Lecture 36 : IPR/Copyright Issues and Practices in Print & Digital Environment

Music Hello learners, I am Nabi Hassan heading the library system at IT Delhi. IPR and copyright issues and practices in print and digital environments are important aspects which are directly or indirectly related to science or scholarly communication. So as part of this NPTEL lecture I shall be giving you an overview of IPR and copyright issues and practices in print and digital environment. As an academician or a student or a researcher we are making content accessible or helping the academia in their scientific journey. We are also using social media without understanding what our rights are, what could go wrong or how we can make better use of our hard work. These are some of the important aspects I am going to broadly touch on this lecture.

So as part of this lecture which is basically a part of NPTEL course on science communication from IT Delhi, I plan to cover background of IPR and copyright, copyright laws, practices in general, copyright exemptions for fair use, copyright infringement on the internet, some case studies or examples, licensing terms and agreements for e-resources, creative commons and open access rights, copyright versus plagiarism. However, plagiarism has already been covered in the previous lecture by my colleague and then we will be summing up. As per the World Intellectual Property Organization of the United Nations or WIPO which is basically a Geneva based UN organization, Intellectual Property or IP is an umbrella term which refers to creations of the mind such as inventions, literary and artistic books, designs and symbols, names and images used in commerce like it includes copyright, patent, trainmarks, trade dress, trade secret, geographical indications, etc. Let us now trace some historically important events with reference to the copyright.

So the concept of copyright is not new and it is believed that it was formulated from the slogan to every cow her calf. Therefore, to every author his copy given by Irish King Tarmid in the 6th century AD. The idea of copyright protection mainly developed after the invention of basically printing press. So you see some of the important developments here like UK 1509 copyright originated, April 10, 1710 the British statute of Annie was the first legal provision for works on authorship. The French law of 1791 stated that all new discoveries are the property of the author.

Then in USA 1790 first statute enacted Philadelphia spelling book is the first book to be copyrighted. The copyright works in India enjoy the same rights and privileges in other countries as well who are members of some of the international conventions like one convention or the universal copyright conventions or UCC or the members of the WIPO which is World Intellectual Property Organization of the United Nations. Similarly India has extended copyrights to the works published and unpublished in any of the member countries of these conventions. Copyright protects works of authorship published or unpublished in any tangible medium of expression like writing, music, art, computer software, film etc. However ideas are not protected, the expression of idea is basically protected and originality is the main criteria.

Unfortunately the Copyright Designs and Patent Acts 1970 does not contain the words like internet or digital. The Indian Copyright Act of 1957 deals with the protection of computer software. The amendment act of 2012 also failed to give a definition of digital work or internet. However India officially acceded to the WIPO Copyright Treaty or WCT and WIPO Performers and Phonograms Treaty, WPT in July 2018. So basically this facilitates the signing countries, means those countries who are signatories to these treaties they can help each other, they can protect the copyrights of each other in their countries.

As far as the registration of copyright is concerned, registration of copyright is not mandatory at all as you might be knowing as well. Copyright is basically automatic once the original work is created and it does not require any formality. However registration establishes a public record of the copyright claim. It is therefore advised to apply for registration of copyright as a certificate of registration of copyright and the entries made there in serve as prima facie evidence in a court of law with reference to disputes relating to ownership of copyright. You might have heard about two of the important development or cases in this regard.

One case was the Basmati rice case. You all are aware that India has been using the Basmati rice, it is producing the Basmati rice since centuries. And also there was a case related to Haldi or you can say Turmeric. So Turmeric or Haldi being used in India since long as an antibiotic. So there were two international cases in this regard where the other countries claimed for the copyright or you can say for the patent of Basmati rice and on Haldi.

So the benefit of registration or establishing some documentation is that in case someone is claiming for a particular product or for a particular patent which actually belong to your country or your lab or to you. In that case those documentation may help. So it is always advisable that you should use these documentation means. So there are moral rights as well. So it is interesting really to note that the copyright act also recognizes the moral rights of the author even after the assignment of the work.

Moral rights can never be transferred. They always remain with the original author of the work. Some of these moral rights may include claim to authorship of the work to restrain and claim damages in respect of any distortion, mutilation, modification or other act in relation to the work which would be judicial to his, her, owner or reputition. The author can oppose the distortion of the work in such a way that the cultural or artistic integrity is adversely affected. What does this mean? It simply means that if someone is trying to tarnish your image or someone is trying to harm your image or causing some losses for your artistic or cultural work or whatever contribution you have made.

So in that case you can always challenge that under these copyright provisions. Rights of copyright holders in India. So let's understand the rights of copyright holders in India. So the primary goal of copyright law is to protect the time, effort and creativity of the works

creator. Means the person who has created the work.

As such the copyright act gives the copyright owner certain exclusive rights under section 14 of the Indian copyright act 1957. So these include that the owner or the copyright holder can reproduce that work, can prepare derivative works or other work based on the original work, can distribute copies of the work by sale, lease or other transfer of ownership, can perform or display the work publicly. So if the copyright holder is having certain type of freedoms in India, so they can make use of those works for commercial reasons or they can perform or distribute or transfer their rights as well. So continuing with the previous slide, this is the slide which talks about transfer of rights. So the copyright owner has the option and ability to transfer his or her exclusive rights or any subdivision of those rights to others as well.

Means he can completely transfer his copyrights or he can transfer part of some product or some invention to someone. If an author or artist create a work for a company or in the course of his or her employment, the creator is usually not the copyright owner. This situation generally gives copyright ownership to the employer or person who commissioned the work. However this depends upon the mutual agreement that they have signed whether the copyright will be with the inventor or with the company for which he or she is working. Same could be the case while you are inventing something as part of your PhD work.

So if you are taking admission in any institution for PhD and you are coming out with some invention, some great ideas, some discoveries. So the copyright on those things will depend upon the agreement or the arrangement that you have with that institution. Because you are using the institutional resources, you are taking the guide from institution, you are using the institution lab. So it depends upon the contract or the admission form that you have signed as with whom the copyright will be. Nowadays there are lot of competition for entry to different positions for employment purpose as well.

So people are asking question papers like if you are appearing in an exam, if you are somehow not able to qualify or if you are not able to get marks as per your expectation, people are asking the question papers as well regularly. So we are receiving lot of RTI's from different candidates or even from non-candidates as well. People are trying to collect the question papers for preparing for those upcoming exams. So this is always debatable whether we can provide the copies of the question paper those have been used in the employment or not. So some of the important development or some of the observations in these regards are like whether the question paper is the intellectual property of the question paper setter or not.

Because some of the people are not providing the question paper under RTI saying that they have prepared the question paper after going through so many books, after going through so many content. And the question paper is the intellectual property of the question paper setter. Also there are areas or niche areas as well where not much

information is available. So question paper setters have to work very hard to prepare question paper. So in these specific domains, especially for trade or skill sets, the disclosure of information may compromise the standard of entry of the meritorious candidates in the domain who are not having to those question papers.

So we have some people are also answering like we have not written the question paper. So I am leaving the answer open for this question as there are different decisions by the central information commissioner CIC and the courts as well depending on the situation on a case to case basis. I remember one of the cases where the CIC has given a decision that the question paper should be provided to the information seeker. This is the case of Ames, Delhi and perhaps the question paper was denied through the court because it was very niche area. So in case of niche area where disclosure of information to the information seeker may harm the interest of others, perhaps this could be the situation.

Then there are fair use clauses as well under copyright act. So what does this mean fair use? Fair use means not every use of a copyrighted work is considered infringement. Fair use is an exception that permits limited use of copyrighted material without acquiring permission from the right shoulder. Typically fair use includes categories such as criticism, parody, comment, news reporting, teaching, scholarship, judicial and legislative purposes and may be for research purpose as well. So there are some of the clauses where the exemption is permitted.

So these are some of the copyright exemptions for fair use in India like in under section 52 of the Indian copyright act. It exams a few categories of acts which when performed do not fall under the infringement of copyright. For example, reproduction in the course of fair dealing like private use, research, criticism, review, reporting, broadcast or reproduction for educational purposes or reproduction for judicial or legislative purposes like it may be used in courts of law or in courts of law. or may be in parliament or in legislative assemblies. Reproduction where there is a remote relation to the original which does not cause any loss to the copyright holder and reproduction for private entertainment.

So these are some of the exemptions which are available under fair use clauses. Then as far as the libraries are concerned there are few important in corporations in 2012 amendment under this act. So up to three copies can be created by librarians or public libraries under section 52 O when the book is not available for sale to India or unpublished work under section 52 P for research. The clause N 2012 allows libraries to make a digital copy of a rare or out of print work if the library has a non digital copy. So this is a very important development which gives some freedom to the library to make a copy of the book which is not available for sale to India or which are unpublished work.

or if you are possessing some rare manuscript or some really important rare document and there is a necessity to create a digital copy of a rare or out of print work. So this is really a very important development. Now let's talk about public domain. The information which is

available in public domain. The public domain consists of all the creative works to which no exclusive intellectual property rights apply.

Those rights might have expired, been forfeited, expressly waived or may be inapplicable. For example the works of Shakespeare and Beethoven and most early silent films are in the public domain. Either by virtue of their having been created before copyright existed or by their term having expired. Copyright infringement on the internet is one of the very hot topics like how things are being infringed when things are on internet. So the explanation as to why internet happens to be the most powerful menace for copyright user is fourfold.

One, internet is accessible without considerable impediments. Internet provides a platform for the wide distribution and dispersion of information in a very quick time. The distribution cost is almost nil. The original and the copy are not easily differentiable. So the infringement in cyberspace may take place in different ways like framing, linking, caching, uploading on the internet, archiving, mirroring, file swapping etc.

Copyright protection of online content. So how we can protect the content which are available online. So the online content or feed in the form of a text, image, video or music assuming it to be an original creation are protected as a literary work under the copyright act. The post if it is a cartoon caricature or image would be protected as an artistic work. The post if presented in the form of a video would be protected as a cinematographic work. Under section 14 of the copyright act, no person without the permission of the owner of the work has the right to copy, publish or communicate it to the public.

If the person has agreed to the condition of the platform that any content posted on the platform would waste ownership on the platform, then the author of the content can have no reason to object if the content is being used by the platform. Each comment would qualify as an online content. So many of the institutions or organizations are nowadays uploading the news clips while they are compiling news clips from different newspapers or maybe through RSS feed or maybe through online platform. The questions regarding uploading the news clips are always debatable. For example, sharing the news clips on the intranet means within the campus of an organization when you have subscription to those newspapers in any format for academic and research use is generally considered fair use.

Sharing the news clips on the internet when the source of the content is the hosting institute means the information is created from your own unit, own department. So generally this is also not objective. And then sharing the news clips on the internet when the contents have been compiled from different non-subscribed or subscribed resources without permission is generally not considered fair use. So in these cases the source of information, your subscription terms and accessibility matters a lot. So these are some of the debatable questions where a lot of things matter as far as the source of information is concerned, as far as the subscription to those contents are concerned and how you are making these things accessible.

Now let's talk about jurisdiction in cases of copyright infringement on the internet. So in tangible or physical spaces the jurisdiction could be easily identified. For example, if something has happened in Delhi or maybe in Hotchkaz, so the jurisdiction can be easily identified like you can file a complaint in the region of that, for example, police station or whatever type of office it is or whatever type of complaint it is. But in case of infringement in cyber space, hardship is faced in deciding if the jurisdiction shall be determined on the basis of like origin of the material from where the material has been originated. Place of storage of the material means where it has been hosted.

Place where the material is displayed means the contents have been seen. So there could be three important things here as far as the jurisdiction in case of copyright infringement on the internet is concerned like the material might have been originated from America, the place of storage could be like France and the material might have been displayed or seen in India. So it is very difficult to identify which will be the place of jurisdiction or where such a case will be taken up or settled. So as far as registration of book is concerned this is something which is voluntary. We perhaps all know that registration of our book which we are publishing with the copyright office is not necessary.

But if we want to do that to protect our work then we have to complete some formalities like we have to make an account on the website of the copyright office, we have to fill out the online form and make the payment, we have to send a copy of some of the documents to the copyright office. For example, acknowledgement form, form 14, statement of particulars, statement of further particulars, two copies of the work, power of attorney if we are filing through an advocate and no objection certificate from various other persons involved in the creation of work. You do not need this if you are the sole creator of the work. So these are some of the formalities but there are many others as well.

So copyright on internet and Indian law. What is the Indian law when the things are available on internet? How the Indian law is dealing with such matters as far as the copyright things are concerned? So the Indian Copyright Act of 1957 deals with the protection of computer software but it hardly has any provision to check software piracy on the internet. Though several important amendments were made to the Indian Penal Code 1860, the Indian Evidence Act 1872, the Code of Criminal Procedure 1973 and the Bankers Book Evidence Act by IT Act 2000. But the law of copyright remained primarily unaffected. If we read the language of Section 51 along with the Section 14 of the Copyright Act 1957, it becomes clear that reproducing any copyrighted work, issuing copies of the work to the public or communicating the work to the public would amount to copyright violation under the Act. So what is the duration of the copyright protection under the Indian Copyright Act 1957? Literary, dramatic, musical and artistic works are protected for the lifetime of the author plus 60 years from the death of the author.

Anonymous and pseudonymous works, posthumous works, cinematograph films, sound

records, government work, public undertakings, international agencies and photographs are protected until 60 years from the beginning of the calendar year following the year in which the work was first published. As far as the foreign works are concerned, copyright of works of the countries mentioned in the international copyright order are protected India as if such works are Indian works because we are signatory to those international conventions. The term of copyright in a work shall not exceed that which is enjoyed by it in its country of origin. So copyright liability for generative AI rewards on fair use doctrine. Now many AI generative tools are available for example, ChatGPT, Gemini, Copilot.

So now it is very difficult sometime to interpret all these AI generated content. What is the status of copyright or like what are your rights in this regard because these are quite new term. But in the US the Copyright Office guidance states that works containing AI generated content are not copyrightable without evidence that a human author contributed creativity. It is entirely possible that the resulting AI generated work has taken and used elements from works that have copyright protections.

That way it may be a violation of copyright law. The question of whether the output from generative AI systems infringes copyright is likely to turn on the traditional question of whether the AI generated output is substantially similar to the underlying work or has stolen the work or has stolen the idea and redrafted using AI. In some cases AI or ChatGPT type of you can say author have been declared as the contributor of the work or you can say the author of the work because they have recreated the content using their large language model. But of course if they are using the ideas of someone they cannot be considered as author of that work. Continuing with that let us understand more about content generation using artificial intelligence or machine learning. So this is a slide which shows the frustration of the searchers while they are trying to search the contents from the internet based resources or trying to find answers from an AI or machine learning tool like ChatGPT, JEMINY or Copylote.

Which does not always give you the correct answer. As you can see here ChatGPT failed to make India's JEE entrance exam miserably as it could answer only 11 questions out of 100. A news item which was widely covered by the media in India. Also like I have tried to generate some references or bibliographic references using AI and also tried to find answers to some of the important or popular questions like what is One Nation One subscription. So the result was very disappointing as the references generated were actually generated and not genuine references leading nowhere to the actual reference. So when I checked the references whether those were the references to the books or those were the references to the online resources.

Actually references were generated in a beautiful way. Whether you are asking the AI tool to generate references using API style or MLA style or Chicago style. The tool was able to generate the references in a beautiful manner. But actually those references were not leading to any proper place. I used it using ChatGPT and the references were actually the

generated references.

Means those were the fake references. And also there was no correct answer to the simple question of what is One Nation One subscription. Which is a very popular term for e-resources subscription in India. So it was the ChatGPT was not able to answer my this question what is One Nation One subscription. It answered me something else very generalized not really good answer. It didn't talk about what actually this One Nation One subscription is which is an initiative of the PSA from the government of India.

Also it was identified by the plagiarism software Turnitin that the generative AI content is identified easily by the software. And it can show up to 100% similarity. So when I generated some content as a type of content using tool ChatGPT. And when I checked with Turnitin software which is available with us in IT Delhi. Then I could find that the report from the Turnitin software was that it showed 100% similarity.

So please be cautious if you are using any of the AI generated tool. Your content may be identified as 100% plagiarized content. So to highlight the importance of IPR and copyright I would now like to share some case studies or examples. So this is the slide which shows the value of copyright. Like so these are some of the example which shows that there is a lot of value attached to brands which are registered and known to everyone.

Like Harry Potter and the Vinci Cones sold millions of copies and royalties are in millions of pound sterling. Trademarks values are enormous for example in the cases of Marlboro, Coca Cola, Kellogg's or Nescape. Licensing and distribution of software is worth amazing. Illegal use of pirated Hollywood or Bollywood items cause huge losses to the industry.

US trade losses due to copyright related piracy were estimated huge. So for example if we are going to market and we have a really good soft drink which could be better than the branded drink. We may not prefer a non-branded item. We may prefer a branded item which may be costlier which may not be that great. Why we are doing it? Because of the value, because of the brand name attached to that.

For example Coca Cola is a very popular drink. So comparing Coca Cola you may not prefer Campa or you may not prefer Pepsi. So this is the value of the brand that has been registered and that is giving lot of return to the inventors. So this is an interesting case of Google versus Author's Guild case. This is the 2015 case which was fought between Google and the Author's Guild in America. It centers on the allegations by the Author's Guild, previously known as the Association of American Publishers which said that Google infringed their copyrights in developing its Google search book database which is still accessible.

The court rejected the infringement claim from the Author's Guild and several individual writers or authors saying that the Google project provides a public service without violating

the intellectual property law. I think you might have also heard about this case that the Google started scanning books from the important libraries with some arrangements and it started making those contents discoverable through its platform publicly and free of cost. Now of course there is a restriction in accessing the whole content. So there was a case from the authors and finally the decision was in favor of Google because the Google was in this regard doing public service.

So this is an interesting case of Apple versus Samsung. It is a copyright or copyright design case you can say. In this smart phone copyright case, Apple filed suit against Samsung saying that it copied the iPhone's front, back and home screen style. So Apple won the suit and was awarded $1 billion in damages for infringement of six of its seven Apple iPhone and iPad patents. The appeal court which was filed by the Samsung against this decision said that no evidence was found that sales are driven by features copied from the iPhone. Apple must show not only that it would suffer irreparable losses but also establish that the harm is sufficiently related to infringement.

Apple loses copyright appeal against Samsung. British High Court ruled that despite some similarities Samsung did not infringe on Apple's design valid throughout EU. So this is basically an interesting case that although the court admitted that the design of Apple's iPhone and iPads were copied by Samsung. But the court also established that Apple was not able to prove that the sale of Samsung's devices were driven by those copied designs. So how Apple suffered losses? Since Apple was not able to prove this, the decision by the appeal court was given in favor of Samsung. This is another interesting case which was fought between Georgia State University versus publishers regarding intranet and e-reserve system e2008.

So in this case Cambridge University Press, SAGE and the Oxford University Press sued Georgia State University for copyright infringement as it allowed faculty to use university networks and university library e-reserve system to copy and distribute books excerpts to students without paying license fee. So the plaintiffs claimed that Georgia State University engaged in systematic widespread and unauthorized copying and distribution of a vast amount of copyrighted works through its e-reserve system. The NST asserted that under its copyright policy the system did not infringe copyright because its uses were fair uses. Georgia State University claimed that the e-reserve system that they were using for providing information from the copyrighted works were fair uses. So the district court issued orders that in almost all cases the alleged infringement were fair uses.

So in this case the judgment was given in favor of Georgia State University because the uses were found to be fair uses in the interest of its users, you can say students in general. So this is an interesting case from India which was fought between Krishna Shobti and Amrita Pritam. It is basically a naming case which was fought between these two important poetess. So in this case Krishna Shobti had filed a suit against Amrita Pritam in 1984 alleging that the title of Amrita Pritam's book was adopted from her Hindi novel Zindagi

Nama.

Miss Shobti besides seeking damages of RS 1.5 lakh had demanded that the word Zindagi Nama be deleted from Amrita Pritam's Hardakka Zindagi Nama as she termed the title of Amrita Pritam's book a piracy of the title of her novel. However writer and poetess Amrita Pritam denied the same and said she knew about the word right from her childhood. So Amrita Pritam wound this court case regarding using the word Zindagi Nama in the title of her novel Hardakka Zindagi Nama. So the message from this case is that common knowledge or common words can be used without fear of copyright infringement like for example Pandit Nehru was the first prime minister of India.

So this is a common knowledge. Anybody can use such a common knowledge or Mahatma Gandhi is the father of the nation India or the sun rises from the east. So these are some of the common words. So in the same way Zindagi Nama is a common word.

It cannot be copyrighted. It cannot be protected. So you can use the common knowledge or common word without fear of infringement. So this is a Princeton University vs Michigan Document Delivery Service case. In this case from USA 1996 Michigan Document Service or MDS was involved in creating course packs or packages of study material for the students at Princeton University. Means they were copying the content from different book chapters as far as the syllabus of the university is concerned. A professor supplied the course material and MDS a photocopying organization took photocopies of the material and converted it into a booklet for sale to students at the university.

So this was available to anyone who wished to use the material. It means the Michigan document service was creating course packs or some sort of guides for its students or readers from the syllabus. Means they were copying content from different book chapters to cater to the syllabus requirement or course requirement of the university. The court considered that it was not fair use and penalized the photocopying company. So this is an important interesting decision.

Contrary to this decision same case was fought in India as well. That case was Rameshwari photocopying shop which was there in the University of Delhi. And the case was filed by Cambridge University Press, Oxford University Press, Taylor and Francis for unlawful copying of their content. Interestingly like the previous case in America the same type of case is this one which happened in India in the University of Delhi campus. But the decision of the court was just the opposite. So a case was booked in this regard on Rameshwari photocopying service on the premises of Delhi University for photocopying books by OUP, CUP and Taylor and Francis.

After four years of arguments and counter arguments on 9 December 2016 the Delhi High Court dismissed the copyright infringement petition filed by three international publishers against the Rameshwari photocopying shop. These two cases are very basically very

interesting cases in a way that in first case where the course packs were prepared by the Michigan document service. And in this case where same type of work was done here in University of Delhi campus as well. So in first case which happened in America the decision was given against the service provider as an unfair use case. And in case of India the decision, the interpretation was quite different because the Rameshwari photocopying shop was found to be helping students in providing the course packs.

So the division made their judgement in this Rameshwari photocopying shop that the preparation of course packs that is compilation of photocopies of the relevant portion of different books referred to in these labours and their distribution to the student by an educational institution does not constitute infringement of copyright in these books under the copyright act 1957. So the pertinent question in this case of India is can fair dealing under section 52-1A be applied to full book copying although section 52-1I allows for the reproduction of any work by a teacher or a pupil in the course of instruction can it be applicable for mass photocopying is there no limit. So these are some pertinent questions came after the decision in this Rameshwari photocopying service. Now we will be discussing something about licensing terms and agreement for e-resources because every higher educational institution is subscribing to e-resources or e-resources are subscribed or purchased through some consortia and used in science communication or scholarly communication. So licensing is crucial for legal and organized access to electronic resources protecting both the library and content provider.

Now I will throw some light on licensing terms and agreement with reference to e-resources as e-resources are subscribed to or purchased by all higher educational institutions and used in science communication or scholarly communication. Licensing is crucial for legal and organized access to electronic resources protecting both the library and content providers. Licensing is important because of these reasons like for legal access to understand usage right to understand terms and condition to understand intellectual property protection to understand security and authentication to understand compliance with publisher policies.

It helps to follow the negotiation terms and conditions. It helps in budget management. It helps in excess stability. It helps in dispute resolution as well or avoiding dispute. It is binding to both the parties publishers or licensor and libraries or licensee. It safeguards us as an employee from audit, from account, from legal cases and it helps us save our job as well if we are really caring for the licensing terms and conditions.

So there are various model license terms and agreement or replicas or samples available. Continuing with the previous slide we should have some basic understanding of a model license agreement. License agreements are generally provided directly by content providers which vary based on the type of resource, content provider and the nature of the agreement. Several organizations and initiatives provide templates or guidelines for model licensing agreements which may include like model licenses by lib license, CRL, JSC, CDL and others.

Then there are shared electronic resource understanding guidelines known as SERU from NISO.

Then key issues for e-resource collection development from IFLA. Inflipnet of India has also come out with a model license agreement. Then there are model license agreement from International Coalition of Library Consortia or ICOLC. Then there are model license agreement models from ADUCOS. Then we have something from Association of Research Libraries or ARL also library license agreement or LLA project which helps in this regard. Then there are arbitration clauses as well in case of an issue with reference to e-resources there are provisions for arbitration as well.

Means if there are problem with any resource or publisher or service provider those can be sorted out through arbitration clauses as well. For example most of the publisher put a clause in the license agreement that in case of any dispute litigation suit will be settled in the courts of their own country. Means if a publisher is from America they may like to settle the case in their country. Some agreed on a reciprocal arbitration clauses as well which is a court of law of respective country means the subscriber's country. At this point in time one must deliberate and insist on settling the issues in the courts of one's own country.

Some of the bodies in India for settling the dispute through arbitration are Indian Council of Arbitration or ICA New Delhi International Centre for Alternative Dispute Resolution or ICADR New Delhi or Delhi International Arbitration Centre. An Intellectual Property Appellate Board or IPAB has also been set up at Chennai to hear appeals against the decisions of registrar of trademarks, geographical indications and the controller of patents. Both foreign and domestic IPR holders are treated equally under Indian law. The government also brought out a handbook of copyright law to create awareness about copyright amongst the stakeholders, enforcement agencies, professional users like the scientific and academic communities and members of the public.

The IT Act provides extra territorial jurisdiction to cyber crime cases as well. Section 74 provides that where any offence involves a computer or computer resource in India it can be taken note of under Indian laws. So there are various license clauses which have been defined by some of the important bodies and these can serve for you as a guide if you are signing a license agreement or if you are preparing some modern license agreement. I think there are various guides which can help you prepare such agreement or which can help you understand such clauses. So, INPRIMATE has come out with modern license agreement which addresses almost all the important terms or clauses or issues with reference to e-resources. For example, it provides definition of the different terms like what is authorized users, what is commercial use, what is digital rights management, what is digital watermarking, what is electronic learning environment, etc.

It also defines the terms what is permitted use and what are the different restrictions in using the resources provided through the higher education institutions or libraries. So this

modern license agreement of INPRIMATE also provides details about the responsibility of the licensor. For example, availability of content, completeness of content, discovery of content or providing holding list, etc. It also defines about the responsibility of the licensee means the subscriber.

For example, a higher education institution. So it talks about confidentiality, it talks about IP address, it talks about protection from unauthorized use, it talks about informing license terms to users. Like whether you can allow walk-in users to your library for accessing the e-resources or not. It also talks about mutual responsibilities like notification for unauthorized use, confidentiality of user data, implementation of security protocols, etc. It also talks about license fees and payment terms.

It discusses about early termination clauses or if the access is suspended. It also talks about acknowledgments and protection of intellectual property rights and further talks about representation, warranties and indemnification and governing laws and dispute resolution. So overall in proof sense the modern license agreement provided by information and library network center of India which is a IUC of the university grant commission under the ministry of education is basically complete guide which can help you in preparing a modern license agreement or in understanding a license agreement provided by any publisher. Let me give you an example of IIT Delhi penalty case. So in the IIT Delhi central library we once faced the issue of the penalty clause while we tried to discontinue one existing resource. The reason was the auto renewal clause that was signed without seeing the implication or because of the oversight by a unit or individual from outside the library system.

So the case was amicably resolved by continuing with the resource till the period in the license agreement and then communicating through a needed advance notice as per the provisions. But this case opened our eyes and we are now more careful while signing any license agreement. Please remember that it hardly matters as to who is the signing authority or who is signing. It is the institute that is accountable at the end of the day whether the agreement has been signed by the library or a professor or an individual from institution or from the department.

It is the institution which matters. Ultimately the accountability will be on the institution. Of course the person who signed without seeing the clauses may also has to answer this question. But please be cautious while signing such agreement. Seeing all these issues of IPR and copyright, most of the institutions in India have their IPR or copyright or open access policies now. Which guide the institutes academic and research community.

Like this one is the IIT Delhi's IPR policy and the document is available in the public domain as well. Every institution or at least the library of an institution has the responsibility to prominently display on their website as what is permitted use and what is not permitted use including authorized uses and users and what is not allowed. This screen shows one such example from IIT Delhi. This is the slide showing open access policy of the

Central University of Haryana which is one of the most updated and can serve as an example for others who want to implement such a policy in their institution. The National Digital Library of India or NDLI Copyright Guide 2021 is a very useful document which has a concise collection of all the related information or clauses pertaining to copyright laws for different academic or fair uses and other relevant library related e-resource clauses. It is also important to understand the creative common licenses or open access rights as a lot of information is available now a days in the public domain.

The information that you are seeing on the internet freely like on Wikipedia or on YouTube don't think that it is not protected by any rights. The information on the internet is also protected by one of the six different types of creative common rights and I am going to talk about the same briefly apart from these contents which are protected through copyright laws. So this is the official website of creative commons which has all the details in this regard in which you could be interested. These are six types of creative commons or CC rights which are represented by the names or by the symbols as you can see on the screen namely CCY, CCYSA, CCYND, CCYNC, CCYNCSA, CCYNCND. So if you are accessing the content on Wikipedia you will find on the bottom of the screen that there should be some sort of creative common symbol or some sort of creative common text which can help you identify the type of access you have to the content and the type of the usage that you can make from the content.

Although plagiarism has been covered partially in the previous lecture but the reason to discuss it here is that there is a close relation between plagiarism and copyright if we want to bring someone under the ambit of civil remedies. There is no separate civil law dealing directly with plagiarism and plagiarism is covered under the copyright law only as far as the country India is concerned. So copyright is about protecting the rights of the creator of information. It is to protect the unauthorized or unlicensed copying of a work subject to copyright laws of a country.

Pleasurism is a violation of academic norms but not punishable offence under Indian Penal Code. Copyright violation is illegal and is punishable offence under IPC. So plagiarism is an offence against the author while copyright violation is an offence against the copyright holder. In traditional academic publishing they are usually not the same person due to the ubiquity of copyright transfer agreement. So what are the consequences if the plagiarism is detected? Is plagiarism only an ethical issue? No, it is not.

It is more than that. What if plagiarism is detected if we want to deal that case under copyright laws? Since my colleague has already covered the ethical aspects of it, my focus here is on civil legal remedies for acts that constitute plagiarism. Legally it is a subject matter of copyright infringement law and unfair completion and can attract legal and monetary penalties for the violators. The offender may be penalized to compensate for the loss of profit of the original writer. Sometimes penalties can include criminal punishments and imprisonment as well. What UGC says about plagiarism? The UGC 2018 plagiarism

regulation has all the details regarding academic and research misconduct and ethical integrity which you have already seen in the previous lecture which elaborates different levels of punishment.

So this is an interesting case which I would like to mention from the University of Delhi. You might have heard about one of the most known plagiarism or copyright cases from Delhi where the provisions of the IPC or Copyright Acts were applied. The person had to go to jail as well being co-author of the plagiarized work. The take away from this case is that do not agree to be the co-author without reviewing the content thoroughly. Sometimes you are receiving invitation, someone wants to make you co-author of a paper or a chapter or in a proceeding. So if you are the co-author of the paper, if you are agreeing to be the co-author and if you are not checking the content, then if the content has been identified as plagiarized content or have been taken from the content of someone else, then you could be in serious trouble.

This case is the height of such punishment where a very reputed professor was sent to Tehhar jail being just the co-author although he was not at a wrong side. But unfortunately he was the co-author of a work which was written by someone else. So please be cautious while someone is making you the co-author. We also have CCS conduct rules in India. So India's central civil services conduct rules provides that a government servant shall at all times maintain absolute integrity and devotion to duty and do nothing unbecoming of a government servant.

If found guilty, one may lose job or promotion or increment or may face any other punishment under CCS conduct rules of India. So I can give you several examples from CCS conduct rule but I think it is better to avoid naming anyone or naming any institution. You can explore many people have been punished in the industry system or in the higher education set up under CCS conduct rule for unbecoming of a government servant. So I think cases of like copyright violation may also be covered under those rules. This is a recent development which may not be directly related to the topic today but this digital personal data protection or DPDP Act 2023 also has some interesting provisions in this regard. The Act provides for the processing of digital personal data in a manner that recognizes both the rights of the individual to protect their personal data and the need to process such personal data for lawful purposes and for matters connected therewith or incidental thereto.

It says that personal data must be processed in a lawful, fair and transparent manner with clear communication to data subjects about how their data is being used. So what is required in universities or libraries after this long discussion what do you think what is required in universities or libraries to understand, to control, to make the people aware. We need to inculcate of course the habit of fair use of copyrighted material in the R&D and scientific community or in the academic community. Need to educate people to acknowledge material used in research publication or communication.

There is no problem in saying thank you if you are using someone else's work. Even we are taking favor from people and we are saying thank you. Even we are saying thank you to our family members as well for their help and support. So what is the harm in saying thank you to the people from whom we have taken some content and there is a way of saying thank you as far as the copyright laws or plagiarism regulations are concerned. We need to encourage innovation to be patented and provide guidance for it.

Seeing that copied material is within the limits of copyright law we have to see that we have to help the people to understand this. We have to promote the use of open access literature wherever and whenever possible. The technology, software and circumventing technologies if any must be used cautiously especially for distribution and dissemination. We can organize awareness, training, courses, workshops and other such programs to demystify IPRs and copyrights issues and that can help us a lot. So with this I would like to sum up that the majority of the users may not be familiar with the IPR and copyright laws and the kind of activities which lead to copyright issues.

Law cannot keep one step more with technology. There is an urgent need to amend copyright laws keeping in view the ICT and online content. There is a serious need to have awareness programs for the users to avoid copyright issues. However a proper borrowing on how to act is think globally act locally. Means you can think about the whole world but you have to understand the laws of the land and you have to follow those and you have to act accordingly. So before I say thank you to the listeners I wish to acknowledge that this lecture has been prepared from different sources to help the learners understand the topic for academic and research use.

I duly acknowledge the scholars and the website content providers whose material have been used in this lecture. Wherever possible the content have been acknowledged however any omissions is duly regretted. These slides have been used in many of my previous talks, presentations and publications as well. So with this I would like to thank you all and enjoy listening to this lecture. Thank you.