INTRODUCTION

Legal protection of author’s rights is relatively young. It got its phillip in the aftermath of Industrial Revolution. Copyright thus is not an ancient concept. The first copyright statute dates back only to less than three hundred years.

What is copyright? A policy maker in the United States will reply that copyright is an instrument of consumer welfare, stimulating the production of the widest possible array of literary and artistic works at the lowest possible price. A practitioner on the European continent will say that copyright is at best watered down version of author’s right - that grand civil law tradition that places the author, not the consumer, at the centre of protection. Those who argue against copyright protection will tell that copyright is a monopoly that undesirably derives up the price of goods in the marketplace. A high protectionist of copyright may respond that copyright is a property right no more, no less - and one without which we would have very few creative works in the marketplace. A United States trade official will tell that copyright is one of the strongest net contributors to the nation’s balance of trade. A school teacher in a developing country will reply that copyright is what stands in the way of getting textbooks into the hands of his students. An anthropologist may say that copyright is the symbol of a nation’s culture aspirations.
Confronting this welter of competing perspectives, Professor Lyman Patterson observed that the basic and continuing weakness of copyright law is the "absence of fundamental principles for copyright". It seems that the pessimism of the learned scholar is wrong since there does exist a cohering view of copyright, a view that reconciles most if not all of the competing antiphonies, and one that offers a sound prescription for the public policy as well. Under this view, it is proposed that copyright is not about protecting authors or publishers, nor is copyright singularly about securing authors’ welfare or consumer’s welfare. Copyright is not about bolstering international trade balances, nor is it about protecting art, high or low. Copyright is about none of these things, and copyright is about all of them.

Copyright, in a word is about authorship. Copyright is about sustaining the conditions of creativity that enable an individual to craft out of thin air and intense, devouring labour. Copyright is as much about the pages of deleted text, the scenes that lie on the cutting room floor, as it is about the refined work, the final, cut, that ultimately reaches the author’s public. But copyright and authorship - are only in part about the act of creation. If creation is all there was to authorship, copyright could comfortably leave the author scribbling alone in his far-off garret. Authorship in its contemporary sense implies not just an author, but an audience; not just words spoken, but individuals spoken to.
By *authorship*, is meant authors communicating as directly as circumstances allow with their intended audiences. Copyright sustains the very heart and essence of authorship by enabling this communication, this connection. It is copyright that makes it possible for audiences - markets - to form for an author’s work, and it is copyright that makes it possible for publishers to bring these works to market.

To be sure, copyright law and policy in different places may emphasize one or another particular object over another. An emphasis on consumer welfare is the hallmark of copyright jurisprudence in common law countries such as U.K., U.S.A. and India, just as an emphasis on author’s rights is the hallmark of the continental regimes. But viewed globally, and in the round, it is authorship that provides the cohering theme.

Copyright in fact means the sole right to produce or reproduce whole the work or any substantial part thereof in any material form whatsoever and "the copyright in a work" shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything, the sole right to do which is conferred on the owner of the copyright.

Copyright law is, in essence, concerned with the negative right of preventing the copying of physical material existing in the field of literature and the arts. Its object is to protect the writer and artist from
the unlawful reproduction of his material. It is concerned only with the copying of physical material and not with reproduction of ideas, and it doesn’t give a monopoly to any particular form of words or design. It is, thus, to be distinguished from the rights conferred by patent, trade mark and design legislations, which give to the registered proprietor an exclusive right to the registered material, even as against a person who has reproduced such material innocently and from an independent source. If it could be shown that two precisely similar works were in fact produced wholly independently of one another, the author of the work that was published first would have no right to restrain the publication by the other author of that author’s independent and original work. A patentee, on the other hand, has the right to prevent another from using his invention if it, in fact, infringes the former’s patent, notwithstanding that the latter’s invention was the subject of independent investigation on his part. As was observed by Lord Diplock, “the copyright work must be the source from which the infringing work was derived.” The claim is not to ideas, but to the order of words, and this order has a marked identity and a permanent endurance. The order of each man’s words is a singular, and although, if two authors composed originally with the same order of words, each would have a property therein, still the probability of such an occurrence is less than that there should be two countenances that could not be discriminated. The permanent
endurance of words is obvious by comparing the works of ancient authors with other works of their day; the vigour of their words is unabated; the other works have mostly perished. It is true that property in the order of words is a mental abstraction, but so also are many other kinds of property; for instance, the property in a stream of water, which is not in any of the atoms of the water, but only in the flow of the stream. The right to the stream is nonetheless a right of property, either because it generally belongs to the riparian proprietor, or because the remedy for a violation of the right is by action on the case, instead of detinue or trover.  

Nothing can with greater propriety be called a man’s property than the fruits of his brain. The property in any article or substance accruing to him by reason of his own mechanical labour is never denied him, the labour of his mind is no less arduous and consequently no less worthy of the protection of the law. But since copyright in the modern form is a comparatively recent legal concept and long and fruitful periods of Western civilisation have existed without it. The question which, therefore, arises is; what is the justification for a copyright system?

(A) JUSTIFICATION OF COPYRIGHT:

Four major arguments can be advanced in favour of a copyright law. First, the author is the creator or maker of the work which is the
expression of his personality. He should be able to decide whether and how his work is to be published and to prevent any injury or mutilation of his intellectual offspring. The author, like any other worker, is entitled to the fruits of his efforts. The royalties he is paid are the wages for his intellectual work. Secondly, in the modern world considerable investment is needed to make the creation of some works, such as works of architecture or films, possible. As the purpose of the creation of practically all works is to make them available to the public, that process too, such as publication and distribution of books or records is expensive. These investments will not be made unless there is a reasonable expectation of recouping them and making reasonable profits. Furthermore, the doctrine of unjust enrichment may come into play if those who make creative contributions on the road of the work from its creator to its user, were not compensated. Thirdly, the works produced by creators form a considerable national asset. Therefore, the encouragement and the rewarding of creativity are in the public interest as a contribution to the development of the national culture. Finally, the dissemination of works to large numbers of people forges links between classes, racial groups and age groups and, therefore, makes for social cohesion and creators thus render a social service. If the ideas and experiences of creator can be shared by a wide public within a short space of time they contribute to the development of society.
(B) **NATURE OF COPYRIGHT**

Copyright is a *property right* but the subject matter of the property is incorporeal. The property in the work is justified by the fact that the right owner has created or made it. As he is the owner he can dispose off it by outright sale (assignment of his right) or by licensing. The subject of the property is incorporeal, it gives a *dominium* over the work, a right in the work *erga omnes*. The property is an *intellectual property* in that it originates in the mind of a person or persons before it is reduced to material form.

Copyright is a right of *limited duration* Unlike physical property, which lasts as long as the object in which it is vested (a chair, a camera, a house), copyright is limited in time. After the expiration of the time fixed by statute the work passes into the *public domain*, that is it becomes public property and can be freely used by anyone.

Copyright is an *exclusive right*. This means that the right owner can prevent all others from copying the work. This is often referred to as a *monopoly* but that is rather misleading. It is recognised that the produce of a person’s skill and labour is his property. If someone makes a movable object such as a chair, it belongs to him. He can use it in any way he likes. If anyone steals the chair he commits an offence and can be prosecuted. But anyone else can also make chairs and compete with him. He has no monopoly in making chairs.
If someone writes an article about that chair he will be the owner of the work; that is, the thoughts that come to his mind when contemplating the chair and its uses, the way he expresses them, the choice of words he uses in describing its appearance and its uses. When he writes it down he will own the manuscript. But anyone can write an article about chairs in general or about this particular chair and compete with him. He has no monopoly in writing articles on chairs or even on this chair. If anyone else writes an article about chairs or about this particular chair which is similar in kind to the original one he will probably acquire himself a copyright in his own article about the chair. The only thing he is prevented from doing is attempting to avoid the intellectual effort of writing the article and instead copying the author's article or substantial parts of it and then publishing it in his own name. That would be the equivalent of stealing the chair.

It is, therefore, misleading to say that a copyright creates a monopoly or is a monopolistic right. On the other hand, holding all or most of the copyrights in a particular field on behalf of all or most copyright owners as collecting societies do may in practice constitute a monopoly.

Copyright is a *multiple right, a bundle of rights* in the work. They can be assigned or licensed either together or separately. Both the categories of works protected by copyright and the number of specific
rights which form the bundle known as the scope of copyright have been gradually extended over the years as technology has advanced.

**(C) GENERAL PRINCIPLE OF COPYRIGHT :**

The copyright law has to strike a balance between two public interests, the right accorded to the copyright owner and the reasonable demands of organised society. This dichotomy can very well be explained with reference to Article 27 of the Universal Declaration of Human Rights.* The rights of organised society in paragraph (1) & the rights of the copyright owner in paragraph (2) are mentioned:

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

The basic limitations which are peculiar to copyright flow directly from this balance between the interests of the copyright owner and the interests of the copyright users and the public as a whole. These limitations which, as copyright is a creature of Statute, are Statutory limitations & are of three types:

(i) Copyright is of limited duration. After the stated term, the work falls into the ‘public domain’.
(ii) Some uses of protected works are free. These are usually referred to in general terms as ‘fair use’ or ‘fair-dealing’ in the common law jurisdictions. Other jurisdictions state the exceptions where the use of copyright works is free, specifically in the statute.

(ii) In some cases the right owner is not given an absolute right subjecting all uses of the protected work to his prior authorisation, but only the right to equitable remuneration for each use. This is known as a ‘compulsory licence’.

(D) MAJOR SYSTEMS OF COPYRIGHT:

Although copyright is a comparatively young right it has both grown into a system of rights which affect a large variety of matter from books, photographs, films, records, broadcasts to pictures, sculptures, buildings and has gained worldwide general acceptance. This means that it has been accepted in countries whose economic, social and political philosophies differ widely. The four major arguments discussed above in favour of copyright have been generally accepted, but different legal systems given priority to one and put greater emphasis on some than on others. Of the three main systems the droit d’auteur system puts an emphasis on the first argument advanced above i.e. principle of natural justice, the common law system relied on the second argument i.e. the economic argument and the erstwhile Socialist systems relied on the fourth argument i.e. the social argument. There are,
however, considerable variations between different countries within the same system.

(i) The Droit d' Auteur of Civil Law Systems :

These are essentially individualistic. The right in the work springs from the act of personal creation, the work is part of the personality of the author and remains linked to him throughout its life. It is a human right with distinctly religious overtures. In the terms of the droit d' auteur at the centrestage is the work. It is the creation of the author's mind and is intellectual and incorporeal until it is fixed in writing or any other tangible form. The fixation is the physical embodiment of that work such as a book or a street of music which its owner can use, lend or sell as he pleases like any other property.

The property in the work is described as intellectual property. In the case of literary works the fixation can be a manuscript or a book; in the case of musical works, sheet music, a musical score or a record; in the case of artistic works, a picture, a drawing, or a statute. All these physical objects have one thing in common, that they can be reproduced in small or large quantities and by various processes. The technological processes by which reproduction can be achieved vary and new ones are constantly being added, but they are all reproductions of the works. The work which by the process of its creation becomes the property of the author gives him the right to exploit it economically (economic rights)
but the work also has an intellectual and moral link with its author as his brainchild which gives him the right to publish it or not as he wishes, when he wishes and in such form as he wishes and to defend it against any distortions or abuses (moral rights). Several important results flow from this concept:

(i) Copyright is a natural right and, thus in theory, absolute and should not be restricted. Although in practice restrictions are imposed, they must be kept to a minimum. As, in theory at least, the right should be perpetual and the extension of the right beyond the life of the author is justified. France pioneered the duration of 50 years after the death of the author which is today very widely accepted. The moral rights are in theory also perpetual as these are attached to the work which lives on after the economic rights come to an end and continue to bear the expression of the personality of the author and his fame. However, internationally the duration of the droit moral for the whole term of the economic rights was accepted by the Berne Convention of 1886 only as recently as 1967.

(ii) The droit moral occupies a place of major importance. It is inalienable in order to protect the author against commercial pressures which he may find irresistible, particularly at the early stages of his career. To renounce his moral rights would be moral suicide.
(iii) Contracts between the author and those he has to deal with such as publishers are put into a special category with safeguards for the author as the financially weaker party.

(iv) Drasatic restrictions on the rights of the author such as compulsory licences are acceptable only in very exceptional circumstances.

(v) Perhaps the most far reaching consequence in 20th century terms is that because the droit d'auteur is a natural and, therefore, individual right, it can only originate in an individual and not in a company or corporation. This means that making a film, or record, or broadcast, which is in almost all cases done by a company can't give rise to a droit d'auteur as such film producers or record producers can’t be authors. As a result, under the French system, film companies have to acquire a large number of rights from individuals who are classed as authors, ranging from the stars to cameramen and cutters, and producers of phonograms have to seek protection under the law of unfair competition and broadcasting companies under public law provisions, whilst in other continental European systems they are given neighbouring rights. Historically the concept of the droit d'auteur is a child of the French Revolution and has been applied more rigorously in French law but other countries such as Italy, the Liberian countries (Spain and Portugal) and the Latin American countries have
also adopted the *droit d’auteur* system in more or less pure form. The Germanic jurisdictions (Germany, Austria, Switzerland) whilst based on the concept of the *droit d’auteur* show significant variation. For instance the *droit moral* is not a perpetual right as in French law but terminates with the copyright term 50 years after the death of the author, based on the experience that at that time there may be no heirs left who are morally entitled or able to safeguard the purity of the work. The Nordic jurisdictions also stem from the *droit d’auteur* concept but are closer to German than French law and have developed special traits particularly in recent decades under the influence of their own social philosophy.

(ii) **The Common Law or Copyright Systems:**

The philosophical foundation of copyright as opposed to the *droit d’auteur* is more humble. It is simply the right to prevent the copying of physical material and its object is to protect the owner of the copyright against any reproduction or use of that material which he has not authorised. Copyright, in its essence is a negative concept. It is the right to prevent people from dealing with something that is yours and has been improperly taken by someone. Copyright, as the word suggests, was in its origin a right to prevent copying, that is reproduction.

The modern concept of copyright stems directly from the Statute
of Queen Anne in 1709. Then the main objective was to protect the investment of the book-sellers who fulfilled the function of a modern publisher. As the economic argument has always been in the foreground, this system found no difficulty in extending an 18th century notion to 20th century technology. When the film, the phonogram and the broadcasting programmes joined writing as a means of communicating the work, the proponents of the copyright concept had no difficulty incorporating the film producer, the phonogram producer and in some cases broadcasting organisations into the copyright system. On the other hand, as discussed above, the proponents of the pure droit d’auteur concept could not bring themselves to give these entities, whom they see more as users than as creators, a droit d’auteur. Thus, the notion of neighbouring rights which signifies rights neighbouring on author’s rights and is mainly applied to the rights of performers, producers of phonograms and broadcasting organisations have to be invented, whereas most copyright systems granted copyright albeit with lesser scope and of shorter duration. Furthermore, as the economic argument had always been in the foreground, copyright countries such as U.K., U.S.A. India were not shocked by the notion that the first copyright owner in the case of films or phonograms or broadcasting programmes is a company or a corporation.

The general philosophy of copyright is that whoever takes the
initiative in creating the material and makes the investment to produce it and market it, taking the financial risks that such activities involve, should be allowed to reap the benefit. He can only do that if he is protected, by a right because if he is not protected, the copyist will produce the same product at a lower cost because he does not have to take the initiative and risks or make the investment. He will, therefore, undersell the originator of the material in the market place. This will have two consequences. The first is that the copyist will reap an unjust (and sometimes very large) enrichment, the second is that the originator will be deprived of the incentive to create similar materials and the public will be deprived of the widest base for competitive creativity.

The test of the economic value of copyright must, therefore, be what measure of protection is needed to bring about the creation and production of new works and other material within the copyright sphere? In answering the question, "what is a work"? the basic idea of the copyright system is to protect products of intellectual endeavour from the sublime to the most humble, demanding sometimes only modest efforts and little originality. To qualify as a protected work, the subject matter has to be the direct result of some one's skill and labour and capable of being reproduced. In the United Kingdom for instance the list of protected works includes a trade catalogue or a football coupon among 'literary works', as well as engineering drawings among
the ‘artistic works’. The standard reply to the defendant’s challenge, ‘you say that what the plaintiff did is so easy you could do it yourself with very little effort’ is: ‘very well then do it and you will have a copyright; but if you copy it from the plaintiff instead you must pay for it’.

When rights like the right of public performance, the recording right and the broadcasting right became as important or more important than the original reproduction right (the right against copying) the term ‘copyright’ was already too deeply embedded in the legal language to change it to something like ‘the right in the work’.

Many copyright systems, unlike continental European droit d’auteur systems, do not specifically recognise moral rights as such, but some of the remedies which the moral right gives to authors are available not under copyright but under other headings, such as defamation if the authors’ reputation has suffered, breach of an implied term of the contract or breach of trust if the author’s droit de divulgation is violated or the tort of "passing off" if the defendant tries to mislead the public into thinking that he is the author of the plaintiff’s work.

The copyright system stemming from the 1709 Statute of Queen Anne has spread to all the English speaking countries such as U.S.A. and Australia just to name two and to many countries which are or were part of the British Commonwealth including our own country.

Philosophically the difference between the personal, individual-
istic and idealistic *droit d' auteur* system and the more commercially oriented copyright system may be fundamental, but in practice the differences should not be over estimated. Historically both systems were created when the system of privileges, which has been in operation both in England and on the European main land from the fifteenth to the eighteenth century, was abandoned. the continental European countries under the influence of the French Revolution as discussed in foregone pages followed the French Act of 1783 whereas the countries of the common law legal tradition followed the main lines of the 1709 Statute of Queen Anne. But when international copyright became a commercial necessity in the 19th century the protagonists of each system, England and France, became founder members of the Berne Union in 1886. The Convention achieved a set of compromises between the two systems that have served both the world and the copyright owners well. Most states adhering to the *droit d' auteur* system have ratified it and most states adhering to the copyright system have also done so, the United States being the recent one. The development of the Berne Union has decisively influenced the copyright systems. The acceptance by the United States of the term of 50 years after the death of the author in the copyright Act of 1976 and the acceptance of recommendation by the Whitford Committee in the United Kingdom in the Copyright Act of 1988 to 'make proper provision for moral rights
under copyright law\textsuperscript{14} are the most important recent examples of that influence. The acceptance of neighbouring rights into the copyright statutes of most continental European and Latin American Countries of the droit d'auteur tradition and their ratification of the neighbouring rights convention like the Rome Convention and Phonogram Convention are example of the influence of the copyright on basically droit d'auteur countries.

With the increased recognition of neighbouring rights in the droit d'auteur countries and the development of the moral rights in the copyright countries under the influence of Berne Convention a synthesis of the two philosophies will gradually be achieved which will greatly strengthen the position of copyright as a legal discipline both nationally and internationally.

Both systems presuppose a free market economy and grant a high level of protection. The copyright system seems to adopt more easily to the demands of new technology. On the other hand in coping with the difficulties posed by the fact that more and more works are produced in employment and by team-work, the droit d'auteur doctrine has an important contribution to make.

(iii) The Socialist System:

The law of the erstwhile U.S.S.R. was based on the socialist doctrine which emphasised the social importance of the author but
claimed that he can only truly function if he represented and depicted the ideas and the life of a socialist society. Copyright was regarded as an instrument for the management of cultural process. As the interest of society as a whole were paramount and, therefore, prevailed in the situations where that interest came into conflict with that of the author, the economic rights of the individual authors were considered less valuable, but some of the moral rights of the authors like the right of paternity and the right of the integrity of the work were safeguarded.

The publication and dissemination of the work was in the hands of state publishing houses, firm companies, phonogram companies or theatres and the selection of what works are disseminated was made by them under state control. This shows some similarities with the system of privileges in eighteenth century Europe and shares with it the close affinity between the concept of copyright and state censorship.

In the former U.S.S.R, public performance of copyright works by the mass media, mainly broadcasting and film, was free from the payment of copyright, as was the press. Other performances in public were subject to a compulsory licence granting the author a right to equitable remuneration and the same applied to the author’s recording right. On the other hand the term of copyright was lengthened in order to comply with the Universal Copyright Convention. Most of the other formerly Socialist Countries are members of
the Berne Union and have modern laws which occupy a middle ground between the former Soviet Union and Western Europe.

(iv) **Islamic Law & Copyright**

No literature is available on the issue of copyright under Islam. In fact there is neither an express verse on the question of copyright in the Holy Quran nor in the Sunna of the Prophet (P.B.U.H.). Thus whether or not Islam gives any protection to the authors is to be decided on the basis of juristic opinion which like any other matter is divided. But before we take up the opinion of scholars of Islamic law, it is in the fitness of things to keep one basic rule of Islamic law in mind i.e. whatever is neither prohibited expressly nor permitted expressly is permitted. Since, neither the texts of Holy Quran nor Hadith of the Prophet lay down either specific prohibition or permission as to copyright, it is to be held that Islam has nothing against the guarantee of copyright protection to the authors.

The juristic opinion in this regard can easily be divided into what may be termed as the Classical School and the Modern School.

The classical school does not consider copyright as a 'property'. Its scholars treat copyright as an abstract right and not as a material right. Hence copyright can not be a subject of sale. Not only this but any restraint on the commercial exploitation of a work by others is not correct and hence one must abstain from such things. In the
opinion of this school, there can be only two reasons for preventing others from publishing or commercialising the original work, namely, first, such use is without authority or consent of the person who is the owner of the property, secondly, such a use will harm any individual or organisation.

Since both the above mentioned reasons are not present in the case of commercial exploitation of intellectual works, no right of their creators is violated. Thus Mufti Mohammad Shafi of Pakistan quotes Kitabus Sayer Wal Jihad in his article on the subject and observes:

if one's work is affecting some other person's profit then it is allowed, but if the work causes harm to any one it may not be allowed.

As by violating copyright, the violator merely reduces the profits of author and original publisher, it is permitted in Shariah. Another argument which is being advanced by this school against copyright is that knowledge (Ilm) is a form of prayer (ibadat) which can not be subject matter of sale. Moreover, knowledge comes under the public domain and thus every individual must have right over it and to use it. It seems that this school attaches more importance to dissemination of knowledge and, therefore, denies copyright.

As opposed to the above school, the writers of Modern School find nothing against copyright as far as Shariah is concerned. The
school refers to taking of one dinar by Yagus for narrating one Hadith of Abu Hurairah (R.T.A.). Well known Hanafi jurist (most widespread Sunni School) Allama Ibn Abid Bin Shami says that compensation for rights is not prevalent, and I have seen the writings of some jurists who have quoted Mufti Abu Saud who has validated the compensation for right of easement and residence. Thus taking of royalty by the author for the work published is valid. The school also argues that in part, state used to take care of authors and thus copyright was not a major issue but in today’s context recognising copyright is necessary for the survival of authors. Moreover, since the publisher who publishes the work of an author, does so for making profits, it would be highly unjust that though he makes major monetary gains, he has no responsibility towards the author. This in the opinion of this school is *unjust enrichment* and therefore on this ground it argues in favour of copyright.

It is not difficult to conclude that the modern school sounds much more logical and reasonable as compared to the classical school. Thus it emerges out of above discussion that Islam is not against copyright protection. At the same time, there is an urgent need to make an indepth study of Islamic view of copyright which has become the need of the hour. The acute paucity of literature in this field should be filled soon by the Islamic jurists.
(v) **The System of the Developing Countries**

The developing countries are sometimes put into a separate category in respect of copyright mainly because they are all able to benefit from the compulsory licence system created for them in 1971 both by the Berne Convention and the Universal Copyright Convention. However, the laws of the former British and French Colonies in Africa and Asia are shaped by the copyright system and *droit d'auteur* system respectively. This is particularly the case in India where the copyright system follows the United Kingdom Copyright Statutes very closely. Equally the Latin American republics although classed as developing countries have sophisticated, *droit d'auteur* oriented copyright laws.

Of the 81 states that have so far adhered to the Berne Convention, 45 or more than half are developing countries. Copyright legislation has been fairly active in developing countries during past two decades. Laws have been enacted in Algeria, Brazil and Senegal in 1973; in Sudan in 1974, in Cyprus and Ecuador in 1976; in Cuba and Mali in 1977; in Burundi, Ivory Coast, Thailand and Yugoslavia in 1978; in Sri Lanka in 1979, in Guinea in 1980, in Costa Rica in 1981; in Barbados, Cameroon, Colombia, Congo, Indonesia and Madagascar in 1982, in the Central African Republic and Ghana in 1985, and in some other countries the copyright laws have been significantly modified, like in Mexico in 1981 and in India in 1983, 1984 & 1994.
As to the basic characteristics or trends in recent copyright legislations, all developing countries which have recently legislated, have provided for a fairly adequate and comprehensive protection of author's economic and moral rights in keeping with the Berne Convention.

(E) SOCIAL & POLITICAL SIGNIFICANCE OF COPYRIGHT:

All the conditions for the birth of a copyright system were present in 18th century Europe. A long tradition of individual creation and competition for public recognition had laid the foundation for a positive philosophical and cultural attitude towards intellectual property. The invention of the printing press has created a trade which expected to reap the economic benefits of its investment in the works of authors and had achieved it by the system of privileges. The doctrine of natural law and the political changes brought about by the French Revolution swept away that system as it was connected with repression and censorship. It may be significant that of the four major original copyright laws three were passed in the wake of revolution and the fourth (the Statute of Queen Anne) in a situation of rapid change following the Revolution of 1688.

In England the Stuarts were finally removed by the 'glorious revolution' which, in 1688, put William of Orange on the English throne and Parliament into power. In 1702, the House of Commons refused to continue the Licensing Acts because the whole apparatus of
licensing had broken down and the censorship which was based on it, with it freedom of speech and freedom of expression in print by the press and in pamphlets and books were being recognised as common law rights. Barbara Ringer rightly remarked:

The Statute of Anne marked the end of autocracy in English Copyright and established a set of democratic principles, recognition of the author as the ultimate beneficiary and fountain head of protection and a guarantee of legal protection against unauthorised use for limited times, without any elements of prior restraint of censorship by government or its agents.22

The fundamental French copyright statute was passed in 1793 in the wake of revolution, four years after the storming of the Bastille.

In the United States after the declaration of Independence in 1776, 12 of the 13 original states of confederation enacted copyright Statutes based on the Statute of Anne and the Constitution contains in first article the establishment of the copyright (and the patent) system. The first federal Statute followed in 1790.

The first Copyright Act of the USSR was passed in 1917, barely two years after the Russian Revolution.

Thus since the 19th century, if not before, the question that has
most often occupied the centre of the political stage has been the proper balance between the rights of the individual and the rightful demands of an organised society. Because this is also the central question of copyright with the creators of works of all kinds representing the individual and Parliament representing the public interest, the copyright system must always have a political dimension. In the highly industrialised and sophisticated societies of today a highly developed copyright system is one of the characteristics of a free society. Barbara Ringer says that 'it is harder to determine that the interrelationship between strong copyright protection and individual freedom of expression is one of cause and effect, but I believe that, on the basis of the historical evidence, a casual relationship can be shown'. 23 The adverse is even plainer to see. If authorship of all kinds is remunerated by a proper copyright system, new ideas or new expressions of creative personality will reach the public quickly unless they are artificially suppressed. Within copyright, creators may have to resort to patronage to survive. That patronage came in European history from the Church, from the great aristocratic houses or from the Monarch. In modern times it comes largely from the State. If creators were to be dependent on the State, a subtle censorship of taste or a crude censorship of reasons of state could be exercised in literature and the arts. The absence of such censorship is an essential ingredient of a free society.
An up-to-date and virile copyright law in a free society will greatly assist its preservation. A bad copyright law may help to destroy it. A free society does not seem possible without an effective copyright law as no other system has so far been devised which ensures creators the necessary freedom of thought and action whilst ensuring the general public as consumers the widest access to their works.

(F) STATEMENT OF THE PROBLEM & OBJECTS OF THE STUDY:

As is revealed from the aforesaid discussion, copyright has a special role to play in today’s world, particularly in the context of development. During the last four decades when the political map of the world changed considerably, and several states progressively became independent and other states were newly created, these developing countries have had to cope with the enormous problem of education of the vast masses of their people. Some developing countries, racing against time in order to provide for mass education by methods both formal and non-formal, and telescoping, as it were, their process of catching up with the present, are facing challenges in respect of encouraging and fostering intellectual creativity, while satisfying the urgent needs for promotion of knowledge, in particular knowledge in the field of science and technology.

In the course of development programmes and in the attempts
towards a new international economic order, due emphasis is being laid on the development of science and education as a means to economic development. In the priorities of the process of development, the protection afforded by the Berne Convention helps to encourage the creation of intellectual works at the national level for such works constitute an important element of the intellectual inputs that are necessary for the training and building up of a sound base of qualified manpower required for various economic and social developmental projects. There has been a marked realisation in a number of developing countries including India of the need to protect literary and artistic works as a source of social progress and cultural development. Most of the newly independent developing countries faced a difficult situation with regard to access to works of the mind, since priority has to be given to the training of the people and to education, in order to compensate for the shortage of staff and management personnel who are essential to the design and implementation of development policies or plans. In this, the Berne Convention played a significant role in facilitating the urgent need of the newly developing countries to have access in a less expensive way, to works of the mind of countries that had these, while at the same time assisting in the need for protection of author’s rights in their relevant national legislations. In the early stages, this priority involved resorting abundantly to foreign works and consequently to
foreign methods and precedents. In order to remedy that situation, emphasis had to be placed on the need to give an essentially national character to the training of people.

National and international protection provided by national laws and the International Convention have encouraged teaching material including literary, artistic and scientific works, to be created by authors originating in the community to which the works are addressed, of course, until this takes place, and it can really take place gradually, in steps with the advancement of the development process, recourse to foreign works remains essential. Even in the long run, a reasonable level of such recourse will continue to remain desirable, in order to avoid barriers to cultural interchange.

In many of the developing countries, there is still a shortage of specialists in certain areas of knowledge. Incentives and subsidies are often required for the purpose of encouraging local national authorship both in language in general use and in local language. Also required is education of the public in laws of copyright. Development of national authorship and creativity can not be set in motion without guarantees to the author of adequate remuneration for his efforts, to enable him to devote his time and attention fully to the needs of producing educational material, text-books and books required for the immense task of the expansion of education in these countries.
Copyright protection involves ensuring not only payment of attractive and reasonable royalties to the authors, but also suitable protection for publishers, for the opportunity available to an author to have his works disseminated depends equally on the laws protecting publishers. It is increasingly apparent that the spread of education and improvement of educational standards is the very basis of the development process, so is the need for an effective copyright system to encourage national intellectual creativity in order to sustain the development process itself. Any country wishing to stimulate or inspire its own authors, composers or artists, and thus augment its national cultural heritage, must provide effective copyright protection. This calls for an updated national copyright legislation, which has to be framed with due regard to the national needs and in a manner that best serves the national interest. Such legislation should provide for the protection not only of the creators of intellectual works but also of those (the Performers, Producers of Phonograms and Broadcasting Organisations) who help in the dissemination of such works, in respect of their own rights.

The very process of development in developing countries has thrown up the urgent need of a general enrichment of knowledge (particularly in the fields of science and technology); improvement of School and University teaching; mass education; raising the standards
of higher level schooling; increase in the number of universities, higher education establishments, libraries; increase in professional training facilities; development of the national cultural heritage; access under reasonable conditions to protected material whose owners are abroad; and cultural, economic and social promotion. The place of intellectual creation as a stimulus for development requires production of educational and cultural material; dissemination of works of entertainment; increased use of the national languages; translation of foreign works; and as a factor of cultural promotion, needs reproduction and communication of ideas and works, reflecting national culture; popularisation of traditional events (folk lore), expressions of national identity; stimulations of cultural activities.²⁵

The role of copyright in development at the national level, is to encourage creativeness; achieve progress in the arts and sciences; promote tertiary industry (books, entertainment, records, films, etc.); promote the activities of the media (radio, television, cinema, press); and enlarge the content of the national heritage, while at the international level, it is to facilitate cultural exchanges; achieve integration in international relations; and increase the role of developing countries within the international community. The adverse effects of inadequate protection on national intellectual creativity can be quite easily demonstrated. The national cultural environment suffers if the creations of
authors, composers and artists are not protected or protected only for a short period. It necessarily reduces their creativity, stunts the growth of national culture, and adversely affects the publishing as well as the entertainment industries. It is important to ensure that copyright is not only acknowledged, but also respected in practice.

Life in this century has been transformed by technology, and perhaps nowhere has the change been more spectacular than in the field of communications. The principal concern of copyright is with communication. The copyright system has been devised and developed over the last century or more to encourage intellectual creativity - literature, drama, music, art and the dissemination of information, ideas and culture, thereby enriching people's lives by opening their eyes and minds to wider and more diversified views of the world and by giving them a greater understanding of themselves and each other. The copyright law pursues this purpose by giving those who create cultural works, rights of control over the use to which the people may put those works - in effect over the communication of such works to the public by one means or another, and the ambit of this control has evolved to meet new forms of use as they have appeared. Today we are surrounded by technological marvels - radio and television broadcasting (terrestrial and by satellite), cable distribution systems, audio and video recording, reprography in all its forms, and computers - and skills to link these
technologies into vast multifacility networks. Reprography, tape recording and computer storage have made the reproduction of works easy as well as comparatively inexpensive and within a reach of such a large number of users that control of reproduction by the copyright owner is often impossible. Cable television and satellite broadcasts could ignore national boundaries making effective control very difficult indeed.

The impact of these galloping technological developments (reprography, cable television, satellite broadcasting, computer storage of protected works) has led to certain new developments. Important amongst these concerns piracy, that is, the illegal reproduction and distribution of protected works and other flagrant infringements of copyright. Piracy has become much easier to perpetuate, and it has become more widespread with the new means of reproductions. The losses caused by piracy to publishers, producers of audio-visual works, and phonograms and, consequently and inevitably, to authors are getting increasingly larger. This development is particularly detrimental to the cultural life of developing countries like India. National production of books, audio-visual works and phonograms can be suffocated at birth, and without such production, there is no outlet for the development of national creativity. The increase in piracy could lead to a far-reaching cultural dependence and to the fading away of national cultural identity. Collective administration of copyright and
provisions of suitable infrastructure for this purpose are particularly important in today's context.

The most recent and probably the greatest development in the whole history of information technology has come as a result of fast developing Internet and cyberspace. Marshall Macluhan in his book "The Medium in the message" rightly observed: "Ours is brand new world of allatonceness. 'Time' has ceased, 'space' has vanished. We now live in a global village - a simultaneous happening... The new electronic interdependence recreates the world in the image of a global village.

The Internet, with nearly 90 million persons connected, is the biggest single phenomenon showing that the global village is within our reach. It is just a matter of years for the Net to reach every nook and corner of the world. As such to say that the concept of a global village is a hype does not seem to be true. The Internet is a global computer network made up of hundreds of smaller networks linked together by the international telephone system. These networks are run by governments, academic institutions and corporations, individual users or smaller companies link into this matrix of networks by connecting to the nearest mode, again via a phone line.

The World Wide Web is a hypermedia information storage system linking resources around the world. Browsers (a program that allows users to access the Web with the click of a mouse) allow highlighted
words or icons, called hyperlinks, to display text, video, graphics and sound on a local computer screen, no matter where the resource is actually located. "Web Pages" can be seen by millions of users on the Net, an expanding universe of networks that has doubled in size annually for a decade and now spans 150 nations. There are more than 100,000 Web sites already, and the number doubles every two-and-a-half months.

The development of Internet on the one hand has posed a major threat for the criminal justice system because Internet can easily be used to trade in pornography, obtain information about drugs or distribute offensive literature. The U.K. Government has already introduced legislation pertaining to Internet in the 1994 Criminal Justice Act. Pornography laws have been extended to include computer-generated pornography and the definition of publication in the Obscene Publications Act has been extended to include computer transmission. Similar changes are to be considered in India as well. But it must also be recognised that due to the nature of Internet, the only solution is self regulation by the Internet users. This view is supported by recent evidence of people controlling the use of Internet by rebuttal, email bombs (thousands of dummy email messages), cancelling and computer viruses. On the other hand use of Internet has given rise to intricate issues relating to copyright law. The Internet and the World Wide Web
are full of copyright material being used or published by people other than the originators. The copyright laws do not specifically include materials sent zooming around the Internet in email, binary files or as World Wide Web Pages and there is urgent need to extend copyright laws to them. But then even if a book is protected by copyright, the authorities might not be so diligent in prosecuting unauthorised online use of its content.

It is the jurisdictional wrangles that make Internet copyright violators think that they are above the law. If a picture is taken from a copyrighted American source, placed on usenet in England, downloaded to a newsserver in France and then retrieved in India, who is going to chase whom? It is indeed a crucial issue as to how to protect an author in these circumstances and needs serious consideration as is aimed in this study.

(G) **SCOPE OF THE STUDY:**

It is, indeed, unfortunate that such an important area of law i.e. copyright law which deals with the aforesaid issues did not receive much attention from the jurists and researchers of our country.

The Indian Copyright Act of 1957 which repealed the Indian Copyright Act of 1914 has been on statute book for about four decades and in a quest to keep pace with the technological developments, major amendments were undertaken in the 1957 Act in 1983 and 1984. But
inspite of these amendments and the positive changes brought by them in the copyright law, the Indian law was still not able to cope with the changing times and, therefore, another major exercise to amend the Copyright Act was initiated by the Copyright Amendment Bill in 1992 which has now been passed in 1994.

It was at this point of time that the present study was designed to examine the state of copyright law in India with adequate emphasis on the challenges posed to it by the technological developments. As India is one of the former colonies of Britain and is one of the prominent members of British Commonwealth, the Indian Copyright Law as many other laws have heavily borrowed from the English system and therefore, any discussion on India Copyright law must necessarily resolve around the British Copyright law. Similarly as American Copyright law has also been influenced by the British Common law traditions prior to comprehensive statutory developments and as America has also developed from a relatively backward country to the mightiest power of the world, it is in the fitness of things that while examining Indian Copyright law, recourse be had to the American experiences in this regard. As a result this study has been planned to make a comparative assessment of Indian Copyright law with that of U.K. and U.S. Copyright laws.

The wave of liberalisation of Indian economy was indeed a
positive and major step in the direction of market economy. It marked the end of licence raj which was the hallmark of joint economy with greater emphasis on public sector. This major change resulted in if not *withering away of state*, at least in the withdrawal of state from major economic activities of the nation and, thus, paving away for free market and competition. But out-dated copyright law was a major hurdle in integrating India with the international business community. The United States infact did keep India as a black listed trade partners under the notoriously called. *Super 301* and asked India to make its Patent Copyright and Trade-mark laws more effective and at par with the International Standards. Thus, undertaking present study became a major national need and one is indeed happy to note that while the new patent law could not get through, the Copyright Amendment Bill, 1992 with adequate safeguards to authors, architects, performers, phonogram producers or those dealing with computer programs got the approval of Indian parliament.

(H) **SURVEY OF THE EXISTING LITERATURE :**

Compared with the many sided initiatives taken by India in the reformulation of the international legal regime of copyright, and with the phenomenal growth since Independence in the number and quality of literary, dramatic and artistic works, the law of copyright has received scant juristic attention. This fact becomes even more puzzling when we
further recall that independent India accorded high priority to formulation of her own law on copyright. The Indian Copyright Act, 1957 repealed the 1914 Act. Thus the revision of the 1914 Act occurred within ten years of independence, alongside with the great codification of the Hindu law. Even this last development did not unfortunately focus attention of jurists to this vital area of the law, in its manifold bearings on the social and cultural development of India. Similarly judicial decisions of great significance adversely affecting the rights of creative artistis in last four decades or so did not disturb the legal researchers.

The net result of this juristic apathy is lack of any substantial work on copyright law in India. The only material which exists is few small books and a small number of articles & write-ups in magazines which can in no why be termed as research journals. There is no scholarly commentation on copyright law. There are only handful of professional treatises on the subject written by practitioners.

The commentary of Indian Copyright Act of 1957, by T.R. Iyenger and Lal does no more than simply referring to case law under various sections without an adequate or even an analysis of the relevant judicial pronouncements. These two commentaries are basically written keeping in view the needs of copyright attorneys who are keen only in having a ready - made manual of Copyright Act, for the preparation
of the cases in their hand. Similarly *Kal Thairani* has come up with a small venture entitled ‘‘copyright - Indian Experience’’ in 1987. This small book is no more than a digest of Indian Copyright Act of 1957.

*M.L. Chopra* who has worked in the Copyright & Book Department of Union Government has come up with an extremely small pamphlet like book, ‘‘Copyright and International Conventions’’ in the year 1998. An effort is made in this useful attempt to give a bird’s eye view of International Conventions relating to copyright.

Recently, *P.M. Bakshi* tried to fill this vital gap in the legal writing of this country but unfortunately ended up by contributing a very - very brief book on the wide ocean of Intellectual property entitled, ‘‘Intellectual Property - Indian trends’’, dealing with all the three branches i.e. copyright, patents & trade - marks.

In addition to aforesaid books, a small number of articles have also been written on different aspects of Indian Copyright law in our country. With the exception of two - three articles, all of them are more or less meant for laymen and merely describe the Indian law without having much recourse to analysis and criticism.

At least three of these write ups are in the form of editorials of Calcutta Weekly Notes on various aspects of copyright law such as "Copyright and music", "meaning of original", and "literary work".

The relevance of protecting copyright in computer programs has
been recognised by many writers, probably because, the advent of computers & problems relating to them were all too visible. As a result, at least three articles have been written on the question of copyrightability of computer programs. P.M. Dhar has contributed two articles in this vital area i.e. "computer software & copyright protection - Indian dilemma" in the journal section of A.I.R. in 1985 and "Intellectual property in computer programs: Weakness of the Indian copyright Act 1957", in the Journal of Indian Law Institute in 1986. The learned author has argued that copyright protection can be guaranteed to creators of software within the 1957 Act if some amendments are carried out in various sections of the Act. In 1986 itself, an editorial again appeared in Calcutta Weekly Notes entitled "Computer - Software Dreams" which did discuss in addition to others, the issue of copyright protection of software.

At the time of 1983 and 1984 amendments of copyright Act, Samuel Israel wrote a write up in popular magazine i.e. Economic & Political Weekly, entitled "Copyright in India : National and International. The 1983 Amendment" in which the need, scope and objectives of the amendment are discussed.

It was around this time that the Annual Survey of Indian Law published every year by Indian Law Institute decided to attach some importance to copyright law and thus since 1985 it now includes a
survey on the developments in the field of Intellectual Property Law.

Regrettably, the quarterly Journal of Indian Law Institute, the authentic organ of professional legal criticism till 1986 did not touch upon copyright law. But in 1986 when the Berne Convention of 1886 completed its hundred years, the journal brought a special issue which contained six detailed research articles, three of these dealt with copyright law in India. Prof. Upendra Baxi in "Copyright Law and Justice in India" discusses the Indian Copyright law in historical retrospect, the amendments of 1983 and 1985 and the need to make provision for protecting copyright of Indian traditional folklores, Prof. K. Punnuswami in his article entitled "performing Right of the Intellectual Works : Judicial Annihilation" discusses various issues relating to rights of performers in film & music industry. Prof. K. Punnuswami has published another article on the same subject in the Indian Bar Review. Prof. D.C Pandey has contributed an article in 1988, published in the Journal of Indian law Institute, entitled, "Copyright Board - A futile forum" in which the learned author has invited the attention of legal community towards the working of Copyright Board and has presented a gloomy but realistic picture in this regard mainly due to the non-exercise of its powers while adjudicating vital copyright issues.

In 1993, Virendra Kumar Ahuja contributed one small article on "Performers Rights: A critical view" in the Supreme Court Journal in
which he tries to answer the question as to why performer's protection rights are necessary? He also discusses the effect of Indian Copyright Amendment Bill of 1992 on this issue.

It is, therefore, abundantly clear that there is almost nothing which has been done in India as far as copyright law is concerned. It is, therefore, of utmost importance to make a comprehensive study of vital aspects of Indian Copyright law in view of the technological challenges of our times. The present study is a modest attempt to fill this vital gap. But the study has taken up only few issues relating to copyright and thus has a limited scope.

While there is no substantial work even on the general aspects of copyright law in India, in United Kingdom and United States of America even on very minute copyright issues, hundreds of books and articles have been written. It will be indeed an extremely difficult task to present an authentic survey of everything written on copyright law in these two countries. Such an exercise is certainly out of the scope of present study. Suffice, it is to say that a huge body of literature exists in both England and America on this vital area of law. Similarly in a large number of articles written in both countries and elsewhere, a comparasion of British law has been made with that of American law and vice - versa. But there is not a single work in which a comparative assessment of British, American & Indian laws has been made and thus
the relevance of present study.

(I) **RESEARCH METHODOLOGY**

If our numerous laws were perfect, if social control were automatic, legal scholarship, like the state of the Marxists, could be left to **wither away**. But our laws are not perfect and final, and can not be so in a dynamic society; they are not always even intelligible, and if intelligible, not always intelligently made. The legal scholars write and write, the law journals publish and publish, and what do we have? Precious little. This is true in respect of no other field as in the field of copyright law in India.

As a first step in this direction, the present study proposes to undertake a comparative study of Indian Copyright Law with that of Copyright laws of United Kingdom and United States of America. As law is a normative science, that is, a science which lays down norms and standards for human behaviour in a specified situation or situations enforceable through the sanction of the state. What distinguishes law from other social sciences (and law is a social science on account of the simple fact that it regulates human conduct and relationship) is its normative character. This fact along with the fact that stability and certainty of law are desirable goals and social values to be pursued, make doctrinaire research to be of primary concern to a legal researcher. It is common knowledge that the doctrinal research involves analysis of
Statutory law and case law, arranging, ordering and systematising legal proposition. For the purposes of present study it is this method of research which has been adopted.

A particularly useful source of ideas is the comparative approach to legal problems. This is not to say that every topic lends itself to such treatment or indeed, that every piece of comparative research is likely to produce good results. But such a methodology can be of immense use where local law needs to be integrated with the international community and has to come at par with internationally recognised standards. In recent times, in law report projects, study of comparative laws (in the sense of a study of the comparable position in other countries on particular topics forming the subject - matter of legal reforms) has increased and received a great impetus. Countries, infact, do imitate each other and law reform bodies, it may be said, try to learn from each other's experience. Sometimes ago, the comparative method found no more than verbal acceptance among the majority of jurists who continued to pay lip - service to it as a fine jurisprudential method, but themselves rarely adopted it.

This does appear to be no longer true of jurists, nor is it true of other persons belonging to the discipline of law. Infact, the comparative method may not be new as we think it to be. Aristotle's Constitutions can, with substantial accuracy, be called comparative jurisprudence.
Moreover, the comparative research does serve at least three useful functions. First, comparative research can throw doubts on the usefulness of strongly entrenched views. Secondly, it may suggest a suitable solution to legal problems. Thirdly, comparative study tends to aid in assembling which principles applicable in the field concerned, are fundamental and which are secondary. The present study makes an effort to achieve all the three functions of comparative research.

The practical problem that a researcher faces when he pursues this method is, what countries to choose for comparative study, what books and other materials to consult and how much of the material collected to be used for the purpose of the study. For the purposes of this study, it was thought proper to study English copyright law as Indian law has heavily borrowed from the former and India has historical links with Great Britain. The choice of United States of America, was again made for two reasons, first, U.S. Copyright law has also for historical reasons been influenced by British Common law and secondly, as in the early years of independence from British Imperialism, U.S. opted for National needs rather than copyright protection, how far India can benefit from the U.S. experiences when in the changed global scenerio, it is United States itself which threatens India to update its copyright regime. It is due to the U.S. pressures that the copyright law has started receiving serious attention in India.
(J) **PLAN OF STUDY**:  

Using the aforesaid research techniques, the study has been divided into twelve chapters.

Chapter one or introduction discusses the ideology of copyright, justification of copyright, major systems of copyright in the world, the research problem, the scope of the study, the survey of existing literature etc.

Chapter two makes an attempt to give historical account of copyright law. It discusses the copyright in antiquity, middle ages and the effect of invention of printing on the copyright law. An effort has been made to examine various International Conventions on the question of copyright. The historical background of copyright law in U.K., U.S.A. and India has also been surveyed.

Chapter three investigates the question of subject - matter of copyright and the rights which the copyright law confers on the authors. It discusses the varied treatment in different countries as to the question what should be copyrightable. The issue of moral rights of authors and their significance is also examined.

Chapter four examines the question of copyright protection under International law. It discusses the issues of treatment of foreigners in copyright law, principles of international copyright conventions, national treatment, limitations of the principle of national treatment and
the system of applying international copyright conventions to the national law.

Chapters five to eight, examine the vital aspects of subjects of copyright in the three countries. Only such subjects have been taken which have been affected by the new technological developments and about which the law has been recently amended in the countries selected by the present study.

Chapter five, thus deals with the question of copyright in literary, dramatic and musical works. The issue of "originality" and various types of works protected as literary, dramatic & musical works form the subject matter of this chapter.

Chapter six examines the question of copyright in computer programs and computer generated works. The copyright in screen display, databases, problems relating to ownership of copyright when the computer program has been developed by freelance staff etc. have also been discussed.

Chapter seven discusses an important area of copyright i.e. copyright in architectural designs. The question of ownership of copyright of an architects' work during the course of employment or where his services were only partially hired are discussed. The question of publication as to architectural designs and recent legislative changes in this regard are also examined.
Chapter eight discusses the crucial issue of performers rights under copyright laws. It examines the status of a performer in the three countries under study and the recent amendments in this regard. The judicial response in this regard is also put to critical evaluation.

Chapter nine discusses the most vital area of neighbouring rights with emphasis on International Conventions. The Rome Convention, Stockholm Convention and Phonogram Convention are discussed in great detail. The challenges posed by satellite and cable transmission are also taken care of.

Chapter ten discusses the question of infringement of copyright in U.K., U.S.A. and India. The various types of infringements and issues relating to them are examined. The defences available in a case of infringement of copyright and controversies relating to them have also been discussed. The "fair-use" defence is also studied in detail.

Chapter eleven examines the civil and criminal remedies available under the three copyright systems in case of an infringement of copyright. It makes an indepth study of judicially created remedies such as Anton Pillor Order.

Chapter twelve sums up the whole study and discusses the various conclusions which can be derived from other wise independent and self explanatory chapters of this study. The future challenges to the copyright law are discussed in great details. The suggestions for further reforming and making Indian law more effective are also discussed & further areas of researches indicated.
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