This article looks at the recent developments in society in the context of copyright laws which have far reaching implication in any given society. It also examines connections between religion, law and social recognition. It pays particular attention to the attempts made to propagate beliefs which oppose international copyright laws and secure a cult in a given society; thus bringing to light a juxtaposition of religion being given recognition by law while the same tending to oppose the very foundations of it. The article also emphasizes that while convention emerges making footing on institution of religion, yet it cannot override law. The law on the other hand may be compelled by the reason of balance of scales to offer relief through recognition, but not quite one that sublimes the Themisian grip over the scales of justice. This requires an optimization on both the sides.

Keywords: Kopimism, fair use, religion, international copyright law

There is nothing more plastic than the human thoughts; it accumulates ideas and knowledge from one source or the other over a period of time. For example, a new born baby secures its cognitive recollections by sight to a certain extent and most of all from what another human being transfers to it i.e. the mother or the guardian of the child. As she grows up perhaps her surroundings, her teachers, friends at school or her institution contribute to her belief and understanding of concepts. Thus human mind is itself a copy of existent streams of thoughts, expressions and ideas that have been remoulded to the specific needs and beliefs of the self.

The necessity to incentivise creators of works and encourage them to create more of the same gave birth to property rights in creative works called copyrights. Copyright in a work gives the author an exclusive right over literary creations by sight to a certain extent and most of all from what another human being transfers to it i.e. the mother or the guardian of the child. As she grows up perhaps her surroundings, her teachers, friends at school or her institution contribute to her belief and understanding of concepts. Thus human mind is itself a copy of existent streams of thoughts, expressions and ideas that have been remoulded to the specific needs and beliefs of the self.

Apart from the juristic views, the economists too sound in line with copyright legislations. The Lockean concept of labour is well resounded in most economic justifications for copyright legislation. It would thus be seen by an economist that a greater protection against copying tends to reduce the transaction cost in transmitting the fruit of one’s labour to another. Thus copyright in a work gives the author autonomy in dealing with her works. But this is often seen to be antithetical to the freedom of expression as it prevents all save alone the owner from expressing information in the form of literary work protected by copyright.

The mutations in the field of science and technology called for enhanced protection of works. More so due to the ability of such new technologies to enable faster and better modes of copying or in other words referred to as infringing uses. While on one hand technologies posed threats to the copyright holders, they served the society on the other hand by generating information and thereby contribution to what one might call as an information society.

As the process of this knowledge enhancement grew it ripped apart the world into two, one being claimants for free use and spread of knowledge as a part of its contribution to the information society and as could
be predicted a side of authors or creators of works who claimed exclusivity to be the price of their creativity. The law owes its balance to this pressure in the form of fair use doctrine. This doctrine was outlined in the form of limitations and exception to copyright enforcement. The equipoise has often crumbled down under the pressures of over protectionism. This has in fact given rise to new alternatives to secure a freedom from such over protectionism in the form of religion of which this paper examines. It also examines stability and adaption of claims for religious protection under copyright law as well as by other state laws.

Religion and Copyright

‘It would be a matter of regret if the state of the law permitted one man to make a profit and appropriate to himself the labour, skill and capital of another’ said Lord Halsbury contextualising the case of Walter v Lane. Drawing on the ethical grounds of the above line Lord Atkinson stated that protection against copying rested on the moral obligations of religion. In particular, the law Lord rested his observations on the eighth commandment of the Holy Bible, ‘Thou shall not steal’. This offers a glimpse of law’s kinship with religion particularly in the context of copyright law. Adorno may distinguish this as the conscious renunciation of instincts when placed under the supervision of reason. However, would this be conscious or repressive is a question to be discussed later. The point is that religious morals did have an underlying role in the formation and development of copyright laws.

Though religion had impact on copyright protection, it also stood witness to set limits upon copyright as well. For instance in England censoring of works was done to suppress any conflicts against the interest of the Church of England. Henry VIII even issued a proclamation forbidding the possession of certain works of heretical nature. In the later stages of the copyright guild the Stationer’s Company was provided the rights of printing in exchange for the regulatory control of works by ecclesiastical officials. Antipodal to the above mentioned significance of religion in supporting a cause for protection of copyrighted works, commentators have also looked at factual instances of copying within the domain of religion itself. For instance the observer reports instances of copying of bible by Mathew and Luke from Mark in the New Testament. Such instances have also been reported in other religious sects like Islam, Judaism, Jainism, etc.

In history of Islamic civilization, reading and writing was considered an ideological necessity and the tax on science was in the form it being published. Hence in the beginning of Islam, several authors were motivated to expand publication of works. The governments in Islamic states were also actively preventing distortion of such works. For example if an author wrote and published a work, anyone who distorted words from book or changed it or attributed its paternity to another etc, scourge of God was to be bestowed on him or her. Religion permitted flourishing of science and culture in the Muslim world. Muslim scholars accepted copyright and even viewed it as a religious right which was to be respected and protected. The matter of the ‘right’ took its form from the Islamic customs. As per Islamic customary law and practice, copyright is a property. Islam says a person has no right to possess the property of another without his or her consent and the use of intellectual property without consent is thus guilty. Islam has always rejected oppression and aggression for a right. But in a new monopoly situation, it is observed that authors have excessive power creating injustice and an imbalance in the community.

The Pontifical Commission on Culture and Social Communication has played a phenomenal role in supplementing the Italian copyright laws. The Papal copyright provides exclusive right on the use of the Pope’s image and voice for purposes other than religious, cultural and educational and exclusive right on ‘purely documentary’ reproductions of cultural heritage for 70 years from the date of fixation. Anyone who uses the sermons, images or quotes from pope without authorization may become justifiable to the papal committee. This is even as the Vatican seems to approve of free publicity reflecting its religious dimensions even at the cost of reusing materials.

These instances illustrate importance of copying in cultural transmission of knowledge while broadening the view point on dichotomy between legal protectionism and a need for cultural and knowledge sharing specially from a religious perspective.

Law and Copying

The work of the author of a book or a poem indicates a reflection of her character which is imprinted on the work. Author or artist takes the ideas of world, which is available commonly and adds on with self ideas. By giving an expression to this interpretative processing the creator forms a work which becomes a part of her. It is commonly recognized as the sacred philosophical basis for copyright protection. Kant proposed that property
in a work is the crystallization of author’s communication to the public via a publisher. This forms a course of action which is present in the person of the author. Hence by selling copies of another’s work in one’s own name, the other person is just disseminating the real author’s speech thus compelling him to speak against his will to acknowledge the work as his own. An author’s communication is an expressive individual freedom; all rights and responsibilities in relation to it lay with the author and are inalienable as such. The borderline between the concepts of ideas (in common) and expression is not always clear. However it articulates that the more specific or particularized form of the fixed expression, the more it departs from the realm of abstract ideas, the easier it will be to attain copyright protection. From an ethical perspective, necessity of giving a fair reward for an intellectual attempt results in a new production. This view is often endorsed by common sense. However, it is also a fact that poetry, book, music etc., which are property of copyright holders, will be exchangeable with money and the public are willing to pay to achieve them for the cost prescribed by the authors. In other words, people want a property of their own and this property is associated with having money and credit for them.

Economically, these rights can be justified in that its existence causes equitable division of resources because as a result, more financial benefits reach to the authors and not to those who are seeking to benefit financially from the works of the original author.

The copyright protection has also been viewed from the perspective of fundamental human rights particularly, as it relates to the intellectual faculties. When the subject is new ideas based on different aspects of human life then it is justifiable on the basis of freedom of expression. But this is just one side of the story of copyright protection. On the other hand when someone has the exclusive right and given that, she can prevent others from enjoyment of work and that the third parties must accept the terms of use, it becomes a dominance of the author. When there exists a freedom to create other works that are superior in consideration of the previous works it can lead to social welfare. Any scientific paper or work of art which enriches the realm of science and culture, community will be benefitted in terms of new developments that provide utility to the community in general. Therefore, copyright though an incentive to produce knowledge could also be restrictive of the same.

Law clamours respect for the work of an author. For instance the right on the name and title, no manipulation and also that one may not without permission of the author copy, distribute, communicate to the public etc., and finally payment of royalties. Therefore is copyright only for authors and artists? Is it that always authors and artists are in the perspective of copyright laws? What is really the purpose of creation? These questions are contextually significant. If the beauty and originality of the work is not understood by the community it is absolved of its value. Thus if the work is not published it does not manifest its truth and finally, the work is for the society. Although creation of copyright was to promote a better understanding for the society, yet society was never in the centre stage. Rarely it served as a store player and participated in the game.

Consumers of works can quote from other works or utilize works for purposes of education (or research) or provide a back copy of the software for personal purposes. These usage regulations are for the community as such. Also almost all the conventions and national laws proudly have guarded these rights. In addition, there are the criteria such as fair use test which aims to stabilize the position of consumer in the legal system. The success of these is still in a veil of doubt. In all cases the interest of the author is a priority, exceptions should not be in conflict with her normal utilization nor must cause unreasonable damage to her legitimate interests. For instance, the three-step test has been argued to be lacking in fulfilling the social functions of copyright law. The excessive enforcement of ‘exclusive’ rights causes a reaction of reject in the public. In addition to the existing legal protection additional measures called DRM (digital rights management) have come up in recent times which call to give an additional protection to works especially on the Internet. It is of concern to think whether such technology protection measure would be a new continuation of the story of exclusive rights. By these advanced measures authors can provide facilities only for watching or listening of the works, without the same being downloadable. At times the work is only available for few days or just run on a single computer and so on. This story gets more complex every day, as the author has more digital powers with which she can limit the consumer’s access rights.
Any attempts to overcome technical features are considered as an offence which would be chased by law. In these circumstances, consumers become captive in prisons of technical measures and are left to the mercy of authors or the copyright owners. In addition to technical measures, the authors have also resorted to legal measures for use which are in the form of click contracts that are to be signed by the party wishing to use the same. Consumers have no choice but to accept the conditions in order to access the work. These measures ensure that users cannot even use legal exceptions such as personal copy. The situation is not far from truth to say that the authors have double power or a new monopoly over and above the existing one. If such rights are developed more it may tend to finally delete the cultural society from the road of copyright. The copyright is created and developed in the inertia of the users, but in the digital decade, this lack is prominent. Although consumers are entering the purview of legislative frame (e.g. the doctrine of fair use) however, real winners are the authors who gain from both legislative and technical measures to win their case.

The information society seeks to secure a dual role by receiving works of information and knowledge and distributing them for future production adding to the bulk of knowledge. The consumption and production of works lead to the birth and dynamics of copyright regime. Hence, depending on the position of its rules in allowing such production, future of copyright and information society takes shape of a right balance. The problem is that the legal provisions of limitations and exceptions is not mandatory and owners and right holders can rely on its authority and amend the contracts and thereby gain control on the amount and nature of access granted to the user’s. This means that they change all exceptions for their own benefit. But in reality the basis of exclusive rights and exceptions is public order. Contrary to the public agreement the very basis of monopoly collapses.

Rise of ‘The’ ‘Religion of Copyright’

The dawn of 2012 chanced upon an interesting twist in the history of copyright law. While the 15th century renaissance era saw rise of copyright, 20th century was flooded with enhanced forms of protection. While this 21st century is still witnessing unbridled penalisation for infringement of copyrights on the Internet, a new religion called Kopimism has emerged. Although founded in 2010 in Sweden, the religious groups have tried to get their beliefs recognized as an official religion in Sweden. After their request was denied several times, the Church of Kopimism, which holds CTRL + C and CTRL + V as sacred symbols, has now been approved by the authorities as an official religion. This newly founded church of copying holds that information is holy and copying is sacrament. Information holds value in itself and in what it contains. This value multiplies with copying which means spread of knowledge and information. The religious practice of this community is also peculiar in that they have a religious service called ‘kopyacting’ which in the form of information distribution uses photocopiers to bit-torrent technology. It has been expressed by the chief of this religion that monetary exploitation is what actually happens in the name of copyright enforcement. The freedoms of human race are delimit in the name of promotionism. This new church calls for an environment in which they would not be disturbed to freely practice and profess their own religion. The copyright enforcements have been way beyond their constraint leading to threats, harassment and prosecution of various groups of people which secured a culmination into a religious practice. It is predicted that this newly founded religious ideology would face deep waters in the face of the new anti-piracy legislation like Stop Online Piracy Act (SOPA). This new religious ideology offers new forecast to the future of copyright law.

The internal moral order of the society creates invisible bonds that link human minds of the ethical commonwealth together to create a community which has a role in the historical and cultural dynamics and through which humanity is to attain a moral destiny. The universal principle of right emerges in his analysis as “Any action is right if it can coexist with everyone’s freedom in accordance with a universal law.” Thus distinct from the political order, a community’s moral order is achieved through the bonding of ethical bases it creates for itself. But can this be in conflict with the legal order?

For instance, the unleashed growth of copyright protectionism as discussed above has been the cause of increased piracy and rise of organizations like Pirate Bay and Kopimism. The only cause to which this trend points to is the fine line between legitimate interest and legitimate rational interest. The fact that enforcing Copyright Act is a legitimate governmental interest is neither disputed nor supported by a cause
for a copyright exit. However there is a need for a rightful balance. This requires usage of the remarkable tool used by the international community in the form of human rights. The European Convention on Human Rights (ECHR) provides under Article 9 (ref. 32) a right to freedom of thought, conscience, and religion. Most of the national constitutional laws might reflect the principles of human rights jurisprudence as declared in the Universal Declaration. These tools may however be subject to other restrictions imposed by law and hence may tend to circumscribe the very foundations of movements like Kopimism. For instance, in Neij and Sunde Kolmisoppi v Sweden, the ECHR unanimously declared inadmissibility of an application made by creators of Pirate Bay against the decision of the Swedish court on the ground of violation of their freedom of expression under the ECHR. The ECHR held that the interference of the Swedish authorities had been prescribed by law in pursuance of the legitimate aim of protecting copyright. In such a context, the Court had to balance two competing interests which were both protected by the Convention – i.e. the right of applicants to facilitate exchange of information on the Internet and that of the copyright-holders to be protected against copyright infringement.

Hypothetical as these questions may seem yet it opens many possible courses for near future and hence need a fair treatment.

**Religious Specific Exemption Claims**

Religion specific exemption may find its claims on two broad bases: one, the defence of religious freedom that may be based on constitutional or other statutory claims and two, an exemption under the defence of fair use under copyright law.

**Constitutional and Religious Statutory Claims**

Interference to the religious freedom finds its consolation in the freedom of religion offered by the constitutional mandates of a state. Mostly only secular states offer such access. While in non-secular States, having declared religious norms, the freedom of the minority claims may be limited in nature. The First amendment of the United States Constitution provides that the ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.’ Further, Article 6 of the United States Constitution prohibits use of any religious test as qualification for any public office. Any claim of a religious nature finds its texture with the first amendment.

In Employment Division, Department of Human Resources of Oregon v Smith, Justice Blackmun in his famous dissent noted that ‘failure to reduce the competing interests to the same plane of generality tends to distort the weighing process in the state’s favour’. He opted for a test of ‘compelling interest’ that is required to be applied in such special cases of religious practice being diametrically opposed to the law of the State. The United States Supreme Court in the above case was considering whether the state could deny unemployment benefits to a person fired for violating a State prohibition on the use of peyote, even though use of the drug was part of a religious ritual. The majority declared that though states have the power to accommodate otherwise illegal acts done in pursuit of religious beliefs; they are not required to do so. The RFRA was founded as a result of the dissenting opinion in this case. As per this Act ‘Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability’. This could be a new direction to religious organizations like Kopimism that may face potential threat from anti-piracy legislations or infringement proceedings under the provision of the copyright law.

In a similar case of Prince v President, Cape Law Society, the constitutional court of South Africa opted for a different stance. Prince belonged to a minority religion Rastafarian which used cannabis in their religious practices. Prince became eligible to be registered as a candidate attorney doing community service. He was convicted for the statutory offence of
possessing cannabis or dagga, which was prohibited. He however raised doubts about this by claiming his right to practice his religion using dagga for religious purposes. The Law Society of the Cape of Good Hope refused him registration to practice, whereupon he unsuccessfully challenged the society’s decision in the Cape High Court. Prince then appealed to the Supreme Court of Appeal. His appeal was dismissed and he then lodged an appeal with the Constitutional Court. A divided court dismissed the appeal with a 5-4 majority. The minority of the court did not dispute the legitimacy of criminalising the possession and use of dagga in general, but argued that it was feasible for the state agencies involved to lay down police conditions for Rastafarians’ limited use of dagga for religious purposes. The majority of the Court, through Ngcobo J explained:

‘The appellant belongs to a minority group. The constitutional right asserted by the appellant goes beyond his own interest, it affects the Rastafari community. The Rastafarian community is not a powerful one. It is a vulnerable group. It deserves the protection of the law precisely because it is a vulnerable minority. The very fact that Rastafarian use cannabis exposes them to social stigmatisation...Our Constitution recognises that minority groups may hold their own religious views and enjoins us to tolerate and protect such views. However, the right to freedom of religion is not absolute. While members of a religious community may not determine for themselves which laws they will obey and which they will not, the state should, where it is reasonably possible, seek to avoid putting the believers to a choice between their faith and respect for the law’.

Thus essence of the judgment seems to point out that it is imperative for state agencies involved in enforcing a statutory prohibition, to make any allowance for religious purposes without actually compromising the justifiable objectives of statutory prohibition.

In other secular jurisprudence like Australia, the High Court has considered the threshold issue of defining ‘religion’ before considering the actual practices as in Church of the New Faith v Commissioner for Pay-Roll Tax. In this case, the court was deciding whether the Church of Scientology was a ‘religious or public benevolent institution’ for the purposes of the Pay-Roll Tax Act 1971, if so, it would be exempt from pay-roll tax on wages paid or payable to its employees. The Court held that the beliefs, practices and observances of the Church of Scientology did, in fact, constitute a religion in Victoria. The simple ‘religion test’ was proposed by Acting Chief Justice Mason and Justice Brennan and required two elements

- belief in a supernatural being, thing or principle
- the acceptance of canons of conduct to give effect to that belief (though canons of conduct which offend against the ordinary laws are outside the areas of any immunity, privilege or right conferred on the grounds of religion).

Thus undue infringement to religious practices may offer to protect claims of religious freedom. However it has been considered to be not without restrain under given circumstance.

The Indian constitution under Article 25, guarantees to every person and not merely the citizens of India, the freedom of conscience and the right to freely profess, practice and propagate religion. This is however subject to public order, morality and health. Religious practices are assessed on the formulae of ‘essentiality’, i.e. whether a religious practice constitutes an essential part of the religion under consideration.

In Mohmad Hanif Quaresh v State of Bihar, the Supreme Court considered the state law on slaughter of cows which was said to be in conflict with the right of animal sacrifice on the day of Bakrid (a Muslim festival). The argument was rejected by the court which did not find such slaughter as an essential part of Mohammedan religion. A practice of religious nature should be such that it does not adversely affect the rights of others and must be the profound basis of the said religion if any protection needs to be sought under the constitutional provisions.

The Constitution of Islamic Republic of Iran under Article 4 declares that all civil, penal financial, economic, administrative, cultural, military, political and regulations must be based on Islamic criteria. The other religious organizations like Zoroastrian, Jewish, and Christian Iranians are also free to perform their religious rites and ceremonies and to act according to their own canon in matters of personal affairs and religious education (Article 13). Article 40 of the constitution provides that no person may exercise his own rights as a means of constraining others or violating the public interest. Hence the government can issue the authorization for utilization of works for promoting religious education.
From the above discussion it becomes clear that a religious practice is received with due recognition if it is the prerequisite to the ends of the religion. The religious follower has the obligation to prove that a governmental regulatory mechanism burdens the adherent’s practice of his or her religion by pressuring him or her to commit an act forbidden by the religion or by preventing him or her from engaging in conduct or having a religious experience which the faith mandates. This interference must be more than an inconvenience. The burden must be substantial and an interference with a tenet or belief that is central to religious doctrine. Hence it appears that a practice essential to the religion will be given due consideration. In the instant case, the practice of copying for knowledge sharing being essential to the religion of Kopimism could thus be granted recognition.

Such practices however essential they may be, are still subject to the norms of public order, national security and morality of the nation. The question is whether they can distribute copyrighted materials freely and share files under the banner of a ‘substantial religious practice’. There is no less reason for Kopimists to practice the essential modes of copying so long as it is done within the church and for the purposes of the church. However, the same cannot be made a tool to override other statutory restrictions like copyright law.

Fair Use Religious-claims under Copyright Law

Fair use provisions have always been obliging to a range of uses including those pertaining to religion. Most of the major copyright statutes offer exceptions for ‘teaching’, ‘criticism’, ‘review’, ‘not for profit’ use. Though potentially the focus of fair use provision has always been on academic uses, it offers much in terms of religious uses as well.

Any copying for use in religious school or class would qualify as teaching because at any given instance teaching a religious faith would qualify for the definition of teaching. A closer examination of some of the statutory provisions on fair use reveals this phenomenon. The limitations and exception clause of Article 5 under the Information Society Directive provides that member states may provide for exceptions for ‘teaching’, making available to public published articles on ‘religious topic’. Further the article provides that reproduction right and making available to public needs to be give an exemption for ‘use during religious celebration’.

The Urheberrechtsgesetz, UrhG or the German Copyright law provides for a limited exemption for reproduction and distribution where limited parts of works, works of language and musical works, individual works of fine art or individual photographs are incorporated after their publication in a collection which assembles the works of a considerable number of authors and is intended, by its nature, exclusively for ‘religious’, school or instructional use.

Similarly, Section 52 of the Indian Copyright Act provides that playing a recording for an organization not established for profit is a fair use. Likewise, the performance of literary, dramatic works for the benefit of a religious institution is also considered a permitted use. In addition to this, use for teaching in the course of an instruction is also permissible under the Indian law.

Section 107 of the US Copyright Act, 1976 provides the factors while considering the extend and scope of fair use in a given case. In addition to this there is also a specific exemption for performance of certain religious works or display of works in the course of services at a place of worship or religious assembly. The only ‘performances’ that are exempted in Section 110 of the Copyright Act are performances of a religious nature. With regard to matters of a general or non-religious subject, only ‘display’ of such works is exempted by Section 110 (ref. 61). In addition to this it is to be noted that the exemption of this section only applies to performances and displays that take place ‘in the course of services’. Therefore it appears that the exemption does not extend to broadcast or other transmissions to the public at large, even when the transmissions were sent from the place of worship. Thus it seems that a fair play under the above discussed provisions can give religious organizations protection in terms of:

(a) Teaching and for instruction,
(b) making available to public the works by broadcast or electronic transmission (with specific exemption on religious celebration),
(c) visual or acoustic presentation of a work for the benefit of religious institution or in the course of religious service, and
(d) reproduction and distribution of parts of author’s works in a compilation to be used by a religious institution (Urheberrechtsgesetz).

While compilations for use in religious instructions and displays for the benefit of the followers within a church are clearly exempted, it is still unclear as to the manner and limitations of electronic distribution of
work. For instance the Kopimist decide to express their practice of ‘knowledge transmission’ for subscribers or the registered religious followers via electronic means, is it possible to claim an exemption as fair use for religious purpose? While the answer to this goes beyond the purview of this article, it is to be noted that the fair use doctrine operates as a ‘safety valve’ not just for free expression, but also to mediate the tension between copyright and new technologies. In this respect the ambiguities relating to the concept forms a crucial factor through its ability to evolve and embrace unrealized uses of copyrighted works.  

The US courts have witnessed far more number of litigations with interplay of religion and copyright law than any jurisdiction in the world. Though much of these deals in issues of inter religious copyright violations, the implications of some have thrown some light on the issues in this paper. The US 9th circuit court has cautioned the use of fair use provision in defending religious needs. It has even refused to find non profit nature of religious institutions because the profit/non profit distinction is context specific, not dollar dominated. The gain or advantage received by a religious organization in the increase of its followers thus stands equated to a direct benefit. Thus a religious organization cannot always hide behind the fair use exception. Though the statutory language offers to shoulder religious use yet in reality it appears to be fairly very difficult to raise claims to fair use exemptions.

Berg consolidates in his first thesis that where copyright law prohibits copying by a religious user courts are unlikely to declare any exemption from a copyright law based on the principles of freedom of religion. While this may be true in some cases, the rule of pre-emption overarches with the constitutional foundations over State laws. The principle of human rights forms the fundamental freedom of all. Right to freedom of religion and its practice is fundamental to any democratic order. While a straightjacket solution may be impossible to prescribe, yet the discussion gives a fair idea of the considerations that courts of justice may take in particular circumstances of a case of religious use that encroaches upon the domains of copyright law. Further it is possible for religious organizations to maintain a registered society for management of copyright matters including licenses. Few such societies like Christian Copyright Licensing International (CVLI) and Christian Video Licensing International (CCLI) have been functional in Australia and New Zealand for the fair use and management of copyright materials. It is anticipated that more such societies would come to the rescue of religious organisations.

Conclusion

Religious freedom is primarily a matter of individual thought and conscience. This aspect of the right is absolute and unqualified. The right to freedom of thought, conscience and religion denotes views that attain a certain level of cogency, seriousness, cohesion and importance. Even where the belief in question attains the required level of cogency and importance, it cannot be said that every act which is in some way inspired, motivated or influenced by it constitutes a ‘manifestation’ of the belief. The above discussion has revealed the issues pertaining to religion and copyright law particularly the claims under the constitution or religious exemption statutes and the extent of fair use permissible for a religious use. It has focused on new trends like Kopimism which arose with the aim to offer the new generation a freedom of knowledge without restrictions such as copyright laws. While religion may serve to abate the strife between copyright and knowledge society, a meaningful relationship can only be established by the balancing application of fair use doctrine.

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5. Article 9, 10, 10bis, Bern Convention for Protection of Literary and Artistic works, 1886.
6. The three step for instance defining the scope of exploitation of work for fair use.
Article 9 – Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

33. Universal Declaration of Human Rights Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

34. Application no. 40397/12 decided on 13.03.2013.


Church of gods full gospel in India v KKR Majestic Colony welfare association, A.I.R 2000 SC 2773, The questions involved was whether a particular community or section of that community can claim right to add to noise pollution on the ground of religion by beating of drums or reciting of prayers by use of microphones and loudspeakers so as to disturb the peace or tranquillity of neighbourhood. The court held that undisputedly no religion prescribes that prayers should be performed by disturbing the peace of others nor does it preach that they should be through voice-amplifiers or beating of drums. The right to practice religion is a right to practice within bounds of public order, health and morality.

The Constitution of the Islamic Republic of Iran was adopted by referendum on 24 October 1979.

Bryant v Gomez, 46 F.3d 948, 949 (9th Cir. 1995).


Directive 2001/29/EC.

Article 5 (3) (g) Information Society Directive 2001/29/EC.


Article. 46(1), Urheberrechtsgesetz.

Act 14 of 1957 as amended by the Copyright amendment Act 2012.

Section 52(1)(K) of The Copyright Act, 1957.

Section 52(1)(l) of The Copyright Act, 1957.

Section 52(1)(i) of The Copyright Act, 1957.

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.


Worldwide Church of God, a California Corporation v Philadelphia Church of God Inc, an Oklahoma Corporation 227 F.3d 1110 (9th Cir. 2000)

Article 18, Universal Declaration of Human Rights.


Eweida and others v The United Kingdom, HEJUD [2013] ECHR 37 (15 January 2013).