A CRITICAL LEGAL STUDY ON THE ETHICS, LEGALITY, AND DATA OWNERSHIP IN ACADEMIC ANTI-PLAGIARISM SOFTWARE SYSTEMS WITH SPECIAL REFERENCE TO INDIAN RESEARCH INSTITUTIONS

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ABSTRACT

In the digital age, academic integrity has largely been safeguarded through the widespread use of plagiarism detection software such as Turnitin, iThenticate, and URKUND. While these tools serve the legitimate purpose of identifying unoriginal work, a deeper legal and ethical dilemma remains largely unexamined—the silent appropriation of intellectual thought through automated plagiarism checks. This study critically investigates the extent to which such software systems, often owned by private multinational corporations, extract, store, and potentially reutilize original academic content without the informed consent of the authors, particularly in the context of Indian research institutions. Thousands of theses, dissertations, and manuscripts from Indian universities are subjected to these systems, which may lead to unacknowledged data harvesting and intellectual property violations under the guise of originality checks. The research analyses the legal vacuum surrounding data ownership, copyright protection, and consent mechanisms in India's academic ecosystem. It explores whether such practices amount to a form of digital colonialism, wherein ideas from the Global South are stored in repositories controlled by the Global North, often without any clear retraction mechanism or legal remedy. Drawing upon intellectual property law, cyber law, and data protection frameworks, this study highlights the urgent need for transparent regulatory guidelines, the development of indigenous plagiarism detection systems, and the assertion of academic sovereignty. By raising questions around authorship, brain-drain, and algorithmic control of thought, this research contributes to a new jurisprudential discourse on the intersection of technology, ethics, and intellectual property in academia.

Keywords: Plagiarism Detection Software, Intellectual Property Rights, Data Ownership, Academic Ethics, Digital Colonialism, Brain Drain, Indian

Academia, Consent in Software Use, Cyber Law, Algorithmic Appropriation, Academic Sovereignty, Turnitin, iThenticate, Legal Vacuum in India.

INTRODUCTION

The origin of plagiarism as a concept and term dates back to ancient times, but its understanding and legal treatment have evolved significantly over the centuries. The word "plagiarism" is derived from the Latin word *plagiarius*, which means "kidnapper" or "abductor." This term was first used in a literary context by the Roman poet Marcus Valerius Martialis (Martial) in the 1st century AD. He accused another poet of stealing his verses and called him a *plagiarius*, equating the theft of his work to the abduction of a child.

In classical antiquity, however, ideas were often considered part of a shared intellectual tradition, especially in oral cultures, and authorship was not as rigidly defined as it is today. Attribution was valued, but the concept of intellectual property did not exist in a formal legal sense.

With the invention of the printing press in the 15th century, the mass production of books made it easier for authors to copy others' work, leading to growing concerns about originality and ownership. In response, copyright laws began to develop. The Statute of Anne (1709) in England was the first legal framework to grant authors exclusive rights to their work. This marked a turning point in the formal recognition of authorship and the legal foundation for what we now call plagiarism.

Plagiarism is the act of presenting someone else's ideas, words, or work as one's own without proper attribution. It is considered a serious ethical and legal offense in academic, literary, scientific, and professional domains. Plagiarism can occur in many forms, such as copy-pasting text, paraphrasing without citation, using someone's creative ideas without credit, or submitting another's work under one's name. It includes direct plagiarism, which involves word-for-word copying without quotation or citation, and self-plagiarism, which refers to reusing one's own previously submitted or published work. Mosaic plagiarism happens when copied material is mixed with original content without appropriate citation. Accidental plagiarism arises due to ignorance or negligence in citing sources, while source-based plagiarism involves misrepresenting sources or citing non-existent or incorrect references.

Plagiarism detection software helps identify such acts through advanced algorithms, linguistic fingerprinting, artificial intelligence, and database comparisons. The process begins when the user submits or uploads the content to be checked. The text is then broken into smaller segments or blocks and compared across a wide range of sources, including online websites, books, journals, proprietary databases like previously submitted academic papers, and paid repositories such as JSTOR, Elsevier, and ProQuest. The software applies pattern recognition, synonym detection, and stylistic analysis. In many cases, it also uses natural language processing to detect semantically similar paraphrased material. A similarity report is then generated showing the percentage of matched content and linking to the original sources.

Several widely used plagiarism detection tools are operational across the globe. Turnitin, based in the USA, is commonly used in universities and stores documents permanently. iThenticate, a product of Turnitin, is preferred by publishers and research journals. Grammarly Premium offers a web-based plagiarism checker. URKUND (now Ouriginal) from Sweden is used in European institutions, while PlagScan from Germany offers customizable options. Other tools such as Quetext, Unicheck, Copyscape, and Small SEO Tools provide varying levels of detection, often with freemium or paid models.

Despite their utility, plagiarism detection systems raise several concerns. Data retention practices often mean that user-submitted content is stored indefinitely. This leads to fears of intellectual theft, where original academic work may be reused or referenced without permission. The tools can also produce false positives by flagging common or properly cited phrases. Moreover, their high subscription costs limit access for researchers in developing nations, and users frequently accept vague terms of use without fully understanding how their data will be used. While these tools are instrumental in upholding academic integrity, there is an urgent need for ethical, legal, and technological oversight to ensure the protection of research originality, data ownership, and intellectual sovereignty, especially in countries like India.

Plagiarism and Regulations in India

i. **UGC (Promotion of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulations, 2018:**

This is the most comprehensive and specific regulatory framework in India to curb

academic plagiarism. Issued by the University Grants Commission (UGC), these regulations are mandatory for all universities and higher education institutions. Key Provisions are as follows:-

- Definition: Plagiarism is defined as "the practice of taking someone else's work or idea and passing them as one's own."

- Applicability: Applies to students, researchers, faculty members, and staff.

- Types of Work Covered: Theses, dissertations, term papers, publications, and other academic/research submissions.

- Levels of Plagiarism (for students and faculty):

  - Level 0 (Similarity up to 10%) – Minor similarities, no penalty.

  - Level 1 (10% to 40%) – Re-submission required after corrections.

  - Level 2 (40% to 60%) – Debarment from submission for one year.

  - Level 3 (above 60%) – Cancellation of registration or dismissal.

- Penalties for Faculty/Researchers:

  - Withdrawal of submitted work.

  - Debarment from supervising students for two years.

  - Denial of annual increments or promotions.

ii.   **Academic and Institutional Mechanisms:**

All universities and institutions are required to establish an Academic Integrity Panel (AIP) and a Plagiarism Detection Mechanism, including access to licensed plagiarism detection tools like Turnitin or Urkund (Ouriginal). These panels review suspected cases and recommend penalties.

iii.   Copyright Act, 1957 (as amended):

Though not specific to plagiarism, this Act protects the rights of original creators of literary, artistic, musical, and academic works. Plagiarism can amount to copyright infringement if an author's work is reproduced without permission.

- Section 51 and Section 63 deal with infringement and the legal consequences, including fines and imprisonment.

iv.   Indian Penal Code (IPC), 1860 (Applicable in Certain Cases):

In some serious cases, plagiarism might overlap with cheating (Section 415) or fraud (Section 420), especially when it involves misrepresentation of authorship for commercial gain, grants, or academic promotion.

v.   Professional and Institutional Policies:

Most educational institutions have their own plagiarism policies in line with UGC rules, and many also include anti-plagiarism clauses in Ph.D. regulations, staff service rules, and publication ethics guidelines. AICTE, NAAC, and NBA also encourage strict action against academic dishonesty.

JUDICIAL OBSERVATIONS

Though Indian courts have not developed an extensive jurisprudence on plagiarism per se, the judiciary has supported the idea of protecting academic integrity and enforcing copyright protections. Cases involving academic fraud, fake theses, or unauthorized copying have been dealt with through civil suits or institutional action.

While India does not have a single comprehensive law on plagiarism, the combination of UGC regulations, institutional guidelines, and existing IP laws form a robust legal framework. However, concerns remain regarding enforcement, faculty awareness, consent in plagiarism scans, and the ethical handling of student data. A future legal reform could consider bringing more transparency, data protection, and accountability into the system, especially given the increasing role of plagiarism detection software and the rise of digital academic publishing.

Eastern Book Company v. D.B. Modak[1] In the case of *Eastern Book Company v. D.B. Modak*, the dispute arose when Eastern Book Company (EBC), a renowned legal publisher, alleged that its edited versions of Supreme Court judgments were being copied and republished by another publisher without permission. EBC contended that while the judgments themselves are public records, the editorial contributions made by their team—such as paragraphing, headnotes, case summaries, and formatting—represented original intellectual labor deserving of copyright protection. The Supreme Court agreed in part with EBC's claim and held that although judicial pronouncements are not subject to copyright as they are in the public domain, the editorial work involving creativity and skill does enjoy protection under copyright law. The Court elaborated on the idea–expression dichotomy, stating that while the underlying legal ideas remain free for public use, the specific expression of those ideas through structured editorial inputs can be protected if they reflect originality and substantial effort. This judgment holds particular significance as it marked a turning point in the interpretation of copyright law in the context of legal publishing. It acknowledged that even public documents could become subject to copyright infringement when someone else's original editorial content is misused. Although not framed explicitly as a plagiarism case, the decision highlighted that unauthorized use of intellectual contributions, even in editing, could amount to both copyright violation and academic misappropriation. The ruling helped clarify the thin line between fair use and plagiarism, thereby reinforcing the legal framework against intellectual theft.

Academy of General Education v. B. Malini Mallya[2]In the case of *Academy of General Education v. B. Malini Mallya*, the respondent, who was serving as a faculty member, raised allegations that her original research content had been used in publications issued by the institution without her prior knowledge or proper attribution. She contended that her intellectual contributions were appropriated without consent, thereby violating academic norms and ethical standards. The Supreme Court, while adjudicating the matter, underscored the importance of respecting intellectual property rights within academic environments. It observed that the unauthorized use of a scholar's research or ideas, without giving due credit, constituted a breach of both legal and ethical academic standards. Although the court did not explicitly refer to the act as "plagiarism," it clearly recognized that the misappropriation of academic content without acknowledgment can have serious legal and professional implications. This judgment is significant in reinforcing the principle that academic integrity

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[1] AIR 2008 SC 809
[2] AIR 2009 SC 1982

extends beyond students to include the rights of faculty and researchers. It brought attention to the necessity of obtaining consent and offering proper recognition when using someone else's intellectual work, thereby laying down a precedent for upholding academic honesty and accountability in higher educational institutions.

Prof. Yashpal v. State of Chhattisgarh[3], In the case of *Prof. Yashpal v. State of Chhattisgarh*, the matter, though not directly related to plagiarism, addressed the broader issue of the unchecked proliferation of private universities in the state of Chhattisgarh without proper regulatory mechanisms. The petitioner challenged the legality of several private universities that were established under a state legislation but operated without necessary academic infrastructure, faculty, or adherence to educational standards. The Supreme Court held that such unauthorized institutions, which conferred degrees without ensuring genuine academic content or rigorous academic process, severely undermined the credibility and value of higher education in the country. It ruled that the establishment of such institutions violated the constitutional scheme governing higher education, particularly the role of the University Grants Commission (UGC) and the need for coordination and determination of standards in higher education. The significance of the judgment lies in its strong affirmation of the necessity for a well-defined regulatory framework in the education sector. Although it did not address plagiarism specifically, the ruling highlighted the dangers posed by institutions that function without academic accountability. It indirectly reinforced the importance of maintaining academic integrity, including issues like plagiarism, across all higher educational institutions to uphold the sanctity and quality of education in India.

University of Delhi v. Anand Vardhan Chandel[4] In the case of *University of Delhi v. Anand Vardhan Chandel*, the facts revealed that the student's Ph.D. thesis was found to be substantially plagiarized. As a consequence, the University of Delhi took disciplinary action and cancelled his doctoral degree. The student contested this decision before the Delhi High Court, challenging the university's authority and process. The court, however, upheld the university's decision, observing that plagiarism constitutes a serious form of academic dishonesty and misconduct. It emphasized that such actions undermine the integrity of academic institutions and cannot be taken lightly. The High Court also acknowledged the importance of respecting the autonomy of universities and the internal disciplinary procedures

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[3] AIR 2005 SC 2026
[4] AIRONLINE 1996 SC 520

they follow in academic matters. It found no reason to interfere with the university's action, particularly when it was taken in accordance with established regulations and principles of natural justice. This judgment is significant as it reaffirms the judicial endorsement of the University Grants Commission (UGC) regulations relating to plagiarism and underscores the judiciary's support for the independence of academic institutions in maintaining academic standards and ethics.

NEED FOR ANTI-PLAGIARISM SOFTWARE

Anti-plagiarism software is essential in today's academic and professional environments because it helps maintain integrity, originality, and credibility in written work. Plagiarism, whether intentional or unintentional, undermines the value of education and research and can lead to serious ethical and legal consequences. These software tools play a crucial role in promoting academic honesty by ensuring that students, researchers, and writers submit original content. They are particularly useful in detecting unintentional plagiarism, which often occurs due to improper citation or lack of awareness about referencing norms, scanning documents against vast databases of academic papers, articles, websites, and books, anti-plagiarism tools help identify copied content and highlight sections that require proper attribution. This not only protects the rights of original authors but also helps individuals correct mistakes before submission. In higher education, the use of such tools ensures compliance with regulatory frameworks such as those mandated by the University Grants Commission in India, which requires that research work be plagiarism-free, publishers, editors, and peer reviewers benefit from these tools by being able to assess the authenticity of submissions quickly and efficiently. This enhances the overall quality control in academic and publishing fields. Anti-plagiarism software also contributes to building a culture of responsible research and writing by encouraging originality and discouraging the misuse of intellectual work. In this way, it supports the development of ethical standards in scholarship and safeguards the credibility of educational and research institutions.

DATA OWNERSHIP, CONSENT, PRIVACY, INTELLECTUAL PROPERTY, AND NATIONAL SECURITY

When a researcher submits a thesis or paper to an anti-plagiarism tool, that document is often uploaded to a central database, sometimes permanently. While this helps the software compare future submissions to existing work, it also means that sensitive data—especially if

the research is related to national policy, science and technology, law, religion, language, or socio-political dynamics—is being stored by a third party. In many cases, these third parties are foreign corporations headquartered in countries with their own data policies, which may not align with the interests of the researcher's home nation. Most of these software providers include terms and conditions or user agreements that institutions and researchers agree to, often without thorough review or negotiation. These agreements can grant the software company rights to store, use, or even analyze submitted content, creating a potential risk of misuse or unauthorized access. In effect, we may unknowingly be participating in a system where intellectual wealth is transferred across borders—contributing data that has academic, strategic, or even geopolitical value, universities and research institutions—under pressure from regulatory bodies like the UGC or international academic standards—often enforce the use of such tools without transparent data governance policies. This raises a significant ethical and legal dilemma: in protecting research from plagiarism, are we exposing it to surveillance or exploitation? The situation calls for a balanced legal and academic response. There is a need for indigenous, secure, and transparent anti-plagiarism systems developed and hosted within national boundaries. Data protection laws, such as India's Digital Personal Data Protection Act, 2023, must be extended and rigorously enforced to cover academic and research content. Institutions should be required to take informed consent from researchers, clarify how and where their work will be stored, and allow opting out of global databases if needed. In this data-driven century, protecting the intellectual sovereignty of a nation is as crucial as protecting its borders. While anti-plagiarism tools serve an important academic function, their deployment must be accompanied by strong legal safeguards, ethical oversight, and technological self-reliance to ensure that knowledge does not become an inadvertent tool of digital colonization.

CONCLUSION

In the contemporary academic landscape, anti-plagiarism software has become a crucial tool to maintain scholarly integrity and ensure that research work is original and ethically produced. However, the increasing dependence on such software, especially those developed and operated by foreign companies, raises significant concerns related to data privacy, intellectual property rights, and national security. When researchers upload their theses or academic papers to these platforms, they often unknowingly share valuable information related to society, science, law, religion, politics, and economy—data that holds strategic and intellectual importance for the nation. These tools, under the guise of checking plagiarism,

frequently store content in their databases, and the terms of service often grant them the right to retain, reuse, or analyze this information. This situation becomes particularly alarming when universities and institutions, under pressure from regulatory mandates such as those by the University Grants Commission (UGC), compel scholars to use these platforms without offering transparency about data handling and without securing informed consent. As a result, a vast corpus of academic knowledge generated within the country is being made accessible to foreign entities, creating the potential for intellectual exploitation or even strategic manipulation. In an era where data is power, such unchecked practices can inadvertently contribute to a form of digital colonization. The solution lies in developing indigenous, secure, and transparent plagiarism-detection tools that align with national interests. Furthermore, academic institutions must be held accountable for implementing clear data governance policies and respecting the confidentiality and ownership of research content, while the goal of preventing plagiarism is undeniably important, it must not come at the cost of compromising a nation's intellectual sovereignty. A balanced approach—one that upholds academic ethics while safeguarding research data—is essential to ensure that India's academic future remains both credible and secure. Here are several well-considered suggestions to address the concerns arising from the use of anti-plagiarism software, especially in the context of protecting academic freedom, data sovereignty, and national interest:

1. **Development of Indigenous Plagiarism Detection Tools** Government-funded research agencies, universities, and technology institutes should collaborate to develop secure, India-based anti-plagiarism tools that ensure data is stored on national servers and managed under Indian legal frameworks.

2. **Implementation of Robust Data Governance Policies** Universities and research institutions must establish clear policies regarding data handling, storage, and consent before submitting academic work to any third-party software. These policies should be made transparent to all researchers.

3. **Mandatory Informed Consent Mechanism** Before uploading any thesis or research document to a plagiarism checker, researchers must be informed about where and how their data will be stored, who will have access to it, and whether it will be indexed or shared.

4. **Integration with National Legal Frameworks** The use of anti-plagiarism software

must be governed by India's Digital Personal Data Protection Act, 2023, and other relevant laws. Academic data should be classified and protected under intellectual property and cybersecurity laws.

5. **Audit and Regulation of Foreign Software Providers** Institutions using foreign anti-plagiarism tools should be required to conduct a legal and technical audit to assess the software's compliance with national laws and the potential for data exposure.

6. **Alternative Non-Digital Checks for Sensitive Research** In cases involving classified or highly sensitive research, universities should provide alternative non-digital methods of review and plagiarism checks, such as expert panels or internal peer reviews.

7. **National Repository with Restricted Access** A centralized, government-controlled academic repository could be created where all research is stored securely, and access is granted only with proper authorization, ensuring protection from international data mining.

8. **Awareness and Training Programs** Researchers, faculty members, and students should receive training on plagiarism, copyright laws, and digital data protection to make informed decisions about their work.

By adopting these suggestions, India can uphold the integrity of its academic processes while ensuring that its intellectual and strategic data remains protected from misuse or unauthorized foreign access.