
Copyright Infringement in Bangladeshi Cinema

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Abstract

Cinema is a subject matter of copyright. Copyright is one kind of intellectual property. If cinema contains any copyright issues then Copyright Act 2000 is available. There are some objectives of the study, such as; to discuss the relationship between cinema and copyright, highlight the various laws on cinema and copyright protection, and analyse the current situation of copyright infringement of cinema in Bangladesh. Only secondary sources have been used during the time of the study. It's revealed from the study that in Bangladesh there is various sorts of challenges regarding copyright protection of cinema, such as; cinema making process, present cinema related laws, rules, policy, censorship system, film censor board etc. At last stage of the study some suggestions have been provided accordance with the findings.

Keywords: Cinema, Cinematograph Act 1918, the Censorship of Films Act 1963, Copyright Act 2000.

Introduction

Cinema is an artistic expression of ideas, stories and often opinions, sometimes inspired by reality occasionally set to music, designed to enthrall, enchant or simply to entertain. However cinema is a subject matter of copyright. Copyright is one kind of intellectual property. It is a right given by

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the law to the creators of literary (including computer programs), dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Cinema has been a classic means of expression. Therefore, it has been looked at from the same lens of freedom of speech and expression. Ability to make and release films is parallel to an expression of creativity, guaranteed by Article 39 of the Constitution of Bangladesh. Cinematograph Act, 1918 and The Censorship of Films Act, 1963 are the main laws regarding cinema in Bangladesh. If cinema contains any copyright issues then Copyright Act 2000 is also available.

Cinema is considered to be an important art form, a source of popular entertainment, and a powerful medium for educating—or indoctrinating—citizens. The visual basis of film gives it a universal power of communication. Some films have become popular worldwide attractions by using dubbing or subtitles to translate the dialog into the language of the viewer. Some have criticized the cinema industry's glorification of violence and its sexist treatment of women. The cinema of Bangladesh, often generally referred to as Dhallywood, has had a significant effect on Asia. Bangladesh has had a significant film industry since the 80's. Film production reached an all-time high in 1990, a period referred to as the golden age of Bangladeshi cinema. During the 90's, the Bangladeshi film industry produced some of the biggest films in the history of Bangladeshi Cinema. According to film experts, the Bangladeshi film industry is growing at a very fast pace in recent years. The Bangladeshi film industry has its beginnings with the 1931 production of *Last Kiss*; the earliest feature film ever made in what would become Bangladesh. However, the first ever screening of films in Bangladesh started on April 24, 1898 by Bradford Bioscope Company at the Crowntheater near Dhaka harbour.³ It's a matter of great sorrow that copyright infringement is a very common affair in Bangladesh. Copyright infringement is a stigma in our film industry as well as a threat for the protection of intellectual property rights.

Copyright infringement commits when anyone constructs a film which is similar to previously released film without the license or consent of the owner or author of that film. Bangladesh film industry or “Dhallywood” has been waking up to copyright infringement cases because of the recent trend of remaking films based on Tollywood (Bengali cinema based on Kolkata) or south Indian films and taking inspiration from Bollywood films has shifted the focus to the cause of protection of intellectual property rights in entertainment industry.

There are some objectives of the study, such as; to discuss the relationship between cinema and copyright, highlight the various laws on cinema and copyright protection and analyse the current situation of copyright infringement of cinema in Bangladesh. This study is written primarily by

3 Hyder, Md. Nayem Alimul. *Strengthening the Film Industry: the Role of Censorship* (2015), *The Financial Express*, March 11, 2015.

taking help of the secondary source such as books, news, feature, reports published is different national and local daily newspapers, internet etc. Additionally, available published research reports and articles are taken into consideration while developing arguments and analysis of different dimension of cinema and copyright issues. After the analysis, the data has been interpreted according to the analysis. At last some recommendations have been provided.

Meaning of Cinema

Cinema is an artistic expression of ideas, stories and often opinions, sometimes inspired by reality occasionally set to music, designed to enthrall, enchant or simply to entertain. There are hardly any other mediums of expression that can actually claim foe levels of insidious influence and presence in our daily lives. It has been one of the most potent tools of expression since its inception years back. A Cinematograph film can be defined as any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and includes a sound recording accompanying such visual recording and ‘cinematograph’ shall be constructed as including any work produced by any process analogous to cinematograph including video films. According to Cinematograph Act, 1918 “cinematograph” means a composite equipment including a video-cassette recorder used for production, projection and exhibition of motion picture film.

Freedom of Expression and Cinema

Cinema has been a classic means of expression. Therefore, it has been looked at from the same lens of freedom of speech and expression. Ability to make and release films is parallel to an expression of creativity, guaranteed by Article 39 of the Constitution of Bangladesh. However, the very nature of cinema as a mass media, with tremendous outreach, has led to increased responsibility and increased restrictions on the ability to express. Article 39 of the Constitution of People’s Republic of Bangladesh contains the right of freedom of speech and expression in the title of “Freedom of thought and conscience, and of speech”. It is stated in the said article that, 1. Freedom of thought and conscience is guaranteed. 2. Subject to any reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence– (a) The right of every citizen to freedom of speech and expression; and (b) Freedom of the press, are guaranteed.⁴ From article 39 it becomes clear that the right of freedom of speech and expression has been guaranteed by the constitution of

4 Article 39 of the Constitution of Bangladesh.

Bangladesh but it has been made subject to reasonable restrictions. If any cinema contains any issue which is against the constitutional provisions then government can impose some restrictions or censorship against that cinema.

Cinema and Legal Framework in Bangladesh

Constitution is the supreme law of the land. Article 39 of the constitution deals with freedom of speech and expression as cinema is a mode of expression. So Article 39 can be treated as safeguards for cinema related issues. Cinematograph Act, 1918 and The Censorship of Films Act, 1963 are the main laws regarding cinema in Bangladesh. If cinema contains any copyright issues then Copyright Act 2000 is available. There are also some laws which may apply for cinema and cinema related legal issues, such as;

1. Penal Code 1860
2. Code of Criminal Procedure 1898
3. The Dramatic Performance Act 1876
4. The Foreign Relations Act, 1932
5. The Children Act, 1974
6. Right to Information Act, 2009
7. Official Secret Act, 1923
8. Contempt of Courts Act, 1926
9. ICT Act, 2006 etc.

Idea of Copyright

Copyright is one kind of intellectual property. It is a right given by the law to the creators of literary (including computer programs), dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Copyright Act 2000 is the key legal instrument regarding protection of Copyright materials. Under the Copyright Act 2000, copyright means any right, to do or authorize the doing of any of the concerned acts in respect of a work thereof, namely;⁵

- i. **Literary, dramatic, or musical work except a computer program:** Reproducing the work in any material form, issuing copies of the work to the public, performing the work in the public, producing, reproducing, performing or publishing any translation of the work, broadcasting of the work or making any adaptation of the work;
- ii. **Computer program:** Doing any of the acts mentioned in the preceding paragraph and selling or giving on hire, or offering for sale or hiring any copy of the computer program;

5 Section 14, the Copyright Act, 2000.

- iii. **Artistic work:** reproducing the work in any material form, publicizing the work to the public, issuing copies of the work to the public, including the work in any cinematograph film, broadcasting of the work or making any adaptation of the work etc;
- iv. **Cinematograph film:** Making a copy of the work, including a photograph of any image forming part thereof in vcp, vcr, dvd or any other form, or selling or giving on hire, or offering for sale or hiring any copy of the film in vcp, vcr, dvd or any other form and publicizing and displaying among general public any auditory or visual copy of the film in vcp, vcr, dvd or any other form; and
- v. **Sound recording:** Making any other sound recording embodying it, or selling or giving on hire, or offering for sale or hiring any copy of the sound recording, or communicating the sound recording to the public etc. Copyright protection covers expressions of ideas rather than the ideas themselves.⁶ Under section 15 of the 2000 Act, copyright protection is conferred on original literary works, dramatic works, musical works, artistic works, cinematograph films and sound recording. It extends to the computer program also. Copyright refers to a bundle of exclusive rights vested in the owner of copyright. These rights can be exercised only by the owner of copyright or by any other person who is duly licensed in this regard by the owner of copyright. These rights include the right of adaptation,⁷ right of reproduction, right of publication, right to make translations, communication to public etc.

The Copyright Act 2000 governs the subject of copyright laws in Bangladesh. 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 and translation of the work. There exist a number of international conventions governing the area of copyright law, including the Berne Convention of 1886 (as modified at Paris in 1971), the Universal Copyright Convention of 1951, the Rome Convention of 1961 and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The duration of the copyright protection for literary, dramatic, musical and artistic work is till the lifetime of the author until 60 years from the beginning of the calendar years next following the year in which the work is first published.⁸ In case of cinematograph film, sound recording, photograph, computer program or posthumous publications, the duration of protection is same; it is sixty years from the beginning of the calendar year next following the year in which such

6 Article 9.2, the TRIPS Agreement, 1994

7 Adaptation is generally understood as the modification of a work to create another work, for example, adapting a novel to make a film.

8 Section 24 of the Copyright Act, 2000.

works are published.⁹ The Copyright Act 2000 lays down the manner of assignment of copyright in Bangladesh. Assignment can only be in writing and must specify the work, the period of assignment and the territory for which assignment is made, if the period of assignment is not specified in the agreement, it shall be deemed to be 5 years and if the territorial extent of assignment is not specified, it shall be presumed to be limited to the territories of India.¹⁰

Copyright infringement is the use of works protected by copyright law without permission, infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works. The copyright holder is typically the work's creator, or a publisher or other business to whom copyright has been assigned. Copyright holders routinely invoke legal and technological measures to prevent and penalize copyright infringement.

Unauthorized copy, reproduction or use of copyright raises the question of infringement. In order to ensure exclusive right to the owner of a work, there must have certain provisions as regards infringement. Which acts create infringement if it is well defined by law; it will be easy on part of the owner to take action against the wrongdoer and thus protects the rights and interests of the owner. The present law of copyright also ensures protection by inserting the provisions of infringement. Copyright in a work is deemed to be infringed:¹¹

When any person, without a license from the owner of the copyright, or the Registrar of the copyright, or in contravention of the conditions of a license granted or any conditions imposed by a competent authority under Act:

- (i) does anything, the exclusive right to do which is conferred upon the owner of the copyright; or
- (ii) permits for profit any place to be used for communicating the work to the public where such communication constitute an infringement of the copyright in the work, unless he *was* not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright.

Copyright infringement may also arise if any person does any of the following acts:

- ❖ makes for sale or hire, or sells or lets hire or by way of trade displays or offers for sale or hire any infringing copies of the work or

9 Sections 25-28A, the Copyright Act, 2000.

10 Section 19 of the Copyright Act 2000.

11 Section 71, of the Copyright Act 2000.

- ❖ distributes, either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, any infringing copies of the work, or
- ❖ exhibits to public by way of trade any infringing copies of the work, or
- ❖ imports into Bangladesh any infringing copies of the work.

The present copyright law at the same time provides certain cases where no infringement can arise.¹² Several exceptions are as follows:

- (a) Fair use of a literary, dramatic, musical or artistic work for the purpose of private study or private use including research; or criticism or review.
- (b) Fair use of a literary, dramatic, musical or artistic work for the purpose of reporting current events in a newspaper, magazine, or similar periodical or in a cinematograph film or by means of photograph.
- (c) Reproduction for use in judicial proceedings and for use of members of the legislature etc.

Copyright Protection

Copyright law protects only the form of expression of ideas, not the ideas themselves. It protects the owner of property rights against those who copy or otherwise take and use the form in which the original work was expressed by the author. The law may state that the author of an original work has the right to prevent other persons from copying or otherwise using his work. So a created work is considered protected as soon as it exists, and a public register of copyright protected works is not necessary. In Bangladesh in order to get copyright protection the owner of the work should register it under Copyright Register. It is pertinent that under the 2000 Act, registration is optional; not compulsory to get copyright protection. At the same time it is also true that copyright protection is legally ensured to the copyright owner by registration; certificate of registration of literary, dramatic or artistic work is considered as a prima facie evidence when any dispute arises.¹³ Any other person than a registered owner, can get copyright protection by grant of license either by voluntary or compulsory license or means of assignment. Here the provisions of infringement and remedies of copyright infringement also play an important role in providing copyright protection to the copyright owners.

¹² Section 72 of the Copyright Act, 2000.

¹³ Section 60 of the Copyright Act, 2000.

Conditions for Getting Copyright Protection

Copyright comes into existence as soon as a work is created and no formality is required to be completed for acquiring copyright. However, facilities exist for having the work registered in the Register of Copyrights maintained in the Copyright Office under the Ministry of Culture Affairs. The certificate issued by the Registrar of Copyright constitutes *prima-facie* evidence of ownership of copyright. The Copyright Office has been set up to provide registration facilities to all types of works¹⁴ and is headed by a Registrar of Copyright and is located at National Library Building (2ndFloor), 32, Justice S. M. Morshed Sarani, Agargaon, Sher-e-Bangla Nagar, Dhaka.

In order to get copyright the owner has to show that the work is original; it is immaterial whether the work is wise or foolish, accurate or inaccurate or whether it has or has not any literary merit.¹⁵ In order to qualify for copyrights the works apart from being original, should satisfy the following conditions:

- (a) In the case of published work, it has to be published first in Bangladesh but if it is first published¹⁶ in foreign country, the author must be a citizen of Bangladesh or domicile in Bangladesh at the date of publication, or where the author is dead at the time of publication and the work is published after his death, the author must be a citizen of Bangladesh or domicile in Bangladesh at the time of his death.¹⁷ It is important to note that if any work is published in Bangladesh and any other country simultaneously, the work should be considered to be first published in Bangladesh. The work shall be considered to be simultaneously published if the difference of days between the publication in Bangladesh and publication in any other country more than 30 days or the time fixed by the Government.¹⁸
- (b) In case of unpublished work, the author is on the date of making of the work a citizen of Bangladesh or domicile in Bangladesh. This does not apply to works of architecture.¹⁹
- (c) In the case of cinematographic work, the office or residence of the produce must be in Bangladesh at the time of making the work, the office or residence of the producer must be in Bangladesh at the time of making the whole or substantial part of the work.

14 Work means a literary, dramatic, musical, artistic work or cinematograph film or sound recording or broadcasting as per section 2(11), the 2000 Act.

15 Azam Mohammad Monirul (2008), Intellectual Property, WTO and Bangladesh, Dhaka: New Warsi Book Corporation, 1st edn, p. 193.

16 Publication means making a work available to the public by issue of copies or by communicating the work to the public as per section 3 of the Act, 2000.

17 Section 15(2)(a), the Copyright Act, 2000.

18 Section 5, *ibid*.

19 Section 15(2)(b), *ibid*.

- (d) In the case of any architectural artistic work, the work must be located in Bangladesh.²⁰

Cinema and Copyright in Bangladesh

For a long time, film makers in Bollywood and Tollywood were largely unaware of their films being copied in Bangladesh. The unlicensed copying of movies, changing a few sequences in the film and conveniently passing them off as “inspirations” to avoid giving credit to the original filmmakers is an all too familiar practice here. It is observed that some movies made in Bangladesh are copies of Bollywood movie scripts and songs. Bangladesh actors even adopt the family name Khan as their screen name, copying a trend set by Bollywood up-and-coming actors who do so to emulate megastars like Salman Khan and Shah Rukh Khan. An actor or actress can copy his or her favorite one’s gesture, posture or body languages. Nothing is wrong with it. But when a director or script writer steals a story or script from others and makes a movie out of it without his or her permission that is indeed a crime.

Anyone can make movie taking ideas from other film and story but in Bangladesh viewers and audiences witnessed that films were ‘copied’ from original one without permission of writer or authority concerned. It is revealed that some of the Bangladeshi movie has copied another film without any permission or consent from the creator or author which is a clear copyright infringement. Some of them are;

1. Pita MatarShontan (early 90s) copied from hindi movie “Avtaar (1983)”
2. Ohongkar (2017) copied from Kannadi film “Auto Shankar (2005)”
3. Raja Babu (2015) copied from Telugu Movie “Dhammu (2012)”
4. Ashiquei (2015) copied from Telugu Movie “Ishq (2012)”
5. Full and Final (2014) copied from Korean Movie “Daisy (2006)”
6. Brihannala (2014) story copied from the short story titled ‘Gaachh-ta Balechhilo’ (The tree had told) and many more.

A case is going on film Onno Jibon (1995) for the copyright violation. However, Hindi movies like Kiyamat Se Kiyamat Tak, Sajjan, Dil were remade in Bangladesh after taking copyrights. On the other hand, there were so many Bangla movies like Sotto Mithya, Mayer Doa were remade in Kolkata after taking permission.

Piracy is another integral part of copyright infringement in Bangladesh. Piracy is the unauthorized duplication of an original recording for commercial gain without the consent of the rights owner which is an illegal and criminal activity. Piracy is considered to be the illegitimate use of materials held by

20 Section 15(2)(c), *ibid*.

copyright.²¹ The unauthorized copying or reproduction of copyright materials for commercial purposes and the unauthorized commercial dealing in copied materials is treated as copyright piracy. It affects all of the elements involved in the creation; production and distribution of intellectual works together constitute copyright system.²² Piracy primarily targets software, film and music. However, the illegal copying of books and other text works remains common, especially for educational reasons. The Pirated copies usually sold at reduced prices, thereby undermining the original author's and investor's possibility of obtaining a just moral and economic reward for their work and investment and thus the authors and investors lose their interest in creation new literary, dramatic or artistic work. Copyright piracy is a great problem in Bangladesh. Here its rate is the highest amongst the world.²³ Most of the people do not realize that the copyright of a work (literary, artistic or dramatic) belongs to the creators; not to them; if they copy it without authorization, it constitutes an infringement or an offense.

The piracy levels are extremely high in Bangladesh. Bangladeshi audio and film industry are suffering from increasing trend of piracy of both audio and video products. The problem of piracy has arisen with the rapid advance of technology. These piracies are causing huge loss to film and music industry of the country but there is little or no enforcement of Copyright Act, 2000 (last amended in 2005). Video piracy is causing a total loss of 150 million taka annually to local film makers. Local film producers invest more than 560 million taka annually to make 70-80 movies every year on an average. But for different reasons, including piracy, the producers cannot get back 50 percent of their investment from 80 percent of the films. The Copyright Act of Bangladesh went into effect in July 2000 and was last amended by the Copyright (Amendment) Act 2005 on May 18, 2005. Bangladesh should take the opportunity to update the Copyright Act in order to combat piracy and pave the way for intellectual property industries to develop, invest and create jobs. In addition to the rights granted in the Copyright Act, Bangladesh should accede to the WIPO (World Intellectual Property Organization) performances and Phonograms Treaty (WPPT) as well as to the WIPO Copyright Treaty (WCT) and should update the Copyright Act to comply with the treaties. The Copyright Act should be amended in real sense to provide adequate protection for all right holders against the circumvention of technological protection measures (TPMs), including access and copy controls, used by right holders to protect their works against unauthorized uses, as well as adequate protection against the manufacture and trafficking of devices and offering of services/information that enable the circumvention of such technological measures. The Bangladesh government should also add provisions prohibiting

21 Owen, Lynette (2001) Piracy Association of Learned and Professional Society Publishers 14(1) p. 67.

22 WIPO (1988), Background Reading Material on Intellectual Property, WIPO Publication No. 659(E) p. 288.

23 International Intellectual Property Alliance (IIPA) 2009 Special Report on Copyright Protection and Enforcement.

the illegal removal and altering of rights management information and the trafficking of copies that contain tampered with information. Bangladesh could achieve this objective by offering injured right holders the opportunity to select pre-established (i.e., statutory) damages, and by substantially increasing the minimum and maximum fines and sentences for criminal offenses. Although there is a Copyright Act, 2000 as well as an order of the High Court against piracy in Bangladesh but it is true that there is not enough enforcement of that law or of that Act.²⁴

Cinema is a subject matter of media. The media of Bangladesh got their freedom from the Supreme law of the land, namely, the Constitution of Bangladesh. Article 39 of the said Constitution deals with freedom of thought, conscience and of speech. Various media laws and regulations regulate the cinema of Bangladesh, such as; The Cinematograph Act, 1918 (Act No. II of 1918), The Censorship of Films Act, 1963 (Act no. XVIII of 1963), The Indecent Advertisements Prohibition Act, 1963 (Act no XII of 1963) etc.

Section 2(b) of the Cinematograph Act, 1918 said that cinematograph” means a composite equipment including a video-cassette recorder used for production, projection and exhibition of motion picture film.

Section 3 of the Censorship of Films Act, 1963 said that the Government may, by notification in the official Gazette, constitute a Board to be called Bangladesh Films Censor Board, which shall consist of a Chairman and such number of members, not exceeding fourteen, appointed by the Government for the purpose of examining and certifying films for public exhibition in Bangladesh.

The Board members are from different walks of the society like Social Worker, Government officers, Educationist, Journalists, Film maker, Film producer, Actor-Actress, Poet etc. Bangladesh Film Censor Board examines the locally produced films of all categories, all imported films for commercial purposes and non-commercial use. It also censors the films imported by the Foreign Missions through diplomatic channel. The Board acts as the registration authority of film clubs and societies and to regulate activities including granting permission for screening of films. Bangladesh Film Censor Board checks violations of Acts and Rules regarding film Censors and Film Club Acts. It performs other works as assigned by the Government from time to time. These include examination and preview of films for foreign films festivals held in Bangladesh. The Board gives secretarial assistance and manages screening of films submitted for National Film Award. It is also responsible for screening of films examined by the Appellate Committee.²⁵

24 Babu, Dr. Kudrat-E-Khuda, Who will stop piracy? (2017), The Independent, 4th January, 2017.

25 Islam, Kazi Shariful, A Critical Analysis of Censorship Law and Bangladeshi Film, (2015), Journal of Law, Policy and Globalization, Vol. 36, 2015, ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online).

Regarding Censorship and public exhibition, there is a notification of Ministry of information dated 16th November 1985, which is as follows:

The Government is pleased to issue the following instructions for the purpose of examining and certifying films for public exhibition, namely:

Application of general principles.- In the light of the broad principles, a film shall be regarded as unsuitable for public exhibition if it has the feature given below :-

I. Security or Law and Order:

- (a) Brings into contempt Bangladesh or its people, its tradition, culture, custom and dress.
- (b) Tends to undermine the integrity or solidarity of Bangladesh as an independent state.
- (c) Violates any instruction issued by the Government from time to time in the interest of preservation of Law and order and, of the security aspects of the country.
- (d) Portrays sedition, anarchy or violence with political motive.
- (e) Reveals military or other official secrets likely to affect security of the state.
- (f) Leads to breach of law and order or creates sympathy for violation of laws.
- (g) Ridicules or brings into contempt the Defense Forces, Police Force or any other Force responsible for maintenance of law and order in the country. Portrayal of any character falling in this category in a manner that might help to correct any corrupt element therein will be permissible.
- (h) Portrays the Defense Forces or Police Force in derogatory uniforms.
- (i) Gives a general impression of predominance of violence and lawlessness in the country and shows forces of law absent or inactive.
- (j) Has an inadequate story intended to cover-up sequences predominantly consisting of lawlessness, violence, crimes or spying likely to affect adversely the average audience.

N.B.- While invoking sub-clause (a), place and context should be taken into full consideration.

II. International Relations:

- (a) Contains propaganda in favor of a foreign state having a bearing on any point of dispute between it and Bangladesh or against a friendly foreign

state which is likely to impair good relations between it and Bangladesh.

- (b) Violates the third country principle, that is which adversely affects friendly relations with the other country or countries or wounds the susceptibilities of foreign nations.
- (c) Portrays maliciously incidents or sequences which are prejudicial to the prestige or history of any people, race or nation.
- (d) Distorts historical facts particularly maligning Bangladesh and its ideals and heroes.

III. Religious Susceptibilities:

- (a) Ridicules, disparages or attacks any religion.
- (b) Causes hatred or strife among religious sects, castes or creeds.
- (c) Exploits religion to denounce or uphold controversial social issues.
- (d) Ridicules religious persuasions so as to offend its believers.

IV. Immorality or Obscenity:

- (a) Condones or extenuates acts of immorality.
- (b) Over emphasizes, glamorizes or glorifies immoral life.
- (c) Enlists sympathy or admiration for vicious or immoral character.
- (d) Justifies achievement of a noble end through vile means.
- (e) Tends to lower the sanctity of institution of marriage.
- (f) Depicts actual act of sex, rape or passionate love scenes of immoral nature.
- (g) Contains dialogue, songs or speeches of indecent interpretation.
- (h) Exhibits the human form, actually or in shadow graphs –
 - (i) in a state of nudity;
 - (ii) indecorously or suggestively clothed;
 - (iii) indecorous or sensuous posture.
- (i) Indecently portrays national institutions, traditions, custom or culture. (This covers kissing, hugging and embracing which should not be allowed in films of sub-continental origin. This violates accepted canons of culture of these countries. Kissing may, however, be allowed in case of foreign films only. Hugging and embracing may be allowed in sub-continental films subject to the requirements of the story, provided that the same do not appear to be suggestive or of suggestive nature.)

- N.B.- (i) Deception of attempts or indication to rape may be permissible on when it is intended to condemn it.
- (ii) Bikini or bathing costume scene may be permissible in case of foreign films.

- (iii) Modern dress and suitable bathing costume in local production may be allowed in export quality films, provided these are of modest presentation.
- (iv) In case a picture creates such an impression on the audience as to encourage vice or immorality, the film should not be certified even it shows that the vicious to the immoral has been punished for his/her wrong.

V. Bestiality:

- (a) Exhibits wanton cruelty to animals.
- (b) Shows exaggerated horror, torture or cruelty or suffering which creates severe adverse reaction among the spectators.
- (c) Depicts third degree methods unless otherwise it is for the betterment of the society.

VI. Crime:

- (a) Condone criminal acts.
- (b) Portrays the *modus operandi* of criminals which may help to introduce new methods of crime.
- (c) Makes heroes of criminals or elicits sympathy of audience on their behalf.
- (d) Maliciously ridicules or belittles public officers engaged in the prevention or detection of crime or punishment of criminals or entrusted with the dispensation of justice.
- (e) Suggests wrong-doings or criminal activities as profitable or as normal incidents of ordinary life.
- (f) Overemphasizes criminal activities in such a way as to arouse sympathy.
- (g) Familiarizes the adolescents and young people with crime and acts of violence as normal incidents of ordinary life and not to be reprobated.
- (h) Shows science as a means of acquiring devilish powers by master criminals and highly equipped and most modern laboratory as his headquarter.
- (i) Upholds trafficking women, children, liquor, drugs, and smuggling of any kind.

VII. Plagiarism:

Plagiarism in any form from any old or under production foreign or Bangladeshi film.

- N.B.- (i) A plagiarized film is that which comes to near the original as to suggest the original in the mind of every person seeing it.
- (ii) Plagiarism shall not, however, be deemed to prohibit exceptions being made in suitable cases in the local production of well-known

classics of folk-tales or where a producer of an old film produces a better version of his film or he is legally authorized to remake or reproduce the original.

Findings

Following are the findings of the study regarding copyright infringement in Bangladeshi cinema;

1. Cinema is a medium of expression which protected under the article 39 of the constitution of Bangladesh.
2. In Bangladesh there are exist some laws regarding cinema including Copyright Act, 2000.
3. Commercial cinema is a famous way of recreation for general public in Bangladesh.
4. There is a great influence of Indian cinema on Bangladeshi cinemas.
5. Bangladeshi cinema makers (not everyone) generally follow the materials of foreign films and apply them into their own creation with slight modifications.
6. Copyright violation, piracy and plagiarism are familiar issue in Bangladesh film industry.
7. Film makers and related persons don't have adequate knowledge as well as respect on existing laws regarding cinema.
8. Bangladesh Film Censor Board is not well equipped and this board is playing a nominal role regarding protection of copyright of cinema.
9. Laws like Cinematograph Act, 1918 and Censorship of Films Act, 1963 are not up to date to tackle the violation of copyright activities in cinema.
10. There are no specific provisions for copyright violation in cinema under the existing laws.
11. Film censor board is the key organization to prevent the copyright violation activities before the release of any cinema. Lack of experienced and expert cinema related person as well as legal expert in the censor board and censor appeal board is another loophole.
12. Existing punishment under the laws relating to cinema which includes Copyright Act are not sufficient.
13. Law enforcing agencies do not have adequate knowledge and experiences on copyright protection.
14. Inadequate awareness of the general people on copyright protection is another hindrance.

It can be said that in Bangladesh there is various sorts of challenges regarding copyright protection of cinema, such as; film making process, present film related laws, rules, policy, censorship system, film censor board etc.²⁶ It's a matter of great sorrow that there is absence of comprehensive action by the legislative, executive and judicial organs to protect the cinema from copyright violation.

Suggestions

1. Specific provisions regarding copyright piracy need to introduce in the Copyright Act.
2. Copyright and Censorship law should be modified. Especially the issues of plagiarism of cinema should need to be added.
3. Digital projection should be introduced in every cinema hall in Bangladesh. By making digital cinema aproducer can save huge amount of money.
4. The member of the censor board should be more film related and law related person. Without expert opinion they couldn't take the perfect decision about a film. Every member should have proper information and knowledge on cinema plagiarism issues and copyright laws.
5. Existing degree of punishment on copyright violation should be increased.
6. Law enforcing agencies should be properly trained to combat with copyright violation.
7. Bangladeshi film makers should have reasonable idea and knowledge on copyright laws so that they will refrain from any activities against copyright violation. To give adequate awareness on copyright issues for both film related persons and general people seminars, workshops etc. on copyright violation matters should need to be executed regularly.
8. Proper take care of Intellectual property rights by the concerned authority is essential. So government officials should need to take hard steps towards any kind of IP rights violations.
9. A comprehensive efforts by the legislative, executive and judiciary of the state are needed to introduce regarding protection of all sorts of IP rights including copyright.

26 Mohiuddin, Md, Administration and the Rules, Regulations of Censorship: a Study on Bangladesh Film Censor Board (2015), IOSR Journal of Business and Management (IOSR-JBM), e-ISSN: 2278-487X, p-ISSN: 2319-7668, Volume 17, Issue 6, Ver. I (June. 2015), PP 38-48.

Conclusion

Cinema has been a classic means of expression. Therefore, it has been looked at from the same lens of freedom of speech and expression. Cinema is an artistic expression of ideas, stories and often opinions, sometimes inspired by reality occasionally set to music, designed to enthrall, enchant or simply to entertain. There are hardly any other mediums of expression that can actually claim the levels of insidious influence and presence in our daily lives. It's a matter of great sorrow that copyright infringement is a very common affair in Bangladesh. Copyright infringement is a stigma in our film industry as well as a threat to the protection of intellectual property rights. Comprehensive initiatives are to be taken by the film makers, film related entity, government and general people to prevent this wrong.

REFERENCES

- Azam, Mohammad Monirul (2008), Intellectual Property, WTO and Bangladesh, Dhaka: New Warsi Book Corporation, 1st edn, p.193.
- Babu, Dr. Kudrat-E-Khuda, Who will stop piracy? (2017), The Independent, 4th January, 2017.
- Constitution of Bangladesh.
- Copyright Act, 2000.
- Hyder, Md. Nayem Alimul. Strengthening the Film Industry: the Role of Censorship (2015), The Financial Express, March 11, 2015.
- International Intellectual Property Alliance (IIPA) 2009 Special Report on Copyright Protection and Enforcement.
- Islam, Kazi Shariful, A Critical Analysis of Censorship Law and Bangladeshi Film, (2015), Journal of Law, Policy and Globalization, Vol.36, 2015, ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online).
- Mohiuddin, Md, Administration and the Rules, Regulations of Censorship: a Study on Bangladesh Film Censor Board (2015), IOSR Journal of Business and Management (IOSR-JBM), e-ISSN: 2278-487X, p-ISSN: 2319-7668, Volume 17, Issue 6, Ver. I (June. 2015), pp. 38-48.
- Owen, Lynette (2001) Piracy Association of Learned and Professional Society Publishers 14(1) p. 67.
- WIPO (1988), Background Reading Material on Intellectual Property, WIPO Publication No. 659(E) p. 288.