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THE MEME LORD IN LEGAL REALM

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THE MEME LORD IN LEGAL REALM

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INTRODUCTION: MY PERSONAL STORY

I'm an object-oriented person. In the Indian Social Order, materialism is often looked down upon by religious scriptures. But given my negative perception of the community, I find objects more connecting than the people. I've written articles about Video Games¹² and Anime³⁴. Those things will be there with me alongside friends and family than the entire society.

I started making memes during my last years in school. I first saw the memes on

YouTube when Rage Comics and text-to-memes were at their height of popularity. It was also when Google used to have its in-built social media app called Google Plus. When I was in Google Plus, I made a lot of memes mocking celebrities and pop culture. Most people either find it funny or just plain offensive. If it is the second group that gets offended then, pissing them off was the amusing course of action. Well, I gained popularity and notoriety among the meme-making community. The cries of the fan girls were oftentimes nostalgic. The memes you see on Instagram are just pale and toys in comparison to the memes you saw on Google Plus.

Over time, I grew disillusioned with the edge world. My memes became more heinous and obnoxious. I had lost interest in how the opposing side felt. I was so intent on winning a meme debate that I uttered stuff I shouldn't have said in the first place. After the board examinations, I eventually

¹ Bala, A., 2021. *My Connection with Video Games*. [online] Live Wire. Available at: <<https://livewire.thewire.in/personal/my-connection-with-video-games/>> [Accessed 15 July 2021].

² Bachchan, A., 2021. *Video Games: An Overview*. [online] Legal Service India. Available at: <<http://www.legalserviceindia.com/legal/article-4271-video-games-an-overview.html>> [Accessed 15 July 2021].

³ Bachchan, A., 2021. *Why Does Bollywood Have a Problem with Japanese Anime?* [online] Youth Ki Awaaz. Available at: <<https://www.youthkiawaaz.com/2021/02/the-war-on-anime-in-india/>> [Accessed 15 July 2021].

⁴ Bala, A., 2021. *The war on anime in India*. [online] Times of India Blog. Available at: <<https://timesofindia.indiatimes.com/readersblog/a-disappointment-for-my-pillow/the-war-on-anime-in-india-33960/>> [Accessed 15 July 2021].

deactivated my Google Plus account and vowed to stay away from the edgy world. I still make memes, but they're a weak imitation of what they used to be⁵.

DEFINITION AND CURRENT STATE OF MEMES

Now that I've told you about my personal story regarding memes, I should now tell you the definition of memes. Memes are items with cultural significance that are either used creatively or as a joke⁶. The Grumpy Cat is one example. The meme was so famous that it even got featured in Time Magazine⁷.

Some memes could be simple and harmless. Yeah, even a single chair can be a meme. Others are offensive that aims to piss off people. Even the most sensitive subject matters could become the meme. In India, joking about any religion is a death

sentence. So making religious memes are out of the question.

As previously said, the memes on Instagram are pale and safe compared to the memes on Google Plus. They think adding some words, sexual innuendos, swear words, and some random picture could make a meme. Sadly, the current state of meme culture has become stale⁸.

THE LEGALITY OF MEMES IN INDIA: COPYRIGHT COSMOS⁹

In the legal star, memes are under the protection of the Indian Copyright System. Memes lie under the artistic work under Section 2 (c) of the Copyright Act 1957. Legally, stealing the memes and copying them without consent violates the copyright of the owner. On the other hand, Section 107 of the said Act promotes the principle of Fair Use. Under the doctrine, the person must accomplish certain conditions. That

⁵ Bachchan, A., 2021. *Opinion: Why Am I Disillusioned with Internet Edgy and Woke Culture*. [online] Youth Ki Awaaz. Available at: <<https://www.youthkiawaaz.com/2021/03/why-am-i-disillusioned-with-the-current-woke-and-edgy-culture/>> [Accessed 15 July 2021].

⁶ www.dictionary.com. 2021. *Definition of meme | Dictionary.com*. [online] Available at: <<https://www.dictionary.com/browse/meme>> [Accessed 15 July 2021].

⁷ Linshi, J., 2021. *Grumpy Cat Has Made Way More Money Than You*. [online] Time. Available at:

<<https://time.com/3623247/grumpy-cat/>> [Accessed 15 July 2021].

⁸ Ocus, P., 2021. *The Death of Internet Culture*. [online] YouTube. Available at: <<https://youtu.be/A7LWOU3xLkQ>> [Accessed 15 July 2021].

⁹ Anirudh, 2021. *Memes and copyright*. [online] Legalserviceindia.com. Available at: <<http://www.legalserviceindia.com/legal/article-3538-memes-and-copyright.html>> [Accessed 15 July 2021].

way, the person could use the copyrighted material without any permission.

In India, memes do not hold any commercial value. But it does not mean that anyone could copy it without permission. Sure fair use would come under use, but it should not violate the privacy of the person. If they want to copy the memes, they should have the necessary licenses to use the copyrighted meme. Otherwise, they need to buy the meme's copyright entirely. That way, they could save themselves from any legal action.

CASE LAWS¹⁰

1. Grumpy Cat Case:

The case gained attraction when a beverage company called Grenade used the Grumpy Cat meme to sell their unlicensed merchandise. Despite the fact they have the right to use the meme for their ice coffees, they used the meme as their coffee line and t-shirt mascot. Eventually, Grumpy Cat

Limited filed a lawsuit of \$ 710,001 and, after hearing the arguments of both sides, the court's jury was in favour of the meme.

2. Ludacris:

Popular actor and rapper Ludacris came under legal fire for copyright infringement. A company called Little Things Inc. owns the meme involving an explicit image of a woman. The company was not happy with Ludacris using the meme for profit. This is why they filed a lawsuit against him.

CRIMINAL COSMOS^{11,12,13}

The Criminal Legal system sees memes in another light. Article 19 (1)(a) of the Indian, Constitution highlights the right to freedom of Speech and Expression. Article 19 (2) of the Constitution says otherwise. It disallows any move that jeopardizes the position of the state.

Section 124 of the Indian Penal Code prevents persons from conducting acts

¹⁰ Osorio, A., 2021. *Meme Stealing and More: 7 Times Someone Sued Over a Meme*. [online] Revision Legal. Available at: <<https://revisionlegal.com/internet-law/internet/meme-stealing/>> [Accessed 15 July 2021].

¹¹ Bachchan, A., 2021. *Toxic Mob Mentality Is Setting a Dangerous Precedent On the Internet*. [online] Youth Ki Awaaz. Available at: <[https://www.youthkiawaaz.com/2021/06/the-](https://www.youthkiawaaz.com/2021/06/the-recent-issues-are-setting-a-dangerous-precedent-on-the-internet/)

[recent-issues-are-setting-a-dangerous-precedent-on-the-internet/](https://www.youthkiawaaz.com/2021/06/the-recent-issues-are-setting-a-dangerous-precedent-on-the-internet/)> [Accessed 15 July 2021].

¹² Indiankanoon.org. 2021. *Section 67 in The Information Technology Act, 2000*. [online] Available at: <<https://indiankanoon.org/doc/1318767/>> [Accessed 15 July 2021].

¹³ BYJUS. 2021. *Sedition Law in India - IPC Section 124A [UPSC Notes]*. [online] Available at: <<https://byjus.com/free-ias-prep/sedition-law-india-section-124a-ipc/>> [Accessed 15 July 2021].

against the state. Sections 499 and 500 of the Indian Penal Code make it illegal to injure someone's reputation. The IPC sections 295-298 allow for the prohibition of offending religious sensibilities. Producing obscene items in electronic form is punishable under Section 67 of the IT Act.

CASE LAWS¹⁴

1. The Priyanka Sharma Case:

The member of the BJP Youth Wing, Priyanka Sharma was booked under defamation. She posted an edited picture of actor Priyanka Chopra and West Bengal Chief Minister Mamta Banerjee. The West Bengal High Court put her in fourteen-day judicial custody. The defense of the person in question was before posting the meme, it was already viral. Furthermore, she claimed that she did not make the meme in the first place. When the case went to the Supreme Court, it granted her bail alongside telling the person in question to make a written apology. The court also held that everyone has freedom of

speech as long as it does not violate individual rights.

2. AIB- PM Modi Case:

The creator of the comedic group All India Bakchod, Tanmay Bhatt came under fire. The controversy bloomed when a meme was posted, which contains the Indian Prime Minister Narendra Modi with a dog filter on Snapchat. The folks on the cybercrime cell booked Tanmay Bhatt under Section 500 of the IPC and Section 67 of the IT Act.

ARTICLE 13 OF THE EUROPEAN UNION¹⁵

One of the darkest moments of meme history was the passing of Article 13 of the European Union Directive on Copyright in Digital Single Market. The Article states that online platforms have the authority to remove copyrighted material as they seem fit. The directive could make platforms like YouTube more liable for copyright infringement. Allegedly, it has the potential to generate more revenue from the tech platforms. Furthermore, it could serve as an advantage for the artists and journalists. So

¹⁴ <https://www.citethisforme.com/>

¹⁵ Matt Reynolds, what is Article 13? The EU's divisive new copyright plan explained, WIRED UK (May 24, 2019), www.wired.co.uk/article/what-is-

[article-13-article-11-european-directive-on-copyright-explained-meme-ban.](https://www.citethisforme.com/article-13-article-11-european-directive-on-copyright-explained-meme-ban)

when YouTube receives the request from the Content rights holders, they must remove their copyrighted content published by someone else.

Supporters of the Article claimed that it could prevent the copyrighted material from being misused without the artists receiving the short end of the stick. In other words, they don't get less pay.

However, there are more detractors than supporters. Critics claim that the bad actors could misuse the article as their plaything. The YouTubers also condemned the article for various reasons. They say that under this directive, memes and gifs would be banned. With the rise of internet censorship, people were worried that the internet would resonate with the settings of George Orwell's novel 1984. Only this time, there will be multiple Big Brothers and Thought Police.

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YouTubers added that Article 13 would endanger the employment of thousands of artists, creators, and others in the creative industry. Things were so bad that even the CEO of YouTube Susan Wojcicki shows concern about this. She expressed her concern on her blogs stating that Article 13 would endanger the jobs of many content creators on YouTube. Those sentences were phrased as "Unintended Consequences".

Other critics say that Article 13 threatens the essence of freedom of speech and expression. Freedom of speech and expression is critical ammunition that shouldn't be wasted on a pointless corporate battle. Another critic explained that lawmakers only see the eyes of the big media companies whose powers are waning over the years.

COMPARISON BETWEEN FILTHY FRANK AND HINDUSTANI BHOU^{16,17}

Let's compare the two popular memes and their impact. Joji Miller was the YouTuber turned singer who started his career on the internet persona Filthy Frank. His edgy behavior and comedic takes were not only great but the guy has brought some of the iconic memes on YouTube. In 2017, he retired from his persona to focus on his music career. His music career turned out to be successful. His music career signifies a perfect of someone branching out from his meme-centric career.

And then there's Hindustani Bhau. A one-time hit wonder who only got famous because of a meme. Hindustani Bhau rose to prominence only because of his outrage. His outrage spans from patriotism to excessive swearing. His outrage got so popular that he even became a contestant in Bigg Boss. After his eviction from the show, he reverted to his car outrage. At the same time, he's been sending death threats

and rape threats in the name of patriotism. He also doesn't seem to practice what he preaches. He pretends to be the supporter of Shivaji Maharaj but often he goes against Maharaj's principles by swearing at women. It was when his disciple Subham Mishra got arrested, that Bhau started losing his popularity. Subham Mishra sent rape threats to Agrima Joshua over a joke she made two years ago. Mishra's arrest eventually led to Bhau's downfall.

These are the two examples of giving a platform to people who rose to popularity because of their memes. Joji used his meme-based career and was able to expand his career through his music. Hindustani Bhau on the other hand misused his career to promoting spite and division amongst the internet community. His audience was mostly kids who get influenced by and could do something worse. This is why it is better to choose the creators very wisely.

CONCLUSION^{18,19,20}

¹⁶ Anish Bachchan, Outrage Culture and Bhedchaal Mentality Are Affecting India Worse Than We Think, Youth Ki Awaaz (Jan. 10, 2021), www.youthkiawaaz.com/2021/01/online-bandwagon-and-outrage-culture-in-india/.

¹⁷ Joji (musician), Wikipedia (Jan. 12, 2014), [en.wikipedia.org/wiki/Joji_\(musician\)](https://en.wikipedia.org/wiki/Joji_(musician)).

¹⁸ Taylor Lorenz, Elon Musk: Meme lord or Meme Lifter? The New York Times (May 7, 2021),

www.nytimes.com/2021/05/07/style/elon-musk-memes.html.

¹⁹ Anish Bachchan, Opinion: Pseudo Culture Is Harming the Internet and India, Youth Ki Awaaz (May 12, 2021), www.youthkiawaaz.com/2021/05/the-pseudo-culture-is-harming-the-internet-and-india/.

²⁰ Anish Bachchan, Metal Gear Solid: Learning Lessons of War from Video Games, (Mar. 30, 2021),

I've read a recent article published by the New York Times. Now those who don't know who they are, The New York Times is a reputed news outlet based in the United States. Recently the New York Times received huge flak for complaining about Elon Musk stealing memes. At the same time, The New York Times also talked big about India's devastating second wave to get more viewers. As said previously, stealing memes can lead to legal trouble. But, on the internet, it is a common norm. Memes get stolen every day and no one cares about that. So it is very unusual for a reputed news media outlet like the New York Times to go after Elon Musk over a patter meme stealing. Yet at the same time, they pretend to care about India's Covid Situation.

Memes, as I mentioned at the start, played a significant influence in my life. It has had a huge impact on my life and the lives of others on the internet. I'm writing this piece as a tribute to this amazing culture. The internet culture as we know it was mastered by this society. Some use it to make others laugh, while others use it to make them upset. No one can deny, however, that it had a significant impact on the internet. I'm aware that there are legal difficulties with

the internet, such as Article 13. Or someone who purports to be a supporter of free speech but threatens two adolescents over a collection of memes. Memes, I believe, will thrive even in these troubled times on the internet and will be recorded in history books.

www.youthkiawaaz.com/2021/03/metal-gear-solid-the-lessons-of-war/.



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