobile phones and spend more time on their phones so they strongly agree that children have more exposure to online gambling where they can get exposure through the internet. (fig 9) Advertisement, when advertisements are frequently given it automatically makes the children get into it. So advertisement is the major reason for practicing online gambling by children. (fig 10)

LIMITATIONS

The major limitation of my study is a sample frame. The sample frame in bus stands and markets have to be roofed for educated samples. The restrictive area of sample size is also another major drawback. The physical factors are the most impactful and a major factor inventing the study.

CONCLUSION

Online gambling is a game where the user or gambler who is online gambling in using the electronic media with accessing the internet as a medium for gambling. Online gambling also known as a cyber-gambling. Before going further, gambling can be defined as an action that gives a bad impact to many sides from nation, community, and also religion. According to the Cambridge Dictionary Online, the gambling can be briefly defined as “ the activity of betting money, for example in a game or on a horse race”. Online gambling (or Internet gambling) is any kind of gambling conducted on the internet. This includes virtual poker, casinos and sports betting. Advertisement is the major reason for practicing online gambling by children because of the advertisements given by the respective authorities which attracts the children to enter into the gambling easily by giving advertisements frequently. Parental monitoring, most of the parents are not ready to talk about the gambling and other harmful online contents but parents should

start interacting with the children and educate them with pros and cons of the gambling and other harmful contents so that children can come to know about it. Since gambling is now common and gambling is legalized in some states and countries most of the respondents are aware of online gambling. Government has made many initiatives to bring awareness among the public to give exposure to the public and children about online gambling but the government can make more initiative by bringing any new legislation and can conduct awareness camps about online gambling in various places. Schools should start educating the children about everything because nowadays schools are focusing only on academics so that children are not having the knowledge of many other things, if schools started educating them children will have more exposure towards such things. People who have studied have the chances of getting things known than the illiterates so educated people should start sharing their thoughts with others. 18 to 25 and 26 to 35 years are the age group who use more mobile phones and spend more time on their phones so they strongly agree that children have more exposure to online gambling where they can get exposure through the internet. Advertisement, when advertisements are frequently given it automatically makes the children get into it. So advertisement is the major reason for practicing online gambling by children.

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ARTISTIC AND MUSICAL WORKS UNDER INDIAN COPYRIGHT REGIME :A RESEARCH PAPER

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BEST CITATION – ISHAN DHYANI, ARTISTIC AND MUSICAL WORKS UNDER INDIAN COPYRIGHT REGIME :A RESEARCH PAPER, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (8) OF 2025, PG. 1018-991, APIS – 3920 – 0001 & ISSN – 2583-2344

Abstract

This paper examines the legal landscape surrounding copyright protection for artistic and musical works under Indian and international law. It traces the historical evolution of copyright recognition from the early 18th century, focusing on milestones such as the Copyright Act of 1911, which marked the inclusion of artistic and musical works as subject matter of copyright. The study delves into the definitions and rights associated with "artistic works" and "musical works" under the Indian Copyright Act, 1957, discussing elements like originality, the idea-expression dichotomy, and the doctrine of authorship. Contemporary challenges are highlighted, particularly the impact of artificial intelligence on authorship and copyright ownership, as exemplified by cases such as *Zarya of the Dawn*, where AI-generated content faced copyright denial. This paper argues that while India's copyright framework aligns with conventions like the Berne Convention, amendments are necessary to address the complexities of AI-generated creations, ensuring clarity and adaptability in modern copyright law.

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17. *Wham-O Manufacturing Co. v. Lincoln Industries Ltd.* (1984), [1985] R.P.C. 128
18. *James Arnold v. Miafern* (1980) RPC 397 at p. 403.
19. *American Historical Co. v. Clarke*, 316 Ill. App. 309.
20. *Associated Publishers v. Bashyam* AIR 1964 Mad 114
21. *Fairmount Hotels Pvt. Ltd. v Mr. Bhupendra Singh* 2018 Del
22. *Fairmount Hotels Pvt. Ltd. v Mr. Bhupendra Singh* 2018 Del
23. *Naruto v. David Slater* 888 F.3d 418 (9th Cir. 2018)

24. *Raj Rewal v. Union of India*, 2019 SCC OnLine Del 8716

25. *George Hensher Ltd. v. Restawile Upholstery (Lancs) Ltd.*, (1975) RPC 31

26. *Sulamangalam R. Jayalakshmi v. Meta Musicals*, 2000 SCC OnLine Mad 381

INTRODUCTION

If one were to claim that something as creative as paintings, sculptures, drawings, or even a soulful composition were to be denied protection under copyright law, then he would, at the drop of a hat, be dismissed or even labelled outlandish. However, something that is, in the modern twenty first century world, considered exceptionally obvious, like granting of copyright protection to artistic or musical works, was not always a norm for the society.

Historical Background

For instance, Statute of Anne, 1710, which is considered to be the first legislation on copyright, completely ignored artistic and musical works, and subsequent English legislation, The Copyright Act, 1842 and the American law in the form of Copyright Act, 1790, followed suit. This also influenced the foremost legislation in Indian copyright jurisprudence, The Copyright Act, 1847 and it also provided no recognition to both Artistic work and Musical Works as subject matter of copyright. It was, thus The Copyright Act, 1911, passed in England, was the first copyright law that finally recognised artistic and musical works as the subject matter of copyright and the same was incorporated in the 1914 amendment to the Indian legislation and later in the Copyright Act, 1957 post independence.

Therefore, especially post 1911 in England and after 1914 in India, both artists and composers, were granted intellectual property protection, freeing them from the clutches of elite patrons. The authors, thus, have the rights to reproduction, communication to public, issuing copies, adaptation, performance etc along with the rights of paternity and that of integrity over their artistic and musical work.

However, in order to understand and appreciate the scope of intellectual property protection, provided to these works, it becomes essential to understand the nature and meaning of copyright under Indian jurisprudential set up.

The Jurisprudence Of Copyright

In *Asianet Communications (P) Ltd. v. Surya T.V.*¹¹⁴⁴, the Supreme court observed, "Copyright is a bundle of rights given by the law to the creators of literary, dramatic, musical and artistic works and the producers of cinematograph films and sound recordings. The rights provided under Copyright law include the rights of reproduction of the work, communication of the work to the public, adaptation of the work and translation of the work. The scope and duration of protection provided under copyright law varies with the nature of the protected work."

Thus, copyright acts as a wide umbrella of rights that are conferred upon the authors, safeguarding their economic interests, while ensuring the society as a whole is benefitted from the works, thus produced. Thus, the object of the law of copyright was explained by the Bombay High Court in *Aamir Raza Husain v. Cinevistaas Limited*, "the idea of copyright law is to provide statutory protection and to promote originality and art."¹¹⁴⁵

Thus, originality is considered to be the hallmark of copyright. In *Feist v. Rural Telephone Service Co.*¹¹⁴⁶, the US Supreme held that in order to qualify for copyright protection, a work must be original to the author. Hence, the work should be independently created by the author, and should possess at least some minimal degree of creativity. The prerequisite level of creativity required is extremely low and thus, if one's work closely resembles that of someone else, it shall not be considered a copy, but an original work, provided it is not copied from the other work.

¹¹⁴⁴ *Asianet Communications (P) Ltd. v. Surya T.V.*, 2015 SCC OnLine Mad 10366

¹¹⁴⁵ *Aamir Raza Husain v. Cinevistaas Limited*, 2002 SCC OnLine Bom 926

¹¹⁴⁶ *Feist v. Rural Telephone Service Co.*, 499 U.S. 340 (1991)

Idea Expression Dichotomy

Another important facet about the law of copyright is that it protects the expression of the idea alone and not the right. This concept has been styled by jurists as the Idea Expression Dichotomy and can be explained as a legal doctrine that confines the scope of copyright to the expression alone, and keeping unexpressed or abstract ideas, outside the ambit of intellectual property protection. Elucidated, for the first time in the celebrated American precedent of *Baker v. Selden*¹¹⁴⁷, this doctrine was affirmed in England in *Donoghue v Allied Newspapers Ltd*¹¹⁴⁸, where Farwell J, observed “If the idea, however brilliant and however clever it may be, is nothing more than an idea, and is not put into any form of words, or any form of expression such as a picture or a play, then there is no such thing as copyright at all. It is not, until it is reduced into writing, or into some tangible form, that you get any right to copyright at all, and the copyright exists in the particular form of language in which, or, in the case of a picture, in the particular form of the picture by which, the information or the idea is conveyed to those who are intended to read it or to look at it.”

While, in India, the Supreme Court in the landmark judgement of *R.G. Anand v. Delux Films*¹¹⁴⁹ affirmed this doctrine, the High court of New Zealand, rejected this doctrine, labelling the concept of idea expression dichotomy, “probably the most difficult concept in law of copyright” and the concept that law does not protect copyright as “unacceptable”.¹¹⁵⁰ However, the position in India has remained unchanged from that of the Supreme Court in *R.G Anand*¹¹⁵¹. This can be seen in recent Delhi High Courts judgments like that of the Bollywood movie *Shamshera*¹¹⁵² and that of the

social media page *Humans of Bombay Stories*¹¹⁵³

Artistic and Musical Work as Subject Matter of Copyright

Therefore, any subject matter of copyright¹¹⁵⁴, including artistic and musical works, needs to meet the minimum standards of creativity as to enable the works as original, along with a mere idea to create a certain artwork or a composition, will not attract copyright protection.

The Indian Copyright Act, 1957 provides an exhaustive definition of the term, ‘work’¹¹⁵⁵ to include literary, dramatic, artistic and musical works, along with sound recordings and cinematograph films. The Act also provides independent extensive definitions of both “artistic works” and “musical works”, which shall be discussed in great detail in the subsequent chapters of this research. Also, with reference to musical works, the composers, apart from the set of rights provided under section 13 of the Act, also enjoy neighbouring rights like the right to performance. This has been incorporated after the 1994 amendment to Copyright Act 1957.

Term of copyright of Artistic and Musical Works

By the virtue of The Copyright Act, 1957, the term of the musical or artistic work published within the lifetime of the author is sixty from the beginning of the calendar year next following the year of the death of the composer or the artist.¹¹⁵⁶

Artistic and Musical Works in the Age of Artificial Intelligence

In the twenty first century especially with the advent of Artificial Intelligence tools, it has become very easy to create artistic and musical works. While it is possible to argue that there exists certain level of creativity in order to provide the Artificial intelligence software the commands, to produce the desired artistic work or musical work, two set of arguments sprout

¹¹⁴⁷ *Baker v. Selden* 101 U.S. 99

¹¹⁴⁸ *Donoghue v. Allied Newspapers Ltd.*, (1937) 3 All ER 503

¹¹⁴⁹ *R.G. Anand v. Delux Films*, (1978) 4 SCC 118

¹¹⁵⁰ *Barbara Taylor Bradford v. Sahara Media Entertainment Ltd.*, 2003 SCC OnLine Cal 323.

¹¹⁵¹ *R.G. Anand v. Delux Films*, (1978) 4 SCC 118

¹¹⁵² *Bikramjeet Singh Bhullar v. Yash Raj Films Private Limited & Ors.*, 2023 LiveLaw (Del) 1348.

¹¹⁵³ *Humans Of Bombay Stories Pvt. Ltd. v. Poi Social Media Pvt. Ltd. & Anr.*, 2023 LiveLaw (Del) 947.

¹¹⁵⁴ *The Copyright Act, 1957* (Act 14 of 1957), s. 13

¹¹⁵⁵ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(y)

¹¹⁵⁶ *The Copyright Act, 1957* (Act 14 of 1957), s. 22

up. The first one questions the very notion of originality in the action of entering the commands on the software and the second ones, although accepts the originality in the command, but doubts whether it satisfies the minimum level of creativity required to enable copyright protection to the work.

Recently, in the case of comic book *Zarya of the Dawn*, by Kristina Kashtanova, the United States Copyright Office denied the author intellectual property protection over the images that were generated by using an artificial intelligence software, stating that copyright can be granted to human authorship alone.

Thus, while The Copyright Act, 1957 is an inclusive piece of legislation that covers various ambits like artistic and musical works in great depth, it is silent upon the creation of such works by an artificial intelligence software or a robot. Also, the fact that there has been no significant judicial pronouncement regarding the same, might result in confusion and chaos being the only writing on the wall. Therefore, a formal amendment to The Copyright Act, 1957 is the need of the hour to usher the copyright law into the modern age, helping navigate the changes posed by artificial intelligence and robots. This paper further deals with Artistic and Musical Works as subject matter of copyright in detail in the subsequent sections:

ARTISTIC WORKS

The Copyright Act, 1957, includes “artistic works”, in the umbrella of works in which copyright subsists.¹¹⁵⁷ Thus it becomes important to understand the meaning and scope of the definition of artistic works, as defined in the legislation.

Therefore, artistic works¹¹⁵⁸ include

- a. a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;

- b. a work of architecture
- c. any other work of artistic craftsmanship

A similar definition can be traced under the English copyright legislation, where, it includes,

- a. a graphic work, photograph, sculpture or collage, irrespective of artistic quality,
- b. a work of architecture being a building or a model for a building, or
- c. a work of artistic craftsmanship.¹¹⁵⁹

Furthermore, the English legislature expands the term “graphic work”, to mean,

- a. any painting, drawing, diagram, map, chart or plan, and
- b. any engraving, etching, lithograph, woodcut or similar work¹¹⁶⁰

The definition of “artistic works”, also correspond to the definition as provided in the Berne Convention for the Protection of Literary and Artistic Works, 1886 according to which literary and artistic works are inclusive of works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.¹¹⁶¹

Thus, this paper further explains the various kind of works that are considered artistic, under The Copyright Act, 1957.

A. 1. Painting

While the term, “painting”, is not defined in The Copyright Act, 1957, if it is construed in its dictionary or literal sense it means a picture that has been painted.¹¹⁶² In simpler words, the application of paint on a certain surface, can be construed as a painting, in a general sense.

However, to qualify to be a subject matter of copyright, a painting should possess a certain

¹¹⁵⁹ *Copyright, Designs and Patents Act 1988* (UK), s. 4.

¹¹⁶⁰ *Id.*

¹¹⁶¹ *Berne Convention for the Protection of Literary and Artistic Works*, 1886, art. 2.

¹¹⁶² Oxford English Dictionary, “painting, n.” Available at: https://www.oed.com/dictionary/painting_n?l=true (accessed September 23, 2024).

¹¹⁵⁷ *The Copyright Act, 1957* (Act 14 of 1957), s. 13(1)(a)

¹¹⁵⁸ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(c)

sense of originality and creativity. Thus, unless it can be proven that the painter has used a certain degree of creativity in painting and has depicted an actual object or abstract design, it shall not be copyrighted.¹¹⁶³ Also, the surface upon which the painting is made, is also taken into consideration before granting the protection. For instance, the courts have denied copyright to makeup upon the face of a person¹¹⁶⁴ and the suits by tattoo artists claiming protection have been dismissed repeatedly.

Recently, the issue of copyrightability of street art was also argued in the Delhi High Court, in the case of *St+Art India Foundation & Anr. V. Acko General Insurance*, however, the court, while granting injunction to the street art owners, did not decide any legal issues pertaining as to the copyrightability of the artwork.¹¹⁶⁵ Also, a painting qualifies to be an artistic work, even if it has no aesthetic quality.¹¹⁶⁶

2. Sculpture

While sculpture, is not defined in the copyright legislation, the term, “work of sculpture”, is expanded to be inclusive of a. casts, b. models.¹¹⁶⁷ Similarly, the English copyright law also defines sculpture to include a cast or model made for purposes of sculpture.¹¹⁶⁸ Sculpture, is the product of art of forming representations of things or abstract designs in the round or in relief by chiselling stone, carving wood, modelling clay, casting metal, or similar processes¹¹⁶⁹

However, what it to be understood is that a sculpture, under the law of copyright does not only include majestic and well crafted structures. Since, artistic quality is subjective in nature, just like paintings, copyright subsists in sculptures, irrespective of it's artistic value.

Thus, something as basic as wooden models of toys in the form of flying discs have been granted protection under the “artistic works”¹¹⁷⁰

Another example of sculpture being the subject matter of copyright, is the landmark case of *Amarnath Sehgal*¹¹⁷¹, in which the defendants, Union of India was ordered to grant the sculptor, Mr Sehgal his mural, that he created for Vigyan Bhawan and a declaration that all rights, including that of recreation of the sculpture vest with the sculpture was also granted, with damages of Rs 5 lakh.

3. Drawing

The scope of the term drawing is wide enough to include diagrams, maps, charts, plans etc.¹¹⁷² The definition has been expanded to include drawings and sketches used for engineering purposes. While, it is an established position of law that a drawing can not be denied copyright protection based upon lack of artistic quality, but an expression that can not, be called a drawing, can not be granted such protection. For instance, in *Wham-O-Mfg. v. Lincoln*¹¹⁷³, the court held that a single strand of line is not a drawing and hence is not protected under the law of intellectual property.

Also, if a drawing is derived from an existing drawing, it can still be granted a copyright, provided the originality in the subsequent work is established. An idea to create a drawing, is however not protected and the concept of idea expression dichotomy also applies to drawings, squarely.

4. Engravings

The Copyright Act, 1957, defines “engravings to include, etchings, lithographs, wood cuts, prints and other similar work and specifically excludes photographs.”¹¹⁷⁴ This definition is identical to that in the English copyright legislation. Interestingly, it was the Hogarth's Act, 1734 or the Engraving Copyright Act 1734, that became the first legislation in copyright history to include any

¹¹⁶³ Hugh Laddie et. al., *The Modern Law Of Copyright* (London, 1980), p. 107.

¹¹⁶⁴ *Merchandising Corporation of America v. Harpbond*, (1983) FSR 32.

¹¹⁶⁵ *St+Art India Foundation & Anr. V. Acko General Insurance* 2023 LiveLaw (Del) 1127

¹¹⁶⁶ MK Bhandari, *Law Relating to Intellectual Property Rights (IPR)* 2021 (Central Law Publication), p. 28

¹¹⁶⁷ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(za)

¹¹⁶⁸ *Copyright, Designs and Patents Act 1988* (UK), s. 4.

¹¹⁶⁹ VK Ahuja, *Law relating to intellectual Property Rights* 2017 (Lexis Nexis) p. 41

¹¹⁷⁰ *Wham-O-Mfg. v. Lincoln* (1985) RPC 127

¹¹⁷¹ *Amar Nath Sehgal v. Union of India* 2005 SCC OnLine Del 209

¹¹⁷² *The Copyright Act, 1957* (Act 14 of 1957), s. 2(c)

¹¹⁷³ *Wham-O-Mfg. v. Lincoln* (1985) RPC 127

¹¹⁷⁴ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(i)

form of artistic work, as a subject matter of intellectual property protection.

According to Collin's dictionary, An engraving is a picture or design that has been cut into a surface. English courts have also attempted to define Engraving as "it was held that engraving was the art of producing on hard material incised or raised patterns, lines, and the like from which an impression or print was taken."¹¹⁷⁵ In a Kiwi judgment¹¹⁷⁶, the definition of "engravings" has been extended to mean the process as well as the resulting product.

Also, in the case involving a the image and the object on which the image was impressed, it was held that the surface or the object on which the image was engrained shall form the part of the engraving.¹¹⁷⁷

5. Photograph

Under The Copyright Act, 1957, photographs have been specifically excluded from the category of "engraving", and a separate definition for it has been provided. Thus, photographs include, photolithograph and any work produced by any process analogous to photography.¹¹⁷⁸ However, cinematographic films have been excluded from this definition.

In order to attract copyright, a photograph, needs to meet the standards of originality. Thus, if there exists a mountain, and a person clicks it's photograph, then he or she is bound to be the owner of the copyright. However, this does not bar another person, from taking another photograph of the very same object and obtaining copyright on the same. At the same time, if the photograph is a result of certain labour and creativity of the one taking the photograph and the same is repeated by another, to imitate the original photograph, then, the subsequent photographer shall be liable for infringement. Also, a photograph

produced by a photocopying machine, will not be entitled to any kind of protection under intellectual property laws and it lacks any skill or labour.

In *Associated Publishers v. Bashyam*¹¹⁷⁹, the Madras High Court held that if a portrait is based upon a photograph, then it would be a copyrightable only if it bears a result different from the photograph.

Recently, the Delhi High Court, in *Fairmount Hotels Pvt. Ltd. v Mr. Bhupendra Singh*¹¹⁸⁰, Justice Manmohan, recognised the copyright on photos posited on social media websites like Facebook.¹¹⁸¹ Also, in the case of *Naruto v. David Slater*, which is famous called Monkey Selfie Case¹¹⁸², it was held in the District court that, copyright in photograph can be given to humans alone. The District Judge, held, "Congress and the President can extend the protection of law to animals as well as humans, there is no indication that they did so in the Copyright Act"

B. "Work of Architecture"

Architectural work, be it a building or a structure, is also considered to be a subject matter of copyright. A work of architecture, can be defined to mean any building or structure having an artistic character or design, or any model for such building or structure.¹¹⁸³

However, the protection granted by the copyright law is extended only to the artistic character and design of the building and not to the process by which the work is constructed.¹¹⁸⁴ Also, internal designs of a building also attract copyright protection. For instance, A garden with a pond, steps and wall work was held to be a structure for the purposes of granting copyright protection.¹¹⁸⁵

¹¹⁷⁵ *American Historical Co. v. Clarke*, 316 Ill. App. 309.

¹¹⁷⁶ *Wham-O Manufacturing Co. v. Lincoln Industries Ltd.* (1984), [1985] R.P.C. 128

¹¹⁷⁷ *James Arnold v. Miafern* (1980) RPC 397 at p. 403.

¹¹⁷⁸ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(s)

¹¹⁷⁹ *Associated Publishers v. Bashyam* AIR 1964 Mad 114

¹¹⁸⁰ *Fairmount Hotels Pvt. Ltd. v Mr. Bhupendra Singh* 2018 Del

¹¹⁸¹ *Fairmount Hotels Pvt. Ltd. v Mr. Bhupendra Singh* 2018 Del

¹¹⁸² *Naruto v. David Slater* 888 F.3d 418 (9th Cir. 2018)

¹¹⁸³ *The Copyright Act, 1957* (Act 14 of 1957), s. 2(b)

¹¹⁸⁴ *The Copyright Act, 1957* (Act 14 of 1957), s. 13(5)

¹¹⁸⁵ *Vincent v. Universal Housing Co. Ltd* (1928-35) MCC 275

Also, in order to qualify to be protected, the work of architecture should be situated in India¹¹⁸⁶, unless it is covered under section 40 and 41, where the central government has issued a gazette notification to include certain foreign works, under the subject matter of copyright.

This qualification is as per the Berne Convention for the Protection of Literary and Artistic Works, 1886 according to which the copyright protection is required to be extended to authors of works of architecture erected in a country of the Union or of other artistic works incorporated in a building or other structure located in a country of the Union.¹¹⁸⁷

However, copyright law treats works of architecture, slightly differently from other artistic works. For instance, the moral rights of paternity and ownership, as available to the artist for all artistic works¹¹⁸⁸, although available to the author of the work of architecture, are qualified in nature.

For instance, in the case of *Raj Rewal v. Union of India*¹¹⁸⁹, the Delhi High Court dismissed the plea of celebrated architect, Mr Rewal, against the demolition of the Nehru Pavilion, creation of the architect. He argued that, since as the creator of the building, he has the benefit under Author's Special Rights, under the Copyright Act, 1957 and the building thus, can not be broken down. He prayed that in order to compensate him, the government should provide for the construction of the very same building, either in the same location, or at some other location, under his direct supervision.

The Court, held that if such a plea is granted, then the land upon which the building is constructed would be appropriated by the artist. Also, the court observed that, between modernisation and the rights of the owner and that of the architect, the former needs to be preferred.

"The requirements of urban planning outweigh the moral rights of an architect. The architect cannot demand the intangibility of work because it would violate the right of ownership and the principles of freedom of commerce. Similarly, the functionality of the building has to necessarily outweigh the interest of the architect on the preservation of integrity. Thus, the owner of the building has full power to dispose it off and to destroy it"

C. Any other work of artistic craftsmanship

The expression, "Any other work of artistic craftsmanship" also finds mention in the English copyright legislation, but none of the acts, in domestic or common law copyright framework provide a proper definition for the same.

It is an established principle of law that in order to qualify as a work of artistic craftsmanship, the work should meet certain unspoken criterion of artistic quality.¹¹⁹⁰ However, to determine whether or not certain work has artistic quality, one needs to take a plethora of factors into account.

For instance, in the case of *George Hensher Ltd. v. Restawile Upholstery (Lancs) Ltd.*¹¹⁹¹, the House of Lords dealt with the determination of whether a certain product had artistic quality or not.

While some judges were of the opinion, that, if a substantial amount of public recognised and valued the physical appearance of the product, it would be deemed a work of artistic craftsmanship, while others were of the opinion that, artistic craftsmanship is achieved only if the public purchases it, not for its functional but aesthetic qualities.

Certain judges, were of the opinion that if there exists an intent on the part of the craftsman to create a work of art, while others also pointed out that the work, the craftsmanship of which is artistic.¹¹⁹²

¹¹⁸⁶ *The Copyright Act, 1957* (Act 14 of 1957), s. 13(2)(iii)

¹¹⁸⁷ *Berne Convention for the Protection of Literary and Artistic Works*, 1886, art. 8

¹¹⁸⁸ *The Copyright Act, 1957* (Act 14 of 1957), s. 57

¹¹⁸⁹ *Raj Rewal v. Union of India*, 2019 SCC OnLine Del 8716

¹¹⁹⁰ Jermy Philips, *Introduction to Intellectual Property Law* (London, 1990), p. 128.

¹¹⁹¹ *George Hensher Ltd. v. Restawile Upholstery (Lancs) Ltd.*, (1975) RPC 31

¹¹⁹² VK Ahuja, *Law Relating to Intellectual Property Rights* 2017 (Lexis Nexis) p. 44

The Delhi High Court, reiterated, the position laid down by the House of Lords, in *Raj Rewal v. Union of India*, observing that, “copyright subsists irrespective of whether or not the work has artistic merit and artistic quality and that artistic merit in the work is irrelevant as a matter of statutory construction and that evaluation of artistic merit is not a task for which Judges have any training or general aptitude”¹¹⁹³

Authorship of Artistic Works

The authorship of artistic work, is granted to the artist¹¹⁹⁴, saving that of the photograph, of which the person taking the photograph is the author.¹¹⁹⁵

Also, if an artistic work is created at an instance of a person, against monetary consideration, then the person at whose instance the artistic work, including the photograph is taken, shall be deemed to be the author.¹¹⁹⁶

Similarly, if an author creates an artistic work under employment for a newspaper, magazine or similar periodical, the employer shall be considered the first owner for the purposes of publication alone.¹¹⁹⁷ In case of the creation of an artistic work, during the course of employment, in a contract of service or apprenticeship, when there is no agreement to the contrary, the employer shall be the first owner, except for the incorporation of the work in a cinematograph film.¹¹⁹⁸

Under Indian copyright jurisprudence, once copyright is granted to an artist or a photographer, then he or she is garnered with the rights of Reproduction, which includes the right to store the artistic work in any medium by electronic or other means and depiction of a two dimensional work in three dimensional and that of three dimensions in two dimensions, right of communication, the right to issue copies

to the public, provided they are not already circulating, the right of inclusion of the work in a cinematograph film and that of adaptation.¹¹⁹⁹

MUSICAL WORKS

Meaning of “Musical Works”

The term, “musical works”, under The Copyright Act, 1957 means any work that consists of music and includes the graphical notion of such work, excluding any action or words, that are intended to be sung, spoken or performed with the music.¹²⁰⁰ Thus, it can be construed that the term musical work cannot be equated to a song, as it excludes the lyrics, of which the lyricist has the copyright.¹²⁰¹

Under the Berne Convention for the Protection of Literary and Artistic Works, 1886 the expression “literary and artistic works” is inclusive of Musical works which includes “musical compositions with or without words.”

Therefore, it can be construed that the definition of the expression, “musical works” in the Indian copyright legislation, falls well under the wide scope of the subject matter of copyright as defined under the Berne Convention.¹²⁰²

A song is known to have three basic elements, lyrics, music and singing. Thus, the three players, the lyrics, who writes the song, the composer, who puts in music to the song and the singer, who gives the voice to the words, work together to form a song.¹²⁰³ Therefore, there exists no separate copyright in a song.

The Delhi High Court explained the distinction between sound and music, stating that music was limited to what can be expressed in the form of notes, while what can be heard, when the notes are played in a musical instrument, is called sound.¹²⁰⁴

¹¹⁹³ *Raj Rewal v. Union of India*, 2019 SCC OnLine Del 8716

¹¹⁹⁴ The Copyright Act, 1957, s. 2(d)(iii).

¹¹⁹⁵ The Copyright Act, 1957, s. 2(d)(iv).

¹¹⁹⁶ The Copyright Act, 1957, s. 17(b).

¹¹⁹⁷ The Copyright Act, 1957, s. 17, proviso (a).

¹¹⁹⁸ The Copyright Act, 1957, s. 17, proviso (c).

¹¹⁹⁹ The Copyright Act, 1957, s. 14(c)

¹²⁰⁰ The Copyright Act, 1957, s. 2(p)

¹²⁰¹ MK Bhandari, *Law Relating to Intellectual Property Rights (IPR)* 2021 (Central Law Publication), p. 31

¹²⁰² *Berne Convention for the Protection of Literary and Artistic Works*, 1886, art. 2.

¹²⁰³ *Indian Performing Right Society Ltd. v. Aditya Pandey*, 2012 SCC OnLine Del 2645

¹²⁰⁴ *Star India Pvt. Ltd. v. Piyush Agarwal*, 2013 SCC OnLine Del 1030

Therefore, if there exist certain notes, which when played on an instrument, create a tune, then this tune alone, would fall under the category of musical works, and is a subject matter of copyright, neither the lyrics that form a part of the composition nor the voice that actually sings the lyrics.

Similarly, the Madras High Court, in, *Sulamangalam R. Jayalakshmi v. Meta Musicals, 2000*¹²⁰⁵ held that a tune, that is composed by a composer for devotional music, it becomes a musical work and the composer is entitled to the copyright protection of for the same.

The composer is defined as who composes the music regardless of whether he records it in any form of graphical notation¹²⁰⁶ Thus, it is the composer that is considered the author of a musical work, not the lyricist or the singer.¹²⁰⁷

Thus, in *Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Assn*¹²⁰⁸ Justice Krishna Iyer observed “copyrighted music is not the soulful tune, the superb singing, the glorious voice or the wonderful rendering. It is the melody or harmony reduced to print, writing or graphic form.”

Rights of Composers

The rights that a composer obtains, after composing a musical work, include the right of reproduction, issue copies that are not circulating, right of communication to the public and that to performance, that to make a sound recording or cinematograph film and that of adaptation.¹²⁰⁹

However, the position of the composers, with reference to cinematograph films, was always, subservient to that of the producer. For instance, when a cinematograph film producer commissions a composer of music against

valuable consideration for the purpose of composing music for incorporation or absorption in the sound track associated with the film, then he becomes the first owner of the copyright therein and no copyright subsists in the composer unless there is a contract to the contrary between the composer and the producer.

For instance, *Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Assn*¹²¹⁰, the Supreme Court held that the composer can claim a copyright in the musical work in the cinematograph film, only if there exists an express agreement for the same. The Court observed, “If the composer composes music for a film and in the sound track, the producer alone has copyright and the composer has none”

But, with the enactment of the 2012 amendment to the Copyright Act, 1957, the position has improved. Thus, the rights of the composer of a musical work shall remain unaffected, with reference to the rights of the producer, in case the musical work is incorporated in a cinematograph film.¹²¹¹

Also, the composers, are also entitled to the rights of performers and also to the Author's special rights of paternity and integrity to their work. For instance, the Delhi High Court in the case of *Mannu Bhandari vs Kala Vikas Pictures Pvt. Ltd. And Anr.*¹²¹², extended the scope of moral rights to audio visual works as well.

CONCLUSION

To sum up, the Copyright Act 1957, acts as an exhaustive and comprehensive legislation on the copyright with reference to both artistic and musical works. For instance, both these works of creativity are included within the subject matter of copyright and there exist separate provisions that deal with all the rights included in the

¹²⁰⁵ *Sulamangalam R. Jayalakshmi v. Meta Musicals, 2000* SCC OnLine Mad 381

¹²⁰⁶ The Copyright Act, 1957, s. 2(ff)a)

¹²⁰⁷ The Copyright Act, 1957, s. 2(d)(ii)

¹²⁰⁸ *Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Assn.*, (1977) 2 SCC 820

¹²⁰⁹ The Copyright Act, 1957, s. 14(a)

¹²¹⁰ *Indian Performing Right Society Ltd. v. Eastern Indian Motion Pictures Assn.*, (1977) 2 SCC 820

¹²¹¹ The Copyright Act, 1957, s. 17

¹²¹² *Mannu Bhandari vs Kala Vikas Pictures Pvt. Ltd. And Anr.* AIR 1987 DELHI 13

umbrella of copyright granted to the authors of both artistic and musical works, which have been separately defined.

The Copyright Act 1957 also acts in harmony with all the international conventions and treaties, the Indian Republic is a signatory to, like the Berne Convention for the Protection of Literary and Artistic Works, 1886 and the Universal Copyright Convention.

However, with changing times, especially in age of the internet and Artificial Intelligence, with a number of machine learning programmes mushrooming, it is important that the Indian copyright legislation adapts itself and determines the issues regarding the authorship and subject matter of AI software generated musical and artistic works, along with the rights of the authors of the same.

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ASSESSING THE EFFICACY OF INDIAN LAWS IN ADDRESSING PHISHING ISSUES IN CYBERCRIME

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ABSTRACT

This Article critically evaluates the effectiveness of India's Information Technology Act, 2000 (IT Act) and related statutes in combating phishing attacks. Phishing is identified as an increasingly sophisticated cyber threat that exploits gaps in statutory definitions and enforcement. The analysis finds that while the IT Act and related provisions (such as §§66, 66C) and accompanying Indian Penal Code sections provide a framework for prosecution, they lack a specific definition of phishing, leading to ambiguity and reliance on general fraud and identity-theft provisions.

Enforcement is hampered by technical challenges, jurisdictional complexities, and limited forensic capacity among law enforcement. The transnational nature of phishing underscores the need for strengthened international cooperation; existing mutual legal assistance treaties and cybercrime conventions remain patchily applied. The article recommends clarifying statutory definitions of phishing (for example, by amending the IT Act to explicitly criminalize phishing), expanding investigative and prosecutorial resources. These reforms aim to modernize India's cyber legal framework in line with evolving phishing tactics, improving enforcement and the security of digital transactions. Overall, the findings underscore the importance of legislative reform and global cooperation in fortifying India's defences against phishing and safeguarding its digital economy.

INTRODUCTION

In an era dominated by digital advancements, the omnipresence of technology has ushered in unparalleled opportunities but has also exposed individuals and organizations to an escalating threat—cybercrime. Among the myriad cyber threats, phishing stands out as a pervasive and insidious menace, undermining the very foundations of digital trust. As India strides forward in the digital landscape, the significance of evaluating the efficacy of its cyber laws in combatting phishing becomes paramount. This research embarks on a comprehensive exploration of the legal intricacies surrounding phishing within the Indian context, delving into the Information Technology Act and related provisions to discern their effectiveness and identify potential areas for enhancement.

A. Background

The twenty-first century has witnessed an unprecedented surge in digital connectivity, transforming the way individuals, businesses, and governments operate. With this transformative wave, however, comes an increasing vulnerability to cyber threats, with phishing emerging as a frontrunner in the arsenal of cybercriminals. Phishing, a deceptive practice wherein malicious actors disguise themselves as trustworthy entities to acquire sensitive information, has become an ever-present peril in the digital ecosystem.

India, with its burgeoning population of digital users and a thriving technology sector, has become a prime target for cybercriminals seeking to exploit vulnerabilities. As phishing attacks evolve in sophistication, the need to

assess the adequacy of existing legal frameworks becomes imperative. The Indian legal landscape, primarily governed by the Information Technology Act of 2000 and subsequent amendments, plays a pivotal role in defining and addressing cybercrimes, including phishing.

B. Objectives

This research seeks to achieve a multifaceted set of objectives, driven by the urgency to comprehend the effectiveness of Indian cyber laws in countering the menace of phishing:

1. **Comprehensive Evaluation:** Conduct a thorough examination of the Information Technology Act and related legal provisions to assess their applicability and effectiveness in addressing phishing incidents.
2. **Enforcement Challenges:** Analyse the challenges faced by law enforcement agencies in investigating and prosecuting phishing cases, exploring the legal tools at their disposal.
3. **International Dimensions:** Investigate the impact of international dimensions on phishing incidents and evaluate the efficacy of existing legal frameworks in handling cross-border cybercrimes.
4. **Recommendations for Improvement:** Propose recommendations and potential legal reforms to strengthen the legal arsenal against phishing, considering both domestic and international aspects.

C. Research Questions

To navigate the complexities surrounding the efficacy of Indian cyber laws in combatting phishing, this research endeavours to address the following research questions:

1. **Definition and Scope:** To what extent does the legal framework in India define and encompass the diverse nature of phishing attacks?
2. **Enforcement Challenges:** What challenges do law enforcement

agencies encounter in investigating and prosecuting phishing cases, and how can legal provisions be optimized to enhance enforcement?

3. **International Dimensions:** How do phishing incidents with international dimensions impact the jurisdictional reach of Indian laws, and what improvements are needed for effective cross-border cooperation?
4. **Adaptability and Recommendations:** How can the legal framework be adapted to better combat evolving phishing tactics, and what recommendations can be formulated to strengthen the legal response?

D. Scope and Limitations

While this research aspires to provide a comprehensive analysis, certain limitations must be acknowledged. The scope is primarily centered on the Information Technology Act and related laws, and it does not encompass broader issues of data protection or privacy, which, while interconnected, merit individual attention. Additionally, the evolving nature of cyber threats implies that some findings may be subject to temporal relevance, necessitating a continual reassessment of legal frameworks.

E. Significance of the Research

This research holds immense significance in the contemporary legal landscape, where the digital realm intertwines with every facet of life. The implications of phishing attacks extend beyond individual privacy, affecting the economic stability of businesses and the national security fabric. By scrutinizing the effectiveness of Indian cyber laws in addressing phishing, this research aims to contribute actionable insights for policymakers, law enforcement agencies, and legal practitioners. As digital interactions become increasingly integral to society, the resilience of legal frameworks against cyber threats, particularly phishing, becomes paramount for fostering a secure and trustworthy digital environment.

II. DETAILED DISCUSSION OF RESEARCH ISSUES

The digital landscape, marked by its dynamic nature, demands an intricate examination of the legal issues surrounding phishing within the Indian context. This section delves into the core components of the research, dissecting the nuances of the legal framework and its effectiveness in countering the multifaceted challenges posed by phishing.

A. Overview of Legal Framework

The cornerstone of India's legal defines against cyber threats lies in the Information Technology Act of 2000, a pioneering legislation designed to tackle the burgeoning complexities of the digital age. Complemented by subsequent amendments, this legal framework outlines the parameters within which cybercrimes, including phishing, are defined and addressed. An initial exploration will offer a comprehensive understanding of the legal tools available, setting the stage for an in-depth analysis of their application in subsequent sections.

B. First Legal Issue: Definition and Scope of Phishing

Definition of Phishing: Unravelling Complexity
The first legal issue to be scrutinized revolves around the definition and scope of phishing within the Indian legal framework. As phishing tactics continually evolve, the law must remain agile in its capacity to encapsulate the intricacies of these deceptive practices. By closely examining the statutory definition of phishing as per the Information Technology Act, this research aims to discern the legislative intent behind the framing of these provisions. It will further scrutinize how this definition has evolved over time, taking into account subsequent amendments and judicial interpretations.

C. Second Legal Issue: Enforcement Challenges

Challenges Faced by Law Enforcement Agencies

The second legal issue unfurls the challenges faced by law enforcement agencies in combating phishing. While the legal framework equips them with the authority to investigate

and prosecute cybercrimes, the practical application of these powers is often beset by hurdles. Investigating phishing incidents demands a nuanced understanding of digital forensics, an area where law enforcement agencies may face resource constraints and skill gaps. This section will meticulously dissect the impediments hindering effective enforcement, including issues of jurisdiction, technological complexities, and the need for international cooperation.

Legal Provisions Empowering Enforcement

An exhaustive analysis of the legal provisions empowering law enforcement agencies is essential to grasp the extent of their authority. The Information Technology Act delineates the powers vested in these agencies to combat cybercrimes, but the translation of legal authority into effective action demands a closer examination. This research will scrutinize the statutory provisions relevant to enforcement, identifying potential areas for enhancement and clarification. Framework against international standards, this research aims to identify areas where the domestic legal apparatus can be strengthened to foster more effective enforcement.

Recommendations: Forging a Path Forward

The culmination of this section will involve distilling findings into a set of recommendations. Drawing from the analysis of legal provisions, case studies, and comparative insights, these recommendations will be tailored to address enforcement challenges. They will encompass both practical measures, such as capacity building for law enforcement agencies, and potential legal reforms aimed at fortifying the legal arsenal against phishing.

D. Third Legal Issue: International Dimensions of Phishing

Impact of International Dimensions

The third legal issue explores the intricate dimensions of phishing incidents with an international footprint. As cyber threats transcend national borders, the legal response

must grapple with the complexities of jurisdictional reach and international cooperation. This section will dissect how phishing incidents with international dimensions impact the efficacy of Indian laws, examining challenges in extradition, data sharing, and collaborative investigations.

Legal Framework for Cross-Border Cooperation

A critical component of this analysis is an evaluation of the existing legal frameworks facilitating international cooperation in cybercrime investigations. The research will scrutinize bilateral and multilateral agreements, as well as mechanisms such as INTERPOL and mutual legal assistance treaties (MLATs), to assess their effectiveness in addressing phishing incidents. By understanding the legal tools available for cross-border collaboration, this research aims to identify gaps and propose measures for improvement.

Implications for National Cybersecurity

The final dimension of this legal issue involves an exploration of the broader implications of international phishing incidents on the cybersecurity posture of the nation. By extrapolating insights from the legal analysis, case studies, and comparative examination, this research aims to delineate the potential risks and vulnerabilities that arise from globalized cyber threats. Recommendations will be formulated to fortify national cybersecurity measures in the face of international phishing incidents.

INCREASE IN CYBER CRIMES IN INDIA

At present, cybercrimes are making major media headlines worldwide and causing unexpected harm to both individuals and industries. Among the most common types of cyber thefts include money theft, identity theft, data breaches, and internet time thefts. While cyber laws and cybersecurity are developing daily, hackers are also continuously improving their techniques and discovering new ways to access networks. This underlines the necessity of strong cyber regulations in India and other

nations, in addition to improved cybersecurity systems. Furthermore, cybercrime lawmakers must stay up to date on any potential vulnerabilities in the cybersecurity landscape and promptly address them in order to reduce cybercrimes and thwart the attempts of fraudsters.

Cyber-attacks have been a growing concern globally, including in India. The increasing reliance on digital technologies and the interconnected nature of the internet makes systems vulnerable to various forms of cyber threats. Here are some factors contributing to the rise in cyber-attacks in India and around the world:

1. **Digital Transformation:** The ongoing digital transformation in various sectors, such as finance, healthcare, and education, has expanded the attack surface for cybercriminals. As organizations adopt new technologies, they may inadvertently introduce vulnerabilities that attackers can exploit.
2. **Remote Work:** The COVID-19 pandemic has accelerated the adoption of remote work, leading to an increased reliance on online platforms and cloud services. This shift has created new opportunities for cybercriminals to target remote workers and exploit vulnerabilities in home networks.
3. **Sophisticated Cyber Threats:** Cyber attackers are becoming more sophisticated, using advanced techniques such as ransomware, phishing, and zero-day exploits. These attacks can cause significant disruptions and financial losses for individuals and organizations.
4. **Geopolitical Tensions:** Geopolitical tensions between nations can spill over into cyberspace, leading to state-sponsored cyber-attacks. India, like other countries, may be a target for cyber espionage, intellectual property theft, or disruption of critical infrastructure.

5. **Increased Connectivity:** The proliferation of internet-connected devices and the growth of the Internet of Things (IoT) have expanded the attack surface. Insecure IoT devices can be exploited to launch large-scale cyber-attacks, such as distributed denial-of-service (DDoS) attacks.
6. **Inadequate Cybersecurity Measures:** Some organizations may not have robust cybersecurity measures in place, either due to budget constraints, lack of awareness, or a shortage of skilled cybersecurity professionals. This makes them more vulnerable to cyber-attacks.
7. **Ransomware Attacks:** Ransomware attacks, where cybercriminals encrypt data and demand a ransom for its release, have become increasingly prevalent. Critical infrastructure, government agencies, and businesses are common targets.
8. **Cybercrime as a Service:** The availability of cybercrime-as-a-service models on the dark web allows even less-skilled individuals to launch cyber-attacks. This has led to a proliferation of cyber threats.

To address these challenges, it is crucial for governments, businesses, and individuals to prioritize cybersecurity. This includes implementing robust security measures, staying informed about the latest threats, and promoting cybersecurity awareness and education. International collaboration is also essential to combat cyber threats that transcend national borders.

WHY CYBER CRIMES IN INDIA

Cybersecurity concerns every government in the world, even the one in our own country. Particularly in India, there are more and more cyber security problems, and it is crucial that the country takes responsibility for them. A recent report on global cybercrime by Economic Times states that the government loses around Rs. 1.25 lakh crore annually due to cyberattacks. According to additional an app

called Kaspersky data, during the first quarter of 2020, there were 3.3 million cyberattacks in India, up from 1.3 million the previous year. With 4.5 million attacks, India led the world in July 2020. The Reserve Bank of India (RBI) recently prohibited MasterCard from deviating from the instructions on the storage of payment system data.

Cybercrimes in India are on the rise due to increased digital adoption, inadequate cybersecurity infrastructure, and a growing online population. Factors such as remote work vulnerabilities, insufficient awareness, and the expanding attack surface of IoT devices contribute to the escalating threat. Ransomware attacks, phishing schemes, and financial frauds are prevalent, impacting individuals and businesses. Geopolitical tensions and state-sponsored cyber activities further amplify the risks. To address this, there is a pressing need for improved cybersecurity policies, increased investment in technology, and enhanced public awareness to create a more resilient digital ecosystem in India.

CYBERLAWS IN INDIA

India's cyber laws aim to regulate and safeguard the digital landscape, addressing the rising threats of cybercrime. The Information Technology Act, 2000, serves as the foundational legislation, covering issues such as unauthorized access, data breaches, and electronic fraud. Amendments and additional regulations strengthen provisions against offenses like cyberbullying, online harassment, and financial fraud. The National Cyber Security Policy outlines strategies for securing cyberspace. India's legal framework emphasizes prevention, investigation, and prosecution of cybercrimes, promoting a secure and trustworthy digital environment. Ongoing efforts focus on adapting regulations to emerging threats and fostering international cooperation in the realm of cybersecurity.

1. Information Technology Act, 2000:

- The IT Act, enacted in 2000, provides legal inclusiveness for eCommerce

and facilitates real-time record registration with the Government.

- Amendments reflect the evolving cyber threat landscape, with a focus on safeguarding e-governance, e-banking, and e-commerce.

Notable sections include:

- Section 43: Deals with damages to computer systems without permission, allowing owners to claim compensation.
- Section 66: Pertains to dishonest or fraudulent acts, with penalties including imprisonment up to three years or a fine up to Rs. 5 lakhs.
- Section 66B and 66C: Address fraudulently receiving stolen communication devices or identity thefts, with penalties involving imprisonment and fines.

2. Indian Penal Code (IPC) 1860:

- The IPC, invoked alongside the IT Act, covers cyber frauds, including identity theft.
- Relevant sections include forgery (Section 464), cheating (Section 468), false documentation (Section 465), presenting forged documents as genuine (Section 471), and reputation damage (Section 469).

3. Companies Act of 2013:

- The Companies Act of 2013 is crucial for daily corporate operations, ensuring techno-legal compliances.
- Empowers the Serious Frauds Investigation Office (SFIO) to prosecute companies and directors.
- Companies Inspection, Investment, and Inquiry Rules, 2014 enhance SFIO's proactive approach, covering cyber forensics, e-discovery, and cybersecurity diligence.
- The Companies (Management and Administration) Rules, 2014 prescribe strict guidelines for cybersecurity

obligations and responsibilities of company directors and leaders.

CONCLUSION

In the wake of an ever-expanding digital landscape, the surge in cyber-attacks on both global and Indian systems stands as an ominous reminder of the vulnerabilities inherent in our interconnected world. The preceding analysis has shed light on the sophistication of cyber threats, the diverse motivations driving malicious actors, and the emergence of new and disruptive tactics such as ransomware. As we navigate this treacherous terrain, it becomes imperative to draw key insights and chart a course toward bolstering cybersecurity defences.

Globally, the evolving nature of cyber threats underscores the need for collective and collaborative efforts. The increasing sophistication of attacks, often orchestrated by well-funded and organized entities, necessitates a concerted international response. The delineation of nation-state actors in cyber warfare further emphasizes the geopolitical dimensions of cybersecurity. As cyber-attacks become tools of statecraft, the imperative for robust global cybersecurity governance becomes increasingly evident. Coordinated information-sharing, collaborative threat intelligence efforts, and standardized response protocols are vital components of a global defence mechanism against cyber threats.

In conclusion, the surge in cyber-attacks on global and Indian systems demands a paradigm shift in how we approach cybersecurity. It is a call to action for governments, businesses, and individuals alike to prioritize cybersecurity as a fundamental aspect of our digital existence. As we confront the ever-evolving threat landscape, a proactive and collaborative stance will be the linchpin in fortifying our defences and ensuring a secure digital future. The resilience of our interconnected world hinges on our collective

commitment to navigating the cyber challenges that lie ahead.

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